



Baldwin County Bank, et al. v. McGowan

STATEMENT OF THE CASE.

On July 9, 1924, Archie W. Slaughter loaned Mrs. M. A. McGowan the sum of Five Hundred (\$500.00) Dollars, taking in exchange a promissory waive note payable July 9, 1925, with interest at 6%. At the bottom of the note, just above the signature of the subscribing witness, who in this case was E. C. McGowan, was written in the following: "This note is secured by my real and personal property". The testimony was conflicting as to whether the above notation was included in the note at the time the note was executed by Mrs. McGowan, or whether it was written in at a later date, without her knowledge and consent. The note was recorded in the Office of the Probate Judge of Baldwin County, Alabama, on July 15, 1924, in Record Book No. 30 of Mortgages at page 447. E. C. McGowan, one of the Respondents, witnessed his Mother's signature to the aforesaid note, and was conversant with all of the facts. On June 1, 1931, Mrs. McGowan paid the accrued interest up to and including that date, which was all of the payments ever made to the Complainant, Mr. Slaughter. At the time the above note was made, Mrs. McGowan was the owner and in possession of the following described real property in Baldwin County, Alabama, to-wit: SW $\frac{1}{4}$  and the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 19, Township 2 North, Range 3 East. On, to-wit: February 13, 1932, the Respondent, Mrs. M. A. McGowan, under the name "Mrs. Thomas McGowan", together with T. B. McGowan, executed and delivered to the Respondent, E. C. McGowan, a written instrument conveying the above described real property, along with 75 head of cattle, 4 head of horses, 8 head of oxen and 1 8-wheel

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wagon, all for a purported consideration of \$500.00, which written instrument was filed for record in the office of the Judge of Probate of Baldwin County, Alabama, on, to-wit: February 15, 1932, and recorded in Deed Book No. 51 N. S., page 58. This conveyance attempted to convey all, or substantially all, of the property owned by the Respondent, Mrs. M. A. McGowan, at the time the said conveyance was made. On, To-wit: December 6, 1933, the Respondent, Baldwin County Bank, filed in this Honorable Court a bill, against the Respondents Mrs. M. A. McGowan, therein described as Mrs. Thomas McGowan, and E. C. McGowan, asking that the conveyance, heretofore described, be set aside. Thereupon, on, to-wit: January 6, 1934, the Complainant, Archer W. Slaughter, filed a bill, to have the aforementioned note declared an equitable lien superior to all other claims, and, failing that, to have the conveyance to E. C. McGowan set aside and declared void as fraud on the claimants, and the property sold for the satisfaction of such claims as may be filed in this court under such decrees.

POINTS AND AUTHORITIES.

1. Any written contract entered into for the purpose of pledging property or some interest therein as security for a debt, which is informal or insufficient as a common-law or statutory mortgage, but which shows that it was the intention of the parties that it should operate as a charge on the property, will constitute an equitable mortgage and be enforced as such in a court of equity.

41 Corpus Juris, Page 305, Paragraph 53.  
36 American Jurisprudence, Page 696, Paragraph 13.  
Adams v. Powell, 142 So. 537; 225 Ala. 300.  
Bishop v. McPherson, 168 So. 675, 232 Ala. 594.  
Moorer v. Tensaw Land & Timber Co., 20 So. 2nd 105,  
246 Ala. 223.

2. The Constructive notice afforded by the record of a mortgage is effective to protect the mortgagee as long as the the mortgage remains a valid security between him and the mortgagor. There is no provision for a second recordation. The notice runs to all subsequent purchasers and mortgagees.

Title 47, Section 120, 1940 Code of Alabama.  
Christopher v. Shockley, 199 Ala. 681, 75 So. 158.  
Hendley v. First National Bank, 235 Ala. 664, 180  
So. 667.

3.  
3. The recording of a mortgage of personal property is constructive notice to all subsequent purchasers and mortgagees.

Title 47, Paragraph 123, 1940 Code of Alabama.  
Morris v. Bank of Attalia, 142 Ala. 638, 38 So. 804.  
Williams v. White, 165 Ala. 336, 51 So. 559.

4. Where, in a transfer of property, grantor reserves or secures a benefit to himself at the expense of his creditors, such transaction is void as to them.

Manchuria S. S. Company v. Harry G. G. Donald & Co.  
200 Ala. 638, 77 So. 12.

POINTS AND AUTHORITIES (CON'T.)

Pritchett v. Pollock. 82 Ala. 169; 2 So. 735.

5. When a conveyance is attacked as fraudulent, the burden is upon the grantee to establish the justness and amount of the indebtedness, the adequacy of the consideration and the bona fides of the transaction.

London v. Anderson Brass Works. 197 Ala. 16; 72 So. 359.  
Cowan v. Staggs. 178 Ala. 144; 59 So. 153.

6. A transfer of personal property<sup>and of real estate</sup>/not accompanied by a change of possession is not only indicative of fraud, but prima facie evidence thereof.

Cooper v. Davison. 86 Ala. 367; 5 So. 650.  
Sims v. Gaines, 64 Ala. 392.  
Ex Parte Copeland. 222 Ala. 416; 133 So. 1.

7. Where a debtor conveys property without consideration an existing ~~debtor~~ creditor may subject the property so conveyed to his debt, regardless of question of grantor's insolvency or intent of the parties.

Franklin v. Nunneley, 5 So. 2nd 99, 242 Fla. 87.

8. A sale of property by a debtor, who is insolvent or in failing circumstances, with intent to place it beyond reach of his creditors, or to hinder, delay or defraud them, will be set aside where purchaser has knowledge or means of acquiring it, notwithstanding payment of full value for the property.

Wolcott v. Titus, 238 Ala. 342; 191 So. 383.  
Curran v. Olmstead. 101 Ala. 692, 14 So. 398.  
Carter v. Colman. 82 Ala. 177; 2 So. 354.

ARGUMENT.

The Complainant, The Merchants National Bank of Mobile, Executor of the last Will and Testament of Archer W. Slaughter, Deceased, respectfully represents unto your Honor that there are two alternatives open to your Honor in deciding this cause insofar as the Complainant, Slaughter, is concerned:

One, to rule that the note executed by Mrs. M. A. McGowan to A. W. Slaughter on July 9, 1924, on which was written these words, "This note is secured by my real and personal property", constituted an equitable mortgage on the real property owned at that time by Mrs. McGowan, and should be foreclosed as a mortgage;

Two, to rule that the aforesaid note did not constitute an equitable mortgage, in which case your Honor could decide that the sale, or conveyance, from T. B. McGowan and Mrs. Thos. McGowan to Edmund C. McGowan was fraudulent and made for the purpose of defrauding the creditors of Mrs. McGowan.

Complainant respectfully submits that the first alternative is the one and only correct decision for your Honor to make. It is admitted that the writing is informal, but in 41 Corpus Juris, page 305, paragraph 53, we find the following statement: "As a general rule, any written contract entered into for the purpose of pledging property or some interest therein as security for a debt, which is informal or insufficient as a common-law or statutory mortgage, but which shows it was the intention of the parties that it should operate as a charge on the property, will constitute an equitable mortgage and be enforced as such in a court of equity." In 36 American Jurisprudence, page 696, paragraph 13, we find the following, "There are a number of

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situations wherein instruments which are not effective as mortgages at law will be regarded as such in a court of chancery, which will regard them as binding on the parties as if mortgages in due form had been properly executed". In the case of Adams v. Powell, 225 Ala. 300, 142 So. 537, the Supreme Court of Alabama said: "Words used to create equitable mortgage need not be formal where mortgage relationship was mutual understanding of parties, as shown by admissions and conduct".

In the present case, the writing in of the words, "This note is secured by my real and personal property" is sufficient, we submit, to constitute an equitable mortgage on the real and personal property owned by Mrs. McGowan at the time said note was executed.

We should like to touch on the question of notice, in passing. If your Honor rules that the Complainant is entitled to an equitable mortgage, then we submit that the Respondent, E. C. McGowan, had both actual and constructive notice, and the Respondent, Baldwin County Bank, had constructive notice by reason of the recordation of the instrument by the Complainant, A. W. Slaughter, on July 15, 1924.

The complainant further submits that the same argument used with reference to the real property, applies with equal force to the personally conveyed by Mrs. McGowan to E. C. McGowan.

Before leaving this proposition, there is one more point that complainant should like to emphasize: It is true that the evidence is contradictory as to whether or not the words, "This note is secured by my real and personal property" were in the note at the time the Respondent, Mrs. M. A. McGowan, executed the

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note to the Complainant, A. W. Slaughter, but we should like for your Honor to take into consideration all of the testimony of the various members of the McGowan family, and the apparent discrepancies in their testimony.

If your honor rules that this note did not constitute an equitable Mortgage, then we urge your Honor to set the conveyance from T. B. McGowan and Mrs. Thos. McGowan (M. A. McGowan) aside as being fraudulent, and made only to defraud creditors, of whom your Complainant was one.

In considering this point, the Court is urged to look to the fact that Mrs. M. A. McGowan is the Mother of T. B. and E. C. McGowan; that the parties were living together at the time the note was made to A. W. Slaughter; that they were living together at the time the deed and bill of sale was made to E. C. McGowan was made on February 13, 1932; and that they were living together at the time the testimony in this cause was taken. In other words, despite the alleged sale from Mrs. McGowan to E. C. McGowan, there was no change in the condition of the parties. We believe that a sale of this kind should be looked on with the utmost suspicion, and that the burden is on the family to convince your Honor beyond all doubt that the transaction is a bona fide one and the consideration is adequate.

In connection with the point we cite the case of London v. Anderson Brass works, 197 Ala. 16; 72 So. 359, in which the court said, "When a conveyance is attacked as fraudulent, the burden is upon the grantee to establish the justness and amount of the indebtedness, the adequacy of the consideration and the bona fides of the transaction". We submit that the McGowans have failed to do



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The next point which Complainant submits renders the alleged conveyance from T. B. McGowan and Mrs. Thos. McGowan to E. C. McGowan void is the lack of consideration for the conveyance. The testimony of the Respondents, McGowans, was to the effect that E. C. McGowan paid Mrs. McGowan \$500.00 for 200 acres of land, which was on the record in her name, 75 head of cattle, 4 head of horses, 8 head of oxen and 1 8-wheel wagon. On the face of it, even at the depth of the depression, \$500.00 represented only a fraction of the actual value of the property. In the cause of Franklin v. Nunneley, 5 So. 2nd 99, 242 Fla. 87, the Supreme Court of Florida said: "Where a debtor conveys property without consideration, an existing creditor may subject the property so conveyed to his debt, regardless of the question of grantor's insolvency or intent of the parties". We submit that that is exactly what happened in the instant case--that there was no consideration for the conveyance from T. B. McGowan and Mrs. Thos. McGowan to E. C. McGowan.

The final point which Complainant submits should cause this Honorable Court to set aside the conveyance from Mrs. Thos. McGowan and T. B. McGowan to E. C. McGowan is the fact that the transaction took place at a time when Mrs. McGowan was insolvent; that E. C. McGowan knew of her insolvency and that he had both actual and constructive notice of the debt from Mrs. McGowan to your Complainant, A. W. Slaughter. In the case of Wolcott v. Titus et al. 238 Ala. 343, 191 So. 383, the Supreme Court of Alabama laid down the rule that, "A sale of property by a debtor, who is insolvent or in failing circumstances, with intent to place it beyond reach of his creditors, or to hinder, delay or defraud them, will

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set aside where purchaser has knowledge or means of acquiring it, notwithstanding payment of full value for the property". This seems to be a fair statement of the law, and this will be borne out by a reading of the other cited cases.

Complainant, therefore, submits most earnestly that, even if the Court is convinced that E. C. McGowan paid full value for the property conveyed to him in February, 1932, by T. B. McGowan and Mrs. Thos. McGowan, under the authority of the above quoted cases, it will be justified in setting the conveyance aside because the Respondent, E. C. McGowan had both actual and constructive notice of his mother's debt to the Complainant, and he knew that his Mother was insolvent at the time.

In Conclusion, Complainant, urges that the Court find that the note made to A. W. Slaughter by the Respondent, Mrs. M. A. McGowan, constitutes an equitable mortgage and that the land owned by her at the time the note was made on, to-wit: July 9, 1924, which was later conveyed to E. C. McGowan, that is the SW $\frac{1}{4}$  and the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Sec. 19, Township 2 North, Range 3 East, be subject to foreclosure sale to pay the amount this Honorable Court finds is due to the Complainant on said note. But is the Court is unable to reach this conclusion, then Complainant submits that it should find the alleged sale from Mrs. McGowan and T. B. McGowan to E. C. McGowan, dated February 13, 1932, was fraudulent and void and made for the purpose of defrauding your Complainant, and it should be so decreed.

Respectfully submitted,

J. Fair A. Madeline  
Solicitor for Complainant, Merchants Nat. Bk.

I hereby certify that I filed the original of this Brief with the Register of the Circuit Court of Baldwin County, Alabama in Bay Minette, Alabama, on August 15, 1947, and on the said date delivered a copy hereof to Messrs. Hybart and Chason Solicitors for the Respondents, and to J. B. Blackburn, Solicitor for the Complainant, Baldwin County Bank.

J. Fair A. Mashburn, Jr.  
Solicitor for Complainant, the Merchants National Bank of Mobile, a National Banking Association, as Executor of the Estate of A. W. Slaughter, deceased.

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Respectfully submitted,

*J. Fair J. Madhury, Jr.*  
Solicitor for Complainant, Merchants Nat. Bk.

BALDWIN COUNTY BANK;  
ARCHER W. SLAUGHTER,  
COMPLAINANTS,

VS.

THOMAS B. MCGOWAN, ET AL,  
RESPONDENTS.

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

Nos. 10 & 18.

BRIEF OF THOMAS B. MCGOWAN, MRS. THOMAS  
MCGOWAN AND EDMUND C. MCGOWAN, RESPONDENTS.

STATEMENT OF CASE.

On December 6, 1933, the Baldwin County Bank filed a bill of complaint against the respondents, setting out that T. B. McGowan and Mrs. Thomas McGowan were indebted to them in the sum of around \$346.87 on two promissory notes, Thomas B. McGowan being the maker and Mrs. Thomas McGowan the endorser, one note being for \$250.00, due February 25, 1932, and one note for \$96.87, due January 20, 1932; and that while said respondents, Thomas B. McGowan and Mrs. Thomas McGowan, were indebted to them as aforesaid, on to-wit: the 13th day of February, 1932, they sold to Edmund C. McGowan two hundred acres of land and also their interest in seventy-five head of cattle, four head of horses, eight head of oxen and one eight-wheel wagon for the purported consideration of \$500.00, which they allege in truth and fact was a voluntary conveyance without consideration made by Thomas B. McGowan and Mrs. Thomas McGowan for the purpose of hindering, delaying or defrauding it in the collection of its indebtedness, and that said property was practically all the property owned by the respondents Thomas B. McGowan and Mrs. Thomas McGowan, and was subject to the satisfaction of its debt, and prayed that the said conveyance be set aside as fraudulent and void and that the property described therein be subjected to the satisfaction of its indebtedness. To this bill of complaint the Respondents filed their answer denying that said conveyance was voluntary and without consideration and that said conveyance was made for the purpose of hindering, delaying or defrauding the Baldwin County Bank or any one else. That the

said transaction was a bona fide transaction, based upon a consideration which was paid, which consideration was equal to the value of the property conveyed therein.

Respondents further show that on January 6, 1934, Archer W. Slaughter filed his bill of complaint in the Circuit Court of Baldwin County, Alabama, against the respondents Mrs. M. A. McGowan and E. C. McGowan, Mrs. M. A. McGowan being one and the same person as Mrs. Thomas McGowan, and in addition thereto made the Baldwin County Bank a party respondent also. The said Archer W. Slaughter, in his bill of complaint, sets out that on July 9, 1924, Mrs. M. A. McGowan became indebted to him in the sum of \$500.00 for money loaned her on that date, and that she executed an instrument evidencing such indebtedness, a copy of which is set forth in paragraph Two of his bill of complaint; and he also avers that on February 13, 1932, the Respondent Mrs. M. A. McGowan, under the name of Mrs. Thomas McGowan, together with T. B. McGowan, executed and delivered to the Respondent E. C. McGowan a conveyance conveying the property alleged to have been conveyed by the Baldwin County Bank in his complaint against the respondents.

The Court will observe that T. B. McGowan is not made a part to the suit of Archer W. Slaughter. That the said property constituted substantially all the property owned by the respondent, Mrs. M. A. McGowan, at the time the conveyance was made, and alleges further that the conveyance be the respondents, Mrs. M. A. McGowan and T. B. McGowan, to E. C. McGowan was without consideration, was fraudulent and void, and that if he is mistaken as to this, no present consideration passed from the grantee to the grantors for said conveyance and that E. C. McGowan knew of the lien of Archer W. Slaughter, he having been a witness to the same; and even if he paid a consideration for said conveyance that because of the fact the instrument was filed for record in the Probate Court of Baldwin County on which his demands were based. That E. C. McGowan had constructive notice, if not actual notice of complainant's said claim. The said Archer W. Slaughter prays that the instrument which evidences the indebtedness of Mrs. Thomas McGowan be declared

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an equitable lien on the property and superior to the claim of all of the respondents, including of course Baldwin County Bank, and that the property be sold for the satisfaction of the amount judged to be due him by the Respondent, Mrs. M. A. McGowan, and in the alternative he prays that if he has no equitable lien superior to the claim of the Respondents that the said conveyance to Edmund C. McGowan be set aside and declared void as a fraud on the claim of Archer W. Slaughter, and further prays that his suit be consolidated with the Baldwin County Bank suit against the Respondent, which has been done. In both cases suits are to be heard together.

To the bill of complaint of Archer W. Slaughter, respondents Mrs. M. A. McGowan and Edmund Clay McGowan deny that the note set forth in the Second Paragraph of the bill of complaint was executed by Mrs. M. A. McGowan or by her authority; that Mrs. M. A. McGowan and T. B. McGowan executed and delivered to E. C. McGowan the deed of conveyance mentioned in said bill of complaint and that said deed was recorded as set out in said bill of complaint. That they admitted that E. C. McGowan was then claiming the property set out in said conveyance as his own, as he had a right to do. That said conveyance was based upon a consideration which was duly paid in an amount equal to the value of the interest of the grantors in said deed in the property mentioned, and denied that the conveyance from Mrs. M. A. McGowan and T. B. McGowan to E. C. McGowan was without consideration, fraudulent and void but it was based upon consideration equal to the value of their interest in the alleged property, was made in good faith and was a bona fide transaction. That they denied that no consideration was passed but stated the facts to be that the consideration mentioned in said conveyance passed to the grantors; that they denied that complainant had a equitable lien on the property mentioned in said conveyance and denied that said lien was superior to the claim of E. C. McGowan; denied that said conveyance was made for the purpose of hindering, delaying or defrauding Archer W. Slaughter.

ARGUMENT.

By a reading of the bill of complaint of the Baldwin County Bank heretofore mentioned and the bill of complaint of Archer W. Slaughter just referred to, it will clearly appear that it is not averred in either that the value of the property conveyed by Thomas B. McGowan and Mrs. T. B. McGowan to Edmund C. McGowan did not exceed in value the amount expressed as the consideration in the alleged conveyance to Edmund C. McGowan. Evidently for the reason that right at that time we were at the bottom of the depression that had no equal in this Country's economic history.

In view of the fact that the alternative prayer of Archer W. Slaughter's bill of complaint seeks to have the same relief that the Baldwin County Bank seeks against the respondents, we will take up first the demand of Archer W. Slaughter growing out of his loan and the instrument that he sets forth in his bill of complaint.

We respectfully request the Court to examine the alleged copy of said instrument which Slaughter claims to be an equitable mortgage as it appears in Paragraph Two of his bill of complaint and then compare this copy with the original instrument which he has introduced in evidence, being Exhibit "B" to A. W. Slaughter's testimony, and the Court will observe a marked discrepancy in the copy as it appears in the complaint and the original note in this, that the words "This note is secured by my real and personal property". In the copy it appears above the signature of Mrs. M. A. McGowan. This stipulation as set forth in the copy makes it appear that it is in the body of the note and above the signature of Mrs. M. A. McGowan. Evidently the pleader saw the weakness of his instrument and tried to fortify it by copying the stipulation "This note is secured by my real and personal property," so as to make it appear as a part of the body of the instrument. In the note introduced in evidence it will appear that immediately after the words "Witness my hand and seal this the 9 day of July, 1924," Mrs. M. A. McGowan caused the same to be signed at the bottom of said note and on the first line thereof. Subsequent thereto, the



evidence shows that Archer W. Slaughter wrote out to the left of Mrs. M. A. McGowan's signature, which was signed at the bottom of the instrument she executed as the law requires in such cases, the words, "This note is secured by my real and personal property", and immediately at the bottom of said words E. C. McGowan appears to have signed the same as an attest.

The Alabama Code, in dealing with the execution of instruments pertaining to land where the legal title or equitable title is involved, has prescribed the manner and form in which such instruments are to be executed. See Title 47, Section 22, which says, inter alia, "Conveyances for the alienation of lands must be written or printed or partly written and partly printed on parchment or paper and must be signed at the foot by the contracting party or his agent having the written authority."

On examination of the original note, it will clearly appear that the alleged stipulation does not appear in the body of the contract nor did Mrs. Thomas McGowan sign the same at the foot of said alleged stipulation so as to bring the same within the alleged contract. Outside of all this, it appears clear that said words, "This note is secured by my real and personal property" was written in the space to the left of Mrs. McGowan's signature. Evidently, Archer W. Slaughter knew his way around, and on examination of the note it will appear that if it was intended that Mrs. McGowan was to give him an equitable mortgage on her property, he could easily have written the same in the note above her signature so as to have made it part of the body of the instrument and whereby she could have executed it as the law requires by signing at the foot of the same. She could have executed the note on the third or bottom line and the stipulation could have been written in above her name and the matter made regular. It all shows that this equitable mortgage proposition was an after-thought on the part of Archer W. Slaughter. Now as to what took place relative to the loan by Archer W. Slaughter to Mrs. McGowan and the instrument that she executed or caused to be executed to evidence the same out side of the insufficiency of the instrument itself, we

will go back to the home of Mrs. McGowan, or the place where she was residing, on the day that the loan was made. On page 8 of the record, Archer W. Slaughter testified that they were in the dining-room at Guy McGowan's place; that Mrs. M. A. McGowan, Miss Laura McGowan, Edmund Clay McGowan and himself were present, to the question:

Que: "You told her that you would make this loan on a note?"

Ans: "Yes, she suggested such as to giving me security."

Que: "You suggested that you would make the loan on the note?"

Ans: "Yes, that was it."

He further testified (see page 9 R) that Mrs. McGowan did not sign the note but directed her daughter, Laura, to sign the note.

Que: "Did you read it over to her?"

Ans: "I may have." Which is evasive.

That on cross-examination (see page 9/ R), he testified:

Que: "You offered to take a note?"

Ans: "Yes."

Que: "You say she suggested that you take security?"

Ans: "Seems to me that she wanted to give security; yes."

He admitted that he prepared the note. It appears from the evidence of Archer W. Slaughter that Mrs. McGowan never had the note in her hand; that she directed her daughter to sign the same.

Miss Laura McGowan (see page 2 of Testimony taken on September 17, 1942) testified that she was present when Archer W. Slaughter made the loan to her mother; that this was on the 9th day of July, 1924; that Archer W. Slaughter came to their place on that day; -she remembered the time and the occasion- and offered to loan her mother \$500.00. Said nothing about any security; that he wanted for the loan; agreed to loan the money on a note and loaned her \$500.00 on that day. That Archer W. Slaughter prepared the note. That the note in evidence was not the note he prepared. That he said he just wanted a piece of paper to show that she got the money. That that part written on the note: "secured by real and personal property", was not on the note when she signed it. She signed it for her mother. That her mother told her to sign it. That she read the note over at the time. That that part of the note which has been introduced in evidence as Exhibit "B" to A. W.

Slaughter's testimony: "This note is secured by my real and personal property", was not in the note at the time she executed it for her mother. That she read it over carefully; read it over to her mother in the presence of her brother, E. C. McGowan. That he said he just wanted a plain note. Nothing was said about giving a mortgage on land or lien on land to secure the note. (See pages 2 & 3 of R).

Thomas B. McGowan testified (see page 33 R) that he was about the place the day that Mr. A. W. Slaughter was there. That he did not see the note after it was prepared. That he heard a conversation between Mr. Slaughter and his mother. That Mr. Slaughter told her he would loan her the \$500.00 on a plain note; just something to show that he let her have it.

Edmund Clay McGowan testified (see page 57 R) that he remembered Archer W. Slaughter coming over to his place and making a loan to his mother of \$500.00. That he was present. That Mr. Slaughter told her he was loaning her the \$500.00. That he said he did not want anything but just a plain note; just something to show that she owed the money. That he spent the day there and after dinner they were in the hall, he and his mother and two sisters. His brother was out in the yard. (see page 58 R). Mr. Archer W. Slaughter prepared the note and his sister signed the note for her mother. That A. W. Slaughter asked him to witness the note and told him where to sign it as a witness. That witness, on being shown Exhibit "B" to Slaughter's testimony, a note for \$500.00 executed on the 9th day of July, 1924, stated that it was the note all except this that was written in after he had witnessed it. That the part written in after it was executed was, "This note is secured by my real and personal property." That it was written there after he had signed it. That Mr. Slaughter pointed out to him where to sign; said "down here on this line." That the stipulation, "this note is secured by my real and personal property", was not in the note then. That he stayed in the room and when the note was executed, Slaughter took it, and that witness stayed there with Mr. Slaughter until he left (see page 58 R). That he is positive that the words,

"This note is secured by my real and personal property" were written in after it was signed. That he was positive it was not there when he signed it. (see page 59 R).

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So it appears, we respectfully contend, that the great weight of the evidence is to the effect that the stipulation relative to the note being secured by a lien on real and personal property was written in the note after it was executed, witnessed and delivered to Archer W. Slaughter.

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We also quote as follows from the opinion of that greatest of all writers of the Supreme Court of Alabama, Chief Justice Brickell, in the case of Teague vs Lindsey, 17 So. Rep. 542, who said:

"The third, fourth and fifth instructions were conjoined and requested. The third cannot be accepted as stating a correct legal proposition. The relationship - the kinship, as in this case - of vendor and vendee is not of itself a badge of fraud and of itself does not demand clearer proof of the good faith of the parties. It is a fact as would be the existence of confidential relations between the parties relevant in all cases but dependant for its value upon other circumstances with which it may be connected. When fairly analyzed the meaning of the instruction is that from relation fraud will be presumed unless there is clearer proof of good faith than would be sufficient to satisfy the jury of the good faith of the parties if the relationship did not exist; in other words, in violation of the maxim of the law that fraud is not presumed, the presumption is raised and indulged from a single fact, the relationship of the parties unless it is neutralized by counter-vailing evidence."

From 37 Corpus Juris Secundum 939, Section 104, we quote the rule which appears to be universal:

"A debtor is not deprived of his right to sell or transfer for a valuable consideration a part or all of his property merely because he is financially embarrassed or insolvent even though such sale or transfer may hinder or delay creditors. The fact that the grantor is insolvent at the time he executes the conveyance is not of itself a ground for setting aside the conveyance and this is the rule even though the conveyance is to a relative."

Lienkauf vs Morris,  
66 Alabama 406.

"As a principle of law there can be no doubt that the owner of property, real or personal, in this State may make a fair sale of it to any person able and competent to buy it, and if such sale is not made with fraudulent intent, it is not void. Chancellor Kent, speaking of the right of the owner to sell his property to another, says: 'The power of alienation of property is a necessary incident to the right of property and was dictated by mutual convenience and mutual wants. - One's debts in this State are not a charge or lien upon his estate until after his death. Therefore, although he may be insolvent or largely indebted at the time, he may alienate the same by absolute sale, and although the sale may be to a relative, this does not void the sale if it was fair and made without fraud.' Any other rule would paralyse and suspend the insolvent's power of disposition of his property with scarcely less completeness than death itself."

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The record in this case discloses that Mrs. Thomas B. McGowan had a deed to two hundred acres of land, which she says she had bought for her and her children, but, anyhow, the deed to the same was in her. That in addition to this, the husband and father, Thomas McGowan, Sr., had died a number of years prior, according to our recollection, in the year 1903, leaving as an estate, range cattle and probably other property that is of no potency so far as the present situation relative to property is concerned, and it appears that the family, with the exception of Randolph McGowan, continued to live together at the old homestead, and by the raising of cattle and accumulation of the same by them, that at the time of this conveyance they had seventy-five head of range cattle; eight head of timber oxen, which they had raised a portion of and acquired by purchase the balance; from all accounts they had become what is known as dead heads; four horses, which were more or less aged; in fact, during the progress of this suit and at the time of the taking of the testimony, all of the same had passed away except one which appears to be in bad shape;

and one old broken down eight-wheel timber wagon. That the title to said property was vested in Mrs. McGowan and her children and certainly in all of the children that remained at the homestead. That at the time of the conveyance of the interest of Mrs. McGowan and Thomas B. McGowan in and to the aforesaid property to E. C. McGowan, Mrs. McGowan and her children owned the old homestead, which was separate and different land from the two hundred acres of land involved in this proceedings. There is no evidence in the record as to the value of the old homestead. There is evidence that there was an outstanding mortgage on the same for \$1500.00.

The record discloses that in 1932, the worse depression that ever existed in this country, so far as history says, was on. In fact, Judge Brown, in the case of Wolcott vs Titus, 238 Alabama 342, cited by complainants, says this depression was on from 1929 to 1934. We don't know exactly as to how this word "depression" was coined or adopted, and in looking at its meaning, one is a hole, and as we let our minds go back to that deplorable economic time in the history of our Country and in our lives, we certainly recollect that all of us who were not in the employ of the Government or the State or the County on a salary basis were in a hole, and how we got by and managed to keep going, which was on a pretty low level, is one of the mysteries of the average Alabama citizen and especially the writer of this brief. We had a peculiar situation in a way. We were here in what appeared to be the midst of plenty except we had no medium of exchange and, consequently, the price of everything we had fell down to nothing; no employment for labor; the Government caused, in a great many of our larger communities, soup lines to be formed; the banks, the merchants, the doctors, the farmers and the lawyers were all broke. Even the complainant, the Baldwin County Bank, went to the wall, unable to carry on and meet its obligations, and, as Your Honor knows, a great many similar institutions closed their doors and folded up. This was during the days of the great Hoover, who some one said was the



greatest engineer that this Country has ever produced, if for no other reason, he caused to be ditched and drained the economic affairs of the United States. in the first year of his inglorious administration.

We also recall that before the banks folded up during the year 1931, the banks had practically ceased functioning, and as stated, a citizen, as a rule, was in necessitous circumstances, and especially was it so with Mrs. McGowan and Thomas B. McGowan during the early part of 1932 as the evidence discloses. Is it possible that the law in such a case would prevent an insolvent from disposing of his property for the purpose of meeting such a necessitous condition? Should the insolvent starve himself and go naked rather than use his property for the purpose of supporting himself when he had no other source to look to? Such a rule would be infamous, illogical and beyond the dome of reason, common sense, fairness and justice. It was just a case of survival of the fittest. The Good Book says that one should love his neighbor but nowhere is there written therein that one should love his neighbor better than himself. The poetess said, "To thine ownself be true and it must follow as the night the day that thou cannot be ~~not~~ false to any man." So we take it that Mrs. McGowan and Thomas B. McGowan were but following the first law of nature, taking care of their necessitous circumstances and bodily needs and wants when they contemplated and sold the property involved in this proceedings to E. C. McGowan at and for the sum of \$500.00. Where is the evidence in the record on the part of the complainant, or anywhere else so far as that is concerned, to the effect that this property in the shape it was in and at that time and place was worth more than \$500.00 on the market? The complainants never introduced any evidence to show the market value of the property as being different from what was testified to by the respondents. There was no reason, that if the market value of the property was different at that time and place, why the testimony could not have been forthcoming. The property was located in Baldwin County, a short distance

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administration. This Court will recall as to how they hung on to every word of his inauguration address and who said "the greatest of all fear is fear itself", and who, as his first administrative act, closed up all the banks in the land that had not failed, thereby shutting down all activity in the banking circles, if any were going on. which was very doubtful: McGowan to the question: "Didn't you take that deed for the express purpose of hindering, delaying or defrauding your mother's and brother's creditors. You know T. B. was insolvent at that time?", which on a casual reading of the same will show that there were two questions propounded at one and the same time. One, whether it was for the purpose of hindering, delaying or defrauding his mother's and brother's creditors, and the

other question was as to the insolvency of T. B. McGowan at the time. The witness says, "I guess so." Such questions are calculated to confuse and is not proper and fair. The evidence clearly shows that the property was sold and conveyed on account of the necessitous circumstances of Mrs. McGowan and Thomas B. McGowan. On page 61 of the Record, in answer to the question, "Who brought up the subject about you buying this property?", E. C. McGowan answered, "My mother needed some money, my brother needed some and I told them if they would sell it to me I would buy it. We figured and I told them what I would give." Thomas B. McGowan testified that he and his mother were both in necessitous circumstances and needed money. (See page 39 R), so it clearly appears that circumstances over which Mrs. McGowan and Thomas B. McGowan had no control impelled them and forced them to sell the property involved in this suit to Edmund Clay McGowan for an adequate consideration so as to take care of themselves the best they could during this economic depression that we all went through for a long period of time; as Judge Brown says, beginning in 1929 and was going on in 1934.

Your Honor will recall the W.P.A.'s and other alphabetical organizations that the Roosevelt administration set up. That they had one of these W.P.A. organization in Baldwin County long after Hoover had gone out. The papers mentioned this organization giving a picnic and electing officers. The people did not even have a W.P.A. to join in the early part of 1932 so as to get relief from the hardships and want of a depression.

Another thought, if the consideration expressed in the conveyance was inadequate and not commensurate with the market value and was fictitious, then it would have been very easy for the consideration to have been expressed at some amount beyond \$500.00, which is a circumstance to impress the open and honest mind that the transaction was not simulated and the price expressed in the conveyance and paid was equal to the value of the property sold.

The Baldwin County Bank in its brief contends that the respondents continued to live on the property the same way after the conveyance was made as they did before it was made, and called the Court's attention to the evidence appearing on pages 69 and 70 of the Record where such evidence can be found. We have examined these pages of the Record and find that such statement is like that made by "Honest John Falstaff's as to the twelve men in buck ram suits". On the contrary, it shows that there was a change of possession; that Edmund Clay McGowan went into possession of the property at the time that he purchased the same.

We most respectfully contend that Mrs. McGowan and Thomas B. McGowan in making this deal were actuated by needy circumstances. As stated, it was but a survival of the fittest, and regardless of what went on in the mind of Edmund Clay McGowan, Mrs. McGowan and Thomas B. McGowan had a right to sell said property to relieve or to help relieve their necessitous circumstances, which the evidence shows was the motive and cause of the sale of the property here involved to Edmund Clay McGowan.

Respectfully submitted.

HYBART & CHASON,

BY: *Chas. Hybart*  
Attorneys for Respondents.

We hereby certify that we have this day forwarded to Mr. J. B. Blackburn and Mr. Telfair Mashburn, Bay Minette, Alabama, postage prepaid, a copy of the foregoing Brief and Argument.

Dated this 18 day of September, 1947.

HYBART & CHASON,

BY: *Chas. Hybart*  
Attorneys for Respondents.

BALDWIN COUNTY BANK, a Corporation,

Complainant,

VS.

T. B. McGOWAN, MRS. THOS. McGOWAN AND EDMUND C. McGOWAN,

Respondents.

ARCHER W. SLAUGHTER,

Complainant,

VS.

MRS. THOMAS McGOWAN AND E. C. McGOWAN,

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

STIPULATION

In these causes it is agreed by the parties that the testimony of Mrs. Thomas McGowan, a witness for the Respondents in the above styled cause may be taken orally at the home of Mrs. McGowan at Latham, Alabama before Erin Stuart as Special Commissioner. All formalities as to the taking of said testimony are waived, including the issuance of a commission and it is agreed that said testimony so taken, when certified to by the said Special Commissioner, may be used as the testimony of said witness in the trial of said cause, the signature of said witness being waived.

It is further agreed that either party may, on final hearing, object to the materiality of any testimony so taken at that hearing without being put to the necessity of making objections at the time of taking same.

Dated this March 20th, 1944.

J. B. Blashline  
Solicitor for Baldwin County Bank.

A. W. Slaughter  
HYBART AND CHASON

BY [Signature]  
Solicitors for Respondents.

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Mrs. M. A. McGowan, on March 21, 1944, testified that on the 9th day of July, 1924, Mr. Slaughter loaned her \$500.00. That he offered to loan it to her at the rate of six per cent interest. That she had Laura to sign the note. (See page 1 R). That they read the note over to her and it was for \$500.00. That he said he would let her have the \$500.00 and said he did not want any mortgage or any security or anything of that kind. All he wanted is "this little slip of paper to show you got the money and I will fix it so if anything should happen to me that you will never be bothered." That the note was not secured by any real or personal property. That she did not offer to give him any security. That she never at any time offered to give him any security and never authorized him to write in that note that it was secured by any real and personal property. Wasn't anything like that mentioned; it was not there; it was put there after the note was signed. That they read the note over to her and she told her daughter to sign it. (See page 2 R). That Laura McGowan signed it. That Mr. Archer W. Slaughter prepared the note and they read it to her after he prepared it. (See page 3 R).

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greatest engineer that this Country has ever produced, if for no other reason, he caused to be ditched and drained the economic affairs of the United States. in the first year of his inglorious administration.

We also recall that before the banks folded up during the year 1931, the banks had practically ceased functioning, and as stated, a citizen, as a rule, was in necessitous circumstances, and especially was it so with Mrs. McGowan and Thomas B. McGowan during the early part of 1932 as the evidence discloses. Is it possible that the law in such a case would prevent an insolvent from disposing of his property for the purpose of meeting such a necessitous condition? Should the insolvent starve himself and go naked rather than use his property for the purpose of supporting himself when he had no other source to look to? Such a rule would be infamous, illogical and beyond the dome of reason, common sense, fairness and justice. It was just a case of survival of the fittest. The Good Book says that one should love his neighbor but nowhere is there written therein that one should love his neighbor better than himself. The poetess said, "To thine ownself be true and it must follow as the night the day that thou cannot be ~~at~~ false to any man." So we take it that Mrs. McGowan and Thomas B. McGowan were but following the first law of nature, taking care of their necessitous circumstances and bodily needs and wants when they contemplated and sold the property involved in this proceedings to E. C. McGowan at and for the sum of \$500.00. Where is the evidence in the record on the part of the complainant, or anywhere else so far as that is concerned, to the effect that this property in the shape it was in and at that time and place was worth more than \$500.00 on the market? The complainants never introduced any evidence to show the market value of the property as being different from what was testified to by the respondents. There was no reason, that if the market value of the property was different at that time and place, why the testimony could not have been forthcoming. The property was located in Baldwin County, a short distance

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from the County site where the testimony was taken. If they had witnesses and could have shown something different as to the market value of the property at that time and at that place, they certainly should have come forward with the testimony to that effect and not be asking this Court to go out into the realm of speculation and in the face of human knowledge to say that the consideration paid was inadequate and greatly disproportionate to the value of the property at that time and at that place. You just can't claim, in support of your case, matters in your brief which have not been established by the facts in the case, which we submit are cognizant with our economic history and recollection of trying times that have been stamped upon the minds of those who lived and thought during this great depression.

Where is the evidence on the part of the complainants to the effect that the consideration of the deed was fictitious or voluntary? The record discloses, and there is no evidence to the contrary, that Edmund Clay McGowan had accumulated several hundred dollars, out of which he paid the \$500.00 consideration for the property conveyed; that he had this in his home, kept it in a trunk which he kept locked, which was a much safer place to have put it in 1931 and 1932 than in any bank. There is nothing unreasonable relative to his action in keeping his money during this time as it is a matter of common knowledge that the banks and a great many other institutions were all broke, and to put your money in the bank, if you had any, would have been like sticking it in a rat hold. At least it would have been cut down to withdrawing so much per day, which within itself would speak in stenterian terms as to such an institution; you had better look out when you put your money in there as the chances were that you wouldn't get it back. In fact, a great many of these institutions that failed and folded up during that time never did pay the depositors in full. This Court will recall that the so called bankers and big business men of this Country looked forward to the coming of the F. D. Roosevelt

administration. This Court will recall as to how they hung on to every word of his inauguration address and who said "the greatest of all fear is fear itself", and who, as his first administrative act, closed up all the banks in the land that had not failed, thereby shutting down all activity in the banking circles, if any were going on, which was very doubtful; certainly not in this section, and then had the Congress to guarantee the deposits in the future and took such constructive steps as to set these bankers and big business men on an even financial keel, and this Court will recall, just as soon as they were able to get up off the ground and brush the dirt off the seat of their trousers, they began to bemean and curse this great benefactor of theirs. Of course, these remarks are not exactly cognisant with the question here involved, but nevertheless it is history and was an exhibition of great ingratitude. So we respectfully contend that the grantors in the conveyance were in necessitous circumstances surrounded by an economic condition over which they had no control and which almost justified the selling of the last seed calf; that they had this little property, had an opportunity to sell it and did sell it for the purpose of relieving as best they could their necessitous condition, and as such, they were justified and authorized to sell said property, and the Respondent Edmund Clay McGowan had a right to buy the same, and that he paid the market value of the same, paid it in money which he had accumulated and saved, which he had a right to do.

In the brief of complainant, Baldwin County Bank, they lay great stress upon the answer by the witness Edmund Clay McGowan to the question: "Didn't you take that deed for the express purpose of hindering, delaying or defrauding your mother's and brother's creditors. You know T. B. was insolvent at that time?", which on a casual reading of the same will show that there were two questions propounded at one and the same time. One, whether it was for the purpose of hindering, delaying or defrauding his mother's and brother's creditors, and the

other question was as to the insolvency of T. B. McGowan at the time. The witness says, "I guess so." Such questions are calculated to confuse and is not proper and fair. The evidence clearly shows that the property was sold and conveyed on account of the necessitous circumstances of Mrs. McGowan and Thomas B. McGowan. On page 61 of the Record, in answer to the question, "Who brought up the subject about you buying this property?", E. C. McGowan answered, "My mother needed some money, my brother needed some and I told them if they would sell it to me I would buy it. We figured and I told them what I would give." Thomas B. McGowan testified that he and his mother were both in necessitous circumstances and needed money. (See page 39 R), so it clearly appears that circumstances over which Mrs. McGowan and Thomas B. McGowan had no control impelled them and forced them to sell the property involved in this suit to Edmund Clay McGowan for an adequate consideration so as to take care of themselves the best they could during this economic depression that we all went through for a long period of time; as Judge Brown says, beginning in 1929 and was going on in 1934.

Your Honor will recall the W.P.A.'s and other alphabetical organizations that the Roosevelt administration set up. That they had one of these W.P.A. organization in Baldwin County long after Hoover had gone out. The papers mentioned this organization giving a picnic and electing officers. The people did not even have a W.P.A. to join in the early part of 1932 so as to get relief from the hardships and want of a depression.

Another thought, if the consideration expressed in the conveyance was inadequate and not commensurate with the market value and was fictitious, then it would have been very easy for the consideration to have been expressed at some amount beyond \$500.00, which is a circumstance to impress the open and honest mind that the transaction was not simulated and the price expressed in the conveyance and paid was equal to the value of the property sold.

The Baldwin County Bank in its brief contends that the respondents continued to live on the property the same way after the conveyance was made as they did before it was made, and called the Court's attention to the evidence appearing on pages 69 and 70 of the Record where such evidence can be found. We have examined these pages of the Record and find that such statement is like that made by "Honest John Falstaff's as to the twelve men in buck ram suits". On the contrary, it shows that there was a change of possession; that Edmund Clay McGowan went into possession of the property at the time that he purchased the same.

We most respectfully contend that Mrs. McGowan and Thomas B. McGowan in making this deal were actuated by needy circumstances. As stated, it was but a survival of the fittest, and regardless of what went on in the mind of Edmund Clay McGowan, Mrs. McGowan and Thomas B. McGowan had a right to sell said property to relieve or to help relieve their necessitous circumstances, which the evidence shows was the motive and cause of the sale of the property here involved to Edmund Clay McGowan.

Respectfully submitted.

HYBART & CHASON,

BY: *Chas. Hybart*  
Attorneys for Respondents.

We hereby certify that we have this day forwarded to Mr. J. B. Blackburn and Mr. Telfair Mashburn, Bay Minette, Alabama, postage prepaid, a copy of the foregoing Brief and Argument.

Dated this 18 day of September, 1947.

HYBART & CHASON,

BY: *Chas. Hybart*  
Attorneys for Respondents.

BALDWIN COUNTY BANK, a Corporation,

Complainant,

VS.

T. B. McGOWAN, MRS. THOS. McGOWAN AND EDMUND C. McGOWAN,

Respondents.

ARCHER W. SLAUGHTER,

Complainant,

VS.

MRS. THOMAS McGOWAN AND E. C. McGOWAN,

Respondents.

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

STIPULATION

In these causes it is agreed by the parties that the testimony of Mrs. Thomas McGowan, a witness for the Respondents in the above styled cause may be taken orally at the home of Mrs. McGowan at Latham, Alabama before Erin Stuart as Special Commissioner. All formalities as to the taking of said testimony are waived, including the issuance of a commission and it is agreed that said testimony so taken, when certified to by the said Special Commissioner, may be used as the testimony of said witness in the trial of said cause, the signature of said witness being waived.

It is further agreed that either party may, on final hearing, object to the materiality of any testimony so taken at that hearing without being put to the necessity of making objections at the time of taking same.

Dated this March 20th, 1944.

J. B. Threlkeld  
Solicitor for Baldwin County Bank.

A. W. Slaughter  
HYBART AND CHASON

BY [Signature]  
Solicitors for Respondents.



COMPLAINANT'S EXHIBIT X

THIS INDENTURE, Made this the 5th day of December, 1919, between Thomas T. Tunstall and Martha M. Tunstall, his wife, as parties of the first part, and Mary A. McGowan, as party of the second part, WITNESSETH:

That the said parties of the first part for and in consideration of the sum of One Thousand Dollars (\$1,000.00) to them in hand paid by said party of the second part, the receipt whereof is hereby acknowledged, do grant, bargain, sell and convey unto the said party of the second part, her heirs and assigns forever, all of the following described real estate in Baldwin County, Alabama, to-wit:

The Southwest quarter (SW $\frac{1}{4}$ ) and the Southwest quarter (SW $\frac{1}{4}$ ) of the Southeast quarter (SE $\frac{1}{4}$ ) of Section Nineteen (19) in Township Two (2) North, of Range Three (3) East containing Two hundred (200) acres, more or less.

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

To have and to hold, the said real estate unto the said party of the second part, her heirs and assigns forever.

And the said parties of the first part for themselves and their heirs do covenant with the party of the second part and her heirs that they are lawfully seized in fee simple of said above described real estate, and that the same is free from all incumbrances and that they will and their heirs, executors and administrators shall forever warrant and defend the same unto the said party of the second part, her heirs and assigns against the lawful claims of all persons whomsoever.

In Witness Whereof, the parties of the first part have hereunto set their hands and seals, the day and year first above written.

(\$1.00 U.S.I.R. Stamp  
attached.)

THOMAS T. TUNSTALL (SEAL)  
MARTHA M. TUNSTALL (SEAL)

BALDWIN COUNTY BANK, a Corporation,

Complainant,

VS.

T. B. McGOWAN, et als,

Respondents,

ARCHER W. SLAUGHTER,

Complainant,

VS.

MRS. THOMAS McGOWAN, AND E. C. McGOWAN.

Respondents.

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

March 21, 1944.

TESTIMONY.

DIRECT EXAMINATION OF MRS. THOMAS McGOWAN, WITNESS FOR RESPONDENTS, BY HONORABLE C. L. HYBART, ONE OF THE ATTORNEYS FOR RESPONDENTS.

Q. Is this Mrs. M. A. McGowan?

A. Mrs. M. A. McGowan.

Q. Where do you live-Latham?

A. I live in Latham.

Q. How old are your Mrs. McGowan?

A. I am 86 years old.

Q. Do you know Mr. Archie Slaughter?

A. Yes, Sir.

Q. How long have you known him?

A. All of his life.

Q. On the 9th day of July, 1924, or about that time, did Mr. Slaughter loan you \$500.00?

A. Yes, Sir.

Q. Did he offer to loan it to you?

A. He did.

Q. Did he say what rate of interest he would charge you?

A. 6%.

Q. Did you execute a note to him - did you sign a note or have someone sign for you?

A. I had Laura to sign the note. He raised no objection.

Q. I don't believe you have any glasses-you can't see very well?

A. No, I don't have any glasses.

Q. Have you got any glasses today?

A. No, never had any.

Q. Had they read the note over to you there that day?

A. Yes.

Q. And this note there was for \$500.00?

A. Was for \$500.00.

Q. Payable one year from date?

A. Well, he didn't specify any time. I'll tell you what he said.

He said that he would let me have the \$500.00 and said he didn't want any mortgage, any security, or anything of that kind. All I want, he said, is this little slip of paper to show you got the money and I will have that fixed so--I'll fix it so if anything should happen to me that you will never be bothered. That's what he said.

Q. That note secured by any real and personal property?

A. No security given.

Q. You didn't offer to give him any security?

A. No, Sir.

Q. Did you at any time after your daughter signed this note at your request- did you at any time after that offer to give him any security?

A. No.

Q. Did you at any other time authorize him to write in that note..

A. No, Sir.

Q. That it was secured by any real and personal property?

A. No, Sir. I did not. It wasn't anything like that mentioned.

Q. And you did never offer to give him any security at all-nothing in the note about being secured by personal property?

A. No, nothing. If it was there it was put there after the note was signed.

Q. And they read the note over to you and you told your daughter to sign it?

A. Yes, and he raised no objection because he knew she signed all papers for me, any papers I wanted her to sign.

Q. That is Miss Laura McGowan?

A. Yes, Laura signed it.

Q. Mr. Archie Slaughter prepared the note and they read it to you after they prepared it?

A. Yes.

Q. Miss Laura was there with him and superintended the preparation of the note by Mr. Archie Slaughter?

A. Yes.

CROSS-EXAMINATION OF MRS. THOMAS MCGOWAN BY MR. J. B. BLACKBURN, ATTORNEY FOR BALDWIN COUNTY BANK.

Q. Mrs. McGowan you were indebted to the Baldwin County Bank weren't you at the time it failed?

A. No.

Q. Did you endorse this note for Mr. T. B. McGowan?

A. Yes, I endorsed it.

Q. And this note for \$98.25 due January 20, 1932-that hasn't been paid has it?

A. No-I don't know.

Q. You haven't paid it?

A. I don't remember.

Q. And you wouldn't say it was not paid?

A. No.

Q. And you wouldn't say it was paid?

A. No.

Q. There is another note here for \$250 to the Baldwin County Bank due February 25, 1932-you endorsed that note didn't you? This is T. B. McGowan to the Baldwin County Bank.

A. Is my endorsement on that....

Q. Now, that note is not paid is it?

A. No, I guess not.

Q. Mrs. McGowan in February, 1932, did you and Mr. T. B. McGowan make a deed to Mr. Edmond Clay McGowan?

A. Yes.

Q. Now that property-that deed conveyed the Southwest Quarter and Southwest Quarter of the Southeast Quarter of Section 19, Town-

That wasn't on the note?

A. That was not on there.

RE-DIRECT EXAMINATION BY C. L. HYBART:

Q. Mrs. McGowan, he just asked you something about some property you sold to Mr. Edmond Clay McGowan and he said description of about 200 acres, I believe, and also some cattle and horses and oxen, and where did you get this 200 acres of land from?

A. I bought it.

Q. Who bought it? Did you and your children buy it from the McGowan estate and you are all equally interested in it?

A. Yes.

Q. And Mr. T. B. McGowan and you sold your interest in this property - for \$500.00, is that right?

A. That is right.

Q. And were you and your children interested in the cattle you have, interested in the cows and horses and everything

A. We all owned it together.

Q. Mr. Randolph McGowan had an interest in it didn't he?

A. Yes.

Q. And Miss Laura didn't she?

A. Yes.

Q. And your other daughter Reba have an interest?

A. Yes.

Q. And Mr. Thomas B. McGowan had an interest and Mr. Edmond Clay McGowan?

A. Yes.

Q. How many children do you have?

A. Five children - three boys and two girls.

Q. Each owned a one-sixth interest in this property?

A. Yes.

Q. So you only had when you were selling this land to Edmond Clay McGowan a one-sixth interest in the property?

A. Yes. That's what it was.

Q. And your son, Mr. T. B. McGowan had a one-sixth interest?

A. Yes.

Q. This land there-this 200 acres of land was wood land wasn't it?

A. Yes.

Q. Where was the old McGowan home place?

A. This.

Q. This land known as White Marsh place-did you own any other property beside this, any dower interest in the land? What about this place where you are now? The home place-known as the McGowan home place?

A. Yes.

Q. You interested in this place here weren't you?

A. Yes.

Q. How many acres in this home place here?

A. 160 acres.

Q. And you have a dower interest in this place-and you never sold that?

A. No.

Q. In other words, Mr. Blackburn asked you if you conveyed all your property to your son Edmond Clay?

A. Yes, Sir.

Q. Did you convey to him your home place here?

A. Yes.

Q. You sold Edmond Clay your home?

A. Yes. Edmond Clay owns the home place.

Q. Did you convey Edmond Clay the home place in this deed over here?

A. No.

Q. When did you sell Edmond Clay the home place?

A. I don't remember exactly.

Q. Do you remember when you made this deed that Mr. Blackburn was talking to you about-the 200 acres, the White Marsh place?

A. I don't remember the date.

Q. You don't recall exactly when you sold the home place? Do you recall when you sold the interest in the White Marsh Place. Do you remember?

A. I don't remember the date.

Q. Had you sold him your interest in the home place before or since that time. Speaking about your settlement with Edmond Clay had you sold your interest in the home place before that time or since that time?

A. I sold the interest in the other before the home place.

RE-CROSS EXAMINATION BY MR. J. B. BLACKBURN.

Q. Mrs. McGowan, you bought this White Marsh place from Thomas T. Tunstall and wife?

A. Yes.

Q. And that deed was made to you as Mary A. McGowan-that is your name?

A. Yes.

Q. It was about December 5, 1919?

A. Well, I don't remember the dates. I have a copy of the deeds.

Q. That was what I was referring to. That's alright.

Q. This White Marsh-was all the land yours individually?

A. I didn't own it individually. We all owned it together. It was made to me because the children were all to be treated alike.

Q. Yes, but you had not made any deed to any of your children to this White Marsh place until you made a deed to Edmond Clay had you?

A. No.

Q. And Edmond Clay is one of your sons?

A. Yes.

Q. Mr. T. B. McGowan is another one of your sons?

A. Yes.

COMPLAINANT OFFERS IN EVIDENCE CERTIFIED COPY OF DEED FROM THOMAS T. TUNSTALL AND WIFE TO MARY A. MCGOWAN AND ASKS THE SAME BE MARKED COMPLAINANT'S EXHIBIT X.

RE-RE-DIRECT EXAMINATION BY MR. C. L. HYBART

Q. In regard to the White Marsh place-who purchased the land for you?

A. My brother Tom. Dr. T. D. Tunstall.

Q. He handled the deal for you?

A. Yes.

Q. And the deed was taken in your name?

A. In My name, because he said he thought that was best because they would all share alike.

Q. You were buying for you and your children-and the money flowing from the estate of your husband?

A. No. We were to pay for it with the timber that came off the land and we have paid for it from the timber off that tract of land and home place

Q. And that was the way you paid for it?

A. Yes.

Q. You were buying for you and your children?

A. Me and my children.

Q. And you took the deed in your name but it was understood you shared alike in the property?

A. Of Course.

Q. And you sold your interest in the property-and T. B. McGowan sold his interest?

A. Yes.

Q. Edmond Clay have any interest in that?

A. Yes.

Q. Your daughters have never conveyed their interest?

A. No.



BALDWIN COUNTY BANK;  
ARCHER W. SLAUGHTER,  
COMPLAINANTS,

VS.

THOMAS B. MCGOWAN, ET AL,  
RESPONDENTS.

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

Nos. 10 & 18.

BRIEF OF THOMAS B. MCGOWAN, MRS. THOMAS  
MCGOWAN AND EDMUND C. MCGOWAN, RESPONDENTS.

STATEMENT OF CASE.

On December 6, 1933, the Baldwin County Bank filed a bill of complaint against the respondents, setting out that T. B. McGowan and Mrs. Thomas McGowan were indebted to them in the sum of around \$346.87 on two promissory notes, Thomas B. McGowan being the maker and Mrs. Thomas McGowan the endorser, one note being for \$250.00, due February 25, 1932, and one note for \$96.87, due January 20, 1932; and that while said respondents, Thomas B. McGowan and Mrs. Thomas McGowan, were indebted to them as aforesaid, on to-wit: the 13th day of February, 1932, they sold to Edmund C. McGowan two hundred acres of land and also their interest in seventy-five head of cattle, four head of horses, eight head of oxen and one eight-wheel wagon for the purported consideration of \$500.00, which they allege in truth and fact was a voluntary conveyance without consideration made by Thomas B. McGowan and Mrs. Thomas McGowan for the purpose of hindering, delaying or defrauding it in the collection of its indebtedness, and that said property was practically all the property owned by the respondents Thomas B. McGowan and Mrs. Thomas McGowan, and was subject to the satisfaction of its debt, and prayed that the said conveyance be set aside as fraudulent and void and that the property described therein be subjected to the satisfaction of its indebtedness. To this bill of complaint the Respondents filed their answer denying that said conveyance was voluntary and without consideration and that said conveyance was made for the purpose of hindering, delaying or defrauding the Baldwin County Bank or any one else. That the

said transaction was a bona fide transaction, based upon a consideration which was paid, which consideration was equal to the value of the property conveyed therein.

Respondents further show that on January 6, 1934, Archer W. Slaughter filed his bill of complaint in the Circuit Court of Baldwin County, Alabama, against the respondents Mrs. M. A. McGowan and E. C. McGowan, Mrs. M. A. McGowan being one and the same person as Mrs. Thomas McGowan, and in addition thereto made the Baldwin County Bank a party respondent also. The said Archer W. Slaughter, in his bill of complaint, sets out that on July 9, 1924, Mrs. M. A. McGowan became indebted to him in the sum of \$500.00 for money loaned her on that date, and that she executed an instrument evidencing such indebtedness, a copy of which is set forth in paragraph Two of his bill of complaint; and he also avers that on February 13, 1932, the Respondent Mrs. M. A. McGowan, under the name of Mrs. Thomas McGowan, together with T. B. McGowan, executed and delivered to the Respondent E. C. McGowan a conveyance conveying the property alleged to have been conveyed by the Baldwin County Bank in his complaint against the respondents.

The Court will observe that T. B. McGowan is not made a part to the suit of Archer W. Slaughter. That the said property constituted substantially all the property owned by the respondent, Mrs. M. A. McGowan, at the time the conveyance was made, and alleges further that the conveyance be the respondents, Mrs. M. A. McGowan and T. B. McGowan, to E. C. McGowan was without consideration, was fraudulent and void, and that if he is mistaken as to this, no present consideration passed from the grantee to the grantors for said conveyance and that E. C. McGowan knew of the lien of Archer W. Slaughter, he having been a witness to the same; and even if he paid a consideration for said conveyance that because of the fact the instrument was filed for record in the Probate Court of Baldwin County on which his demands were based. That E. C. McGowan had constructive notice, if not actual notice of complainant's said claim. The said Archer W. Slaughter prays that the instrument which evidences the indebtedness of Mrs. Thomas McGowan be declared

will go back to the home of Mrs. McGowan, or the place where she was residing, on the day that the loan was made. On page 8 of the record, Archer W. Slaughter testified that they were in the dining-room at Guy McGowan's place; that Mrs. M. A. McGowan, Miss Laura McGowan, Edmund Clay McGowan and himself were present, to the question:

Que: "You told her that you would make this loan on a note?"

Ans: "Yes, she suggested such as to giving me security."

Que: "You suggested that you would make the loan on the note?"

Ans: "Yes, that was it."

He further testified (see page 9 R) that Mrs. McGowan did not sign the note but directed her daughter, Laura, to sign the note.

Que: "Did you read it over to her?"

Ans: "I may have." Which is evasive.

That on cross-examination (see page 9/ R), he testified:

Que: "You offered to take a note?"

Ans: "Yes."

Que: "You say she suggested that you take security?"

Ans: "Seems to me that she wanted to give security; yes."

He admitted that he prepared the note. It appears from the evidence of Archer W. Slaughter that Mrs. McGowan never had the note in her hand; that she directed her daughter to sign the same.

Miss Laura McGowan (see page 2 of Testimony taken on September 17, 1942) testified that she was present when Archer W. Slaughter made the loan to her mother; that this was on the 9th day of July, 1924; that Archer W. Slaughter came to their place on that day -she remembered the time and the occasion- and offered to loan her mother \$500.00. Said nothing about any security; that he wanted for the loan; agreed to loan the money on a note and loaned her \$500.00 on that day. That Archer W. Slaughter prepared the note. That the note in evidence was not the note he prepared. That he said he just wanted a piece of paper to show that she got the money. That that part written on the note: "secured by real and personal property", was not on the note when she signed it. She signed it for her mother. That her mother told her to sign it. That she read the note over at the time. That that part of the note which has been introduced in evidence as Exhibit "B" to A. W.

Slaughter's testimony: "This note is secured by my real and personal property", was not in the note at the time she executed it for her mother. That she read it over carefully; read it over to her mother in the presence of her brother, E. C. McGowan. That he said he just wanted a plain note. Nothing was said about giving a mortgage on land or lien on land to secure the note. (See pages 2 & 3 of R).

Thomas B. McGowan testified (see page 33 R) that he was about the place the day that Mr. A. W. Slaughter was there. That he did not see the note after it was prepared. That he heard a conversation between Mr. Slaughter and his mother. That Mr. Slaughter told her he would loan her the \$500.00 on a plain note; just something to show that he let her have it.

Edmund Clay McGowan testified (see page 57 R) that he remembered Archer W. Slaughter coming over to his place and making a loan to his mother of \$500.00. That he was present. That Mr. Slaughter told her he was loaning her the \$500.00. That he said he did not want anything but just a plain note; just something to show that she owed the money. That he spent the day there and after dinner they were in the hall, he and his mother and two sisters. His brother was out in the yard. (see page 58 R). Mr. Archer W. Slaughter prepared the note and his sister signed the note for her mother. That A. W. Slaughter asked him to witness the note and told him where to sign it as a witness. That witness, on being shown Exhibit "B" to Slaughter's testimony, a note for \$500.00 executed on the 9th day of July, 1924, stated that it was the note all except this that was written in after he had witnessed it. That the part written in after it was executed was, "This note is secured by my real and personal property." That it was written there after he had signed it. That Mr. Slaughter pointed out to him where to sign; said "down here on this line." That the stipulation, "this note is secured by my real and personal property", was not in the note then. That he stayed in the room and when the note was executed, Slaughter took it, and that witness stayed there with Mr. Slaughter until he left (see page 58 R). That he is positive that the words,

evidence shows that Archer W. Slaughter wrote out to the left of Mrs. M. A. McGowan's signature, which was signed at the bottom of the instrument she executed as the law requires in such cases, the words, "This note is secured by my real and personal property", and immediately at the bottom of said words E. C. McGowan appears to have signed the same as an attest.

The Alabama Code, in dealing with the execution of instruments pertaining to land where the legal title or equitable title is involved, has prescribed the manner and form in which such instruments are to be executed. See Title 47, Section 22, which says, inter alia, "Conveyances for the alienation of lands must be written or printed or partly written and partly printed on parchment or paper and must be signed at the foot by the contracting party or his agent having the written authority."

On examination of the original note, it will clearly appear that the alleged stipulation does not appear in the body of the contract nor did Mrs. Thomas McGowan sign the same at the foot of said alleged stipulation so as to bring the same within the alleged contract. Outside of all this, it appears clear that said words, "This note is secured by my real and personal property" was written in the space to the left of Mrs. McGowan's signature. Evidently, Archer W. Slaughter knew his way around, and on examination of the note it will appear that if it was intended that Mrs. McGowan was to give him an equitable mortgage on her property, he could easily have written the same in the note above her signature so as to have made it part of the body of the instrument and whereby she could have executed it as the law requires by signing at the foot of the same. She could have executed the note on the third or bottom line and the stipulation could have been written in above her name and the matter made regular. It all shows that this equitable mortgage proposition was an after-thought on the part of Archer W. Slaughter. Now as to what took place relative to the loan by Archer W. Slaughter to Mrs. McGowan and the instrument that she executed or caused to be executed to evidence the same out side of the insufficiency of the instrument itself, we

ARGUMENT.

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By a reading of the bill of complaint of the Baldwin County Bank heretofore mentioned and the bill of complaint of Archer W. Slaughter just referred to, it will clearly appear that it is not averred in either that the value of the property conveyed by Thomas B. McGowan and Mrs. T. B. McGowan to Edmund C. McGowan did not exceed in value the amount expressed as the consideration in the alleged conveyance to Edmund C. McGowan. Evidently for the reason that right at that time we were at the bottom of the depression that had no equal in this Country's economic history.

In view of the fact that the alternative prayer of Archer W. Slaughter's bill of complaint seeks to have the same relief that the Baldwin County Bank seeks against the respondents, we will take up first the demand of Archer W. Slaughter growing out of his loan and the instrument that he sets forth in his bill of complaint.

We respectfully request the Court to examine the alleged copy of said instrument which Slaughter claims to be an equitable mortgage as it appears in Paragraph Two of his bill of complaint and then compare this copy with the original instrument which he has introduced in evidence, being Exhibit "B" to A. W. Slaughter's testimony, and the Court will observe a marked discrepancy in the copy as it appears in the complaint and the original note in this, that the words "This note is secured by my real and personal property". In the copy it appears above the signature of Mrs. M. A. McGowan. This stipulation as set forth in the copy makes it appear that it is in the body of the note and above the signature of Mrs. M. A. McGowan. Evidently the pleader saw the weakness of his instrument and tried to fortify it by copying the stipulation "This note is secured by my real and personal property," so as to make it appear as a part of the body of the instrument. In the note introduced in evidence it will appear that immediately after the words "Witness my hand and seal this the 9 day of July, 1924," Mrs. M. A. McGowan caused the same to be signed at the bottom of said note and on the first line thereof. Subsequent thereto, the

an equitable lien on the property and superior to the claim of all of the respondents, including of course Baldwin County Bank, and that the property be sold for the satisfaction of the amount judged to be due him by the Respondent, Mrs. M. A. McGowan, and in the alternative he prays that if he has no equitable lien superior to the claim of the Respondents that the said conveyance to Edmund C. McGowan be set aside and declared void as a fraud on the claim of Archer W. Slaughter, and further prays that his suit be consolidated with the Baldwin County Bank suit against the Respondent, which has been done. In both cases suits are to be heard together.

To the bill of complaint of Archer W. Slaughter, respondents Mrs. M. A. McGowan and Edmund Clay McGowan deny that the note set forth in the Second Paragraph of the bill of complaint was executed by Mrs. M. A. McGowan or by her authority; that Mrs. M. A. McGowan and T. B. McGowan executed and delivered to E. C. McGowan the deed of conveyance mentioned in said bill of complaint and that said deed was recorded as set out in said bill of complaint. That they admitted that E. C. McGowan was then claiming the property set out in said conveyance as his own, as he had a right to do. That said conveyance was based upon a consideration which was duly paid in an amount equal to the value of the interest of the grantors in said deed in the property mentioned, and denied that the conveyance from Mrs. M. A. McGowan and T. B. McGowan to E. C. McGowan was without consideration, fraudulent and void but it was based upon consideration equal to the value of their interest in the alleged property, was made in good faith and was a bona fide transaction. That they denied that no consideration was passed but stated the facts to be that the consideration mentioned in said conveyance passed to the grantors; that they denied that complainant had a equitable lien on the property mentioned in said conveyance and denied that said lien was superior to the claim of E. C. McGowan; denied that said conveyance was made for the purpose of hindering, delaying or defrauding Archer W. Slaughter.

I, ERIN STUART, as Special Commissioner, hereby certify that the foregoing depositions on oral examination were taken down by me in writing, in the words of the witnesses; that the said witnesses were duly sworn, and that the foregoing constitutes a full, true and complete transcript of the testimony of said witness; that I am not of counsel or kin to any of the parties to said cause and am not in any manner interested in the result thereof.

Dated this the 21st day of March, 1944.

*Erin Stuart*

Special Commissioner.

*Original Filed with Register Sept 20, 1945*  
*\$ 3 80*



No 10

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**RECORDED**  
*1934*

Charles M. Stueggli

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THE W. A. WEE,  
Attorney at Law

Original Recd  
of Campbell

FILED Jan 6<sup>th</sup> 1934

Wm. A. Stueggli  
Registrar

STATE OF ALABAMA, }  
\* IN THE CIRCUIT COURT OF SAID COUNTY, EQUITY  
COUNTY OF BALDWIN. }

No. 18

TO THE HONORABLE F. W. HARE, JUDGE:-

Your orator, Archer W. Slaughter, as complainant, brings this his bill of complaint against Mrs. M. A. McGowin, (who is also called Mrs. Thomas McGowin), E. C. McGowin, and the Baldwin County Bank, as respondents and respectfully shows:

FIRST.

Complainant is a resident citizen of Baldwin County, Alabama, and is over the age of twenty-one years; the respondents, Mrs. M. A. McGowin and E. C. McGowin are resident citizens of Baldwin County, Alabama, and each of them is over the age of twenty-one years; The Baldwin County Bank is a corporation organized under the laws of the State of Alabama, and has its principal place of business and is doing business at Bay Minette, in Baldwin County, Alabama.

SECOND.

On to-wit; July 9th, 1924, the Respondent, Mrs. M. A. McGowin, became indebted to complainant in the sum of Five Hundred Dollars for money loaned to her by complainant on that date and on said date she executed and delivered to complainant as evidence of said indebtedness a written instrument in words and figures as follows:

"\$500.00 On the 9 day of July, 1925, the undersigned of promise to pay to the order of A.W.Slaughter at the office of BALDWIN COUNTY BANK, Bay Minette, Alabama, the sum of Five Hundred x x x Dollars for value received, in gold coin of the United States of the present standard weight and fineness with interest thereon from the 9 day of July, 1924, at the rate of six per cent.

The parties to this instrument, whether maker, endorser, surety or guarantor, each for himself, hereby severally waive as to this debt, or any renewal thereof, all right to exemption under the Constitution and Laws of Alabama, as to personal property, and they each severally agree to pay all costs of collecting, or securing or attempting to collect or secure this note, including a reasonable attorney's fee whether the same be collected or secured by suit or otherwise. And the maker, endorser, surety or guarantor, of this note severally waives demand, presentment, protest, notice of protest suit and all other requirements necessary to hold them, and they agree that time of payments may be extended without notice to them of such extension. The

bank at which this note is payable is hereby authorized to apply on or after maturity, to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor or any one of them.

Witness my hand and seal this the 9 day of July, 1924.

This note is secured by my real and personal property.

Mrs. M. A. McGowan.

Attest:

E. C. McGowan."

(back of note)

"Each endorser, whose name appears below, hereby waives all his right of exemption, and also waives presentment for payment, protest and notice of protest and non-payment of within Note and agrees that said endorsement shall remain good and binding until said Note is fully paid."

And the said written document was on to-wit; July 15th, 1924 filed for record in the office of the Probate Judge of Baldwin County, Alabama, and was recorded on the records of said office in Record Book No. 30 of Mortgages, page 447. The said note has never been paid by the maker thereof paid the accrued interest thereon on and including the date June 1, 1931, and the amount due by said note with the accrued interest thereon at the rate of six percent per annum from June 1st, 1931 is still due and unpaid.

THIRD.

The said written document was witnessed by the respondent E. C. McGowin, who knew of all the matters and things hereinabove alleged and at the time the respondent, Mrs. M. A. McGowin, borrowed said money from and executed and delivered said note to complainant, she owned the property described in the deed or attempted conveyance by her to the respondent, E. C. McGowin in next paragraph alleged.

FOURTH.

On to-wit; February 13th, 1932, the respondent, M. A. McGowin, under the name "Mrs. Thomas McGowin" together with T. B. McGowin, executed and delivered to the respondent, E. C. McGowin, who is described in said document as Edmond C. McGowin, a written instrument in words and figures as follows:

"STATE OF ALABAMA, |  
COUNTY OF BALDWIN. | Know all men by these presents, that for and in consideration of the sum of Five Hundred Dollars to us in hand paid by Edmund C. McGowan, the receipt whereof is hereby acknowledged, Thomas B. McGowan, unmarried and Mrs. Thos. McGowan (a widow), do grant, bargain, sell and convey unto the said Edmund C. McGowan the following described lands situated in

Baldwin County, Alabama, to-wit:- SW $\frac{1}{2}$  and SW $\frac{1}{2}$  of SE $\frac{1}{4}$  sec. 19, tp. 2 North, Range 3 East in Baldwin County, Alabama, also all our interest in following personal property:- Seventy five head of cattle, four head of horses and eight head oxen and one 8 wheel wagon.

To Have and to Hold to the said Edmund C. McGowan, his heirs and assigns forever and we do covenant with said Edmund C. McGowan, that they are seized in fee of the above described premises; that we have the right to sell and convey the same; that the said premises are free from all incumbrances; and that we will, and our heirs, executors, and administrators shall forever warrant and defend the same to the said Edmund C. McGowan, heirs and assigns, against the lawful claims of all persons whomsoever.

WITNESS our hands and seal this 13th day of February, 1932

Mrs. Thos. McGowan L.S.  
T. B. McGowan L. S.

STATE OF ALABAMA |  
COUNTY OF BALDWIN |

I, T. W. Richerson, Clerk Circuit Court in and for said State and county, hereby certify that Mrs. Thos. McGowan (a widow) and T. B. McGowan (unmarried) whose names are signed to foregoing conveyance, and who are known to me, acknowledged before me on this day that being informed of the contents of said conveyance they executed the same voluntarily on the day the same bears date.

Given under my hand this 13th day of Feb. 1932.

T. W. Richerson, Clerk, Circuit  
Court, Baldwin County, Ala. "

The written instrument herein described was filed for record in the office of the Judge of Probate in Baldwin County, Alabama and was recorded there on to-wit; February 15th, 1932, in Deed Book No. 51, N. S. page 508, and the property therein described is now claimed by the respondent, E. C. McGowan by virtue of said alleged conveyance. The said property constituted all or substantially all of the property owned by the respondent, Mrs. M. A. McGowan at the time the said conveyance was made.

FIFTH.

On to-wit; December 6th, 1933, the respondent, Baldwin County Bank, filed in this Honorable Court a bill of complaint against the respondents, Mrs. M. A. McGowan, therein described as Mrs. Thomas McGowan and against E. C. McGowan, alleging an indebtedness of to-wit; about Three Hundred Forty-six and 87/100 (\$346.87), evidenced by promissory notes described in said bill of complaint, which said cause is pending in this court, is described "Baldwin County Bank, a corporation, vs T. B. McGowan, et al" and is numbered 10 on the docket of this Court and which bill of complaint is now referred to and by reference expressly made a part of this bill. In said bill the complainant prays that the court ascertain the indebtedness due by the defendants therein named to the complainant there-

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in named and enter a judgment or decree fixing the said amount; that the conveyance described in Paragraph Fourth, be set aside as fraudulent and void and that the property described in said conveyance be held subject to the satisfaction of the indebtedness adjudged and decreed to be due.

Complainant further alleges that he is informed and believes and upon such information and belief states that the alleged conveyance by the respondent, Mrs. M. A. McGowan and T.B. McGowan, was without consideration and is fraudulent and void; He further alleges that if he is mistaken as to this, no present consideration passed from the Grantee to the Grantors for said conveyance. He further alleges that by reason of the matters and things hereinabove averred, complainant has an equitable lien on the property therein attempted to be conveyed, which is superior to the claims of the respondents; that because of the fact the respondent, E. C. McGowan knew of such lien he having been a witness to the document executed and delivered to complainant, he cannot claim he is an innocent purchaser even if he paid a consideration for said conveyance and that because of the fact the instrument was filed for record in the Probate Court of Baldwin County, the respondent, the Baldwin County Bank, had constructive notice if not actual notice of complainant's said claim.

PRAYER FOR PROCESS

The premises considered, complainant prays that your Honor will take jurisdiction of the cause made by this bill of complaint and that by proper process issuing to them from this court, the respondents, Mrs. M. A. McGowan, also called Mrs. Thomas McGowan, E. C. McGowan, and the Baldwin County Bank, be made parties respondent hereto and be required to answer the charges herein made in all things as required by the rules and practices of this court.

PRAYER FOR RELIEF.

Complainant further prays that your Honor will order a reference, if that be necessary, under the facts herein stated and such admissions as may be made by the answer filed or to be filed by the respondents to ascertain and determine the amount due <sup>Complacant</sup> by the respondent, Mrs. M. A. McGowan, also called Mrs. Thomas McGowan, or if

under said conditions a reference will not be necessary, your Honor will by other methods determine the said amount and will enter a decree fixing the said indebtedness by judgment of this court.

Complainant further prays that your Honor, upon hearing the evidence in this cause, will order and decree that Complainant has an equitable lien on the property described in the said conveyance from Mrs. Thomas McGowan, et al to Edmond C. McGowan, superior to the claims of all of the respondents and will further order and decree that the said property be sold for the satisfaction of the amount adjudged to be due by the Respondent, Mrs. M. A. McGowan to Complainant, and that the proceeds of said sale be applied as a credit on Complainant's said claim. If, however it should be determined that Complainant has no equitable lien superior to the claim of the Respondents and the said conveyance to Edmond C. McGowan be without consideration the same be set aside and declared void as a fraud on the claim of the claimants, and the property sold for the satisfaction of such claims as may be filed in this court under such decrees and such further orders and decrees as may be entered in this cause and if the property was sold to Edmond C. McGowan for a past consideration, the said conveyance be declared a General Assignment for the benefit of all creditors of the said Mrs. M. A. McGowan as may enter into this proceeding and pay the costs hereof and be distributed among them as may be equitable and proper by further orders of this court.

Complainant further prays that this cause be merged or consolidated with cause No. 10 hereinabove referred to for further orders and decrees as may be found to be equitable and proper for distribution of the proceeds of any sale that may be made hereunder.

Complainant prays for such other, further and different relief as in equity and good conscience may be due him in the premises.

B. F. McLeod  
SOLICITOR FOR COMPLAINANT.

FOOT NOTE:

The respondents and each of them are required to answer each and every allegation and paragraph of the foregoing bill of complaint, but their oaths thereto are hereby expressly waived.

B. F. McLeod  
SOLICITOR FOR COMPLAINANT.

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

Your Orator, the Baldwin County Bank, a Corporation, brings this Bill of Complaint against T. B. McGowan, Mrs. Thos. McGowan and Edmund C. McGowan, and thereupon your Orator complains and shows unto the Court as follows:

1. Your Orator is a corporation organized and existing under the laws of the State of Alabama, with its principal place of business in Bay Minette, Baldwin County, Alabama; the Defendants, T. B. McGowan, Mrs. Thos. McGowan and Edmund C. McGowan, are each over the age of twenty-one years and reside in Baldwin County, Alabama.

2. The Defendants, T. B. McGowan and Mrs. Thos. McGowan, are indebted to your Orator in the sum of Two Hundred and Fifty Dollars (\$250.00) due by a promissory note made by him on to-wit, the 26th day of December, 1931, and payable to your Orator on to-wit, the 25th day of February, 1932, with interest thereon, which sum of money is still due and unpaid; which said note is endorsed by Mrs. Thos. McGowan; that in, by and as a part of the note the said Defendants agreed to pay all costs of collecting, securing or attempting to collect or secure the said note including a reasonable attorney's fee, and waived all rights of exemption under the Constitution and laws of Alabama, as to personal property and your Orator now claims the benefit of this waiver. A copy of which said note is hereto attached, marked "Exhibit A" and made a part of this Bill of Complaint as though fully incorporated herein.

3. The Defendants, T. B. McGowan and Mrs. Thos. McGowan are indebted to your Orator in the further sum of Ninety-six and 87/100 Dollars (\$96.87), the balance due by a promissory note originally in the sum of Ninety-eight and 25/100 Dollars (\$98.25), made by him on to-wit, December 20, 1931, and payable to your Orator on to-wit, January 20, 1932, with interest thereon, which sum of money is still due and unpaid; which said note is endorsed by

Mrs. Thos. McGowan; that in, by and as a part of the note the said Defendants agreed to pay all costs of collecting, securing or attempting to collect or secure the said note, including a reasonable attorney's fee, and waived all rights of exemption under the Constitution and laws of Alabama as to personal property and your Orator now claims the benefit of this waiver. A copy of which said note is hereto attached, marked Exhibit "B" and made a part of this Bill of Complaint as though fully incorporated herein.

4. That while the Defendants, T. B. McGowan and Mrs. Thos. McGowan were indebted to your Orator as hereinabove set out, they conveyed or purported to convey all of their interest in certain real and personal property in Baldwin County, Alabama, to the Defendant, Edmund C. McGowan, by an instrument, a copy of which is hereto attached, marked Exhibit "C" and made a part of this Bill of Complaint as though fully incorporated herein, which said instrument recited a consideration of "Five Hundred Dollars" but was in truth and fact a voluntary conveyance without consideration made by the said T. B. McGowan and Mrs. Thos. McGowan while indebted to your Orator and for the purpose of hindering, delaying or defrauding it in the collection of the above described indebtedness.

5. The property described in the instrument hereinabove referred to as Exhibit "C", which is described as follows: "SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of SE $\frac{1}{4}$  Sec. 19, Tp 2 N, of Range 3 E in Baldwin County, Alabama, also all our interest in the following personal property seventy five head of cattle. Four head of horses and eight head oxen and one 8 wheel wagon," is all or practically all of the property owned by the Defendants, T. B. McGowan and Mrs. Thos. McGowan, and that the said property or practically all of it is subject to the satisfaction of your Orator's debt.

PRAYER FOR PROCESS.

Your Orator prays that the said T. B. McGowan, Mrs.



"EXHIBIT A"

\$ 250.00

BAY MINETTE, ALA, Dec.26th.1931 193

On the 25th day of February 1932, I, we, or either of us, promise to pay to the order of BALDWIN COUNTY BANK, of Bay Minette, Alabama.

Two Hundred fifty & NO/100 -x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x DOLLARS. for value received, in gold coin of the United States of the present standard of weight and finess:

Negotiable and payable at BALDWIN COUNTY BANK, Bay Minette, Alabama.

The parties to this instrument, whether maker, endorser surety, or guarantor, each for himself, hereby severally waive as to this debt, or any renewal thereof, all rights of exemption under the Constitution and Laws of Alabama, as to personal property, and they each severally agree to pay all costs of collecting or securing or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by suit or otherwise. And the maker, endorser, surety or guarantor of this note severally waives demand presentment, protest notice of protest, suit and all other requirements necessary to hold them and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply on or after maturity to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor or any one of them. All suits for the collection of this note may be prosecuted in any county in this State that the payee or assignee elects.

Witness My hand and seal the day above given. T.B.McGowan(SEAL)

Attest: \_\_\_\_\_ (SEAL)

Attest: 2-25-32 92578 \_\_\_\_\_ (SEAL)

.....

Each and every endorser of this note hereby waives all right of exemption of property from levy and sale under execution, or other process for the collection of debts, as provided for in the Constitution and Laws of the State of Alabama, or any other State in the United States of America, and it is hereby agreed by each endorser hereof that he shall pay all costs of collecting this note after failure to pay when same becomes due under the terms hereof, including a reasonable attorney's fee for all services rendered in any way in any suit against any endorser, or in collecting or attempting to collect, or in securing or attempting to secure this debt, and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply on or after maturity, to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor, or any one of them. Each and every endorser of this note hereby waives demand, protest and notice of protest, and all requirements necessary to hold them as endorsers.

Mrs. Thos. McGowan

\_\_\_\_\_  
\_\_\_\_\_

BALDWIN COUNTY BANK

By O.C.Hall Cashier

EXHIBIT "B"

\$ 98.25

BAY MINETTE, ALA, Dec. 20th, 1931

193

On the 20th day of January 1932, I, we, or either of us, promise to pay to the order of BALDWIN COUNTY BANK, of Bay Minette, Alabama.

Ninety eight & 25/100 -x-x-x-x-x-x-x-x- DOLLARS,  
for value received, in gold coin of the United States of the present standard of weight and finess:

Negoitable and payable at BALDWIN COUNTY BANK, Bay Minette, Alabama.

The parties to this instrument, whether maker, endorser surety, or guarantor, each for himself, hereby severally waive as to this debt, or any renewal thereof, all rights of exemption under the Constitution and Laws of Alabama, as to personal property, and they each severally agree to pay all cost of collecting or securing or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by suit or otherwise. And the maker, endorser, surety or guarantor of this note severally waives demand presentment, protest notice of protest, suit and all other requirements necessary to hold them and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply on or after maturity to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor, or any one of them. All suits for the collection of this note may be prosecuted in any county in this State that the payee or assignee elects.

Witness My hand and seal the day above given. T.B. McGowan (Seal)

Attest: \_\_\_\_\_ (Seal)

Attest: 1-20-32 92579 \_\_\_\_\_ (Seal)

.....

Each and every endorser of this note hereby waives all right of exemptions of property from levy and sale under execution, or other process for the collection of debts, as provided for in the Constitution and Laws of the State of Alabama, or any other State in the United States of America, and it is hereby agreed by each endorser hereof that he shall pay all costs of collecting this note after failure to pay when same becomes due under the terms hereof, including a reasonable attorney's fee for all services rendered in any way in any suit against any endorser, or in collecting or attempting to collect, or in securing or attempting to secure this debt, and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply on or after maturity, to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor, or any one of them. Each and every endorser of this note hereby waives demand, protest and notice of protest, and all requirements necessary to hold them as endorsers.

Mrs. Thos. McGowan

\_\_\_\_\_  
\_\_\_\_\_

EXHIBIT "C"

WARRANTY DEED.

STATE OF ALABAMA, }  
                          :  
BALDWIN COUNTY.    }

KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of Five Hundred Dollars to us in hand paid by Edmund C. McGowan the receipt whereof is hereby acknowledged Thos. B. McGowan, unmarried and Mrs. Thos. McGowan (a widow), do grant, bargain, sell and convey unto the said Edmund C. McGowan the following described lands situated in Baldwin County, Alabama, to-wit:-

SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of SE $\frac{1}{4}$  Sec. 19, Tp 2 N, of Range 3 E in Baldwin County, Alabama, also all our interest in the following personal property seventy five head of cattle. Four head of horses and eight head of oxen and one 8 wheel wagon.

TO HAVE AND TO HOLD to the said Edmund C. McGowan, his heirs and assigns forever. And we do covenant with the said Edmund C. McGowan that they are seized in fee of the above described premises; that we have the right to sell and convey the same; that the said premises are free from all incumbrances; and that we will, and our heirs, executors, and administrators shall forever warrant and defend the same to the said Edmund C. McGowan, heirs and assigns, against the lawful claims of all persons whomsoever.

Witness our hands and seal this 13th day of Feb. 1932.

Mrs. Thos. McGowan    (LS)

T. B. McGowan         (LS)

STATE OF ALABAMA, }  
                          :  
BALDWIN COUNTY.    }

I, T. W. Richerson, Clerk Circuit Court in and for said State and County, hereby certify that Mrs. Thomas McGowan (a widow) and T. B. McGowan (unmarried) whose names are signed to the foregoing conveyance, and who are known to me acknowledged before me, on this day that being informed of the contents of the said conveyance they executed the same voluntarily on the day the same bears date.

Given under my hand this 13th day of February, 1932.

(SEAL)

T.W.Richerson, Clerk Circuit  
Court, Baldwin County, Alabama.

THE STATE OF ALABAMA, }  
                                  :  
BALDWIN COUNTY.          }

PROBATE COURT.

Filed in office this 15 day of Feby., 1932, 11:40 A.M.,  
and duly recorded in Deed Book No. 51 N.S. pages 508; and I  
certify that \$---cts 50 license or privilege tax, paid as  
required by an Act of the Legislature, approved, September  
14, 1923.

G. W. Humphries, Judge of Probate by J.L.Kessler, Clerk.

G.W.Humphries, Judge of Probate.

The State of Alabama, }  
                                  :  
Baldwin county.          }

ss.

I, G.W.Humphries, Judge of the Probate Court and Custodian  
of the Records and Files of the same, in and for said Baldwin  
County, State of Alabama, do hereby certify that the above and  
foregoing is a true, correct and complete copy of an instrument  
of writing as the same appears of record in Deed Record 51 N.S.,  
at page 508, now on file in the office of Judge of Probate of  
Baldwin County.

In Testimony Whereof, I have hereunto set my hand and af-  
fixed my official seal, at Bay Minette, in said county, this the  
21st day of November, A.D., 1933.

G. W. Humphries,  
Judge of Probate

(Seal of Probate Court)

**ALABAMA**

FILED IN COMPLAINT

BALDWIN COUNTY BANK, SA  
CORPORATION,

Complainant,

VS.

T. B. McCOMAN, et al.,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN SUIT NO. 72

*J. Edgar Hoover*

J. E. ELKAMBUEN

ATTORNEY AT LAW

BALDWIN COUNTY, ALABAMA

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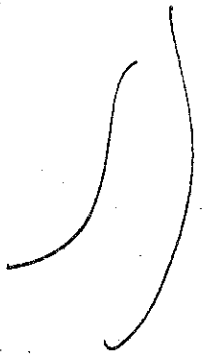
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BALDWIN COUNTY BANK,  
A Corporation,  
  
Complainant,  
  
-vs-  
  
T. B. MCGOWAN ET AL,  
  
Respondents.

IN THE CIRCUIT COURT-IN EQUITY  
STATE OF ALABAMA  
BALDWIN COUNTY.

Now come the Respondents, T. B. McGowan, Mrs. Thomas McGowan and Edmond C. McGowan, and for answer to the Bill of Complaint in this Court, say:-

FIRST:

That they admit paragraph one of said Bill of Complaint.

SECOND:

In answer to paragraph two of said Bill of Complaint Respondents deny that T. B. McGowan and Mrs. Thomas McGowan are indebted to the Baldwin County Bank in any sum of money, and deny in its entirety paragraph two of said Bill of Complaint.

THIRD:

Respondents for answer to paragraph three deny the same, and call for strict proof thereof.

FOURTH:

In answer to paragraph four, Respondents admit that they conveyed all of their interest in certain real and personal property in Baldwin County, Alabama, to Edmond C. McGowan by an instrument, a copy of which is attached and marked Exhibit "C" to the Bill of Complaint, and that said instrument recited a consideration of \$500.00. Respondents unequivocally deny that in truth and fact that was a voluntary conveyance, without consideration, made by the said T. B. McGowan and Mrs. Thomas McGowan while indebted to Complainant. Respondents deny that said conveyance was made with the purpose of hindering, delaying or defrauding the Baldwin County Bank, or anyone else, but that the said transaction was a bona fide transaction, based upon a consideration which was paid, which consideration was equal to the value of the property conveyed therein.

FIFTH:

In answer to paragraph five, Respondents deny that

(page one)

(page two)

the property conveyed by the said T. B. McGowan and Mrs. Thomas McGowan was all or practically all the property owned by Respondents, T. B. McGowan and Mrs. Thomas McGowan at the time of said conveyance.

Having answered the said Bill of Complaint Respondents respectfully request that they be dismissed with their costs.

*Hubert Heard & Mason*  
Attorneys for Respondents.



ANSWER.

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BALDWIN COUNTY BANK,  
A Corporation,

Complainant,

-VS-

T. B. MCGOWAN ET AL,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY  
STATE OF ALABAMA  
BALDWIN COUNTY.

Filed February 1935  
*Robert H. Myers*  
Register.

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BALDWIN COUNTY BANK,  
Complainant,  
-vs-  
THOMAS P. MCGOWAN, ET  
AL,  
Defendants.

IN THE CIRCUIT COURT-EQUITY SIDE  
STATE OF ALABAMA  
BALDWIN COUNTY.

Come the Defendants in the above named case, by their Attorneys of Record, Hybart, Heard & Chason, and demur to the Complaint in this cause filed, and to each and every count thereof, separately and severally, on the following grounds:-

FIRST:

That there is no equity in the bill.

*Hybart Heard & Chason*  
Attorneys for Defendants.

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DEMU RRER.

**RECORDED**

BALDWIN COUNTY BANK,

Complainant,

-VS-

THOMAS B. MCGOWAN, ET  
AL,

Defendants.

IN THE CIRCUIT COURT-EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

Filed December 27, 1933

W. D. Stone  
Register.

LAW OFFICES

HYBART, HEARD  
& CHASON

BAY MINETTE, ALABAMA

A. W. SLAUGHTER,

Complainant,

-vs-

MRS. M. A. MCGOWIN, MR.  
E. C. MCGOWIN, BALDWIN  
COUNTY BANK,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Come the Respondents, Mrs. M. A. McGowin and Mr. E. C. McGowin, in the above styled cause, and demur to the Bill of Complaint filed in this cause, and to each and every count thereof, and as grounds therefor say:-

FIRST:

For that there is no equity in the Bill.

*Thybert, Head & Cherson*  
Solicitors for Mrs. M. A. McGowin and Mr. E. C. McGowin.

No 10-22 18

10

**RECORDED**  
**DECEMBER 22 1934**

A. W. SLAUGHTER,

Complainant,

-VS-

MRS. M. A. MCGOWIN, MR.  
E. G. MCGOWIN, BALDWIN  
COUNTY BANK,

Respondents,

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Filed February 7, 1934

J. O. Heard  
Register.

LAW OFFICES

HYBART, HEARD  
& CHASON

BAY MINETTE, ALABAMA

ARCHIE W. SLAUGHTER,  
Complainants,  
-vs-  
MRS. M. A. MCGOWAN and  
E. C. MCGOWAN, ET AL,  
Respondents,

)  
) IN THE CIRCUIT COURT--IN EQUITY  
)  
) STATE OF ALABAMA  
)  
) BALDWIN COUNTY.  
) #18.  
)

ANSWER TO INTERROGATORIES.

1. In answer to Interrogatory No. 1 Respondents say:-  
Mrs. M. A. McGowan is seventy-eight years old and E. C. McGowan is thirty-four years old. They reside at Latham, Alabama, and have resided there practically all their lives. Mrs. M. A. McGowan is the mother of E. C. McGowan. Mrs. M. A. McGowan is also called Mrs. Thomas McGowan.

2. In answer to Interrogatory No. 2 Respondents say:-  
Mrs. M. A. McGowan did not execute and deliver to the Complainant the written instrument discussed in Paragraph Two of the Bill of Complaint. Mrs. M. A. McGowan or Mrs. Thomas McGowan owned on July 9th, 1924, a Widow's interest in the property belonging to the Thomas McGowan Estate. She did not own on July 9th, 1924, the property described or referred to in the deed copied in paragraph four of the Bill of Complaint. She never did receive any title to the property described in the Deed to E. C. McGowan referred to in the fourth paragraph of the Bill of Complaint except what she received as the widow of Thomas McGowan, which would be a homestead right in the property and a dower interest.

3. In answer to Interrogatory No. 3 Respondents say:-  
That she, as Mrs. Thomas McGowan, did execute the Deed to E. C. McGowan referred to in the fourth paragraph of the Bill of Complaint; that she did not own any property at that time except as stated above.

4. In answer to Interrogatory No. 4, Respondents say:-  
Five Hundred Dollars (\$500.00) cash was paid for the Deed. This payment was made on the day the Deed was executed. It was made in cash. The payment was for \$500.00. We do not remember the des-

(page two)

cription of the cash. E. C. McGowan was engaged in the business of buying cattle and butchering them for the market, and he had been engaged in that business for the preceding six months, and longer. He earned the money that he used to pay for said Deed. At the time the Deed was executed to E. C. McGowan, Mrs. M. A. McGowan had only the interest that she had inherited from the Estate of Thomas McGowan. That said sum so paid to Mrs. Thomas McGowan or Mrs. M. A. McGowan, was the reasonable market value of said property.

Mrs. Thos. M<sup>rs</sup> McGowan

E. C. McGowan

Sworn to and subscribed before me, a Notary Public whose seal is hereto affixed, this 14<sup>th</sup> day of November, 1935.

John Basson  
Notary Public, Baldwin County,  
State of Alabama.

RECORDED  
6-199

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ANSWER TO INTERROGATORIES.

ARCHIE W. SLAUGHTER,

Complainant,

-VS-

MRS. M. A. MCGOWAN and  
E. C. MCGOWAN ET AL,

Respondents.

IN THE CIRCUIT COURT IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

#18.

Filed November 13, 1935

Robert S. Duck  
Register.

LAW OFFICES

HYBART, ~~HEARD~~

& CHASON

BAY MINETTE, ALABAMA



ARCHIE W. SLAUGHTER,  
Complainant,

-vs-

MRS. M. A. MCGOWAN and  
E. C. MCGOWAN,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY  
STATE OF ALABAMA  
BALDWIN COUNTY.

On Motion of the Respondents' Solicitors to set aside the Decree Pro Confesso heretofore rendered on the 29th day of October, 1934, and it appearing to the Court that the Respondents have answered the Bill of Complaint in this cause, it is ordered that said Decree Pro Confesso rendered by the Register on October 29th, 1934, be set aside.

Dated this 19<sup>th</sup> day of August, 1936.

J. W. Hare  
Judge

ARCHER W. SLAUGHTER,  
Complainant,  
VS.  
MRS. M. A. MCGOWAN and  
E. C. MCGOWAN,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN EQUITY. NO. \_\_\_\_\_.

MOTION FOR DECREE PRO CONFESSO.

Motion is hereby made for a Decree Pro Confesso against Mrs. M. A. McGowan and E. C. McGowan, on the ground that the Demurrers filed by them in the above entitled cause were withdrawn by them through their Attorneys of Record on the 22nd day of August, 1934, at which time they agreed to file an answer, and that no answer or other pleadings have been filed by them in the said cause to date hereof.

Dated this 29th day of October, 1934.


B. F. McMillan, Jr.  
Solicitor for Complainant.

2-

the property owned by respondent, Mrs. M.A. McGowin, at the time she made the deed to E.C. McGowin described in paragraph FOURTH of the bill of complaint.


F O U R :

State exactly what was paid to Mrs. M.A. McGowin by E.C. McGowin for the deed. When was the payment made, how was it made, how much was the payment for, was it made by cash or by check, if by cash state an exact description of the cash, if by check state on which bank the check was drawn. What business was the respondent, E.C. McGowin engaged in on the date the deed was made. What business had he been engaged in the preceding six months. From what source did he get money with which to pay for said deed. Did the respondent, Mrs. M.A. McGowin have any other property at the time the deed to E.C. McGowin was made than that described in paragraph FOURTH of the bill of complaint if so attach a list of same with its values and location to your answer and mark same Exhibit "C".

  
Solicitor for Complainant


STATE OF ALABAMA,  
COUNTY OF MOBILE.

Before me, Anne Skinner, a Notary Public in and for said State and County, personally appeared B.F. McMillan, Jr. who is known to me and who being sworn says: Affiant is solicitor for complainant in the case of Archie W. Slaughter vs Mrs. M.A. McGowin, et al, respondents, pending in the Circuit Court of Baldwin County, Alabama, in equity No. 18; that as such solicitor he has prepared the foregoing interrogatories to Respondents, Mrs. M.A. McGowin and E.C. McGowin, and to each of them separately and that the answers thereto will be material testimony for plaintiff in the cause.

  
Solicitor for Complainant

Subscribed to and sworn before me

this 15 day of July, 1935.

  
Notary Public, Mobile County, Alabama.





(page two)

vate the land or any part of it described in said instrument, nor have they lived on or worked any part of it since the date of said Deed, but the only person that has worked on it was Edmond C. McGowan.

8. In answer to Interrogatory 8, Respondents say that Edmond C. McGowan is the son of Mrs. Thomas McGowan and a brother of T. B. McGowan.

9. In answer to Interrogatory #9, Respondents say that no property or moneys have been transferred from Edmond C. McGowan to T. B. McGowan or Mrs. Thomas McGowan since the date of said Deed; that the only money that was transferred between them around and about the date of said Deed or since that time is the sum of \$500.00 cash, which was paid by Edmond C. McGowan to T. B. McGowan and Mrs. Thomas McGowan at the time that they executed and delivered to him the conveyance mentioned in the Bill of Complaint in this cause.

Edmond C. McGowan

Sworn to and subscribed before me, a Notary Public whose seal is hereto affixed, this 6<sup>th</sup> day of February, 1935.

John H. Harsco  
Notary Public, Baldwin County,  
Alabama.

ARCHIE W. SLAUGHTER,

Complainant,

-vs-

MRS. M. A. MCGOWAN ET AL,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Now come the Respondents in the aforesaid cause, and for answer to the Bill of Complaint, say:-

FIRST:

They admit that Complainant is a resident citizen of Baldwin County, Alabama, over the age of twenty-one years, and that the Respondents are also resident citizens of said County and over twenty-one years of age. They admit that the Baldwin County Bank is a corporation organized under the laws of Alabama, with its principal place of business in Bay Minette, Alabama.

SECOND:

In answer to the second paragraph of said Bill of Complaint Respondents deny the same in its entirety; that is, so far as any execution of a Note, so far as any amount due thereon.

THIRD:

In answer to the third paragraph of said Bill of Complaint, Respondent E. C. McGowan denies the same and calls for strict proof of the same, and alleges the facts to be that he was not acquainted with the things therein mentioned; that is, that Mrs. M. A. McGowan has borrowed any money from Complainant and executed and delivered her note to Complainant.

FOURTH:

In answer to the fourth paragraph of the Complaint Respondents admit that Mrs. M. A. McGowan, under the name of Mrs. Thomas McGowan, together with T. B. McGowan, executed and delivered to the Respondent, E. C. McGowan, the Deed of conveyance mentioned therein, and that said Deed is recorded in the Deed Book as set out in said paragraph. And Respondents admit that E. C. McGowan is now claiming the property set forth in said conveyance as his own, as he has a right to do. Respondents further say,





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# W. R. STUART

PROBATE JUDGE

No. 4901

Bay Minette, Ala., 3-11, 1948

Received of Mrs. Lusk

No.	Deed Tax		Mortgage Tax		Recording Fees		Total	
	\$	Cts.	\$	Cts.	\$	Cts.	\$	Cts.
<u>Bellevue Credit Bank vs J B McJannet</u>					<u>135</u>		<u>135</u>	

FOR RECORD

*W. R. Stuart*  
WRS

TOTAL \$ \_\_\_\_\_

C. L. HYBART & R. L. JONES

Lawyers  
Monteville, Alabama

October 6, 1945.

Messrs. Hybart & Chason,  
Bay Minette, Alabama.

Mr. J. B. Blackburn,  
Bay Minette, Alabama.

Gentlemen:-

IN RE: A. W. Slaughter vs.  
Mrs. M. A. McGowin, et al..

I would thank you gentlemen to send  
me briefs in the above styled case at your earliest  
convenience.

Yours very truly,

F. W. HARE

BALDWIN COUNTY BANK, a  
Corporation,

Complainant,

VS.

T. B. McGOWAN, MRS. THOS.  
McGOWAN AND EDMUND C. McGOWAN,

Respondents.

ARCHER W. SLAUGHTER,

Complainant,

VS.

MRS. THOMAS McGOWAN AND  
E. C. McGOWAN,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY.

TO THE BALDWIN COUNTY BANK, A CORPORATION AND TO ARCHER W.  
SLAUGHTER:-

You are hereby notified that Ora S. Nelson has been appointed Commissioner to take the testimony of Thomas B. McGowan, Edmund Clay McGowan, Mrs. Thomas McGowan and Laura McGowan, as witnesses for the respondents in the above styled cause, and that she has fixed 10:00 o'clock A. M. on Thursday September 17, 1942, as the time, and the office of J. B. Blackburn in Bay Minette, Alabama, as the place to take such testimony, at which time and place such testimony will be taken.

DATED this 12th day of September, 1942.

Hubert P. Pason  
Solicitors for Respondents.

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JUDGMENT ENTRY

THE MERCHANTS NATIONAL BANK OF MOBILE, A NATIONAL BANKING ASSOCIATION, PLAINTIFF, VS WRIGHT SLAUGHTER, DEFENDANT.

April 15, 1947 Term.

This day came the Plaintiff with its Attorney and also came the Defendant with his Attorneys, and thereupon came a jury of twelve good and lawful men, to-wit: A. C. Mott and eleven others, who being duly empanelled and sworn, well and truly to try the issues joined between the Plaintiff and the Defendant, and a true verdict render according to the evidence, and having heard the evidence and the charge of the Court, say, on their oaths: "We the members of the jury find the issues in favor of the Proponents of the Will.

A. C. Mott, Foreman".

It is, therefore, ordered and adjudged by the Court that the validity of the Will of A. W. Slaughter, Deceased is established and that the Plaintiff have and recover of the Defendant the costs incurred in this proceeding, for the recovery of which it is ordered that execution issue.

BALDWIN COUNTY BANK, a  
Corporation,  
COMPLAINANT,

VS.

T.B. MCGOWAN, et al,  
RESPONDENTS,

THE MERCHANTS NATIONAL BANK  
OF MOBILE, A NATIONAL BANKING  
ASSOCIATION, AS EXECUTOR OF  
THE LAST WILL AND TESTAMENT  
OF ARCHER W. SLAUGHTER, Dec'd.  
COMPLAINANT,

VS.

MRS. M.A. MCGOWAN, et al,  
RESPONDENTS.

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

DECREE.

This cause coming on to be heard is submitted for final decree upon the following: original bill of complaint in the cause of Baldwin County Bank, a Corporation, Vs. T.B. McGowan, et al; original bill of complaint in the cause of Archer W. Slaughter Vs. Mrs. M.A. McGowan, et al; Decree consolidating said causes; answers of Respondents; motion to revive cause upon death of Complainant, Archer W. Slaughter; Decree reviving cause; stipulations of the parties as to taking testimony of witnesses; the testimony as noted by the parties, together with the various Exhibits to said testimony; and the briefs of counsel for the parties to said suits;

And the Court having considered and understood all of the same is of the opinion that neither of the Complainants are entitled to the relief prayed for by them in their Bill of Complaints in so far as said prayers seek the setting aside of that certain deed executed by Mrs. Thos. McGowan and T.B. McGowan to Edmund C. McGowan, described and set out in both of said Bills of Complaint, as fraudulent and void, and the subjecting of the property described in said deed to the payment of the indebtedness claimed by the said Complainants as due to them; nor is the Complainant, the Executor of the Estate of Archer W. Slaughter, deceased, entitled to the relief prayed for in its Bill of Complaint,

in so far as said prayer seeks to have the Court decree that said Complainant has an equitable lien on the property described in said deed from Mrs. Thos. McGowan et al, to Edmund C. McGowan, and that said property be sold for the satisfaction of the indebtedness due Complainant; or, in the alternative, to have the Court declare said conveyance to be a general assignment for the benefit of creditors.

The Court is of the opinion that each of said Complainants is entitled to a judgment for the amount due it on the promissory notes set out in the Bills of Complaint.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That the prayer of both Complainants that the said deed from Mrs. Thos. McGowan and T.B. McGowan to Edmund C. McGowan, as set out in the Bills of Complaint, be set aside as fraudulent and void, be, and the same hereby is, denied.

2. That the prayer of the Complainant, the Executor of the Estate of Archer W. Slaughter, deceased, for the Court to decree that said Complainant has an equitable lien on the property described in said deed from Mrs. Thos. McGowan and T.B. McGowan to Edmund C. McGowan, be, and the same hereby is, denied.

3. That the prayer of said Executor of the Estate of Archer W. Slaughter, deceased, that said conveyance from Mrs. Thos. McGowan and T.B. McGowan to Edmund C. McGowan be declared by the Court to be a general assignment for the benefit of the creditors of Mrs. M.A. McGowan, be, and the same hereby is, denied.

4. That the Complainant, the Baldwin County Bank, a Corporation, have and recover of the Respondents, T.B. McGowan and Mrs. Thos. McGowan the sum of SEVEN HUNDRED, SEVENTY-NINE AND 81/100 DOLLARS (\$ 779.81), due it by two promissory notes, with waiver of exemptions, made to the Complainant by said T.B. McGowan and endorsed by said Mrs. Thos. McGowan, said sum including interest on the principal

debt at the rate of six per cent per annum, and the sum of One Hundred Dollars allowed as its Solicitor's fees for suit on said notes, for which execution may issue.

5. That the Complainant, The Merchants National Bank of Mobile, a National Banking Association, as Executor of the Last Will and Testament of Archer W. Slaughter, deceased, have and recover of the Respondent, Mrs. M.A. McGowan (same person as Mrs. Thos. McGowan) the sum of ONE THOUSAND, ONE AND 25/100 DOLLARS (\$ 1001.25), due by promissory waive note, containing waiver of exemptions, made to said Archer W. Slaughter by her, which sum includes interest at six per cent per annum from June 1st, 1931, for which execution may issue.

6. It is further ordered by the Court that the costs of these proceedings be taxed against the Respondents, Mrs. Thos. McGowan and T.B. McGowan, in equal amounts, for which execution may issue.

Done, ordered and decreed this the 19<sup>th</sup> day of February, 1948.

  
\_\_\_\_\_  
Judge of the Circuit Court of  
Baldwin County, Alabama, in Equity.





BALDWIN COUNTY BANK, a  
Corporation,

Complainant,

VS.

T. B. McGOWAN, MRS. THOS.  
McGOWAN AND EDMUND C.  
McGOWAN,

Respondents.

ARCHER W. SLAUGHTER,

Complainant,

VS.

MRS. THOMAS McGOWAN AND  
E. C. McGOWAN,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

NOTE OF TESTIMONY


This cause is submitted on behalf of the Complainant,  
the Baldwin County Bank, upon the following:

1. Original Bill of Complaint.
2. Decree Consolidating Causes.
3. Stipulation of parties relative to taking testimony  
of witnesses.
4. Testimony of C. L. White taken before Ora S. Nelson,  
as Special Commissioner.
5. Exhibits "A", "B" and "C" to testimony of this party  
and witness.

Dated this 19th day of September, 1945.



Register.

  
Solicitor for said Complainant.

BALDWIN COUNTY BANK, a  
Corporation,  
Complainant,

VS.

T. B. MCGOWAN, et al,  
Respondents.

THE MERCHANTS NATIONAL BANK  
OF MOBILE, A NATIONAL BANKING  
ASSOCIATION, AS EXECUTOR OF  
THE LAST WILL AND TESTAMENT  
OF ARCHER W. SLAUGHTER, Dec'd.  
Complainant.

VS.

MRS. M. A. MCGOWAN, et al,  
Respondents.

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

DECREE

This cause coming on to be heard is submitted for final decree upon the following; original bill of complaint in the cause of Baldwin County Bank, a Corporation, Vs. T. B. McGowan, et al; original bill of complaint in the cause of Archer W. Slaughter Vs. Mrs. M. A. McGowan, et al; Decree consolidating said causes; answers of Respondents; motion to revive cause upon death of Complainant, Archer W. Slaughter; Decree reviving cause; stipulations of the parties as to taking testimony of witnesses; the testimony as noted by the parties, together with the various Exhibits to said testimony; and the briefs of counsel for the parties to said suits;

And the Court having considered and understood all of the same is of the opinion that neither of the Complainants are entitled to the relief prayed for by them in their Bill of Complaints in so far as said prayers seek the setting aside of that certain deed executed by Mrs. Thos. McGowan and T. B. McGowan to Edmund C. McGowan, described and set out in both of said Bills of Complaint, as fraudulent and void, and the subjecting of the property described in said deed to the payment of the indebtedness claimed by the said Complainants as due to them; nor is the Complainant, the executor of the Estate of Archer W. Slaughter, deceased, entitled to the relief prayed for in its Bill of Complaint, in so far as said prayer seeks to have the Court decree that said Complainant has an equitable lien on the property described in said deed from Mrs. Thos. McGowan et al, to Edmund C. McGowan, and that said property be sold for the satisfaction of the indebtedness due Complainant; or, in the alternative, to have the Court declare said conveyance to be a general assignment for the benefit of creditors.

The Court is of the opinion that each of said Complainants is entitled to a judgment for the amount due it on the promissory notes set out in the Bills of Complaint.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That the prayer of both Complainants that the said deed from Mrs. Thos. McGowan and T. B. McGowan to Edmund C. McGowan, as set out in the Bills of Complaint, be set aside as fraudulent and void, be, and the same hereby is, denied.
2. That the prayer of the Complainant, the Executor of the Estate of Archer W. Slaughter, deceased, for the Court to decree that said Complainant has an equitable lien on the property described in said deed from Mrs. Thos. McGowan and T. B. McGowan to Edmund C. McGowan, be, and the same hereby is, denied.
3. That the prayer of said Executor of the Estate of Archer W. Slaughter, deceased, that said conveyance from Mrs. Thos. McGowan and T. B. McGowan to Edmund C. McGowan be declared by the Court to be a general assignment for the benefit of the creditors of Mrs. M. A. McGowan, be, and the same hereby is, denied.

4. That the Complainant, the Baldwin County Bank, a Corporation, have and recover of the Respondents, T. B. McGowan and Mrs. Thos. McGowan the sum of SEVEN HUNDRED, SEVENTY-NINE AND 81/100 DOLLARS (\$ 779.81), due it by two promissory notes, with waiver of exemptions, made to the Complainant by said T. B. McGowan and endorsed by said Mrs. Thos. McGowan, said sum including interest on the principal debt at the rate of six per cent per annum, and the sum of One Hundred Dollars allowed as its Solicitor's fees for suit on said notes, for which execution may issue.

5. That the Complainant, The Merchants National Bank of Mobile, a National Banking Association, as Executor of the Last Will and Testament of Archer W. Slaughter, deceased, have and recover of the Respondent, Mrs. M. A. McGowan ( same person as Mrs. Thos. McGowan ) the sum of ONE THOUSAND, ONE AND 25/100 DOLLARS (\$ 1001.25), due by promissory waive note, containing waiver of exemptions, made to said Archer W. Slaughter by her, which sum includes interest at six per cent per annum from June 1st, 1931, for which execution may issue.

6. It is further ordered by the Court that the costs of these proceedings be taxed against the Respondents, Mrs. Thos. McGowan and T. B. McGowan, in equal amounts, for which execution may issue.

Done, ordered and decreed this the 19th day of February, 1946.

F. W. HARE  
 Judge of the Circuit Court of  
 Baldwin County, Alabama, in  
 Equity.

I, Alice J. Duck, Register of the Circuit Court of Baldwin County, Alabama, do hereby certify that the foregoing is a correct copy of the original decree rendered by the Judge of the Circuit Court in the above stated cause, which said decree is on file and enrolled in my office.

Witness my hand and seal this the 11th day of March, 1946.

ALICE J. DUCK  
 Register of Circuit Court, in  
 Equity.

BALDWIN COUNTY BANK, a  
Corporation,

Complainant,

VS.

T. B. McGOWAN, MRS. THOS.  
McGOWAN AND EDMUND C. McGOWAN,

Respondents.

ARCHER W. SLAUGHTER,

Complainant,

VS.

MRS. THOMAS McGOWAN AND E. C.  
McGOWAN,

Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

#### STIPULATION

In these causes it is agreed by the parties that the testimony of C. L. White, a witness for the Baldwin County Bank, Archer W. Slaughter, a witness for himself, and Laura McGowan, T. B. McGowan and Edmund Clay McGowan, witnesses for the Respondent, may be taken orally in Bay Minette, Alabama at the office of J. B. Blackburn, before Ora S. Nelson, as Special Commissioner. All formalities as to the taking of the said testimony are waived, including the issuance of a commission and it is agreed that the said testimony so taken, when certified to by the said Special Commissioner, may be used as testimony of the witnesses above named in the trial of the said cause, the signatures of the respective witnesses being waived.

IT IS FURTHER AGREED that either party may, on final hearing, object to the materiality of any testimony so taken at this hearing without being put to the necessity of making objections at the time of taking same.

Dated this 20th day of February, 1941.

J. B. Blackburn  
Solicitor for Baldwin County Bank.

A. W. Slaughter

Hybart and Chason

By J. H. H. H.

Solicitors for Respondent.

BALDWIN COUNTY BANK, a Corporation,  
Complainant,

VS.

T. B. McGOWAN, MRS. THOS. McGOWAN AND EDMUND C. McGOWAN,  
Respondents.

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

ARCHER W. SLAUGHTER,  
Complainant,

VS.

MRS. THOMAS McGOWAN AND E. C. McGOWAN,  
Respondents.

TESTIMONY.

DIRECT EXAMINATION OF C. L. WHITE, WITNESS FOR BALDWIN COUNTY BANK, A CORPORATION, BY HONORABLE J. B. BLACKBURN, ATTORNEY FOR THE COMPLAINANT, BALDWIN COUNTY BANK.

Q. Mr. White, what was your connection with the Baldwin County Bank prior to the time it closed?

A. Assistant Cashier.

Q. What has been your connection since it reorganized and reopened?

A. Assistant Cashier and Cashier.

Q. As such officer, do you have knowledge of the loans and discounts at the time it closed?

A. I did.

Q. When did it close?

A. January 27, 1932.

Q. I will ask you to examine this instrument here. What is that Mr. White?

A. Note of T. B. McGowan, payable to the Baldwin County Bank in the amount of Two Hundred Fifty Dollars, dated December 26, 1931, and due February 25, 1932.

Q. Is that note indorsed by anyone?

A. By Mrs. Thomas McGowan.

Q. When did that note come into the assets of the Baldwin County Bank?

A. December 26, 1931.

Q. When did it become due?

A. February 25, 1932.

Q. Is the note still due and unpaid?

A. It is.

Q. It is the property of whom?

A. Baldwin County Bank.

Q. The note bears interest from what date?

A. February 25, 1932.

Q. Have you figured, and do you know the amount of interest due on the note?

A. The amount of interest is \$134.79.

Q. How much principal?

A. Two Hundred Fifty Dollars.

NOTE FOR \$250.00 DATED DEC. 26th, 1931, DUE FEBRUARY 25, 1932, SIGNED "T. B. McGOWAN" AND INDORSED "MRS. THOS. McGOWAN" INTRODUCED AS EXHIBIT "A" TO TESTIMONY OF BALDWIN COUNTY BANK.

Q. Mr. White, I will ask you to examine this instrument.

What is that?

A. Note signed by T. B. McGowan, dated December 20th, 1931 for \$98.25 payable on the 20th day of January, 1932 to the Baldwin County Bank.

Q. Is it indorsed by anyone?

A. By Mrs. Thomas McGowan.

Q. Are there any credits on that note?

A. Yes, a credit of one dollar and another for twenty cents and another for eighteen cents.

Q. How much is the principal?

A. Principal \$96.78 due on the twentieth day of January, 1932.

Q. Have you figured the interest on that note?

A. Yes. It amounts to Fifty-three Dollars and Fifty-four cents.

Q. And the principal is what?

A. Ninety-eight Dollars and twenty-five cents.

Q. Is the indebtedness evidenced by this note still due and unpaid?

A. Yes.

Q. When did that note come into the Bank?

A. December 20, 1931.

Q. It is still due and unpaid?

A. Yes.

Q. That note is the property of whom?

A. The Baldwin County Bank.

Q. Were those notes placed with anyone by the Bank for collection?

A. Yes, placed with you, our attorney.

NOTE DATED DEC. 20th, 1931 FOR \$98.25, DUE JANUARY 20th, 1932, SIGNED "T. B. McGOWAN" AND INDORSED "MRS. THOS. McGOWAN" INTRODUCED AS EXHIBIT "B" TO TESTIMONY OF BALDWIN COUNTY BANK.

Q. Mr. White, do you know Mr. Thomas B. McGowan, also known as Mr. T. B. McGowan?

A. Yes.

Q. Do you know Mr. Edmund Clay McGowan, also known as Edmund C. McGowan or E. C. McGowan?

A. I do.

Q. What is the relationship between those gentlemen?

A. They are brothers.

CROSS-EXAMINATION OF C. L. WHITE, WITNESS FOR BALDWIN COUNTY BANK, BY MESSRS. HYBART AND CHASON, ATTORNEYS FOR THE RESPONDENTS.

No question.

EXAMINATION OF C. L. WHITE, WITNESS FOR BALDWIN COUNTY BANK, BY HONORABLE H. M. ALDRIDGE, ATTORNEY FOR ARCHER W. SLAUGHTER, COMPLAINANT.

No question.

DIRECT EXAMINATION OF MR. ARCHER W. SLAUGHTER, WITNESS FOR COMPLAINANT, BY HONORABLE J. B. BLACKBURN, ATTORNEY FOR BALDWIN COUNTY BANK, COMPLAINANT.

Q. Mr. Archer, do you know Mr. T. B. McGowan, also known as Mr. Thomas B. McGowan?



A. Yes sir, I have known him more to be T. B. McGowan.

Q. Do you know Mr. Edmund Clay McGowan, also known as E. C. McGowan?

A. Yes.

Q. Do you know Mrs. Thomas McGowan?

A. Yes. Her given name was Mary A. McGowan.

Q. Mary A. McGowan and Mrs. Thomas McGowan are one and the same person?

A. Yes.

Q. What is the relationship between her and Mr. T. B. McGowan?

A. She is his mother.

Q. What is the relation of Mrs. Thomas McGowan to Mr. Edmund C. McGowan, also known as Edmund Clay McGowan?

A. His mother.

INTRODUCED IN EVIDENCE AS EXHIBIT "C" TO TESTIMONY OF BALDWIN COUNTY BANK, CERTIFIED COPY OF DEED FROM THOS. B. MCGOWAN, UNMARRIED AND MRS. THOS. MCGOWAN, A WIDOW TO EDMUND C. MCGOWAN, DATED FEBRUARY 13, 1932, THE ORIGINAL OF WHICH IS RECORDED IN DEED RECORD 51 N. S., AT PAGE 508, BALDWIN COUNTY RECORDS.

IT IS AGREED that a fee of One Hundred Dollars (\$100.00) is a reasonable fee for J. B. Blackburn, Solicitor of Record for Complainant, Baldwin County Bank, a Corporation, as provided in the said notes hereinabove referred to as Exhibits "A" and "B".

DIRECT EXAMINATION OF ARCHER W. SLAUGHTER, COMPLAINANT, BY HONORABLE H. M. ALDRIDGE, ATTORNEY FOR COMPLAINANT, ARCHER W. SLAUGHTER.

Q. What is your name, please sir?

A. Archer W. Slaughter.

Q. Also known as Mr. A. W. Slaughter?

A. Yes.

Q. Do you know Mrs. M. A. McGowan or Mrs. Thos. McGowan?

A. Yes sir.

Q. They are one and the same person?

A. Yes sir.

Q. How long have you known Mrs. Thomas McGowan, also known as M. A. or Mary A. McGowan?

A. All of my life.

Q. Did you, in 1924, in the month of July, make a loan to Mrs. McGowan?

A. Yes.

Q. By cash or by check?

A. By check.

Q. Mr. Slaughter, I will show you an instrument, identified by the Commissioner as Exhibit "A" to your testimony and ask whether or not that is the check you gave Mrs. McGowan for the loan you just referred to?

A. Yes sir.

Q. It is?

A. It is.

Q. The check is drawn on the First National Bank of Mobile, Alabama?

A. Yes sir.

Q. Did you take any security for that loan?

A. Yes sir.

Q. In what form, or what sort of security was it?

A. It was a note.

CHECK ON FIRST NATIONAL BANK, MOBILE, FOR \$500.00 DATED JULY 9th, 1924, SIGNED "A. W. SLAUGHTER", INDORSED "MRS. M. A. MCGOWAN - MRS. THOS. MCGOWAN" INTRODUCED AS EXHIBIT "A" TO TESTIMONY OF ARCHER W. SLAUGHTER.

Q. Mr. Slaughter, I will show you an instrument marked Exhibit "B" to the testimony of Archer W. Slaughter by the Commissioner, and ask you whether or not that is the note taken as security for that loan of Five Hundred Dollars?

A. Yes sir.

Q. That is the note?

A. This is the note, yes sir.

Q. Mr. Slaughter, has any amount, or any part of this principal of Five Hundred Dollars been paid?

A. Yes sir.

Q. How much of the principal?

A. Only Fifty Dollars.

Q. Do you know about when that was paid?

A. Well, not the exact date, I don't.

Q. In your best judgment?

A. It was paid soon after Peyton Bryars got his store burned.

Q. Do you have any idea when that was?

A. I can't recall right off the reel - - several years ago.

Q. Has any interest been paid on this note?

A. The interest that was paid was paid in beef.

Q. Can you tell me in your best judgment what was the approximate value of the beef that you accepted as interest on this note?

A. I didn't keep any record of it. I reckon somewhere between twenty-five and fifty dollars. I left it up to Miss Laura McGowan to keep the account.

Q. Without then the beef, which, in your opinion would run between twenty-five and fifty dollars, nothing further has been paid on the interest up to this date, nor has anything other than the fifty dollars been paid on the principal up to this time.

A. No.

Q. Mr. Slaughter, did you record this note in the records of the Probate Court of Baldwin County?

A. Yes.

NOTE DATED JULY 9, 1924 FOR \$500.00 DUE JULY 9, 1925, SIGNED "MRS. M. A. MCGOWAN" PAYABLE TO A. W. SLAUGHTER WITH INTEREST AT RATE OF SIX PER CENT, RECORDED IN BOOK NUMBER 30 OF MORTGAGES AT PAGE 447, BALDWIN COUNTY RECORDS, INTRODUCED IN EVIDENCE AS EXHIBIT "B" TO THE TESTIMONY OF A. W. SLAUGHTER.

Q. Mr. Slaughter, I will ask you, do you know Thomas B. McGowan?

A. Yes sir.

Q. Do you know Edmund Clay McGowan, sometimes known as Edmund C. or E. C. McGowan?

A. Yes.

Q. What relation are they?

A. Brothers.

Q. How long have you known them?

A. All of their lives.

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Q. Do you know Mrs. M. A. McGowan, also known as Mrs. Mary A. McGowan, also known as Mrs. Thomas McGowan?

A. Yes.

Q. How long have you known her?

A. All of my life.

Q. What relation was she to Mr. Thomas B. McGowan that you just testified about, and Mr. E. C. McGowan?

A. She was the mother of both.

INTRODUCED ON BEHALF OF COMPLAINANT, ARCHER W. SLAUGHTER, CERTIFIED COPY OF INSTRUMENT PURPORTING TO BE WARRANTY DEED FROM MRS. THOS. McGOWAN AND T. B. McGOWAN, TO EDMUND C. McGOWAN, RECORDED IN DEED BOOK 51 N. S. AT PAGE 508, OF THE RECORDS OF THE PROBATE COURT OF BALDWIN COUNTY, ALABAMA, AS EXHIBIT "C" TO TESTIMONY OF A. W. SLAUGHTER.

Q. At the time this note was signed, who was present at the time of signing, other than Mrs. M. A. McGowan?

A. Laura McGowan and Mrs. M. A. McGowan.

Q. What relation is Laura McGowan to Mrs. M. A. McGowan?

A. Daughter.

Q. Who else was present?

A. Edmund Clay McGowan.

Q. Also known as E. C. McGowan?

A. Yes.

Q. Anybody else?

A. I have forgotten whether Doll Baby was there or not?

Q. Mr. Slaughter, who is Doll Baby?

A. Thomas McGowan.

Q. How old are you?

A. I am seventy-eight.

Q. Whose property is the promissory note and the cancelled check identified as Exhibits "B" and "A" respectively? To whom do they belong?

A. That note and check? They were given to me and are still mine. That is the check I gave them.

Q. Nothing has been paid other than about which you have already testified?

A. That's right.

CROSS EXAMINATION OF ARCHER W. SLAUGHTER, COMPLAINANT,  
BY MESSRS. HYBART AND CHASON, ATTORNEYS FOR RESPONDENTS.  
(Questions by Mr. Hybart).

Q. Where did this transaction take place, Mr. Slaughter?

A. At Mrs. McGowan's house.

Q. In Baldwin County?

A. Yes sir.

Q. Do you remember the day of the week?

A. No sir, I don't.

Q. Was it in the morning or in the evening?

A. If I remember right - I think I took dinner with them -  
I am not sure.

Q. Do you know what room?

A. We were in the dining room at Guy McGowan's place.  
They were living there.

Q. Who was present? Mrs. M. A. McGowan?

A. Yes. Miss Laura McGowan and Edmund Clay and myself.

Q. Was that the day they first mentioned about making  
the loan?

A. No.

Q. You had been talking and discussing it before?

A. She had nobody else to appeal to and I offered to  
help.

Q. You told her that you would make this loan on her note?

A. Yes. She suggested such as to give me security.

Q. You suggested that you would make the loan on the note?

A. Yes, that was it.

Q. Mr. Slaughter, this wasn't written in there at the  
time - "This note is secured by my real and personal property"?

A. If I am living it was.

Q. Who prepared the note?

A. I did.

Q. Who executed the note?

A. What do you mean?

Q. Who signed it?

A. Mrs. M. A. McGowan.

Q. Is it not a fact that this is Miss Laura McGowan's writing on the note?

A. I handed Mrs. M. A. McGowan the note and she did this way (made motion rubbing his hands together quickly) and handed it to her - same as to say "I can't write".

Q. She didn't sign it?

A. She said Laura signed all her checks and papers.

Q. She didn't sign that note?

A. No.

Q. Did you read it over to her before it was executed?

A. I may have.

Q. You are not certain?

A. I am pretty sure but I'm not going to say positively, we were making it, all right there together.

Q. Is this your handwriting down here Mr. Slaughter? The words "This note is secured by my real and personal property?"

A. Yes, that's my writing.

Q. Right down below those words is "E. C. McGowan." You didn't make any loan to Mr. E. C. McGowan, did you?

A. He is a witness.

Q. You didn't make any loan to E. C. McGowan, did you?

A. No sir.

Q. It wasn't understood that he was to be responsible for Mrs. McGowan's indebtedness was it?

A. No. He witnessed the note. It reads attest - witness.

Q. Who indorsed the note?

A. I can't see any indorsement.

Q. After you secured this note of Five Hundred Dollars which is your Exhibit "B" to your testimony, did you take it on home with you?

A. Yes sir.

Q. It has been in your possession ever since?

A. No, it has been out of my possession ever since a

a short while after the bank failed.

Q. The bank failed in 1932. Did it or not?

A. Yes.

Q. It was in your possession up until the time the bank failed?

A. Yes.

Q. Mr. Slaughter, didn't you tell Mrs. M. A. McGowan at the time you offered to loan this money to her, this five hundred dollars, that you didn't want any security for it.

A. I don't have any such recollection. She preferred the security and I was satisfied.

Q. You say that she was in distress at the time?

A. Out of doors.

Q. And had no one else so she turned to you?

A. I turned to her.

Q. You offered to loan her Five Hundred Dollars?

A. I didn't know the exact amount then, I don't think.

Q. You offered to take a note?

A. Yes.

Q. You say she suggested that you take security?

A. Seems to me that she wanted to give security, yes.

RE-DIRECT EXAMINATION OF ARCHER W. SLAUGHTER, COMPLAINANT, BY HONORABLE H. M. ALDRIDGE, ATTORNEY FOR SAID COMPLAINANT.

Q. Mr. Slaughter, Mr. Hybart has asked you whether Mrs. M. A. McGowan signed the note herself and I believe you testified that the actual writing was done by Miss Laura McGowan?

A. Yes, her daughter.

Q. Did Miss Laura McGowan sign in the presence of her mother?

A. Yes.

Q. At her mother's request?

A. Yes.

Q. At that time, or any other time, did Mrs. McGowan ever make any statement to you as to whether or not she could write?

A. Only when we were making that note she made a motion with her hands. She told her daughter, "Here, Laura, you sign this." "She tends to all of my business."

Q. Miss Laura then did it at the time in the presence of all of you?

A. Yes.

Q. Mr. Hybart has asked you about this name of E. C. McGowan on the bottom of the note on the line marked "Attest", who signed that signature?

A. Yes, I told him that we would have to witness it and-

Q. Did he or not sign it?

A. He signed it right there.

Q. That is the same E. C. McGowan or Edmund C. McGowan about whom you have testified?

A. Yes.

Q. Mr. Hybart asked you whether or not this note was out of your possession. It was out of your possession when it was recorded in the Probate Court was it not?

A. Yes.

Q. Since this suit was filed, since 1933 it was in Mr. B. F. McMillan's possession?

A. Yes.

Q. In whose possession since the death of Mr. B. F. McMillan - after his death?

A. In your possession.



I, ORA S. NELSON, as Special Commissioner, hereby certify that the foregoing depositions on oral examination were taken down by me in writing, in the words of the witnesses; that the said witnesses were duly sworn, and that the foregoing constitutes a full, true and complete transcript of the testimony of said witnesses; that I am not of counsel or kin to any of the parties to said cause and am not in any manner interested in the result thereof.

Dated this the 20th day of February, 1941.

Ora S. Nelson

Special Commissioner.

BALDWIN COUNTY BANK, a  
Corporation,  
  
Complainant,

VS.

T. B. McGOWAN, et als  
  
RESPONDENTS,  
  
ARCHER W. SLAUGHTER,  
  
COMPLAINANT,

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

September 17, 1942.

VS.

MRS. THOMAS McGOWAN AND E.C.  
McGOWAN,  
  
RESPONDENTS.

TESTIMONY

DIRECT EXAMINATION OF MISS LAURA McGOWAN, WITNESS FOR  
RESPONDENTS, BY HONORABLE H. L. HYBART, ONE OF THE  
ATTORNEYS FOR RESPONDENTS.

Q. Your name, please ma'm?

A. Laura McGowan.

Q. Where do you live?

A. Latham.

Q. Are you more than twenty-one years of age?

A. Yes.

Q. You are acquainted with Mr. A. W. Slaughter or Archer W.  
Slaughter?

A. Yes, I have known him all my life.

Q. Mrs. M. A. McGowan your mother?

A. Yes.

Q. How old is she?

A. Eighty-five.

Q. Is her health good?

A. No, she's not in good health.

Q. She was not able to come to Bay Minette?

A. No, she is not able to stand any excitement or a trip  
down here.

Q. Mr. E. C. McGowan, what kin is he?

A. My brother.

Q. You have another brother, Mr. Thomas B. McGowan, also  
known as T. B. McGowan?

A. Yes, he's my brother.

Q. How many sisters have you?

A. One.

Q. What's her name?

A. Reba Mae

(OBJECTION BY MR. SIDNEY S. PFLAGER, ATTORNEY FOR A.W. SLAUGHTER, AS TO NUMBER OF SISTERS AND BROTHERS)

Q. Did Mr. A. W. Slaughter - he is one and the same person as Archer W. Slaughter?

A. Yes.

Q. Did Mr. A. W. Slaughter come to your place about the 9th day of July, 1924?

(OBJECTION BY MR. PFLAGER - UNLESS SHE KNOWS OF HER OWN PERSONAL KNOWLEDGE)

A. Yes, he came there.

Q. You remember the time, the occasion?

A. Certainly.

Q. At that time did he offer to loan your mother some money?

A. Yes.

Q. How much did he offer?

A. Five Hundred Dollars.

Q. Did he say anything about what security he wanted for the loan?

A. No, he didn't say anything about security.

Q. Did he agree to loan it on a note?

(OBJECTION BY MR. PFLAGER, ON THE GROUND THAT THE NOTE IS THE BEST EVIDENCE).

A. Yes.

Q. Did he loan her Five Hundred Dollars on that day?

A. Yes.

Q. Who prepared the note?

A. He did.

Q. When was the note to be due?

(OBJECTION BY MR. PFLAGER, ON THE GROUND THAT THE NOTE IS THE BEST EVIDENCE.

Q. Go ahead.

A. On the 9th day of July, 1925.

Q. Was that the note there? (Witness examined note) that he prepared?

A. No.

Q. That wasn't the note he prepared?

(OBJECTION BY MR. PFLAGER - IF THAT IS NOT THE NOTE THE OTHER WILL BE THE BEST EVIDENCE)

A. He said he didn't want any security. This wasn't here.

(OBJECTION)

Q. What did he say about wanting security?

A. He said he just wanted a piece of paper to show that she got the money, but this wasn't here.

Q. What do you mean wasn't there?

A. "Secured by real and personal property" "This note is secured by my real and personal property." Not when I signed it.

Q. You say, when you signed it?

A. Yes, I signed it. Signed it for my mother. She told me to sign it.

Q. Did you read the note over at the time?

A. I certainly did.

Q. This part of the note, which has been introduced in evidence as Exhibit "B" to Mr. A. W. Slaughter's testimony, "This note is secured by my real and personal property" was not in the note at the time you executed it for your mother?

A. It surely wasn't.

Q. And you read it over carefully?

A. I surely did.

Q. Did you read it over to your mother?

A. Yes sir.

Q. Did you read it over to your mother in the presence of your brother, E. C. McGowan?

A. Yes sir, he was right there.

Q. He heard this read?

A. Yes.

Q. You know that there was positively - that that was not on it?

A. That's what he said, he just wanted a plain note.

Q. Nothing about giving a mortgage on land, or lien on land to secure the note?

A. No sir.

Q. Now, later on, in 1932, did your mother and your brother, Mr. T. B. McGowan, sell and convey about two hundred acres of land and some personal property to your brother, Mr. E. C. McGowan?

(OBJECTION BY MR. PFLAGER ON THE GROUND THAT IF SUCH CONVEYANCE WAS MADE, IT WOULD BE THE BEST PROOF)

A. Yes.

Q. Were you present at the time the deal was made?

A. I was.

Q. Did you see the money paid over?

A. I did.

Q. Who paid the money? Edmund Clay, E. C., he is one and the same person?

A. Yes.

Q. Who did he pay it to?

A. My mother.

Q. Was T. B. McGowan present?

A. Yes.

Q. How much money did he pay her?

A. Five Hundred Dollars.

Q. At the time he paid over this money to them, did they deliver him this deed and Bill of Sale to the land and other personal property to E. C. McGowan?

A. They did.

Q. Do you know where your brother got the money from?

A. He traded and traffic

Q. What business?

A. Working on the highway. I forgot the name of the people when -

Q. Do you know how much money he had?

(OBJECTION BY MR. PFLAGER ON THE GROUND THAT IT IS IRREGULAR, INCOMPETENT AND IMMATERIAL)

A. I really don't know how much money he had

Q. Where did he keep it?

(OBJECTION RENEWED BY MR. PFLAGER)

A. He kept it at home.

Q. During the year 1932 were the banks failing?

(OBJECTION BY MR. PFLAGER ON THE GROUND THAT IT IS IRREGULAR, INCOMPETENT AND IMMATERIAL)

A. Yes.

Q. The depression was on?

(OBJECTION BY MR. PFLAGER ON THE GROUND THAT <sup>it</sup> IS IRREGULAR, INCOMPETENT AND IMMATERIAL)

A. Yes sir.

Q. Money was scarce.

(OBJECTION RENEWED)

A. It was.

Q. Did you know of anybody being able to sell any lands up in and around in that country?

(SAME OBJECTION)

A. No.

Q. Were you familiar with these lands as to the general character that was conveyed in this deed that I have been inquiring about by your mother, Mrs. McGowan, and your brother, T. B. McGowan to E. C. McGowan?

A. Yes sir.

Q. Had the timber been cut off of it?

(OBJECTION BY MR. PFLAGER ON THE GROUND THAT IT IS IRREGULAR, INCOMPETENT AND IMMATERIAL.)

A. Yes.

Q. Was the land what is known as "wild land"?

(OBJECTION BY MR. PFLAGER ON THE GROUND THAT THE QUESTION HAS NO BEARING ON THE ISSUES INVOLVED IN THE SUIT)

Q. Was the land in cultivation?

A. Not any of it.

CROSS EXAMINATION OF MISS LAURA MCGOWAN BY MR. SIDNEY S. PFLAGER, ATTORNEY FOR A. W. SLAUGHTER.

Q. You say your name is Miss Laura McGowan? You are the daughter of Mrs. M. A. McGowan, who is the respondent in this suit?

A. Yes.

Q. T. B. and E. C. McGowan are your brothers, are they not?

A. Yes.

Q. Who was present other than your brothers and your mother at the time this money was loaned?

A. Not any one.

Q. You and your brothers all have an interest in this litigation, do you not Miss McGowan?

A. An interest? Yes. I don't understand.

Q. You have an interest?

A. Not me individually.

Q. Your mother?

A. Yes.

Q. You are very interested in anything happening to your mother - you would be very vitally interested in anything that might dispose of anything belonging to your mother's property, or otherwise?

A. Of course, I'm interested in her.

Q. In anything belonging to her?

A. Anything belongs to her, of course I would be if she had anything.

Q. This note that was executed on the 9th day of July, 1925 as Complainant's Exhibit "B" was signed by you for your mother?

A. Yes

Q. You signed her name?

A. Yes.

Q. At her direction?

A. Yes.

Q. She was the one who got the money? She told you to sign the note for her?

A. She did.

Q. Who did you say wrote it out?

A. Mr. Slaughter.

Q. Your brother signed it as an attesting witness to her signature?

A. Yes.

Q. At that time was the interest changed on it from eight per cent to six per cent and promised to pay to A. W. Slaughter?

A. Yes, just like it except this wasn't on the note.

Q. Did your brother sign that in your presence?

A. Yes.

Q. He didn't sign - you know which line he signed, on the top or on the bottom line as attesting witness?

A. I don't remember.

Q. You remember how much space was on the note between - any blank space in there?

A. I know he witnessed the note.

Q. The main thing you were interested in was that your mother wanted to borrow five hundred dollars? Is that correct?

A. Yes.

Q. Mr. Slaughter had five hundred dollars?

A. Yes.

Q. Mr. Slaughter loaned your mother five hundred dollars, in fact this check, that is the check she received from Mr. Slaughter at that time, (I think it was Exhibit "A") is it not?

A. Yes.

Q. Your mother indorsed this check did she not?

A. Let me see it.

Q. Didn't she sign her name on the back of that check?

A. I don't think so.

Q. Do you know your mother's signature?

A. Yes, I know it.

Q. She got the money?

A. Yes, I don't remember whether they signed- that certainly didn't look like her writing to me. I don't know about that.

Q. You indorsed this up here?

A. Yes, I did.

Q. Who is Mrs. Thomas McGowan? That's the same person?

A. I indorsed that check - let me see.

Q. Have you ever seen that writing?

A. I don't know it.

Q. You indorsed it for her, did you get it cashed for her?

A. I don't remember.

Q. At the time this note was executed, you say this part where it says "This note is secured by my real and personal property was not on it."



A. It was not. He said he just wanted a slip of paper.

Q. You don't know of your own personal knowledge that at any time subsequent that was added with your mother's consent?

A. No.

Q. You don't know how it happened to get on there?

A. No, I don't.

Q. Except that it was not on there at the time you read it?

A. No.

Q. You do know that none of that five hundred dollars was ever paid to Mr. Slaughter?

A. I don't remember.

Q. Do you know whether any of it has been paid or not?

A. She paid fifty dollars in cash.

Q. When was that?

A. I don't remember - I heard her say so.

Q. You didn't see that?

A. No.

Q. She told you on one occasion that she had paid fifty dollars to Mr. Slaughter?

A. Yes.

Q. You don't know whether or not between the time she paid the fifty dollars to Mr. Slaughter and the time the note was originally executed whether she agreed that that be put on it?

A. No, she didn't agree to it.

Q. You don't know whether she did or not? That could have been put on that at her consent after the execution of the note?

A. Without my knowledge.

Q. Do you know whether it was one year after the note was signed, two years or three when it was paid?

A. I don't remember.

Q. Do you know whether the note was past due at the time she paid the fifty dollars?

A. You mean after 1925? It was after that.

Q. When she paid the fifty dollars?

A. Yes.

Q. This deed from Mrs. Thomas McGowan and T. B. McGowan to E. C. McGowan, was executed in 1932?

A. Yes.

Q. Were you present when that was executed?

A. Yes.

Q. You saw the money transferred and her give him the deed?

A. Yes.

Q. Was this signed out at your mother's house?

A. This deed? No. At my brother's in Bay Minette.

Q. Who was present when this deed was signed?

A. I don't remember exactly.

Q. Was anybody other than your mother and brothers present at that time?

A. No. You mean outside person? Only Mr. Richerson.

Q. Was he there?

A. Yes.

Q. Did he draw up the deed?

A. I don't remember who drew it up.

Q. You say he was present at the time?

A. Yes.

Q. This property that is included in that deed which is Exhibit "C" to the testimony of the Baldwin County Bank, is that the homestead of your mother?

A. What land? No it's not the home.

Q. Prior to the execution of this deed whose name was that property in? Who owned it?

A. Before this deed was drawn? In my mother's name all along.

Q. Did your brother, T. B. have any interest in it?

A. No, it was hers.

Q. Your brother, T. B. Didn't have any interest in it?

A. No.

Q. Is T. B. McGowan - was there more than one in 1932?

A. No.

Q. That was your brother?

A. Yes.

Q. When he signed this deed he really didn't have any interest in this property?

A. You mean interest, how?

Q. Any interest at all in it? Did he have any interest in the land or personal property?

A. Interest?

Q. Own any part of it?

A. Yes.

Q. Was that all of the personal property that your mother owned at the time she sold to your brother, E. C. McGowan?

A. I don't understand.

Q. You know what personal property and real property is don't you? Was that all the personal property that your mother owned.

A. What's listed in that thing? Yes, it was her home place.

Q. As a matter of fact, wasn't the home property in the name of your father?

A. But he was dead.

Q. It was in his name at the time of his death?

A. Yes.

Q. She has lived on it, she has never had it set apart as a widow's dower?

A. I don't know.

Q. You know how long has your father been dead?

A. Thirty-nine years.

Q. Have you ever taken part, or had any part in setting apart a homestead as exempt to the widow of the property of your father?

A. No.

Q. Have you ever had any notice of it of any type?

A. No.

Q. Did your mother own any land in her name other than what is covered by this deed?

A. You mean/<sup>those</sup>~~thetwo~~ two hundred acres, No.

Q. Did you and your brothers at any time after your father's death give your mother a deed to the home place?

A. No.

Q. In other words, you have an undivided interest in the home place even today do you not?

A. No.

Q. You say you don't?

A. I do not.

Q. How did you get rid of it, your interest in the home place, after your father's death?

A. I don't understand what you mean.

Q. Have you ever at any time after your father's death received any notice about the sale of the home place?

A. No.

Q. Have you at anytime had any notice from the Court with reference to the home place left by your father?

A. No.

Q. Have you at anytime since your father's death ever executed any deed or paper purporting to be a deed conveying any interest what you had?

A. I did.

Q. You did?

A. To my brother, E. C. McGowan.

Q. When was that?

A. I don't remember the day now, it's on record.

Q. Then E. C. owns your interest in the home place?

A. Yes.

Q. And E. C. got this deed from your mother and brother to the other property, is that correct?

A. Yes.

Q. Was this seventy-five head of cattle listed in this deed property of your mother?

A. No, they belonged to us all.

Q. The four head of horses and eight head of oxen and an eight wheel wagon, they belong to your mother?

A. Yes.

Q. They didn't belong to you all?

A. The interest did.

Q. In the deed you gave your brother, E. C. did you include any interest in the personal property?

A. I don't remember.

Q. Don't you know what you deeded away, Miss McGowan?

A. You mean the home place?

Q. Don't you know whether you gave a bill of sale to real property and personal property?

A. I gave him a deed to my interest.

Q. In what?

A. In my father's estate.

Q. You didn't specify the land or personal property?

A. My interest in everything.

Q. That is the deed you gave him?

A. Yes.

Q. When was that deed given, please?

A. I don't remember.

Q. About when?

A. I don't remember.

Q. What did you get for your interest, for the deed and bill of sale, what did you get?

A. If you want to know, I'll tell you. He took over the loan on the place.

Q. How much loan was on the place at that time?

A. I don't remember.

Q. Do you know about how much it was, Miss McGowan?

A. I do not.

Q. As a matter of fact, Miss McGowan, practically all you remember is that you signed this note for your mother and you remember definitely that little clause was not on that but you don't remember the time ~~was~~ or anything else in any of the other transaction?

A. Only the paper I signed.

Q. For your mother? You remember that distinctly?

A. Yes, and-

Q. How much loan was due on the place?

A. I told you I don't remember the exact amount now, the loan had been on it for sometime.

Q. And he took it over?

A. I don't remember. I got to look and find out.

Q. How long after Mr. Slaughter lent this money to your mother was it before he left your place on that particular day?

A. I don't remember.

Q. Were you at all times that Mr. Slaughter was present on the day this note was executed, in the presence of your mother and Mr. Slaughter?

A. I might have been out of their presence occasionally but I was in the house around and among them all the time.

Q. Was there any time on that occasion that Mrs. McGowan and Mr. Slaughter were present alone?

A. Not that I know of.

Q. Would you say there wasn't then?

A. No, I don't think there was.

Q. Where was your brother, T. B?

A. He was around the place.

Q. Where was your brother, E. C?

A. He was around there too.

Q. Were they in and out of the house on that day?

A. Yes.

Q. And you were in and around there all the time? Isn't it highly possible that while Mr. Slaughter was present at your house on that occasion that he and your mother could have been in a room alone at that time?

A. Not that I know of.

Q. Would you say there never was a time that he was in the room with just your mother and nobody else present on that occasion?

A. I don't know.

Q. Then you don't know whether or not this addition was put on this note on the same date it was executed?

A. Yes, I do know it wasn't on there.

Q. When this note was signed by you it was given to Mr. Slaughter?

A. Yes.

Q. You don't know after it was handed to him whether your mother and he agreed to put that on there do you?

A. No.

CROSS-EXAMINATION OF MISS LAURA MCGOWAN BY MR. J. B. BLACKBURN, ATTORNEY FOR BALDWIN COUNTY BANK.

Q. Miss McGowan, in so far as the indebtedness from T. B. McGowan and your mother to the Baldwin County Bank is concerned, do you have any personal knowledge of it?

A. No.

Q. You have talked about this deed and bill of sale, where did you say that that transaction was closed, the money paid by Mr. Edmund Clay McGowan to the other parties, where was that deed signed?

A. Down here in Bay Minette.

Q. In Bay Minette, Alabama?

A. Yes.

Q. At whose place?

A. At Randolph's, my other brother.

Q. Who was present?

A. Just the family, the ones who were interested.

Q. Now, who were they, please ma'm?

A. I don't remember.

Q. Do you know whether Mr. T. W. Richerson was there?

A. Yes, certainly he was there.

Q. Was any money paid at that time and place?

A. No.

Q. No money paid there?

A. No.

Q. Well, when the deed was signed, what became of it?

A. Turned it over to my brother, E. C.

Q. And he didn't pay any money there?

A. He went home and they turned the deed over to him.

Q. Down here at your brother's place, no money paid there?

A. No.

Q. Did your mother and brother keep the paper until they got back to Latham?

A. Yes.

Q. How long after you got back to Latham before they surrendered possession of the deed?

A. He paid the money and they turned the deed over to him.

Q. When was that?

A. After we got back home.

Q. On the <sup>same</sup> day the deed was executed?

A. Yes.

Q. What did he do the balance of that day?

A. I don't remember.

Q. Do you know how long it was after that day before he came back to Bay Minette?

A. No, I don't remember.

Q. You referred to this money being paid, who was present when it was paid?

A. I don't know.

Q. Were you there?

A. Yes, I was at the house.

Q. You saw the money paid?

A. Yes.

Q. You remember what denominations it was in?

A. No.

Q. Who took the money?

A. My mother.

Q. Miss, McGowan, at the time this deed was made, the deed and bill of sale, and on February 13, 1932, what land except the lands described in the deed did your mother own?

A. The home place.

Q. At the time though, was the record title to the home place in your mother or did it belong to your father at the time of his death?

A. My father.

Q. Had there been any transfers to the title to that property from the heirs of your father to your mother before February 13, 1932?

A. No.

Q. Then all she had in that land was such interest as she inherited from your father?

A. Yes.



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Q. How about personal property? What other personal property did she own on February 13, 1932? This paper describes seventy-five head of cattle, four head of horses, eight head of oxen and one eight-wheel wagon, other than that, what did your mother own?

A. Not any that I know of.

Q. Not any that you know of?

A. No.

Q. On February 13, 1932, how old was your brother, E. C. McGowan?

A. In 1932? He's fortyone now.

Q. Would have been approximately thirty-two then?

A. Yes.

Q. With reference to the place where you all lived at Latham, and where you lived in 1932, where are these lands located, which direction are these lands?

A. Now we live on one place and the other adjoins.

Q. The lands described in this deed here is in Section 19, Township 2 North Range 3 East, which direction is that from your house?

A. You mean the two hundred acres? Corner joins the home place.

Q. Is any of this land in cultivation?

A. Not one bit of it.

Q. In 1932?

A. No.

Q. Who was in the possession of this land when this deed was made in 1932?

A. My mother.

Q. How long did she remain in possession of it? Isn't it a fact that she has remained in possession up to this date?

A. Yes.

Q. This personal property - these cattle, where were they located at the time?

A. On the open range.

Q. Who had the possession of those cattle when this conveyance

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was made - who looked after them?

A. Her son.

Q. He looked after them for her?

A. Yes.

Q. And after this he continued to look after them in the same way did he not?

A. Yes.

Q. Is it a common occurrence for your brother to keep as much as five hundred dollars in cash lying around?

A. It wasn't lying around, it was in his trunk.

Q. Did he keep money in his trunk when he had it on hand?

A. Sometimes.

Q. Miss McGowan, do you know where your brother got this five hundred dollars?

A. Trade and traffic, butchered and worked on the highway.

Q. How long prior to February 13, 1932 was it that Mr. Edmund Clay worked on the highway?

A. I don't remember.

Q. Quite <sup>w</sup>hile?

A. I don't remember.

Q. You mean to tell us here that he had saved and accumulated five hundred dollars by trading and trafficking? Isn't it a custom in your home that your mother was more or less the banker and she handled the money - in other words -?

A. When they saw fit to turned it over to her, but they handled it.

Q. You know of no way your brother made this money except by trade and traffic? Can you name any jobs that he was doing at that time - prior to- ?

A. I told you he butchered and worked on the highway.

Q. How many cattle did he butcher a week?

A. According to the demand for beef.

Q. He butchered for market and run a wagon? Would he sell any cattle - butcher the cattle and sell them whole - come to Bay Minette - you say he sold - he had a car and went through the

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county - how many cattle did Mr. Edmund Clay McGowan own in January, 1932?

A. I don't know.

Q. How many did he own in 1932?

A. I don't understand what you mean.

Q. Do you know how many cattle he owned in March, 1932?

A. In March, 1932? After he bought the interest out?

Q. The date of the Bill of Sale is February 13, 1932, how many cattle did Mr. E. C. McGowan own in March, 1932?

A. Owned the interest he bought out and his interest.

Q. That was seventy-five head.

A. Their interest.

Q. Then those seventy-five head of cattle - he only owned an interest in that seventy-five head - then when he would butcher he would account to the other members of the family for the proceeds?

A. Yes.

Q. What part of his butchering operations was conducted from the cattle that the family owned?

A. I don't remember.

Q. Any money paid to you from those, cash or otherwise?

A. For my interest, yes, I was paid for my interest, when he butchered I got my money.

Q. You got your part and then there's five children in the family and your mother?

A. Yes.

Q. Did he divide the proceeds of that butchering six ways, divide it among all of you - for example, he killed a cow, Mr. E. C. McGowan butchered and he come back and gave each member of the family their part of the money.

A. When they butchered a cow we got our part - any part of this money, no that was his money.

Q. Were you able to tell me how many cattle he bought and sold in a month - a week?

A. I couldn't tell you.

Q. How long had he been butchering prior to February, 1932?

A. I don't remember.

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Q. Miss McGowan, isn't it a fact that Mr. T. B. McGowan and E. C. McGowan knew that the Baldwin County Bank failed here in January, 1932, and didn't they fear that an effort would be made to collect the note due the bank, and didn't they make this conveyance to avoid the payment of that obligation?

A. No.

Q. But it was from your mother and one of your brothers to another brother?

A. I know that.

Q. You say that two hundred acres of land described in this deed, what was that two hundred acres of land worth at the time this conveyance was made?

A. The timber had been cut off prior to that.

Q. How long prior to that?

A. I don't remember just when, the year or anything, but I know it had been cut off - not so many years.

Q. Can you give us a value per acre of that piece of land at that time?

A. About seventy-five acres not really worth anything, no timber on it.

Q. That would leave a hundred and twenty-five acres of cut-over land, would a fair price be five dollars per acre?

A. Too much. Two dollars or two-fifty without anything on it.

Q. Do you know what cattle like the ones described in the deed were selling for?

A. They were not worth very much.

Q. How much each?

A. You mean for calves and like that? Five or six dollars a head would be a good price.

Q. Seventy-five head of cattle at five dollars a piece would be \$375.00. These four head of horses that are described in this conveyance, what were they worth at the time this conveyance was made?

A. What ones were they?

Q. To refresh your recollection - would one hundred dollars a piece be a fair price?

A. I know that two of them were between twenty and twenty-five years old.

Q. What were the two old ones worth?

A. Near nothing.

Q. How about the others?

A. Twenty-five dollars or something like that, all together, not over Seventy-five Dollars.

Q. The four head worth, according to your judgment, Seventy-five dollars?

A. Yes.

Q. This describes eight head of oxen, you knew them didn't you? What were they worth?

A. That was just an old ox team, not so much.

Q. Just give us your idea.

A. I don't hardly know.

Q. Were they worth as much as Twenty-five dollars or eighty dollars, ten dollars?

A. About eighty dollars.

Q. This also describes an eight-wheel wagon, what was that wagon worth?

A. I reckon about twenty dollars, something like that, just an old wagon.

Q. According to your valuation here, you have seventy-five head of cattle worth five dollars each which would make a total of \$375.00, you have four horses valued at a total of \$75.00, eight head of oxen valued at \$80.00, one wagon valued at \$20.00, which would make a total value as you have given it to me, of the personal property of \$550.00. Now if that is the value of the personal property described in that Bill of Sale or Deed, and if Mr. E. C. McGowan paid \$500.00 for it as you say he did, you didn't get anything for that land. You lacked \$50.00 of getting all the personal property was worth, is that correct?

A. He was just paying for their two-fifths interest.

Q. Didn't you testify a few minutes ago that all of you had conveyed your interest to your mother?

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A. No.

Q. Didn't you testify that you conveyed it to your brother, the conveyance that you made, when Mr. Pflager examined you a few minutes ago? The conveyance which you made to Mr. E. C. McGowan, was that just from you?

A. Just on the home place.

Q. Miss McGowan, this two hundred acres of land in the deed of February 13, 1932, you have any interest in that land or did that belong to your mother?

A. Belonged to my mother.

Q. You had no interest in that to convey and therefore if it belonged to your mother and if it was conveyed by your mother to your brother, Mr. E. C. McGowan, the conveyance covered the entire interest and not just an undivided interest?

A. Yes.

Q. These cattle, did they belong to your mother and Mr. T. B. McGowan?

A. They belonged to us all, together.

Q. At the time this conveyance was made, did Mr. T. B. McGowan own any other real property?

A. Not that I know of.

Q. Any personal property except that described in this deed?

A. No.

Q. Have any money at that time?

A. Not that I know of.

Q. So far as you know on February 13, 1932, at the time this deed was made from your mother and brother, Mr. T. B. McGowan to Mr. E. C. McGowan, your brother, T. B. McGowan was insolvent?

A. Yes.

Q. I believe you stated that your mother didn't own any other real or personal property at the time?

A. No.

Q. You all lived there together? That is, you, your mother, Mr. T. B. McGowan and Mr. E. C. McGowan, before this conveyance was made in February, 1932, didn't you?

A. Yes.

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Q. You used that land and personal property all together before the deed was made?

A. Yes.

Q. After that, for a number of years, you continued to live there together, and in fact still do?

A. Yes.

Q. Use that property in the same way since February, 1932, that you did before that time?

A. No, my brother has it. He works it and uses it.

Q. If this is cut over land, what is there to work?

A. He turpentine it.

Q. Then it does have sufficient timber to turpentine?

A. Yes.

Q. Was it turpented at the time this conveyance was made?

A. No, it wasn't turpented then.

Q. Is it being turpented now, this year?

A. Not this year.

Q. Any timber been cut off it since February, 1932?

A. I don't remember where it is or not.

Q. How many cattle do you have up there now?

A. I don't know.

Q. How many oxen?

A. None.

Q. What became of these horses?

A. All dead but one.

RE-DIRECT EXAMINATION OF WITNESS BY MR. HYBART:

Q. I understand that - as to personal property - personal property means mules, horses, automobiles, wagons and things like that, that are movable - now, as I understand it, in 1932, at the time your mother and brother, T. B. McGowan, sold this property to your brother, E. C. McGowan, you owned certain personal property consisting of cows, wagon, oxen and things of that kind, horses, how many were interested in that personal property at that time?

A. We all owned it together.

Q. How many.

A. Mother, my sister, these two brothers and myself. Each owned a one-fifth interest.

Q. Your mother sold a one-fifth interest in the personal property to your brother and your brother, Thomas sold-- you say that the value of that personal property is today around \$550.00?

A. Yes sir.

Q. Your mother only owned a one-fifth?

A. Yes.

Q. Mr. McEowan one-fifth?

A. Yes.

Q. Your brother one-fifth? Your sister one-fifth and you one-fifth?

A. Yes.

Q. You say that the one-fifth of that would be around \$110.00, and \_\_\_\_\_ acres would be \$220.00 and the land - you say is worth \$250.00 and that would amount to about \$470.00?

A. Yes.

Q. In your best judgment this is a fair price?

A. What I think about it -

Q. Was your mother in necessitous circumstances?

OBJECTION \* Irrelevant, incompetent and immaterial

Q. She was needing money?

A. Yes.

Q. Your brother needing money?

A. Yes.

Q. How did this sale come up?

A. We just discussed it and my younger brother, he had the money and he said he would pay their interest if they would give him their interest in the property.

Q. And you came down to Bay Minette and the deed was executed down here?

A. Yes.

Q. You signed it for your mother?

A. Yes, she told me -

Q. Mr. Richerson took the acknowledgment?

A. Yes.

Q. She admitting it was her own free will and act?



Q. And you took the deed back to Latham?

A. Yes.

Q. After you got back up there you mother and brother delivered the deed and he paid over the money, where were you?

A. Just at home in the house.

Q. The details were closed and he had the deed and that ended that?

A. Yes, sir.

Q. You don't know when he recorded the deed?

A. No, I don't remember.

Q. How long had your brother been in the butchering business?

A. I don't remember.

Q. You can't give any recollection?

A. I could be between five and ten -- but I don't remember.

Q. Did he peddle out his meat?

A. He sold it in the different communities and butchered for market sometime.

Q. He had an automobile?

A. Yes.

Q. Carried it around and brought some to market?

A. Yes.

Q. Did you keep any books?

A. Yes, sir, I kept the books.

Q. Have you got that account here with you?

A. Yes, sir.

Q. Did you keep any account for your brother relative to his butchering business in 1924, 1925, 1926 and 1927, 1928 and 1929?

OBJECTION - Irrelevant, incompetent and immaterial.

Q. As I said, you keep any record of his business?

A. Yes.

Q. Have you the original record?

A. This is from the big book. I itemized this which has been-

MR. PFLEGER: I move to exclude the evidence.

Q. You got a big book up there?

A. Yes.

Q. In that book is there an account against A. W. Slaughter?

MR. PFLEGER: We move to exclude the testimony. The book is the best evidence.

Q. In that book is there an account against A. W. Slaughter made by you in the original record?

A. (no answer)

Q. Will you furnish to the Commissioner that book?

A. It's books. I have a book for each year.

Q. Will you furnish it to the Commissioner the book showing the account of Mr. A. W. Slaughter with your brother for beef, and ask that she mark the same as Exhibit "A" to your testimony?

MR. PFLEGER: I object on the ground that Complainant would not have a chance to examine the books.

Q. When did your father die?

A. In 1903.

Q. What were your father's initials?

A. Just Thomas.

Q. When he died he left 160 acres of land did he not?

A. He -

Q. And that land wasn't worth-

MR. PFLEGER: Interrupting - I object on the ground that it is irrelevant, incompetent and immaterial. She is not shown to be qualified as an expert.

Q. You don't know about the value of it?

A. No, I don't.

Q. How many minor children did he

MR. PFLEGER: Objection.

A. We were all minors, yes.

Q. What sort of house did he have on the place?

A. A very good house, six rooms

MR. PFLEGER: Objection

Q. That was his homestead? You all lived there on the land he owned?

A. On what he owned.

Q. To your best recollection, refresh your recollection the

best you can, what time of day on July 9, 1924 did Mr. Archie W. Slaughter come to your house?

A. He came in the morning part of the day. I don't know the hour.

Q. Were you at the house at that time?

A. Yes.

Q. Was your mother there?

A. Yes.

Q. Your brothers?

A. Yes.

Q. Did he take dinner?

A. Yes, he took diner.

Q. Before you had dinner did you execute that note or afterwards?

A. Afterwards.

Q. According to your recollection what time -

A. I don't remember the hour but it was after lunch.

Q. You remember a - After you executed the note did you pass it over to Mr. Slaughter?

A. Yes, we give him the note.

Q. What to your best recollection - he took possession of it and put it in his pocket?

A. He didn't stay so long afterwards.

Q. Were you in the room?

A. No, in the front hall at the Guy McGowan place.

Q. You were not living at the home place?

A. We moved away. The home was gone, destroyed.

Q. Have you rebuilt?

A. Not in the same ~~sight~~ site but on the same land.

Q. You were living on the Guy McGowan place? How long had your house been burned?

A. Not very long. A cyclone blew it away. It was destroyed.

Q. He offered to loan \$500.00 on the loan?

A. Yes.

Q. You have no recollection of leaving your mother with him?

A. Not that I can remember. It has been so long.

Q. At the time you signed the note did Mr. Slaughter give your mother the check?

A. Yes and he put the note in his pocket.

Q. He put the note in his pocket according to your recollection?

A. Yes.

Q. You mentioned that your brother worked on the road, do you know how long?

A. No sir.

Q. Stanley and \_\_\_\_\_ were building a road up there?

A. Yes.

Q. Building a highway coming down to Bay Minette?

A. Yes sir.

Q. What year?

A. I don't remember.

Q. How long did it take them? Two or three years? Did your brother stay on job-?

A. He drove a truck.

Q. On that road?

A. Yes.

Q. Would you say as long as a year, two years?

A. A year maybe more than that, I don't remember.

Q. Did he have any other work besides that?

A. The butchering and trading and trafficking, different things.

Q. What other things?

A. Pork.

Q. Did he timber any?

A. Well, he worked some of the timber for turpentine - different things that way.

Q. You are positive that you saw the money paid over to your mother?

A. Yes.

Q. I believe I asked you about you conveying your interest in the home place?

A. Yes sir.

Q. That is the property your father died seized and possessed of - the 160 acres where you lived and where you are living now? And I believe you testified that you conveyed it to your brother now what was the understanding?

MR. PFLEGER: Objection on ground irrelevant, incompetent and immaterial.

Q. As to what the understanding was consisting of passing from Miss Laura McGowan to E. C. McGowan, what was the consideration?

A. We had a loan on it and we were transferring it.

Q. Who had the loan?

A. First Joint Stock Land Bank.

Q. Were you able to pay it?

A. No. During the depression we missed some of the payments.

Q. Then, did you convey your interest to him?

A. Yes sir.

Q. With the understanding that he would assume this mortgage indebtedness?

A. Yes sir.

Q. Did he assume the mortgage indebtedness?

A. Yes sir.

Q. Then did he borrow any money from any other source?

MR. PFLEGER: Objection on ground of irrelevant, incompetent and immaterial.

Q. He borrowed - got a Federal Land Bank loan on it from the Federal Land Bank in New Orleans.

Q. He got that himself?

A. Yes.

Q. He in possession of the property?

A. Yes.

Q. He owns the property?

A. Yes.

CROSS EXAMINATION OF WITNESS, MISS LAURA MCGOWAN, BY MR. SIDNEY PFLEGER:

Q. How much was the loan to the Bank in Montgomery?

A. I think the original, less see, about , no, I think it was \$1500.00. I won't say positive. I think it was that.

Q. Miss McGowan, have you been discussing this matter with your brothers while you were in the room?

A. I had a conversation while I was here.

Q. Didn't you discuss this matter with your brothers?

A. We just talked about what questions were asked.

Q. When you were here this morning you didn't remember except that was an unpaid mortgage.

A. Unpaid mortgage on the home place?

Q. You didn't remember. That was your testimony wasn't it?

A. Yes.

Q. And now you come back and fully remember that one was with the Stock Bank in Montgomery and he took another with the Federal Land Bank in New Orleans?

A. Yes.

Q. You discussed that with your brothers?

A. I didn't have to.

Q. Then you didn't have to. Was that statement correct that you didn't remember about the mortgage on that home place?

A. Yes, I remembered about the mortgage on the home place.

Q. Didn't you testify you didn't remember except that was an unpaid mortgage. That was all you knew about it?

A. Yes.

Q. Now you remember that it was with the Stock Bank in Montgomery?

A. Yes. I just told you it was around \$1500.00.

Q. Did you discuss any of the other questions with your brothers during the brief recess that we took for lunch?

A. Any what other questions?

Q. I mean

A. I don't remember whether I did or not.

Q. Just what portion of what ~~talk~~ did you and your brothers talk about with relation to the testimony you gave?

A. I talked very little about it.

Q. What did you refer to when you talked about it? What part did you talk to them about?

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A. Not any particular part that I can remember.

Q. Then you don't remember what you talked about while you were out?

A. Yes, I do.

Q. What was it you talked about with reference to this matter?

A. Well, I told you all I talked about it.

Q. Is that all you talked about? When was the last time you and your brothers discussed this matter before today?

A. Discuss this matter before today? I don't remember. I heard them talk about it but I didn't pay so much particular attention to what they said.

Q. You have discussed it among yourselves?

A. I just don't - I don't know what you were going to ask me.

Q. You live in the same house?

A. We certainly do.

Q. And you have been living there since the time Mr. Slaughter loaned you the money?

A. Yes.

Q. Did Mr. Slaughter come down to your house voluntarily at the time this loan was made?

A. He came voluntarily but my sister went for him.

Q. You went with your sister?

A. I certainly did.

Q. He had had a conversation with your mother?

A. He did.

Q. You were not present at all.

A. I was present at some of them.

Q. You don't know whether or not she intended to give him a lien on the land as security?

A. If she did she would have told me.

Q. You don't know whether she did or not?

A. She never did tell me so I know she didn't.

Q. Is your mother able to be up and around, Miss McGowan?

A. Just around the house part of the time.

Q. She is the person who signed this note and the indebtedness was against her, that correct?

A. Yes.

Q. Does she ever leave the house?

A. She hasn't for a year except when she went to see her doctor.

Q. Where does he live?

A. He lives in Bay Minette.

Q. In Bay Minette?

A. Yes.

THAT'S ALL.

EXAMINATION OF WITNESS, MISS LAURA MCGOWAN, BY J. B. BLACKBURN, Solicitor for Baldwin County Bank.

Q. Miss McGowan, you say your father died in 1903?

A. Yes.

Q. At the time of his death were your sisters all minors?

A. We were all minors.

Q. This deed Mr. Hybart asked you about, that's the deed from you and the other members of your family to Mr. E. C. McGowan to the home place, when was that deed made?

A. I don't remember the exact year.

Q. Was it before or after February 13, 1932?

A. It was after.

Q. After?

A. Yes, I know that.

Q. On February 13, 1932, did you state or did you not state that this land in Section 19, Township 2 North Range 3 East was - did you state that that was the property of your mother?

A. That is the one described in this deed.

Q. Was that your mother's property?

A. Yes.

Q. I believe you stated that she owned no other property am I correct?



A. I knew there was a loan on the home place and I didn't consider that...

Q. Whatever interest she had in it was mortgaged?

A. It was mortgaged.

Q. And you all conveyed all your interest to your brother if he would assume the debt?

A. Yes.

RE-DIRECT EXAMINATION OF MISS LAURA MCGOWAN, BY MR. HYBART:

Q. You have been asked if you knew anything about the conversation between Mr. Archer Slaughter and your mother and your answer relative to this was at the time the note was prepared by Mr. Slaughter did he make a statement that he didn't want anything but a note?

A. Yes.

Q. That he didn't want any security?

A. Yes.

CROSS EXAMINATION BY Mr. Pflieger:

Q. Did you see your sign the note?

A. Yes, certainly.

EXAMINATION OF T. B. MCGOWAN BY

Q. Your name is what?

A. T. B. McGowan.

Q. Where do you live?

A. Latham.

Q. How old are you?

A. I don't like to tell - 58.

Q. Mrs. M. A. McGowan, your mother?

A. Yes.

Q. How many sisters do you have?

A. Two sisters and two brothers.

Q. Your sisters names are?

A. Laura and Reba.

Q. Give us the names of your brothers?

A. Edmund Clay and Randolph.

Q. Do you remember the time your father died, what year?

A. 1903.

Q. Are you living at the same place you were living at the time he died?

A. On the same piece of property - the old house is gone - blew away with a cyclone.

Q. You rebuilt that?

A. Yes.

Q. Which way did you move?

A. To the Guy McGowan place.

Q. How long did you live there?

A. About a year.

Q. You remember the time Mr. A. W. Slaughter came there to loan your mother some money?

A. Yes.

Q. You remember what year it was?

A. 1924 was it? I don't remember exactly the year.

Q. Were you present at the time the papers were fixed up?

A. Yes, sir.

Q. The note prepared. Did you see the note?

A. No, I didn't. I wasn't in the house but I was on the place.

Q. You didn't see the note?

A. No sir.

Q. You hear any conversation between Mr. Slaughter and your mother after he had told her - between Mr. Slaughter and your mother?

A. Yes, sir.

Q. Did he tell her he would loan her the \$500.00 on the note or what?

A. On a plain note, just something to show that he let her have it.

Q. Where was he when he made that statement?

A. Right there on the place. I don't know that that happened the day he let her have the money. I did hear him make that statement.

Q. And he loaned her the \$500.00, you didn't see the note?

A. Not - to remember.

Q. The time he came, how long did he stay?

A. He come in the morning and left awhile after dinner.

Q. Now you say your father died in 1903 and you all were minor children at that time and he owned 160 acres of land?

A. Yes, sir.

Q. What was the value of that land?

OBJECTION by Mr. Pflieger on the ground that is is irregular, incompetent and immaterial.

A. It was listed at \$2,000.00.

Q. That was his homestead?

A. Yes, sir.

Q. After his death you continued to live on there?

A. Yes.

Q. You and your brothers and sisters own any personal property at that time jointly?

A. Yes.

Q. Cows, oxen ?

A. Cows, oxen and things like that, yes sir.

Q. Well now, did you sell your brother your interest in that personal property?

A. Yes, sir.

Q. Did you join in the conveyance with your mother to him?

A. Yes sir.

Q. ~~xxxxx~~ In which the 200 acres of land conveyed.

A. Yes, sir.

Q. In which 75 or 80 head of cows, four head of horses and eight head of oxen and one wagon were conveyed?

A. Yes, sir.

Q. At that time what interest did you own?

A. Only one-sixth interest wasn't it?

Q. You owned a one-sixth interest? All this property belonged to your mother and children, including Randolph?

A. Yes.

Q. Your mother owned one-sixth?

A. Yes, sir.

Q. What was the condition of the wagon?

A. The wagon was worn out.

Q. What kind of cattle? Range?

A. Range. Yes.

Q. In 1932 what was the condition of the cattle market?

A. Worth nothing.

Q. Any sale for it?

A. No, mighty little.

Q. No market for cattle?

A. No.

Q. Those cattle range cattle?

A. Yes, sir.

Q. You just turn them out on the range and let them go?

A. Yes.

Q. Consisted of cows, yearlings and calves?

A. Mes.

Q. Mr. McCowan, what was the value of those that -?

A. Those that were sold for mighty little at that time?

Q. What, in your best judgment?

A. Not over \$6.00 take them all the way around. Lots sold for less than that.

Did you have some \_\_\_\_\_

A. Those old \_\_\_\_\_ there weren't worthing nothing.

Q. Any timber - in your judgment, what were those eight head of cattle worth?

A. Eighty dollars was a good price.

Q. What would you say that old wagon was worth?

A. It wasn't hardly worth anything,

Q. As much as \$5.00?

A. You can put it \$20.

Q. Then, all right, you couldn't sell them, that was all, couldn't even contract it out?

A. No.

Q. No hauling?

A. Not at that time.

Q. You had four head of horses, how old were they?

A. Two mighty old.

Q. In your best judgment?

A. About the age - it's hard to tell but they were old.

Q. As old as twenty years?

A. Because I had both there - - 20 years.

Q. Any sale for horses?

A. Mighty little.

Q. In your judgment what was the value then?

A. \$75.00 was a good price at that time,

Q. In your best judgment?

A. Yes.

Q. You owned a one-sixth interest in them?

A. Yes.

Q. About this land, 200 acres, you are the oldest boy?

A. Yes, I am the oldest.

Q. Your mother took property and everything in her name just for all of you?

A. Yes.

Q. Who did she get this land from?

A. Jennings Naval Stores.

Q. Did the money belonging to you go into Dr. Tunstall

A. Yes, sir.

Q. Belonging to the estate?

A. Yes.

Q. Your mother, at the time, deed in her name?

A. Yes.

OBJECTION by Mr. J. B. Blackburn, WE MOVE TO EXCLUDE THE TESTIMONY ON THE GROUND THAT IT IS AN ATTEMPT TO VARY THE TERMS OF A WRITTEN INSTRUMENT BY PAROL TESTIMONY.

OBJECTION ALSO INTERPOSED BY MR. PFLEGER, ON THE GROUND THAT IT IS IRREGULAR, INCOMPETENT AND IMMATERIAL, HAS NO BEARING ON THE ISSUES INVOLVED IN THIS CASE AS TO THE PURCHASE OF THE LAND FROM DR. TUNSTALL.

Q. Did your mother request that you all her interest in this property?

OBJECTION, irregular, incompetent and immaterial

A. Yes.

Q. Did she tell you that all of this money had gone into

OBJECTION by Mr. Blackburn WE OBJECT TO THE STATEMENT MADE BY AND BETWEEN OTHERS THAT WOULD NOT BE BINDING ON THE PARTIES TO THIS SUIT AND A FURTHER EFFORT TO VARY THE TERMS OF A WRITTEN INSTRUMENT BY PAROL TESTIMONY.

A. Yes, sir.

Q. Were you in possession of the property?

A. Yes, sir.

Q. You and your brothers and mother in possession?

A. Yes.

Q. Exercise actual ownership over it?

OBJECTION BY MR. PFLEGER - THE DEED IS THE BEST EVIDENCE.

A. Yes.

Q. Were you in possession of this property at the time Mr. Slaughter took this note?

A. Yes.

Q. If he had asked you by what authority you were there what would you have told him?

OBJECTION - MR. PFLEGER , IRRELEVANT, INCOMPETENT AND IMMATERIAL.

Q. That you had an interest in the property?

OBJECTION by Mr. Pflieger, irrelevant, incompetent and immaterial and an attempt to vary the terms of a written instrument.

A. Yes.

Q. What active ownership and possession were you exercising over this two hundred acres of land.

OBJECTION by Mr. Pflieger on same grounds.

A. We were working some turpentine on it and cut timber

when we got ready and that was nothing but the timber joined our home place.

Q. Evidence of possession by your cutting timber?

A. Yes.

Q. And using the land in such way that it was capable of being used?

A. Yes, sir.

Q. Now you sold your interest and your mother sold her interest in this land and this personal property to your brother?

A. Yes, sir.

Q. What's his name?

A. Edmund Clay.

Q. Same as E. C.?

A. Yes.

Q. How much did he pay you for it?

A. \$500.00.

Q. How did he pay it?

A. Paid in money.

Q. What business had he been in up to this time?

A. Butchering, working roads, anything he could get to do.

Q. He accumulated money?

A. Yes. I don't know how much he had but he paid us \$500.00.

Q. Could you say where he got the money?

A. I wouldn't say. He kept it in the house.

Q. Where was he when he paid it?

A. We were in the house. I expect in mama's room.

Q. That's your best recollection?

A. Yes.

Q. Where did you execute the deed?

A. At Randolph's.

Q. In the Town of Bay Minette.

A. Yes, town of Bay Minette.

Q. Who took the acknowledgment?

A. Tom Richerson.

Q. Clerk of the Court?

A. Yes.

Q. Did he come up to the house?

A. Yes, sir.

Q. After you executed the paper did you return to Latham?

A. Yes.

Q. When/<sup>did</sup>you delivered the deed over to your brother?

A. As soon as we got there.

Q. Did he pay you the money?

A. Yes.

Q. Were you in needy circumstances?

A. Yes.

Q. Did you have use for money at that time?

A. Yes sir, I needed it.

Q. Your mother in necessitous circumstances at that time?

A. Yes.

Q. In 1932 there was a depression on?

A. Yes.

Q. Banks breaking?

A. Yes.

Q. Failure here in this county?

OBJECTION BY MR. PFLEGER, irrelevant, incompetent and immaterial.

A. Yes.

Q. Was that the Baldwin County Bank?

OBJECTION by Mr. Pflieger WE RENEW OUR OBJECTION

A. Yes.

Q. That was the principal bank in this part of Baldwin County?

A. Yes.

Q. In your trade territory?

A. Yes.

Q. How long had your brother been engaged in the butchering business?



A. I don't know. He butchered a long time.

Q. 1925 - 1928 and on?

A. Yes.

Q. Where?

A. At home.

Q. Where did he take the meat?

A. He pedaled it out, some over North Baldwin and other he sold to markets, any that would buy it.

Q. When did they build that road through there?

A. In 1930. I don't know.

Q. In your best recollection?

A. I don't know, twelve or thirteen years ago - it was built under contract.

Q. Built under contract?

A. Yes.

Q. Your brother worked there?

A. Around a year I guess.

Q. Do you know what he was receiving?

A. No sir, I don't know what he got. I don't remember whether it was day, month or whatever he was working by.

Q. Now, you still hold whatever interest you had in the real estate your father left there?

A. Yes.

Q. You didn't convey that at all?

A. No sir.

Q. Did you mortgage that property there the home place?

OBJECTION BY Mr. Pfleger - Irrelevant, incompetent and immaterial.

A. Yes. To the First Joint Stock Land Bank.

Q. For what amount?

A. \$1500.00.

Q. After that, did you sell and convey your interest in that property to anybody?

A. Edmund Clay.

Q. What was the consideration?

A. You mean money?

Q. What did he pay you and how much did he pay you for your interest in the property?

A. We just give it to him to straighten out, to pay off the indebtedness.

Q. Did he do that?

A. Yes.

Q. You were relieved of the indebtedness?

A. Yes, sir.

Q. You say it was \$1500.00? Do you know about how much was due on it at the time he took it up, as much as it was worth?

A. More than it was worth.

Q. Now if this property, this 200 acres of land that I asked about, you acquired that through Dr. Tunstall, the property involved in this suit, after you acquired it, did you cut the timber on it?

OBJECTION, Mr. Pflieger - Irrelevant, incompetent and immaterial.

Q. Was this the land acquired from Dr. Tunstall, involved in this suit?

A. Yes.

Q. Do you recall what you paid Dr. Tunstall?

OBJECTION - Mr. Pflieger on the ground the deed is the best evidence of what they paid, it has no bearing on the issues involved in this suit and on the further ground that the deed was taken in the name of Mrs. M. A. McGowan.

Q. Your best recollection?

A. \$1,000.00

Q. What was it principally valueable for?

A. Nothing but the timber.

OBJECTION - Mr. Pflieger on the ground it's irrelevant, incompetent and immaterial.

Q. Nothing but the timber?

A. Yes, sir.

Q. Had it been cut over?

OBJECTION renewed by Mr. Pflieger.

A. Yes, sir.

Q. Was there any timber on this land in 1932?

A. In 1932?

OBJECTION by Mr. Pflieger, irrelevant, incompetent and immaterial.

A. Some small stuff.

Q. What you cut?

A. Some logs on there.

Q. Now, all in all what was the land good for, or just tell us about the character of the land.

A. Some of the land - some of it was ranch, about 75 acres maybe more and maybe less, I wouldn't say exactly.

Q. Was the land there and what little timber, what was a fair price in 1932 at the time it was sold and conveyed?

A. Land wouldn't be worth-

Q. In your best judgment?

OBJECTION by Mr. Pflieger on the ground that witness is not shown to be an expert.

A. I judge 125 acres worth about a couple dollars and the 75 acres about a dollar, we couldn't have got that for it.

Q. No land/sold at that time?

A. No land being sold at that time.

Mr. McGowan, was the consideration of \$500.00 which was paid to you and your mother for this land and the property described in the conveyance there was that a reasonable market value?

A. Yes sir, yes sir, it was.

Q. About this sale, how did that come up, did your borther, did you discuss that?

A. Yes, we sold it.

Q. Did you take it right on the real - or talk -

A. Yes sir, we talked about it and we sold out to him.

Q. He agreed to pay \$500.00 and you agreed to take \$500.00?

A. Yes, sir.

Q. And he paid you the cash money?

A. Yes, sir.

CROSS EXAMINATION OF WITNESS BY MR. SIDNEY PFLEGER:

Mr. McGowan, I believe you said the depression started about 1929, was that right?

A. I don't remember exactly.

Q. It was going along in 1929, 1931, 1932 and 1933 all along?

A. Yes, sir, some since then.

Q. All during that time the value of cattle was very very low, is that correct?

A. Yes.

Q. Is it not a fact that most of the people were killing off their cattle rather than sell them?

A. Some were.

Q. Isn't it true that most of the time a majority of them were?

A. I don't know. We were butchering.

Q. The meat, after being butchered was bringing low prices?

A. Yes, it brought small price.

Q. In fact you had a hard time selling to make enough profit on the business itself?

A. We made a profit on it all right.

Q. The profit was practically negligible?

A. Yes.

Q. Labor didn't draw any big salaries?

A. No, sir.

Q. As a matter of fact industry - most of the men all over the county were unemployed? Anybody could be hired for \$1.00 a day?

That ~~xxxx~~ That's right?

A. Yes.

Q. You say you were on the place at the time Mr. Slaughter made this loan to your mother?

A. I was.

Q. Do you know whereabouts on the place you were?

A. I don't know whether I was out front working on the car when he signed it?

Q. When who signed it?

A. When Archie fixed it up and Laura signed it for mama.

Q. Then you were not present and didn't see it?

A. I didn't see it after it was fixed up or before.

Q. You didn't hear any conversation between him and your mother about that particular note?

A. No.

Q. You don't know whether or not she agreed to give him any security?

A. He said he didn't want it.

Q. You don't know whether she agreed to do that, do you?

A. No.

Q. They had several conversations about this loan prior to the time this note was made?

A. I don't know if she had several but he told her he would be glad to loan it to her.

Q. As a matter of fact, it's the ordinary custom that take real property as security?

OBJECTION BY MR. HYBART - irregular, incompetent and immaterial.

A. He said he didn't want it.

Q. Would you answer the question - isn't it a custom when people loan money that security be taken?

WE OBJECT -(Mr. Hybart) irregular, incompetent and immaterial.

A. They generally do but he said he didn't want it.

Q. You were not present when the note was signed?

A. No, I was not present in the room.

Q. You were not present when he had a conversation with your mother?

A. Not at all of them.

Q. You don't know when he had conversations whether land was to act as collateral or not?

A. She said not and I know she told the truth.

MR. PFLEGER - We move to exclude what she said.

Q. The only thing you know about collateral is what your mother told you?

A. Yes, and my brother there.

Q. When was that house blown away, Mr. McGowan?

A. In '23, wasn't it? I think it was.

Q. You say that was blown down about 1923?

A. I think it was.

Q. At the time this loan was made was the place still there that you were living - you were living with Guy McGowan?

A. No, in Guy McGowan home.

Q. When was the present place built?

A. Must have been built in '24. We built the next summer - I wont be for certain.

Q. You know what time of year?

A. We started in July, built in the fall.

Q. As a matter of fact didn't this money go into building that home?

A. Yes.

Q. Then the very money you borrowed from Mr. Slaughter went into building the home that you are using even today, is that correct?

A. Yes, part of it. I wont say it all was. I know it wasn't.

Q. Now, you and your mother executed this deed in February, 1932, February 13, 1932. When did the bank of Bay Minette fail?

A. I don't know what year it was - I don't remember.

Q. As a matter of fact, was it not in January before this deed was executed?

A. I don't know.

Q. Was it not within a few months?

A. I don't know.

Q. What year was it that they were failing that you testified to while ago?

A. I don't know.

Q. Didn't Mr. Hybart in direct examination a few minutes ago ask you if the banks were failing in 1931 and you said 'yes, sir'?

A. I don't know exactly. I wouldn't say I didn't.

Q. Do you know whether it was in 1929? Could it have been in 1929?

A. I wont say about that,

Q. About how long had you and your mother and brother dis-

cussed the proposition of selling the property enumerated in this deed marked Exhibit "C" before you closed the trade?

A. I don't know.

Q. In your best judgment?

A. I don't know. We discussed it but I don't remember how long before.

Q. Was it a month - two months?

A. I don't know. I told you I don't know. I don't remember.

Q. The only thing you remember is that what you want to remember?

A. No. I'm telling the truth. I aint lying like you accused my sister of doing.

Q. Is there any difference in the value of the 200 acres covered by that deed and in the land that composed the 160 acres that you call the homestead?

A. Yes. The difference in that place is it's got cleared land on it and the other hasn't. Low land on the other - woods land - all its -

Q. How old were you, Mr. McGowan, when that property, the two hundred acres, was bought from Dr. Tunstall?

A. I don't know. I was a grown man.

Q. Do you know when it was bought from him?

A. I don't remember the year, no sir.

Q. Were you twenty-one years old?

A. Yes, sir, twenty-one or better.

Q. Did you have anything to do with making arrangements for purchasing the land?

A. Me and my brother went and saw McKenzie and made arrangements to buy it.

Q. Your mother bought it?

A. Yes.

Q. The deed was taken in her name?

A. I was a grown man.

Q. Your name didn't show in the deed?

A. None of the children appear in the deed.

Q. And title went solely in the name of your mother?

A. Yes.

Q. At the time you executed this deed to your brother, E. C. McGowan, you only had an undivided interest in the personal property and no interest in the real property?

A. No.

Q. What do you mean by 'no'?

A. What you ask?

Q. At the time you executed this deed to your brother, you and your mother to your brother, E. C. McGowan, you only had an undivided interest in the personal property?

A. Yes.

Q. You had no interest in the real property? That belonged to your mother?

A. That belonged to my mother.

Q. At the time, I believe you testified you executed this deed you and your mother was necessitous circumstances and needed money?

A. Yes, sir.

Q. The only thing you owned at that time was an interest in your father's homestead and interest in the personal property, is that correct?

A. Yes.

Q. The only thing your mother owned was an interest in the personal property, interest of your father and this 200 acres, that correct?

A. Yes, sir.

Q. After this note had been given to Mr. Slaughter was it not?

A. Yes.

Q. Mr. McGowan, <sup>did</sup> ~~did~~ you and your brothers and sisters discuss this matter while you were out there at lunch?

A. No.

Q. Talk about any portion of - mention anything about a mortgage?



A. No.

Q. Were you and your brother and sister together all during that time?

A. No.

Q. Were you present with your sister - after then your brother was there?

A. No.

Q. You didn't discuss any of the testimony?

A. I don't think we did.

Q. Don't you remember it?

A. Yes.

Q. Will you say that you did or didn't?

A. I don't think we discussed anything about it, as well as I remember.

Q. Do you say positive?

A. No I wont. I don't think we talked about it. I don't think there was anything with reference to the testimony.

Q. Or testimony that might take place bu you or your brother or your sister in your presence?

A. I don't think there was.

Q. You wont say positively whether it was or not?

A. I said I don't think it was.

Q. You wont say positively?

A. No, I wont say positive.

CROSS EXAMINATION OF WITNESS BY MR. J. B. BLACKBURN:

Mr. McGowan, I'll ask you to examine this note for \$250.00 dated December 26, 1931, given by you to the Baldwin County Bank due on February 25, 1932 indorsed by Mrs. T. H. McGowan, which has been introduced in evidence in this case and marked Exhibit "A" to the testimony of C. L. White, that your signature?

A. Yes, sir.

Q. You got the money, \$250.00 from the bank at the time this note was made?

A. Yes, sir.

Q. Any part of it been paid back?

A. Not that I know of.

Q. You are still indebted to the Baldwin County Bank on the full amount of the principal on this note and interest from February 25, 1932?

A. Yes, sir.

Q. Now, I will also ask you to examine the note for \$98.25 dated December 20, 1931, given by T. B. McGowan to the Baldwin County Bank and due on January 20, 1932 indorsed by Mrs. T. B. McGowan, which has been introduced in evidence in this case as Exhibit "B" to the testimony of C. L. White, on which there are three credits, one for \$1.00, one for 20 cents and one for 18 cents, making the principal balance due on that note on August 15, 1932 of \$96.87?

A. That's my signature but I don't know anything about the credits on it.

Q. Has any part of that been paid except those credits?

A. Not that I know of.

Q. Then you and your mother are indebted to the bank on both of these notes in the amounts stated, interest from the respective due dates?

A. Yes.

Q. That indebtedness was in evidence on February 13, 1932 at the time this deed and bill of sale was given by Mrs. Thomas McGowan and you to Mr. E. C. McGowan?

OBJECTION - note the best evidence.

A. Yes.

Q. Mr. McGowan, as a matter of fact you know that the Baldwin County Bank closed on January 27, 1932?

A. Yes.

Q. And one other thing, Mrs. Mary A. McGowan and Mrs. Thomas McGowan are one and the same person?

A. Yes, sir.

Q. Now, on February 13, 1932, how much property did you own, that is, the deed ~~executed to you both~~ what you deeded to your brother?

A. Just what I deeded him?

Q. In other words, that deed describes all and conveyed all the personal property that you owned?

A. Yes, sir.

Q. And you didn't own any interest in any real property at that time?

A. Nothing except the home place.

Q. Then you did own your interest in the home place?

A. Yes.

Q. It was mortgaged at that time was it not? Mortgaged to the Bank?

A. Oh, yes, to the First Joint Stock Land Bank

Q. The amount of that mortgage was such that you and the other members of your family later conveyed that property to your brother for the assumption by him of the indebtedness due on that mortgage?

A. Yes.

Q. As a matter of fact you were indebted on February 13, 1932 in these amounts that you have just testified here, you were actually insolvent on February 13, 1932?

A. I reckon.

Q. You know what I mean by saying insolvent - your liability was more than the assets?

A. Yes.

Q. That condition existed?

A. Yes.

Q. Then you were insolvent at the time this conveyance was made, you had conveyed all your personal property?

A. Yes.

Q. When Mr. Hybart asked you some questions on direct examination I think I understood you to say your interest in the personal property was substantially one-sixth?

A. That's right. Let's see, there were six interested in it.

Q. Where did all that property come from you conveyed to

your brother - personal property?

A. It was left by my father and what was accumulated in the estate.

Q. You mean to tell in the trial of this case that the personal property which you conveyed to your, or which you attempted to convey to your brother, was in existence when your father died in 1903?

A. No.

Q. Who bought what?

A. We had all bought them together at that time. What we hadn't bought we raised what we did have.

Q. You raise all the oxen?

A. No, we bought some of the oxen.

Q. Who is "We"?

A. All of us there together.

Q. How much did you pay for the oxen?

A. I don't know.

Q. How much did Miss Reba pay?

A. I don't know.

Q. How much did your mother pay?

A. I don't know.

Q. How much did Edmund Clay pay?

A. I don't know.

Q. You told Mr. Hybart that the possession of this piece of real estate, that is the two hundred acres recorded in 192 N. S. , was that all of you used that property as your own prior to the making of the deed in 1932?

A. Yes.

Q. Didn't you also tell Mr. Hybart all of you used that land after February 13, 1932?

A. No.

Q. As a matter of fact wasn't that what happened?

A. No.

Q. What change was there in the possession of that property on February 13, 1932?

A. The deed was made to him.

Q. I'm referring to - what change was there in the possession of that property?

A. I don't know what you mean.

Q. For example, you all used it, all of you, prior to making the deed, and continued to use it afterwards?

A. No, we didn't use it afterwards. We just deeded ours to Edmund Clay, sold it to him.

Q. How much did you get for that?

A. You mean I got?

Q. How much was the total consideration for that conveyance?

A. Five hundred dollars.

Q. What part of that five hundred dollars was paid for the real estate?

A. Two hundred and fifty, wasn't it? I don't know exactly.

Q. What part of the five hundred dollars was paid for the seventy-five head of cattle?

A. I don't know. We just sold the whole thing.

Q. What part was paid for the eight head of oxen?

A. I think it was eighty dollars for the oxen.

Q. Then you do know what was paid for part of it?

A. Yes, I know that.

Q. What part of the five hundred dollars was paid for the horses?

A. I don't know. It was all lumped together and he paid it off.

Q. What part did you get?

A. I got two hundred fifty dollars.

Q. Yet you only had an undivided, substantially one-sixth interest in the personal property?

A. Yes.

Q. No interest in the real estate and you got \$250 of the money?

A. I wanted my interest in it all.

Q. The real estate was deeded to your mother?

A. This hundred acres, yes.

Q. Stands on the record in her name.

A. Yes.

Q. Yet you got \$250.00 of the money?

A. Yes, sir.

Q. What did you do with that two hundred fifty dollars?

A. Lord knows!

Q. Give any back to Edmund Clay?

A. No.

Q. To your brothers and sisters?

A. No, I spent it.

Q. What became of the oxen after that conveyance?

A. Dead.

Q. What happened to them between the time the conveyance was made, didn't you use them to log with?

A. No.

Q. Anybody?

A. I logged a little bit.

Q. Where were you?

A. Stayed home.

Q. What about the horses?

A. They were there. I rode one when I wanted to.

Q. After the making of the conveyance?

A. Yes.

Q. Where was this deed signed?

A. At Randolph's.

Q. Where was Randolph living then?

A. Right here in town.

Q. Who was present?

A. My brother, mother and myself.

Q. Which brother?

A. Edmund Clay. I don't know whether Randolph was there or not. His wife was there I know his wife was there.

Q. Anyone else?

A. Laura was there.

Q. You are positive Edmund Clay was there?

A. Yes.

Q. Did you all come down here with the express purpose of making that deed?

A. Yes.

Q. If that's the case why did you go home to pay the money?

A. (no answer)

Q. All of you came down here to close that trade?

A. To make the deed.

Q. You leave the money yp there in the trunk?

A. He might have had it in his pocket.

Q. You didn't see the collection of any money down here?

A. No, I didn't see him collect any money.

Q. When was the money paid?

A. It was paid that evening when we got back. May have been the next day, I don't remember.

Q. Wasn't it two days later?

A. It may have been when we got -

Q. You know what became of the deed after that?

A. He had it recorded.

Q. This value of this real estate - what did you say that was?

A. I think you all figured up about - I don't know.

Q. At the time this conveyance was made in 1932?

A. Two hundred fifty, soething like that. \$1.25 per acre figured 125 acres, \$2.00 that's two hundred fifty and the other fifty per cent or \$1.00 what I say -

Q. Had some of timber on it?

A. Had a little. All been cut over.

Q. Don't you know that it was assessed and is assessed now at six hundred dollars? But don't you know that it is and was assessed at that figure?

A. I don't know what it was assessed at then or now.

Q. Now, Mr. McGowan, isn't this transaction - started about - just about the time the Baldwin County Bank failed?

A. I don't think it was.

Q. Isn't it a fact that you knew you were indebted to the

bank, you and your mother, that you were afraid an effort would be made by the bank to collect that debt?

A. No.

Q. You don't think that's a part of it?

A. No.

Q. Didn't you all come down and make that conveyance for the purpose of evading the payment of that obligation?

A. No, we didn't.

Q. You know anything about where your brother got this five hundred dollars?

A. No, I don't.

Q. You had lived in the house with him all his life?

A. Yes.

Q. And you have lived there with him continuously ever since?

A. Yes, ever since.

CROSS EXAMINATION OF WITNESS BY MR. PFLEGER:

Q. Mr. McGowan you say you got \$250.00 of the \$500.00?

A. Yes.

Q. You share in the personal property?

A. Yes.

Q. Real estate too?

A. No.

Q. You don't have any interest in the real estate?

A. No, because it belonged to mama.

Q. Did your mother ever give any portion to the other children?

A. Not that I know of.

Q. That was considered as her share?

A. I don't know whether she did or not.

Q. At the time you all entered into this transaction with your brother with the idea ~~it~~ was that the five hundred dollars was to be split between you and your mother equally?

A. Yes.



Q. None of the other children shared in it?

A. No, none whatever.

Q. Your interest was \$250. in that \$500.00?

A. Yes.

Q. Well, your mother got the balance of \$250.00?

A. Yes.

Q. You testified that 75 cows worth \$6.00 a piece, that would be \$450.00 for the cattle; eight oxen worth \$10.00, the wagon \$20.00, the horses at \$75.00; that would be a total of \$625.00, that the value of the property?

A. Yes.

Q. Not counting any of the land. I believe you said the land was worth \$2.00 for ~~125~~ 125 acres and \$1.00 for-

A. I got that - you - I

Q. Even at fifty per cent that would make that worth \$287.50, the entire value?

A. Yes.

Q. Then the value of the personal property and the value of the real estate put together would be worth around, better than \$900.00 wouldn't it?

A. I don't know, the way you got it figured, the total value-

Q. And you sold it to your brother for \$500.00?

A. Yes.

RE-DIRECT EXAMINATION OF WITNESS BY MR. HYBART:

Q. Mr. McGowan, you fixed the total value \$625.00, now you and your mother only owned two-sixths interest in that?

A. That's right.

Q. Your brother owned a one-sixth and the total consideration would be two-sixth of that amount?

DIRECT EXAMINATION OF EDMUND CLAY MCGOWAN by Mr. Chason:

Q. Your name is Mr. E. C. McGowan?

A. E. C., yes.

Q. Sometimes known as Edmund Clay?

A. Yes, sir.

Q. You are one of the parties to this suit here? Mrs. M. A. McGowan is your mother?

A. Yes.

Q. Miss Laura McGowan your sister and T. B. McGowan and Randolph McGowan your brothers, and then you have another sister, Reba?

A. Yes.

Q. Are you married?

A. Single.

Q. You remember when your father died?

A. No sir.

Q. How old are you?

A. Forty-one.

Q. Your first recollection is being on the old place?

A. Yes.

Q. You remember in 1924 Mr. Archie W. Slaughter coming over to your place and making a loan to your mother for \$500.00?

A. Yes.

Q. Were you present?

A. Yes.

Q. How far did he live from you?

A. About five miles.

Q. Did you hear him offer to loan your mother \$500.00?

A. Yes, he told her he would loan her the \$500.00.

Q. He say what he wanted for security?

A. He said he didn't want anything but just a plain note, just something to show that she owed the money.

Q. Did he spend the day there?

A. Yes, sir, he came down that morning and stayed until afternoon, ate dinner.

Q. This take place before or after dinner?

A. After dinner.

Q. Where were you at?

A. In the hall.

Q. Who was present?

A. My two sisters, myself, my mother and -

Q. Where was your brother?

A. Out in the yard.

Q. Who prepared the note, he prepare the note?

A. You mean Mr. A. W. Slaughter?

Q. Yes? Who signed the note?

A. My sister did for my mother.

Q. Did anybody ask you to witness the note?

A. He did.

Q. He tell you where to sign?

A. Yes, he told me where to sign it.

Q. I show the Complainant's Exhibit "B", note for \$500.00 executed on the 9th day of July, 1924 to A. W. Slaughter. Is that the note you have in mind?

A. It's the note all except this was written after I witnessed it.

Q. What part was written? Your sister signed it first?

A. Yes.

Q. Signed for your mother? At your mother's request?

A. Yes.

Q. Then what part was written after it was executed?

A. "This note is secured by my real and personal property" that was written, not there until after I signed it.

Q. He pointed out to you where to sign?

A. He said: "Down here on this line" pointed out.

Q. Pointed it out to you?

A. Yes.

Q. That wasn't in there?

A. No.

Q. Did you stay in the room?

A. Yes, sir, I did.

Q. When the note was executed, what was done?

A. He took the note.

Q. Where did he put it?

A. He took it in his hand. I stayed there until he left.

Q. No further conversation -

A. No.

Q. He gave your mother a check at that time?

A. Yes, he gave her a check all right.

Q. You are positive that that was written after it was signed?

A. I am positive that it wasn't there when I signed it.

Q. What is the old homestead? What was your father's name?

A. Thomas.

Q. What does it consist of?

A. One hundred sixty acres of land.

Q. You own the old homestead now?

A. I own it.

Q. When did you buy it?

A. I couldn't say just month or day - five or six years ago.

Q. Who did you buy it from?

A. I bought it from my sisters, mother and brother.

Q. Was there a mortgage on the old homestead?

A. Yes, sir.

Q. Who held the mortgage?

A. First Joint Stock Land Bank.

Q. How much was due on that mortgage?

A. Somewhere around \$800.00.

Q. What was the consideration moving from you to them for the purchase price of this land?

A. So I could get a loan from the Federal Land Bank.

Q. You agreed to assume the debt and relieve them?

A. Yes, sir.

Q. And made a loan to the Federal Land Bank - title in your name?

A. Yes, sir.

Q. Do you also own 200 acres of land adjoining?

A. Yes.

Q. Land involved in this suit?

A. Yes.

Q. Who did you get it from?

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A. I got it from mother.

Q. You buy it from her? At the time you bought it ~~she~~ did you buy some personal property and the interest of your mother in there brother, Thomas B. McGowan?

A. Yes, sir.

Q. What personal property did you buy?

A. I bought some cattle and I bought some horses, oxen and wagon, some range cattle.

Q. Just turned them out on the range?

A. Just turned them out on the range.

Q. How long have you been in the butchering business?

A. Ever since I was a boy.

Q. 1924 and on down?

A. Yes, sir.

Q. Where did you get cows to butcher?

A. Bought from different people.

Q. Were these fat cattle?

A. They were range cattle, were not so good for that. I butchered a few of them.

Q. What was your territory?

A. I went from this side of Stockton to Little River.

Q. You are selling -

A. Not now.

Q. You were then?

A. ----November, 1939.

Q. Did you accumulate any money from the butchering business?

A.

Q. When did they build that road from Stockton to Little River?

OBJECTION

A. I don't know exactly, around twelve, fifteen years ago.

Q. Did you work on that road any?

A. Yes, sir.

Q. How long?

A. Long over a year.

Q. Accumulate any money there?

OBJECTION

A. Yes.

Q. In 1932, at the time you bought this property, how much money had you accumulated?

A. I don't know exactly, six or seven hundred dollars.

Q. Where were you keeping it?

A. At home.

Q. Where do you keep it at home?

A. In a trunk.

Q. A lock on the trunk?

A. I had a lock on the trunk.

Q. Who brought up the subject about you buying this property?

A. My mother needed some money. My brother needed some and I told them if they would sell it to me I would buy it. We figured and I told them what I would give.

Q. Where was the deed prepared?

A. Deed prepared down at Randolph's. I don't remember just who fixed the deed.

Q. Was the deed executed down at Randolph McGowan's house in Bay Minette?

A. Yes.

Q. Who took the acknowledgment?

A. T. W. Richerson.

Q. Clerk of the Circuit Court?

A. Yes.

Q. He came up to the house - day time or nighttime?

A. Afternoon.

Q. After the deed was prepared when was it delivered to you?

A. Delivered to me that afternoon after I got back home.

Q. Who delivered it?

A. My mother and brother.

Q. Where were you?

A. In mama's room.

Q. Did you go and get the money?

A. I went and got it because it was in my room.

Q. You bring it back and count it out?

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A. Yes, sir, counted it out to them.

Q. In bills? What did they do, deliver the deed? What did you do with the deed?

A. I kept it until I come to Bay Minette and had it recorded

Q. Went into possession?

A. Yes.

Q. Continued to act in possession of it? They say that there was range cattle, any market for them?

A. Not much.

Q. What did you do, get him fat and eat him?

A. Yes, sir.

Q. About what value were those range cattle?

A. I judge them to be around five and a half or six dollars.

Q. And then you say you bought four horses, what was each of those horses worth?

A. Two somewhere between twenty and twenty-five year old horses.

Q. The other two?

A. Around eleven or twelve years.

Q. Any market for horses?

A. No.

Q. What was the reasonable market price for horses at that time?

A. I figured the four horses wouldn't be over - they all wouldn't be worth more than - \$75.00 would have been a good price.

Q. Could you sell them at anytime?

A. No, I couldn't hardly sell them.

Q. You bought some oxen there, were they old oxen?

A. They were old oxen.

Q. Timber oxen, had been hauling timber?

A. Had been. Things had been going down and down for-

Q. Any use for the oxen, you couldn't butcher them?

A. No, sir.

Q. What did you say those eight head of oxen were worth?

A. Ten dollars a piece.



Q. That old wagon wasn't worth anything much was it?

A. It was worth five or ten dollars, something like that.

Q. Are you acquainted with these two hundred acres of land involved in this suit - corners to the homestead?

A. Yes.

Q. Known it for a number of years?

A. Yes.

Q. You know land values up in that part of the county - you have been in the timber business?

A. Yes.

Q. Now was any timber on this land at the time you bought it?

A. Not to amount to anything, some pine saplings, small stuff.

Q. Since that time you have been turpentineing some of it?

A. Some of it.

Q. What year were you turpentineing in?

A. Along about '39 and '40.

Q. What size tree, how low down do you go?

A. I went down to six or seven inches.

Q. Practically no timber on the place now?

A. No.

Q. In your judgment what was the value of that land?

A. I figured it was worth about two hundred fifty dollars.

Q. Part of that land in farm?

A. No, about seventy-five acres or more in range --- little old hills.

Q. Wont produce anything?

A. No.

Q. This other land, how does that lie?

A. Hilly and broken - branches in it.

Q. Easy to wash?

A. Yes, sir.

Q. The only practical value is what little timber grows on it?

A. Yes.

Q. In your judgment is that \$250.00 a fair price?

A. Yes, it's a fair price.

I, ORA S. NELSON, as Special Commissioner, hereby certify that the foregoing depositions on oral examination were taken down by me in writing, in the words of the witnesses; that the said witnesses were duly sworn, and that the foregoing constitutes a full, true and complete transcript of the testimony of said witnesses; that I am not of counsel or kin to any of the parties to said cause and am not in any manner interested in the result thereof.

Dated this the 17th day of September, 1942.

Ora S. Nelson  
Special Commissioner.

*Original filed with Register Sept 20 - 1945  
\$45.00*

Q. In that personal property, what interest did you have in it before you bought it?

A. I had a one-fifth interest.

Q. The others have a one-fifth interest in it?

A. Yes, sir.

Q. This personal property, how was it accumulated?

A. It just accumulated by all of us from the estate.

Q. You all bought the horses together and raised the cattle?

A. Yes.

Q. You have the cattle since you first remember?

A. Yes.

Q. These oxen, where did you get them?

A. We raised part of them, bought one or two.

Q. All of you owned an equal interest?

A. Yes.

Q. Since you bought this land have you been assessing and paying taxes on it?

A. Assessing and pay taxes.

Q. What has become of the horses?

A. All of them dead except one and \_\_\_\_\_ will get him.

Q. The wagon?

A. The wagon is gone.

Q. The oxen?

A. The oxen, they're gone.

CROSS EXAMINATION OF WITNESS BY Mr. Pflieger:

Q. Mr. McGowan, don't you know as a matter of fact that was written prior to the time you signed the note? Don't you know you signed it there on the bottom line because --?

A. It wasn't there.

Q. Where was that signed?

A. At home.

Q. Who was present?

A. My mother, two sisters, myself, Slaughter and that was all.

Q. At that time he gave to your mother the check for \$500.00? And that money was used to build the home you're living in at the

present time?

A. Partially.

Q. Were you present in the room with your mother at the time he was there?

A. Yes.

Q. You never left the room?

A. No, I was there all the time.

Q. I'll ask you, did you hear your sister testify a little while ago? Didn't you hear her say that you and your brother were in and about the place?

A. If she said that it couldn't be correct. I know what I did and she knows what she did.

Q. It couldn't be correct if she said that?

A. I can't remember going out anytime while he was there.

Q. If she made the statement that you went out, that she was in the room with her mother by themselves all the time, that statement is not correct?

A. I don't know - anyway I was there all the time.

Q. If she made the statement that you left there, she made an incorrect statement, is that correct?

A. I guess she must have.

Q. Did she ever go out of the room while he was there?

A. I guess possibly she did, I don't know. I won't say-

Q. Did your mother ever go out of the room and leave you and your sister?

A. She could have.

Q. Would you say that she did or she didn't?

A. No I wouldn't. I don't know.

Q. Only thing you will say positive is that you stayed in the room all the time? What other part of the house did Mr. Slaughter go into?

A. Into the hall some of the time, dining room, ate dinner and came back to the hall.

Q. Did't your mother go along with him?

A. I guess we all were along.

Q. You stay right along close to them?

A. Yes.

Q. You are positive?

A. Yes.

Q. I believe you say you owned a one-fifth interest in that property?

A. No. Yes, I owned my one-fifth.

Q. Do you own the same interest as your brother? Were you in the room when your brother testified he owned one-sixth? How come ~~you~~ both of you own different interest and on the same amount?

A. I don't know but it's one-fifth.

Q. Then if he said he owned one-sixth he was incorrect?

A. Yes.

Q. In other words your brother and sister as to that are incorrect?

A. Yes, I am correct.

Q. You figured the value of that personal property - the cattle to be worth about five and a half or six dollars a head, 75 would run about \$450.00?

A. I imagine that's correct.

Q. Four horses I believe you said were worth \$75.00? Eight oxen \$80.00 and wagon about \$10.00?

A. Something like that.

Q. That was the same wagon they testified to be worth about twenty dollars? Were you present in the room a minute ago that your brother stated that he received as his one-sixth interest \$250.00?

A. Yes.

Q. You hear him state that that represented his interest in the personal property?

A. Yes.

Q. In other words his one-sixth interest was worth \$250.00?

A. That's right.

Q. Then, if that be so and he didn't own any real property,

didn't you say that that belonged to your mother?

A. That belonged to mother, yes.

Q. That being so, he got \$250.00 for his one-sixth interest in the entire, well, the personal property would be six times two hundred fifty, if he got one-sixth interest and it was two hundred fifty then the -

A. Yes, but he didn't get that.

Q. Didn't you hear him testify?

A. Yes, I heard him.

Q. He didn't tell the truth on that statement?

A. I don't know.

Q. If he made a statement that he got two hundred fifty dollars, he wasn't telling the truth - you say he didn't get two hundred fifth?

A. He got two hundred fifty.

Q. Didn't you say he didn't get two hundred fifty?

A. He got it.

Q. Didn't you say a moment ago that he didn't get \$250?

A. I wouldn't say.

Q. If he got \$250.00 for his one-sixth interest, the other five-sixth interest added to that would make it \$1500.00 would it not?

A. How you say?

Q. If he got \$250 for his one-sixth interest in the personal property?

A. He didn't get that.

Q. He didn't get what?

A. He got for all of the personal property and real estate.

Q. What real estate did he convey you?

A. He conveyed me a one-fifth interest in that two hundred acres.

Q. Didn't you hear him testify he didn't have any interest in that property that it belonged to his mother?

A. Yes.

Q. If he got \$250.00 out of the \$500.00 you paid to him and

your mother his \$250.00 represented the interest that he had in the personal property?

Q. I don't know. I delivered the money to my mother, they divided the estate. I told them I would give them \$500.00, her interest in the land and his in the other stuff, personal property, and they divided the money. I don't know how they divided it.

Q. You were not offering him any money whatsoever for his interest in this land were you?

A. Well no, I wasn't, because it was in my mother's name.

Q. Your mother had an interest in that personal property did she not?

A. Yes.

Q. Her interest equal to that of your brother, T. B. McGowan?

A. Yes.

Q. Then if his interest was worth \$250.00 in the personal property her interest in the personal property would be worth \$250.00?

A. You see I didn't buy it that way, I bought it in a lump sum, both of them.

Q. If your brother testified that he got \$250.00 for his interest in the personal property his statement was incorrect?

A. That was him testifying, not me.

Q. That statement couldn't be correct, could it?

A. I am not going to answer it. ~~askxxxxxxx~~

Q. I'll ask the question again.

OBJECTION on the ground that it is highly improper, argument with witness by placing duty on witness to pass upon the evidence in the case.

Q. Will you answer the question, sir?

A. Must be incorrect.

Q. The statements made by your sister and also by your brother in this same matter of litigation have both been incorrect?

OBJECTION by Mr. Hybart on the ground that it is highly improper, the questions involved is for the Court to pass on, it is irregular, immaterial and calls for legal testimony)

A. I suppose so.

Q. This property, referring to the 200 acres in Section 19, Township 2 North Range 3 East, is now assessed in your name?

A. Yes, sir.

Q. What valuation or assessed valuation has been placed on that property?

A. How's that?

Q. How much is that property valued at?

A. I don't know, can't remember right now just what it is.

Q. To refresh your recollection, is that property assessed at a valuation of \$600.00?

A. Could be.

Q. You have owned that property since the time you got the deed?

A. Yes.

Q. Assessed in your name?

A. Yes.

Q. Have you at anytime since the date you got this deed ever filed any Petition with the Tax Assessor, the Equalization Board or any other proper authority for the reduction of the taxes you have its value reduced?

A. No.

Q. I'll ask you to look at this check - it is marked Exhibit "A" and ask if you know whose handwriting that is?

A. No, I don't.

Q. These two at the top I believe, belong to your sister? Is that correct?

A. I don't know whose that is. No.

Q. Are you familiar with your mother's signature?

A. Yes.

Q. That your mother's signature?

A. No.

CROSS EXAMINATION OF WITNESS by J. B. Blackburn

Q. Mr. McGowan, when this deed was made on February 13, 1932 you and all of the other members of your family except Randolph



were living together?

A. That's right.

Q. On this date and at all times since February 13, 1932 all of you except Randolph have lived there together haven't you?

A. Yes.

Q. You all have used the property since this conveyance was made just the same as before?

A. No.

Q. What difference has been in the use of it?

A. I have used it myself.

Q. They all live there though, do they pay any rent?

A. Don't live on that place.

Q. Do they pay anything for the use of the personal property?

You have testified that deed to the property to you there was a mortgage at the time this conveyance was made, any rent for that?

A. No.

Q. You carry on as a family now like you have always done, they live in the place, you lived in the place then?

A. Yes.

Q. All of you operated together then in 1932 and operate together now?

A. No.

Q. You haven't changed your way of living?

A. I have my cows, the land that I bought as I see fit and I spend the money as I see fit.

Q. Don't they use it?

A. No.

Q. Don't pay you any rent, they do get fire wood don't they?

A. I generally get the wood, yes.

Q. Goes into the home? Pay for anything else they get there?

A. Yes. Get any cows I sell them to them.

Q. Still pay \$6.00 for them?

A. No, not now.

Q. How much you say you paid for this property?

A. I paid \$500.00.

Q. Who you pay it to?

A. Paid it to my mother.

Q. Who else was present?

A. My sister, my brother too.

Q. He was there when you paid it?

A. I paid it to my mother. I don't know how she divided it.

Q. How did you all arrive at what you were going to pay for this property described in this conveyance?

A. We figured what they would take just like I buy something from you.

Q. You mean you didn't discuss what valuation was placed on the property?

A. No.

Q. You didn't discuss what valuation was placed on the real property?

A. No.

Q. Truth of it was, all of you wanted to make a conveyance at that time?

A. No.

Q. You knew that your mother was indebted to Mr. Slaughter?

A. Yes.

Q. Didn't you know that your brother, T. B. McGowan, and your mother were indebted to the Baldwin County Bank?

A. Yes.

Q. You knew that when you took this deed dated February 13, 1932?

A. I knew it.

Q. Didn't you take that deed for the express purpose of hindering, delaying or defrauding your mother and brother's creditors you know T. B. was insolvent at that time?

A. I guess so.

Q. Your mother was insolvent?

A. Yes.

Q. And yet you paid \$500.00 for all the property described in this conveyance without discussing what part went to Mrs.

McGowan and what part went to Mr. McGowan, didn't you?

A. They agreed among themselves.

Q. I asked if you paid without discussing taking the place?

A. They said what they would take and I agreed to pay it.

Q. I asked if you, your mother and brother discussed the values of the personal property and the real property between you before you made the trade or at the time the trade was made?

A. I don't know whether I did or not.

Q. You say you came to Bay Minette to make the deed, you came along?

A. Sure.

Q. You didn't bring the money?

A. Didn't bring the money.

Q. You went home?

A. Yes.

Q. Then you paid the money? You go home for any particular reason to close the transaction? Isn't it as a matter of fact that you didn't have five hundred dollars?

A. I worked at different places and butchered.

Q. You just butchered a little now and then?

A. Heck ~~now~~ no, I butchered two or twelve years straight.

Q. How extensive were your operations?

A. Every Friday I butchered and in between time and-

Q. Every Friday you killed yearlings?

A. Yes.

Q. And that went on for a period of time?

A. Butchered twelve or fifteen years.

Q. Continuously?

A. Yes.

Q. When did you work at anything else?

A. Worked after I quit butchering.

Q. When did you quit?

A. I don't remember the day.

Q. After February, 1932?

A. No, before then.

Q. You saved up \$500.00, put it in your trunk and left it in your trunk while you came to Bay Minette? You didn't go back home to close that transaction, there were no witnesses except the family was there?

A. No.

RE-DIRECT EXAMINATION EXAMINATION by Mr. Hybart.

Q. I understand, Mr. McGowan, that when you and your brother agreed on the consideration that you were to pay for the personal property was \$500.00 and they left that amongst themselves and you were willing to pay it and you paid over the \$500.00 to your mother and how they divided you didn't have anything to do with they accepted and whether they got more -

A. That was a matter between them.

QUESTIONS BY Mr. Chason

Q. I believe they asked you that there was assessed at \$600.00 tax valuation, how long has it been since you bought this land?

A. About ten and a half years.

Q. Are land values the same now that they were in 1932?

A. I don't think so.

Q. Would you say it's bringing a lot more than during the depression?

A. Yes, land is worth more.

Q. You know what these lands were assessed at at the time you bought them?

A. No, I don't.

Q. Isn't it a fact that there is not any land around that ----- the tax authorities will accept at a valuation less than \$3.00 an acre, that right? Haven't they a fixed valuation that they will accept less than \$3.00 an acre?

A. That's right.

RE-CROSS EXAMINATION OF WITNESS by Mr. Blackburn

Q. You do know that this 200 acres in question is assessed at \$600.00?