

326

STATE OF ALABAMA,

BALDWIN COUNTY.

TO ANY SHERIFF OF THE STATE OF ALABAMA:-

You are hereby commanded to summon Mary Subel, Frank A. Zyrek, P. H. Seibert, A. Mateja, George Mach and W. L. Hammond to appear within thirty days from the service of this writ in the Circuit Court to be held for said County, at the place of holding the same, then and there to answer the Complaint of Peoples Fertilizer Company, a Corporation.

Witness my hand this 4 day of December, 1936.

R. B. Duck

Clerk.

COMPLAINT.

PEOPLES FERTILIZER COMPANY,
A Corporation,

Plaintiff,

-vs-

MARY SUBEL, FRANK A. ZYREK,
P. H. SEIBERT, A. MATEJA,
GEORGE MACH and W. L. HAM-
MOND,

Defendants.

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

COUNT 1: The Plaintiff claims of the Defendants the sum of Six Hundred Dollars (\$600.00) for the breach of the following Bond made by the Defendants on, to-wit, the 6th day of November, 1935, viz:-

"REPLEVY BOND.

THE STATE OF ALABAMA,

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS, That we, are held and firmly bound unto Peoples Fertilizer Co. in the sum of Six Hundred & 00/100 Dollars, for the payment of which, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors and administrators, jointly and severally. And for the payment of the above bond, we waive our right of exemption to personal property under the Constitution and Laws of the State of Alabama.

(page two)

Sealed with our seals and dated this 1 day of Nov. 1935.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That Whereas, a Writ of Attachment issued by Circuit Court of Baldwin at the suit of said Peoples Fertilizer Co. against the estate of the above named Mary Subel and Frank Zyrek returnable before the said Clerk of Circuit Court, as aforesaid, at his office on the 50 days from date, for the sum of ~~Six Hundred & 00/100~~ Dollars, has been placed in the hands of M. H. Wilkins, Sheriff in and for the said County, and has been levied by him upon the following property, to-wit:

One Brown Horse Mule named Tom; One brown horse mule named Sam; One brown mare mule named Topsey; One John Deere Corn Planter; One John Deere Double Disc; One Hoover Potato Planter; One John Deere 14" Riding Plow; One 1929 Model Four door Ford Sedan Mtr. No. A 1447600; One 1926 Model Ford truck Mtr. No. T 7735890;

and whereas, the property has been delivered to the said Mary Subel and Frank Zyrek on his entering into this bond.

NOW, THEREFORE, If the Defendant shall fail in said action he or his securities shall return the specific property attached and above mentioned to the said Constable within ten days after judgment against said Defendant in this suit, then this obligation is to be void, otherwise to remain in full force and effect.

Mary Subel (L.S.)
Frank A. Zyrek (L.S.)
P. H. Seibert (L.S.)
A. Mateja
George Mach
W. L. Hammond

Taken and approved this 6 day
of Nov. 1935.

M. H. Wilkins, Sheriff,
By C. N. Anderson, D. S."

And Plaintiff alleges that the condition of said Bond has been broken by the Defendants, in this, that the Defendants have failed to deliver to the Plaintiff the property contained and set forth therein within ten days after judgment was rendered in favor of the Plaintiff against the said Defendants in said suit.

COUNT 2: Plaintiff claims of the Defendants the sum of Six Hundred Dollars (\$600.00), as damages, for in this:- That on, to-wit, the 30th day of October, 1935, Plaintiff commenced its suit in detinue against the Defendants, Mary Subel and Frank Zyrek, in the Circuit Court of Baldwin County, Alabama, executed its Bond and made the necessary Affidavit that the property hereinafter mentioned belonged to it, and that it was entitled to the immediate possession of the same; that in pursuance to said suit and Bond and Affidavit there was issued out of the Circuit Court

(page two)

(page three)

of Baldwin County, Alabama, a Writ of Detinue which was addressed to M. H. Wilkins, Sheriff of Baldwin County, Alabama, directing the said M. H. Wilkins, as such Sheriff, to take into his possession the property mentioned in this count of the Complaint; that in pursuance to said writ the said M. H. Wilkins, as Sheriff, in the execution of the same, seized the property herein mentioned in this count of the Complaint, and turned the same over to the Defendants Mary Subel and Frank Zyrek, on their execution of a so-called Replevy Bond, which was in words and figures as follows:-

"REPLEVY BOND.

THE STATE OF ALABAMA,

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS, That we, Peoples Fertilizer Co. are held and firmly bound unto Peoples Fertilizer Co. in the sum of Six Hundred & 00/100 Dollars, for the payment of which, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors and administrators, jointly and severally. And for the payment of the above bond, we waive our right of exemption to personal property under the Constitution and Laws of the State of Alabama.

Sealed with our seals and dated this 1 day of Nov. 1935.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That Whereas, a Writ of Attachment issued by Circuit Court of Baldwin at the suit of said Peoples Fertilizer Co. against the estate of the above named Mary Subel and Frank Zyrek returnable before the said Clerk of Circuit Court, as aforesaid, at his office on the 30 days from date, for the sum of ~~Six Hundred & 00/100~~ Dollars, has been placed in the hands of M. H. Wilkins, Sheriff in and for the said County, and has been levied by him upon the following property, to-wit:

One Brown Horse Mule named Tom; One brown horse mule named Sam; One brown mare mule named Topsey; One John Deere Corn Planter; One John Deere Double Disc; One Hoover Potato Planter; One John Deere 14" Riding Plow; One 1929 Model Four door Ford Sedan Mtr. No. A 1447600; One 1926 Model Ford truck Mtr. No. T 7735890;

and whereas, the property has been delivered to the said Mary Subel and Frank Zyrek on his entering into this bond.

NOW, THEREFORE, If the Defendant shall fail in said action he or his securities shall return the specific property attached and above mentioned to the said Constable within ten days after judgment against said Defendant in this suit, then this obligation is to be void, otherwise to remain in full force and effect.

Mary Subel (L.S.)
Frank A. Zyrek (L.S.)
P. H. Seibert (L.S.)
A. Mateja
George Mach
W. L. Hammond

(page three)

(page four)

Taken and approved this 6 day
of Nov. 1935.

M. H. Wilkins, Sheriff,
By C. N. Anderson, D. C."

And Plaintiff further alleges that on, to-wit, the 4th day of February, 1936, the aforesaid cause mentioned herein came on for hearing in the Circuit Court of Baldwin County, Alabama, and that on a consideration of the same the said Court rendered a Judgment against the Defendants, Mary Subel and Frank Zyrek, in favor of this Plaintiff, for the following property, or its alternate value, viz:-

One Brown Horse Mule named Tom, value \$100.00;
One Brown Horse Mule named Sam, value \$100.00;
One Brown Mare Mule, value \$75.00; One corn
Planter, value \$35.00; One Double Disc, value
\$25.00; One Hoover Potato Planter, value \$30.00;
One 14 inch Riding Plow, value \$10.00; One 1929
Ford Sedan, Motor No. 1447600, value \$25.00;
One 1926 Ford Truck, Motor No. T 7735890, value
\$50.00. Damage for detention fixed at \$35.00;

together with the costs of said suit.

And Plaintiff further alleges that the said Defendants, or any of them, have never returned the specific property so seized by said Sheriff as aforesaid to the Plaintiff, or anyone else for it, and Plaintiff further alleges that said Bond as herein set forth has been breached by the failure of the said Defendants to return the property herein mentioned to the Plaintiff, or to anyone else for it, within thirty days after the date of said Judgment, and by reason of the failure of the said Defendants to deliver to the Plaintiff the aforesaid property within the time mentioned, Plaintiff has been damaged in the aforesaid sum claimed--hence this suit.

COUNT 3: The Plaintiff claims of the Defendants the sum of Six Hundred Dollars (\$600.00) for the breach of the following Bond made by the Defendants on, to-wit, the 6th day of November, 1935, viz:-

"REPLEVY BOND."

THE STATE OF ALABAMA,

BALDWIN COUNTY.

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KNOW ALL MEN BY THESE PRESENTS, That we,
are held and firmly bound unto Peoples Fertilizer
Co. in the sum of Six Hundred & 00/100 Dollars, for the payment
of which, well and truly to be made, we jointly and severally bind
ourselves, our heirs, executors and administrators, jointly and
severally. And for the payment of the above bond, we waive our
right of exemption to personal property under the Constitution
and Laws of the State of Alabama.

Sealed with our seals and dated this 1 day of Nov. 1935.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that where-
as, a Writ of Attachment issued by Circuit Court of Baldwin at the
suit of said Peoples Fertilizer Co. against the estate of the above
named Mary Subel and Frank Zyrek returnable before the said Clerk
of Circuit Court, as aforesaid, at his office on the 30 days from
date, for the sum of ~~Six Hundred & 00/100~~ Dollars, has been placed
in the hands of M. H. Wilkins, Sheriff in and for the said County,
and has been levied by him upon the following property, to-wit:

One Brown Horse Mule named Tom; One brown horse
mule named Sam; One brown mare mule named Topsey;
One John Deere Corn Planter; One John Deere Double
Disc; One Hoover Potato Planter; One John Deere
14" Riding Plow; One 1929 Model Four door Ford Sedan
Mtr. No. A 1447600; One 1926 Model Ford truck Mtr.
No. T 7735890;

and whereas, the property has been delivered to the said Mary Subel
and Frank Zyrek on his entering into this bond.

NOW, THEREFORE, If the Defendant shall fail in said action
he or his securities shall return the specific property attached
and above mentioned to the said Constable within ten days after
judgment against said Defendant in this suit, then this obligation
is to be void, otherwise to remain in full force and effect.

Mary Subel (L.S.)
Frank A. Zyrek (L.S.)
P. H. Seibert (L.S.)
A. Mateja
George Mach
W. L. Hammond

Taken and approved this 6 day
of Nov. 1935.

M. H. Wilkins, Sheriff,
By C. N. Anderson, D. S."

And the Plaintiff alleges that the condition of said
Bond has been broken by the Defendants in this, that the Defend-
ants have failed to deliver to any constable the property contain-
ed and set forth therein within ten days after judgment was render-
ed in favor of the Plaintiff and against the said Defendants in
said suit.

Hubert P. ...
Attorneys for Plaintiff.

Received in Office
12-4-36

Executed 12-3- 1936
by serving copy of within Summons and
Complaint on

Mary Subel, Frank A.
Zyrek, P. H. Seibert, A.
Matifa George Mach,
and W. L. Hammond
M. H. Wilkins Sheriff

By C. N. Anderson Deputy Sheriff

RECORDED
Duck
8-1

SUMMONS & COMPLAINT.

PEOPLES FERTILIZER COMPANY,
A Corporation,

Plaintiff,

-VS-

MARY SUBEL, FRANK A. ZYREK,
P. H. SEIBERT, A. MATEJA,
GEORGE MACH and W. L. HAM-
MOND,

Defendants.

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

Filed December 4, 1936

R. B. Duck
Clerk.

LAW OFFICES
HYBART & CHASON
BAY MINETTE, ALABAMA

PEOPLES FERTILIZER COMPANY,
a Corporation,

Plaintiff,

VS.

MARY SUBEL, FRANK A. ZYREK,
P. H. SEIBERT, A MATEJA, GEORGE
MACH and W. L. HAMMOND,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 326.

DEMURRER.

Now comes each of the Defendants in the above entitled cause, separately and severally, and demurs to the Complaint filed in said cause, and to each and every count thereof separately and severally for the following separate and several reasons, to-wit:

1. It does not allege that a judgment was rendered against Mary Subel and Frank Zyrek and that this judgment is unpaid or unsatisfied.

2. It does not sufficiently describe the judgment.

3. Because it does not allege any facts to show a duty owing by the Defendants to the Plaintiff for the delivery of said property by the Defendants to the Plaintiff, or any other person.

4. No facts are alleged to show why there is any duty on the Defendants to deliver any property to the Plaintiff or any other person.

5. It does not allege that said judgment has not been paid.

6. It does not allege that said judgment is unsatisfied.

7. It does not allege any facts which show that the Defendants have breached the conditions of the bond which is made the basis of this suit.

8. Because the suit is based on the bond and not on the breach of the condition therein.

9. No facts are averred to show the amount of damages suffered by the Plaintiff.

10. Because the Complaint does not aver any damage to Plaintiff by reason of a breach of the condition of said bond.

11. It does not allege that a demand was made on the sureties on said bond for a re-delivery of the property described therein.

12. Because the Complaint does not allege the value of the said property or the value of the Plaintiff's interest therein.

13. It does not allege that the Plaintiff has exhausted its remedy or been deprived thereof in the suit referred to in each count of said Complaint.

14. Because, for aught that appears from said Complaint, the Plaintiff has not exhausted its remedy in the suit referred to in said Complaint.

15. Because the said Complaint does not show a breach of any duty owing by Defendants, as Sureties, to the Plaintiff.

J. B. Blackburn
Attorney for Defendants.

Defendants demand a trial of said cause by jury.

J. B. Blackburn
Attorney for Defendants.

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8-3

DEMURRER.

PEOPLES FERTILIZER COMPANY, a
Corporation,

Plaintiff,

VS.

MARY SUBEL, FRANK A. ZYREK,
P. H. SEIBERT, A. MATEJA, GEORGE
MACH and W. L. HAMMOND,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. 326.

Filed on this the 4th day of
January, 1937.

R. S. Duek,
Clerk

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

PEOPLES FERTILIZER COMPANY,
a Corporation,

Plaintiff,

VS.

M. HENRY WILKINS, Sheriff of
Baldwin County, Alabama, and
MARYLAND CASUALTY COMPANY of
Baltimore, Maryland, a Cor-
poration,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW.

NO. 327.

DEMURRER.

Now comes Maryland Casualty Company, of Baltimore, Maryland,
a Corporation, one of the Defendants in the above entitled cause,
and demurs to the Complaint filed in said cause, and to each and
every count thereof separately and severally for the following
separate and several reasons, to-wit:

1. It does not sufficiently describe the judgment.
2. It does not allege that said judgment has not been paid.
3. It does not allege that said judgment is unsatisfied.
4. No facts are averred to show the amount of damages
suffered by the Plaintiff.
5. Because the Complaint does not allege the value of
the said property or the value of the Plaintiff's interest therein.
6. It does not allege that the Plaintiff has exhausted
its remedy or been deprived thereof in the suit referred to in
each count of said Complaint.
7. Because, for aught that appears from said Complaint,
the Plaintiff has not exhausted its remedy in the suit referred to
in said Complaint.
8. Because it does not appear that the said replevy bond
was approved by the said Sheriff or any one else thereunto duly
authorized by him.
9. Because no facts are averred to show any liability of
the Defendant to Plaintiff by reason of the acts set out in
Plaintiff's Complaint.

10. Because said Complaint does not assign any breach or breaches of the said Sheriff's official bond.

11. Because the said Sheriff's official bond is not made the foundation of the suit as set out in the said Complaint.

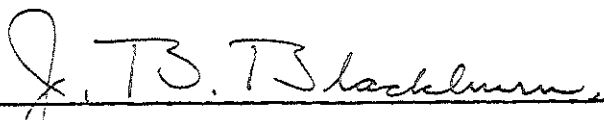
12. Because the cause of action as attempted to be set out in the said Complaint sounds in damages only, and, as against this defendant, no cause of action is stated.

13. Because the cause of action as attempted to be set out in Plaintiff's Complaint is not based or predicated upon the said Sheriff's official bond.

14. Because the cause of action as attempted to be set out in Plaintiff's Complaint sounds in damages only.

15. Because no facts are averred to show any liability on this Defendant on account of the acts complained of in the Complaint of Plaintiff.

16. Because the said Complaint does not show a breach of any duty owing by this Defendant to the Plaintiff.



Attorney for Defendant.

DEMURRER.

PEOPLES FERTILIZER COMPANY, a
Corporation,
Plaintiff,

VS.

M. HENRY WILKINS, Sheriff of
Baldwin County, Alabama, and
MARYLAND CASUALTY COMPANY of
Baltimore, Maryland, a Cor-
poration,
Defendants.

IN THE CIRCUIT COURT OF
BALEWIN COUNTY, ALABAMA.
AT LAW. NO. ____.

Filed on this the 7th day of
January, 1937.

R. B. Duck
Clerk

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA

STATE OF ALABAMA,

BALDWIN COUNTY.

TO ANY SHERIFF OF THE STATE OF ALABAMA:-

You are hereby commanded to summon M. Henry Wilkins, Sheriff of Baldwin County, Alabama, and the Maryland Casualty Company of Baltimore, Maryland, a Corporation, to appear within thirty days from the service of this writ in the Circuit Court to be held for said County, at the place of holding the same, then and there to answer the Complaint of Peoples Fertilizer Company, a Corporation.

Witness my hand this 4 day of December, 1936.

R. B. Duck

Clerk.

PEOPLES FERTILIZER COMPANY,
A Corporation,

Plaintiff,

-vs-

M. HENRY WILKINS, Sheriff of
Baldwin County, Alabama, and
MARYLAND CASUALTY COMPANY of
Baltimore, Maryland, a Corporation,

Defendants.

IN THE CIRCUIT COURT-LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

The Plaintiff claims of the Defendants, M. Henry Wilkins, Sheriff of Baldwin County, Alabama, and the Maryland Casualty Company of Baltimore, Maryland, a Corporation, as Surety on his official Bond, as Sheriff, the sum of Six Hundred Dollars (\$600.00), as damages, for in this:- That on, to-wit, the 30th day of October, 1935, at the instance of the Plaintiff in that certain cause then pending in the Circuit Court of Baldwin County, Alabama, viz, Peoples Fertilizer Company, a Corporation, vs. Mary Subel and Frank Zyrek, a Writ of Detinue was issued out of the Circuit Court of Baldwin County, Alabama, directed to the Sheriff of Baldwin County, Alabama, and commanding him to levy

(page two)

said Writ of Detinue upon the property hereinafter mentioned, and Plaintiff further alleges that the said M. Henry Wilkins seized the property hereinafter mentioned, in and by virtue of said Writ of Detinue, and that he turned the same over to the Defendants in said cause, viz, Mary Subel and Frank Zyrek, without taking a Bond as required by law, but in lieu thereof he took a so-called Replevy Bond, a copy of which is as follows:-

"REPLEVY BOND."

THE STATE OF ALABAMA,
BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS, That we, _____ are held and firmly bound unto Peoples Fertilizer Company, in the sum of Six Hundred & 00/100 Dollars, for the payment of which, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors and administrators, jointly and severally. And for the payment of the above bond, we waive our right of exemption to personal property under the Constitution and Laws of the State of Alabama.

Sealed with our seals and dated this 1 day of Nov. 1935.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That Whereas, a Writ of Attachment issued by Circuit Court of Baldwin at the suit of said Peoples Fertilizer Co. against the estate of the above named Mary Subel and Frank Zyrek returnable before the said Clerk of Circuit Court, as aforesaid, at his office on the 30 days from date, for the sum of ~~Six Hundred & 00/100~~ Dollars, has been placed in the hands of M. H. Wilkins, Sheriff in and for the said County, and has been levied by him upon the following property, to-wit:

One Brown Horse Mule named Tom; One brown horse mule named Sam; One brown mare mule named Topsey; One John Deere Corn Planter; One John Deere Double Disc; One Hoover Potato Planter; One John Deere 14" Riding Plow; One 1929 Model Four door Ford Sedan Mtr. No. A 1447600; One 1926 Model Ford truck Mtr. No. T 7735890;

and whereas, the property has been delivered to the said Mary Subel and Frank Zyrek on his entering into this bond.

NOW, THEREFORE, If the Defendant shall fail in said action he or his securities shall return the specific property attached and above mentioned to the said Constable within ten days after judgment against said Defendant in this suit, then this obligation is to be void, otherwise to remain in full force and effect.

Mary Subel (L.S.)
Frank A. Zyrek (L.S.)
P. H. Seibert (L.S.)
A. Mateja
George Mach
W. L. Hammond

Taken and approved this 6 day
of Nov. 1935.

M. H. Wilkins, Sheriff,
By C. N. Anderson, D. S."

(page two)

(page three)

And Plaintiff further avers that on, to-wit, the 4th day of February, 1926, said cause of the Peoples Fertilizer Company, a Corporation, vs. Mary Subel and Frank Zyrek, an action in detinue, came on for hearing in said Circuit Court of Baldwin County, Alabama, and on said hearing the Court rendered its verdict in favor of the Plaintiff, the Peoples Fertilizer Company, a Corporation, and adjudged that the Plaintiff have and recover of the Defendants, Mary Subel and Frank Zyrek, the following described personal property, to-wit, or its alternate value, viz:-

One Brown Horse Mule named Tom, value \$100.00;
One Brown Horse Mule named Sam, value \$100.00;
One Brown Mare Mule, value \$75.00; one corn
Planter, value \$35.00; one Double Disc, value
\$25.00; one Hoover Potato Planter, value \$30.00;
One 14 inch Riding Plow, value \$10.00; one 1929
Ford Sedan, Motor No. 1447600, value \$25.00;
One 1926 Ford Truck, Motor No. T 7735890, value
\$50.00. Damage for detention fixed at \$35.00;

together with the costs of said proceedings.

And Plaintiff further avers that the Defendants in said Detinue Suit, or their Sureties on said alleged Bond, have never delivered to him the aforesaid property, nor have they paid to him the alternate value of the same, and Plaintiff further avers that by the failure of the aforesaid M. Henry Wilkins, as Sheriff, to take a good and sufficient Statutory Bond while acting within the scope and authority and color of his office, Plaintiff has been caused to suffer damages in the sum as aforementioned--hence this suit.

Hybart & Pearson
Attorneys for Plaintiff.

Plaintiff demands a trial by
Jury.

Hybart & Pearson
Attorneys for Plaintiff.

SUMMONS & COMPLAINT.

PEOPLES FERTILIZER COMPANY,
A Corporation,

Plaintiff,

-vs-

M. HENRY WILKINS, Sheriff of
Baldwin County, Alabama, and
MARYLAND CASUALTY COMPANY of
Baltimore, Maryland, a Cor-
poration,

Defendants.

IN THE CIRCUIT COURT--LAW SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

Filed December 4, 1936

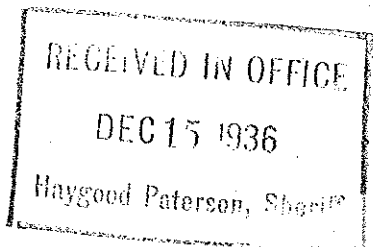
R. B. Duck
LAW OFFICES

Clerk.

HYBART & CHASON
BAY MINETTE, ALABAMA

Service accepted
and further notice
waived, this 9th
day of December, 1936.

M. H. Wilkins
Sheriff



EXECUTED BY DELIVERING
a copy of the within

TO Frank n Julian
AS Supt of Prs
OF THE State of Ala
AND SAID Frank n Julian
WAS SUCH WHEN SO SERVED 12/16/36
Haygood Paterson
Sheriff Montgomery County
Wampold
Deputy Sheriff

PEOPLES FERTILIZER COMPANY,
a Corporation,

Plaintiff,

VS.

M. HENRY WILKINS, Sheriff of
Baldwin County, Alabama, and
MARYLAND CASUALTY COMPANY of
Baltimore, Maryland, a Cor-
poration,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

AT LAW. NO. _____.

DEMURRER.

Now comes M. Henry Wilkins, one of the Defendants in the above entitled cause, and demurs to the Complaint filed in said cause, and to each and every count thereof separately and severally for the following separate and several reasons, to-wit:

1. It does not sufficiently describe the judgment.
2. It does not allege that said judgment has not been paid.
3. It does not allege that said judgment is unsatisfied.
4. No facts are averred to show the amount of damages suffered by the Plaintiff.
5. Because the Complaint does not allege the value of the said property or the value of the Plaintiff's interest therein.
6. It does not allege that the Plaintiff has exhausted its remedy or been deprived thereof in the suit referred to in each count of said Complaint.
7. Because, for aught that appears from said Complaint, the Plaintiff has not exhausted its remedy in the suit referred to in said Complaint.
8. Because it does not appear that the said replevy bond was approved by the said Sheriff or any one else thereunto duly authorized by him.
9. Because no facts are averred to show any liability of the Defendant to Plaintiff by reason of the acts set out in Plaintiff's Complaint.

10. Because said Complaint does not assign any breach or breaches of the said Sheriff's official bond.

11. Because the said Sheriff's official bond is not made the foundation of the suit as set out in the said Complaint.

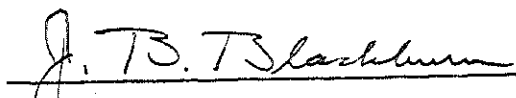
12. Because the cause of action as attempted to be set out in the said Complaint sounds in damages only and, as against this defendant, no cause of action is stated.

13. Because the cause of action as attempted to be set out in Plaintiff's Complaint is not based or predicated upon the said Sheriff's official bond.

14. Because the cause of action as attempted to be set out in Plaintiff's Complaint sounds in damages only.

15. Because no facts are averred to show any liability on this defendant on account of the acts complained of in the Complaint of Plaintiff.

16. Because the said Complaint does not show a breach of any duty owing by this Defendant to the Plaintiff.


Attorney for Defendant, M. Henry
Wilkins, Sheriff of Baldwin County
Alabama.

PEOPLES FERTILIZER COMPANY, a
Corporation,
Plaintiff,

VS.

M. HENRY WILKINS, Sheriff of
Baldwin County, Alabama, and
MARYLAND CASUALTY COMPANY of
Baltimore, Maryland, a Cor-
poration,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
AT LAW. NO. _____.

Filed on this the 7th day of
January, 1937.

R. S. Duck,
Clark

J. B. BLACKBURN
ATTORNEY AT LAW
BAY MINETTE, ALABAMA