

1115

EMMA L. GREENWOOD,
Complainant,

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

-vs-

DEPOSITIONS

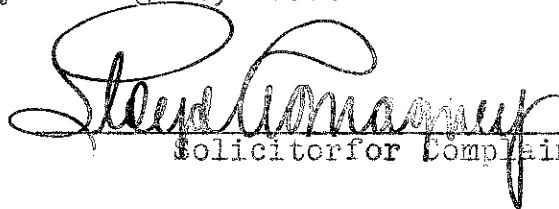
CONSOLIDATED STATE BANK, a
Corporation, H. H. MONTGOMERY,
Superintendent of Banks, of the
State of Alabama, LIQUIDATED
CONSOLIDATED STATE BANK, W. J.
OSBORNE, Liquidating Agent of
said CONSOLIDATED STATE BANK &
CARL L. SCHLICH,

Respondents.

STIPULATION

It is hereby stipulated by and between the parties hereto by their respective solicitors that the testimony of the complainant, Emma Lou Greenwood, be taken before Edith Howell, as commissioner, this 27th day of August, 1935.

Dated this 27th day of August, 1935.



Solicitor for Complainant

Solicitor for Respondents

TESTIMONY OF EMMA LOU GREENWOOD

Emma Lou Greenwood, being first duly sworn on her oath deposes and says:-

My name is Emma Lou Greenwood, and I am the complainant in the above entitled case. I have made my home in Foley, Alabama, since 1924, although the past couple of years I have spent a good part of my time in St. Augustine, Florida, where I was able to secure a position as an instructor in music. I still consider Foley my my residence and the property involved in this case as my home.

This property is described as lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley. My husband, who was then living, and I purchased this property through the Foley

Bank in 1925. We had all of our dealings with Mr. W. A. Stoddard, who was in charge of the Foley Bank and I never talked to Mr. Schlich from whom we bought the property about the matter at all. Mr. Stoddard advised us to buy the property and offered to lend us the money necessary to pay for it and all of the dealings were made through him.

I understood from Mr. Stoddard that he had the abstract of title to the property and had examined it and that the title was perfectly alright and I thought that if the title was good enough for him to lend us the money to buy the property with that it certainly must be alright.

I knew that there was a mortgage on the property to Daphne State Bank which was to be paid out of the money we agreed to pay for the property.

Mr. and Mrs. Schlich made a deed to the property to me and left it with Mr. Stoddard. This deed was dated February 11th, 1925, but the transaction was not closed until February 16th, 1925, which was the day we gave the mortgage to the Farmers & Merchants Bank of Foley.

We paid TWENTY TWO HUNDRED FIFTY & 00/100 (\$2250.00) DOLLARS for the property and out of this money the mortgage to the Daphne State Bank was paid and whatever balance there was was paid to Mr. Schlich by Mr. Stoddard.

I did not know then that there was any mortgage of record to Loxley State Bank and in fact I never heard of any such mortgage until after the Loxley State Bank had consolidated with the other Banks and this consolidated bank, located at Robertsdale, had failed and Mr. A. E. Jackson had been appointed liquidating agent, which was sometime in the fall of 1931.

After the bank failed Mr. Jackson notified me that he held the first mortgage on my home and demanded that I pay it or he would foreclose and he did begin to foreclose when, upon the advice of my attorney, I brought this suit.

During all of the time from February 16th, 1925, to October 19th, 1931, when the bank at Robertsdale failed I heard nothing of any mortgage held by Loxley State Bank and during all of this time I made extensive improvements and repairs to the property and made payments to the Foley Bank on its mortgage. My husband died shortly after we acquired the property and all of the payments I made myself. By the time I first learned of the mortgage claimed by the Consolidated Bank I had paid the mortgage of the Foley Bank from \$2250.00 down to \$500.00, all without knowing anything about any other mortgage.

When I first learned of the mortgage claimed by the Consolidated Bank I got in touch with Mr. Schlich and from him learned that if there was a mortgage on my home to the Loxley Bank it was a mistake since the mortgage which he had given to the Loxley State Bank and on which he had kept up the interest was supposed to be on two adjoining lots lying north of mine and that if the records showed a mortgage to the Loxley State Bank on my property it was a mistake in drawing the mortgage.

I, of course, knew nothing about any mortgage to the Loxley State Bank and do not know how it was made or when or anything about it except what I have learned since the Consolidated Bank closed.

I always have been and still am in the possession of lots fifteen (15) and sixteen (16) in block fourteen (14) ever since I bought it on February 16th, 1925.

Emma Low Greenwood

CERTIFICATE

STATE OF ALABAMA)
BALDWIN COUNTY)

I, Edith Howell, by virtue of the annexed stipulation, commissioner to take the testimony of Emma Lou Greenwood, witness in behalf of the complainant in the above entitled case, do hereby certify that I caused the said Emma Lou Greenwood to appear before me in my office at Foley, Alabama, on the 27th day of August, 1935; that said witness was duly sworn and thereafter her testimony was taken down in shorthand by me and later reduced to typewriting and signed by the witness; that I have personal knowledge of the identity of said witness and I am not of counsel or of kin to any of the parties to said cause or in any manner interested in the result thereof.

IN WITNESS WHEREOF: I have hereunto set my hand this 27th day of August, 1935.



Commissioner

EMMA L. GREENWOOD,

Complainant,

vs.

H. H. MONTGOMERY, as Super-
intendent of Banks of the
State of Alabama, liquidating
the Consolidated State Bank,
ET AL.,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

NO. 1024.

Come the respondents, H. H. Montgomery, as Superintendent of Banks of the State of Alabama, liquidating the Consolidated State Bank, Consolidated State Bank, a corporation, and W. J. Osborne, Liquidating Agent of the said Consolidated State Bank, and answering Complainant's bill of complaint, say:

FIRST: They admit the allegations of Paragraphs FIRST, SECOND, THIRD, FOURTH and FIFTH of said Bill of Complaint.

SECOND: They deny all other allegations in said bill of complaint, except as herein otherwise specifically admitted in this answer.

THIRD: And further answering said bill of complaint, they allege that the said mortgage described in the bill of complaint was intended to and did convey Lots 15 and 16 in Block 14, in the Town of Foley, to secure the indebtedness recited in the said mortgage, namely Fifteen Hundred Dollars (\$1500.00), evidenced by promissory note; that it was not the intent by the said mortgage to convey Lots 4 and 5 in said Block 14; that the said mortgage remains unpaid and is still owing and is a valid lien and incumbrance on the said lots.

The said respondents further answering said bill of complaint say that there is situated on said Lots 15 and 16, in Block 14, of the Town of Foley, a dwelling house; that the same is being rented and the said rents are being collected and held by the said complainant and that the said rents are liable for the said indebt-

edness and should be applied to the said indebtedness; that the said Carl L. Schlich is insolvent and these respondents cannot collect from the said Carl L. Schlich, or from the said Emma L. Greenwood any deficit that may arise in the said indebtedness upon a foreclosure of the said mortgage; that the said Emma L. Greenwood is not liable therefor; that the value of the said property is insufficient to satisfy the said mortgage indebtedness in full; that a sale of the said property, in the opinion of these respondents, will not bring a sum sufficient to satisfy said indebtedness and the cost of foreclosing the same, all of which said costs, including an attorney's fee, are provided by said mortgage to be paid by the said mortgagor; that irreparable injury is being done to these respondents in the collection by the said complainant of the said rents, in that these respondents are being denied the right to have the same applied upon the said mortgage indebtedness.

And having fully answered, these respondents pray that this be taken as a cross-bill; that the said Emma L. Greenwood be made a party respondent hereto, and be required to plead, answer or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Respondents further pray that a Receiver be appointed to collect and hold the rents and profits accruing from the said property and hold the same subject to further order of this Court.

Respondents pray that upon a final hearing of this cause your Honor will adjudge and decree that the Consolidated State Bank and H. H. Montgomery, as Superintendent of Banks of the State of Alabama, liquidating the same, have and hold a valid lien under the aforesaid mortgage on said Lots 15 and 16 in Block 14 in the Town of Foley for the payment of the indebtedness owing under the aforesaid mortgage; that the amount of the said indebtedness, including a reasonable attorneys' fee, in the premises, be ascertained and decreed by this Court, and the said Carl L. Schlich be ordered to pay the same, and that upon his failure to pay the same within the time

fixed by the Court, this Honorable Court will order the said property sold for the payment of the indebtedness so ascertained.

Respondents place themselves within the jurisdiction of this Honorable Court and offer to do and perform whatsoever this Court shall require of them.

These respondents further pray for such other, further or different relief as in equity they shall be entitled to receive.

Beebe & Hall

Solicitors for Respondents.

FOOT NOTE:

Complainant and cross-respondent is required to answer all the allegations of paragraph THIRD, but not under oath; oath is hereby waived.

Beebe & Hall

Solicitors for Respondents.

EMMA L. GREENWOOD,
Complainant,

vs.

CONSOLIDATED STATE BANK, a
corporation, H. H. MONTGOMERY,
Superintendent of Banks of the
State of Alabama Liquidating
Consolidated State Bank, W. J.
OSBORNE, Liquidating Agent of
said Consolidated State Bank,
and CARL L. SCHLICH,

Respondents.

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

)
) IN CHANCERY.
)

Come Consolidated State Bank, a corporation, H. H. Montgomery, as Superintendent of Banks of the State of Alabama, Liquidating the Consolidated State Bank, and W. J. Osborne, Liquidating Agent of the said Consolidated State Bank, and demurring to Complainant's complaint, say:

There is no equity in the bill.



Solicitors for Consolidated State Bank, a corporation, H. H. Montgomery, as Superintendent of Banks of the State of Alabama, Liquidating the Consolidated State Bank, and W. J. Osborne, Liquidating Agent of said Consolidated State Bank.

EMMA L. GREENWOOD,
COMPLAINANT,

VS

CONSOLIDATED STATE BANK, A
CORPORATION, H. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF THE
STATE OF ALABAMA LIQUIDATING
CONSOLIDATED STATE BANK, W. J.
OSBORNE, LIQUIDATING AGENT OF
SAID CONSOLIDATED STATE BANK
AND CARL L. SCHLICH,

RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

BILL OF COMPLAINT

TO THE HONORABLE THE CIRCUIT COURT, EQUITY SIDE, STATE OF ALABAMA,
BALDWIN COUNTY, AND THE HON. F. W. HARE, JUDGE THEREOF, SITTING IN
EQUITY:-

Comes now Your Complainant and exhibits this her Bill of Com-
plaint against Consolidated State Bank, a corporation, H. H. Mont-
gomery, Superintendent of Banks of the State of Alabama, Liquidat-
ing said Consolidated State Bank, W. J. Osborne, Liquidating Agent
of Consolidated State Bank and Carl L. Schlich, and humbly com-
plaining shows unto Your Honor and unto this Honorable Court as
follows:-

FIRST

That Your Complainant is over the age of twenty-one (21) years
and is a bona fide resident of Baldwin County, Alabama residing
at Foley, Alabama.

SECOND

That Respondent, Consolidated State Bank is a corporation with
its principal place of business at Robertsdale in Baldwin County,
Alabama; that Respondent H. H. Montgomery, Superintendent of Banks
of the State of Alabama, liquidating said Consolidated State Bank,
is over the age of twenty-one (21) years and resides in Montgomery
in Montgomery County in the State of Alabama, that Respondent W.
J. Osborne, Liquidating Agent of said Consolidated State Bank is
over the age of twenty-one (21) years and resides at Robertsdale in
Baldwin County, Alabama and that Respondent Carl L. Schlich is ov-
er the age of twenty-one (21) years and resides at Loxley in Bald-
win County, Alabama.

THIRD

That on June 19, 1922 Loxley State Bank was a corporation organized under the laws of the State of Alabama with its principal place of business at Loxley, Alabama; that since said date the said Loxley State Bank has been re-organized and its name changed to Farmers State Bank of Loxley and that thereafter, by certain proceedings, the said Farmers State Bank of Loxley has been consolidated with State Bank of Silverhill and Robertsdale State Bank to form the Respondent Consolidated State Bank which is now the legal successor of said Farmers State Bank of Loxley and said Loxley State Bank and is now legally the same entity as said Loxley State Bank and is the owner of all the rights and subject to all the duties and liabilities of said Loxley State Bank.

FOURTH

That on or about the 24th day of October, 1931 Respondent Consolidated State Bank voluntarily closed its doors and turned all of its assets over to the Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama for liquidation and ever since said date the said Respondent has been engaged in the liquidation of said Consolidated State Bank and is in charge and control of its assets; that the said Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama has appointed the Respondent W. J. Osborne as Liquidating Agent for said Consolidated State Bank and the said Respondent W. J. Osborne has been and is now in active charge and control of the affairs of said Consolidated State Bank and is liquidating the same as the agent of the Respondent H. H. Montgomery, Superintendent of Banks.

FIFTH

Your Complainant further alleges that on or about the 19th day of June, 1922 the Respondent Carl L. Schlich made, executed and delivered to Loxley State Bank, the predecessor of Respondent Consolidated State Bank as hereinbefore alleged, said Loxley State Bank being now, by the consolidation proceedings hereinbefore mentioned, the said Respondent Consolidated State Bank, his mortgage deed by the terms of which said Respondent Schlich conveyed to said Loxley

State Bank, which is now the Respondent Consolidated State Bank, the following described real estate in Baldwin County, Alabama, to-wit:-

Lots fifteen (15) and sixteen (16) in
Block fourteen (14) in the Town of Foley;

That said mortgage deed was recorded in the office of the Judge of Probate of Baldwin County, Alabama on August 10, 1922 in Mortgage Book No. 27 at Page 219 thereof and that said mortgage was given to secure the payment of an indebtedness of FIFTEEN HUNDRED & 00/100 (\$1500.00) DOLLARS from the said Respondent Schlich to said Loxley State Bank, now the Respondent Consolidated State Bank.

SIXTH

That at the time the said mortgage was prepared and executed by the said Schlich to the said Loxley State Bank, by mutual mistake of the said Respondent Schlich and the said Loxley State Bank, now the Respondent Consolidated State Bank, the description of the property conveyed and mortgaged by said mortgage deed was written in the mortgage as Lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley, when as a matter of fact it was intended both by the Respondent Schlich and the said Loxley State Bank that the property to be mortgaged and conveyed was the following described property in Baldwin County, Alabama, to-wit:-

Lots four (4) and five (5) in Block
fourteen (14) in the Town of Foley

and Complainant alleges that the description contained in said mortgage, to-wit: Lots fifteen (15) and sixteen (16) in Block Fourteen (14) is erroneous and that the same appears by reason of the mutual mistake by the Respondent Schlich and said Loxley State Bank now Respondent Consolidated State Bank and that it was the intention of said parties to describe in and convey by said mortgage the said Lots Four (4) and Five (5) in said Block Fourteen (14) in the Town of Foley and that the said mortgage does not state the true intention of the parties to it but, instead, describes other and different real estate than that which was intended by said parties to be described in and conveyed by said mortgage.

SEVENTH

That Your Complainant is now and has been since February 11, 1925, the owner in fee simple and in the undisputed possession of the said Lots Fifteen (15) and Sixteen (16) in Block fourteen (14) in the Town of Foley and the said mortgage, by reason of the mutual mistake in the writing of the description of the property intended to be conveyed and mortgaged by said mortgage, constitutes an apparent lien upon the records and a cloud upon the title of Your Complainant and that said mortgage should be reformed, because of said mutual mistake, to express the true intention of the parties to said mortgage, and so as to describe the property really intended to be conveyed and mortgaged, to-wit:-

Lots four (4) and five (5) in Block
fourteen (14) in the Town of Foley,
Baldwin County, Alabama.....

EIGHTH

That on said June 19, 1922 the said Respondent Carl L. Schlich was the owner of all of said lots, to-wit:-

Lots four (4) and five (5) and fifteen
(15) and sixteen (16) in Block fourteen
(14) in the Town of Foley.....

and is now the owner of said lots four (4) and five (5).

NINTH

That the Respondents Consolidated State Bank, H. H. Montgomery, as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and W. J. Osborne, Liquidating Agent in charge of the affairs of said Consolidated State Bank are now proceeding to foreclose said mortgage and have published in the Baldwin Times, a newspaper published in Baldwin County, Alabama in the issues of November 3rd, 10th, 17th and 24th, 1932, thereof, a notice to the effect that they will proceed to sell said real estate under and by virtue of the powers contained in said mortgage at a public sale at the door of the Court House in Baldwin County, Alabama on the 7th day of December, 1932 and Complainant alleges that she will be irreparably injured if such sale be not enjoined and that she has no adequate remedy at law.

TENTH

And Complainant submits herself to the jurisdiction of the Court, and offers to do whatever the Court may consider necessary to be done on her part towards making the decree which she seeks just and equitable with regard to the other parties to the suit.

PRAYER FOR PROCESS AND RELIEF

Wherefore, the premises considered, Your Complainant prays that the said Respondents Consolidated State Bank, H. H. Montgomery as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and W. J. Osborne, Liquidating Agent in charge of the affairs of said Consolidated State Bank and Carl. L. Schlich may be made parties Defendant to this Bill of Complaint and required to appear and plead, answer or demur within the time required by law and the rules of this Honorable Court.

Further, that Your Honor grant forthwith a preliminary and temporary writ of injunction pendente lite, directed to the said Respondents and each of them, restraining them and all of them and each of them from foreclosing or attempting to foreclose, causing to be foreclosed or proceeding, directly or indirectly with the exercise of any power of sale contained in the said mortgage to and in favor of Loxley State Bank, now the Respondent Consolidated State Bank, by and under that certain mortgage from Carl L. Schlich and May Shepard Schlich, his wife, dated June 19, 1922 and recorded August 10, 1922 in Mortgage Book No. 27 at Page 219 in the office of the Judge of Probate of Baldwin County, Alabama and conveying the following described land situated in Baldwin County, Alabama, to-wit:-

Lots fifteen (15) and sixteen (16) in
Block fourteen (14) in the Town of Foley;

and from doing anything whatever to change the status now existing with reference to said mortgage, such injunction to remain in force until the further order of this Court.

That upon the final hearing of this case said temporary or preliminary writ of injunction be made final and perpetual against

STATE OF ALABAMA)
(
BALDWIN COUNTY)

Before me, the undersigned authority in and for said County and State, personally appeared Emma Lou Greenwood, who is known to me and who, after being by me first duly and regularly sworn, deposes and says under oath that she is the Complainant in the foregoing Bill of Complaint; that she is acquainted with all of the matters and facts therein alleged and that the same are true.

Emma L Greenwood

Subscribed in my presence and sworn to before me this 7 day of December, 1932.

John R. Ramsey
Notary Public.

FIAT

TO HON. T. W. RICHMOND, REGISTER IN CHANCERY OF CIRCUIT
COURT OF BALDWIN COUNTY, ALABAMA:-

Upon the Complainant entering into bond, with security,
in the sum of \$ 500⁰⁰, payable to and approved
by you, and conditioned according to law, let an injunction
issue according to the Prayer of the Bill.

Dated this 5th day of December, 1932.

W. W. Hare
Judge.

EMMA L. GREENWOOD,
Complainant,

-vs-

CONSOLIDATED STATE BANK, a
Corporation, H. H. MONTGOMERY,
Superintendent of Banks, of the
State of Alabama, LIQUIDATED
CONSOLIDATED STATE BANK, W. J.
OSBORNE, Liquidating Agent of
said CONSOLIDATED STATE BANK &
CARL L. SCHLICH,

Respondents.

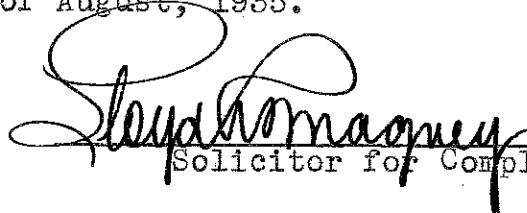
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

DEPOSITIONS

STIPULATION

It is hereby stipulated by and between the parties hereto by their respective solicitors that the testimony of Carl L. Schlich and M. B. Dewey may be taken before Edith Howell, as Commissioner, at Foley, Alabama, August 17th, 1935, in shorthand and by her reduced to writing and that the signatures of the witnesses to the testimony be waived.

Dated this 17th day of August, 1935.


Solicitor for Complainant

Solicitor for Respondents.

TESTIMONY OF CARL L. SCHLICH

DIRECT EXAMINATION BY MR. L. A. MAGNEY

Carl L. Schlich, being first duly sworn, on his oath deposes and says:-

My name is Carl L. Schlich. I reside in Loxley, Alabama, and have lived in Baldwin County, Alabama, since December 4th, 1916.

I used to live in Foley, where I was in the fertilizer business. In the year 1920 I went into the Bank at Loxley and lived in Foley until 1922, when I moved to Loxley where I have resided since. I was cashier of the Bank at Loxley from 1920 until

it consolidated with the Banks from Robertsdale and Silverhill in 1931. When I went to Loxley the bank was known as Loxley State Bank; sometime during 1929 it was re-organized and the name changed to Farmers State Bank and in 1931 it was consolidated with the Silverhill and Robertsdale Banks to become Consolidated State Bank.

While I lived in Foley I acquired some real estate, part of it being lots four (4) and five (5) and fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley. Lots four (4) and five (5) face north on Jessamine Street in the Town of Foley and lots fifteen (15) and sixteen (16) lie south of lots four (4) and five (5) and face south on Laurel Street in the Town of Foley with just a narrow alley between. On lots fifteen (15) and sixteen (16) there was a residence in which I made my home. Lots four (4) and five (5) lying north of lots fifteen (15) and sixteen (16) I had planted out to Satsuma Orange trees.

On June 4th, 1920, I mortgaged lots fifteen (15) and sixteen (16) on which was the residence to Daphne State Bank for the sum of FIFTEEN HUNDRED & 00/100 (\$1500.00) DOLLARS. On June 19th, 1922, I made another mortgage to Loxley State Bank, by which I was then employed for \$1500.00. This mortgage of \$1500.00 to the Loxley State Bank was discussed by the directors of the bank before the loan was made. The directors of the Loxley State Bank in June 1922, were J. W. Randall, who was also president, Doctor O. F. E. Winberg, who was also vice-president, M. B. Dewey, R. M. Mahler and E. L. Dyess. Mr. Randall and Mr. Dyess are both now dead, so that the only surviving directors are Doctor Winberg, Mr. Dewey and Mr. Mahler.

At the time this loan to me was approved by the directors of the Loxley State Bank I stated to them what the security was for the loan; that it was the two vacant lots in Foley which I owned on which were the bearing Satsuma trees. I do not remember whether I gave the lot and block numbers to the directors or not but some of the directors, principally Doctor Winberg, were familiar with

the property and knew what the security was. On my statement that the security was the two lots with the Satsuma trees on them the directors approved the loan.

After the loan was approved I prepared the note for \$1500.00. I do not remember whether I drew up the mortgage on the typewriter myself or whether someone else did it but in drawing the mortgage an error was made and lots four (4) and five (5), which were the lots on which the orange trees were and which were the lots I had offered the directors as security, were not described in the mortgage but instead the south lots, lots fifteen (15) and sixteen (16) were described in the mortgage when my wife and I executed it.

I did not notice this mistake at the time or I would not have signed the mortgage since I knew, of course, that lots fifteen (15) and sixteen (16) on which my house stood were already mortgaged to Daphne State Bank by the mortgage I had made in June, 1920, two years before. I did not learn of the mistake in the lots until Mrs. Greenwood came to me after the banks had been consolidated and closed. I kept up the interest on the mortgage until the banks consolidated and closed. No attempt was ever made to enforce the mortgage and I did not know of the mistake until Mrs. Greenwood called it to my attention. On the 11th of February, 1925, while both the mortgage to the Loxley Bank and the Daphne Bank were unpaid I sold the south lots with the house, being lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley to Mrs. Greenwood for \$2250.00 and out of that money the mortgage of June 4th, 1920, to Daphne State Bank was paid by Mr. Stoddard of the Foley Bank.

At the time I sold to Mrs. Greenwood I did not know that the Loxley Bank had a mortgage on the two lots I sold her. I thought that the Loxley Bank mortgage was on the two vacant lots with the orange trees on it, and the fact that the mortgage was not on those two lots was due to a mistake on the part of whoever wrote up the mortgage which my wife and I signed to the Loxley State Bank.

I still have title to lots four (4) and five (5) in block fourteen (14) and if the mortgage is changed to correct the mistake it will still be a good mortgage on those two lots, which it should have been on in the first place.

With reference to the paper marked Plaintiff's Exhibit one now handed to me it is a plat which shows the relative location of lots four (4) and five (5) and lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley (By Mr. Magney, Plaintiff offers in evidence as a part of the testimony of this witness Plaintiff's Exhibit one). I have looked at the original mortgage and I cannot recall who drew it up and made the mistake but it is a fact that the mortgage should have described lots four (4) and five (5) instead of lots fifteen (15) and sixteen (16) since that is the property I mortgaged to Loxley State Bank and I never knew of the mistake until Mrs. Greenwood called it to my attention after she had received notice from the liquidator of the bank.

CROSS EXAMINATION BY MR. BEEBE

Q. Mr. Schlich, what size are these lots?

A. The lots are 50 x 140 each.

Q. How many orange trees were on these two lots?

A. I can't recall exactly but as many as could stand 20 feet apart each way.

Q. There were no buildings on it?

A. No sir.

Q. There were buildings on lots fourteen (14) and fifteen (15)?

A. Yes sir.

Q. Mr. Schlich examine the note that I hand you dated June 19th, 1922, for \$1500.00 payable on demand to the Loxley State Bank. Is that the note you gave to the Loxley State Bank, that is your signature?

A. Yes sir.

Q. Examine the mortgage which I hand to you dated June 19th, 1922, signed by Carl L. Schlich and Mae Shepherd Schlich to the Loxley State Bank. You and your wife executed that mortgage to the Loxley State Bank?

A. Yes sir.

- Q. That is the mortgage involved in this suit?
- A. Yes sir.
- Q. Look at the back of this mortgage, Mr. Schlich. Whose handwriting appears there, the words Carl L. Schlich to Loxley State Bank?
- A. That's mine.
- Q. From that would you say to the best of your recollection that you drew that mortgage?
- A. No, I don't say that I drew it.
- Q. Examine the mortgage itself, the description and read the description. What property does that describe?
- A. It describes lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley.
- Q. What else is added?
- A. All improvements thereon.
- Q. There were no improvements on lots four (4) and five (5)?
- A. Nothing except lots were fenced.
- Q. There were houses and other improvements on lots fifteen (15) and sixteen (16)?
- A. Yes sir.
- Q. At the time you sold this property to Mrs. Greenwood your recollection was that there was only one mortgage on it?
- A. Yes sir.
- Q. And you know how much the mortgage was supposed to be?
- A. \$1500.00
- Q. And that mortgage was supposed to have been paid off with that money from Mrs. Greenwood?
- A. Yes sir.
- Q. At the time you made this mortgage to the Loxley State Bank was lots four (4) and five (5) mortgaged?
- A. No sir.
- Q. There was no encumbrance upon it at all?
- A. None that I know of.
- Q. What did you do with the money you got from the Loxley State Bank?
- A. I paid it to Mr. Edwards on the property I had in Loxley.
- Q. You say you still own lots four (4) and five (5)?
- A. Yes sir.

- Q. Have you sold them or mortgaged them at any time?
- A. No, I didn't sell them or mortgage them but in the settlement of the Shephard estate I transferred my holdings to the Shephard estate.
- Q. And they knew that the mortgage existed at the time you transferred lots four (4) and five (5)?
- A. Yes sir.
- Q. Did the instrument recite it?
- A. Yes sir.
- Q. You own that property now?
- A. It is in my name.
- Q. Do you own it?
- A. Except that this mortgage is on it.
- Q. As a matter of fact Mr. Schlich on October the 14th, 1921, didn't you mortgage lots four (4) and five (5) to the Baldwin County Bank?
- A. I don't remember that I did.
- Q. On October 14th, 1921, you mortgaged lots four (4) and five (5) to the Baldwin County Bank?
- A. I couldn't say.
- Q. How much was that mortgage?
- A. I don't remember anything about it.
- Q. Do you know when that mortgage was paid?
- A. I don't recall having a mortgage to the Baldwin County Bank.
- Q. The mortgage that you made to the Daphne State Bank in June, 1920, did that include other property than this lots fifteen (15) and sixteen (16)?
- A. It might have included that property down on the river but I don't recall.
- Q. The mortgage from you to the Bank of Daphne, State Bank, dated June 4th, 1920, was not outstanding on June 19th, 1922, was it?
- A. I can't remember.
- Q. On January 26th, 1923, you made another mortgage for \$1500.00, did you not?
- A. You have got the evidence, that's all I know.
- Q. That mortgage included other property besides lots four (4) and five (5), did it not?
- A. No, I don't think four (4) and five (5) were in it. I think it included fourteen (14) and fifteen (15) and property on river.

- Q. And it did not include four (4) and five (5)?
- A. I don't think so.
- Q. February 2nd, 1923, you made a mortgage to Baldwin County Bank, for \$1800.00 did you not?
- A. Yes.
- Q. That mortgage included fourteen (14) and fifteen (15), did it not, and other property?
- A. I believe that lots four (4) and five (5) were included in that mortgage but it was by error and the Baldwin County Bank released them to me.
- Q. When did the Baldwin County Bank release them to you?
- A. I can't remember the date.
- Q. Was it on October 13th, 1924?
- A. I can't recall.
- Q. The property that they released to you was the property that the Loxley State Bank mortgage was on?
- A. Yes sir. The property they released to me was the property the Loxley State Bank was supposed to have a mortgage on.
- Q. The property released to you was the property the Loxley State Bank mortgage was intended to be on?
- A. Lots four (4) and five (5) were released to me by the Baldwin County Bank and lots four (4) and five (5) were the ones Loxley State Bank should have had a mortgage on. I don't want any confusion I want this statement like I want it.
- Q. Baldwin County Bank released all of that after it was sold?
- A. I made a trip to Bay Minette to get Mr. Stoddard to release four (4) and five (5) when I found out they were included in that mortgage.
- Q. The lots that you got released were the lots which the Loxley State Bank had a mortgage on?
- A. Lots four (4) and five (5) were the lots the Loxley State Bank should have had a mortgage on.
- Q. And you found out that you had mortgaged them to the Baldwin County Bank?
- A. Yes sir.
- Q. Then you got them to release four (4) and five (5) and not fifteen (15) and sixteen (16) and then when you sold the property you paid off the other mortgage on fifteen (15) and sixteen (16)?
- A. Yes sir, Mr. Stoddard paid that and gave me the residue.
- Q. Mr. Schlich, as a matter of fact were not lots four (4) and five (5) and fifteen (15) and sixteen (16) in all of these mortgages?
- A. No sir, not that I recall.

- Q. As a matter of fact the mortgage from you to the Daphne State Bank was not outstanding at the time you made the mortgage to the Loxley State Bank. Isn't that right?
- A. I can't recall. Yes, of course it was.
- Q. Isn't the mortgage dated January 26th, 1923, for \$1500.00 your indebtedness to them?
- A. I can't recall just exactly how it was.
- Q. The property released from that mortgage, the Baldwin County Bank mortgage, prior to that time was the property intended the Loxley State Bank to have a mortgage on?
- A. The only statement I can make is that lots four (4) and five (5) were supposed to be the lots mortgaged to the Loxley State Bank.
- Q. When you got a release from the bank did they give you a written instrument?
- A. Not that I recall.
- Q. How did they release it?
- A. I don't remember.
- Q. When they released lots four (4) and five (5) did they give you a written instrument releasing those lots?
- A. I can't say.
- Q. Well, if they didn't, how did they release them?
- A. I was under the impression that they released them of record.
- Q. Didn't they give you an instrument in the form of a quit-claim deed releasing those lots?
- A. I can't recall.
- Q. How did they release them?
- A. I can't recollect that.
- Q. Isn't that the instrument that they gave you? (Showing abstract of a quit-claim deed dated October 13th, 1924, recorded 36 N.S. page 118 from Baldwin County Bank to Carl L. Schlich).
- A. I can't understand why they gave me this quit-claim deed because they were holding a mortgage on it. I never did ask Baldwin County Bank for a release on fifteen (15) and sixteen (16), that I recall, I might be in error there. Mr. Beebe, I am confident that this quit-claim deed was given here in anticipation of this sale right here this deed to Mrs. Greenwood was evidently drawn up after this transaction had begun. This release right here from Baldwin County Bank is in connection with that sale to Mrs. Greenwood and has nothing to do with lots four (4) and five (5) at all. That was done in the fall just prior to the time the transaction was in progress.
- Q. As a matter of fact didn't you have the bank, Baldwin County Bank, cancel the mortgage in its entirety at the time you sold to Mrs. Greenwood?
- A. No sir. That's the quit-claim deed they gave me to enable me to sell that property to Mrs. Greenwood it had nothing to do with lots four (4) and five (5).

- Q. Had nothing to do with lots four (4) and five (5)?
- A. No sir.
- Q. What were lots four (4) and five (5) worth at the time you mortgaged them?
- A. I had been offered \$1500.00 for them.
- Q. Who offered you that?
- A. I can't recall that. I just remember that several people were buying lots, I believe Jim Dumas, I am not sure.
- Q. The Loxley State Bank loaned you \$1500.00 on them at the same time a mortgage for \$1800.00 was out on them to the Baldwin County Bank?
- A. There was no mortgage to the Baldwin County Bank at that time.
- Q. When was it you transferred these lots four (4) and five (5) and your other property to your wife's estate?
- A. That's hard to say. I can't recall dates.
- Q. Several years ago?
- A. Yes sir.
- Q. And the estate still has a deed to them, has it not?
- A. Supposed to have.
- Q. Have you seen the deed?
- A. Yes sir.
- Q. Have you got the deed?
- A. Yes sir.
- Q. Will you let me see the deed? Will you attach that deed to your deposition and mark it Exhibit two?
- (Mr. Magney) I see no objection to it.
- Q. That deed was executed after you found out that the Loxley State Bank had a mortgage on lots fifteen (15) and sixteen (16) was it not?
- A. Yes sir.
- Q. That deed was made back to you after this controversy here over this mortgage?
- A. Yes sir.
- Q. And made back to you for the purpose of permitting you to put it in this mortgage, was it not?
- A. No, it was already under a mortgage.
- Q. You requested them to make the deed so that you could say that the lots still belonged to you and the mortgage was on lots four (4) and five(5)?
- A. The question came up and all my property had been deeded over to the estate except the property I had in Loxley.

- Q. This deed was filed on December 15th, was it not, and this suit filed on December 5th, was it not?
- A. I don't remember the dates, but I do know that as far as I knew it didn't matter whose title that property was in it was mortgaged to the Loxley State Bank.
- Q. Don't you know that if you asked for a reformation of your instrument you were not entitled to that reformation unless you still owned the property?
- A. I just transferred all of my property to the Shephard estate except my home in Loxley, and after the controversy they deeded the property back to me, deeded it back so Mrs. Greenwood could maintain her suit.
- Q. How far out from the business section of town is lots fifteen (15) and sixteen (16) block fourteen (14)?
- A. About 600 feet.
- Q. Lots four (4) and five (5) are back of it?
- A. Yes sir.

RE-DIRECT EXAMINATION BY MR. MAGNEY

- Q. Mr. Schlich, the fact is that from 1920 to 1925 you were making a good many real estate deals, mortgages, releases etc., and you borrowed money at various times from various sources and gave mortgages on various pieces of real estate?
- A. Yes sir.
- Q. You still insist, however, that the mortgage which you gave the Loxley Bank for \$1500.00 was intended to be on lots four (4) and five (5) in block fourteen (14)?
- A. Yes sir.
- Q. And that it was so understood by the directors of the bank before they authorized your loan?
- A. Yes sir.
- Q. The fact that the lots are described differently in the mortgage is a mistake?
- A. Yes sir.
- Q. On your part and on the part of the bank?
- A. Yes sir.

RE-CROSS EXAMINATION BY MR. BEEBE

- Q. Mr. Schlich, will you examine the note that I hand you dated March 11th, 1930, to the Farmers State Bank for \$1500.00; that was given in renewal of the indebtedness evidenced by this mortgage?
- A. Yes sir.
- Q. This indebtedness is still outstanding and unpaid?
- A. Yes sir.

Q. Has there been anything paid on that note?

A. No sir.

Q. The amount owing is the same evidenced by this note dated March 11th, 1930?

A. Yes sir.

It is stipulated that as a part of the testimony of this witness the original mortgage bearing date of June 19th, 1928, and the original note bearing the same date, a renewal note bearing the same date, were attached to Mr. Schlich's home in Foley. It was not

my understanding that the bank was to get a mortgage on Mr. Schlich's home for this \$1500.00 but instead my understanding, as director, was that we would get a mortgage on two lots directly in back of his home on which were growing Satsuma oranges. My understanding as director was that there were no building on the lots

on which the bank was to get a mortgage, merely fences and satsuma trees.

I had nothing to do with the preparation of the note or mortgage although I am sure the records of the bank would show that the directors approved this loan. The first I ever knew of the mistake having been made was when Mr. Stevenson, who is a brother-in-law of Mrs. Greenwood, came to me after the bank closed and told me she was in trouble about the mortgage. Up to that time I had always supposed that the bank's mortgage was on the vacant lots. So far as I know I had never seen the mortgage as that was out of my jurisdiction.

With reference to the value of these lots at the time this loan was made, it may be that what we considered values in those days were merely speculative values but I used to come to Foley and go over property with Mr. Stoddard of the Foley Bank and I thought at the time this loan was made that this property was ample security for the amount of the loan.

CROSS EXAMINATION BY MR. BEEBE

No cross examination.

Pine St.

N

Jessamine St

1	2	3	4	5	6	7	8	9	10	11	12
BLOCK 14											
13	14	15	16	17	18	19	20	21	22	23	24

Alston St.

177

Laurel St.

S

Planting 4. 1

STATE OF ALABAMA }

Baldwin

COUNTY }

QUIT CLAIM DEED

Sold by BIDGOOD STATIONERY CO., MOBILE

Know All Men By These Presents, That I

W. D. Shepard as agent and trustee for T.H. Shepard, Chas. W. Shepard, F.O. Shepard, Fannie Mae Schlich, Robt. A. Shepard, Edwin M. Shepard and Jonathan W. Shepard in consideration of the sum of ... DOLLARS,

to me in hand paid by Carl L. Schlich

the receipt whereof is hereby acknowledged, I do remise, release, quit-claim, and convey to the said

Carl L. Schlich

all my right title,

interest and claim, in or to the following described real estate (or lands), to-wit:

Lots Four (4) and Five (5) in Block Fourteen (14) in the town of Foley, Baldwin County, Alabama.

to have and to hold, to the said Carl L. Schlich

his heirs and assigns forever.

GIVEN under my hand and seal this 6 day of December 1922

EXECUTED IN PRESENCE OF

W.D. Shepard (Seal.) As agent and Trustee for T.H. Shepard, Chas. W. Shepard, F.O. Shepard, Fannie Mae Schlich, Robert A. Shepard, Edwin M. Shepard and Jonathan W. Shepard.

STATE OF ALABAMA,

Montgomery County.

I, Ella Frances Beale, a notary

public

in and for said County and State, do hereby certify that

W.D. Shepard,

whose name as agent/and trustee signed to the foregoing conveyance, and who is known to me, acknowledged before me, on this day, that being informed of the contents of the said conveyance he, as/ executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 6th day of December 1922

Ella Frances Beale Notary Public

CERTIFICATE

STATE OF ALABAMA)
BALDWIN COUNTY)

I, Edith Howell, by virtue of the annexed stipulation, commissioner to take the testimony of Carl L. Schlich and M. B. Dewey, witnesses in behalf of the complainant in the above entitled case, do hereby certify that I caused the said Carl L. Schlich and M. B. Dewey to appear before me in my office at Foley, Alabama, on the 17th day of August, 1935; that said witnesses were each duly sworn then thereafter their testimony was taken down in shorthand by me and later reduced to typewriting, the signature of the witnesses being waived by agreement; that I have personal knowledge of the identity of said witnesses and I am not of counsel or of kin to any of the parties to said cause or in any manner interested in the result thereof.

IN WITNESS WHEREOF: I have hereunto set my hand this 21st day of August, 1935.

Edith Howell
Commissioner

EMMA L. GREENWOOD,

Complainant,

-vs-

CONSOLIDATED STATE BANK, a
Corporation, H. H. MONTGOMERY,
Superintendent of Banks of
the State of Alabama, LIQUIDA-
TING CONSOLIDATED STATE BANK
and W. J. OSBORNE, liquidating
agent of said CONSOLIDATED STATE
BANK,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

DECREE

This cause was submitted to the Court on the pleadings and the evidence as noted by the Register and after consideration thereof and being fully advised in the premises, the Court finds:

That the cause made by the bill of complaint is for injunctive relief to prevent the respondents from proceeding further with the foreclosure of a certain mortgage set out and described in the bill of complaint and to reform said mortgage to make it conform to the alleged intention of the parties to it, it being alleged by the bill of complaint that the property of the complainant was included in said mortgage by mistake and that the mortgage was intended by the parties to it to cover other lands, instead of those of the complainant.

The answer denies that there was any mistake and asks that an account be taken of the amount due on the mortgage; that the same be foreclosed and the lands of the complainant sold and the proceeds applied to the satisfaction of the mortgage debt.

The Court finds that the allegations of the bill of complaint are true and that the complainant is entitled to relief as prayed. The complainant has produced to the Court the testimony of every living person who has knowledge of the facts of the transaction, being the complainant, herself, Carl L. Schlich the mortgagor, and three out of the five directors of the Loxley State Bank at the

time the loan was made, O. F. E. Winberg, R. M. Mahler and M. B. Dewey. At the time the loan was made to Schlich the bank had five directors but two of them, J. W. Randall and E. L. Dyess, are dead and Mr. W. A. Stoddard who handled the transaction for the complainant, is also dead. While the case has been vigorously contested by the respondents, both as to the law and by cross examination of complainant's witnesses, the respondents have been unable to produce any other or different testimony and the facts as testified to by complainant's witnesses stand uncontroverted in the record.

I am convinced that the mortgage as originally executed by Carl L. Schlich and his wife to Loxley State Bank was intended to mortgage and convey lots four (4) and five (5) in block fourteen (14) in the Town of Foley and not lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley. All four of these lots were at that time owned by Mr. Schlich and it is apparent that in drawing the mortgage a mistake was made which was a mutual mistake between Mr. Schlich and the Bank and the wrong lots were written into the mortgage. The lots adjoin except for a narrow alley and lots fifteen (15) and sixteen (16) face south, while lots four (4) and five (5) lay immediately north and across the alley and face north.

During the course of the proceedings the respondent, H. H. Montgomery, retired as Superintendent of Banks of the State of Alabama, and was replaced by J. H. Williams as Superintendent of Banks and by agreement J. H. Williams was substituted as respondent for H. H. Montgomery in this case.

The evidence is clear and satisfactory and convincing that the mistake was made as alleged, in drawing the mortgage, and that the mortgage should be reformed as prayed for in the bill of complaint.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that the respondent, J. H. Williams, Superintendent of Banks of the State of Alabama be and he hereby is perpetually enjoined from foreclosing or in any manner enforcing that certain real estate mortgage made and executed by Carl L. Schlich and May Shepard Schlich to Loxley State Bank, dated June 19th, 1922, and recorded in the office of the Judge of Probate of Baldwin County, Alabama, on August 10th, 1922, in Mortgage Book No. 27, at page 219 thereof; that said mortgage be reformed to read lots four (4) and five (5) in block fourteen (14) in the Town of Foley, instead of lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley; that insofar as said mortgage affects the title to lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley, the same be and it hereby is cancelled, discharged of record and held for naught; that insofar as said mortgage affects the title to lots four (4) and five (5) in block fourteen (14) in the Town of Foley, the same be and it hereby is adjudged to be a valid and subsisting first lien upon said lots four (4) and five (5) in block fourteen (14) in the Town of Foley, in favor of the respondent, J. H. Williams, superintendent of Banks of the State of Alabama; that the cloud upon the title of the complainant in and to said lots fifteen (15) and sixteen (16) in block fourteen (14) in the town of Foley, caused by said mortgage, be and the same hereby is removed; that the respondents have no right, title, interest, claim or demand in or to or encumbrance upon said lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley and that the title of the complainant in and to said lots be and the same hereby is quieted and confirmed in the complainant.

That the respondents pay the costs of this action taxed at

\$

Dated this Eleventh day of June, 1936.

F. W. Hare
Judge

EMMA L. GREENWOOD,
COMPLAINANT,

VS

CONSOLIDATED STATE BANK, A
CORPORATION. H. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF THE
STATE OF ALABAMA LIQUIDATING
CONSOLIDATED STATE BANK, W. J.
OSBORNE, LIQUIDATING AGENT OF
SAID CONSOLIDATED STATE BANK
AND CARL L. SCHLICH,

RESPONDENTS.

TO THE HONORABLE THE CIRCUIT COURT, EQUITY SIDE, STATE OF ALABAMA,
BALDWIN COUNTY, AND THE HON. F. W. HARR, JUDGE THEREOF, SITTING IN
EQUITY:-

Comes now Your Complainant and exhibits this her Bill of Com-
plaint against Consolidated State Bank, a corporation, H. H. Mont-
gomery, Superintendent of Banks of the State of Alabama, Liquidat-
ing said Consolidated State Bank, W. J. Osborne, Liquidating Agent
of Consolidated State Bank and Carl L. Schlich, and humbly com-
plaining shows unto Your Honor and unto this Honorable Court as
follows:-

FIRST

That Your Complainant is over the age of twenty-one (21) years
and is a bona fide resident of Baldwin County, Alabama residing
at Foley, Alabama.

SECOND

That Respondent, Consolidated State Bank is a corporation with
its principal place of business at Robertsdale in Baldwin County,
Alabama; that Respondent H. H. Montgomery, Superintendent of Banks
of the State of Alabama, liquidating said Consolidated State Bank,
is over the age of twenty-one (21) years and resides in Montgomery
in Montgomery County in the State of Alabama, that Respondent W.
J. Osborne, Liquidating Agent of said Consolidated State Bank is
over the age of twenty-one (21) years and resides at Robertsdale in
Baldwin County, Alabama and that Respondent Carl L. Schlich is ov-
er the age of twenty-one (21) years and resides at Loxley in Bald-
win County, Alabama.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

BILL OF COMPLAINT

THIRD

That on June 19, 1933 Lexley State Bank was a corporation organized under the laws of the State of Alabama with its principal place of business at Lexley, Alabama; that since said date the said Lexley State Bank has been re-organized and its name changed to Farmers State Bank of Lexley and that thereafter, by certain proceedings, the said Farmers State Bank of Lexley has been consolidated with State Bank of Silverhill and Robertsdale State Bank to form the Respondent Consolidated State Bank which is now the legal successor of said Farmers State Bank of Lexley and said Lexley State Bank and is now legally the same entity as said Lexley State Bank and is the owner of all the rights and subject to all the duties and liabilities of said Lexley State Bank.

FOURTH

That on or about the 24th day of October, 1931 Respondent Consolidated State Bank voluntarily closed its doors and turned all of its assets over to the Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama for liquidation and ever since said date the said Respondent has been engaged in the liquidation of said Consolidated State Bank and is in charge and control of its assets; that the said Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama has appointed the Respondent W. J. Osborne as Liquidating Agent for said Consolidated State Bank and the said Respondent W. J. Osborne has been and is now in active charge and control of the affairs of said Consolidated State Bank and is liquidating the same as the agent of the Respondent H. H. Montgomery, Superintendent of Banks.

FIFTH

Your Complainant further alleges that on or about the 19th day of June, 1933 the Respondent Carl L. Schlich made, executed and delivered to Lexley State Bank, the predecessor of Respondent Consolidated State Bank as hereinbefore alleged, said Lexley State Bank being now, by the consolidation proceedings hereinbefore mentioned, the said Respondent Consolidated State Bank, his mortgage deed by the terms of which said Respondent Schlich conveyed to said Lexley

from foreclosing or attempting to foreclose, causing to be foreclosed and proceeding, directly or indirectly with the exercise of any power of sale contained in that certain mortgage to and in favor of Loxley State Bank, executed by Carl L. Schlich and May Shepard Schlich, his wife, dated June 19, 1922 and recorded August 10, 1922 in Mortgage Book No. 27 at Page 219 in the Office of the Judge of Probate of Baldwin County, Alabama, and said mortgage conveys the following described land situated in Baldwin County, Alabama, to-wit:-

Lots fifteen (15) and sixteen (16) in
Block fourteen (14) in the Town of Foley

and from doing anything whatever to change the status now existing with reference to said mortgage, all until the further order of this Court.

WITNESS the hand of the Register and the seal of said Circuit Court in Equity, this 6 day of December, 1932.


Register.

EMMA L. GREENWOOD,

COMPLAINANT,

vs

CONSOLIDATED STATE BANK, A
CORPORATION, H. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF THE
STATE OF ALABAMA LIQUIDATING
CONSOLIDATED STATE BANK, W. J.
OSBORNE, LIQUIDATING AGENT OF
SAID CONSOLIDATED STATE BANK
AND CARL L. SCHLICH,

RESPONDENTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

INJUNCTION BOND

KNOW ALL MEN BY THESE PRESENTS, That we, Emma L. Greenwood,
as principal and the undersigned as sureties, are held and firmly
bound unto T. W. Richerson, Register of the Circuit Court, Equity
Side, of Baldwin County, State of Alabama, and his successors in
office, in the sum of \$ 500⁰⁰ for the payment of
which to the said Register, or his successors, we bind ourselves,
our and each of our executors and administrators, jointly and sev-
erally, firmly by these presents.

Sealed with our seals and dated this the ✓ day of December,
1932.

Now the condition of this obligation is that whereas, the
above bounden Emma L. Greenwood has filed her Bill of Complaint in
the said Circuit Court, Equity Side, of Baldwin County, Alabama,
and has obtained thereon from the Hon. F. W. Hare, Judge of said
Court, an order for the issuance of an injunction to restrain and
enjoin Consolidated State Bank, H. H. Montgomery, Superintendent
of Banks of the State of Alabama liquidating said Consolidated State
Bank, W. J. Osborne, Liquidating Agent of said Consolidated State
Bank and Carl L. Schlich, from foreclosing or attempting to fore-
close, causing to be foreclosed or proceeding, directly or indirect-
ly, with the exercise of any power of sale contained in that cer-
tain real estate mortgage from Carl L. Schlich and May Shepard
Schlich, his wife, to Loxley State Bank, dated June 19, 1922 and
recorded in the office of the Judge of Probate of Baldwin County,
Alabama August 10, 1922 in Mortgage Book 27 at Page 219 thereof,
which said mortgage covers and conveys the following described real

estate in Baldwin County, Alabama, to-wit:-

Lots fifteen (15) and sixteen (16) in
Block fourteen (14) in the Town of Foley

and from doing anything whatever to change the status now existing with reference to the said real estate mortgage and the threatened foreclosure thereof;

Now, if the said Emma L. Greenwood, her heirs, executors or administrators, or any of them, shall pay or cause to be paid all damages which any person may sustain by the suing out of said injunction, if the same is dissolved by the said Circuit Court, Equity Side, on the Bill of Complaint filed by the said Emma L. Greenwood, then this obligation shall be null and void but otherwise shall remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the day and year first above written.

Emma L. Greenwood (SEAL)

Victor S. Goss (SEAL)

Thurman (SEAL)

Taken and approved this 5th day of December, 1932.

D. W. Rice
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 Consolidated State Bank, a corporation,
Agent of
H.F. Osborne, liquidating/Consolidated State Bank, Carl L. Schlich,

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 Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by
Emma L. Greenwood,

against said Consolidated State Bank, a corporation, W.J. Osborne, Liquidating
Agent of said Consolidated State Bank and Carl L. Schlich,

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 5th day of
December, 193 2

T. W. Richerson Register.

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

EMMA L. GREENWOOD,
Complainant,
vs.
CONSOLIDATED STATE BANK
ET AL.,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

NO. 1029.

Now comes the respondent, J. H. Williams, as Superintendent of Banks of the State of Alabama, liquidating the Consolidated State Bank, and gives notice of an appeal to the Supreme Court of the State of Alabama from the decree of the Circuit Court of Baldwin County, Alabama, dated June 11, 1936, and filed in the office of the Register of the said Court on June 18, 1936.


Attorneys for Respondent.

EMMA L. GREENWOOD,
Complainant,

vs.

CONSOLIDATED STATE BANK
ET AL.,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

NO. 1029.

We, the undersigned, J. H. WILLIAMS, as Superintendent of Banks of the State of Alabama, liquidating the Consolidated State Bank, and W. C. Beebe and _____, acknowledge ourselves as security for costs of appeal to the Supreme Court of Alabama in the foregoing cause.

Dated this the 18th day of December, 1936.

J. H. Williams
As Superintendent of Banks of the State of Alabama, liquidating the Consolidated State Bank.

By W. C. Beebe
As Attorney in Fact.

W. C. Beebe

approved Dec 18 1936
R. S. Dyer - Register

The State of Alabama }
Baldwin County---Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA--GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the _____

_____ Monday in _____ June. _____ 193 6

in a certain cause in said Court wherein _____ Emma. L Greenwood. _____

_____ Plaintiff, and _____ Consolidated. State. Bank. et. al. _____

_____ Defendant , a judgment was rendered against said

_____ Consolidated State Bank. et al. _____

to reverse which _____ Decree. _____ the said _____ Respondent _____

has on this day applied for and obtained from this office an APPEAL, returnable to the _____
Spring Term. _____ Term of our _____ Supreme. _____ Court of the State of Alabama, to

be held at Montgomery, on the _____ day of _____, 193 7 next,

and the necessary bond having been given by the said _____ Consolidated State. Bank et al. _____

_____ with _____ W C Beebe. _____

_____ sureties, _____

Now, You Are Hereby Commanded, without delay, to cite the said

_____ Emma L Greenwood. _____

or _____ Lloyd A Magney. _____ attorney , to appear at the

_____ Spring. _____ Term of our said Supreme Court, to defend against the said

Appeal, if _____ They. _____ think proper.

Robert S Duck. Register.

WITNESSETH _____ Richardson, Clerk of the Circuit Court of said County, this _____ 18th. _____

day of _____ December. _____, A. D., 193 6 _____

Attest:

Robert S Duck _____ Clerk. _____ Register

EMMA L. GREENWOOD,
Complainant,

-vs-

CONSOLIDATED STATE BANK, a
Corporation, H. H. MONTGOMERY,
Superintendent of Banks, of the
State of Alabama, LIQUIDATING
CONSOLIDATED STATE BANK, W. J.
OSBORNE, LIQUIDATING AGENT of said
CONSOLIDATED STATE BANK & CARL L.
SCHLICH,

Respondents.

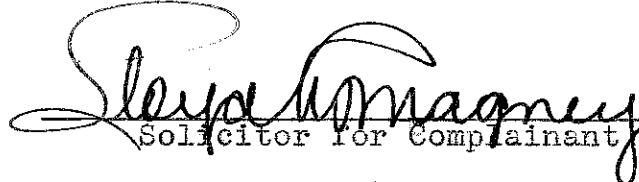
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

DEPOSITIONS

STIPULATION

It is hereby stipulated by and between the parties hereto by their respective solicitors that the testimony of Doctor O. F. E. Winberg and R. M. Mahler may be taken before Edith Howell, as commissioner, at Foley, Alabama, this 5th day of October, 1935, in shorthand and by her reduced to writing and that the signatures of the witnesses to the testimony be waived.

Dated this 5th day of October, 1935.


Solicitor for Complainant

Solicitor for Respondents.

TESTIMONY OF DOCTOR O. F. E. WINBERG

DIRECT EXAMINATION BY MR. MAGNEY

- Q. Please state your name, occupation and place of residence.
A. O. F. E. Winberg, residence Silverhill, occupation Horticulturist.
Q. Were you, Dr. Winberg, at any time connected with the Loxley State Bank?
A. Yes, from the beginning until it consolidated with the other banks.
Q. You were one of the directors, were you?
A. Yes sir.

- Q. Were you the vice-president and one of the directors of Loxley State Bank on June 19th, 1922?
- A. I think so, yes.
- Q. Do you recall, Doctor, who the other directors were?
- A. It was Mr. Dewey, Mr. Mahler, Mr. Dyess and, of course, Jack Randall, so far as I recall that is all.
- Q. Mr. Dyess and Mr. Randall are now dead, are they not?
- A. Yes sir.
- Q. You and Mr. Mahler and Mr. Dewey are the only surviving directors?
- A. Yes sir.
- Q. Do you recall a loan made by The Loxley State Bank to Carl Schlich on or about June 19th, 1922?
- A. I do not remember any dates. I only can say that a loan was made by the Bank to Schlich.
- Q. Schlich was cashier of the bank at that time?
- A. Yes sir.
- Q. And this loan was in the amount of \$1500.00?
- A. That I remember, yes.
- Q. Do you remember what security was offered to the bank?
- A. The security offered was the property, I do not recall whether it was in Foley or outside of Foley but it was lots and I presume it was in town, in Foley, and it was mentioned at that time that it had trees on it, orange trees. That is all I know.
- Q. That security was not supposed to be upon his residence and home was it, Doctor?
- A. I couldn't say.
- Q. You recall that the security was lots which were planted to Satsuma trees?
- A. Yes, anything else I do not know.
- Q. That security that was offered was discussed by the directors, was it not?
- A. Yes sir.
- Q. The loan to Schlich was approved upon his offer of security of the lots on which Satsuma orange trees were growing at that time?
- A. Yes sir.
- Q. You were not informed as to the lot and block numbers?
- A. No sir.

CROSS EXAMINATION BY MR. BEEBE

- Q. At that time were the same directors of the bank there that the bank started out with?
- A. Let me think, if I do remember correctly when the bank started out there was Mr. Randall, Mr. Mahler, Mr. Dewey, one of the Corte boys and myself, Dyess came in later in place of Corte.
- Q. Was it J. E. Corte?
- A. I don't recall, he was a young man.
- Q. The bank was organized in 1920, was it not?
- A. 1920, so far as I remember.
- Q. The same directors held office for more than two years?
- A. Yes sir.
- Q. Doctor, do you know whether or not any other loan was made by the Loxley State Bank to Mr. Schlich?
- A. Other than this loan?
- Q. Yes.
- A. That I could not say. I do not remember.
- Q. Could it have been possible that another loan was made which mortgage was taken on these two lots that you mention?
- A. I do not know.
- Q. Do you know whether or not the lots that you refer to as having the orange trees on them were offered as security in the mortgage dated June 19th, 1922?
- A. The only thing I know as stated in my own words is this: When Mr. Schlich applied for a loan and the question of security came up the only thing I do recall is that the security offered was lots with orange trees on them.
- Q. Do you know whether or not the loan that this security was offered for was ever made?
- A. Yes, the loan was.
- Q. Do you know whether or not that was the loan of June 19th, 1922, or some other loan?
- A. I do not remember.
- Q. Now Doctor, do you recall whether or not at the time of the loan that you are discussing, if Schlich already owed the bank anything?
- A. That I cannot say.
- Q. Now was the time that you are talking about at a time when Schlich was selling some property that he had in Foley and wanted to switch a loan from one piece of property to another.
- A. I do not know.
- Q. You don't know whether the time you refer to is at, prior or subsequent to June 19th, 1922?

A. I don't remember.

Q. The mortgage that is in question in this case states that it covers the lots and improvements thereon, if you recall this particular transaction do you know what was meant by the word improvements?

A. I do not.

TESTIMONY OF R. M. MAHLER

DIRECT EXAMINATION BY MR. MAGNEY

Q. Mr. Mahler, will you please state your name, residence and business?

A. Robert M. Mahler, Loxley, I don't have an occupation at the present. I am in the nursery business, you might say, I am interested in it.

Q. You were connected with the Loxley State Bank from the time of its organization until it consolidated?

A. I was.

Q. And you were a director during the year 1922, were you?

A. I am pretty sure that is the date, I don't carry dates very well.

Q. During June, 1922, Mr. Carl Schlich was cashier of the bank, was he not?

A. Yes.

Q. And remained cashier until the time it consolidated with the banks from Robertsdale and Silverhill?

A. Yes.

Q. Do you recall a loan made by the directors of Loxley State Bank to Mr. Schlich?

A. I remember there was a loan made, yes.

Q. Do you recall the approximate date of that loan?

A. I do not.

Q. Do you recall the amount of the loan?

A. \$1500.00 to the best of my knowledge.

Q. Do you recall, Mr. Mahler, what the security offered by Mr. Schlich for that loan was?

A. My understanding, in my own words, is that Mr. Schlich had an interest in some lots facing Alston, or the main east and west street in Foley and that the security offered was the north or rear end of this property facing on the street north. I understood it was all one piece and did not know until I looked at the town map just now that there was an alley between.

Q. Was it your understanding from the security as offered to the directors that the lots on which the bank was to have a mortgage had a house and buildings on it?

A. I don't think it had a house and building on it but I understood there was improvements, I suppose they meant orange trees.

Q. Do you know whether the bank ever made any other loan to Mr. Schlich?

A. I don't remember any.

Q. If the fact is then Mr. Mahler that the mortgage which Schlich and his wife executed to the Loxley State Bank should have conveyed the north part of the property, facing Jessamine Street but instead conveyed the south part of the property facing Alston street, is that in accordance with your understanding of what the security should have been or is that an error?

A. I would think it was an error, that the mortgage should have been given to the north end of the lots as security and not the south.

CROSS EXAMINATION BY MR. BEEBE

Q. Mr. Mahler, the lots you were to take the mortgage on did not then have a mortgage on it?

A. Not that I know of.

Q. Was there any statement made as to whether there were any additional loans on the property at that time?

A. No sir.

Q. Was any statement made with reference to what improvements were on it that you remember?

A. Yes, that it was planted to orange trees.

Q. Mr. Mahler, do you remember whether that was at, prior or subsequent to 1922?

A. I can't say, I don't remember.

Q. As a matter of fact, Mr. Mahler, at the time the lots with the orange trees were discussed wasn't that at a time when the bank was to release the mortgage on his home place and take the mortgage on the other so that he could sell the other.

A. No, I don't recall that.

Q. At the time it was intended as a mortgage straight out on the two lots?

A. Yes sir.

Q. If any other loan was made by the Loxley State Bank and that mortgage was given on these two lots that would be the instance you were talking about?

A. I do not recall any other loan ever having been made to Schlich. There was just this one.

Q. Do you recall the amount that was to be loaned on these two lots?

A. I am almost sure it was \$1500.00.

Q. You never knew of any other amount?

A. No sir.

CERTIFICATE

STATE OF ALABAMA }
BALDWIN COUNTY }

I, Edith Howell, by virtue of the annexed stipulation, commissioner to take the testimony of O. F. E. Winberg and R. M. Mahler, witnesses in behalf of the complainant in the above entitled case, do hereby certify that I caused the said O. F. E. Winberg and R. M. Mahler to appear before me in my office at Foley, Alabama, on the 5th day of October, 1935; that said witnesses were each duly sworn and thereafter their testimony was taken down in shorthand by me and later reduced to typewriting, the signature of the witnesses being waived by agreement; that I have personal knowledge of the identity of said witnesses and I am not of counsel or of kin to any of the parties to said cause or in any manner interest in the result thereof.

IN WITNESS WHEREOF: I have hereunto set my hand this 5th day of October, 1935.



Commissioner

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT



THE SUPREME COURT OF ALABAMA

October Term, 1927-38

To the Clerk of the Circuit Court of Baldwin County, Greeting:

Whereas, the Record and Proceedings of the Circuit Court of said county, in a certain cause lately pending in said Court between

Consolidated State Bank, Appellant,

and

Emma L. Greenwood, Appellee,

wherein by said Court, at the Term, 1927, it was considered adversely to said appellant, were brought before our Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

Now, it is hereby certified, That it was thereupon considered by our Supreme Court on the

11th day of November, 1927,

that the said appeal be and stand dismissed for want of prosecution; and that it was further considered that the appellant, and J. H. Williams, as Superintendent of Banks of the State of Alabama, liquidating the Consolidated State Bank, and W. C. Beebe, sureties on the appeal bond, pay

the costs accruing on said appeal in this Court and in the Court below

Witness, Robert F. Ligon, Clerk of the Supreme

Court of Alabama, at the Capitol, this the

11th day of November, 1927. [Signature]

Clerk of the Supreme Court of Alabama.

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 H.H.Montgomery Superintendant of
Banks of the State of Alabama, liquidating Consolidated State Bank,

of Montgomery 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 Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

Emma L. Greenwood,

against said

H.H.Montgomery as Superintendant of Banks
liquidating Consolidated State Bank,

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 5th day of

December 193 2

T. W. Richerson Register.

N. B.—Any party defendant is entitled to a copy of the bill upon application to the 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 Consolidated State Bank, a
corporation, H.J. Montgomery, as Superintendent of Banks of the
State of Alabama, liquidating the Consolidated State Bank, &
W.J. Osborne, liquidating agent of said Consolidated State Bank

of _____ County, to be and appear before the Judge of the Circuit Court
of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

against said Consolidated State Bank, a corporation, H.J. Montgomery,
as Superintendent of Banks of the State of Alabama, liquidating
the Consolidated State Bank, and W.J. Osborne, liquidating agent
of said Consolidated State Bank,

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 _____ day of

T. W. Richerson

Register

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

Emma L. Greenwood, Complainant.

vs

Consolidated State Bank, a corporation)
H.H. Montgomery, Superintendent of Banks,) In the Circuit
of the State of Alabama, liquidating) County of Baldwin
Consolidated State Bank, W.J. Osborne,) County.
Liquidating Agent of said consolidated Bank) In Chancery.
and Carl L. Schlich, Respondents.) Writ of Injunction.

State of Alabama,
Baldwin County.

To any Sheriff of the State of Alabama , Greeting:-

We command that you without delay you execute this writ, and due return thereof make to us instanter at a term of the Circuit Court, In Equity , to be held at Bay Minette, Alabama, on the 31, day of January, 1933, .

To Consolidated State Bank a corporation, H.H. Montgomery, Superintendent of Banks, of the State of Alabama, liquidating Consolidated State Bank, W.J. Osborne, Liquidating Agent of said Consolidated State Bank and Carl L. Schlich, . Greeting:

WHEREAS? One Emma L. Greenwood, has exhibited her Bill of Complaint in the said Circuit Court. In Equity, and has obtained from the said F.W. Hare, Judge of said Circuit Court, In Equity, an order for the issuance of an injunction to restrain and enjoin you as hereinafter mentioned : and,

Whereas the said Emma L. Greenwood, has in accordance with said order, entered into bond with security, in the sum of \$500.00 payable to and approved by the Register of said Circuit, and conditioned according to law.

Now, therefore, you, the said consolidated State Bank, a corporation, H.H. Montgomery , Superintendent of Banks, of the State of Alabama, liquidating Consolidated State Bank, W.J. Osborne liquidating agent of said consolidated State Bank, and Carl L. Schlich, and each and every one of you are hereby comanded and strictly enjoined from foreclosing or attempting to foreclose , causing to be foreclosed and proceeding, directly with the exercise of any power of sale contained in that certain mortgage to and in favor of Loxley State Bank, executed by Carl Schlich, and May Shepard Schlich, his wife, dated June 9th 1922, and recorded August 10th, 1922, in Mortgage Book No. 27, at Page 219, in the office of the Judge of Probate, of Baldwin County, Alabama, and said mortgage conveys the following described land situated in Baldwin County, Alabama, to wit:

Lots fifteen (15) and Sixteen (16) in Block fourteen (14) in the Town of Foley.

And from doing anything whatever to change the status now existing with reference to said mortgage, all until the further order of this Court.

Witnessing hand of the Register and the seal of said Circuit Court in Equity, this 5 day of December, 1932.

J. W. Rice - Register.

EMMA L. GREENWOOD,
Complainant,
vs.
CONSOLIDATED STATE BANK
ET AL.,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY.
NO. 1029.

This cause is submitted in behalf of Complainant upon
the following:

- (1) Original Bill of Complaint;
- (2) Answer;
- (3) Deposition of Emma L. Greenwood;
- (4) Deposition of Carl L. Schlich and exhibit and stipulation attached;
- (5) Deposition of M. B. Dewey;
- (6) Deposition of O. F. E. Winberg;
- (7) Deposition of R. M. Mahler;

and in behalf of Respondents upon:

- (1) Answer and Cross Bill; Exhibits to Carl L. Schlich's deposition; notes and mortgage and stipulation concerning same.


Register.

EMMA L. GREENWOOD,
Complainant,
vs.
CONSOLIDATED STATE BANK
ET AL.,
Respondents,

) IN THE CIRCUIT COURT OF
) BALDWIN COUNTY, ALABAMA.
)
) IN EQUITY.
) NO. 1029.

STIPULATION.

IT IS AGREED in the above styled cause that the notes and mortgage, plat and deed attached to the deposition of Carl L. Schlich taken August 17, 1935, be considered as a part of the deposition of the said witness.

Dated this February 5, 1936.


Solicitor for Complainant.


Solicitors for Respondents.

CIRCUIT COURT, BALDWIN COUNTY, ALA.

IN EQUITY

Emm. L. Greenwood

No. 1029

VS.

Consolidated Star Bond

PLAINTIFF

DEFENDANT

BILL OF COSTS

FEES OF REGISTER		Dollars	Cents	Brought Forward	
Filing each bill and other papers	10	140		For Receiving, keeping and paying out or distributing money, etc.: 1st \$1,000, 1%, all over \$1,000, and not over \$5,000, 3-4 of 1%; all over \$5,000 and not exceeding \$10,000, 1-2 of 1%, all over \$10,000 1-4 of 1%.	\$2 15
Issuing each subpoena	50	150		Receiving, keeping and paying out money paid into court, etc., 1-2 of 1% of amount received.	
Issuing each copy thereof	40	130		Each notice sent by mail to creditor	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	I 50	150		For all entries on commission docket, etc.	50
For each copy thereof	50	50		Making final record, per 100 words	15
Entering each return thereof	15			Certified copy of decree	1 00
Issuing Writ of Attachment	I 00			Report of divorce to State Health Office (Acts 1915)	50
Entering each return thereof	15			TOTAL FEES OF REGISTER	
Docketing each case	1 00	100		FEES OF SHERIFF	20 18
Entering each appearance	25	25		Serving and returning subpoena on deft.	\$1 50
Issuing each decree pro confesso on per ser.	1 00			Serving and returning subpoena for witness	65
Issuing each decree pro confesso on publica	1 00			Levyng attachment	1 50
Each order appointing guardian	I 00			Entering and returning same	25
Any other order by Register	50	50		Selling property attached	
Issuing Commission to take testimony	50			Impaneling Jury	75
Receiving and filing	10	20		Executing Writ of possession	2 50
Endorsing each package	10	30		Collecting execution for costs	1 50
Entering order submitting cause	50	50		Serving and returning sci. fa., each	65
Entering any other order of court	25			Serving and returning notice	65
Noting all testimony	50	50		Serving and returning writ of injunction	1 50
Abstract of cause, etc.	I 00			Serving and returning writ of exeat	1 50
Entering each decree	75	75		Taking and approving bonds, each	75
For every 100 words over 500	15	95		Collecting money on execution	
Taking account, etc.	3 00			Making Deed	2 50
Taking testimony, etc.	15			Serving and returning application, etc.	1 00
Each report, 500 words or less	2 50			Serving attachment, contempt of court	1 50
For every 100 words over 500	15			TOTAL FEES OF SHERIFF	
Amount claimed less than \$500, etc.	2 00			RECAPITULATION	6 00
Issuing each subpoena	25			Register's Fees	20 15
Witness certificate, each	25			Sheriff's Fees	10 00
Issuing execution, each	75			Commissioner's Fees	
Entering each return	15			Solicitor's Fees	
Taking and approving bond, each	1 00	1 00		Witness Fees	
Making copy of bill, etc.	15			Guardian Ad Litem	
Each notice not otherwise provided for	50			Printer's Fees	
Each certificate or affidavit, with seal	50			Trial Tax	3 00
Each certificate or affidavit, no seal	25			Recording Decree in Probate Court	
Hearing and passing on application, etc.	3 00				
Each settlement with Receiver, etc.	3 00				
Examng each voucher of Receiver, etc.	10				
Examng 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 ser relating to such proceedings	1 00				
For services 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 cent; all over \$1,000, and not exceeding \$20,000, 1 per ct; all over 20,000, 1-4 of 1 per cent.					
Sub Total Carried Forward		12	15	TOTAL	41 15

EMMA L. GREENWOOD,

Complainant,

-vs-

CONSOLIDATED STATE BANK, a
Corporation, H. E. MONTGOMERY,
Superintendent of Banks of
the State of Alabama, LIQUIDA-
TING CONSOLIDATED STATE BANK
and W. J. OSBORNE, liquidating
agent of said CONSOLIDATED STATE
BANK,

Respondents.

IN THE CIRCUIT COURT OF
DALEWIN COUNTY, ALABAMA
IN CHANCERY

DECREE

This cause was submitted to the Court on the pleadings and the evidence as noted by the Register and after consideration thereof and being fully advised in the premises, the Court finds:

That the cause made by the bill of complaint is for injunctive relief to prevent the respondents from proceeding further with the foreclosure of a certain mortgage set out and described in the bill of complaint and to reform said mortgage to make it conform to the alleged intention of the parties to it, it being alleged by the bill of complaint that the property of the complainant was included in said mortgage by mistake and that the mortgage was intended by the parties to it to cover other lands, instead of those of the complainant.

The answer denies that there was any mistake and asks that an account be taken of the amount due on the mortgage; that the same be foreclosed and the lands of the complainant sold and the proceeds applied to the satisfaction of the mortgage debt.

The Court finds that the allegations of the bill of complaint are true and that the complainant is entitled to relief as prayed. The complainant has produced to the Court the testimony of every living person who has knowledge of the facts of the transaction, being the complainant, herself, Carl L. Schlich the mortgagor, and three out of the five directors of the Loxley State Bank at the

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that the respondent, J. H. Williams, Superintendent of Banks of the State of Alabama be and he hereby is perpetually enjoined from foreclosing or in any manner enforcing that certain real estate mortgage made and executed by Carl L. Schlich and May Shepard Schlich to Loxley State Bank, dated June 19th, 1922, and recorded in the office of the Judge of Probate of Baldwin County, Alabama, on August 10th, 1922, in Mortgage Book No. 27, at page 219 thereof; that said mortgage be reformed to read lots four (4) and five (5) in block fourteen (14) in the Town of Foley, instead of lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley; that insofar as said mortgage affects the title to lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley, the same be and it hereby is cancelled, discharged of record and held for naught; that insofar as said mortgage affects the title to lots four (4) and five (5) in block fourteen (14) in the Town of Foley, the same be and it hereby is adjudged to be a valid and subsisting first lien upon said lots four (4) and five (5) in block fourteen (14) in the Town of Foley, in favor of the respondent, J. H. Williams, superintendent of Banks of the State of Alabama; that the cloud upon the title of the complainant in and to said lots fifteen (15) and sixteen (16) in block fourteen (14) in the town of Foley, caused by said mortgage, be and the same hereby is removed; that the respondents have no right, title, interest, claim or demand in or to or encumbrance upon said lots fifteen (15) and sixteen (16) in block fourteen (14) in the Town of Foley and that the title of the complainant in and to said lots be and the same hereby is quieted and confirmed in the complainant.

That the respondents pay the costs of this action taxed at

Dated this 9th day of June, 1936.

J. W. Kane
Judge

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

EMMA L. GREENWOOD,
Complainant,

-vs-

CONSOLIDATED STATE BANK
etal
Respondents.

C O P Y

DECREE

LLOYD A. MAGNEY
Attorney
Foley, Alabama.

Circuit Court, Baldwin County, Ala.
In Equity.

No _____

vs.

COST BILL

Paid _____, 193_____

Register.

RECORDED

Duck

6-417

Field File 1000

1934

Patricia Duck

Ray

RECORDED
Dues
6-477

RECORDED

ORIGINAL

2/90

RECEIVED IN OFFICE
NOV 28 1932
SAM D. STEARNS, Sheriff

Emma L. Greenwood, Plaintiff

vs

Consolidated state Bank a e
corporation, H.H. Montgomery
Superintendent of Banks
Liquidating Consolidated State
Bank. et al.

Executed by serving a copy of
the within on H.H. Montgomery
as Supt. of Banks of Ala.
Liquidating Consolidated State
Bank et al, This 6th. day of
December, 1932.

Sam D. Stearns
Sheriff

F.B. Rangelay
Deputy Sheriff

Filed Dec 5th, 1932.

D. Whiteman
Clerk

*Large Copy on
H.H. Montgomery
Superintendent of
Banks*

*Montgomery
Ala*

Original
Docket Page 44

2628

SERVE ON H. H. MONTGOMERY
Circuit Court of Baldwin County
In Equity

THE STATE OF ALABAMA,
BALDWIN COUNTY

No. 1029 eqms

SUMMONS

RECEIVED IN OFFICE

Received in office this
APR 1 - 1933
day of _____ 19__

SAM D. STEARNS, Sheriff

Sheriff:

Executed this First day of

April 1933

by leaving a copy of the within Summons with
*H. H. Montgomery as Supt
of Banks of State of Alabama
Liquidating Authorized State Bank*

Defendant:

Sam D. Stearns

Sheriff:

By

J. C. Wall

Deputy Sheriff:

EMMA L. GREENWOOD

vs.

CONSOLIDATED STATE BANK.

H. H. MONTGOMERY, as Supt. of

Banks of State of Ala., and

W. J. Osborne, Liquidating Agt.

Lloyd A. Magney

Solicitor for Complainant

Recorded in Vol _____ Page _____

for H. H. Montgomery
copy
each

Vertical text on right margin, possibly a stamp or reference number.

Vertical text on far right margin, possibly a stamp or reference number.

2190

Serve on **RECORDED**

Circuit Court of Baldwin County
In Equity.

No. _____

SUMMONS

Emma L. Greenwood.

vs.

H.H. Montgomery
Superintendent of Banks of the
State of Alabama liquidating
State Bank,

Remo J. ...
Montgomery

Lloyd A. Magney.
Solicitor for Complainant.

Recorded in Vol. _____ Page _____

The State of Alabama,
BALDWIN COUNTY.

Received in Office this
day of **10V 28 1932** 193
SAM D. STEARNS, Sheriff
Sheriff.

Executed this **6th** day of
December 193 **2**

by leaving a copy of the within Summons with
H.H. Montgomery as copy.
of Banks of Ala.
Defendant.

By *Sam D. Stearns*
Sheriff.
B. B. Rangelley
Deputy Sheriff.

RECORDED *2 - page*
326

THE SUPREME COURT OF ALABAMA

October Term, 19*27*-38

1 Div., No. 953

Consolidated State Bank

Appellant,

v.

Emma L. Greenwood

Appellee.

From Baldwin Circuit Court.

CERTIFICATE OF DISMISSAL.

The State of Alabama, }
Baldwin County. } Filed

this 13 day of Nov 19*27*

Asst. Reporter

RECORDED

Duck

7-5

Filed Dec 18 1936
Produce
Dept

RECORDED

Duck

7-5

Filed Dec 18 1936
R. Duck
Piquette

Warrant Page 31

Serve on **RECORDED**
Circuit Court of Baldwin County
In Equity.

No. _____

SUMMONS

Emma L. Greenwood,

vs.

Consolidated State Bank
et al.

1951
12/6

Lloyd A. Magney,
Solicitor for Complainant.

Recorded in Vol. _____ Page _____

12/6 *1185*

RECORDED

The State of Alabama,
BALDWIN COUNTY.

Received in office this _____
day of _____ 193

Sheriff.

Executed this *December 6th* day of _____
193 *2*

by leaving a copy of the within Summons with
W. J. Osborn, for Consolidated
State Bank & W. J. Osborn
Case Schmit Defendants
W. R. Stewart
Sheriff.

By _____
Deputy Sheriff.

<i>6.00</i>	<i>3625-</i>
<i>2.00</i>	<i>1850</i>
<i>1.00</i>	
<i>75-</i>	
<i>50</i>	<i>233</i>
<i>1.40</i>	
<i>50</i>	<i>3625</i>
<i>11.85</i>	<i>1440</i>

After Five Days Return To

LLOYD A. MAGNEY

MOBILE, ALA.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN CHANCERY
GREENWOOL VS. CONSOLIDATED STATE
BANK et al.

Depositions of witnesses
in behalf of the complainant.
Taken, sealed and mailed by me
this 9th day of October, 1935.

Robert S. Duck
Commissioner

Robert S. Duck

Hon. R. S. Duck,
Clerk of Circuit Court,
Bay Minette, Alabama.



5 DAYS TO

LLOYD A. MAGNEY

MOBILE, ALABAMA

Depositions of sundry witnesses
for complainant. Taken, sealed and
mailed by me

Robert S. Duck
Commissioner

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



Robert S. Duck
Clerk-Registrar

RETURN IN 5 DAYS TO

LLOYD A. MAGNEY

MOBILE, ALABAMA

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN CHANCERY
GREENWOOL VS. CONSOLIDATED
STATE BANK et al

Depositions taken, sealed and
mailed by me.

Robert S. Duck
Commissioner

Filed this *30* day *Aug* 19*35*
Robert S. Duck
Clerk-Registrar

Hon. R. S. Duck,
Clerk of Circuit Court,
Bay Minette, Alabama.

EMMA L. GREENWOOD,
COMPLAINANT,

VS

CONSOLIDATED STATE BANK, A
CORPORATION, H. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF THE
STATE OF ALABAMA LIQUIDATING
CONSOLIDATED STATE BANK AND W.
J. OSBORNE, LIQUIDATING AGENT OF
SAID CONSOLIDATED STATE BANK,

RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

BILL OF COMPLAINT

TO THE HONORABLE THE CIRCUIT COURT, EQUITY SIDE, STATE OF ALABAMA,
BALDWIN COUNTY, AND THE HON. F. W. HARE, JUDGE THEREOF, SITTING IN
EQUITY:-

Comes now Your Complainant and exhibits this her Bill of Com-
plaint against Consolidated State Bank, a corporation, H. H. Mont-
gomery, Superintendent of Banks of the State of Alabama, Liquidat-
ing said Consolidated State Bank and W. J. Osborne, Liquidating
Agent of Consolidated State Bank, and humbly complaining shows unto
Your Honor and unto this Honorable Court as follows:-

FIRST

That Your Complainant is over the age of twenty-one (21) years
and is a bona fide resident of Baldwin County, Alabama residing at
Foley, Alabama.

SECOND

That Respondent, Consolidated State Bank is a corporation with
its principal place of business at Robertsdale in Baldwin County,
Alabama; that Respondent H. H. Montgomery, Superintendent of Banks
of the State of Alabama, liquidating said Consolidated State Bank,
is over the age of twenty-one (21) years and resides in Montgomery
in Montgomery County in the State of Alabama, and that Respondent
W. J. Osborne, Liquidating Agent of said Consolidated State Bank
is over the age of twenty-one (21) years and resides at Roberts-
dale in Baldwin County, Alabama.

THIRD

That on June 19, 1922 Loxley State Bank was a corporation or
organized under the laws of the State of Alabama with its principa-

held by Daphne State Bank, and Complainant
relied upon the statements and representations of the
Stoddard and the said Stoddard and paid off the said mortgage
by Daphne State Bank and secured a release thereof in entire
ignorance of the fact that there was a second mortgage held by the
Respondent Consolidated State

NINTH

That Your Complainant is now and has been since said 11th day
of February, 1925, the owner of and in the undisputed possession of
said lots fifteen (15) and sixteen (16) in Block fourteen (14) in
the Town of Foley and did not know of the existence of said mortg-
age to said Loxley State Bank until after the said Respondent Con-
solidated State Bank went into liquidation as aforesaid when, for
the first time, the existence of said mortgage was made known to her
by the demand from one A. E. Jackson, then acting as Liquidator of
said Respondent Consolidated State Bank, for payment of said mort-
gage.

TENTH

Complainant further avers that by the payment and discharge
said mortgage held by Daphne State Bank with her money, the lien
Loxley State Bank, now the Respondent Consolidated State Bank,
made a first lien upon said premises, instead of a second lien
ordinate to the lien of the mortgage of Daphne State Bank, which
had been prior to such payment by Your Complainant; that at
of making such payment Your Complainant was the owner of the
simple title to said land and that by reason of the payment
charge of said Daphne State Bank mortgage as aforesaid, she
entitled, and was and is entitled, to be subrogated to the
said Daphne State Bank mortgage; that said mortgage should
stated by this Court on the official records of Baldwin
bama, as a first lien upon said premises and Your Complainant
clared to be the owner and holder of said first lien.

ELEVENTH

That by its terms the aforesaid mortgage to Daphne State Bank is past due and in default and upon reinstatement thereof by the Court as herein prayed, the same will be subject to foreclosure and sale as provided in and by said mortgage.

TWELFTH

Complainant submits herself to the jurisdiction of the Court and offers to do whatever the Court may consider necessary to be done on her part towards making the decree which she seeks just and equitable with regard to the other parties to the suit.

PRAYER FOR PROCESS AND RELIEF

WHEREFORE, the premises, considered, Your Complainant prays that the Respondents, Consolidated State Bank, H. H. Montgomery as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and W. J. Osborne, Liquidating Agent in charge of the affairs of said Consolidated State Bank may be made parties Defendant to this Bill of Complaint and required to appear and plead, answer or demur, within the time required by law and the rules of this Honorable Court.

Further, that upon the hearing of this cause Your Honor will decree that the mortgage in the sum of FIFTEEN HUNDRED & 00/100 (\$1500.00) DOLLARS made and executed on or about June 4, 1920 by Carl L. Schlich and May Shepard Schlich to Daphne State Bank, which is recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book No. 27 at Page 539, be reinstated on the official records of Baldwin County, Alabama as a valid and subsisting lien; that Your Honor will decree that this Complainant is subrogated to the rights of said Daphne State Bank in and to said mortgage and is the owner and holder thereof and entitled to enforce the same; that an account be taken of the amount due upon said reinstated mortgage and that upon failure to pay the amount found due thereon within a reasonable time to be fixed by the Court that said mortgage be foreclosed and the property conveyed by said mortgage, to-wit: Lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama, be sold and the

proceeds of such sale paid to Your Complainant and that Complainant may have such other and further relief in the premises as may be just and equitable.

Emma L. Greenwood
Complainant.

Stuart Romanus
Solicitor for Complainant.

FOOT NOTE

The Respondents, separately and severally, are required to answer each and every paragraph of the foregoing Bill of Complaint from First to Twelfth, both inclusive, but answer under oath is hereby expressly waived.

Stuart Romanus
Solicitor for Complainant.

STATE OF FLORIDA)
ST. JOHNS COUNTY)

Before me, the undersigned authority in and for said County and State, personally appeared Emma L. Greenwood who, being by me first duly sworn, on her oath deposes and says that she is the Complainant named in the foregoing Bill of Complaint, that she has read and knows the contents of the foregoing Bill of Complaint and that the facts therein set forth are true.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 25 day of March, 1938.

A. K. Slater
Notary Public St. Johns County, Fla.

Seal

RECORDED IN THE COUNTY CLERK'S OFFICE

BILL OF COMPLAINT

ST. JOHNS COUNTY, FLORIDA
IN THE CIRCUIT COURT OF

EMMA L. GREENWOOD,

COMPLAINANT,

vs

CONSOLIDATED STATE BANK, A
CORPORATION, E. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF THE
STATE OF ALABAMA LIQUIDATING
CONSOLIDATED STATE BANK AND W.
J. OSBORNE, LIQUIDATING AGENT OF
SAID CONSOLIDATED STATE BANK,

RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

BILL OF COMPLAINT

TO THE HONORABLE THE CIRCUIT COURT, EQUITY SIDE, STATE OF ALABAMA,
BALDWIN COUNTY, AND THE HON. F. W. HARR, JUDGE THEREOF, SITTING IN
EQUITY:--

Comes now Your Complainant and exhibits this her Bill of Com-
plaint against Consolidated State Bank, a corporation, E. H. Mont-
gomery, Superintendent of Banks of the State of Alabama, Liquidat-
ing said Consolidated State Bank and W. J. Osborne, Liquidating
Agent of Consolidated State Bank, and humbly complaining shows unto
Your Honor and unto this Honorable Court as follows:--

FIRST

That Your Complainant is over the age of twenty-one (21) years
and is a bona fide resident of Baldwin County, Alabama residing at
Foley, Alabama,

SECOND

That Respondent, Consolidated State Bank is a corporation with
its principal place of business at Robertsdale in Baldwin County,
Alabama; that Respondent E. H. Montgomery, Superintendent of Banks
of the State of Alabama, liquidating said Consolidated State Bank,
is over the age of twenty-one (21) years and resides in Montgomery
in Montgomery County in the State of Alabama, and that Respondent
W. J. Osborne, Liquidating Agent of said Consolidated State Bank
is over the age of twenty-one (21) years and resides at Roberts-
dale in Baldwin County, Alabama.

THIRD

That on June 13, 1933 Loxley State Bank was a corporation or-
ganized under the laws of the State of Alabama with its principal

place of business at Loxley, Alabama; that since said date the said Loxley State Bank has been re-organized and its name changed to Farmers State Bank of Loxley and that thereafter, by certain proceedings, the said Farmers State Bank of Loxley has been consolidated with State Bank of Silverhill and Robertsdale State Bank to form the Respondent Consolidated State Bank which is now the legal successor of said Farmers State Bank of Loxley and said Loxley State Bank and is now legally the same entity as said Loxley State Bank and is the owner of all the rights and subject to all the duties and liabilities of said Loxley State Bank.

FOURTH

That on or about the 24th day of October, 1931 Respondent Consolidated State Bank voluntarily closed its doors and turned all of its assets over to the Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama for liquidation and ever since said date the said Respondent has been engaged in the liquidation of said Consolidated State Bank and is in charge and control of its assets; that the said Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama has appointed the Respondent W. J. Osborne as Liquidating Agent for said Consolidated State Bank and the said Respondent W. J. Osborne has been and is now in active charge and control of the affairs of said Consolidated State Bank and is liquidating the same as the agent of the Respondent H. H. Montgomery, Superintendent of Banks.

FIFTH

Your Complainant further alleges that on or about the 1st day of November, 1917 one Carl L. Schlich was the owner of Lots Fifteen (15) and Sixteen (16) in Block Fourteen (14) in the Town of Foley, Baldwin County, Alabama and on or about June 4, 1920 the said Carl L. Schlich and May Shepard Schlich his wife, made and executed a mortgage upon said real estate to Daphne State Bank for the sum of FIFTEEN HUNDRED & 00/100 (\$1500.00) DOLLARS, which mortgage was recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book No. 27 at Page 539.

proceeds of such sale paid to Your Complainant and that Complainant may have such other and further relief in the premises as may be just and equitable.

Emma L. Greenwood
Complainant.

Paul Romanus
Solicitor for Complainant.

NOTE

The Respondents, separately and severally, are required to answer each and every paragraph of the foregoing Bill of Complaint from first to twelfth, both inclusive, but answer under oath is hereby expressly waived.

Paul Romanus
Solicitor for Complainant.

STATE OF FLORIDA
ST. JOHN'S COUNTY

Before me, the undersigned authority in and for said County and State, personally appeared Emma L. Greenwood who, being by me first duly sworn, on her oath deposes and says that she is the Complainant named in the foregoing Bill of Complaint, that she has read and knows the contents of the foregoing Bill of Complaint and that the facts therein set forth are true.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 15 day of March, 1885.

A. L. Slater
Notary Public St. Johns County, Fla.

Seal

RECORDED FOR COMPTROLLER
FEBRUARY 27 1885

RECORDED FOR COMPTROLLER
FEBRUARY 27 1885

**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 Consolidated State Bank, a
corporation, H.H.Montgomery, as Superintendent of Banks of the
State of Alabama, liquidating the Consolidated State Bank, &
W.J.Osborne, Liquidating Agent of said Consolidated State Bank

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 Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by
EMMA L. GREENWOOD

against said CONSOLIDATED STATE BANK, a corporation, H.H.Montgomeryk
as Superintendent of Banks of the State of Alabama, liquidating
the Consolidated State Bank, and W.J.Osborne, liquidating agent
of said Consolidated State Bank,

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 30 day of

March 193 3



Register

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

SIXTH

That thereafter and on the 15th day of June, 1922 the said Carl L. Schlich and his said wife made and executed another and a second mortgage upon said above described real estate, also in the sum of FIFTEEN HUNDRED & 00/100 (\$1500.00) DOLLARS, and which mortgage is recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book No. 27 at Page 219, to Loxley State Bank, the predecessor of Respondent Consolidated State Bank, as hereinbefore alleged, said Loxley State Bank being now, by the consolidation proceedings hereinbefore mentioned, the said Respondent Consolidated State Bank.

SEVENTH

That thereafter and on the 11th day of February, 1925 the said Carl L. Schlich and his wife made, executed and delivered to this Complainant a warranty deed conveying to said Complainant the said above described property and that as the consideration therefore and as the purchase price of said property this Complainant paid to the said Carl L. Schlich the sum of TWENTY-TWO HUNDRED FIFTY & 00/100 (\$2250.00) DOLLARS in cash, as follows: the sum of \$ 1514.00 was paid to the said Daphne State Bank in payment of its mortgage hereinbefore mentioned, together with the interest thereon and said mortgage was thereupon and on the 12th day of February, 1925, released of record by said Daphne State Bank and the balance of said sum of TWENTY-TWO HUNDRED FIFTY & 00/100 (\$2250.00) DOLLARS was paid to the said Schlich or his order.

EIGHTH

That at the time Complainant paid said sum of TWENTY-TWO HUNDRED FIFTY & 00/100 (\$2250.00) DOLLARS as a purchase price for said real estate as aforesaid, she did not know of the existence of the before mentioned mortgage to Loxley State Bank; that in making said purchase she relied upon the statements of the said Schlich and one W. A. Stoddard, the agent for the said Schlich and also the President of Farmers & Merchants Bank of Foley, both of whom represented to the Complainant that the only lien or incumbrance upon said

property was the mortgage held by Daphne State Bank, and Complainant avers that she relied upon the statements and representations of the said Schlich and the said Stoddard and paid off the said mortgage held by Daphne State Bank and secured a release thereof in entire ignorance of the fact that there was a second mortgage held by the Loxley State Bank, the predecessor of Respondent Consolidated State Bank.

NINTH

That Your Complainant is now and has been since said 11th day of February, 1925, the owner of and in the undisputed possession of said lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley and did not know of the existence of said mortgage to said Loxley State Bank until after the said Respondent Consolidated State Bank went into liquidation as aforesaid when, for the first time, the existence of said mortgage was made known to her by the demand from one A. E. Jackson, then acting as liquidator of said Respondent Consolidated State Bank, for payment of said mortgage.

TENTH

Complainant further avers that by the payment and discharge of said mortgage held by Daphne State Bank with her money, the lien of Loxley State Bank, now the Respondent Consolidated State Bank, was made a first lien upon said premises, instead of a second lien subordinate to the lien of the mortgage of Daphne State Bank, which it had been prior to such payment by Your Complainant; that at the time of making such payment Your Complainant was the owner of the fee simple title to said land and that by reason of the payment and discharge of said Daphne State Bank mortgage as aforesaid, she became entitled, and was and is entitled, to be subrogated to the lien of said Daphne State Bank mortgage; that said mortgage should be reinstated by this Court on the official records of Baldwin County, Alabama, as a first lien upon said premises and Your Complainant declared to be the owner and holder of said first lien.

ELEVENTH

That by its terms the aforesaid mortgage to Daphne State Bank is past due and in default and upon reinstatement thereof by the Court as herein prayed, the same will be subject to foreclosure and sale as provided in and by said mortgage.

TWELFTH

Complainant submits herself to the jurisdiction of the Court and offers to do whatever the Court may consider necessary to be done on her part towards making the decree which she seeks just and equitable with regard to the other parties to the suit.

PRAYER FOR PROCESS AND RELIEF

WHEREFORE, the premises, considered, Your Complainant prays that the Respondents, Consolidated State Bank, H. K. Montgomery as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and W. J. Osborne, Liquidating Agent in charge of the affairs of said Consolidated State Bank may be made parties Defendant to this Bill of Complaint and required to appear and plead, answer or demur, within the time required by law and the rules of this Honorable Court.

Further, that upon the hearing of this cause Your Honor will decree that the mortgage in the sum of FIFTYSEVEN HUNDRED & 00/100 (\$5700.00) DOLLARS made and executed on or about June 4, 1920 by Carl L. Schlich and May Shepard Schlich to Daphne State Bank, which is recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book No. 27 at Page 539, be reinstated on the official records of Baldwin County, Alabama as a valid and subsisting lien; that Your Honor will decree that this Complainant is subrogated to the rights of said Daphne State Bank in and to said mortgage and is the owner and holder thereof and entitled to enforce the same; that an account be taken of the amount due upon said reinstated mortgage and that upon failure to pay the amount found due thereon within a reasonable time to be fixed by the Court that said mortgage be foreclosed and the property conveyed by said mortgage, to-wit: lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama, be sold and the

EMMA L. GREENWOOD,

COMPLAINANT,

VS

CONSOLIDATED STATE BANK, A
CORPORATION, H. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF THE
STATE OF ALABAMA LIQUIDATING
CONSOLIDATED STATE BANK AND W.
J. OSBORNE, LIQUIDATING AGENT OF
SAID CONSOLIDATED STATE BANK,

RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

BILL OF COMPLAINT

TO THE HONORABLE THE CIRCUIT COURT, EQUITY SIDE, STATE OF ALABAMA,
BALDWIN COUNTY, AND THE HON. F. W. HARE, JUDGE THEREOF, SITTING IN
EQUITY:-

Comes now Your Complainant and exhibits this her Bill of Com-
plaint against Consolidated State Bank, a corporation, H. H. Mont-
gomery, Superintendent of Banks of the State of Alabama, Liquidat-
ing said Consolidated State Bank and W. J. Osborne, Liquidating
Agent of Consolidated State Bank, and humbly complaining shows unto
Your Honor and unto this Honorable Court as follows:-

FIRST

That Your Complainant is over the age of twenty-one (21) years
and is a bona fide resident of Baldwin County, Alabama residing at
Foley, Alabama.

SECOND

That Respondent, Consolidated State Bank is a corporation with
its principal place of business at Robertsedale in Baldwin County,
Alabama; that Respondent H. H. Montgomery, Superintendent of Banks
of the State of Alabama, liquidating said Consolidated State Bank,
is over the age of twenty-one (21) years and resides in Montgomery
in Montgomery County in the State of Alabama, and that Respondent
W. J. Osborne, Liquidating Agent of said Consolidated State Bank
is over the age of twenty-one (21) years and resides at Roberts-
dale in Baldwin County, Alabama.

THIRD

That on June 19, 1922 Loxley State Bank was a corporation or-
ganized under the laws of the State of Alabama with its principal

place of business at Loxley, Alabama; that since said date the said Loxley State Bank has been re-organized and its name changed to Farmers State Bank of Loxley and that thereafter, by certain proceedings, the said Farmers State Bank of Loxley has been consolidated with State Bank of Silverhill and Robertsdale State Bank to form the Respondent Consolidated State Bank which is now the legal successor of said Farmers State Bank of Loxley and said Loxley State Bank and is now legally the same entity as said Loxley State Bank and is the owner of all the rights and subject to all the duties and liabilities of said Loxley State Bank.

FOURTH

That on or about the 24th day of October, 1931 Respondent Consolidated State Bank voluntarily closed its doors and turned all of its assets over to the Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama for liquidation and ever since said date the said Respondent has been engaged in the liquidation of said Consolidated State Bank and is in charge and control of its assets; that the said Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama has appointed the Respondent W. J. Osborne as Liquidating Agent for said Consolidated State Bank and the said Respondent W. J. Osborne has been and is now in active charge and control of the affairs of said Consolidated State Bank and is liquidating the same as the agent of the Respondent H. H. Montgomery, Superintendent of Banks.

FIFTH

Your Complainant further alleges that on or about the 1st day of November, 1917 one Carl L. Schlich was the owner of Lots Fifteen (15) and Sixteen (16) in Block Fourteen (14) in the Town of Foley, Baldwin County, Alabama and on or about June 4, 1920 the said Carl L. Schlich and May Shepard Schlich his wife, made and executed a mortgage upon said real estate to Daphne State Bank for the sum of FIFTEEN HUNDRED & 00/100 (\$1500.00) DOLLARS, which mortgage was recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book No. 27 at Page 539.

SIXTH

That thereafter and on the 19th day of June, 1922 the said Carl L. Schlich and his said wife made and executed another and a second mortgage upon said above described real estate, also in the sum of FIFTEEN HUNDRED & 00/100 (\$1500.00) DOLLARS, and which mortgage is recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book No. 27 at Page 219, to Loxley State Bank, the predecessor of Respondent Consolidated State Bank, as hereinbefore alleged, said Loxley State Bank being now, by the consolidation proceedings hereinbefore mentioned, the said Respondent Consolidated State Bank.

SEVENTH

That thereafter and on the 11th day of February, 1925 the said Carl L. Schlich and his wife made, executed and delivered to this Complainant a warranty deed conveying to said Complainant the said above described property and that as the consideration therefore and as the purchase price of said property this Complainant paid to the said Carl L. Schlich the sum of TWENTY-TWO HUNDRED FIFTY & 00/100 (\$2250.00) DOLLARS in cash, as follows: the sum of \$1514.00 was paid to the said Daphne State Bank in payment of its mortgage hereinbefore mentioned, together with the interest thereon and said mortgage was thereupon and on the 12th day of February, 1925, released of record by said Daphne State Bank and the balance of said sum of TWENTY-TWO HUNDRED FIFTY & 00/100 (\$2250.00) DOLLARS was paid to the said Schlich or his order.

EIGHTH

That at the time Complainant paid said sum of TWENTY-TWO HUNDRED FIFTY & 00/100 (\$2250.00) DOLLARS as a purchase price for said real estate as aforesaid, she did not know of the existence of the before mentioned mortgage to Loxley State Bank; that in making said purchase she relied upon the statements of the said Schlich and one W. A. Stoddard, the agent for the said Schlich and also the President of Farmers & Merchants Bank of Foley, both of whom represented to the Complainant that the only lien or incumbrance upon said

property was the mortgage held by Daphne State Bank, and Complainant avers that she relied upon the statements and representations of the said Schlich and the said Stoddard and paid off the said mortgage held by Daphne State Bank and secured a release thereof in entire ignorance of the fact that there was a second mortgage held by the Loxley State Bank, the predecessor of Respondent Consolidated State Bank.

NINTH

That Your Complainant is now and has been since said 11th day of February, 1925, the owner of and in the undisputed possession of said lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley and did not know of the existence of said mortgage to said Loxley State Bank until after the said Respondent Consolidated State Bank went into liquidation as aforesaid when, for the first time, the existence of said mortgage was made known to her by the demand from one A. E. Jackson, then acting as Liquidator of said Respondent Consolidated State Bank, for payment of said mortgage.

TENTH

Complainant further avers that by the payment and discharge of said mortgage held by Daphne State Bank with her money, the lien of Loxley State Bank, now the Respondent Consolidated State Bank, was made a first lien upon said premises, instead of a second lien subordinate to the lien of the mortgage of Daphne State Bank, which it had been prior to such payment by Your Complainant; that at the time of making such payment Your Complainant was the owner of the fee simple title to said land and that by reason of the payment and discharge of said Daphne State Bank mortgage as aforesaid, she became entitled, and was and is entitled, to be subrogated to the lien of said Daphne State Bank mortgage; that said mortgage should be reinstated by this Court on the official records of Baldwin County, Alabama, as a first lien upon said premises and Your Complainant declared to be the owner and holder of said first lien.

ELEVENTH

That by its terms the aforesaid mortgage to Daphne State Bank is past due and in default and upon reinstatement thereof by the Court as herein prayed, the same will be subject to foreclosure and sale as provided in and by said mortgage.

TWELFTH

Complainant submits herself to the jurisdiction of the Court and offers to do whatever the Court may consider necessary to be done on her part towards making the decree which she seeks just and equitable with regard to the other parties to the suit.

PRAYER FOR PROCESS AND RELIEF

WHEREFORE, the premises, considered, Your Complainant prays that the Respondents, Consolidated State Bank, H. H. Montgomery as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and W. J. Osborne, Liquidating Agent in charge of the affairs of said Consolidated State Bank may be made parties Defendant to this Bill of Complaint and required to appear and plead, answer or demur, within the time required by law and the rules of this Honorable Court.

Further, that upon the hearing of this cause Your Honor will decree that the mortgage in the sum of FIFTEEN HUNDRED & 00/100 (\$1500.00) DOLLARS made and executed on or about June 4, 1920 by Carl L. Schlich and May Shepard Schlich to Daphne State Bank, which is recorded in the office of the Judge of Probate of Baldwin County, Alabama in Mortgage Book No. 27 at Page 539, be reinstated on the official records of Baldwin County, Alabama as a valid and subsisting lien; that Your Honor will decree that this Complainant is subrogated to the rights of said Daphne State Bank in and to said mortgage and is the owner and holder thereof and entitled to enforce the same; that an account be taken of the amount due upon said reinstated mortgage and that upon failure to pay the amount found due thereon within a reasonable time to be fixed by the Court that said mortgage be foreclosed and the property conveyed by said mortgage, to-wit: Lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama, be sold and the

proceeds of such sale paid to Your Complainant and that Complainant may have such other and further relief in the premises as may be just and equitable.

Emma L. Greenwood
Complainant.

Stuart Tompkins
Solicitor for Complainant.

FOOT NOTE

The Respondents, separately and severally, are required to answer each and every paragraph of the foregoing Bill of Complaint from First to Twelfth, both inclusive, but answer under oath is hereby expressly waived.

Stuart Tompkins
Solicitor for Complainant.

STATE OF FLORIDA)
)
ST. JOHNS COUNTY)

Before me, the undersigned authority in and for said County and State, personally appeared Emma L. Greenwood who, being by me first duly sworn, on her oath deposes and says that she is the Complainant named in the foregoing Bill of Complaint, that she has read and knows the contents of the foregoing Bill of Complaint and that the facts therein set forth are true.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 25th day of March, 1933.

O. J. Slater
Notary Public St. Johns County, Fla.
Notary Public, State of Florida at Large
My Commission Expires Nov. 23, 1936

EMMA L. GREENWOOD;

Complainant,

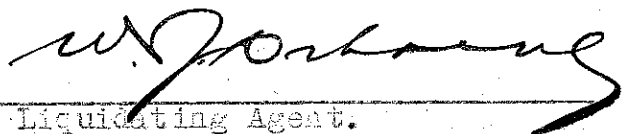
vs.

CONSOLIDATED STATE BANK,
a Corporation, E. H. MONT-
GOMERY, Superintendent of
Banks of the State of Alabama,
liquidating Consolidated State
Bank, and W. J. OSBORNE, Liqui-
dating Agent of said Consoli-
dated State Bank,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Come the respondents in the above styled cause and say that this court ought not to have to take further jurisdic-
tion of this cause, because before the commencement of this suit,
on, to-wit, the 5th day of December 1932, in this same
court the said complainant in this suit filed her cause of action
against these respondents upon the same identical matters and
issues as will be shown by the record and proceedings in the said
cause, numbered 1029, on the docket of this court; and these
respondents further say that the parties in this suit and in the
said suit first filed are the same and the said cause is still
pending in this court, and the issues therein are the same as
in this cause; all of which these respondents are ready to verify
and pray judgment of this court that this cause be quashed.


Liquidating Agent.

STATE OF ALABAMA.

BALDWIN COUNTY.

Before me, W. C. Beebe, a Notary Pub-
lic in and for said State and County, this day personally appe-
ed W. J. Osborne, who is known to me and who, being by me first
duly sworn, deposes and says that he has read the foregoing plea
and knows the contents thereof, and that the matters therein al-

leged are true.

Sworn to and subscribed before
me, this the 19 day of
April, 1933.

W C Beebe
Notary Public, Baldwin County,
Alabama.

W J Osbourne
Liquidating Agent.

The respondents in the foregoing cause, without waiving the foregoing plea in abatement, but relying and insisting upon the same, demur to the bill of complaint exhibited against them in the said suit, and for grounds of demurrer say:

1. There is no equity in the Bill.
2. The Bill shows on its face that the Complainant is guilty of laches.
3. For aught that appears from said Bill of Complaint the mortgage to the Loxley State Bank was and is a prior mortgage to the mortgage alleged to have been executed to the Daphne State Bank.
4. Said Complaint does not allege that the Loxley State Bank at the time it loaned to Carl L. Schlich the sum of Fifteen Hundred Dollars (\$1500.00) and accepted as security therefor the mortgage alleged in said Bill of Complaint, that the Loxley State Bank had any notice, actual or constructive, of the existence of the said mortgage to the Daphne State Bank.
5. It is not alleged in said Bill of Complaint that the mortgage to the Daphne State Bank was of record at the time of the execution of the mortgage to the Loxley State Bank.
6. It is not alleged that the mortgage to the Daphne State Bank was a valid, outstanding incumbrance on the property involved in this suit at the time of the execution of the mortgage to the Loxley State Bank.
7. The said Complaint shows on its face that the mortgage to the Daphne State Bank has been paid off and cancelled.

W C Beebe
Solicitor for Respondents.

CERTIFICATE OF APPEAL

TO THE SUPREME COURT OF ALABAMA

STATE OF ALABAMA,
BALDWIN COUNTY.

)
)
)

CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

I, Robert S. Duck, Clerk of the Circuit Court in and for
said County and State, do hereby certify that in the case of

CONSOLIDATED STATE BANK; et al, Appellants,

-VS-

EMMA L. GREENWOOD, Appellee,

Which was tried and determined in this Court on the 11th day of June,
1936, wherein a judgment was rendered against said Consolidated State
Bank, et al and in favor of the Complainant in the sum of \$
and the Respondent prayed for and obtained an appeal to the Supreme Court
of Alabama, to be holden in and for said State.

I further certify that on the 18th day of December, 1936,
the Respondent filed an Appeal Bond to the Supreme Court of Alabama, and
that J. E. WILLIAMS, as Superintendent of Banks of the State of Alabama,
liquidating the Consolidated State Bank, by W. C. Beebe, as Attorney in
Fact, and W. C. BEEBE are sureties on said Bond for Judgment and all costs
of said appeal.

I further certify that on the 19th day of December, 1936,
notice of said appeal was duly served on Lloyd A. Magney, attorney of
record for said Complainant.

Witness my hand and seal of office on this the _____ day of
January, 1937.

Clerk of the Circuit Court of
Baldwin County, Alabama.

SEVENTH

That Your Complainant is now and has been since February 11, 1925, the owner in fee simple and in the undisputed possession of the said Lots Fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley and the said mortgage, by reason of the mutual mistake in the writing of the description of the property intended to be conveyed and mortgaged by said mortgage, constitutes an apparent lien upon the records and a cloud upon the title of Your Complainant and that said mortgage should be reformed, because of said mutual mistake, to express the true intention of the parties to said mortgage, and so as to describe the property really intended to be conveyed and mortgaged, to-wit:-

Lots four (4) and five (5) in Block
fourteen (14) in the Town of Foley,
Baldwin County, Alabama.....

EIGHTH

That on said June 19, 1932 the said Respondent Carl L. Schlich was the owner of all of said lots, to-wit:-

Lots four (4) and five (5) and fifteen
(15) and sixteen (16) in Block fourteen
(14) in the Town of Foley.....

and is now the owner of said lots four (4) and five (5).

NINTH

That the Respondents Consolidated State Bank, H. H. Montgomery, as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and W. J. Osborne, Liquidating Agent in charge of the affairs of said Consolidated State Bank are now proceeding to foreclose said mortgage and have published in the Baldwin Times, a newspaper published in Baldwin County, Alabama in the issues of November 3rd, 10th, 17th and 24th, 1932, thereof, a notice to the effect that they will proceed to sell said real estate under and by virtue of the powers contained in said mortgage at a public sale at the door of the Court House in Baldwin County, Alabama on the 7th day of December, 1932 and Complainant alleges that she will be irreparably injured if such sale be not enjoined and that she has no adequate remedy at law.

TENTH

And Complainant submits herself to the jurisdiction of the Court and offers to do whatever the Court may consider necessary to be done on her part towards making the decree which she seeks just and equitable with regard to the other parties to the suit.

PRAYER FOR PROCESS AND RELIEF

Wherefore, the premises considered, Your Complainant prays that the said Respondents Consolidated State Bank, H. H. Montgomery as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and W. J. Osborns, Liquidating Agent in charge of the affairs of said Consolidated State Bank and Carl. L. Schlich may be made parties Defendant to this Bill of Complaint and required to appear and plead, answer or demur within the time required by law and the rules of this Honorable Court.

Further, that Your Honor grant forthwith a preliminary and temporary writ of injunction pendente lite, directed to the said Respondents and each of them, restraining them and all of them and each of them from foreclosing or attempting to foreclose, causing to be foreclosed or proceeding, directly or indirectly, with the exercise of any power of sale contained in the said mortgage to and in favor of Doxley State Bank, now the Respondent Consolidated State Bank, by and under that certain mortgage from Carl L. Schlich and May Shepard Schlich, his wife, dated June 19, 1922 and recorded August 10, 1922 in Mortgage Book No. 27 at Page 219 in the office of the Judge of Probate of Baldwin County, Alabama and conveying the following described land situated in Baldwin County, Alabama, to-wit:-

Lots fifteen (15) and sixteen (16) in
Block fourteen (14) in the Town of Foley;

and from doing anything whatever to change the status now existing with reference to said mortgage, such injunction to remain in force until the further order of this Court.

That upon the final hearing of this case said temporary or preliminary writ of injunction be made final and perpetual against

the Respondents and each of them and all of them and that upon such final hearing Your Honor will adjudge and decree that said mortgage is the result of the mutual mistake on the part of the Respondent Schlich and said Loxley State Bank, the predecessor of the Respondent Consolidated State Bank and that the description contained in said mortgage: viz: Lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama, is erroneous and that said description should be, instead, Lots four (4) and five (5) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama and that said mortgage may be reformed to properly describe the land intended to be mortgaged and conveyed thereby: viz: Lots four (4) and five (5) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama, and that the cloud upon the title of the Complainant to Lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama be removed and that it be decreed that the Respondents and each and all of them have no claim, right, title or interest in and to the real estate belonging to the Complainant and that the Complainant may have such other, further or different relief in the premises as to Your Honor may seem just and equitable.

And, as in duty bound, Your Complainant will ever pray, &c.

[Handwritten Signature]
Complainant

[Handwritten Signature]
Solicitor for Complainant

FOOT NOTE

The Respondents separately and severally are required to answer each and every paragraph of the foregoing Bill of Complaint from First to Tenth, both inclusive, but answer under oath is hereby expressly waived.

[Handwritten Signature]
Solicitor for Complainant.

STATE OF ALABAMA)

BALDWIN COUNTY.)

Before me, the undersigned authority in and for said County and State, personally appeared Emma Lou Greenwood, who is known to me and who, after being by me first duly and regularly sworn, deposes and says under oath that she is the Complainant in the foregoing Bill of Complaint; that she is acquainted with all of the matters and facts therein alleged and that the same are true.

Emma Lou Greenwood

Subscribed in my presence and sworn to before me this ___ day of December, 1932.

John H. Morgan
Notary Public.

See

FIAT

TO HON. F. W. RICHMOND, REGISTER IN CHANCERY OF CIRCUIT
COURT OF BALDWIN COUNTY, ALABAMA:-

Upon the Complainant entering into bond, with security,
in the sum of \$ _____, payable to and approved
by you, and conditioned according to law, let an injunc-
tion issue according to the Prayer of the Bill.

Dated this ____ day of December, 1952.

Judge.

IN THE CIRCUIT COURT OF
BARDWIN COUNTY, ALABAMA
IN CHANCERY

EMMA L. GREENWOOD,

COMPLAINANT

VS

CONSOLIDATED STATE BANK, A
CORPORATION, H. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF
THE STATE OF ALABAMA LIQUIDAT-
ING CONSOLIDATED STATE BANK,
W. J. OSBORNE, LIQUIDATING
AGENT OF SAID CONSOLIDATED
STATE BANK and CARL L. SCHLICH,

RESPONDENTS.

(COPY)

BILL OF COMPLAINT

LLOYD A. MAGNEY
Attorney for Complainant

HON. L. GREENWOOD,
COMPLAINANT.

VS

CONSOLIDATED STATE BANK, A
CORPORATION, H. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF THE
STATE OF ALABAMA, LIQUIDATING
CONSOLIDATED STATE BANK, W. J.
COBORNE, LIQUIDATING AGENT OF
SAID CONSOLIDATED STATE BANK
AND CARL H. SCHLICH.

RESPONDENTS.

TO THE HONORABLE THE CIRCUIT COURT, DISTRICT SIX, STATE OF ALABAMA,
BALDWIN COUNTY, AND THE HON. F. W. BARR, JUDGE THEREOF, SITTING IN
FOLEY:--

Comes now Your Complainant and exhibits this her Bill of Com-
plaint against Consolidated State Bank, a corporation, H. H. Mont-
gomery, Superintendent of Banks of the State of Alabama, Liquidat-
ing said Consolidated State Bank, W. J. Coborne, Liquidating Agent
of Consolidated State Bank and Carl H. Schlich, and humbly com-
plaining shows unto Your Honor and unto this Honorable Court as
follows:--

FIRST

That Your Complainant is over the age of twenty-one (21) years
and is a bona fide resident of Baldwin County, Alabama residing
at Foley, Alabama.

SECOND

That Respondent, Consolidated State Bank is a corporation with
its principal place of business at Robertsdale in Baldwin County,
Alabama; that Respondent H. H. Montgomery, Superintendent of Banks
of the State of Alabama, liquidating said Consolidated State Bank,
is over the age of twenty-one (21) years and resides in Montgomery
in Montgomery County in the State of Alabama, that Respondent W.
J. Coborne, Liquidating Agent of said Consolidated State Bank is
over the age of twenty-one (21) years and resides at Robertsdale in
Baldwin County, Alabama and that Respondent Carl H. Schlich is ov-
er the age of twenty-one (21) years and resides at Foley in Bald-
win County, Alabama.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

BILL OF COMPLAINT

THIRD

That on June 19, 1922 Loxley State Bank was a corporation organized under the laws of the State of Alabama with its principal place of business at Loxley, Alabama; that since said date the said Loxley State Bank has been re-organized and its name changed to Farmers State Bank of Loxley and that thereafter, by certain proceedings, the said Farmers State Bank of Loxley has been consolidated with State Bank of Silverhill and Robertsdale State Bank to form the Respondent Consolidated State Bank which is now the legal successor of said Farmers State Bank of Loxley and said Loxley State Bank and is now legally the same entity as said Loxley State Bank and is the owner of all the rights and subject to all the duties and liabilities of said Loxley State Bank.

FOURTH

That on or about the 24th day of October, 1931 Respondent Consolidated State Bank voluntarily closed its doors and turned all of its assets over to the Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama for liquidation and ever since said date the said Respondent has been engaged in the liquidation of said Consolidated State Bank and is in charge and control of its assets; that the said Respondent H. H. Montgomery, Superintendent of Banks of the State of Alabama has appointed the Respondent W. J. Osborne as Liquidating Agent for said Consolidated State Bank and the said Respondent W. J. Osborne has been and is now in active charge and control of the affairs of said Consolidated State Bank and is liquidating the same as the agent of the Respondent H. H. Montgomery, Superintendent of Banks.

FIFTH

Your Complainant further alleges that on or about the 19th day of June, 1922 the Respondent Carl L. Schlich made, executed and delivered to Loxley State Bank, the predecessor of Respondent Consolidated State Bank as hereinbefore alleged, said Loxley State Bank being now, by the consolidation proceedings hereinbefore mentioned, the said Respondent Consolidated State Bank, his mortgage deed by the terms of which said Respondent Schlich conveyed to said Loxley

SEVENTH

That Your Complainant is now and has been since February 11, 1925, the owner in fee simple and in the undisputed possession of the said Lots Fifteen (15) and Sixteen (16) in Block fourteen (14) in the Town of Foley and the said mortgage, by reason of the mutual mistake in the writing of the description of the property intended to be conveyed and mortgaged by said mortgage, constitutes an apparent lien upon the records and a cloud upon the title of Your Complainant and that said mortgage should be reformed, because of said mutual mistake, to express the true intention of the parties to said mortgage, and so as to describe the property really intended to be conveyed and mortgaged, to-wit:-

Lots four (4) and five (5) in Block
fourteen (14) in the Town of Foley,
Baldwin County, Alabama.....

EIGHTH

That on said June 19, 1922 the said Respondent Carl L. Schlich was the owner of all of said lots, to-wit:-

Lots four (4) and five (5) and fifteen
(15) and sixteen (16) in Block fourteen
(14) in the Town of Foley.....

and is now the owner of said lots four (4) and five (5).

NINTH

That the Respondents Consolidated State Bank, H. H. Montgomery, as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and W. J. Osborne, Liquidating Agent in charge of the affairs of said Consolidated State Bank are now proceeding to foreclose said mortgage and have published in the Baldwin Times, a newspaper published in Baldwin County, Alabama in the issues of November 3rd, 10th, 17th and 24th, 1932, thereof, a notice to the effect that they will proceed to sell said real estate under and by virtue of the powers contained in said mortgage at a public sale at the door of the Court House in Baldwin County, Alabama on the 7th day of December, 1932 and Complainant alleges that she will be irreparably injured if such sale be not enjoined and that she has no adequate remedy at law.

PRAYER

And Complainant submits herself to the jurisdiction of the Court and offers to do whatever the Court may consider necessary to be done on her part towards making the decree which she seeks just and equitable with regard to the other parties to the suit.

PRAYER FOR PROCESS AND RELIEF

Therefore, the premises considered, Your Complainant prays that the said Respondents Consolidated State Bank, H. H. Montgomery as Superintendent of Banks of the State of Alabama liquidating said Consolidated State Bank and S. J. Osborne, Liquidating Agent in charge of the affairs of said Consolidated State Bank and Carl L. Schlich may be made parties Defendant to this Bill of Complaint and required to appear and plead, answer or demur within the time required by law and the rules of this Honorable Court.

Further, that Your Honor grant forthwith a preliminary and temporary writ of injunction pendente lite, directed to the said Respondents and each of them, restraining them and all of them and each of them from foreclosing or attempting to foreclose, causing to be foreclosed or proceeding, directly or indirectly, with the exercise of any power of sale contained in the said mortgage to and in favor of Lenox State Bank, now the Respondent Consolidated State Bank, by and under that certain mortgage from Carl L. Schlich and Ray Shepard Schlich, his wife, dated June 13, 1922 and recorded August 10, 1922 in Mortgage Book No. 27 at Page 219 in the office of the Judge of Probate of Baldwin County, Alabama and conveying the following described land situated in Baldwin County, Alabama, to-wit:-

Lots fifteen (15) and sixteen (16) in
Block fourteen (14) in the Town of Foley;

and from doing anything whatever to change the status now existing with reference to said mortgage, such injunction to remain in force until the further order of this Court.

That upon the final hearing of this cause said temporary or preliminary writ of injunction be made final and perpetual against

the Respondents and each of them and all of them and that upon such final hearing Your Honor will adjudge and decree that said mortgage is the result of the mutual mistake on the part of the Respondent Schlich and said Lowley State Bank, the predecessor of the Respondent Consolidated State Bank and that the description contained in said mortgage; viz: Lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama, is erroneous and that said description should be, instead, Lots four (4) and five (5) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama and that said mortgage may be reformed to properly describe the land intended to be mortgaged and conveyed thereby; viz: Lots four (4) and five (5) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama, and that the cloud upon the title of the Complainant to Lots fifteen (15) and sixteen (16) in Block fourteen (14) in the Town of Foley, Baldwin County, Alabama be removed and that it be decreed that the Respondents and each and all of them have no claim, right, title or interest in and to the real estate belonging to the Complainant and that the Complainant may have such other, further or different relief in the premises as to Your Honor may seem just and equitable.

And, as in duty bound, Your Complainant will ever pray, &c.

J. Thomas
Complainant

Levi Thomas
Solicitor for Complainant

FOOT NOTE

The Respondents separately and severally are required to answer each and every paragraph of the foregoing Bill of Complaint from First to Tenth, both inclusive, but answer under oath is hereby expressly waived.

Levi Thomas
Solicitor for Complainant

STATE OF ALABAMA
BALDWIN COUNTY.

Before me, the undersigned authority in and for said County and State, personally appeared Emma Lou Greenwood, who is known to me and who, after being by me first duly and regularly sworn, deposes and says under oath that she is the Complainant in the foregoing Bill of Complaint; that she is acquainted with all of the matters and facts therein alleged and that the same are true.

Emma Lou Greenwood

Subscribed in my presence and sworn to before me this _____
day of December, 1932.

Lucia Thompson
Notary Public.

FIAT

TO HON. F. W. RICHMOND, REGISTER IN CHANCERY OF CIRCUIT
COURT OF BALDWIN COUNTY, ALABAMA:-

Upon the Complainant entering into bond, with security,
in the sum of \$ _____, payable to and approved
by you, and conditioned according to law, let an injunction
issue according to the Prayer of the Bill.

Dated this ____ day of December, 1932.

Judge.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN CHANCERY

EMMA L. GREENWOOD,

COMPLAINANT

VS

CONSOLIDATED STATE BANK, A
CORPORATION, H. H. MONTGOMERY,
SUPERINTENDENT OF BANKS OF
THE STATE OF ALABAMA LIQUIDAT-
ING CONSOLIDATED STATE BANK,
W. J. OSBORNE, LIQUIDATING
AGENT OF SAID CONSOLIDATED
STATE BANK AND CARL L. SCHLICH,

RESPONDENTS.

(COPY)

BILL OF COMPLAINT

LLOYD A. MAGNEY,
Attorney for complainant.