

894

Edward J. Havel

vs.

August Maier

THE STATE OF ALABAMA  
Baldwin County

IN EQUITY  
Circuit Court of Baldwin County

This cause is submitted in behalf of Complainant upon the original Bill of Complaint,  
Separate Answer of Edward J. Havel to the Cross-Complaint,  
Separate answers of Josephina Johnson, Elvira Armstrong, Agnes E.  
E. Utter and Philip G. Armstrong, as executor of the Will of Oscar  
Johnson, deceased, to the cross bill. Deposition of Joseph Schradle.  
Deposition of Charles Siegler. Deposition of Edward J. Havel, Depo-  
sition of Clarence E. Ostrand. Agreement that Complainant have decree  
as prayed.  
and in behalf of Defendant upon

Robert S. Pluck

Register.

**RECORDED**  
*Duck*

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

**The State of Alabama**  
BALDWIN COUNTY

**IN EQUITY**  
Circuit Court of Baldwin County

Edward J. Havel

vs.

August Maier

**NOTE OF TESTIMONY**

Filed in Open Court this 6th

day of May 1935

*Robert S. Duck*

REGISTER

After five days return to  
**T. W. RICHERRSON**  
REGISTER AND CLERK OF THE CIRCUIT  
COURT, BALDWIN COUNTY  
BAY MINETTE, ALA.



*Deposition  
Edward Howell  
vs  
Ang Mair*

T.W. Richerson,  
Bay Minette,  
Alabama.

*Opened and forthwith  
sealed again by Robert S. Duck,  
Register*

*Filed Jan 2  
1938  
Robert S. Duck  
Register*

Hon. R. S. Duck,  
Register in Chancery,  
Bay Minette, Alabama.

*Beard D. Duke*  
Commissioner

Circuit Court of Baldwin County,  
Alabama. Taken, sealed and mailed by me.

After five days return to

W. RICHERRSON

ER AND CLERK OF THE CIRCUIT  
COURT, BALDWIN COUNTY

BAY MINETTE, ALA.



*Edward J. Hall*  
*Aug. Maier*

T.W. Richerson,  
Bay Minette,  
Alabama.

EDWARD J. HAVEL,

Complainant,

-vs-

AUGUST MAIER,

Respondent.

IN THE CIRCUIT COURT--EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

It is agreed by and between the parties to the aforesaid cause that on the payment of the sum of Five Hundred Dollars (\$500.00) by the Complainant to the Solicitors for the Respondent, the receipt of which is hereby acknowledged, that the Complainant have a decree against the Respondent according to the Prayer of his Bill of Complaint, as the said parties have settled and adjusted their said differences by way of compromise growing out of the matters involved in this suit.

Dated this 29 day of April, 1935.

*Leysa Tomagney*  
Solicitor for Complainant.

*Hybark Heard & Phason*  
Solicitors for Respondent.

EDWARD J. HAVEL,  
COMPLAINANT

vs

AUGUST MAIER, Sometimes Known as  
A. MAYER,

RESPONDENT AND CROSS-  
COMPLAINANT,

JOSEPHINA JOHNSON; ELVIRA ARMSTRONG;  
AGNES E. UTTER; PHILIP G. ARMSTRONG;  
As Executor of the Estate of OSCAR  
JOHNSON, Deceased,

RESPONDENTS TO CROSS-  
BILL

)  
) IN THE CIRCUIT COURT OF  
) BALDWIN COUNTY, ALABAMA  
) IN CHANCERY

) SEPERATE ANSWER OF COMPLAINANT  
) EDWARD J. HAVEL TO THE CROSS-  
) BILL.

1. Comes now the Defendant Edward J. Havel and for his seperate answer to the cross-bill of the Respondent, denies each and every allegation therein contained.

2. For further answer the Complainant alleges that he purchased the real estate described in his bill of complaint from one Oscar Johnson and paid a part of the purchase price to the said Oscar Johnson and was by him put in possession of said real estate on the 7th day of January, 1925. That on said date the land was not in the actual possession of anyone and had not been farmed or cultivated during the year 1924 and was generally reputed to be the land of said Oscar Johnson and in his constructive possession by reason of his legal title thereto. That before paying the balance of the purchase price Complainant required of the said Oscar Johnson an abstract of title to said premises and had said abstract examined and received an opinion from his title examiner thereon and said abstract showed no claim whatsoever of the Respondent to said land. That relying upon the representations of Oscar Johnson and upon said abstract and upon the fact that said land was not in the actual possession of Respondent or any other person, Complainant completed his contract to purchase said land, paid the balance of the purchase price and on November 25, 1925 received from the said Oscar Johnson and his wife a warranty deed to said premises.

That between said dates of January 7, 1925 and November 25, 1925 Complainant was in the actual and undisputed possession of said land

EDWARD J. HAVEL,

COMPLAINANT

VS

AUGUST MAIER, Sometimes Known  
As A. MAYER,

RESPONDENT AND CROSS-  
COMPLAINANT,

JOSEPHINA JOHNSON; ELVIRA ARM-  
STRONG; AGNES E. UTTER; PHILIP  
G. ARMSTRONG; As Executor of the  
Estate of OSCAR JOHNSON, Deceased,


RESPONDENTS TO CROSS-  
BILL

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

SEPERATE ANSWERS OF JOSEPHINA  
JOHNSON, ELVIRA ARMSTRONG,  
AGNES E. UTTER and PHILIP G.  
ARMSTRONG, As Executor of the  
Estate of OSCAR JOHNSON, De-  
ceased

Come now the above named Defendants to the Cross-bill filed  
herein by the Respondent and for their seperate answers to said  
cross-bill deny each and every allegation therein contained.

Wherefor, having fully answered these answering Defendants pray  
that they may be dismissed and have judgment for their costs here-  
in expended.

  
Solicitor for Plaintiff and  
Respondents to Cross-Bill.

and farmed the same and erected thereon a small shed and in the spring of 1926 began construction thereon of a home consisting of a house, barn and other outbuildings and later erected thereon another house and since January 7, 1925 has expended for said land and buildings and improvements erected thereon a large sum of money- to-wit: In excess of the sum of SEVEN THOUSAND & 00/100 (\$7,000.00) DOLLARS.

That during all of said time the Respondent and Cross-Complainant made no claim to your Complainant of any interest in said land, permitted your Complainant to expend said large sums of money upon said land in improving the same as aforesaid, without making any claim or demand to the Complainant for said land or any interest therein and without any objection whatsoever to such improvements so made by your Complainant.

Wherefor your Complainant alleges that the Respondent and Cross-Complainant is estopped to now claim any interest or title to said land.

3. For further answer to the cross-bill of the Respondent the Complainant alleges:

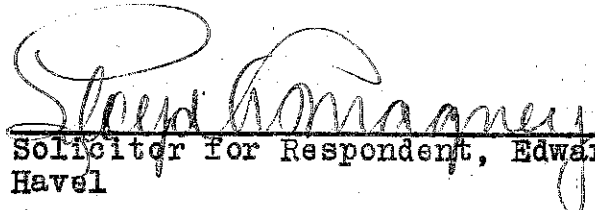
That the Respondent has been guilty of laches in this that ever since January 7 1925 the Respondent has lived within a short distance of the land described in the bill of complaint and has daily seen said land and observed the use and improvement thereof by the Complainant. That he has permitted Complainant to expend large sums of money, to-wit: In excess of the sum of SEVEN THOUSAND & 00/100 (\$7,000.00) DOLLARS in purchasing said land and erecting buildings and improvements thereon, without making any claim or demand upon your Complainant or remonstrance or objection to such expenditures by your Complainant and for more than six years has sat idly by and permitted Complainant to make such expenditures upon and improvements to the land and by reason thereof, in equity and in good conscience, ought not to be now permitted, after such lapse of time, to make any claim upon or demand for said land.

4. For further answer, Complainant further alleges that from the time he was put into possession of said real estate by the said Oscar Johnson on January 7, 1925 he had no notice, either actual or constructive, of any claim or demand on the part of the Respondent until



on or about March 25, 1930 when he had the abstract of title to said land extended to date and there appeared thereon an abstract of the recording of a certain paper or receipt from the said Oscar Johnson to the Respondent which was the first notice of any kind that Complainant had or received that said Respondent was claiming any rights or interest in said land.

All of the above matters the Complainant is ready and willing to aver, maintain and prove, as this Honorable Court shall direct, *and* having fully answered, prays that the cross-bill of the Respondent may be dismissed and that Complainant may have relief as prayed in his bill of complaint.

  
Solicitor for Respondent, Edward J.  
Havel

The State of Alabama, {  
Baldwin County

CIRCUIT COURT

To B. B. Greever, Post Office Box # 874, Wichita Falls, Texas,

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine Joseph Schradle

as witnesses in behalf of Edward J. Havel, Complainant in a cause pending in our Circuit Court of Baldwin County, of said State, wherein Edward J. Havel

Complainant  
and August Maier, sometimes known as August Meyer,

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

Witness 7th day of November 19 34

COMMISSIONER'S FEE, \$ 5.00

WITNESS' FEES, \$ 1.00

M. A. Stone

REGISTER

EDWARD J. HAVEL,  
Complainant

vs.

AUGUST MAIER, sometimes  
known as AUGUST MEYER,  
Respondent

IN THE CIRCUIT COURT - EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY

Deposition of MILDRED B. MAIER, of the City of Chicago, County of Cook and State of Illinois, a witness of lawful age, produced, sworn and examined upon her corporal oath, on the 15th day of June, A. D. 1932, at the office of HARRY J. GUYON, Suite 1918, 139 North Clark Street, in the City of Chicago, County of Cook and State of Illinois, aforesaid, by me, HARRY J. GUYON, duly appointed by dedimus potestatem, or commission issued by the Circuit Court of Baldwin County, Alabama, appearing teste in the name of T. W. RICHERRSON, Clerk of said Court, and under the seal of the said Circuit Court of Baldwin County, Alabama, and to me directed as such commissioner for the examination of the said MILDRED B. MAIER, witness in a certain suit and matter in controversy now pending and undetermined before the said Circuit Court of Baldwin County, Alabama, wherein EDWARD J. HAVEL is Complainant and AUGUST MAIER, sometimes known as AUGUST MEYER, is Respondent, in behalf of the said Respondent, upon written interrogatories enclosed with and attached to said commission, on the part of the said Respondent, and none others, in accordance with said commission and interrogatories thereto attached.

The said MILDRED B. MAIER, first duly sworn by me as a witness in the said cause previous to the commencement of her examination to testify to the truth, ~~as well on the part of the~~  
~~complainant as~~ on the part of the Respondent, in relation to the matters in controversy between the Complainant and the said Re-

spondent, so far as she should be interrogated, testified and deposed as follows:

FIRST INTERROGATORY AND  
ANSWERS THERETO.

Q Please state your name, age and residence.

A My name is Mildred B. Maier. I am twenty-seven years of age and I reside at 811 Eastwood Street, Chicago, Illinois.

Q Are you acquainted with Mr. August Maier?

A I am.

Q Is he any relation of yours and, if so, what is the relationship?

A Yes, he is my father.

SECOND INTERROGATORY AND  
ANSWERS THERETO.

Q Were you acquainted with Mr. Oscar Johnson on August 2nd, 1921?

A I was.

Q Where were you living at that time and about what was the age of Mr. Oscar Johnson then?

A I was living with my parents at Silverhill, Alabama, and Mr. Oscar Johnson was then about sixty years of age.

Q Where was your father, August Maier, living on that date?

A Silverhill, Alabama.

Q Are you acquainted with the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , Section 11, Township 6 South, Range 3 East, Baldwin County, Alabama?

A Yes.

Q On or about August 2nd, 1921, state whether or not Mr. Oscar Johnson sold said lands to Mr. August Maier?

A Yes, he did.

Q What was the consideration that Mr. Maier was to pay to Mr. Johnson for these lands?

A I am not positive. I think it was One Thousand Dollars.

A Two or three acres.

Q Did he put a fence around said lands in the year 1921?

A Yes.

Q Did he erect a gate anywhere along said fence and, if so, did he put a lock on the gate, and did he keep the gate locked up until the time that you left that neighborhood?

A Yes. He erected a gate and put a lock on it, and he kept the gate locked, except when he went in and out.

Q When was it that you went to Chicago?

A About 1925.

Q Was your father working the lands at the time that you left for Chicago?

A Yes, he was.

Q Were you in the neighborhood where these lands are located from the time that your father purchased the same from Mr. Oscar Johnson up until the time that you mentioned you left Silverhill for Chicago in 1925?

A Yes.

Q During the years 1921, 1922, 1923, 1924 and 1925, what acts of possession did your father exercise in connection with said lands?

A He farmed the land.

Q Did he raise crops on the same during each of said years?

A Yes.

Q If so, what kind of crops did he raise?

A He raised cucumbers, okra, hay, tomatoes and other garden vegetables.

Q Did he cut the hay off of said lands during each of said years?

A Yes.

Q Did he use said lands all during this time and was the use of the same open and visible, and was his use of said lands apparent to any-

one that might have been interested in said lands in any way?

A Yes, anyone could have seen that he was in possession of the land and was working the same.

Q From the time that your father purchased said lands in 1921 and went into the possession of the same, and up until the time that you left that neighborhood for Chicago, were said lands recognized in that community as being the lands of Mr. August Maier?

A Yes.

FOURTH INTERROGATORY  
AND ANSWERS THERETO.

Q How far did Mr. Edward J. Havel live from these lands in 1921 and up to the time that you left for Chicago?

A To my best recollection, he lived in several places during that time and his closest residence to the land was about one-half mile.

Q Does the public road run right by these lands and was your father constantly using and upon said lands plowing and working the same from the period that he was first put into possession by Mr. Oscar Johnson up until the time that you state that you left for Chicago?

A Yes.

Q What was said by Mr. Oscar Johnson to your father relative to the payment of the balance of the purchase money?

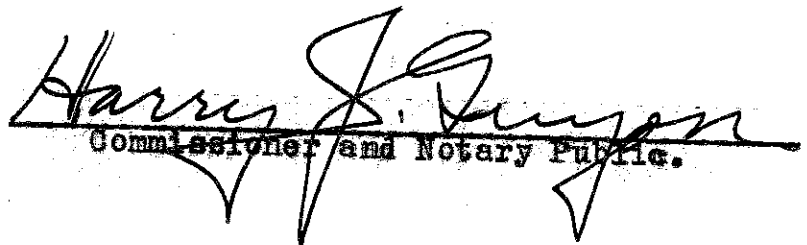
A I don't recall what Mr. Johnson said, but I do know that my father paid interest on the money due and the taxes on the land.

Q Do you know of your father having paid Mr. Oscar Johnson any other moneys on the purchase price of the said lands?

A Not on the purchase price, except the interest.

Q Did you hear of anyone else other than your father claiming the ownership or interest in said lands from the time that he paid said \$25.00 and was placed in possession of the same by Mr. Oscar Johnson

come of the case; that after said deposition was taken by me, as aforesaid, the interrogatories and answers thereto, as written down, were read over to the said witness, and thereupon the same were signed and sworn to by the said witness, MILDRED B. MAIER, before me, the oath being administered by me, as such commissioner, at the place and on the day and year last aforesaid, and that said deposition was retained by me until sealed up and directed to Honorable T. W. RICHERRSON, Clerk of the Circuit Court of Baldwin County, Bay Minette, Alabama, who issued the same.

  
Commissioner and Notary Public.

My commission as Notary Public  
expired on the 4th day of  
February, A. D. 1933.

up until the time that you left for Chicago?

A No, there was no one else.

Mildred B. Maier  
Witness.

CERTIFICATE

I, HARRY J. GUYON, of the City of Chicago, County of Cook and State of Illinois, a commissioner duly appointed to take the deposition of the said MILDRED B. MAIER, whose name is subscribed to the foregoing deposition, do hereby certify that previous to the examination of the said MILDRED B. MAIER, as a witness in the said proceeding of EDWARD J. HAVEL, Complainant, and AUGUST MAIER, sometimes known as AUGUST MEYER, Respondent, there was filed with me by the complainant and his attorney written objection to the taking of this deposition, which objection is attached hereto.

I further certify that previous to the examination of the said MILDRED B. MAIER, she was duly sworn by me as such commissioner to testify the truth in relation to the matters in controversy between the said Complainant and the said Respondent, so far as she should be interrogated concerning the same; that the depositions were taken by propounding the written interrogatories to the witness, whose answers were written by a shorthand reporter who transcribed her notes, which questions and answers are above set forth; that the deposition was taken on the 15th day of June, A. D. 1932, at nine-thirty o'clock a. m., at my office, Suite 1918, 139 N. Clark Street, Chicago, Illinois, and that I have personal knowledge that the witness, MILDRED B. MAIER, is the same MILDRED B. MAIER whose testimony I was authorized to take; that I am of no kin to the parties involved in this litigation; that I am not of counsel, and that I have no personal interest in the out-



Q. How much money did Mr. Maier pay to Mr. Johnson?

A A first payment of \$25.00.

Q Have you in your possession a receipt executed by Mr. Oscar Johnson to Mr. August Maier on August 2nd, 1921 for \$25.00, as first payment on the purchase price of the above mentioned lands? If so, please attach said receipt to your answer to these interrogatories, making the same "Exhibit A" and ask that it be taken as part of your testimony in this case.

A I have it. It has been marked "Exhibit A" and attached hereto, and I ask that it be taken as part of my testimony in this case.

Q Did you see Mr. Oscar Johnson sign this receipt and deliver it to Mr. August Maier?

A Yes.

Q Did you see Mr. August Maier pay Mr. Johnson the \$25.00 mentioned in said receipt?

A Yes.

THIRD INTERROGATORY  
AND ANSWERS THERETO

Q At the time, or about the time, that said receipt was executed did Mr. Oscar Johnson put Mr. August Maier in possession of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , Section 11, Township 6 South, Range 3 East?

A Yes.

Q Did your father fence said lands in the year 1921 and soon after ~~he purchased the same?~~

A Yes, he did.

Q Did he go to work on said lands during the year 1921?

A He did.

Q Did he clear up any land on the same?

A Yes.

Q If so, about how many acres?

STATE OF ALABAMA } I. W. D.  
BALDWIN COUNTY }  
STAPLETON, Judge of Probate, for  
said County, hereby certify that the fol-  
lowing privilege tax has been paid on  
the within instrument as required by  
Act 1921 § 1.

50  
W. D. Stapleton  
Judge of Probate  
by E. H. Kester  
Clerk.

THE STATE OF ALABAMA } Office of the Judge of  
BALDWIN COUNTY } the Probate Court  
I, W. D. STAPLETON, Judge of said Court in and for  
said County, do hereby certify that the within instrument  
was filed in this office for record on the 11th  
day of November 1922 at 2 o'clock  
P. M. and I further certify that the  
same is duly recorded in Record Book No. 377-18  
Page 4-18 and duly examined.

Witness my hand this 11th day of  
November 1922  
W. D. Stapleton Judge of Probate Court  
E. H. Kester Clerk

A. Myers

W. D. Stapleton

100.00

100.00

75¢

11/25

Kester

Received

Silver Hill, N. C. Aug 2 1921

from Mrs August Lueger

Twenty five & no 100 Dollars

as first payment on 800/4 of 800/4 of 800/4 of 11. T. B. R. 3.

Purchase price \$900.00

\$ 25.00

Exhibit "A"

Oscar Johnson

STATE OF TEXAS )  
 )  
COUNTY OF WICHITA )

EDWARD J. HAVEL, Complainant )

vs )

AUGUST MAIER, sometimes known as )  
AUGUST MEYER, )

Respondent )

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

Depositions and answers of JOSEPH SCHRADLE, Witness on behalf of the Complainant, who resides in Wichita County, Texas, taken on the 19<sup>th</sup> day of November, A.D. 1934, before me a notary public in and for the county of Wichita, in the State of Texas, at 607 9th St. in the city of Wichita Falls, in said county and State, between the hours of 1:30 o'clock PM and 2:30 o'clock PM, of said day, in accordance with the accompanying commission and notice. And the said Joseph Schradle, the witness named in said commission and notice hereto annexed, personally appeared before me to depose in said suit pending in the Circuit Court of Baldwin County, Alabama, wherein Edward J. Havel is the Complainant, and August Maier, sometimes known as August Meyer, is the Respondent; and the said Joseph Schradle, being by me first carefully examined, cautioned and sworn to tell the truth, the whole truth, and nothing but the truth, touching his knowledge of the matters and things in controversy in said cause, deposes and says as follows:

1. Please state your age, your place of residence, and your business.

Answer: I am 51 years of age. My residence is Route #3, Wichita Falls, Texas. I am a farmer and a carpenter.

2. Where did you reside before moving to Texas, and how long did you live there?

Answer: I resided in State of Alabama ever since the year of 1923 until 1932, at which time I moved to Texas. The name of the town in which I resided in Alabama was Silver Hill.

3. Are you acquainted with the piece of land described as the SW<sup>1</sup>/<sub>4</sub>, of the SW<sup>1</sup>/<sub>4</sub>, of the NW<sup>1</sup>/<sub>4</sub>, of Section 11, township 6 south, range 3 east, in Baldwin County, Alabama, being the 10 acres near Silverhill, Alabama, on which Mr. Edward Havel has his home?

Answer: Yes.

4. How long have you known this land?

Answer: Since 1925.

5. Who owned this land when you first knew it?

Answer: Oscar Johnson.

6. During your residence in Silverhill did you ever engage in real estate business? If so, during what years?

Answer: Yes.

From 1924 to 1930 I engaged in real estate business in Silverhill.

7. In your capacity as a real estate salesman did you ever take any particular interest in or pay any attention to this 10 acres?

Answer: Yes. In 1924 this property was listed with me for sale by Oscar Johnson.

8. Did you ever know August Maier to have anything to do with this land?

Answer: I was advised that August Maier worked this land prior to the time I resided in Silverhill, but after 1923 he had nothing to do with it.

9. In what years was he using it or any part of it?

Answer: He did not use this land after I came to Silverhill.

10. In what way did he use it; what crops, if any, did he have on it?

Answer: I do not know.

11. Did he ever live on it?

Answer: No, there were no dwelling houses on the land.

12. Do you know whether or not he made any use of it during the year 1924 or any time after that? Please state what you know.

Answer: He made no use of it in 1924, nor at any time after that.

13. To your knowledge when did August Maier last use this land or any part of it?

Answer: He did not use the land after the fall of 1923. Prior to that time I know nothing.

14. Were you on this land yourself in 1924, and if so, at about what time of the year, and for what purpose?

Answer: I was on the land with a prospective buyer in July, 1924 and again in December, 1924.

15. How did you happen to try to sell this particular piece of land?

Answer:

I had all of Oscar Johnson's land listed for sale.

16. Did you ever know August Maier to have any possession of, or plant any crop on, or make any use of, or any claim to this land, after the year 1925?

Answer: No.

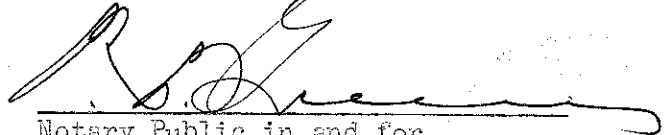
Jos. Schradle

THE STATE OF TEXAS

COUNTY OF WICHITA

I, B. B. Greever, a notary public in and for said county and State, do hereby certify that the facts stated by me in the caption to the foregoing deposition are true; that the foregoing deposition of Joseph Schradle, the witness, was, at the time named, reduced to typewriting by me, in the presence of the deponent, and to him by me carefully read over, and by him subscribed in my presence, after being so reduced to typewriting; the said witness being by me first carefully examined, cautioned and sworn to tell the truth, the whole truth, and nothing but the truth.

Given under my hand and seal of office, this the 19 day of November, A.D. 1934.

  
Notary Public in and for  
Wichita County, Texas

Notary fees

\$ 5.00

Witness fees

\$ 1.00

The State of Alabama, {  
Baldwin County

CIRCUIT COURT

To B. B. Greever, Post Office Box # 874, Wichita Falls, Texas,

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine Joseph Schradle

as witnesses in behalf of Edward J. Havel, Complainant in a cause pending in our Circuit Court of Baldwin County, of said State, wherein Edward J. Havel

Complainant  
and August Maier, sometimes known as August Meyer,

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

Witness 7th day of November 19 34

COMMISSIONER'S FEE, \$ 5.00  
WITNESS' FEES, \$ 1.00

M. A. Stone  
REGISTER

EDWARD J. HAVEL,

Complainant,

-VS-

AUGUST MAIER, sometimes  
known as AUGUST MEYER,

Respondent.

IN THE CIRCUIT COURT-EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

INTERROGATORIES TO BE PROPOUNDED TO MISS MILDRED B. MAIER, 811  
EASTWOOD STREET, HOTEL APARTMENT, CHICAGO, ILLINOIS, WHO IS A  
MATERIAL WITNESS FOR THE RESPONDENT IN THE ABOVE ENTITLED CAUSE:-

FIRST INTERROGATORY.

Please state your name, age and residence. Are you acquainted with Mr. August Maier? Is he any relation of yours and, if so, what is the relationship?

SECOND INTERROGATORY.

Were you acquainted with Mr. Oscar Johnson on August 2nd, 1921? Where were you living at that time and about what was the age of Mr. Oscar Johnson then? Where was your father, August Maier, living on that date? Are you acquainted with the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , Section 11 Township 6 South, Range 3 East, Baldwin County, Alabama? On or about August 2nd, 1921, state whether or not Mr. Oscar Johnson sold said lands to Mr. August Maier. What was the consideration that Mr. Maier was to pay to Mr. Johnson for these lands? How much money did Mr. Maier pay to Mr. Johnson? Have you in your possession a receipt executed by Mr. Oscar Johnson to Mr. August Maier on August 2nd, 1921 for \$25.00, as first payment on the purchase price of the above mentioned lands? If so, please attach said receipt to your answer to these Interrogatories, marking the same Exhibit "A" and ask that it be taken as a part of your testimony in this case. Have you done so? Did you see Mr. Oscar Johnson sign this receipt and deliver it to Mr. August Maier? Did you see Mr. August Maier pay Mr. Johnson the \$25.00 mentioned in said receipt?

THIRD INTERROGATORY.

At the time, or about the time, that said receipt was executed did Mr. Oscar Johnson put Mr. August Maier in possession of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , Section 11 Township 6 South or Range 3 East? Did your father fence said lands in the year 1921 and soon after he purchased the same? Did he go to work on said lands during the year 1921? Did he clear up any land on the same? If so, about how many acres? Did he put a fence around said lands in the year 1921? Did he erect a gate anywhere along said fence and, if so, did he put a lock on the gate, and did he keep the gate locked up until the time that you left that neighborhood? When was it that you went to Chicago? Was your father working the lands at the time that you left for Chicago? Were you in the neighborhood where these lands are located from the time that your father purchased the same from Mr. Oscar Johnson up until the time that you mentioned you left Silverhill for Chicago in 1925? During the years 1921, 1922, 1923, 1924 and 1925 what acts of possession did your father exercise in connection with said lands? Did he raise crops on the same during each of said years? If so, what kind of crops did he raise? Did he cut the hay off of said lands during each of said years? Did he use said lands all during this time and was the use of the same open and visible, and was his use of said lands apparent to anyone that might have been interested in said lands in any way? From the time that your father purchased said lands in 1921 and went into the possession of the



EDWARD J. HAVEL,  
COMPLAINANT,

VS

AUGUST MAIER, Sometimes known  
as AUGUST MEYER,

RESPONDENT.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
EQUITY SIDE

OBJECTIONS OF THE COMPLAINANT TO CERTAIN INTERROGATORIES FILED BY THE RESPONDENT TO BE PROPOUNDED TO MISS MILDRED B. MAIER, 811 EASTWOOD STREET, HOTEL APARTMENT, CHICAGO, ILLINOIS, AS A MATERIAL WITNESS FOR THE RESPONDENT IN THE ABOVE ENTITLED CAUSE:-

Comes now the Complainant and, this being his first opportunity so to do, objects as follows to certain of the questions propounded to the above named witness by the interrogatories filed by the Respondent.

First. Complainant objects to that question contained in the second interrogatory which is as follows: "On or about August 2, 1921 state whether or not Mr. Oscar Johnson sold said lands to Mr. August Maier", for the following reasons: 1. The question is incompetent and calls for incompetent testimony in that it calls for the conclusion of the witness and not for the statement of a fact. 2. The question calls for illegal testimony in that it calls for the conclusion of the witness. 3. The question calls for testimony which, of necessity, must be based upon hearsay and so calls for hearsay testimony and is incompetent, irrelevant, immaterial and illegal.

Second. Complainant objects to that question contained in the second interrogatory which is as follows: "What was the consideration that Mr. Maier was to pay to Mr. Johnson for these lands", for the following reasons: 1. The question is illegal and incompetent in that it calls for testimony which, of necessity, must be based upon hearsay and which testimony is illegal and incompetent as hearsay testimony. 2. The question is illegal and incompetent in that it calls for the conclusion of the witness. 3. The question is illegal and incompetent for the reason that it does not call for the statement of any fact but for the

conclusion of the witness and for hearsay testimony.

Third. Complainant objects to that question contained in the second interrogatory which is as follows: "How much money did Mr. Maier pay to Mr. Johnson," For the following reasons:

1. The question assumes that Mr. Maier did pay money to Mr. Johnson, a fact which is not in evidence and so is incompetent and illegal. 2. The question is leading and suggestive.

Fourth. Complainant objects to that question, contained in the Second Interrogatory, which is as follows: "Have you in your possession a receipt executed by Mr. Oscar Johnson to Mr. August Maier on August 2, 1921 for \$25.00 as first payment on the purchase price of the above mentioned lands", for the following reasons: 1. The question is incompetent and illegal for the reason that it calls for the conclusion of the witness. 2. The question is leading and suggestive. 3. The question is incompetent and illegal for the reason that it includes the answer and states the effect of the paper inquired about. 4. The question is illegal and incompetent in that it calls for the conclusion of the witness as to how and by whom the paper was executed and as to the effect of the paper.

Fifth. Complainant objects to that question included in the Third Interrogatory which is as follows: "At the time or about the time that said receipt was executed did Mr. Oscar Johnson put Mr. August Maier in possession of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of S 11 Twp 6 S, R3E", for the following reasons: 1. The question is illegal and incompetent for the reason that it calls for the conclusion of the witness and not for the statement of any fact. 2. The question is leading and suggestive.

Sixth. Complainant objects to all of the other questions contained in the Third Interrogatory and each of said questions separately and severally, for the reason that the same are leading and suggestive.

  
Attorney for Complainant.

The State of Alabama, {  
Baldwin County

CIRCUIT COURT

To HARRY J. GUYON, Suite 1918 - 139 N. Clark St., Chicago, Ill.

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine Miss Mildred B. Maier, 811 Eastwood St., Hotel Apartment,  
Chicago, Illinois,

as witnesses in behalf of Respondent in a cause pending in our Circuit Court of Baldwin County, of said State, wherein Edward J. Havel,

Complainant  
and August Maier, sometimes known as August Meyer,

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

Witness 26th day of May 19 32

COMMISSIONER'S FEE, \$ 15.00

WITNESS' FEES, \$ \_\_\_\_\_

J. W. Rieunier

REGISTER

(page two)

same , and up until the time that you left that neighborhood for Chicago, were said lands recognized in that community as being the lands of Mr. August Maier?

FOURTH INTERROGATORY.

How far did Mr. Edward J. Havel live from these lands in 1921 and up to the time that you left for Chicago? Does the public road run right by these lands and was your father constantly using and upon said lands plowing and working the same from the period that he was first put into possession by Mr. Oscar Johnson up until the time that you state that you left for Chicago? What was said by Mr. Oscar Johnson to your father relative to the payment of the balance of the purchase money? Do you know of your father having paid Mr. Oscar Johnson any other moneys on the purchase price of said lands? Did you hear of anyone else other than your father claiming the ownership or interest in said lands from the time that he paid said \$25.00 and was placed in possession of the same by Mr. Oscar Johnson up until the time that you left for Chicago? If you did, please state who it was and the circumstances under which it was said.

Hyatt, Heard & Chason  
Solicitors for Respondent.

Respondent suggests the name of Harry J. Guyon, Suite 1918-139 N. Clark Street, Chicago, Illinois, as being a suitable person to be appointed as Commissioner in taking the Deposition of Miss Mildred B. Maier in response to the foregoing Interrogatories.

Hyatt, Heard & Chason  
Solicitors for Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

EQUITY SIDE

**RECORDED**

EDWARD J. HAVEL,  
COMPLAINANT,

vs

AUGUST MAIER, Sometimes  
known as AUGUST MEYER,  
RESPONDENT,

*Filed Jan 16th 1932*  
*J. W. Rice*

OBJECTIONS TO INTERROGA-  
TORIES

LLOYD A. MAGNEY  
Attorney for Complainant.

NO. 894

**e State of Alabama**  
**BALDWIN COUNTY**  
**CIRCUIT COURT**

EDWARD J. HAVEL

vs. Complainant—  
vs.

AUGUST MAIER, sometime

Known as AUGUST MEYER,

*ad June 29, 1937*  
*J. M. Richardson*  
Defendant

MISSION TO TAKE DEPOSITION

COMMISSIONER:

HARRY J. GUYON,

WITNESSES:

MISS MILDRED MAIER

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

**The State of Alabama**

**BALDWIN COUNTY**

**CIRCUIT COURT**

vs. Complainant \_\_\_\_\_

Defendant \_\_\_\_\_

**COMMISSION TO TAKE DEPOSITION**

**COMMISSIONER:**

**WITNESSES:**

*Filed Nov. 22<sup>nd</sup> 1994  
M. A. Stone  
Register*

EDWARD J. HAVEL,  
Complainant,

- vs -

AUGUST MAIER, sometimes known as  
AUGUST MEYER,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

AFFIDAVIT.

STATE OF ALABAMA }  
BALDWIN COUNTY }

Lloyd A. Magney, being first duly sworn, on his oath deposes and says that Joseph Schradle is a material witness for the above named Complainant; that said Joseph Schradle is a non-resident of the State of Alabama, residing on R. F. D. #3, Wichita Falls, Texas, and that it will be necessary to take the testimony of said Joseph Schradle by deposition.

That B. B. Greever, whose address is Post Office Box #874, Wichita Falls, Texas, is a suitable and competent person to act as commissioner for the purpose of taking the deposition of the said Joseph Schradle.

Lloyd A. Magney

Subscribed in my presence and sworn to before me this 18  
day of October, 1934.

Mrs. Schultz  
NOTARY PUBLIC



EDWARD J. HAVEL,

Complainant,

-VS-

AUGUST MAIER, sometimes  
known as AUGUST MEYER,

Respondent.

IN THE CIRCUIT COURT-EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

Now comes the Respondent and for Answer and Cross-bill to the Complaint heretofore filed in this cause says:-

1st. That he admits the allegations contained in the first paragraph of the Original Bill of Complaint.

2nd. Respondent denies that the Complainant is in the peaceable possession of the property mentioned in the second paragraph of the Bill of Complaint. Respondent admits that he claims and is reputed to claim to own an interest in and the title to the lands aforesaid and shows unto your Honor in support of his title and ownership of the same that on, to-wit, the 2nd day of August, 1921 that he purchased said lands from one Oscar Johnson who was then and there in possession of said lands and who was the owner of the same in his own right. Your Orator further shows unto your Honor that the purchase price of said lands was Nine Hundred Dollars (\$900.00); that he paid the said Oscar Johnson at the time of said purchase the sum of Twenty-five Dollars (\$25.00) and that the said Oscar Johnson then and there placed him in possession of said property and delivered to him a receipt in words and figures as follows:-

"Silverhill, Alabama,  
August 2nd, 1921.

Received from August Maier Twenty-five Dollars (\$25.00) as first payment on the Southwest Quarter of Southwest Quarter (SW $\frac{1}{4}$ ) of Northwest Quarter (NW $\frac{1}{4}$ ) Section Eleven (11) Township Six (6) South Range Three (3) East. Purchase price Nine Hundred Dollars (\$900.00).

Oscar Johnson"

Your Orator further shows unto your Honor that on, to-wit, November 11th, 1925 that he filed the aforesaid receipt with the Judge of Probate of Baldwin County and the same was recorded in Deed Book 37 N. S., page 417; that immediately on the purchase of said land and the payment of said first payment of the purchase money the said

Oscar Johnson having placed your Orator in possession of said lands that he went to work on the same, that the same were fenced and that he farmed the same and used the same openly and notoriously up until about February 1st, 1926 when the Complainant forcibly ejected your Respondent from the possession of said land and since said time has been wrongfully exercising his possession over and upon said lands.

Your Respondent further shows unto your Honor that all during the time he was in possession of said lands that his possession was open, notorious and exclusive and was apparent to anyone that might have been interested in said lands in any way; that even though the said Complainant knew of the possession of your Respondent, at no time did the Complainant ever ask or make any inquiry of your Respondent as to his possession or his title to said lands, as in duty bound under the circumstances he was required to do.

Your Orator further shows unto your Honor that at the time that he purchased said lands from the said Oscar Johnson and was placed in possession thereof by the said Johnson, it was understood and agreed by him and the said Johnson that the balance of said purchase money was to be paid at such time as your Respondent found himself able to do; that during the time your Respondent was in possession of said lands and up until the time that he was wrongfully ejected by Complainant your Respondent paid the interest on the balance due on the purchase price of said lands, together with a small sum on the principal; that the Vendor's Lien that the said Oscar Johnson held as to said property was never enforced by him in accordance with law and that your Respondent is entitled to the possession of said property and to its quiet and peaceable enjoyment. Your Respondent herein submits himself to the jurisdiction of this Court and offers to do such equity as he should do in the premises.

Your Respondent further shows unto your Honor that the said Oscar Johnson is dead; that he died testate and that Phillip G. Armstrong is the Executor of his estate and has been duly appointed as such by the Probate Court of Baldwin County, Alabama;

FOOT NOTE:-

Edward J. Havel, Phillip G. Armstrong, as Executor of the estate of Oscar Johnson, deceased, Josephina Johnson, Elvira Armstrong and Agnes E. Utter are required to answer Paragraphs "1st" to "2nd" incl., of the foregoing Cross-bill, but answer under oath is hereby expressly waived.

*Robert Howard Johnson*  
Solicitors for Respondent.

EDWARD J. HAVEL,

Complainant,

vs.

AUGUST MAIER, sometimes  
known as AUGUST MEYER,

Respondent.

IN THE CIRCUIT COURT-EQUITY SIDE.

STATE OF ALABAMA.

BALDWIN COUNTY.

DEMURRER TO ORIGINAL BILL OF COMPLAINT.

Comes the Respondent, August Meyer, and demurs to the Original Bill of Complaint in this cause filed, and to each part thereof, separately and severally, and for grounds of demurrer assigns the following:

1. For that there is no equity in said Bill.

  
Solicitor for Respondent.

EDWARD J. HAVEL,  
COMPLAINANT

VS

AUGUST MAIER,  
RESPONDENT

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

NOTICE

TO AUGUST MAIER, THE ABOVE NAMED RESPONDENT:

You are hereby notified that the above named Complainant, Edward J. Havel, has required the oral examination of the following witnesses: Mrs. Nell Forsyth, Joseph Schradel, Mrs. Ellen Torsen, Charles Siegler, Dr. O. F. E. Winberg, P. G. Armstrong and Edward J. Havel.

That said Complainant has requested the appointment of a special Commissioner for the purpose of taking the oral depositions of said witnesses and that L. F. Farrell has been appointed such special commissioner.

Dated this 22 day of November, 1932.

  
\_\_\_\_\_  
Register.

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

August Maier, sometimes known as August Meyer,

(Near Silverhill, Alabama)

of Baldwin 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

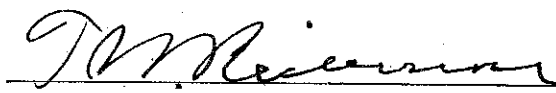
Edward J. Havel

against said August Maier, sometimes known as August Meyer,

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 19th day of

April 1930

 Register

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

EDWARD J. HAVEL,

Complainant,

- vs -

AUGUST MAIER, sometimes known  
as AUGUST MEYER,

Respondent.

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

INTERROGATORIES TO BE PROPOUNDED TO JOSEPH SCHRADLE, A WITNESS  
ON BEHALF OF THE COMPLAINANT

1. Please state your age, your place of residence, and your business.
2. Where did you reside before moving to Texas, and how long did you live there?
3. Are you acquainted with the piece of land described as the SW $\frac{1}{4}$ , of the SW $\frac{1}{4}$ , of the NW $\frac{1}{4}$ , of Section 11, township 6 south, range 3 east, in Baldwin County, Alabama, being the 10 acres near Silverhill, Alabama, on which Mr. Edward Havel has his home?
4. How long have you known this land?
5. Who owned this land when you first knew it?
6. During your residence in Silverhill did you ever engage in real estate business? If so, during what years?
7. In your capacity as a real estate salesman did you ever take any particular interest in or pay any attention to this 10 acres?
8. Did you ever know August Maier to have anything to do with this land?
9. In what years was he using it or any part of it?
10. In what way did he use it; what crops, if any, did he have on it?
11. Did he ever live on it?
12. Do you know whether or not he made any use of it during the year 1924 or any time after that? Please state what you know.
13. To your knowledge when did August Maier last use this land or any part of it?
14. Were you on this land yourself in 1924, and if so, at about what time of the year, and for what purpose?
15. How did you happen to try to sell this particular piece of Land?
16. Did you ever know August Maier to have any possession of, or plant any crop on, or make any use of, or any claim to this land, after the year 1923?





EDWARD J. HAVEL,  
Plaintiff,  
-vs-  
AUGUST MAIER, sometimes  
known as AUGUST MEYER,  
Defendant.

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

BILL OF COMPLAINT.

To the Honorable F. W. Hare, Judge of the Circuit Court of Baldwin  
County, Alabama, in Chancery sitting:

PART I.

Your Orator, Edward J. Havel, a resident of the county  
of Baldwin in this state, and over the age of twenty-one years,  
respectfully exhibits this his Bill of Complaint against August  
Maier (who is sometimes known as August Meyer), who is also a  
resident of said county of Baldwin and over the age of twenty-  
one years.

PART II.

And humbly complaining your Orator would represent unto  
your Honor, as follows:

1: That he is in the actual and peaceable possession,  
claiming to own the same, of the following described lands in  
Baldwin County, Alabama, to-wit:

The southwest quarter (SW $\frac{1}{4}$ ) of the  
southwest quarter (SW $\frac{1}{4}$ ) of the north-  
west quarter (NW $\frac{1}{4}$ ) of Section Eleven  
(11), Township Six (6) South, Range  
Three (3) East of St. Stephens Meri-  
dian.....

2: That the Defendant August Maier (who is sometimes  
known as August Meyer) claims, or is reputed, to own an interest  
in, right or title to or incumbrance upon said lands.

3: That no suit is pending to enforce or test the  
validity of such title, claim or demand or incumbrance.

4: That your Orator files this bill to settle the  
title to such lands and clear up all doubts and disputes concern-  
ing the same and calls upon the Defendant August Maier (sometimes  
known as August Meyer), to set forth and specify his title, claim,

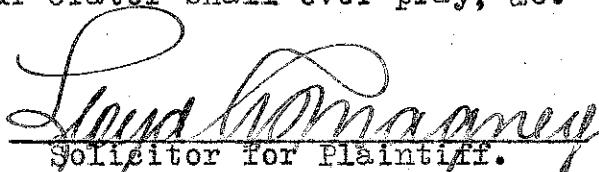
interest or incumbrance, and how and by what instrument the same is derived and created.

PART III.

WHEREFORE, your Orator prays that the defendant be required to set forth and specify his title, claim, interest or incumbrance to said property above described, and how and by what instrument the same is derived or created; that your Honor will hear and determine such title, claim, interest or incumbrance of the defendant, and finally adjudge and decree whether the defendant has any right, title, interest or incumbrance upon said land or any part thereof and, if so, what such right, title, interest or incumbrance is and in or upon what part of the lands, if any, the same exists; that upon the final hearing of this cause, your Honor will decree and adjudge that the claim, title, lien or incumbrance of the defendant is utterly and entirely void; that the title of your Orator in and to said land hereinbefore described be quited and confirmed in him, and that your Orator may have such other and further relief in the premises as may be just and equitable.

PART IV.

And your Orator further prays that your Honor will grant to your Orator the writ of summons of the State of Alabama, to be directed to the said August Maier (sometimes known as August Meyer) thereby commanding him personally to appear before your Honor in this Honorable Court within thirty days from the service thereof and then and there to answer all and singular the premises, and to stand to and abide such order and decree therein as to this Honorable Court shall seem meet; and your Orator shall ever pray, &c.

  
Solicitor for Plaintiff.

The Defendant August Maier (sometimes known as August Meyer) is hereby required to answer the allegations of part II of the above bill from section 1 to section 4 inclusive, but not under oath, oath to answer being hereby expressly waived.

  
Solicitor for Plaintiff.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

RECORDED

EDWARD J. HAVEL,

COMPLAINANT

VS

AUGUST MAIER,

RESPONDENT

*Filed Nov 22 / 1932*  
*J. W. Rice*  
*Register*

---

REQUIREMENT THAT WITNESSES  
BE EXAMINED ORALLY.

---

LLOYD A. MAGNEY,  
Attorney for Complainant.

Decket Page 910  
894 RECORDED  
2024

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

EDWARD J. HAVEL,

Complainant,

- vs -

AUGUST MAIER, sometimes known  
as AUGUST MEYER,

Respondent.

INTERROGATORIES TO BE PROPOUND-  
ED TO JOSEPH SCHRADLE, A WIT-  
NESS ON BEHALF OF THE COMPLAIN-  
ANT.

Filed Oct 26<sup>th</sup> 1934  
M. A. Stone  
Lloyd A. Magney, Clerk  
Attorney, Foley, Alabama.  
Reg.

copy to H.W. & C. 10/29/34

Executed Oct 29th 1934  
by serving copy of within Summons  
Complaint on  
John. Chason  
of the Law firm  
of Hybart Heard and  
Chason  
W.R. Stuart  
By \_\_\_\_\_ Deputy Sh.

FR-1 Original

RECORDED

SERVE ON  
Circuit Court of Baldwin County  
In Equity

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

SUMMONS

Edward J. Havel

vs.

August Maier, sometimes  
known as August Meyer

Lloyd A. Magney  
Solicitor for Complainant

Recorded in Vol \_\_\_\_\_ Page \_\_\_\_\_  
*Hea. Still*  
*Ma*

THE STATE OF ALABAMA,  
BALDWIN COUNTY

Received in office this \_\_\_\_\_  
day of \_\_\_\_\_ 19\_\_\_\_

Sheriff.

Executed this *22* day of  
*April* 19*58*

by leaving a copy of the within Summons with  
*August Maier, sometimes*  
*known as August Meyer*  
Defendant.

*P. Lawin*

Sheriff.

By \_\_\_\_\_  
Deputy Sheriff.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

*Original*

**DO NOT**

EDWARD J. HAVEL,

COMPLAINANT

VS

AUGUST MAIER,

RESPONDENT

*Served Nov 22 1933.  
D. W. Richardson  
Register*

NOTICE

LLOYD A. MAGNEY  
Attorney for Complainant

*Served copy on the court.  
Served on the respondent.*

*Docket Page 29*

*Executed Nov  
23-1932 by serving  
copy of within on  
R. C. Heard. as a  
member of the  
firm of  
Hyland Heard and  
Hanson*

*W. R. Street  
Sheriff*

EDWARD J. HAVEL,

Complainant,

- vs -

AUGUST MAIER, sometimes known as  
AUGUST MEYER,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

AFFIDAVIT.

STATE OF ALABAMA)

BALDWIN COUNTY)

Lloyd A. Magney, being first duly sworn, on his oath deposes and says that Joseph Schradle is a material witness for the above named Complainant; that said Joseph Schradle is a non-resident of the State of Alabama, residing on R. F. D. #3, Wichita Falls, Texas, and that it will be necessary to take the testimony of said Joseph Schradle by deposition.

That B. B. Greever, whose address is Post Office Box #874, Wichita Falls, Texas, is a suitable and competent person to act as commissioner for the purpose of taking the deposition of the said Joseph Schradle.

Lloyd A. Magney

Subscribed in my presence and sworn to before me this 18  
day of October, 1934.

B. B. Greever  
NOTARY PUBLIC

894 RECORDED  
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN CHANCERY

---

EDWARD J. HAVEL,

Complainant,

- vs -

AUGUST MAIER, sometimes known  
as AUGUST MEYER,

Respondent.

---

AFFIDAVIT

---

Filed Oct 26<sup>th</sup> 1934  
W. A. Stone  
Reg. Clerk  
Lloyd A. Magney,  
Attorney  
Foley, Alabama.



# CIRCUIT COURT, BALDWIN COUNTY, ALA., IN EQUITY.

No. **894**

VS.

**Eduard J. Haul - August Mair**

PLAINTIFF

DEFENDANT

## BILL OF COSTS

Fees of Register		Dollars	Cts.	Brought Forward	
Filing each bill and other papers	<b>148.00</b>	<b>148</b>		For receiving, keeping and paying out or distributing money, etc.; 1st \$1,000 1 per ct.; all over \$1,000 and not over \$5,000, 3-4 of 1 per ct.; all over \$5,000 and not exceeding \$10,000, 1-2 of 1 per ct.; all over \$10,000, 1-4 of 1 per ct.	<b>350</b>
Issuing each Subpoena			50	Receiving, keeping and paying out money paid into court, etc., 1-2 of 1 per cent of amount received.	
Issuing each copy thereof			40	Each Notice Sent by Mail to creditors	15
Entering each return thereof			15	Filing, Receipting for and Docketing each Claim, etc.	25
For each Order of Publication			1 00	For all entries on Subpoena Docket, etc.	50
Issuing Writ of Injunction			1 50	For all entries on Commission Docket, etc.	50
For each copy thereof			50	Making Final Record, per hundred words	5
Entering each return thereof			15	Certified Copy of Decree	1 00
Issuing Writ of Attachment			1 00	Report of Divorce to State Health Office, Acts 1915	50
Entering each return thereof			15	Total Fees of Register	<b>148.00</b>
Docketing each case			1 00		
Entering each Appearance			25	Fees of Sheriff	
Issuing each Decree Pro Confesso on personal service			1 00	Serving and Returning Subpoena on Deft.	\$1 50
Issuing each Decree Pro Confesso on publication			1 00	Serving and Returning Subpoena for Witness	65
Each order Appointing Guardian			1 00	Levy and Attachment	1 50
Any other order by Register			50	Entering and Returning same	25
Issuing Commission to Take Testimony			50	Selling Property Attached	
Receiving and Filing			10	Impaneling Jury	75
Endorsing each package			10	Executing Writ of Possession	2 50
Entering order Submitting Cause			50	Collecting Execution for Costs	1 50
Entering any other Order of Court			25	Serving and Returning Sci. Fa., each	65
Noting all Testimony			50	Serving and Returning Notice	65
Abstract of Cause, etc.			1 00	Serving and Returning Writ of Injunction	1 50
Entering each Decree			75	Serving and Returning Writ of Exeat	1 50
For every 100 words over 500			15	Taking and Approving Bonds, Each	75
Taking account, etc.			3 00	Collecting Money on Execution	
Taking Testimony, etc.			15	Making Deed	2 50
Each Report, 500 words or less			2 50	Serving and Returning Application	1 00
For every 100 words over 500			15	Serving Attachment, Contempt of Court	1 50
Amount claimed less than \$500, etc.			2 00	Total Fees of Sheriff	<b>450</b>
Issuing each Subpoena			25		
Witness Certificate, each			25	Recapitulation	
Issuing Execution, each			75	Register's Fees	<b>148.00</b>
Entering each return			15	Sheriff's Fees	<b>450</b>
Taking and Approving Bond, each			1 00	Commissioner's Fees	<b>500</b>
Making copy of bill, etc.			15	Solicitor's Fees	<b>1500</b>
Each notice not otherwise provided for			50	Witness Fees	<b>100</b>
Each certificate or affidavit, with seal			50	Guardian Ad Litem	
Each certificate or affidavit, no seal			25	Printer's Fees	
Hearing and passing on application, etc.			3 00	Trial Tax	3 00
Each settlement with receiver, etc.			3 00	Recording Decree in Probate Court	
Examining each voucher of receiver, etc.			10		
Examining each answer, etc.			3 00		
Recording resignation, etc.			75		
Entering each certificate to Supreme Court			50		
Taking questions and answers, etc.			25		
For all other service relating to such proceedings			1 00		
For service in proceeding to relieve minors, etc same fee as in similar cases.					
Commission on sales, etc.: 1st \$100 2 per cent, all over \$100, and not exceeding \$1,000, 1 1-2 per ct.; all over \$1,000 and not exceeding \$20,000, 1 per ct.; all over \$20,000, 1-4 of 1 per ct.					
Sub Total Carried Forward		<b>580</b>		Total	<b>4330</b>

Received payment this \_\_\_\_\_ day of \_\_\_\_\_ 193\_\_\_\_\_

Register.

P. O. Box #874  
Wichita Falls, Texas  
November 19, 1934.

Mrs. Mary Alice Stone  
Register and Clerk of the Circuit Court  
Baldwin County  
Bay Minette, Alabama

Dear Madam:

In accordance with your letter of November 7 and the  
commission to take deposition which you enclosed therewith,  
I enclose deposition of Jos. Schradle in the case of  
Edward J. Havel vs. August Maier. I am also returning the  
commission and copy of Interrogatories which you forwarded  
to me.

Yours very truly,

B. B. Greever



bbg-bc

EDWARD J. HAVEL,

Complainant,

-vs-

AUGUST MAIER, Sometimes known as  
AUGUST MEYER,

Respondent.

PHILIP ARMSTRONG, as Executor  
of the Will of OSCAR JOHNSON,  
Deceased; JOSEPHINA JOHNSON;  
ELVIRA ARMSTRONG; and AGNES E.  
UTTER,

Respondents to  
Cross-Bill

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

DECREE

This cause came on to be heard on the Bill of Complaint of Edward J. Havel; the answer and cross-bill of respondent, August Maier; the separate answer to the cross-bill of Edward J. Havel, complainant and respondent in the cross-bill; the separate answers of Philip G. Armstrong, as executor of the will of Oscar Johnson, deceased, Josephina Johnson, Elvira Armstrong and Agnes E. Utter, respondents to the cross-bill; the testimony as noted by the register and the stipulation of the solicitors for the parties that the complainant have a decree in accordance with the prayer of his bill of complaint, and was submitted to the Court, upon consideration whereof the Court finds:

That the allegations of the bill of complaint and of the answers of the complainant to the cross-bill of the respondent are true and that the allegations of the cross-bill of the respondent are not supported by the law and the evidence and are not true and that complainant is entitled to relief as prayed in his bill of complaint.

That those parties brought in as respondents by the cross-bill of the respondent, August Maier, to-wit: Philip G. Armstrong, as executor of the will of Oscar Johnson, deceased, Josephina Johnson, Elvira Armstrong and Agnes E. Utter, are not in any way directly concerned in the outcome of this case, the cross-bill of the respondent, August Maier, is without equity as to these respondents and on their answers they should be dismissed.

That the complainant, Edward J. Havel, is the owner and in the actual and peaceable possession of the following described real estate in Baldwin County, Alabama, to-wit:-

The southwest quarter (SW $\frac{1}{4}$ ) of the southwest quarter (SW $\frac{1}{4}$ ) of the northwest quarter (NW $\frac{1}{4}$ ) of section eleven (11) township six (6) south, range three (3) east of St. Stephens, Meridian.....

and respondent, August Maier, has no right, title, interest, claim or demand in and to and no encumbrance upon said real estate or any part thereof and that title of the complainant in and to said lands ought to be quieted and confirmed in him.

That the receipt or instrument dated August 2nd, 1921, signed by Oscar Johnson and recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 37 NS at page 417 thereof, does not convey any title or interest in the lands above described to the respondent and cross-complainant, August Maier, but the same, appearing of record, does constitute a cloud upon the title of the complainant, which should be removed.

IT IS THEREFORE, ORDERED, ADJUDGED and DECREED, that the respondents to the cross-bill, Philip G. Armstrong, as executor of the will of Oscar Johnson, deceased, Josephina Johnson, Elvira Armstrong and Agnes E. Utter be and they hereby are discharged and the cross-bill of the respondent and cross-complainant, August Maier, as to said respondents, be and the same hereby is dismissed.

That respondent and cross-complainant, August Maier, has no right, title, interest, claim or demand in and to and no encumbrance upon the following described real estate in Baldwin County, to-wit:

The southwest quarter (SW $\frac{1}{4}$ ) of the southwest quarter (SW $\frac{1}{4}$ ) of the northwest quarter (NW $\frac{1}{4}$ ) of section eleven (11) township six (6) south, range three (3) east of St. Stephens, Meridian.....

That the complainant, Edward J. Havel, is the owner of said real estate and his title thereto is hereby quieted and confirmed in him and respondent, August Maier, is hereby perpetually enjoined

from having, claiming or asserting any right, title, interest, claim or demand in and to or encumbrance upon said real estate or any part thereof; that the receipt or instrument dated August 2nd, 1921, and signed by Oscar Johnson and recorded in Deed Book 37 NS at page 417, in the office of the Judge of Probate of Baldwin County, Alabama, is without legal effect but is a cloud upon the title of complainant and the same is hereby removed, cancelled and declared to be without legal force or effect; that the respondent, August Maier, pay the costs of this action taxed at \$ 43.30.

Dated this 17 day of May, 1935.

F.W.Hare

Judge

STATE OF ALABAMA  
BALDWIN COUNTY.

I, Robert S. Duck, Register in Chancery and Clerk of the 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 17th day of May, 1935, in the cause of Edward J. Havel, complainant, vs August Maier, sometimes known as August Meyer, Respondent, Phillip Armstrong, as Executor of the Will of Oscar Johnson, Deceased; Josephine Johnson; Elvira Armstrong; and Agnes A. Utter, Respondents to Cross Bill, as appears of record in said Court.

Witness my hand and the seal of said Court, this the \_\_\_\_\_ day of May, 1935.

Register.

(SEAL)

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

EDWARD J. HAVEL,

Complainant,

- vs -

AUGUST MAIER, Sometimes known as  
AUGUST MEYER,

Respondent.

PHILIP ARMSTRONG, as Executor of  
the will of OSCAR JOHNSON, Deceas-  
ed; JOSEPHINA JOHNSON; ELVIRA  
ARMSTRONG; and AGNES E. UTTER,

Respondents to  
Cross-Bill

DECREE

LLOYD A. MAGNEY  
Attorney  
Foley, Alabama

The State of Alabama, {  
Baldwin County

CIRCUIT COURT

To Edith Porter

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine Ellen Poreen, Charles Siegler, Nell Forsyth, Dr. O. F. E. Winberg and Edward J. Havel

as witnesses in behalf of Complainant in a cause pending in our Circuit Court of Baldwin County, of said State, wherein

Edward J. Havel

Complainant

and

August Maier sometimes known as August Meyer

Defendant,

on oath to be by you administered, upon them to take and certify the deposition of the witness(es) and return the same to our Court, with all convenient speed, under your hand.

Witness 5th day of November 1934

*E. A. Stone*

REGISTER

COMMISSIONER'S FEE, \$

WITNESS' FEES, \$

EDWARD J. HAVEL

Plaintiff.

- vs -

AUGUST MAIER

Defendant.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

Depositions of sundry witnesses  
for complainant.

STIPULATION

It is hereby stipulated by and between the parties hereto by their respective council that the depositions of Edward J. Havel, Charles Seigler, and Clarence Ostrand be taken this the 11th day of January, 1935, before Edith Porter, commissioner to take testimony by virtue of the attached commission; that said testimony be taken by the commissioner in shorthand and transcribed later, and that the signature of the witnesses to the depositions be waived.

  
Solicitor for Complainant.

  
Solicitor for Defendant.



TESTIMONY OF EDWARD J. HAVEL

Edward J. Havel, being first duly sworn on his oath does depose and say:

Q: Please state your name, your place of residence and your business.

A: Edward J. Havel, Silverhill, Alabama, farmer and produce dealer.

Q: How long have you lived in Silverhill, Mr. Havel?

A: I have lived in Silverhill since spring of 1922.

Q: You have been engaged in business there ever since, have you?

A: I was working in the creamery first until 1926, yes.

Q: Are you familiar with the land described as the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , Section 11, Township 6 south, range 3 east, Baldwin County, Alabama?

A: Yes sir.

Q: Where is that land situated with reference to the town of Silverhill?

A: Just right on the south side of the city limits of Silverhill.

Q: How long have you known that land?

A: Ever since the year of 1922.

Q: That is a 10 acre piece, is it?

A: Yes sir.

Q: When you first knew the land in 1922 what kind of land was it, was it improved, raw land or partly improved?

A: Most of it was raw land, except probably an acre and a half.

Q: Were there any buildings on it?

A: No sir.

Q: Was it fenced?

A: Yes sir.

Q: Do you know who was using the land or in possession of it at that time?

A: August Maier worked it at that time.

Q: How did he work it?

A: He had some cucumbers planted on it.

Q: On this acre and a half that was cleared?

A: Yes sir.

Q: Did you know the land as August Maier's land, or how did you know it?

A: I knew it as Oscar Johnson's land, but Maier had an option on it.

Q: How long did August Maier continue to use the land?

A: Until the fall of 1923.

Q: Did Maier make any use of it after the fall of 1923?

A: No sir.

Q: Did he have any crops on it?

A: No sir.

Q: Did he cut any hay on it after that time?

A: No sir.

Q: Did you see the land often during that time, that is, during the years 1923 and 1924?

A: I went by about two times a week, on my way to Fairhope.

Q: Was the land used by anyone during the year 1924?

A: No.

Q: No crops on it at all, any hay or grass cut off of it?

A: No.

Q: Did you have any dealings with anyone concerning this land early in the year 1925?

A: Oscar Johnson.

Q: What dealings did you have with Oscar Johnson?

A: I was looking for a piece of land.

MR HYBART: Defendant objects to any transactions that the witness might have had with Mr. Oscar Johnson, as I understand that Johnson is dead.

A: I asked Mr. Johnson about a piece of land I wanted to buy to build my home on, so he told me about this piece of land, he says Maier give it up and he had it for sale, so I told him it don't make any difference to me just so I had it close to my place of work, and so I bought it.

MR HYBART: Defendant moves to exclude the conversation between the witness and Mr. Oscar Johnson on the grounds that Mr. Johnson is dead and especially moves to exclude that part of the witness's statement relative to what Mr. Oscar Johnson told him as to the defendant giving up the land on the ground that it is purely hearsay.

Q: When was this that you bought the land from Mr. Johnson?

A: January 7th, 1925.

Q: At that time was the land in anyone's possession?

A: No.

Q: Had it been in anyone's possession for a year prior to that time?

A: No sir.

Q: So far as you know the land was lying there grown in weeds, and no one had possession of it?

A: Yes sir.

Q: Did you pay Mr. Johnson for the land in 1924?

A: I paid him \$500.00 down on January 27th, 1925.

Q: Did you examine or have an abstract of title examined to that land at that time?

A: No.

Q: After you paid Oscar Johnson \$500.00 on January 7th, 1925, what did you do with this land?

A: I put a crop in.

Q: Did you erect any buildings on it that year?

A: First I put up a small garage to house the fertilizer and seed potatoes.

Q: That was shortly after January 7th, 1925?

A: I think about a week.

Q: Did you clear any part of the land that spring?

A: No.

Q: Did you later clear any part of the land; if so, when?

A: 1926.

Q: In 1925 you built a garage on it in which you stored fertilizer, and put in a crop on the land which was already cleared?

A: Yes.

Q: Did anyone say anything about it or protest against it?

A: No sir.

Q: Did August Maier say anything to you at that time?

A: No.

Q: Mr. Maier was still living near Silverhill, was he not?

A: About a mile and half from Silverhill.

Q: Did Mr. Maier see you putting up buildings and farming on the land?

A: Yes.

Q: What did he say to you about it?

A: Nothing.

Q: Did you later complete your purchase of the land from Oscar Johnson?

A: In the fall of 1925 I finished paying, and got a warranty deed to the place.

Q: How much more did you pay Oscar Johnson?

A: \$518.00.

Q: Making a total of \$1,018.00 for the 10 acres?

A: Yes sir.

Q: Did you receive an abstract of title from Oscar Johnson at that time?

A: Yes sir.

Q: I'll hand you this paper marked Plaintiff's Exhibit 1, and ask you to state whether or not that is the abstract of title that you received from Oscar Johnson in November, 1925.

A: This is the abstract that I had looked over, down to the brown sheet.

Q: This is the abstract you received from Oscar Johnson?

A: Yes sir.

Q: It is certified by the Northern Abstract Company to November 12th, 1925?

A: Yes sir.

Q: What did you do with this abstract after you received it from Mr. Johnson?

A: I went down Mr. Vonashek's and told him to look over the abstract to see if it was O. K., and he kept the abstract there for several days then when I come back there he says everything is alright.

MR HYBART: The defendant moves to exclude the conversation between witness and Mr. Vonashek, and the fact that he went to Mr. Vonashek's for anything on the grounds that it calls for incompetent, illegal and irrelevant testimony.

Q: After you received the abstract and had it examined, you paid Mr. Johnson, you say, \$518.00, and received from him a warranty deed to the premises?

A: Yes sir.

Q: (As a part of the examination of this witness the plaintiff offers in evidence Exhibit 1, being the abstract of title referred to by the witness.)

Defendant objects to the introduction of Exhibit 1, being incompetent, irrelevant and immaterial, to establish any legal fact.

Q: After you received your deed from Mr. Johnson, what did you do with the land?

A: I kept on farming it.

Q: And have continued to occupy and farm it ever since?

A: Yes sir.

Q: Up to this time?

A: Yes sir.

Q: Have you done any building on the land?

A: I built a house and all out buildings, barn, chicken houses, shed and well house.

Q: How about the house on the south side of the land?

A: I built a house there.

Q: You have two residences and numerous out buildings on the property at this time?

A: Yes sir.

Q: How much money have you spent on improvements on the place since you bought it from Oscar Johnson?

A: About \$7,500.00.

Q: Now during that time, from January, 1925, when you first took possession of the land, and during all the years since then, while you were erecting all these buildings and spending this \$7,500.00 on the land, did you ever receive any notice or have any talk with August Maier about the property?

A: No sir.

Q: Did he ever come to you and state to you that he had any claim to it?

A: No.

Q: Did he ever, himself, or have anyone else, serve on you any written notice?

A: No.

Q: What was the first notice you had that August Maier was claiming some interest in this land?

A: He never claimed any interest from me in that land. I don't remember just what year it was, it was after Mr. Johnson died then he said one time that I would have trouble with the title.

Q: That does not just answer my question. When did you first learn that August Maier was claiming any interest in the land?

A: I don't know exactly what date that was.

Q: It was shortly before you filed this suit against him, was it not?

MR. HYBART: Don't lead the witness.

A: It was shortly before this suit was filed when he claimed the interest in the property.

Q: Did you have this abstract, Exhibit 1, extended and brought down to date at that time, after you received it from Oscar Johnson?

A: Yes sir.

Q: Referring to Plaintiff's Exhibit 2, which is present in the same folder with Plaintiff's Exhibit 1, but which consists of that part of the folder beginning with the brown page, marked Exhibit 2, is that the continuation that you had placed on this abstract?

A: Yes sir.

Q: On the second page of that continuation is shown the record of a receipt from Oscar Johnson to August Maier, dated August 2nd, 1921. Did you, Mr. Havel, ever know anything about that receipt or the recording of it prior to the time you saw it here on this continuation of this abstract?

A: No sir.

Q: That was the first notice you ever had of it?

A: Yes sir.

Q: Now you heard Mr. Maier's testimony in Bay Minette sometime ago, did you not?

A: Yes sir.

Q: I believe he stated that in the fall of the year, 1925, he called on you while you were working at the Silverhill Creamery, and there handed to you a notice of some kind, a written notice, I will ask you to state whether or not you ever received any such notice from Mr. Maier at Silverhill Creamery or any place else?

A: No sir.

Q: During his testimony, Mr. Maier also stated that Mr. Frank Stone, who was then his attorney in Bay Minette, was instructed by him to mail to you a copy of a notice concerning this land, I will ask you to state whether or not you ever received any such notice from Mr. Frank Stone, through the mail or otherwise?

A: No sir.

Q: In the course of his testimony, Mr. Maier stated that he attached a copy of this notice to the fence around this 10 acres, I will ask you whether or not you ever saw any such notice attached to the fence?

A: No, I didn't.

Q: Did you ever receive, or see, or know of any written notice from August Maier to you, or Oscar Johnson, or anyone else concerning this land?

A: No.

Q: I think you have stated that at no time did Mr. Maier ever say anything to you personally about his claiming this land, during the time you have occupied it?

A: No, he has not.

Q: Have you lived on it continuously since 1926, when you bought it?

A: Yes sir.

Q: Are you still living on it?

A: Yes sir.

Q: How long did August Maier continue to live near Silverhill and near this land after 1925?

A: About 6 years.

Q: When did August Maier leave Silverhill?

A: I don't remember just exactly, I think it was in 1930, or something like that.

Q: Has he been gone 4 years, five years, state how many?

A: About three years.

Q: Has he been gone about three years?

A: Yes sir.

Q: From the time that you took possession of the land, January 7th, 1925, until August Maier left Silverhill, some three years ago, he never at any time made any claim on the land?

A: No sir.

Q: Was there a lock on the gate and the fence on this place when you took it over?

A: No sir.

Q: Was there a gate in the fence around it?

A: There was an old gate on the south side. When I bought the land I made me a gate on the northeast corner, and I put a lock on the south gate.

Q: There was no other lock there at that time?

A: No.

Q: Do you know where August Maier went when he left Silverhill?

A: Chicago I expect, that's what I heard.

CROSS EXAMINATION BY MR. HYBART, ATTORNEY FOR DEFENDANT.

Q: Mr. Havel, where were you living in 1921?

A: South of Silverhill, just a mile from the city limits.

Q: How long had you been living there?

A: I lived there until the spring of 1922.

Q: When did you commence living there?

A: In the fall of 1921.

Q: Where were you living in the spring of 1921?

A: Minnesota.

Q: So you moved down in 1921?

A: Yes sir.

Q: When did you first become acquainted with Mr. August Maier?

A: In winter of 1921, towards spring.

Q: At that time he was working this place, was he?

A: Yes sir.

Q: You said you knew he had an option on the place?

A: Yes sir.

Q: When did you find out that he had this option on it?

A: In the spring of 1922, he told me.

Q: Did you have any other conversation with him in regard to the matter?

A: No sir.

Q: What did he tell you about the option on the place?

A: He said he had an option to buy, if he had the money.

Q: That is the only conversation you had with him about the option?

A: Yes sir.

Q: Mr. Havel, who worked the property in 1922?

A: Mr. Maier.

Q: Did he build a fence around the place, or do you know?

A: I don't know.

Q: How many acres did he work in 1922?

A: About one and one-half or two acres.

Q: Was the land wood land?

A: Most of it was woods.

Q: Who worked it in 1923?

A: Maier.

Q: How much did he work in 1923?

A: Not much more than in 1922, just a little piece.

Q: What was he raising on this land?

A: Cucumbers.

Q: Anything else, any potatoes in 1922 or 1923?

A: I don't believe so.

Q: Did he cut any hay off in 1923?

A: I don't know.

Q: Who worked it in 1924?

A: Nobody.



Q: Mr. witness, isn't it a fact that August Maier worked it in 1924?

A: No sir.

Q: What lands did he work in 1924?

A: The farm that he lived on from Mr. Forsman.

Q: What Mr. Forsman was that?

A: O. P. Forsman.

Q: Where is he?

A: He is dead.

Q: Are any of his people living or his children?

A: Yes.

Q: How far was Mr. Forsman's place from this place?

A: About  $1\frac{1}{4}$  mile.

Q: Who worked the land in 1925?

A: I did.

Q: Isn't it a fact that August Maier worked it in 1925?

A: No sir.

Q: How many gates were on the place when August Maier had it?

A: One.

Q: Didn't Mr. Maier keep that gate locked?

A: I couldn't tell you, but when I bought it there was no lock on it.

Q: Didn't you see a chain and lock on it?

A: No.

Q: Did you put a lock and chain on it?

A: I put a lock and chain on it.

Q: Was there a lock and chain put on it after you put yours on it?

A: I don't know.

Q: You never did see two locks and chains on the gate?

A: No sir.

Q: Never did go look at it?

A: No sir.

Q: When did you take your lock and chain off of it?

A: About two years after I bought it.

Q: You didn't find a lock and chain already on it?

A: No sir.

Q: Did you see any notices stuck around on the place?

A: No sir.

Q: Didn't Mr. Maier give you a notice like this, Mr. witness, "All parties are hereby warned not to trespass on this land, the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 11, Township 6 south, of range 3 east, all trespassers will be prosecuted according to law." Did he give you any notice like this?

A: No sir.

Q: Along about November 11th, 1925?

A: No sir.

Q: Didn't you go down and forcibly take charge of this place?

A: No sir.

Q: Over the protest of August Maier?

A: No sir.

Q: I believe you stated that you never did talk with August Maier about that option that he told you he had on the place?

A: No.

Q: You say got a warranty deed on the place, when?

A: About November, 1925.

Q: Will you look and see the date?

A: November 25th, 1925.

Q: That was the day you received the deed to it?

A: Yes sir.

Q: Where were you working in 1925?

A: In the creamery at Silverhill.

RE-DIRECT EXAMINATION BY MR. MAGNEY, ATTORNEY FOR COMPLAINANT.

Q: Mr. Havel, Mr. Hybart asked you if you didn't go down there in January, 1925, and forcibly take possession of this land and you stated, no. Please tell us just what you did do, whether you saw August Maier and talked with him or what you did do when you took possession.

A: After I bought it I just went to work on it, started hauling my lumber for the garage and buildings.

Q: Was there anybody on the land for you to talk to about it?

A: No sir.

Q: From that day to this August Maier has never made any personal demand on you for that land?

A: No sir.

Q: Was the land vacant at the time you went on it?

A: Yes sir.

Q: How long had it been vacant to your certain knowledge before that?

A: From the fall of 1923.

RE-CROSS EXAMINATION, BY MR. HYBART.

Q: August Maier continued to live in Silverhill from January 1st, 1925, on up until he left there?

A: No, not in Silverhill, he lived south of Silverhill, in the neighborhood of Silverhill.

Q: From January 1st, 1925, until the time he left there, did you say that was three years ago?

A: Yes sir.

Q: How far did he live from these lands?

A:  $1\frac{1}{4}$  miles.

Q: And you knew he was over there?

A: Yes sir.

RE-DIRECT EXAMINATION, BY MR. MAGNEY.

Q: During that time you were farming the land and building buildings all the time?

A: Yes sir.

Q: Did Maier ever say anything to you all these years?

A: No sir.

TESTIMONY OF CHARLES SIEGLER

Charles Siegler, being first duly sworn on his oath does depose and say:

Q: What is your name?

A: Charles Siegler.

Q: Where do you live?

A: Silverhill, Alabama.

Q: In the town or on a farm nearby?

A: Close by, about  $2\frac{1}{2}$  miles out.

Q: How long have you lived there?

A: 15 years.

Q: Do you know the land on which Mr. Ed Havel lives, which is described as the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$ , of Section 11, township 6 south of range 3 east, in Baldwin County, Alabama?

A: Yes sir.

Q: How long have you known that 10 acre piece of land?

A: Ever since I came down here.

Q: Where does it lie with reference to the town of Silverhill?

A: It is right in town, it is south of the square.

Q: On the main road running into Silverhill from the south?

A: Yes sir.

Q: Did you know August Maier while he lived around Silverhill?

A: I have known him for 15 years.

Q: Does August Maier still live there?

A: No sir.

Q: How long since he left?

A: He has been gone from Alabama over a year.

Q: Did you ever know August Maier to have anything to do with this 10 acres?

A: He farmed it in 1922 and 1923?

Q: How much of this 10 acres was cleared in 1922 and 1923?

A: About three or four acres.

Q: The rest of it was timber?

A: Yes sir.

Q: During 1922 and 1923 you know that August Maier did have some crops on there?

A: Yes sir, he had a cucumber crop.

Q: Do you know anything about the circumstances under which he was in possession of and farming this land?

A: He intended to buy it and make his home on it.

Q: And he farmed it just these two years?

A: Yes sir.

Q: In the fall of 1923 he quit farming it?

A: Yes sir.

Q: Did he have any crops on it in 1924?

A: No sir.

Q: It was all grown up in weeds during 1924, was it not?

A: Yes sir.

Q: Were you ever present at any conversation between August Maier and Oscar Johnson?

A: Yes sir.

Q: Where was that conversation?

A: In Oscar Johnson's office.

Q: And about when was it?

A: In the spring of 1924.

Q: How do you fix that time?

A: During that time I went to Oscar Johnson about a loan.

Q: This was right after the opening of the Silverhill Bank?

A: Yes sir.

Q: You went into the office with the intention of getting the loan through Oscar Johnson?

A: Yes sir, I came in and August Maier was there, I overheard the conversation about the said piece of land. August Maier said to Oscar Johnson that he was giving it up and he wasn't going to pay any more payment on it, and if Oscar Johnson would give him part of the payment that he put down, and Oscar Johnson said no, that he had the use of the land for the 2 years, and that kind of evened things up, otherwise I don't know anything about it.

Q: This was sometime in the year of 1924?

A: Yes sir.

Q: How do you know?

A: I looked it up and I was making my first loan mortgage from the bank.

Q: Do you know whether or not Maier had any crops or made any use of, or any possession of the land in 1924?

A: None at all.

Q: You are in a position to know that, you saw it frequently?

A: I saw it day in and say out.

Q: Do you know who has that land in possession now?

A: Mr. Havel.

Q: Do you know when he went into possession of it?

A: In the spring of 1925.

Q: What has he done on that land since 1925?

A: He built two houses and other buildings.

Q: And cleared up most of the land?

A: Most all of it.

Q: And has lived on it and used it ever since?

A: Yes sir.

Q: Did you ever hear August Maier make any claim to this land after 1924?

A: No sir.

Q: During all of the time that Havel was erecting houses and building buildings on this ground did you ever know of August Maier to make any claim to it?

A: No sir.

Q: Did you ever see any notice by August Maier on the fence or around the land?

A: No sir.

Q: So far as you know then August Maier gave up his possession of this land in the fall of 1923 and hasn't had any since?

A: Yes sir.

CROSS EXAMINATION BY MR. HYBART, ATTORNEY FOR DEFENDANT.

Q: Where did you come to Silverhill from?

A: Chicago.

Q: When did you first get acquainted with Mr. Havel?

A: In 1922, when I was in the creamery.

Q: Mr. Havel was there in the creamery with you?

A: He was manager.

Q: Were you partners in business with him?

A: No sir.

Q: You and Mr. Havel are good friends?

A: Yes sir.

Q: Any relation other than that?

A: No sir.

Q: Not married or intermarried in any way?

A: No sir.

Q: When was it that you first discussed this case with anybody?

A: When this case was brought up here, I think it was sometime in May, 1934.

Q: You are certain of that?

A: Yes sir.

Q: Who were you discussing it with?

A: Mr. Armstrong.

Q: And who is Mr. Armstrong?

A: The executor of the Oscar Johnson estate.

Q: You any relation to him?

A: No sir.

Q: Friend of his?

A: Yes sir.

Q: In business with him?

A: No sir.

Q: In business with Mr. Havel in any way?

A: No sir.

Q: Where were you when this conversation came up with Mr. Armstrong?

A: I went to visit Mr. Armstrong one evening.

Q: Who brought up the subject?

A: Mrs. Armstrong.

Q: And you told her then what you had heard at Mr. Johnson's office?

A: Yes sir.

Q: I believe that you told them that you had heard a conversation between Mr. Maier and Mr. Oscar Johnson?

A: Yes sir.

Q: You heard Mr. Maier say to Mr. Johnson he would have to give the place up?

A: Yes sir.

Q: You heard Mr. Johnson tell him no, you are not?

A: No sir.

Q: You mean to say that you didn't make a statement here that Mr. Johnson said, no, you had the place two years without any rent?

A: No sir.

Q: That Mr. Johnson wasn't going to give him any of the payment back that he gave on the land?

A: No.

Q: What did Mr. Maier say?

A: Mr. Maier wanted part of the payment back and Mr. Johnson said no, that he had the use of the land for two years.

Q: They didn't agree, did they?

A: No sir.

Q: That's all that you know about it?

A: Yes sir.

Q: Mr. Witness, didn't Mr. Maier cut the hay off the land in 1924?

A: No sir.

Q: You were by there every day?

A: Yes sir.

Q: You were never sick any at all, never left home during the year 1924?

A: No sir.

Q: And you went by this land every day?

A: Yes sir.

Q: How many times did you pass every day?

A: Just once.

Q: What time of the day did you go by?

A: Sometime in the morning and sometime in the afternoon.

Q: Some of the times when you went by in the morning, could you say that he didn't cut hay in the evening?

A: Yes sir.

RE-DIRECT EXAMINATION BY MR. MAGNEY, ATTORNEY FOR COMPLAINANT

Q: There wasn't any sign of any hay being cut, was there?

A: No sir.

Q: As a matter of fact the place grew up in weeds, didn't it?

A: Yes sir.

Q: Getting back to that conversation between Maier and Johnson, which you heard, I want to be sure that we all understand that, now just repeat again just what you heard between Maier and Johnson.



Q: In January, 1924?

A: In the spring.

Q: I thought you said you looked it up, didn't you say on your direct examination that you looked up the date as to when you made the loan?

A: I did. It was in the spring of 1924.

Q: Did you go back any time later and examine as to the date that you made your loan in 1924?

A: Yes sir.

Q: Did you go back last year and look up the loan that you made in 1924, to who?

A: To the bank of Silverhill.

Q: State Bank?

A: Yes sir.

Q: What was the occasion of this?

A: To find out as close as possible when I was in that office.

Q: Who asked you to do that?

A: Nobody.

Q: You did it on your own initiative?

A: Yes sir.

Q: You are interested in this case, are you not?

A: Yes.

Q: Are you interested in the Oscar Johnson Estate?

A: Yes sir.

Q: Have you any other interest in this estate other than good friends?

A: No sir.

Q: Did you make a mortgage to the bank in 1925?

A: No sir.

Q: Did you make one in 1926?

A: This loan was carried on for a number of years until the bank closed and then I took the loan out.

Q: Wheredid you go to look up your mortgage?

A: I had the papers at home, when I paid the mortgage I got the papers back and had them at home.

Q: Now isn't it a fact that no such conversation took place between Mr. Johnson and Mr. Maier?

A: No sir.

Q: Was there anything said in that conversation there about Mr. Maier having paid on June 23rd, 1925, \$118.00 to Mr. Johnson?

A: No sir.

RE-DIRECT BY MR. MAGNEY

Q: As I understand it Mr. Siegler, in May, 1934, in a conversation between you and Mr. and Mrs. Armstrong this lawsuit was mentioned and you then recalled this conversation and told them about it?

A: Yes sir.

Q: And you remember that the conversation between Maier and Johnson was before you made this mortgage?

A: Yes sir.

Q: That is the way that you fixed the date as being in the spring of 1924?

A: Yes sir.

HYBART: Defendant moves to exclude witnesses testimony on the grounds that in answer to each question propounded, separate, and severally to each question on the grounds that the answers<sup>were</sup> elicited by leading questions.

RE-CROSS EXAMINATION BY MR. HYBART.

Q: When did Mr. Johnson die?

A: September 13th, 1929.

A: It was a conversation about this said piece of land and August Maier came in there and says that he was giving the said land up, that he couldn't make his payments, and wanted Oscar Johnson to return at least part of the payment that he paid on this land, and Oscar Johnson said no, that he had the use of it for two years, and that kind of evened things up.

Q: Now you said in response to one of Mr. Hybart's questions that they didn't agree about this matter, was the disagreement about the return of the money or giving up the land?

A: They could not agree on the returning of the payment or part of it.

Q: Was there any disagreement or misunderstanding as to whether Maier was giving up the land or not?

A: No sir.

RE-CROSS BY MR. HYBART.

Q. And was anything further said about giving up the land other than what you testified to?

A: No sir.

Q: They could not agree as to the whole transaction?

A: No.

Q: How long did he stay around there?

A: He left and I did my business with Mr. Johnson afterwards.

Q: You know which way he went?

A: To the Peoples Supply Store.

Q: You remember that?

A: Yes.

Q: Who else was present besides Mr. Oscar Johnson?

A: Nobody.

Q: And you just butted on in?

A: I went on business.

Q: But you went on in the office?

A: It was openhouse there and every body went right in whether anyone else was there or not.

Q: You don't know whether they had any further conversation about it or not?

A: No sir.

Q: Was anything further said there as to the amount of money that he had paid Mr. Johnson?

A: No sir.

Q: That was in 1924?

A: Yes sir.

TESTIMONY OF CLARENCE E. OSTRAND

Clarence E. Ostrand, being first duly sworn on his oath does depose and say:

Q: State your name.

A: Clarence E. Ostrand.

Q: Where do you live?

A: Silverhill.

Q: What is your business?

A: Truck driving, for Union Express.

Q: How long have you lived in Silverhill?

A: 10 or 11 years.

Q: When did you come there?

A: 1923.

Q: Were you employed during 1923 and 1924?

A: Yes sir.

Q: In what work?

A: Working for Windberg and Silverhill Creamery.

Q: What were you doing for the creamery?

A: Driving the truck.

Q: Do you know the 10 acres involved in this lawsuit on which Mr. Ed Havel has his home, the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 11, Township 6 south or range 3 east?

A: Yes sir.

Q: How long have you known that land?

A: Ever since I have been down here.

Q: Were you employed by the Silverhill Creamery driving the truck during the year 1924?

A: Yes sir.

Q: Did you have occasion to observe and see this land during that time?

A: Every day.

Q: Who was farming the land in 1924?

A: I didn't see anybody.

Q: Were there any crops on it?

A: I didn't see any when I rode by.

Q: Did you ever see August Maier or anyone else farm the land in 1924?

A: No sir.

Q: Did you ever see August Maier or anyone cut any hay off of it in 1924?

A: No sir.

Q: So far as you could see driving by it every day it was idle?

A: Yes sir.

Q: Did you ever know August Maier to make any claim to this land?

A: No.

Q: Do you know when Ed Havel went into possession of it?

A: Yes sir.

Q: About when was it?

A: 1925.

Q: What has he done on this land since 1925?

A: Built a home and fixed everything up.

Q: Did you ever know or hear of any claim to this land except Mr. Havel's until this lawsuit?

A: No sir.

Q: You know Mr. Maier, do you?

A: Yes sir.

Q: Did you ever collect cream at his farm?

A: I believe I have.

Q: You knew him personally?

A: Yes sir.

Q: Did he ever mention this 10 acres to you?

A: No sir.

Q: Not even the time Havel was building buildings etc.?

A: No sir.

Q: From the year 1923 on you never knew August Maier to have any connection with this land?

A: No sir.

Q: From the time you got to Silverhill you never saw him around the place?

A: No sir.

CROSS EXAMINATION BY MR. HYBART, ATTORNEY FOR DEFENDANT

Q: Did he cut the hay in 1924?

A: I never did see him around there.

Q: You don't say that he didn't cut the hay off though?

A: I went by there every day and I never saw it.

EDWARD J. HAVEL,  
Complainant,

-vs-

AUGUST MAIER, Sometimes known as  
AUGUST MEYER,

Respondent.

PHILIP ARMSTRONG, as Executor  
of the Will of OSCAR JOHNSON,  
Deceased; JOSEPHINA JOHNSON;  
ELVIRA ARMSTRONG; and AGNES E.  
UTTER,

Respondents to  
Cross-Bill

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN CHANCERY

DECREE

This cause came on to be heard on the Bill of Complaint of Edward J. Havel; the answer and cross-bill of respondent, August Maier; the separate answer to the cross-bill of Edward J. Havel, complainant and respondent in the cross-bill; the separate answers of Philip G. Armstrong, as executor of the will of Oscar Johnson, deceased, Josephina Johnson, Elvira Armstrong and Agnes E. Utter, respondents to the cross-bill; the testimony as noted by the register and the stipulation of the solicitors for the parties that the complainant have a decree in accordance with the prayer of his bill of complaint, and was submitted to the Court, upon consideration whereof the Court finds:

That the allegations of the bill of complaint and of the answers of the complainant to the cross-bill of the respondent are true and that the allegations of the cross-bill of the respondent are not supported by the law and the evidence and are not true and that complainant is entitled to relief as prayed in his bill of complaint.

That those parties brought in as respondents by the cross-bill of the respondent, August Maier, to-wit: Philip G. Armstrong, as executor of the will of Oscar Johnson, deceased, Josephina Johnson, Elvira Armstrong and Agnes E. Utter, are not in any way directly concerned in the outcome of this case, the cross-bill of the respondent, August Maier, is without equity as to these respondents and on their answers they should be dismissed.

That the complainant, Edward J. Havel, is the owner and in the actual and peaceable possession of the following described real estate in Baldwin County, Alabama, to-wit:-

The southwest quarter (SW $\frac{1}{4}$ ) of the southwest quarter (SW $\frac{1}{4}$ ) of the northwest quarter (NW $\frac{1}{4}$ ) of section eleven (11) township six (6) south, range three (3) east of St. Stephens, Meridian.....

and respondent, August Maier, has no right, title, interest, claim or demand in and to and no encumbrance upon said real estate or any part thereof and that title of the complainant in and to said lands ought to be quieted and confirmed in him.

That the receipt or instrument dated August 2nd, 1921, signed by Oscar Johnson and recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Deed Book 37 NS at page 417 thereof, does not convey any title or interest in the lands above described to the respondent and cross-complainant, August Maier, but the same, appearing of record, does constitute a cloud upon the title of the complainant, which should be removed.

IT IS THEREFORE, ORDERED, ADJUDGED and DECREED, that the respondents to the cross-bill, Philip G. Armstrong, as executor of the will of Oscar Johnson, deceased, Josephina Johnson, Elvira Armstrong and Agnes E. Utter be and they hereby are discharged and the cross-bill of the respondent and cross-complainant, August Maier, as to said respondents, be and the same hereby is dismissed.

That respondent and cross-complainant, August Maier, has no right, title, interest, claim or demand in and to and no emcumbrance upon the following described real estate in Baldwin County, to-wit:

The southwest quarter (SW $\frac{1}{4}$ ) of the southwest quarter (SW $\frac{1}{4}$ ) of the northwest quarter (NW $\frac{1}{4}$ ) of section eleven (11) township six (6) south, range three (3) east of St. Stephens, Meridian.....

That the complainant, Edward J. Havel, is the owner of said real estate and his title thereto is hereby quieted and confirmed in him and respondent, August Maier, is hereby perpetually enjoined

from having, claiming or asserting any right, title, interest, claim or demand in and to or encumbrance upon said real estate or any part thereof; that the receipt or instrument dated August 2nd, 1921, and signed by Oscar Johnson and recorded in Deed Book 37 NS at page 417, in the office of the Judge of Probate of Baldwin County, Alabama, is without legal effect but is a cloud upon the title of complainant and the same is hereby removed, cancelled and declared to be without legal force or effect; that the respondent, August Maier, pay the costs of this action taxed at \$ 43.30.

Dated this 17<sup>th</sup> day of May, 1935.

F. V. Ware

Judge



Q: What time of day did you go by?

A: Sometime 10, 11 and 12.

Q: Would you say that he didn't come in the evening and cut the hay?

A: No sir.

Q: How far did you live from this land?

A:  $\frac{1}{2}$  mile.

Q: What time did you go to Silverhill?

A: In 1923.

Q: What time of the year?

A: About Christmas time.

Q: You have lived there ever since?

A: Yes sir.

Q: And you went to work for Mr. Havel?

A: Yes sir.

Q: Are you still working for Mr. Havel?

A: No sir.

Q: How far do you live from him?

A: About  $\frac{1}{2}$  mile.

Q: Who have you discussed this case with?

A: Nobody.

Q: Never talked with Mr. Havel about it?

A: No sir.

Q: Never mentioned it to Mr. Armstrong?

A: No sir.

Q: You work for Mr. Armstrong?

A: No sir.

Q: You never mentioned it to Mr. Siegler?

A: No sir.

Q: Never talked with Mr. Magney about it?

A: No sir.

Q: MAGNEY: The first time you and I talked about this case was just before you gave your testimony?

A: Yes sir.

Q: Then you have talked with Mr. Magney about it?

A: Yes sir.

CERTIFICATE

STATE OF ALABAMA }  
BALDWIN COUNTY }

I, Edith Porter, commissioner to take testimony by virtue of the annexed commission, do hereby certify that on the 11th day of January, 1935, I caused to come before me, at my office in Foley, Alabama, Edward J. Havel, Charles Seigler and Clarence Ostrand, witnesses on behalf of the complainant; that I have personal knowledge of the identity of the said witnesses, and that I am not of counsel or of kin to any of the parties to the cause, or in any manner interested in the result thereof.

That the testimony of said witnesses was taken by me, in shorthand, and later transcribed and that, by virtue of the attached stipulation, the signatures of the witnesses to said testimony was waived.

That before testifying each of said witnesses was duly and solemnly sworn to speak the truth, the whole truth, and nothing but the truth.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of January, 1935.

Edith Porter  
Commissioner.

Q: Who else have you talked to about it?

A: Nobody.

Q: Who have asked you to come down here?

A: Mr. Havel.

Q: Did he bring you down here?

A: No, Mr. Armstrong.

Q: So you talked with Mr. Havel a little about it?

A: Yes sir.

Q: You say you believe that you got some cream at Mr. Maier's?

A: I believe so, yes sir.

Q: You are not certain though?

A: No sir.

Q: You never did have any conversation with Mr. Maier about this place did you?

A: No sir.

Q: He lived about  $1\frac{1}{2}$  mile from where this place was?

A: Something like that.

Q: You don't generally go around discussing title to land with other people, do you?

A: No sir.

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

**The State of Alabama**  
**BALDWIN COUNTY**  
**CIRCUIT COURT**

Edward J. Havel

Complainant—

vs.

August Maier

Defendant—

**COMMISSION TO TAKE DEPOSITION**

**COMMISSIONER:**

Edith Porter

**WITNESSES:**

Ellen Forsen, Charles Siegler,

Nell Forsyth, Dr. O. F. M.

Winberg