

WARD B. MARTIN AND JOHN WEBER,
COMPLAINANTS.

VS.

THE FOLLOWING DESCRIBED LAND IN
BALDWIN COUNTY, ALABAMA, situated in
Fractional Section 19, Township 6 South,
Range 2 East, and Fractional Section 24,
Township 6 South, Range 1 East, of the
Dinsmore Survey of Baldwin County, Alabama,
viz: Commence at the Southwest corner of said
Section 19, running thence North 31 chains,
thence North 27 degrees East 6 chains, thence
North 8 degrees East 18.44 chains to a point
in the center of the county road 1.78 chains
South of the bridge over Big Gully, thence
North 70 degrees West 20 feet for a point of
beginning of land hereby conveyed; thence
North 70 degrees West 10 chains, more or less,
to Mobile Bay, thence North 8 degrees East 1.60
chains along the eastern shore of Mobile Bay,
thence South 77 degrees East 10 chains, more
or less to the West boundary of the County
road, and thence South 10 degrees West 2.85
chains to the point of beginning, the tract
of land hereby described containing two and
twenty-two hundredths acres, more or less;
Laurent Millaudon. et al,

RESPONDENTS.

NUMBER

629

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

F I N A L D E C R E E .

This cause being at issue and coming on to be heard and being submitted on the pleadings and evidence as noted in the note of evidence and the allegations of the bill of complaint being sustained by legal and competent evidence to the satisfaction of the Court, and it appearing to the Court that the complainants are entitled to the relief prayed for:

It is now therefore hereby ordered, adjudged and decreed that the complainants have judgment as prayed for in their bill of complaint herein, against the land described in the bill of complaint, and the defendants and each of them; that all claims of the defendant, Laurent Millaudon, if he be living, and if dead all claims of his heirs, personal representatives, next of kin and devisees, and each of them, in and to the lands described in the bill of complaint, and all claims of all persons, firms or corporations other than complainants, claiming the said land, or any part thereof, or any interest therein, or lien or incumbrance thereon

are hereby adjudged and decreed to be invalid and groundless. And the complainants are hereby declared, adjudged and decreed to be the true and lawful owners, absolutely and in fee simple of the said lands, which are described as follows:

The following described land in Baldwin County, Alabama, situated in Fractional Section 19, Township 6 South, Range 2 East, and Fractional Section 24, Township Six South, Range One East, of the Dinsmoor Survey of Baldwin County, Alabama, viz: Commence at the Southwest corner of said Section 19; running thence North 31 chains, thence North 27 degrees East 6 chains, thence North 8 degrees East 18.44 chains to a point in the center of the county road 1.78 chains South of the bridge over Big Gully, thence North 70 degrees West 20 feet for a point of beginning of land hereby conveyed; thence North 70 degrees West 10 chains, more or less, to Mobile Bay, thence North 8 degrees East 1.60 chains along the Eastern shore of Mobile Bay, thence South 77 degrees East 10 chains more or less to the West boundary of the county road, and thence South 10 degrees West 2.85 chains to the point of beginning, the tract of land hereby conveyed containing 2.22 acres, more or less,

and that the title to said lands, both in law and in equity is hereby adjudged and decreed to be in the said complainants, Ward B. Martin and John Weber, and it is further adjudged and decreed by the Court that the said complainants' title to the said lands is hereby quieted against all claims or demands of any and all other persons, firms and corporations claiming any title to, interest in, or lien or incumbrance upon said lands.

It is further ordered, adjudged and decreed that the Register of this Court shall, within thirty days from the rendition of this decree, prepare and file a certified copy thereof in the office of the Judge of Probate of Baldwin County, Alabama, for record, and tax the expense thereof as a part of the expense of this cause, and it is further directed that the Judge of Probate shall record said copy in the same book and manner in which deeds are recorded, and index the same in the name of Ward B. Martin and John Weber on the direct index, and in the name of the said Laurent Millaudon, and his unknown heirs, personal representatives, next of kin and devisees, on the reverse index.

It is further ordered, adjudged and decreed that the title herein established in complainants shall enure to the benefit of all persons who derive title to said lands or any interest therein from or through the complainants.

It is further ordered, adjudged and decreed that the complainants be taxed with all costs in and about this cause, for the

collection of which, let execution issue.

Dated at Bay Minette, Alabama, this 19th day of March,
1927.

John D. Leigh
JUDGE.

in

Ward B. Washie
et al

vs

Sammuel Milledon
et al

Final Decree

3/19-27

Filed May 17th 1927

D.W. Ransom
Register

RECORDED

Ward B. Motter et al. #
 Complainants # Circuit Court Board
 vs # Vice Council, Du Eg.
 Cases described in Bill of # - Wiley # 629
 Complainant, Defendant Cecil #
 Gordon et al. Respondents #

The complainant's Revley upon application for
 commission to take ~~app~~ testimony of Ward
 B. Motter, a witness on behalf of complain-
 ants, an oral examination, and suggests the
 the name of Julia C. Harris, of who resides at
 Mobile, Alabama, as a suitable person to
 act as commissioner to take the deposition
 of said witness. The said witness Ward B. Motter
 resides at Lowry, Alabama. Dated the 15th
 day of March 1927

Wm. H. Cross
 Secy for Complainant

#629 ^{filed 3/19-27}

Mont B. Webster et al
vs

James Webster
et al

Webster et al vs
James Webster

Filed 3/2/27 ²

No. _____ Page _____

STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT, IN EQUITY.

Complainants.

Vs.

Defendants.

MOTION FOR DECREE PRO
CONFESSO ON PUBLICATION.

Filed _____ 192_____

RECORDED

Register.

Recorded in _____ Record,

Vol. _____ Page _____

Register.

Baldwin Times Print, Bay Minette.

Chks

222-298

chk for

~~Final
Decree
1926
Ward E. Martin~~

~~16 Mtg 164~~

~~LP 1-5 Jhm
7~~

~~41-301~~

~~45-408~~

~~16 Oct 1926.~~

~~227 Reg-~~

~~File Jan 10-1927~~

8601 Motion for Decree Pro Confesso on Publication.

The State of Alabama, }
BALDWIN COUNTY.

CIRCUIT COURT, IN EQUITY.

No. 679 Vacation Term, 1927

Ward B. Worline et al

Complainants

vs.

Sargent W. Woodard et al

Defendants

Motion is hereby made for a Decree Pro Confesso against

all defendants

and

land described in Bill of Complaint

Defendant

in the annexed stated cause, on the ground that more than thirty days have elapsed since the perfection of publication was made under the order of this Court; and it having been shown by due proof to the Court that said Defendant is a non-resident of the State of Alabama, and has failed to answer, plead or demur to the Bill in this cause, to the date hereof.

This 12th day of March 1927

746 Code.

W. Woodard

Solicitor.

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT, IN EQUITY.

No. 679 Vacation Term, 1927

Ward B. Martin et al

Complainant. S.

vs. Laurie Leece et al

Defendant. S.

In this cause it appears to the Register.....that the order of publication here-
tofore made in this cause, was published for four consecutive weeks, commencing on the 9th day of
October, 1927, in the Baldwin Times
a newspaper published in Birmingham Alabama, that a copy of said order was posted at the Court
House door in Baldwin County, on the 21st day of
Oct 1927, and

And it now further appearing to the Register....., that the said

defendants

having to the date hereof failed to demur, plead to or answer the Bill of Complaint in this cause, it is now, there-
fore, on motion of Complainant^s....., ordered and decreed by the Register..... that the

Bill of Complaint in this cause be, and it hereby is in all things taken as confessed against the said all
defendants and the cost described in the Bill
of Complaint.

This 14 day of March, 1927

T. W. Richardson

Register.

Filed 2/14/27

Grand B Martin

Register.

Vol. Page

Recorded in Record

Register.

J. B. Martin

Issued *Mar 14* 1927

DEGREE PRO CONFESSO ON PUBLICATION.

vs.

CIRCUIT COURT, IN EQUITY

Baldwin County.

THE STATE OF ALABAMA,

Page

No. *629*

3

WARD B. MARTIN AND JOHN WEBER,

VS.

THE LAND HEREIN DESCRIBED, LAURENT
MILLAUDON, ET AL,

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

NUMBER _____

Deposition of Ward B. Martin, witness examined on behalf of the complainants, in the above entitled cause, taken before Lelia C. Harris, Commissioner, at the time, place and in the manner hereinafter stated.

DEPOSITION OF WARD B. MARTIN.

My name is Ward B. Martin. I live in Fairhope, in Baldwin County, Alabama, and have been there for about twelve years, and live within about half a mile from the land described in the bill of complaint and know it intimately. I am 56 years of age, and Mr. John Weber, the other complainant in this cause, is about the same age. Both of us have residences at Fairhope, in Baldwin County, Alabama. The land I refer to consists of a little more than two acres, and is particularly described as follows: The following described land in Baldwin County, Alabama, situated in Fractional section 19, Township 6 South, Range 2 East, and fractional Section 24, Township 6 South, Range 1 East, of the Dinsmoor Curvey of Baldwin County, Alabama, viz: Commence at the Southwest corner of said Section 19, running thence North 31 chains, thence North 27 degrees East 6 chains, thence North 8 degrees East 18.44 chains to a point in the center of the county road 1.78 chains South of the bridge over Big Gully, thence North 70 degrees West 20 feet for a point of beginning of land hereby conveyed; thence North 70 degrees West 10 chains, more or less, to Mobile Bay, thence North 8 degrees East 1.60 chains along the eastern shore of Mobile Bay, thence South 77 degrees East 10 chains more or less to the West boundary of the county road, and thence South 10 degrees west 2.85 chains to the point of beginning, the tract of land hereby conveyed containing 2.22 acres, more or less. I know this is the proper description of the land, because I have had it surveyed when I bought it.

2. John Weber and I bought the land from Alphonse Denton and his wife, Nettie Denton, December 15th., 1925. These deeds were recorded, and if returned by the Probate Court, I cannot find them. At the time I purchased the land, Alphonse Denton was in the actual and peaceable possession of it. We claim to own it absolutely and in fee simple, and at the time and since

we purchased it, we have been in possession of it, through tenants, claiming to own it absolutely and in fee simple and in equal parts, each of us owning an undivided one-half interest, and both of us owning it all. No suit is pending in any court to test our title to or interest in or possession of the land, and our title has not been disputed in any way. At the time we purchased the land, Denton had been in possession of the land claiming to own the same as long as I have known the land, and no one ever disputed the Denton title or right to possession. Their possession to the land was exclusive and adverse. The chain of record title as shown by the records of the Probate Court of Baldwin County, is as follows: The land was entered by Laurent Millaudon, a great many years ago and his claim was confirmed by Act of Congress, June 1st., 1858. Millaudon never did make a deed to the land in so far as I can find, which is recorded on the records of Baldwin County. Millaudon hasn't been heard of in Baldwin County for more than half a century. I don't know where he is, and can't find any trace of him. If living he is a non-resident of the State of Alabama and is over the age of twenty-one years. If he left any heirs at law, devisees, personal representatives or next of kin, they are now more than twenty-one years of age, and they are non-residents of the State of Alabama. The following deeds appear on the records of Baldwin County, Alabama, viz: Warranty deed from William Davis and Eloise Davis, his wife, to George Juzang, dated February 16th., 1904, and recorded in Deed Book 7, N.S., page 83; warranty deed from George Juzang and William A Juzang, her husband, to Herman C. Koster, dated January 19th., 1905, and recorded in Deed Book 8, N.S., page 238; tax sale to Herman C. Koster, dated in 1910, shown by Tax Sales Book 3, page 12; deed from Herman C. Koster and Caroline M. Koster, his wife, to Alphonse Denton and Austin Denton, dated April 2nd., 1920, recorded in Deed Book 29, N.S., page 412; deed from Austin Denton and Belle Denton, his wife, to Alphonse Denton and Nettie Denton, dated January 12th., 1922, and recorded in Deed Book 31, N.S., page 567, warranty deed from Alphonse Denton and Nettie Denton, his wife, to complainants, dated December 15th., 1925, and recorded in Deed Book 37, N.S., page 603. All of said deeds were

recorded in the Probate Court of Baldwin County, Alabama. I haven't any of the said deeds, and don't know where to find them, except the deed from Denton to complainants, which, if returned by the Probate Court, is lost. The land is assessed to me on the assessment records of Baldwin County, Alabama, and for more than twenty years next preceding the filing of this bill of complaint, it was assessed to Denton, from whom I purchased it, and no one else has assessed the land, paid any taxes or claimed the same, within that time.

3.- The land is included in what is known as the DeFerit Claim, as surveyed in 1830, and approved in 1835; this was confirmed to Laurent Millaudon by Act of Congress dated June 1st., 1858, as shown by 11 Statutes at Large, page 537. I have had abstracts of the records of Baldwin County made, and the title appears on said records as herein stated.

4.- I cannot find anything, or anybody who knows anything, about Laurent Millaudon, and don't know whether he is living or dead, If he is dead and left any heirs, they are not in Baldwin County, and I have made diligent effort to learn their names and addresses and cannot do so. I have searched the records of Baldwin County, have inquired of all available persons who might have information as to the names, ages and whereabouts of Laurent Millaudon, his heirs, next of kin, and devisees, and have caused inquiries to be made of persons living in the vicinity of the land, and from whom such information could probably be obtained, and no one can be found who knows or can give any information about them, or their addresses, or whether any of them are living or dead.

5.- The complainants in this suit are bringing this case against the lands, and against all persons, firms or corporations claiming said land or any part thereof, or any interest therein, or any lien or incumbrance thereon, for the purpose of establishing their title to, and interest in said lands, and clearing up all doubt and disputes concerning same, and they have duly recorded publication in the Baldwin Times, a newspaper published in Baldwin County, and have published the notice of lis pendens, as required by the laws of Alabama, more than sixty days ago. I attach hereto, and mark Exhibit B., lis pendens notice as filed.

Ward B. Martin

CERTIFICATE.

STATE OF ALABAMA,
COUNTY OF MOBILE.

I, Lelia C. Harris, under and by virtue of a commission issued out of the Circuit Court of Baldwin County, Alabama, in said entitled cause, therein pending, do hereby certify that I caused to come before me, at Room 805 of the Van Antwerp Building, in said County and State, on the 19th. day of March, 1927, the witness, Ward B. Martin; that the said witness was known to me, and, after being duly sworn to speak the truth, the whole truth, and nothing but the truth, was examined by me, and testified as hereinbefore shown, his answer being reduced to writing by me as near as might be, in his own language, whereupon he subscribed his name to the same in my presence, after I first read same over to him.

I further certify that I am not of counsel nor of kin to any of the parties to said cause, nor in any manner interested in the result thereof. And I do further certify that Mr. B.F. McMillan, Jr., one of the Solicitors for the complainants, was present at the examination of the said witness and conducted the said examination.

Witness my hand, this, the 19th. day of March, 1927.

Lelia C. Harris
COMMISSIONER.

9387

Six Persons
NOTICE.

CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA. EQUITY SIDE.

OCTOBER 16th., 1926.

WARD B. MARTIN AND JOHN WEBER vs. THE LAND HEREIN DESCRIBED
AND LAURENT MILLAUDON, IF HE BE LIVING, AND IF HE BE DEAD,
THEN AGAINST THE HEIRS, NEXT OF KIN AND DEVISEES OF THE
SAID LAURENT MILLAUDON, AND AGAINST ANY AND ALL OTHER
PERSONS, FIRMS OR CORPORATIONS CLAIMING ANY TITLE TO,
INTEREST IN, LIEN OR INCUMBRANCE ON SAID LAND OR ANY PART
THEREOF.

Notice is hereby given that Ward B. Martin and
John Weber, on the 16th. day of October, 1926, filed a
bill of complaint in Equity, in the Circuit Court of Baldwin
County, Alabama, claiming to be in actual, peaceable possession
owning and claiming to own all that certain parcel of land
situated in the County of ^{Baldwin} ~~Mobile~~, State of Alabama, described
as follows:

The following described land in Baldwin County, Alabama,
situated in Fractional Section nineteen, Township Six
South, Range two East, and Fractional Section twenty-four
Township Six South, Range One East of the Dinsmoor Survey
of Baldwin County, Alabama, namely: Commence at the South-
west corner of said Section Nineteen, running thence North
thirty one chains, thence North twenty seven degrees East
six chains, thence North eight degrees east eighteen and
forty-four hundredths chains to a point in the center of
the County road one and seventy-eight hundredths chains
South of the bridge over Big Gully, thence North seventy
degrees West ^{described} ~~twenty~~ feet for a point of beginning of
land hereby ~~conveyed~~; thence North seventy degrees West
ten chains more or less, to Mobile Bay, thence North
eight degrees east one and sixty hundredths chains along
the Eastern shore of Mobile Bay, thence South seventy
seven degrees East ten chains more or less to the West
boundary of the County road, and thence South ten degrees
West two and eighty-five hundredths chains to the point
of beginning, the tract of land ~~hereby conveyed~~ containing
two and twenty two hundredths acres, more or less.

Complainants allege in their bill of complaint
that the title to said land stands on the records of the
Probate Court of Baldwin County, Alabama, as follows:
This land is included in what is known as the DePerit
Claims, as surveyed in the year 1830 and approved in the
year 1835, which claims were confirmed to Laurent Millaudon
by the Congress of the United States, by Act of June 1st.,
1858, 11 Statutes at Large, page 537; and that complainants
claim title to said land by deed from Alphonso Denton and

"Exhibit B."

Nettie Denton, his wife, by warranty deed dated December 15th., 1925, and recorded in Deed Book 37, N.S., page 603, of the Baldwin County Records.

Complainants further allege that they and those under whom they claim title have paid taxes on said property for the last ten years next preceding the filing of their said bill of complaint, and during said time they have been in actual, peaceable possession of said land, claiming to own the same, and during said time no one else has paid taxes thereon or been in possession thereof; and that their bill of complaint is filed for the purpose of establishing their title to and interest in said lands, and clearing up all doubts and disputes concerning same.

Witness my hand, this 16th. day of October, 1926.

T. W. Richerson,
Register, Circuit Court, Baldwin Co.,
Alabama.

McMillan & Grove, Mobile, Alabama,
Solicitors.

J. T. M. Richerson, Register of the Circuit Court of Baldwin County, Alabama, hereby certifies that the foregoing is a true and correct copy of notice of pendence of said case, published in the Baldwin News, a newspaper having a general circulation and published in Baldwin County, Alabama, when being the paper presented by or on behalf of said party, such publication the Court's described in the Bill of Complaint.
This 10th day of January 1927

*T. W. Richerson
Register in Charge, Circuit
Court of Baldwin County, Ala.
Alabama.*

THE STATE OF ALABAMA }
BALDWIN COUNTY } Office of the Judge of
The Probate Court

I, W. D. STEPHENS, Judge of said Court for and for
said County, do hereby certify that the within instrument
was filed in this office for record on the 10th
day of Jan. 1927 at 12
o'clock P. M. and I further certify that the
same is duly recorded in Record Book No. Les Perdew I
Page 52 & 3 and duly examined.

Witness my hand this 10th day of Jan. 1927
W. D. Stephens Judge of Probate Court
By

B. J. McMillan
Atty

Rec 95

1/10/27

2:20 P.M.

The State of Alabama, }
Baldwin County

CIRCUIT COURT.

To Felix C. Harris, Sheriff, Baldwin

~~have appointed you~~
er, and by these presents do authorize you, at such time and place as you may appoint, to call before you and
examine Ward B. Weston

as witnesses in behalf of Concepcion in a cause pending in our Circuit
Court of Baldwin County, of said State, wherein Ward B. Weston et
al, et al

Complainant, S.
and Said described in Bill of Concepcion, Concepcion
Weston et al et al

Defendant, S.
on oath to be by you administered, upon interrogatories and examination
to take and certify the deposition of the witness and return the same to our Court, with all convenient
speed, under your hand.

Witness 15th day of March 1927

T. W. Richardson
Register.

Commissioners Fee \$ 1.00

Witness Fee's \$

No. 629

THE STATE OF ALABAMA,

Brewer County.

CIRCUIT COURT.

Ward B Martin
et al

Complainant

vs.

The Land described
in Complaint

Defendant

COMMISSION TO TAKE DEPOSITION
ON INTERROGATORIES.

COMMISSIONER:

Lucia C Harter

WITNESSES:

Ward B Martin

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE
CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY:

Your Orators, Ward B. Martin and John Weber,
bring this bill of complaint against that certain piece,
parcel or tract of land hereinafter described in para-

graph 1st., and against any and all persons, firms or
corporations claiming any title to, interest in, lien
or incumbrance on the said lands or any part thereof, and
Orators respectfully show:

1st.- Each of your Orators is over the age of
twenty-one years, and each is a resident of Baldwin County,
Alabama, and the land against which this proceeding is
brought is situated in Baldwin County, State of Alabama,
within the jurisdiction of this Court, and is particularly
described as follows:

The following described land in Baldwin County,
Alabama, situated in Fractional Section Nineteen, Township
Six South, Range Two East, and Fractional Section Twenty-
four, Township Six South, Range One East, of the Dinsmoor
Survey of Baldwin County, Alabama, namely: Commence at the
Southwest corner of said Section Nineteen; running thence
North thirty-one chains, thence North twenty-seven deg-
rees east six chains, thence North eight degrees east
eighteen and forty-four hundredths chains to a point in
the center of the County road one and seventy-eight hun-
dredths chains South of the bridge over Big Gully, thence
North seventy degrees West twenty feet for a point of
beginning of land hereby ~~conveyed~~ ^{described}; thence North seventy
degrees West ten chains more or less, to Mobile Bay,
thence North eight degrees east one and sixty hundredths
chains along the Eastern shore of Mobile Bay, thence
South seventy-seven degrees East ten chains more or less
to the West boundary of the County road, and thence South
ten degrees West two and eighty-five hundredths chains to
the point of beginning, the tract of land hereby ~~conveyed~~
containing two and twenty-two hundredths acres, more or
less.

2nd.- Your Orators are in the actual and peaceable
possession of the land hereinabove described, and claim to
own the same absolutely and in fee simple, each of your
Orators owning a one-half undivided interest therein, and
both of them owning it all, and no suit is pending in any
court to test orators' title to, interest in or right to
the possession of said land. Your Orators acquired the
legal title to said land by adverse possession thereof by
themselves and those under whom your Orators claim, and

Laurent Mellouze if he be living, or if dead against his heirs, personal representatives, next of kin and devisees against

by the several deeds described as follows: Warranty deed from William Davis and Eloise Davis, his wife, to George Juzang, dated February 16th., 1904, and recorded in Deed Book 7, N.S., page 83, of the Baldwin County Records; Warranty deed from George Juzang and William A. Juzang, her husband, to Herman C. Koster, dated January 19th., 1905, and recorded in Deed Book 8, N.S., page 238, of the Baldwin County Records; Tax sale by the State of Alabama to Herman C. Koster, in 1910, Tax Sales Book 3, page 12 of the Baldwin County Records; deed from Herman C. Koster and Caroline M. Koster, his wife, to Alphonse Denton and Austin Denton, dated April 2nd., 1920, recorded in Deed Book 29, N.S., page 412, Baldwin County Records; Quitclaim deed from Austin Denton and Belle Denton, his wife, to Alphonse Denton and Nettie Denton, dated January 12th., 1922, and recorded in Deed Book 31, N.S., page 567, of the Baldwin County Records; Warranty deed from Alphonso Denton and Nettie Denton, his wife, to your Orators, dated December 15th., 1925, and recorded in Deed Book 37, N.S., page 603, of the Baldwin County Records. All of said deeds carry descriptions including the land described in this complaint. Orators and those under whom they claim have had absolute adverse possession of this land for more than ten years next preceding the filing of this bill of complaint, claiming to own the same, and for over twenty years have assessed and paid the taxes thereon.

3rd.- The title to the above described lands stands upon the records of Baldwin County as follows:

This land is included in what is known as the DeFerit Claims, as surveyed in the year 1830 and approved in the year 1835, which claims were confirmed to Laurent Millaudon, by the Congress of the United States, by Act of June 1st., 1858, 11 Statutes at Large, page 537, and your Orators aver that it does not appear from the record that Laurent Millaudon ever conveyed the land by recorded deed, but your Orators are informed and believe, and

upon such information and belief state that he did convey such land to one of the grantors in Orators' chain of title by deed which was lost or destroyed before being recorded, but if your Orators are mistaken in their belief and contention that he did convey such land to one of their grantors, his title has been lost by reason of ~~of~~ Orators' adverse possession, but the non recordation of his said deed constitutes a cloud on your Orators' title.

4th.- Your Orators further aver that they have made diligent effort to ascertain whether the said Laurent Millaudon be living or dead, and if he be dead whether or not he left any heirs and have made diligent effort to learn his address and the names and addresses of his heirs, next of kin or devisees, that in the prosecution of such efforts your Orators have had abstracts made, have searched the public records of Baldwin County, and have interviewed all available persons who might have information as to the names, ages and whereabouts of the said individuals, their heirs, next of kin and devisees, and Orators further aver that they have caused inquiry to be made of persons living in the vicinity of the land, from whom such information could probably be obtained, and no one could be found who knew or could give the information as to whether any of the said named defendants are living or dead, or who could give the addresses of any such defendants that might be living, or the names or addresses of the heirs, next of kin or devisees of such of them as might be dead, and they aver that they are unable to ascertain after diligent inquiry whether the said parties or any of them, if living, or their heirs, next of kin, or devisees of such of them as may be dead, or any other person, firm or corporation, save Orators, claim said land or any part thereof, or any interest in said land, or lien or incumbrances thereon. *The absence of defendant is necessary.*

5th.- Orators aver that they bring this their

bill of complaint against the land above described, and also against all persons, firms or corporations claiming said lands, or any part thereof, or any interest therein, or any lien or incumbrance thereon, for the purpose of establishing Orators' title to and their interest in said lands, and for the purpose of clearing up all doubts and disputes concerning sale.

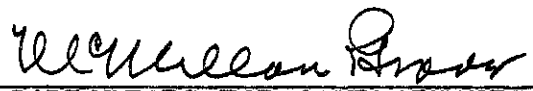
PRAYER FOR PROCESS:

Wherefore, the premises considered, your Orators pray that the land hereinabove described, and all persons, firms and corporations claiming said land, or any part thereof, or any title thereto, interest therein, or lien or incumbrance thereon, be made parties defendant to this bill of complaint, and that due notice of these proceedings be given as required by law.

PRAYER FOR RELIEF:

Orators pray that if any person, firm or corporation claims said land, or any part thereof, ~~or~~ any interest therein, or incumbrance thereon, he or they be required to set forth and specify such claim, title, interest, lien or incumbrance, and set forth how and by what instrument the same was derived or created, as required by the statute. Orators further pray that upon the final hearing of this cause, it will be ordered, adjudged and decreed that Orators, at the time of the filing of this bill of complaint had the legal title to the above described land and that no other person owns the same, or any part thereof, or has any interest, right or title therein or thereto, or any lien or incumbrance thereon, and Orators pray for such other, further, different and general relief as in equity and good conscience they may be entitled to receive in the premises.

And Orators will ever pray, etc.


SOLICITORS FOR COMPLAINANTS.

FOOT NOTE: The respondents and each of them, are required to answer each of the allegations of the foregoing bill, but not under oath, answer under oath being hereby expressly waived.

W. McMillan, Jr.
SOLICITORS FOR COMPLAINANTS.

STATE OF ALABAMA,
COUNTY OF MOBILE.

Before me, Lelia C. Harris, a Notary Public in and for said State and County, personally appeared B.F. McMillan, Jr., who, being first duly sworn, deposes and says that he is of counsel for the complainants in the foregoing case and that he has read the said bill of complaint, that he is informed and believes, and upon such information and belief states that the contents thereof are true, and further says that all of the facts therein stated are true and correct as therein written.

B.F. McMillan, Jr.

Sworn to and subscribed before me, this 16th. day of October, 1926.

Lelia C. Harris
Notary Public, Mobile County, Alabama.

629

George Bowen Cleveland
ATTORNEY-AT-LAW
Box 704
MOBILE, ALA.

August 13th, 1927.

Mr. T.M. Richardson,

Clerk & Register,
Bay Minette, Ala.

Dear Sir :-

Please send me an itemized cost bill in the case of Hutchinson vs. Sibley, et al. It will be necessary in the submission of a motion to pay tax to costs and in the Supreme Court if it is necessary to carry this matter that far.

In re Old Spanish ~~Trail~~ Fort Development Co., Inc., vs Sibleys, et al, please let me know when the case is at issue. I requested this in my letter yesterday, but perhaps you misunderstood it. The statute says that it shall be at issue sixty days after publication of the notice, - the first publication, or making of the order, I presume. There has been a publication three weeks and then four weeks again. I do not know when the last notices were put in, nor what the order reads that the case will be at issue.

252 St. Francis St.)

Yours truly,

George Bowen Cleveland

Clarence &
Robert W. Reby

~~1872~~
~~1873~~
~~1874~~

W. H. H. H.
1875
1876

MILLER REESE HUTCHISON, Execu-
tor, etc.,
Complainant,
-vs-
CYRUS L. SIBLEY, et al,
Defendants.

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

ANSWERS OF COMPLAINANT TO INTERROGATORIES PROPOUNDED BY DEFEN-
DANTS ROBERT W. and CLARENCE E. SIBLEY:

TO THE FIRST INTERROGATORY HE SAITH: I state in my bill that Robert W. and Clarence E. Sibley claim some interest in the property described in the bill because a deed made by their grandfather Cyrus Sibley, now deceased, some time prior to 1849 has not been put on record in Baldwin County, and in order to straighten out the title, not because I recognize that they have any claim.

SECOND and THIRD: I have understood that they were the grandchildren of Willard F. Sibley. I made them defendants because they were two of the twenty-seven children and grandchildren of Willard F. Sibley, deceased, to whom Cyrus Sibley made a deed for all unsold lots many years after these lots had been sold by him.

FOURTH: Yes, there are deeds on record in Baldwin County to lots 24 and 25 made long before the deed to Willard F. Sibley. There was also a deed to lot 22 made by Cyrus Sibley prior to 1849 either to a man named Gascoigne or to a man from whom Gascoigne bought. This deed was not put on record. However, both Gascoigne and those claiming under him went into possession during Cyrus Sibley's lifetime and with his full knowledge.

FIFTH: We had an examination made of the Probate Records of Baldwin County and did not find any deed from Cyrus Sibley to lot 22 though we find a complete and perfect chain of title from

1849 down and men in that chain were in possession of lot 22 long before the deed to Willard F. Sibley.

SIXTH: We absolutely do not admit that Cyrus Sibley did not deed lot 22 except to Willard F. Sibley, but because this deed was not recorded we have filed this bill.

SEVENTH: Yes. We made an investigation to find the heirs of Willard F. Sibley in order to file this bill intelligently and secured our information large^{ly} from Willard F. Sibley's son Cyrus who married a Montrose lady and for many years spent his summers or a part of them at her home about three blocks from lot 22. If there had been any real claim in the Sibley heirs Mr. Cyrus L. Sibley would be entitled to one-third but knowing that these lots had been sold many years prior to the Civil War, he not only made no claim but offered to give a quit-claim deed and went to considerable trouble in assisting us to get the names and addresses of the various heirs of Willard F. Sibley. We did not take a deed from him because it was cheaper to name him as a defendant. He not only has recognized the validity of my claim but has assisted us with information necessary to prepare the bill. I do not know anything about the intestacy of Willard F. or Robert S. Sibley and was not concerned about this.

EIGHTH: Mr. Cyrus L. Sibley told my solicitors that Clarence E. and Robert W. Sibley were sons of Willard F. Sibley and knowing him to be a responsible man I did not doubt this.

NINTH: On information I admit that Clarence and Robert Sibley are two of the eight children of Robert S. Sibley, deceased; that Willard F. Sibley had only three children of whom Robert Sibley was one, and that the said Robert Sibley would be entitled to one-third of Willard Sibley's estate if he had any, the same as Cyrus L. Sibley, who has recognized that he and the other heirs have no claim.

TENTH: These lots are not in the Isabella Campbell Grant but title to them passed out of the United States by patent

years ago.

ELEVENTH: These lots are not a part of the Campbell Grant but a United States patent issued during the original Cyrus Sibley's lifetime and recorded in Baldwin County.

TWELFTH: Lots 24 and 25 were intensely cultivated from long prior to the Civil War by my grandmother. This was from long prior to the time I was born. A very fine garden was on this tract. The pine trees that have grown up in late years have never been turpented. The possession that my father, W. P. Hutchison, had from the time he bought lot 22 consisted of having a new fence put around the property tight enough to keep out trespassing hogs and using it as a pasture for cattle and chickens and also as a driveway to get to the home on lot 23. This possession existed from long before he bought lot 22 and when it was owned by Mr. Coleman and when it was owned by the Martins, with whose consent and that of Mr. Coleman we used the place for a driveway, and after my father bought it it was refenced and used as a pasture up to the present time. Since about 1911 Mr. E. G. Rickarby, who bought our old home, has been in actual notorious and continuous possession of this lot by the express consent of my father, the only condition being that he would keep up the fences and not allow the place to be trespassed on. Mr. Rickarby has done this and ^{as} we did, drives through the place constantly and pastures his cattle thereon. When he is not at Montrose he has the place under the charge and control of a negro caretaker who lives on lot 23 within less than ten feet of the edge of this lot. Lots 24 and 25 were in the fenced and actual possession of my grandmother since many years prior to the Civil War and Mr. Rickarby has been looking after this too, though of late years he has not kept up the fences around these two lots.

THIRTEENTH: My father put up a tight wire fence between lots 21 and 22 within a few weeks after he bought it. This fence was built by T. O. Loftus and was kept up to the present time. Last year a woods fire burnt up one or two of the posts but the wires are still there. Mr. Rickarby did not straighten them up because they

connected with his place next door which he has recently had tightly fenced and he allowed his mule to go from lot 22 to 21 through this gap because he has no cultivation on the other place and there is a tight fence around it that keeps the stock within the two lots. There is very distinct evidence of this fence there today.

FOURTEENTH: I did not pay anyone to put up these fences but my father did. He paid Mr. Loftus but I do not presume took any voucher or receipt for this payment as it was a cash transaction as all of his arrangements were.

FIFTEENTH: Since Mr. Rickarby has been in possession he has repaired these fences a number of times and about three years ago tore down the old wire and replaced it with new. This was under his understanding with my father and mother. There was no correspondence about this as the understanding was verbal. The relations between the Rickarbys and my family being very close and friendly.

SIXTEENTH: As stated before, lots 24 and 25 have been in the Hutchison family under fence and used as a home since many years prior to the Civil War. When I state that my father, who died last year, was only eleven years old when his mother moved there, you can get some idea of the time of the possession. He was seventy-nine years old when he died.

SEVENTEENTH: I do not know anything about deeds to lots 21 and 23. I have had no occasion to examine these. I attach to this a chain of title to lot 22. Lots 24 and 25 passed out of the Sibleys in two deeds -- book and page of record I also give in the exhibit to this answer.

EIGHTEENTH: Yes, my father had a caretaker on all three of the lots -- first in the shape of a negro man who lived in a little cottage on lot 23 and cared for the whole four lots. The first was one Alex Taylor, later on Henry Brown. Subsequent to that a negro named William Wimberley lived on the place and he was there when Mr. Rickarby bought lot 23 and he stayed there many years.



The first two were employed by my father but I have no correspondence or record as to the amounts paid them.

NINETEENTH: I do not know that my father specifically authorized Mr. Rickarby to post signs on lot 22 but as he had told me that he had put that lot completely in his care and charge, I know that this was authorized by my father. He was, however, expressly requested to forbid trespass on the lots and he did so and the signs were put up to this end. I do not know the wording of these notices but know that they were put up. I saw these signs tacked up there when my father, mother and I visited the place three years ago.

TWENTIETH: I do not know that my father ever had lot 22 surveyed as there was no necessity for it. It was under fence when we bought it and we put a new fence where the old fences were.

TWENTY*FIRST: I am advised that any price offered for lot 22 is immaterial to the issues in this cause and I decline to answer accordingly.

TWENTY-SECOND: We do not claim title under the Campbell Grant.

TWENTY-THIRD: We did not lease any of these lots to any person but we did give Mr. Rickarby permission to use them for any purposes that he saw fit and he is still in possession for us under that permission with the full knowledge and consent of my mother and myself.

TWENTY-FOURTH: (The information given above is largely my personal knowledge but as to events happening before I was born I state from what was repeatedly told me by my parents. My answers are made by me personally but were prepared from information furnished by my mother who now lives in Mobile. I was born in the home on these lots but have been away from Mobile for a number of years. I now live at West Orange, New Jersey, but my place of

✓

business is in New York City. I was last in Montrose three years ago for several days but have been living away from the place for the last twenty years or more. The Mrs. Tracie Hutchison mentioned in the title is the widow of W. P. Hutchison and my mother.)

TWENTY-FIFTH: I did not know until my lawyer told me recently that there was a reservation for a highway on the beach end of these lots. My father has had this fenced in, however, farther back than I can remember. We claim adverse possession to this strip wherever it is against everybody except the State and have asserted this possession ever since we had the lots. Our possession of this right-of-way consists of having it fenced in as part of our enclosure and this fence is there today except that it was broken through by a storm in front of lot 22. The wire is broken in several panels of this fence but the fence is there and recently Mr. Rickarby, in order to keep his cattle in, put a second fence farther East just on the edge of the bluff instead of repairing the beach fence which he had done for a number of years prior to that time.

Mildred Hutchison

Subscribed and sworn to before me
this the 2 day of May, 1927.

Joseph H. Doyle
Notary Public, New York County, New York.
Clerk's No. 430 Register's No. 9334
Clerk's No. 441 Register's No. 9317

EXHIBIT "A":

CHAIN OF TITLE

TO

LOT TWENTY-TWO OF THE VILLAGE OF MONTROSE

IN RESPONSE TO INTERROGATORY SEVENTEEN:

United States

to

Cyrus Sibley

Patent

Dated October 10, 1840

Rec. D.B. 37 N.S. page 53

United States

to

Cyrus Sibley

Patent

Dated October 10, 1840

Rec. D. B. 31 N.S. page 678.

C. W. Gascoigne

to

James Martin

Warranty Deed

Dated July 3, 1849

Rec. Book E, page 521

James T. Martin

to

Josephine E. and Almira
A. Martin

Warranty Deed

Dated July 2, 1869

Rec. Book I, page 440

Josephine E. and Almira
A. Martin

to

Mary H. Stone

Warranty Deed

Dated December 8, 1881

Rec. Book N, page 482

Josephine E. and Almira
A. Martin

to

Mary H. Stone.

Correction Deed

Dated September 3, 1892

Rec. Book S, pages 210-11

Mary H. Stone and
husband

to

Phares Coleman

Warranty Deed
Dated September 1, 1892
Rec. Book S. page 212

Phares Coleman

to

W. P. Hutchison

Warranty deed
Dated March 5, 1901,
Rec. Deed Book 3 N. S. p. 470

Will of

W. P. Hutchison, deceased.

Rec. in Probate Records of
Mobile County, naming M. R.
Hutchison executor and trustee
without bond.

Estate in process of admin-
istration.

Lots 25 and 26 of Montrose were deeded by Cyrus Sibley and wife
October 10, 1851, to Henry Holmes by deed recorded in Book "F",
pages 181-2. Willard F. Sibley was one of the witnesses to this
deed. See also Deed Book "F" pages 92 and 178.

20
16

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

MILLER REESE HUTCHISON,
Executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Respondent.

COMPLAINANT'S ANSWERS TO
DEFENDANT'S INTERROGA-
TORIES.

*Filed May 23/1927
T. W. Reel
Register*

RICKARBY, BEEBE & COLEY,
SOLICITORS FOR COMPL'T

20

MILLER REESE HUTCHISON, as
executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendant.

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

Comes Complainant and shows to the Court that Defendants Clarence E. Sibley and Robert E. Sibley have failed to answer the interrogatories propounded to them by Complainant within sixty days from the time notice of said interrogatories was served upon their counsel of record.

WHEREFORE, Complainant now moves for a decree pro confesso against said defendants because of such failure.

Richard Reese Sibley
Solicitors for Complainant.

17
Hullimon
vs
Repley

Filed for 28/927
D. Williams
Requies

RECORDED

✓

Miller Reese Hutcheson, as Executor and Trustee,)
 vs. No. :-In the Circuit Court
 Cyrus L. Sibley, et al, defendants.) of Baldwin Co., Ala.
: Equity Side.

Answer of Clarence E. and Wesley Sibley.

Comes the defendant Clarence E. Sibley and Wesley Sibley and separately and severally answer the bill of complaint filed herein, as follows, not waiving their demurrers heretofore filed, but relying on the same.

In answer to paragraph one they say they have no personal knowledge of the statements made therein and deny the same and ask full proof.

In answer to paragraph two, they say they presume the persons mentioned are defendants as the complainant has made them so.

In answer to paragraph three, they say that they deny the statements made therein.

In answer to paragraph four, they say it is true that they have an interest in lands in Montrose, and in the land in controversy.

In answer to paragraph five, they know of no suit pending against them relative to lands in Montrose, Alabama, and have brought none.

In answer to paragraph six five they further say that they claim an interest in said lands as descendants of Willard F. Sibley, to whom a deed was made by Cyrus Sibley, his father. That Willard F. Sibley ~~is~~ had three children, and that they are children of one of these, Robert Sibley, deceased. That the said Robert represented one third and left eight children. Therefore these defendants are entitled to a ~~xxx sixth~~ 2/8 interest. If mistaken in this, they claim an interest as the great-grandchildren of Cyrus Sibley, deceased.

And now having fully answered, they are that they be dismissed with costs.

James Bowen Cleveland
 Attorney for defendants Clarence E. and Wesley R. Sibley.

RECEIVED
FEBRUARY 24 1927

RECORDED

Received official
February 24 1927
D. W. Dickinson
Register

13
Halaberson
D. W.
Sibley

THE CHIEF OF BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
WASHINGTON, D. C.

RECEIVED
FEBRUARY 24 1927
D. W. Dickinson
Register

Hutchinson, Complainant,)

vs.

:- In the Circuit Court of Baldwin Co., Ala

Cyrus L. Sibley, et al, Dft.)

Exceptions to Ints.

Comes the defendants Clarence M. Sibley and Robert Wesley Sibley and except to the interrogatories filed to them by the complainant, and for ground of exception say:

1st. That they are premature.

2nd. That they are addressed to two of the defendants jointly, and one may know things in response which the other does not and they cannot, therefore, answer jointly.

3rd. They ~~also~~ except to question two because the complainant should know what land he is suing for, and inform defendants, not have defendants inform him.

4th. They except to question four for the same reason.

5. They except to questions 5, 6, 7 and 8 because the information desired should be within the personal knowledge of complainant.

6. They except to nine, ~~and~~ ¹¹ ten for the same reason.

7. They except to question nineteen because what Cyrus L. Sibley knows or has done is a matter for him to testify to, not these defendants.

8. They except to question 13 for the same reason and because ^{it is} immaterial to defendants rights whether anyone else disputed complainant's claims, or those of the "Hutchinson's" or not, and because it does not say what Hutchinsons are referred to.

They except to all the questions seperately as immaterial, incompetent and irrelevant, not calling for material testimony in this case.

Raymond Sibley
Attorney for C.E. and R.W.
Sibley.

OFFICE OF THE DISTRICT ATTORNEY
STATE OF CALIFORNIA

IN RE: THE ESTATE OF [Name]

THE DISTRICT COURT OF THE COUNTY OF [County]

DOES hereby certify that the following is a true and correct copy of the original as the same appears in the files of the court.

Witness my hand and the seal of the court at the City of [City] this [Date] day of [Month] 19[Year].

Hutchings
Sup. Ct.

Filed Dec 14, 1926
The Recorder
Registry

RECORDED

10

... that the ...

... the ...

... the ...

... the ...

... the ...

... the ...

... the ...

... the ...

... the ...

... the ...

... the ...

M. R. HUTCHISON, EXECUTOR and TRUSTEE,)
COMPLAINANT,)
vs.) -In the Circuit Court of Baldwin
Co., Ala.
CYRUS L. SIBLEY, ET AL., DEFENDANT.)

Additional Demurrers.

Comes the defendants C.E. Sibley and Robert Wesley Sibley and further demur to the bill of complaint because of indefinite description of the land the title to which is sought to be cleared, in as much as *it* ^{refers to} certain lots in ^a certain block in Montrose, Alabama as per Yuille's map, but it does not state that the map is of record, or where it can be found, or referred to, nor is the said map, or a copy thereof, made an exhibit to the bill of complaint.

George Bowen Cleveland
Attorney for defendants C.E. Sibley
and Robert Wesley Sibley.

*Filed
for
recording
this
15th
day
of
April
1906*

MILLER REESE HUTCHISON,
Executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendants.

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

Comes LOUIS SIBLEY, RICHARD SIBLEY, WILLARD SIBLEY,
LESLIE SIBLEY, HAROLD SIBLEY, JACK SIBLEY, CLARA SIBLEY, BONNIE
SIBLEY, EMMETT SIBLEY, LOMAR SIBLEY, RUTH SIBLEY and ROBERT LEE
SIBLEY, infant defendants in the above entitled cause, by
W H Hawkins, their guardian ad litem, and for an-
swer to the bill of complaint, says:

FIRST: Said defendants deny all of the allegations
contained in said bill and demand strict proof thereof.

W H Hawkins
Guardian ad Litem for above
named minors.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

HUTCHISON,

VS

SIBLEY

ANSWER OF GUARDIAN AD-LITEM

*Filed Nov 16 / 1926
J W Richardson
Register*

RECORDED

✓

MILLER REESE HUTCHISON, as executor
of and Trustee under the will of Wil-
liam P. Hutchison, deceased,

-vs-

CYRUS L. SIBLEY, et al.

STATE OF ALABAMA)
COUNTY OF MOBILE)

Before me, the undersigned Notary, personally appeared this day Elliott G. Rickarby who being sworn says that he is of counsel for the complainant in the above cause; that since said bill was filed he has learned that Robert L. Sibley, one of the defendants, a minor over the age of twenty years, is a non-resident of the State of Alabama, and now a private in the service of the U. S. Army at Fort D. A. Russell, Wyoming. That he has a resident guardian in the State of Alabama in Mrs. E. J. Seifert residing in the City of Mobile. Wherefore he prays that summons be had upon Robert L. Sibley by registered mail and by personal service upon Mrs. E. J. Seifert as guardian. That affiant makes this affidavit in lieu of complainant who is a non-resident of the State of Alabama and not personally acquainted with the facts.

Elliott G. Rickarby

Subscribed and sworn to before me
this the eleventh day of September,
Nineteen Hundred and Twenty-six.

Frances E. Stevens
Notary Public, Mobile County, Alabama.

Miller Reese
Hutchinson
VS

Cyrus L. Ebley

Filed
Sept 12/92
T. W. Rice
Register

RECORDED

✓

Miller Reese Hutchison, Ex. & Co.)

Complainant,

vs.

: - In the Circuit Court of Baldwin Co., Ala.

Cyrus L. Sibley, et al, Dfts.)

.....:

Comes the defendants Clarence E. and W.R. Sibley and move to dismiss the bill of complaint because the complainant has failed to answer fully without evasion the questions propounded to him by them within the time prescribed by the Register.

They say he has evaded questions and failed to answer as follows, to wit: -

In answer to interrogatory one he fails to specify what right specifically he says they claimed and from what source they he learned of it.

He failed to answer interrogatory seven and say whether he admitted that Willard F. Sibley and Robert S. Sibley died intestate.

Also as to whether he learned by investigation that the defendants mentioned are the heirs at law of Willard F. Sibley, deceased.

Int. 8. He was asked whether or not he admitted that the defendants Clarence E. and Robert W. Sibley, (W.R. Sibley), were the heirs at law of Willard F. Sibley and children of Willard F. Sibley's son, Robert S. Sibley. He evaded admitting or denying this, by saying that Cyrus L. Sibley said they were and he did not doubt it because he believed Cyrus L. Sibley to be a responsible man, thus evading admitting or denying it and putting the interrogators to proof.

Int. 9. He evades answering whether he admits or denies that the two defendants filing these interrogatories would be entitled to an eighth of the one third of ~~W.R.~~ Willard F. Sibley, son of Cyrus Sibley.

Int. 10. He does not answer by what instrument, if any, the title passed out of the government and when.

Int. 12. He fails to say whether the land covered by lot 22 was susceptible to cultivation, whether the trees on it were ever turpentine, whether it was ever ~~surpentine~~ cultivated, fails to give dates of cultivation of any of the three lots, and when and in what way, and by whom, and during what periods possession was had of the three lots, etc.

Int. 15. He fails to state whether he or his father ever gave specific directions to E.G. Rickarby to fence, or repair, the fence to any part of the property.

Int. 16. He fails to give dates lots 24 and 25 were used as a home, etc.

Int. 17. He fails to state whether he had the

Probate records. He fails to give the chain of title to lots 24 and 25. He fails to give the description in the deeds in the chain of title to lot 22.

Int. 18. He fails to give the periods-refers to caretakers of lot 23.

Int. 19. 20. Does not state whether he had lot 22 surveyed, or the other two.

Int. 21. He refuses to answer this.

Int. 22. He stated that the answers were prepared from information received from his mother who lived in Mobile, but fails to attach the instructions and information sent him by her, nor say directly whether it was sent by her, or by whom it was sent.

Int. 23. (25). He does not state whether he claims title to the 100 ft. reservation for a highway, under a written instrument, or not, or attach copies.

George Bowen Cleveland,
Att. for C. E. W. Sibley

MILLER REESE HUTCHISON, as
Executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Respondents.

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

At the hearing of this cause the following note of evidence was taken, namely:

For Complainant:

1: Depositions of Mrs. Tracy E. Hutchison, Thomas
O. Loftus and Elliott G. Rickarby.

2: Decree pro confesso.

3: Certificate of Thomas W. Richerson, Esq.

For Respondents:


Register.

~~20~~ IN EQUITY 16
~~16~~ IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

MILLER REESE HUTCHISON, as
executor, etc.,
Complainant,

-VS-

CYRUS L. SIBLEY, et al,
Respondents.

NOTE OF EVIDENCE.

Filed July 20/1917
T. W. Brinson
Register

RECORDED

✓

MILLER REESE HUTCHISON, as
executor, etc,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendant.

IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Comes the Complainant and for reply to the exceptions filed by defendants Clarence E. Sibley and Robert E. Sibley to the interrogatories propounded by Complainant to said defendants, says:

FIRST: To the first exception that said interrogatories are premature, that Code Section 7764 does not limit the time of filing interrogatories to any particular stage of litigation.

SECOND: To the second objection Complainant shows that the interrogatories are not addressed to the defendants jointly and even if so do not limit the ability of each defendant to answer as to facts in his own knowledge.

THIRD: As to the remaining exceptions Code Section 7772 as interpreted by the opinion in the case of ^{L. v. R. R.} ~~Blank~~ vs. ^{Hall} ~~Blank~~, 91 Ala. 112, holds that with the one exception of subjecting defendant to criminal prosecution, all pertinent questions must be answered. We submit that each interrogatory is pertinent to the issues in this cause and should be answered:

Interrogatories Two to Four inclusive are intended to test the knowledge of defendants as to the condition and identity of the land in suit.

Interrogatories Five to Eight inclusive, and interrogatory Eleven, are intended to elicit the fact that said lands have been under fence and in the active notorious possession of Complainant and his agents for the past twenty-five years.

Interrogatories Nine, Ten and Fourteen seek to disclose that the notorious possession of Complainant's parents, the former owners of the property, has never been disputed by any of the Sibley heirs, or their title questioned in any way.

Interrogatory Twelve seeks to develop the fact that an uncle of defendants interested to a far greater degree has known and recognized the claim of Complainant and his predecessors in title, with daily knowledge and without objection.

Complainant respectfully submits that all interrogatories should be answered fully, defendants having the right to reserve proper objection to the admission of any reply by suitable exception and by objection when said interrogatories are offered in evidence.

Riislarby Reese Levey

Solicitors for Complainant.

I hereby certify that a copy of the foregoing exceptions was mailed to George B. Cleveland, Esq., December 28th, 1926.

Clifford S. Riislarby

~~IN~~ IN EQUITY.

M. R. HUTCHISON,
Compt.

VS

CYRUS L. SIBLEY et al
Defts.

REPLY TO DEFENDANTS' EXCEPTIONS
TO COMPLAINANT'S INTERROGATORIES.

*Filed Dec 27/92
T. W. Beebe
Regisr*

RICKARBY, BEEBE & COLEY.
Solicitors.

✓

Miller Reese Hutcheson, Complainant,)
Executor and Trustee,

vs.

Cyrus L. Sibley, et al, Defendants.

:-Circuit Court Baldwin Co.,
In Equity.

Answers to Interrogatories Propounded to

Clarence E. Sibley and Robert Westley Sibley by Complainant.

1. In answer to int. one, they say: that they are grandchildren of Willard F. Sibley, deceased, who was a son of Cyrus Sibley. We claim our divisible interest as children of a son of Willard F. Sibley, deceased, whose name was Robert Sibley. There were three children of Willard F. Sibley. Cyrus L. Sibley is one, now living. Another, Willard, is dead, but left heirs. We claim 2/8 of one third, as Robert Sibley left eight children. In case the proof should show that Cyrus Sibley did not convey to Willard F. Sibley, we claim an interest as great-grandchildren of Cyrus Sibley.
2. In answer to int. 2. they say: We have no other description of the land which the complainant seeks to have cleared than that given by the complainant in his bill of complaint. He refers to three lots, as per a certain map made by Yuille, yet gives no place where the map is recorded or can be examined, and the son of the said Yuille has stated to our attorney that it is not ~~in~~ of record.
3. ~~Robert~~ Wesley Sibley says in answer to int. 3 that he has not seen any land in Montrose, never having been there. Clarence E. Sibley says he was at Montrose ~~near~~ and his uncle Willard Sibley pointed to a piece of land and said by rights that piece of land belongs to our grandfathers' heirs, but he cannot now identify the land. He does not know whether this is the land sought to be described in complainant's bill or not. (Cyrus Sibley)
4. In answer to int. four they refer to the answer to int. 3 for answer.
5. In answer to int. five they refer to the answer to int. 3 for answer.
6. In answer to int. six they refer to the answer to int. 3 for answer.
7. In answer to int. 7, as well as interrogatories 4, 5 and 6, that they have no personal knowledge of the matters therein mentioned.
8. In answer to int. 8 they say they have no personal knowledge of the matters inquired about.
9. In answer to interrogatories 9, 10, 11, they say that they have no personal knowledge of the matter referred to therein.
10. In answer to int. 12, Wesley Sibley says he has no knowledge of the matters therein inquired about. Clarence E. Sibley has no knowledge, personally, of the matters inquired about therein.
11. Wesley Sibley says he has no personal information relative to the matters inquired about in int. 13. Clarence E. Sibley says that on the occasion that Willard Sibley pointed out some piece of land as by rights belonging to the heirs- he said something about fighting for it if he had the money to do so with.
12. In reply to int. 14, they say that their attorney when looking up the Sibley lands at their request in the Probate Court of Baldwin Co., Ala., found a deed on record from Cyrus Sibley to Willard F. Sibley conveying all lots then unsold north of Graham St. in Montrose. That this was not long before this suit was filed, possibly a month or so. This is in deed book No. 17 p. 564.
13. They are also informed that Cyrus Sibley owned the land where Montrose is situated. They refer to the Probate Court records, where copies of all deeds may be found, and copies obtained by paying the fees required by law to be paid.

Further answering they say that they have never lived in Baldwin Co. and live in Mobile county, and are largely dependent on others for information relative to lands in which they are interested through inheritance from their father, and as descendants of Cyrus, Willard F. and Robert Sibley, and are now seeking information about the same.

Wesley R. Sibley

STATE OF ALABAMA)
)
COUNTY OF MOBILE)

Before me, the undersigned Notary, personally appeared this day Elliott G. Rickarby who says that he is of counsel for Complainant in the above entitled cause; that Complainant is now residing in the City of New York and is not accessible for the purpose of making this affidavit; that affiant in his behalf states that the information sought to be elicited by the foregoing interrogatories, if true, will be material evidence for Complainant.

Elliott G. Rickarby

Subscribed and sworn to before me
this the 13th day of November, 1926.

Rebecca Freedland
Notary Public, Mobile County, Alabama.

Original
IN THE CIRCUIT COURT OF
BAIDWIN COUNTY, ALABAMA.

18

M. R. HUTCHISON, Executor,
etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendants.

INTERROGATORIES PROPOUNDED
BY COMPLAINANT TO RESPON-
DENTS CLARENCE E. SIBLEY
and ROBERT W. SIBLEY.

Filed Nov 16, 1924
T. W. Rice
Register

Serve Copy on
S. B. Cleveland Jr (Atty)

Mobile Ala

23X

11/22/26

RICKARBY, BEEBE & COLEY,
Solicitors for Complainant

✓

Received 22 Day of Jan 19 24
and on 23 Day of Jan 19 24
I served Copy of the within
on S. B. Cleveland Jr
BY SERVICE ON
PAT BYRNE SLEIGH
BY *[Signature]* D.S.

MILLER REESE HUTCHISON,
Executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendants.

IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

INTERROGATORIES PROPOUNDED BY COMPLAINANT TO DEFENDANTS CLARENCE
E. SIBLEY and ROBERT WESTLEY SIBLEY:

1: Please state your relationship to the late Willard F. Sibley, and also what interest, if any, you claim in the land described in the bill.

2: State just where this land is, giving its boundaries, and general description of the same.

3: When did you last see it and how many times have you seen it in the last twenty years?

4: Do you know this land from your own personal observation or only from what has been told you?

5: If you say you know it by personal inspection, state whether or not it is under fence, and, if so, how long it has been under fence.

6: If you are acquainted with the land and its condition for the past twenty years, please state if it is not a fact that this land has been under fence since 1901 and ⁱⁿ the active personal possession of the late W. P. Hutchison and his wife, Mrs. Tracy E. Hutchison, during the time that they lived in the house adjoining these lots between 1901 to about 1912.

7: Is it not a fact that Mr. and Mrs. Hutchison lived on the ^x property of which these lots are a part during the summer months and for a time during the winter, and that when not present the property was left in charge of a caretaker?

8: Is it also not a fact that from 1911 up to the present day this property has been in the care and custody of Mr. E. G. Rickarby who owns the house formerly owned by the Hutchison's and who has been actively using this land, driving through it and pasturing his cow thereon, and that when Mr. Rickarby and his family do not occupy the premises themselves that they left a caretaker on the premises whose duty it was, and who did warn away all trespassers from these lands as well as those owned by Mr. Rickarby?

9: State what acts of possession you or those under whom you claim have asserted to said lands at any time since 1865.

10: Were any of these acts brought to the notice and attention of Mr. and Mrs. Hutchison, their caretaker, Mr. Rickarby, or his caretaker, and, if so, give times, places and nature of such notice?

11: Is it not a fact that the ownership of the Hutchisons to this land has never been questioned or disputed for the past twenty-five years, and that Mr. Hutchison's possession either personally, by his caretaker, or by Mr. Rickarby in his behalf, has been open, notorious, continuous and undisputed for this period of time?

12: Is it not a fact that your Uncle, Mr. Cyrus L. Sibley, has a home at Montrose, a short distance from these lands, and has personally known of the Hutchisons' possession for the last twenty-five years, being through the summer months thrown in almost daily contact with the Hutchisons and knowing that they lived on and claimed the property?

13: Has he or any other of the Sibleys ever sought or attempted to dispute the Hutchisons' possession to your knowledge?

14: Please set out in full all grounds upon which you claim an interest in the lands in question, attaching copies of all documents upon which you rely.

Rickarby & Sibley
Solicitors for Complainant.

LAW OFFICES
RICKARBY, BEEBE & COLEY
903-4-5 VAN ANTWERP BUILDING
MOBILE, ALA.

E.G. RICKARBY
W.C. BEEBE
D.R. COLEY, JR.
H.M. HALL

September 28, 1926.

T. W. Richerson, Esq.,
Register Circuit Court,
Bay Minette, Alabama.

Dear Sir:

HUTCHISON vs. SIBLEY: In making disbursement of costs in this case please bear in mind that the Sheriff of Mobile County by papers received direct from your office has made service of eleven subpoenas for which he is entitled to \$5.50. We call your attention to this in order that these fees may not be paid to the Sheriff of Baldwin County.

We presume that returns will reach you from the office of the Mobile Sheriff about the same time as this.

Yours very truly,

RICKARBY, BEEBE & COLEY,

By *Rickarby*

R:S

c.c. to Capt. Leon Schwarz.

LAW OFFICES
RICKARBY, BEEBE & COLEY
903-4-5 VAN ANTWERP BUILDING
MOBILE, ALA.

E.G. RICKARBY
W.C. BEEBE
D.R. COLEY, JR.
H.M. HALL

August 20, 1926.

T. W. Richerson, Esq.,
Register, Circuit Court,
Bay Minette, Alabama.

Dear Sir:

With this we hand you a bill to quiet title brought by Mr. M. E. Hutchison against the heirs of Cyrus L. Sibley, et al, more than half of whom are minors.

The subpoenas for the adult defendants living in this County, and for the minors down here, you might send direct to us so that we can put the proper addresses on them before delivering them to the Sheriff. The remainder of the defendants live at Canoe with the exception of two at the Orphans Home in Talladega County, and they are under fourteen. We would be glad if you would get these subpoenas issued as soon as possible as the sooner this title is cleared up the sooner there will be some money to pay a fairly sizable cost bill to a hardworking and more or less deserving Register, and a small modicum to his friends.

Yours very truly,

RICKARBY, BEEBE & COLEY,

By *Richard*

R:S

Enc.

LAW OFFICES
RICKARBY, BEEBE & COLEY
903-4-5 VAN ANTWERP BUILDING
MOBILE, ALA.

E.G. RICKARBY
W.C. BEEBE
D.R. COLEY, JR.
H.M. HALL

July 23, 1927.

T. W. Richerson, Esq.,
Bay Minette, Alabama.

Dear Tom:

HUTCHISON vs. SIBLEY: With this I am sending you decree signed by Judge Leigh last Thursday and copy of letter written him containing the decree which he asked me to write up awaiting submission of the case and overruling respondents' motion to dismiss. This decree should be filed as of June 10th, thereby straightening out the record and the only matter about which Judge Leigh had any question. You will remember that June 10th was the date that he was in Bay Minette in the habeas corpus matter and I did not get up there in time to see him before he left.

I also send the remaining papers of the Court file under separate cover, and two copies of the decree -- one to be filed in the Probate Court, one to be sent to Mr. Cleveland under the Judge's instructions and one to be returned to me when certified.

Yours very truly,

William B. Rickarby

R:S

Enc.

LAW OFFICES
RICKARBY, BEEBE & COLEY
903-4-5 VAN ANTWERP BUILDING
MOBILE, ALA.

E.G. RICKARBY
W.C. BEEBE
D.R. COLEY, JR.
H.M. HALL

September 11, 1926.

Thomas W. Richerson, Esq.,
Bay Minette, Alabama.

Dear Sir:

HUTCHISON vs. SIBLEY: We have just learned that Robert L. Sibley, one of the defendants named, is a non-resident. ~~Being a minor, notice will have to be served upon him and upon his guardian, Mrs. E. J. Seifert of Mobile, and make out subpoena for the latter and send it to us in Mobile and get service upon "Private Robert L. Sibley, Troop C, 13th Calvary, Fort D. A. Russell, Wyoming."~~ ^{by registered mail}

As we recollect, you have an extra copy of the bill which can be used for this purpose. If not, we will be glad to have one made for you as we understand that you are rather busy at this period.

If you will expedite these matters your efforts in this will be cordially appreciated by

Yours very truly,

RICKARBY, BEEBE & COLEY,

By *Rickarby*

R:S

MILLER REESE HUTCHISON, as
executor, etc.,
Complainant,

-VS-

CYRUS L. SIBLEY, et al,
Defendant.

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

Comes Complainant and shows to the Court that Defendants Clarence E. Sibley and Robert E. Sibley have failed to answer the interrogatories propounded to them by Complainant within sixty days from the time notice of said interrogatories was served upon their counsel of record.

WHEREFORE, Complainant now moves for a decree pro confesso against said defendants because of such failure.

Richard B. Sibley
Solicitors for Complainant.

In A. Hutchison
Compr:

In Equity
at Bay Minette.

Cyrus L. Sibley et al
vs
def's

This cause coming on to be heard upon the exceptions of defendants Clarence C. Sibley and Robert W. Sibley to interrogatories propounded to them by complainant and same having been duly considered and the Court being of the opinion that same are not well taken:

It is therefore ordered, adjudged and decreed that def said Defendants' several exceptions to said interrogatories be and the same are hereby overruled.

The said Defendants are hereby ordered to fully answer said interrogatories within fifteen (15) days from this date.

In Term Court at Bay Minette this fourteenth day of February 1927.

John D. Leigh
Judge

~~1/2~~

216

Hutchinson

vs.

Sibley et al.

Decree overruling exceptions
to interrogatories.

Filed in open court July 14, 1927.

J. W. Rechner
Registrar.

~~Rechner~~

~~Rechner~~

✓

MILLER REESE HUTCHISON,
as Executor, etc Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Respondents.

IN EQUITY

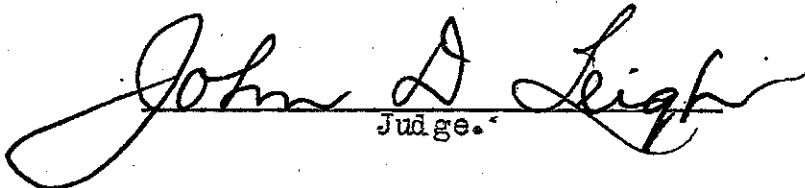
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

This cause coming on to be heard upon the motion of respondents Clarence E. and Robert W. Sibley to dismiss the bill for failure of complainant to fully answer interrogatories propounded to him, and upon complainant's motion for an order of submission, and same being duly considered;

IT IS THEREFORE ADJUDGED and DECREED that the motion of respondents Clarence E. and Robert W. Sibley to dismiss the bill be and the same is hereby dismissed.

IT IS FURTHER ORDERED that said cause be now submitted for decree but that decision thereon be reserved until July 21, 1927, within which time respondents may file such legal evidence as they deem proper, same to be considered by the Court in rendering its decree.

DONE at Bay Minette this the tenth day of June, Nineteen Hundred and Twenty-seven.


Judge.

~~21/2~~ IN EQUITY *M*
18 IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

MILLER REESE HUTCHISON, as
Executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Respondents.

ORDER OVERRULING MOTION TO
DISMISS and FOR SUBMISSION.

*Received in Office of Register
And Filed July 30th 1927
T. W. Dickerson
Register*

RECORDED

✓

Handwritten signature or scribble on the right side of the page.

MILLER REESE HUTCHISON,
Executor, et al.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al.,
Respondents.

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

This cause coming on to be heard upon the demurrers of the Respondents Clarence E. Sibley and Robert Wesley Sibley to the bill submitted, and same having been duly considered, and upon such consideration the Court being of the opinion that same are not well taken:

It is therefore ORDERED, ADJUDGED and DECREED that Respondents' several demurrers to the bill be and the same are hereby overruled.

It is further ordered that Respondents Clarence Sibley and Robert Wesley Sibley be allowed ten days from the filing of this decree in which to file answer to the bill.

Ordered and decreed this 1st
~~In Term Time at Bay Minette this third day of December,~~

1926

2nd January 1927

Judge.

019

Witcham,

vs.

Sibley, et al

Declar on ruling

Dennison

Extra of Supreme
Sessions of
Court - Dec 1878
8577 - 8578

MILLER REESE HUTCHISON,
executor, etc.
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendant.

IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

STATE OF ALABAMA)

COUNTY OF MOBILE)

Before me, the undersigned Notary, personally appeared this day Elliott G. Rickarby, who, being sworn, says that he is of counsel for Complainant in the above styled cause; that he makes this affidavit in lieu of Complainant, who is now a non-resident of the State of Alabama, and not personally acquainted with the facts. That affiant is reliably informed and upon such information states that of the defendants named in the bill heretofore filed in this cause, Louis Sibley, Richard Sibley and Willard Sibley are minors over the age of fourteen years residing with their mother, Mattie Sibley, at Canoe, Alabama. That Leslie Sibley and Harold Sibley are minors over the age of fourteen years, both of whose parents are dead. That Robert Lee Sibley, Jack Sibley, Clara Sibley and Bonnie Sibley are minors under the age of fourteen residing with their mother, Mattie Sibley, at Canoe, Alabama. That Emmett Sibley and Lomers Sibley are minors under the age of fourteen, both of whose parents are dead, residing at the Presbyterian Orphans Home at Talladega, Alabama, in the care and custody of the Matron of said Home. That Ruth Sibley, a minor under the age of fourteen, both of whose parents are dead, resides with her brother Claud Sibley at 505 South Hamilton Street in the City of Mobile, and that this affidavit is made to indicate the mode of service of process required because of the minority of the named defendants.

Subscribed and sworn to before me
this the 21st day of August, 1926.

James C. Stevens

Notary Public, Mobile county, Alabama.

Elliott G. Rickarby

IN REPLY

IN THE CIRCUIT COURT OF

BAWDWIN COUNTY, ALABAMA.

MILLER REESE HUTCHESON,

executor, etc.,

Complainant,

- vs -

CYRUS L. SIBLEY,

Defendant.

APPEAL AS TO MINORITY
OF CERTAIN OF DEFENDANT'S

Filed August 1926
W. H. Williams
Register

RECORDED

RICKARBY, BEBBE & COLLEY,
Solicitors for Complainant

MILLER REESE HUTCHISON,
Executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Respondents.

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

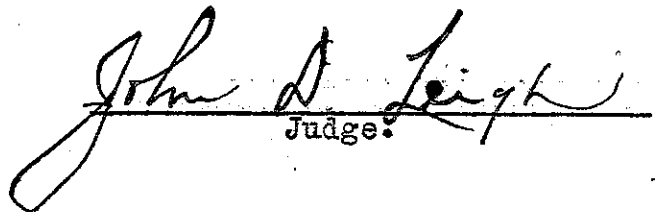
This cause coming on to be heard upon the demurrers of the Respondents Clarence E. Sibley and Robert Wesley Sibley to the bill submitted, and same having been duly considered, and upon such consideration the Court being of the opinion that same are not well taken:

It is therefore ORDERED, ADJUDGED and DECREED that ^{all of} Respondents' several demurrers to the bill be and the same are hereby overruled.

It is further ordered that Respondents Clarence Sibley and Robert Wesley Sibley be allowed ten days from the filing of this decree in which to file answer to the bill.

In Term Time at Bay Minette this ^{14th} ~~third~~ day of ^{February} ~~December~~,

1926/.


Judge.

~~75~~ M ~~17/2~~

Hutchinson

Sibley et al

decreo amounting demerits

Filed in open court July 14/1927

T. W. Rice

Register

RECORDED

✓

BALDWIN

The State of Alabama, ~~Mobile~~ County

MILLER REESE HUTCHISON, executor, et al,	} Complainants
No. vs.	
CYRUS L. SIBLEY, et al	} Defendant

BALDWIN
Circuit Court of ~~Mobile~~ County

IN EQUITY.

The Complainants

requests the oral examination of the following named witnesses

on their behalf, viz.;

Mrs. Annie M. Randall,
Thomas O. Loftus,
Mrs. Tracey E. Hutchison
E. G. Rickarby.

The first two of

said witnesses reside in the County of Baldwin and the two last witnesses reside in the City of Mobile.

State of Alabama.

Frances E. Stevens, who resides in Mobile, Alabama, is

~~not a resident~~

is suggested as a suitable person to be appointed Commissioner to take deposition of said

witnesses on such oral examination

Richard B. B. B. B.

Solicitor for Complainant.

14

No.

Bellevue
Circuit Court of Mobile County

Mobile, Alabama

IN EQUITY

Mr. R. Hutchinson et al.

VS.

Clarence E. Sibley et al.

DEMAND FOR ORAL EXAMINATION.

Filed

February 28th 1927

J. P. McClinton

Register.

✓

I hereby certify that on February 26th, 1927, a copy of the foregoing application for oral examination was sent to George B. Cleveland, Esq., Solicitor for respondents Clarence E. Sibley and Wesley Sibley, addressed to Cleveland at his Post Office address, N. W. corner St. Francis Street and Joachim, Mobile, Alabama.

George B. Cleveland
Of Counsel for Complainant.

Notice of the foregoing application received February 28th, 1927.

W. N. Hawkins
Guardian ad litem for the Minor Defendants.

MILLER REESE HUTCHISON,
Executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendants.

IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

COMPLAINANT'S BRIEF IN ANSWER TO RESPONDENTS' MOTION TO DISMISS
BILL FOR FAILURE TO ANSWER INTERROGATORIES:

The Complainant says that Respondents' objections to his answers to interrogatories propounded to him are not well taken, and for specific reply to each objection, says:

OBJECTION TO ANSWER TO FIRST INTERROGATORY: Complainant is not called on to state the nature of adverse claims to his title. The purpose of the bill is to require claimants to state their claims, if any there be. In fact, in the answer to the interrogatory complainant states that they have no valid claim.

TO ANSWER TO SEVENTH INTERROGATORY: He says that he does not admit the intestacy of W. F. and R. S. Sibley because he does not know. He answers what he thinks to be the facts in the answer to the next interrogatory.

TO ANSWER TO EIGHTH INTERROGATORY: In this Complainant gives both the source and extent of his information.

TO ANSWER TO NINTH INTERROGATORY: Each question is here answered categorically and almost in the terms of the question. If Complainant made any mistake it was due to his belief that Respondents could work a calculation in simple fractions.

TO ANSWER TO TENTH INTERROGATORY: Complainant in exact legal language states that title passed out of the United States by patent. He has a right to presume that Respondents' counsel knows what a patent is. He also sets out the dates of the patents in the chain of title.

TO ANSWER TO TWELFTH INTERROGATORY: Every question is answered except as to whether land is susceptible to cultivation and covers this by stating that Lot Twenty-two was always used as a pasture.

TO ANSWER TO FIFTEENTH INTERROGATORY: This question is fully answered.

TO ANSWER TO SIXTEENTH INTERROGATORY: This does not give exact dates but gives data from which date can readily be approximated.

TO ANSWER TO SEVENTEENTH INTERROGATORY: Complainant gives place of record of deeds by which title to Lots 24 and 25 passed out of the Sibleys. Further history of these lots is irrelevant and immaterial. He states that the description in chain of title to the third lot is as "Lot 22."

TO ANSWERS TO EIGHTEENTH INTERROGATORY: This information is given to the best of complainant's knowledge and states that caretakers have always been on the lots during his father's ownership beginning prior to Complainant's birth.

TO ANSWERS TO TWENTIETH INTERROGATORY: Complainant answers specifically as to Lot 22. Cannot answer as to the others which were bought many years before his birth.

TO ANSWER TO TWENTY-FIRST INTERROGATORY: Complainant by advice of counsel refuses to answer this interrogatory as irrelevant and impertinent by authority of case of "Montgomery L & T. Co. vs. Harris, 197 Ala. p. 358."

TO ANSWER TO TWENTY-FOURTH INTERROGATORY: Complainant has answered this fully, stating that his answers are made from personal knowledge except as to those things before his birth and of ten told him by his mother, who has also paid him a visit since this litigation started and with whom he discussed the matter thoroughly.

TO ANSWER TO TWENTY-FIFTH INTERROGATORY: Complainant has fully stated the nature of his claim to the road reservation nor does the question call for a more specific answer.

In conclusion, Complainant submits that the purpose of interrogatories addressed by one party to the other is to secure facts known to the party addressed to enable the interrogator to better prepare his case or defense, and not to compel the party addressed to make specific investigations as to matters known best to the interrogator. Further, that the spirit of the statute is complied with even where a specific question is not answered directly if the inquired information is given elsewhere in answers to other questions.

We respectfully submit that Complainant has endeavored to fully and frankly answer all pertinent questions addressed to him and the fullness of his answers stand favorable comparison to the answers made by respondents to inquiries addressed to them, to which the attention of the Court is hereby directed.

Respectfully submitted,

Risley Burke Kelley
Solicitors for Complainant,

The State of Alabama, }
Baldwin County.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To any Sheriff of the State of Alabama--GREETING :

WE COMMAND YOU, That you summon Robert L. Sibley, U.S. Army

Fort D. Russell, Wyoming,

of _____ County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by Miller Reese Hutchison, executor of and Trustee of the
under the will of William P. Hutchison, deceased.

against said _____

Robert L. Sibley,

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 14th day of

Sept 1926

T. W. Richerson Register.

N. B.— Any party defendant is entitled to a copy of the bill upon application to the Register.

SERVE ON _____
Circuit Court of Baldwin County
In Equity.

No. _____

SUMMONS

vs.

Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA,
BALDWIN COUNTY.

Received in office this _____

day of _____ 192_____

Sheriff.

Executed this _____ day of

_____ 192_____

by leaving a copy of the within Summons with

Defendant.

Sheriff.

By _____
Deputy Sheriff.

*Copy of Bill & Copy
of Summons Registered
Robert L. Ribley
Fort Da
Russell Wyoming
Sept 14th 1926
J. W. Williams
Register*

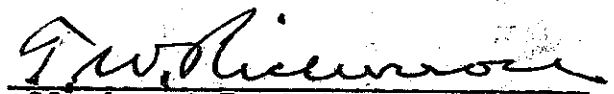
MILLER REESE HUTCHISON, as
Executor, etc,
Complainant,
-vs-
CYRUS L. SIBLEY, et al,
Defendants.

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

I, Thomas W. Richerson, Clerk of the Circuit Court and Register in Equity, hereby certify that there is not pending on either side of the Circuit Court of Baldwin County any suit to enforce or test the validity of complainant's title to Lots Twenty-two, Twenty-four and Twenty-five of the Village of Montrose.

I further certify that I have made inquiry of the Clerk of the Probate Court of Baldwin County and find that there is no proceeding of any kind of that Court affecting the title to lands in any way.

IN WITNESS WHEREOF I hereunto set my hand and official seal on this the twelfth day of July, 1927.


Clerk and Register Circuit
Court Baldwin County, Alabama.

15
~~17~~ IN EQUITY
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

MILLER REESE HUTCHISON,
Executor, etc. Complainant,

vs

CYRUS L. SIBLEY, et al,
Defendant.

CERTIFICATE OF CLERK
AND REGISTER.

Filed July 12/1927
D. M. McKeown
Register

RECORDED

✓

MILLER REESE HUTCHISON, as
executor, etc.,

Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Respondents.

IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

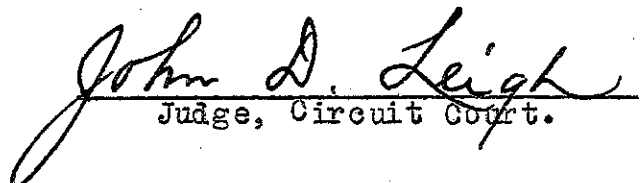
" This cause coming on to be heard, was submitted for decree on the pleadings, decree pro confesso and proof as noted, and upon consideration thereof the Court is of the opinion that the complainant is entitled to relief;

It is therefore ORDERED and DECREED that the defendants Cyrus L. Sibley, Lillian Moore, Carrie Bell Erhardt, Mary Sibley, Wesley Sibley, Clarence Sibley, Claude Sibley, Mattie Sibley, Louis Sibley, Richard Sibley, Willard Sibley, Leslie Sibley, Harold Sibley, Robert Lee Sibley, Jack Sibley, Clara Sibley, Bonnie Sibley, Emmet Sibley, Lomers Sibley and Ruth Sibley have no estate or interest in or encumbrance on lots Twenty-two, Twenty-four and Twenty-five of the Village of Montrose according to plat of same made by Gavin Yuille, C. E., and recorded in the Probate Court of Baldwin County, or any part thereof.

It is further ORDERED that the Register of this Court within thirty days from the rendition of this decree file a certified copy thereof in the office of the Probate Judge of Baldwin County for record therein, and that the cost thereof be taxed in the costs of the cause.

It is further ORDERED that defendants Clarence E. Sibley and Robert Westley Sibley pay the costs of this cause, for which execution may issue.

DONE at Brewton, Alabama, on this the twenty-first day of July, Nineteen Hundred and Twenty-seven.


Judge, Circuit Court.

2 Original

Miller Rice Huletson
Administrator

vs

Leonard Sibley
et al.

Decees

Filed July 20, 1927

D. W. Himmson
Register

RECORDED

✓

The State of Alabama,

Circuit Court in Equity.

Baldwin County,

I, T. W. Richardson, Register of said Circuit Court of said County, Alabama, do hereby certify that the above is a full, true and correct copy of the decree rendered by said Court on the 21st day of July 1927, in cause of Miller Beese Hutchison, as executor, etc., Complainant vs. Cyrus L. Sibley et al, Respondents, as appears of record in said Court.

Witness my hand and the seal of said Court, this the 25th, day of July, 1927.

T. W. Richardson Register.

MILLER REESE HUTCHISON,
Executor, et cetera,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendants.

IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

In this cause it being made to appear to the Register that a summons was served upon the Defendants Cyrus L. Sibley, Lillian Moore, Carrie Bell Erhardt, Mary Sibley and Claude Sibley, by the Sheriff of Mobile County on the ²⁴ day of ~~September~~^{Aug}, 1926, and on Mattie Sibley by the Sheriff of Escambia County on the ¹⁴ day of September, 1926, requiring them to appear and plead, answer or demur to the bill of complaint in this cause within thirty days from the service of said summons, and the said Defendants having failed to plead, answer or demur to the said bill to the date hereof: IT IS NOW THEREFORE, on motion of Complainant, ORDERED and DECREED that the said bill of complaint in this cause be and it hereby is taken as confessed against the said Defendants above named.

WITNESS my hand this the first day of November, Nineteen Hundred and Twenty-six.

T. W. Pickens
Register.

9 IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

HUTCHISON,

VS

SIBLEY.

DECREE PRO CONFESSO AGAINST
MINOR DEFENDANTS.

*Filed Nov 1st 1926.
T. W. McIlwain
Register*

RECORDED

V

MILLER REESE HUTCHISON,
Executor, et cetera,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendants.

IN EQUITY

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

To

W. S. Hawkins Esq.

You are hereby notified that you have been appointed guardian ad litem of LOUIS SIBLEY, RICHARD SIBLEY, WILLARD SIBLEY, LESLIE SIBLEY, HAROLD SIBLEY, JACK SIBLEY, CLARA SIBLEY, BONNIE SIBLEY EMMETT SIBLEY, LOMAR SIBLEY, RUTH SIBLEY and ROBERT LEE SIBLEY, who are minors interested in a certain matter pending in this Court entitled as appears in the caption hereof.

T. W. Williams
Register.

I hereby accept the above appointment as guardian for
the infant defendants named in the above notice.

WITNESS my hand at Bay Minette this the 16 day of
November, 1926.

W. S. Hawkins

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

HUGHSON,

VS

SIBLEY.

NOTICE TO GUARDIAN AD
LITUM AND HIS ACCEPTANCE

Filed Nov 16/1924

*T. M. Robinson
Register*

RECORDED

✓

7

→

Bay Minette, Ala.,

Aug 9th

192

7

J. W. Robinson

IN ACCOUNT WITH

G. W. Humphries

JUDGE OF PROBATE, BALDWIN COUNTY

Please Return Bill With Remittance

~~Deed Tax and
Mortgage Tax~~

Rec. Fee

Total

To
Deed
Rec. Mort.

Deed from O. L. Selby, et al by legat. to W. H. Jones

Notations

65

*Paid 8/2/27
G. W. Humphries
by J. S. [unclear]*

MILLER REESE HUTCHISON,
Executor, etc.,
Complainant,

-vs-

CYRUS L. SIBLEY, et al,
Defendants.

IN EQUITY.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

In this cause it appearing to the Register by the sworn bill of complaint that the defendants LOUIS SIBLEY, RICHARD SIBLEY, and WILLARD SIBLEY are in the belief of the affiant infants over the age of fourteen years; and that summons on the bill of complaint in this cause has been given by service upon their mother, Mrs. Mattie Sibley, with whom they live, as shown by the return of the Sheriff of Escambia County; and it further appearing that LESLIE SIBLEY and HAROLD SIBLEY, minors over the age of fourteen years, residing in the City of Mobile, have no surviving parent or guardian but have been served with notice personally by the Sheriff of Mobile County; and it further appearing that JACK SIBLEY, CLARA SIBLEY and BONNIE SIBLEY are minors under the age of fourteen years, residing with their mother, Mrs. Mattie Sibley, and that service has been had upon the said Mrs. Mattie Sibley as shown by the return of the Sheriff of Escambia County; and it further appearing that EMMETT SIBLEY, LOMAR SIBLEY and RUSH SIBLEY are minors under the age of fourteen, and that service has been had upon them by notice to their guardian, Mrs. E. J. Seifert, as shown by the return of the Sheriff of Mobile County; and it further appearing that ROBERT LEE SIBLEY, a minor over the age of fourteen years and non-resident of the State of Alabama, has been served by registered mail, he having no living parent, and also by summons served upon Mrs. E. J. Seifert, his guardian, by the Sheriff of Mobile County; and it further appearing that service upon all of said minors has been had more than thirty days prior to this date and no one has been nominated by any of said minors to act as guardian ad litem; and it further appearing

that *G. H. Hawker* Esq., is in all respects a suitable person to act as guardian ad litem for said infants, and he having filed his consent in writing to act as such:

IT IS NOW, THEREUPON ORDERED by the Register that the said *G. H. Hawker* by and he hereby is appointed guardian ad litem in this cause for all of said infant defendants.

WITNESS my hand this *1st* day of November, Nineteen Hundred and Twenty-six.

T. W. Pickens
Register.

3 IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

HUTCHISON,

VS

SIBLEY.

ORDER APPOINTING GUARDIAN
AD LITEM

*Filed Nov 1st 1926.
T. W. Nicolson
Register*

RECORDED

✓

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Comes MILLER REESE HUTCHISON, as executor of and Trustee under the will of William P. Hutchison, deceased, and by this his bill of complaint presented against CYRUS L. SIBLEY and others hereinafter named as defendants, respectfully shows to the Court:

FIRST: That the Complainant is over the age of twenty-one years, a resident of the State of New York, and by authority of the will of William P. Hutchison, deceased, duly probated in the Probate Court of Mobile County, Alabama, executor of said estate and Trustee of the real property thereof.

SECOND: That the defendants to this cause are:

Cyrus L. Sibley, Lillian Moore, Carrie Belle Erhardt, Mary Sibley, Wesley Sibley, Clarence Sibley and Claude Sibley, residents of Mobile County, and Mattie Sibley, residing at Canoe, Alabama, all of age; and

X Louis Sibley, Richard Sibley and Willard Sibley, minors over the age of fourteen years, residing with their mother Mrs. Mattie Sibley at Canoe, Escambia County, Alabama;

Leslie Sibley and Harold Sibley, minors over the age of fourteen years residing in Mobile, Alabama;

X Robert Lee Sibley, Jack Sibley, Clara Sibley and Bonnie Sibley, minors under the age of fourteen residing with their mother Mrs. Mattie Sibley at Canoe, Alabama; and

X Emmet Sibley and Lomers Sibley, minors under the age of fourteen now residing in the Presbyterian Orphans Home at Talladega, Alabama; and

Ruth Sibley, a minor under the age of fourteen years residing with her brother Claude Sibley in Mobile, Alabama.

THIRD: Complainant alleges that he, as such executor, is, and the late William P. Hutchison during his lifetime, was, in peaceable possession of LOTS TWENTY-TWO, TWENTY-FOUR and TWENTY-FIVE of the VILLAGE OF MONTROSE, Baldwin County, Alabama, according to the Gavin Yuille map of said village on record in the Probate Court of Baldwin County, claiming to own said land.

FOURTH: Complainant further alleges that the defendants hereinabove named are reputed to have some claim, interest or right

in and to the land above described.

FIFTH: Complainant further alleges that no suit is pending to enforce or test the validity of such title, claim or encumbrance as defendants may have, and Complainant therefore calls upon each defendant separately to set forth and specify his or her title, claim, interest or encumbrance and to show how and by what instrument the same is derived or created.

THE PREMISES CONSIDERED, Complainant prays that Cyrus L. Sibley, Lillian Moore, Carrie Belle Erhardt, Mary Sibley, Wesley Sibley, Clarence Sibley, Claude Sibley, Mattie Sibley, Louis Sibley, Richard Sibley, Willard Sibley, Leslie Sibley, Harold Sibley, Robert Lee Sibley, Jack Sibley, Clara Sibley, Bonnie Sibley, Emmet Sibley, Lomers Sibley and Ruth Sibley be made parties respondent to this bill, that an order be made nominating a guardian ad litem for the minor defendants and that all of said defendants be required to answer same within the time prescribed by law and abide by such orders and decrees as may be made in the premises.

Complainant further prays that upon the hearing of this cause this Court will establish the title of Complainants in and to the above described land and further find and decree that each and all of the defendants have no claim, interest or title therein or encumbrance upon same, and grant Complainant such other, further or different relief as to equity may seem meet.

Rim Lady Beebe Sibley
Solicitors for Complainant.

NOTE:

Defendants are required to answer each paragraph of the foregoing bill but not under oath.

Rim Lady Beebe Sibley
Solicitors for Complainant.

NOV 1 1928

(DECIDED)

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1928-29.

1 Div. 476.

Clarence M. Sibley, et al.

v.

Miller Reese Hutchison, Executor, &c.,

Appeal from Baldwin Circuit Court, in
Equity.

BROWN, J.

The appellant filed this bill "as Executor of and Trustee under the will of William P. Hutchison, deceased," under the statute to quiet title to "lots twenty-two, twenty-four and twenty-five of the village of Montrose, Baldwin County, Alabama, according to the Gavin Yaille map of said village on record in the probate office of Baldwin County," averring that the complainant is, and the late William P. Hutchison during his lifetime, was in peaceable possession thereof, claiming to own said land and averring that the will of said William P. Hutchison, deceased, was duly probated in the Probate Court of Mobile County, and by authority of said

2.

will complainant is the executor of said estate and trustee of the real property thereof; and that the respondents are reputed to have "some claim, interest or right in and to the land described in the bill; that no suit is pending to test the title, claim or incumbrance the defendants may have, and calls upon them, each, to set forth and specify his or her title, claim, interest or incumbrance, and show by what instrument the same is derived or created."

These averments meet the requirements of the statute as to the general equity of the bill and complainant's right to sue. - Code of 1923, §9905.

While the rules of good pleading in suits by executors require an allegation of their due appointment, naming the court giving the date of the issuance of letters testamentary, (Sim's Ch. Pr. §108; 1 Don. Ch. Pr. §4363-364), this defect was not pointed out by the demurrer and it was overruled without error. - Code 1923, §6553; J. & H. R. R. Co. v. Dowley, et al., 164 Ala. 331, 50 So. 1015.

The assignments of error questioning the regularity of the proceedings in contradiction of the record, can avail the appellant nothing as we must presume regularity unless the contrary appears on the face of the record. - Carson, et al. v. Sleigh, 201 Ala. 373, 70 So. 229. The order of the Court overruling appellant's motion to dismiss the bill because of the alleged insufficiency of complainant's answer² to the interrogatories propounded to him under the statute, though marked filed by the register on July 30th, 1927, shows on its face that it was entered "at Bay Minette on the 10th day of June," 1927, and this recital conclusively refutes the contention of appellant that it was entered at a later date and antedated. - Carson, et al. v. Sleigh, supra.

3.

The statute, Code of 1923, §7784, authorizing the "examination of parties by interrogatories" by the party adversely interested, though the mode of procedure is assimilated to that prevailing in bills for discovery in equity, contemplates the eliciting of legal evidence, and interrogatories calling for mere hearsay need not be answered. - Culver, Admr. v. Ala. Midland Ry. Co., 108 Ala. 330; Cain Lumber Co. v. Standard Dry Kiln Co., 108 Ala. 346.

The motion to dismiss for failure of the complainant to answer the interrogatories was denied without error for another reason, - it sought to confine the discretion of the Court to a dismissal of the bill. - Russell v. Bush, 196 Ala. 309, 71 So. 397.

Proof of peaceable possession by complainant, actual or constructive, at the filing of the bill makes a prima facie case, entitling the complainant to relief, and in the absence of a cross-bill by the respondents, complainant is not required to specifically avow or set forth his title, and can rely on peaceable possession so proven, unless respondents establish the title specifically avowed in their answer. - George E. Wood Lumber Co. v. Williams, 157 Ala. 73, 47 So. 202; Kendrick v. Colyar, 143 Ala. 597, 42 So. 110; Miers v. Cox, MS.; East B'ham H. Co. v. B'ham Mach. & Foundry Co., 161 Ala. 461, 49 So. 446. Actual adverse possession of land for twenty years or more, without the recognition of adverse claim, creates a conclusive presumption of title. - Vidmer v. Lloyd, 193 Ala. 386, 69 So. 480; Moore v. Elliott, 116 So. 346; Kidd, et al. v. Borum, 181 Ala. 144, 61 So. 100; Ann. Cas. 1915-C, 1226.

The appellants offered no proof of their avowed title or interest, and the evidence adduced by complainant shows that the complainant's testator, William F. Hutchinson, and those

4.

under whom he claimed, had been in continuous possession of the lands in question, without recognition of adverse claims, for more than twenty years, and this, without more, was sufficient to establish constructive peaceable possession in the complainant who sues as his executor.

The representative character of the complainant was not denied in the answer, nor by plea ne unquam executor, and in the absence of such denial or plea, it was unnecessary for the complainant to make proof of the fact of an executorship, or offer the will in evidence. - Clark v. Clark, 51 Ala. 498.

The appellant complains that he was taxed with all costs, including the costs of the appointment and services of the guardian ad litem for minors, and the costs of bringing in non-resident defendants. While as a general rule the court has a broad discretion in the taxation of costs in equity cases, and if there is nothing more in the case, error in this regard will not constitute grounds for reversal; yet such matters are subject to review here. - Allan v. Lewis, 74 Ala. 379; Kinney v. White, et al., 219 Ala. 247, 110 So. 394; Porter v. Henderson, 204 Ala. 564, 86 So. 531.

We are of opinion that appellants should not have been taxed with the costs incident to the appointment of the guardian ad litem and his services, and the costs incident to publication for the non-resident minor defendants should not have been taxed against the appellants, and in this respect the decree will be corrected so as to tax said costs against appellee, and all other costs, including the costs of the appeal, will be taxed against appellants, and as so corrected the decree will be affirmed.

Corrected and affirmed.

Anderson, C.J., Sayre and Thomas, JJ., concur.

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1 Div., No. 476

Clarence E. Sibley, et al, Appellant,

vs.

Miller Reese Hutchinson, et al, Appellee,

From Baldwin Circuit Court.

The State of Alabama,
City and County of Montgomery.

I, Robert F. Ligon, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to four inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, Robert F. Ligon, Clerk of the Supreme Court of Alabama, at the Capitol, this the

21st day of November, 1928
Robert F. Ligon
Clerk of the Supreme Court of Alabama.

The Supreme Court of Alabama

October Term, 192⁸⁻⁹

1st Div., No. *476*,

Clarence E. Sibley

et al

Appellant,

vs.

William Reese Hutchison

et cto

Appellee.

From *Baldwin Circuit* Court.

In Equity

COPY OF OPINION

BROWN PRINTING CO. MONTGOMERY.

Filed Nov 3rd 1928,

D. W. Rieunon
Clerk

1st Div. 476

Baldwin
Circuit
Court
(In Equity)

Clarence E. Sibley, et al

vs.

Miller Reese Hutchison, Ex'r. &c.

Come the parties by attorneys and the record and matters therein assigned for errors being submitted on briefs and duly examined and understood by the Court it is considered that the decree of the Circuit Court be corrected, taxing the costs incident to the appointment of the guardian ad litem and his services, and the costs incident to publication for the non-resident minor defendant against the appellee instead of appellants. All other costs of the Circuit Court are hereby taxed against the appellants. As thus corrected the decree is affirmed.

It is also considered that appellants, Clarence E. Sibley and Wesley R. Sibley and E. Lyles Hatter and Robert C. Marshall, sureties on the appeal bond, pay the costs of appeal of this Court and of the Circuit Court.

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 476

Clarence E. Sibley, et al, Appellant,

v.

Miller Reese Hutchison, Ex'r. &c., Appellee,

From Baldwin Circuit Court.

The State of Alabama,
City and County of Montgomery.

I, Robert F. Ligon, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages numbered from one to [redacted] contains a full, true, and correct copy of the decree of

said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, Robert F. Ligon, Clerk of the Supreme

Court of Alabama, this the 2nd day of

November 1928

[Handwritten signature of Robert F. Ligon]
Clerk of the Supreme Court of Alabama.

No. 619

The Supreme Court of Alabama

1st Div. No. 476

Clarence E. Sibley, et al

Appellant,

v.

Miller Reese Hutchison, Exor.

Etc.

Appellee.

From Baldwin Circuit Court.
In Equity

Certified Copy of

DECREE

BROWN PRINTING CO., MONTGOMERY, 1928

Filed Nov 3rd, 1928,
T. W. Richardson
Clerk

118 & 638

The State of Alabama, }
Baldwin County—Circuit Court.

To the Sheriff of the State of Alabama—Greeting:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the
~~eighth Monday after~~ ~~Monday in~~ ~~25th~~ day of July 1917
in a certain cause in said Court wherein Miller Reese Hutchison Executor et al,
Plaintiff, and Clarence B. Sibley and Wesley R.
Sibley, et al, Defendant, a ^s ~~judgment~~ ^{decree} was rendered against
said Clarence B. Sibley and Wesley R. Sibley et al,
to reverse which ~~decree~~ the said Clarence B. Sibley and Wesley
R. Sibley,

has on this day applied for and obtained from this office an APPEAL, returnable to the
~~next~~ Term of our Supreme Court of the State of Alabama, to be held
at Montgomery, on the 1st day of October 1927, next,
and the necessary bond having been given by the said Clarence B. Sibley and
Wesley R. Sibley, with B. Lyles Hatter and
Robert C. Marshall, sureties,

Now, You are Hereby Commanded, without delay, to cite ~~at the said~~
Robert E. Sibley, Fort D A., Russell Wyoming,
or his attorney, to appear at the
Term of our said Supreme Court, to ^{prosecute} ~~defend against~~ the
said Appeal, if he think proper.

WITNESS, T. W. Richerson, Clerk of the Circuit Court of said County,
this 15 day of Nov A. D. 1917

Attest:

T. W. Richerson Clerk.

Miller Reese Hutchinson, Complainant,)

vs.

: - In the Circuit Court of Baldwin
Co., Alabama.

Cyrus L. Sibley, et al, Defendants.)
.....

Demurrer.

Comes the defendants Clarence E. Sibley and Robert Westley Sibley and demurs to the bill of complaint filed herein on the following grounds:-

- 1. Because the bill fails to aver the character of the alleged trusteeship of the complainant.
- 2. Because the bill fails to show sufficient interest, or title, in the complainant to authorize him to sue.
- 3. Because the bill does not allege sufficient facts to give the court jurisdiction.
- 4. Because the bill does not show authority in the complainant to sue.

George Isaac Charles
 Attorney for defendants C.E.
 and R.W. Sibley.

(Box 704, Mobile, Ala.)

FILED
SEP 11 1904
MOBILE ALA

RECORDED

