

FRANK P. PROPST,	}	
Complainant,	}	IN THE CIRCUIT COURT OF BALDWIN
VS.	}	COUNTY, ALABAMA.
ALICE MAE PROPST PIERCE,	}	IN EQUITY.
Respondent.	}	

A number of interesting and difficult questions are presented by the pleadings and proof in this case.

It appears that the respondent is the daughter of the complainant. That in 1933 there was a divorce proceeding pending between complainant and his then wife, who is the mother of the respondent. While these proceedings were pending, and (to quote the bill) "in order to effect a settlement of any possible claim for alimony, maintenance and support growing out of said divorce proceedings, the complainant agreed with the said Mrs. Mamie Propst, his then wife, and with the respondent herein, that he would make a certain provision for the support and maintenance of the said Mrs. Mamie Propst, his then wife; that at the said time, which was on or about February 25th., 1933, the complainant agreed that he would pay for a home or place for the said Mrs. Mamie Propst, at Fairhope, in Baldwin County, Alabama." It is then alleged that respondent insisted that complainant pledge some of his property to secure the performance of said agreement for the benefit of her said mother; that in furtherance of said purpose, and as a part of said agreement to pay for said home or place at Fairhope, complainant and his wife conveyed to respondent the land in question by absolute deed; that said deed was executed and delivered upon the express agreement (oral) that should complainant fulfill his agreement to pay for said home or place in Fairhope respondent would reconvey the land to complainant. The bill alleges that complainant has paid for said home or place as agreed, and prays that said absolute deed be declared a mortgage and cancelled, or, in the alternative, that respondent be declared a trustee of the legal title and directed to convey same to the

complainant.

Mrs. Mamie Propst, the former wife of complainant, and mother of the respondent, is not made a party. She was certainly the party beneficially interested in the transaction under complainant's theory of the case. The respondent had no interest either legal or equitable. If the paper in question was an equitable mortgage, then the wife was the equitable mortgagee -- the only person really interested. Under complainant's theory of the case, it appears affirmatively that a "use, trust, or confidence was declared of the land", or, at least a charge made on the same; and, had this purpose been incorporated in the deed as a part thereof, the legal estate would have vested in Mrs. Propst, for whose benefit the use, trust, confidence or charge was made. No estate or interest would have vested in the daughter as trustee. Code 6912. So it appears that under any aspect of the bill Mrs. Propst was a necessary party to the cause. It is not claimed that this trust or confidence on the land was declared in writing, but orally. This would have been in violation of Section 6917 of the Code, and void.

The bill alleges that by reason of the agreement concerning the purchase of the home or place "a debt was thereby created, owing by complainant to said Mrs. Mamie Propst." It is not alleged that this settlement agreement was reported to and approved by the Court in the divorce proceeding. The debt, or obligation, on the complainant to provide for his wife was not created by said alleged agreement. Such obligation as he owed her was imposed by law. It is not alleged that adequate provision was made for her under all the circumstances, and, while such settlements are upheld by the Courts when fair and adequate, they are looked upon with more or less suspicion by the Courts. If a debt was "thereby created" what was the debt? What was its amount? When was it payable? What character of home or place was he to provide? Was he to pay for a "home" or a "place"? Was he to pay for a "place" at fifty dollars or a "home" at

five thousand dollars ? Could the "debt" have been reduced to a personal judgment against complainant ? It appears that the decree of divorce was silent as to this agreement; that it was rendered less than a week after the agreement. After the decree of divorce the courts were closed to the wife for the award of alimony. Was the alleged settlement agreement enforceable in any Court ? Before an absolute deed can be declared to be a mortgage a certain, definite, continuing, enforceable debt must exist between grantor and grantee.

"It is a necessary ingredient in a mortgage that the mortgagee should have a remedy for his debt against the debtor. ***** The effect of a mortgage ***** is to leave on the mortgagor a personal liability for the residuum of the debt, if, on foreclosure, the property fails to yield a sum sufficient to pay it in full.¶

Stollenwerck vs. Marks, 188 Ala. 587; 65 So. 1024.

What remedy did Mrs. Propst have for her "debt" against complainant ? If she went into equity to foreclose the deed as an equitable mortgage how would the court know whether or not the purchase price on foreclosure yielded a sum sufficient to pay the "debt" ? How could the Court decree a personal liability upon the mortgagor (complainant) for any residuum of the debt ? Or, how could the Court possibly know whether or not there was a residuum of the debt when there is nothing to indicate the amount of the original debt ?

"Our courts have held in many cases that to constitute an equitable mortgage the mortgagor must owe to the mortgagee a definite debt for which the alleged mortgage is security."

Jones vs. Stollenwerck, 218 Ala. 637; 119 So. 844.

"There must be alleged the existence, then contracted or theretofore existing, of a debt in its fullest sense, continuous and binding on deceased (grantor); a debt which appellant could enforce, and to collect which he could foreclose the deed in equity as a mortgage in nature."

O'Rear vs. O'Rear, 219 Ala. 419; 122 So. 645.

Haynie vs. Robertson, 58 Ala. 37.

*The obligation imposed by law on the husband to provide for the divorced wife, and recognized by the alleged agreement, was not a debt "in its fullest sense"; the obligation, or duty, was not reduced to a money value. "It is the recognized rule that where there is no debt, or duty reduced to a money value, there is no mortgage."

Lee vs. Macon County Bank, 172 So. 662, 667.

The bill alleges that the condition of the conveyance was that the complainant would pay for a "home or place" in the

town of Fairhope for the said Mrs. Mamie Propst. Under such an agreement how could the parties, or the Court in the event of an attempted foreclosure, know upon what condition the conveyance was defeasible? It is repeatedly alleged in the bill that complainant was to pay for a "home or place"; not a home place, or a home. Seven separate times in the bill of complaint complainant alleges that by the terms of the agreement he was to pay for a home or place in Fairhope, and twice in the bill he alleges that he has performed his agreement by paying for said "home or place." It is uncertain whether he was to pay for a home or a place, and it is equally uncertain whether he has paid for a home or a place. Under the allegations of the bill he could have discharged his obligation by doing either. This illustrates the insurmountable difficulty that would confront a court if the wife attempted to foreclose the conveyance as a mortgage, to say nothing of the difficulty, or impossibility, of determining what character of home or place was to be paid for by complainant.

"If there is no agreement between them, and no condition upon which the conveyance is defeasible, whatever may be the trust with which the estate of the grantee is charged in favor of others, not parties to the conveyance, it is not a mortgage.

Downing vs. Woodstock Iron Co., 9 So. 177.

I am convinced from the pleading and the testimony that the agreement upon which complainant bases his right to a reconveyance was void. Both he and the respondent testify that it was agreed between the parties that a divorce should be obtained; that the wife should file the bill and that the complainant would furnish the money to put the case through court. It is alleged that it was insisted that something be done before divorce to guarantee the agreement as to alimony. It is plain to me that the agreement entered upon pending the suit, and under the stated conditions, was for the purpose of facilitating a divorce, was against public policy and void. It was not brought to the attention of the court for its sanction and approval, and being void, cannot be made the basis of a cause of action.

Since the case of Patton vs. Beecher, 62 Ala. 579, it has been held that the mere parol promise of the grantee in a deed, absolute on its face, to hold for the use of the grantor, will not take the conveyance out of the statute. Such parol agreements are made void by the statute. See the many cases collected in

Phillips vs. Phillips, 223 Ala. 475.

The bill should be dismissed for failure to make the divorced wife a party respondent. If the bill contained equity, either as a bill to declare an absolute deed a mortgage or to engraft a trust on said absolute conveyance, the dismissal should be without prejudice. But, as the bill does not contain equity in either aspect, and as the contract sought to be enforced was void as against public policy, the bill will be summarily dismissed.

The cross bill is without ~~equity~~ independent equity and is not supported by an original bill containing equity. The cross bill should, therefore, be dismissed, but without prejudice.

The Register will enroll the following

D E C R E E

This cause coming on to be heard is submitted for final decree upon the pleading and proof, as noted by the Register, and upon consideration thereof I am of the opinion that the complainant is not entitled to relief.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the Complainant is not entitled to the relief prayed in his bill of complaint, and the same is hereby denied.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that said bill of complaint be, and the same hereby is, dismissed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that said cross bill be, and the same hereby is, dismissed, but without prejudice.

Done at Monroeville, Alabama, this the 2nd day of

February, 1938.

J. W. Hare

JUDGE

FRANK P. PROPST,
Complainant,

vs.

ALICE MAE PROPST PIERCE,
Respondent.

Equity No. 346

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

PETITION FOR RE-HEARING

TO THE HONORABLE F. W. HARE, Judge of the Circuit Court of Baldwin
County, Alabama, in Equity Sitting:

Comes now your Complainant-Petitioner, humbly pray-
ing, and presents this his Petition for Re-hearing of the Decree
heretofore rendered in the above-entitled cause, assigning as reasons
therefor:

1. Petitioner urges that said Decree is erroneous
in that it is based on the opinion that Bill of Complaint failed to
show a mortgage relationship because of failure to allege a "debt" in
the terms of money or money value; whereas, Petitioner respectfully
alleges that there is a line of cases in Alabama which recognize the
mortgage relationship where the obligation to be performed was the
doing of some act by the Grantor; and it is alleged that the case
made by the record in this cause shows such a relationship.

2. Petitioner further urges that said Decree is
erroneous in that it is partially based on the indefinite manner of
alleging that Complainant was to "pay for a home or place"; whereas,
Petitioner respectfully urges that this is a matter which could have
been made certain by amendment; and Petitioner respectfully alleges
that he should have been permitted to amend in order to give the Bill
equity in this respect.

3. Petitioner further urges that said Decree is
erroneous in that it is based on the opinion that the agreement al-
leged in said Bill of Complaint was void as against public policy;
whereas, it is respectfully alleged that there is a line of cases in
Alabama holding that the Parties to a Divorce may contract as to the
wife's allowance and that such contract is not illegal or a fraud on
the court. Cf. Ala. Dig. Divorce, key 236; Wright v. Wright, 159 So.
220, 230 Ala. 35; Adams v. Adams, 164 So. 749, 231 Ala. 298.

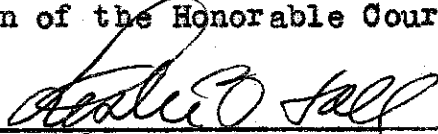
(page two)

4. Petitioner further urges that the said Decree is erroneous in that it is based on the opinion that since the Court was of the opinion that there was no equity in that aspect of the Bill which sought to have the deed declared a mortgage, and since the agreement was in parol form, the bill could not engraft a parol trust on the land; whereas, Petitioner respectfully alleges that there is equity in that aspect of the Bill which seeks to have the deed declared a mortgage because said Bill alleges the conveyance of the property with the mutual intention that it should be held as security for the performance of an act by the grantor; that the form is immaterial; and that the test is formed in the intention that the deed shall be a security. Cf. Shreve v. McGowan, 143 Ala. 665, 42 So. 94.

5. Petitioner further urges that the said Decree is erroneous in that it is a final dismissal of the Bill, whereas it is respectfully alleged that a Bill should not be summarily dismissed for failure to make a necessary party a party to the suit where there is Equity in the Bill, but the Complainant should be given an opportunity to amend by bringing such party in; and Petitioner respectfully alleges that said Bill of Complaint contains equity.

6. Petitioner further alleges, for the information of the Court, that he is negotiating with Respondent for a final and equitable settlement of all the matters involved in this cause, and that he respectfully requests the Court to keep the matter in its breast until Petitioner can have a reasonable time to make such negotiations.

WHEREFORE, HUMBL Y PRAYING, Petitioner presents this his Petition for the Consideration of the Honorable Court.


Solicitor for Petitioner.

FRANK P. PROPST,
Complainant,
VS.
ALICE MAE PROPST PIERCE,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY,
NO. 346.

And now comes the Respondent, and for answer to the Complainant's Bill of Complaint, and to each count thereof, separately and severally, says:

1. That she denies each and every allegation contained therein not herein specifically admitted, and demands strict proof of the same.
2. That she admits the allegation contained in Paragraph First.
3. That she admits the allegations contained in Paragraph Second.
4. That she admits the allegation contained in Paragraph Third.
5. That she admits the allegation contained in Paragraph Fourth.
6. That she denies the allegations contained in Paragraph Fifth, and demands strict proof of the same.
7. That she admits the allegations contained in Paragraph Sixth, that the Complainant has had and still does retain actual possession of the said property and that he has kept the taxes paid on the said property and has annually assessed the said property for taxation, but further alleges that in consideration of the complainant taking care of, assessing and paying the taxes on said property the Respondent has permitted him the use of the land and the timber thereon for turpentine purposes; that the Respondent denies that she has treated and recognized the Complainant as the mortgagor in possession, but has recognized him as her tenant, in consideration of his caring for and protecting her possession and taking care of all liabilities against said property.
8. The Respondent specifically denies that the said instrument is a mortgage, but on the contrary says that it is as represented, a deed and that she is the holder in fee simple of the title of said property, free from any and all liens and encumbrances on the part of the Complainant.
9. That the Respondent specifically denies each and every allegation contained in Paragraph Eighth of the complaint, and demands strict proof of the same.

10. That the Respondent denies all the allegations contained in Paragraphs Ninth and Tenth, and demands strict proof of the same.

AND FOR FURTHER ANSWER TO THE COMPLAINANT'S BILL OF COMPLAINT and with the request that this be taken as her cross-bill says:

(a) That the Complainant and his former wife, Mrs. Mamie K. Propst, the mother and father of the Respondent, were living together as husband and wife; that it was the duty of the Complainant to support and maintain the mother of the Respondent and his family; that the Respondent was teaching school and was making a reasonable salary; that the Complainant being unable to pay his own expenses and the expenses of his family, requested the Respondent to use her funds in the payment of the indebtednesses of the Complainant, with the assurance that she would be repaid or protected; that following out the request of the Complainant, her father, and having full confidence in him, and with the assurance that she would be repaid for any money advanced, she paid bills of the Complainant of approximately One Thousand (\$1,000.00) Dollars.

(b) That the Complainant and his former wife, Mamie K. Propst, had difficulties and an arrangement was made whereby a divorce would be secured; that it was agreed between the Complainant, the Respondent and the said Mamie K. Propst that the divorce would go through and that the Complainant would pay to the said Mamie K. Propst, as alimony, such amount as he could reasonably afford from time to time, and that he would see that the necessities of the said Mamie K. Propst were cared for; that it was further understood that if the Respondent was called upon to pay any liabilities of the Complainant, that she would either be repaid or secured therefor.

(c) That in order to secure the amount of monies that the Respondent had paid on the accounts of the Complainant, and in payment of any further amounts that the Respondent might be called upon to pay in caring for the said Mamie K. Propst, the said Complainant, joined by his then wife, Mamie K. Propst, executed and delivered to the Respondent a deed to the property in question.

(d) That the said deed was executed and delivered to the Respondent, with the appropriate understanding that it was in payment of any monies that she had theretofore paid on accounts of the Complainant.

(e) That the Complainant has failed to repay the Respondent for monies expended on his behalf and that he has failed or refused to provide for the necessities of the said Mamie K. Propst, in accordance with the agreement made by him; that as a result thereof the Respondent has been called upon to

support the said Mamie K. Propst, and has expended, at the Complainant's request, approximately Five Hundred (\$500.00) Dollars, and will have to continue to provide for the said Mamie K. Propst unless the Complainant is forced to comply with the said agreement.

(f) That the instrument attached to the original Bill of Complaint, as Exhibit "A", although a deed to the property, the Respondent is perfectly willing to have it considered as a mortgage and will gladly reconvey the property to the Complainant upon the payment of the monies due by the Complainant to her and upon the performance of his agreement that he would provide for the necessities of the said Mamie K. Propst.

WHEREFORE, the premises considered, the Respondent and Cross-Complainant prays that your Honor will accept this as her answer and cross-bill; that your Honor will, by appropriate process, make the said Frank P. Propst, the Complainant, Cross-Respondent to this answer and cross-bill, requiring him to plead, answer or demur to the cross-bill, within the time and under the penalties prescribed by law and the practice of this Honorable Court.

The Respondent and Cross-Complainant further prays that your Honor will enter an order and decree establishing the amount of the indebtedness due by the Complainant to the Respondent, and that the Respondent may have appropriate judgment for said amount.

Complainant further prays that your Honor will enter an order and decree establishing and fixing what is a reasonable amount to be paid by the said Frank P. Propst to the said Mamie K. Propst, as alimony, in accordance with the agreement entered into by him at the time of the divorce, and that in appropriate judgment decree or order be made against him, requiring him to make the said payments, in accordance with the decrees of the Court.

Complainant further prays for such other, further, different or general relief as she may be entitled to, and that if she has not prayed for the appropriate relief, then your Honor will enter an order and decree giving and granting to her such relief as she may be entitled to under the allegations of her bill, and as in duly bound she will ever pray.

Beebe Hall & Beebe
Solicitors for the Respondent-Cross-Complainant.

FOOT NOTE:

The Complainant - Cross-Respondent is required to answer each and every allegation contained in the foregoing Cross-Bill, in paragraphs (a) to (f), inclusive, but not under oath, oath being hereby expressly waived.

Beebe Hall & Beebe
Solicitors for Respondent-Cross Complainant

the Complainant, Cross-Respondent to this Amended Answer and Cross-bill, requiring him to plead, answer or demur to the Cross-Bill, within the time and under the penalties prescribed by law and the practice of this Honorable Court.

The Respondent and Cross-Complainant prays that upon a final hearing of this cause your Honor will make and enter an order and decree that the conveyance from the Complainant, Frank P. Propst, to the Respondent, Alice Mae Propst Pierce, was an absolute deed and also make and enter an order and decree establishing and confirming the title of the Respondent and Cross-Complainant in and to the land described in the Bill of Complaint, to-wit:

The West half of the Southwest quarter of Section 18, Township 2 South of Range 4 East;

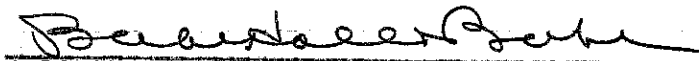
that a writ of possession be issued, directed to the proper authorities, requiring that the Respondent and Cross-Complainant be placed in possession of the said property.

And Respondent-Cross-Complainant further prays for such other, further, different or general relief as she may be entitled to, and that if she has not prayed for the appropriate relief, then your Honor will enter an order and decree giving and granting to her such relief as she may be entitled to under the allegations of her bill, and as in duty bound she will ever pray.


Solicitors for the Respondent-Cross-Complainant.

FOOT NOTE:

The Complainant, Cross-Respondent, is required to answer each and every allegation contained in the foregoing Cross-Bill, in Paragraphs (a) to (e), inclusive, but not under oath, oath being hereby expressly waived.


Solicitors for the Respondent-Cross-Complainant.

FRANK P. PROPST,
Complainant,

vs.

ALICE MAE PROPST PIERCE,
Respondent.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 346

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REPLY BRIEF OF COMPLAINANT

-o-o-o-

Leslie Hall
Solicitor for Complainant

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Filed this 22nd day of October 1937

R. S. Duch
Complainant

FRANK P. PROPST,
Complainant,

vs.

ALICE MAE PROPST PIERCE,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 346.

REPLY BRIEF OF COMPLAINANT

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The Complainant, by this Reply Brief, respectfully desires to briefly call the attention of the Court to certain matters raised in Respondent's Reply Brief.

Although Respondent cites certain cases in support of her contention that there must be a debt from the Complainant to the Respondent, the attention of the Court is respectfully called to that line of cases cited in Complainant's Original Brief wherein the Supreme Court of the State found deeds to be mortgages, although there was no debt from Complainant to Respondent, and where the conveyance was to some third person, as here.

In the case of Jones v. Stollenwerck, 119 So. 844, the Court refused to declare the deed a mortgage, not because there was no debt, as Respondent would imply, but because "appellants did not own the property and therefore could not make a mortgage on it". Respondent also cites the case of Downing v. Woodstock Iron Co., 9 So. 177 (179), but it is respectfully submitted that that case turned upon the same proposition as Jones v. Stollenwerck, supra. In the Downing case, the Court said:

"Complainant never had anything to grant. He granted nothing. He did not convey his property as security".

It is respectfully submitted that those two cases do not support the proposition for which they are cited.

It is obvious that the case of Wohl v. Sloss, 110 So. 380, does not apply, because of the fact that in that case the conveyance contained recitals as to indebtedness and expressed a desire to secure the grantee against loss. It is plain that that was a deed in satisfaction of a debt, and parol testimony that a mortgage was intended would contradict

muddy the waters and cloud the issues, as it were.

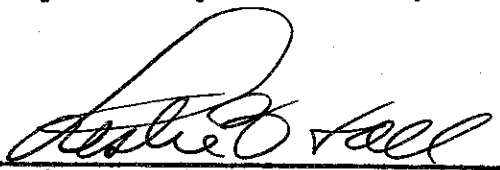
However, the attention of the Court is respectfully called to the fact that the testimony shows without contradiction that Mr. Propst is the owner of some 1100 acres of land in this County, and about 85 animals or cattle (Cf. Transcript, p. 5). Would a man convey 80 acres and retain 1100 acres if he were attempting to defraud his creditors? The question suggests the answer.

Respondent's Brief asks the reason for the delay in seeking to have the deed declared a mortgage. The Complainant fails to see that there was any delay. Soon after learning that the Respondent would not re-convey, Complainant commenced his action. Where is the delay?

Further, the Complainant was entitled to wait until he had completed his obligation under the agreement before he could learn that Respondent would not comply with her part. Prior to payment for the place, he had no right to request re-conveyance, nor to bring action therefor. How could he anticipate that Respondent would not permit him to redeem when the time came? All prior indications and promises were that she would permit him to do so.

We, therefore, respectfully submit that the Complainant has shown himself entitled to a Decree declaring the deed to be a mortgage, that the Complainant has already redeemed the property from said mortgage, and that the Complainant is entitled to a re-conveyance of the property pledged.

Respectfully submitted,


Solicitor for Complainant.

I hereby certify that I have given the Solicitors for Respondent, Messrs. Beebe, Hall & Beebe, a copy of this Reply Brief, this 22 day of October, 1937.


Solicitor for Complainant.

LESLIE HALL
ATTORNEY-AT-LAW
BAY MINETTE, ALABAMA

RECORDED

Duck

9-25-37

Mason & Crane - Bill

FRANK P. PROBST,

Complainant,

VS.

ALICE MAE PROBST PIERCE,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY,

NO. 346.

Filed July 30, 1937.

R.S. Duck, Registrar

RECORDED
7-291

AMENDED ANSWER AND CROSS BILL

FRANK P. PROBST,

Complainant,

VS.

ALICE MAE PROBST PIERCE,

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY,

NO. 346.

Filed this 30 day of September 1937

W.S. Daniel
Clerk of the Court

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

ALICE MAE PROPST PIERCE,

Los Angeles, Cal.

of ~~Los Angeles, Cal.~~ County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

FRANK P. PROPST

against said ALICE MAE PROPST PIERCE

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, Robert S. Duck, Register of said Circuit Court, this 25th day of June 1937

Robert S. Duck Register

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

RECORDED
7-257

Serve on _____

Circuit Court of Baldwin County
IN EQUITY

No. 346

SUMMONS

FRANK P. PROBST,

vs.

ALICE MAE PROBST PIERCE

TESLIE HALL,
Solicitor for Complainant

Recorded in Vol. _____ Page _____

*at Probst's suit
Mrs. Maudie No. 6 Probst*

THE STATE OF ALABAMA,

BALDWIN COUNTY

Received in office this 26th

day of July, 1937

M. H. Wickham
SHERIFF

Executed this 26th day of

July 1937
by leaving a copy of the within Summons with

Alice Mae Probst Pierce
Defendant

M. H. Wickham
Sheriff

By John P. Davis
Deputy Sheriff

FRANK P. PROPST,

Complainant,

VS.

ALICE MAE PROPST PIERCE,

Respondent.

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

REPLY BRIEF

BEEBE, HALL & BEEBE,
Solicitors for Respondent.

Filed October 22, 1937
R. S. Dusk, Register

The bill in this cause was filed by the Complainant, praying that a deed, absolute in form, be declared a mortgage, and that the Complainant be given the right to redeem, and further that the obligation for which the deed was given has been paid, and that the Respondent be required to reconvey the property to the Complainant.

The Respondent answered, denying any indebtedness from her to the Complainant and further denies that the said instrument is a mortgage, but on the contrary says that it is as represented, a deed, and that she is the holder in fee simple of the title of said property, free from any and all liens and encumbrances on the part of the Complainant, and prays that this Court decree that the said instrument was and is an absolute deed and that a writ of possession be issued, directed to the proper authorities, requiring that the Respondent and Cross-Complainant be placed in possession of the said property.

We will, in accordance with the repeated request of the Court, not go into minute details of the matter, but only state the propositions and cite the authorities upon which we rely.

The bill of complaint does not set up, nor does it attempt to set up an indebtedness existing between the Complainant and the Respondent, but on the contrary attempts to set up that it was given to secure a pledge from the Complainant to a third party.

It is a well established and unquestioned rule that pleadings must be construed most strongly against the pleader. In deciding the question presented here, it must be remembered that the burden is on the Complainant to overcome the presumption of law that the deed was intended as such to a clear and satisfactory con-

clusion. The testimony going to establish the essential facts of a mortgage, must be consistent, strong and convincing. There must be a continuing binding debt from the Complainant to the Respondent to uphold it; a debt in its fullest sence. Not a mere privilege reserved in the grantor to pay or not at his election, but a debt which the grantee can enforce as a debt, and for its collection may foreclose the conveyance as a mortgage. Where there is no debt, there can be no mortgage; for if there is nothing to secure, there can be no security.

Jones vs. Stollenwerck, 119 So. 844 (847).

It must be borne in mind that the testimony of the Complainant and the Respondent, on the question of whether or not the instrument was intended as a deed or mortgage, is in direct conflict, however, the Respondent is borne out in her contention by the fact that the instrument involved is, as set out by the Complainant in the bill of complaint, a deed, absolute.

"To convert a conveyance, absolute in its terms, into a mortgage, the intention and understanding of both parties to that effect must concur."

West vs. Hendrix, 28 Ala., 226.

"To convert an instrument, on its face a deed, into a mortgage, the intention of both parties must be shown to have concurred that the instrument should operate as a mortgage."

Nelson et al. vs. Wadsworth, et al.,
55 So., 120.

"A deed cannot be construed to be a mortgage where there was no debt due from the Grantor to the Grantee to be secured by the instrument."

Nelson et al. vs. Wadsworth, et al.,
55 So., 120.

"The condition which gives to a conveyance the character of a mortgage is matter of agreement between the grantor and grantee, and is reserved for the benefit of the grantor. If there is no agreement between them, and no condition upon which the conveyance is defeasible, whatever may be the trust with which the estate of the grantee is charged in favor of others, not parties to the conveyance, it is not a mortgage."

Downing vs. Woodstock Iron Co., 9 So., 177 (179).

"The essential fact to characterize a conveyance as a mortgage, and which must be distinctly averred in the bill, is that the conveyance was given as a security for a debt - that the relation of the debtor and creditor existed between the parties. If there is no indebtedness, the conveyance cannot be a mortgage."

Smith et al. vs. Smith, et al.,
45 So., 168 (169).

"Where the wording and substance of a deed plainly excluded the theory that a debt existed or that a mortgage was intended, the deed cannot operate as a mortgage, in the absence of any proof of a debt to be secured by it."

Smith et al. vs. Smith et al.,
45 So., 168.

"That a deed absolute on its face may operate as a mortgage, it is indispensable that such should have been the intention of both parties when the same was executed."

Smith et al. vs. Smith et al.,
45 So., 168.

"Where a conveyance contains recitals as to indebtedness and expressed desire to secure grantee against loss, but entire instrument showed straight sale in satisfaction of indebtedness and not as security, it was an unconditional deed and not a mortgage."

Wohl vs. Sloss, 110 So., 380.

There is no allegation in the bill, or attempt to prove, any fraud in the procurement of the conveyance. On the contrary it shows that the Complainant voluntarily, along with his wife, went before an officer and executed the conveyance. It must also be borne in mind that the officer attesting the deed called to the attention of the Complainant that if the instrument was intended as a pledge or if there were any questions surrounding the execution of the deed, that such should be set out therein.

"A parol trust cannot be ingrafted on the legal title, which the instrument of conveyance makes absolute on its face, unless its execution is procured by fraud."

Smith et al. vs. Smith et al.,
45 So., 168.

"Fraud necessary to create a trust ex maleficio must be averred with precision and proved by clear and convincing proof."

Smith et al. vs. Smith, et al.,
45 So., 168.

The instrument in question, a deed, absolute in form, was executed by the Complainant and his wife to the Respondent. There was no written agreement entered into whereby the Respondent was to reconvey the property to the Complainant. The Respondent specifically denies that there was even an oral agreement to reconvey the property. The Complainant has attempted to set up an oral agreement by the Respondent to reconvey the property to him.

Though we assume that an oral agreement was entered into, however, the Respondent denies it, to reconvey the property, such agreement was contrary to the statute of fraud.

Willard vs. Sturkie, 105 So., 800.
Section 8034, Sub-section 5, Code 1923.
Tillman et al vs. Kiefer, et al., 52 So., 309.
Chesser vs. Motes, 61 So., 267.

"Mere parol agreement or parol admission of trust, in absence of fraud and all other elements of estoppel, does not create trust relation."

Bartlett, et al. vs. Bartlett, et al.,
130 So., 194.

It must be borne in mind that the Complainant and the Respondent are father and daughter. The daughter being a non-resident of the State of Alabama, residing in the State of California, necessarily had to have some-

one to look out after her property in Alabama. To whom should she turn other than her father. In consideration of her father's looking after the property and paying the taxes thereon, she has allowed him the use of the timber for turpentine purposes. The father now, for some unknown reason, more than four years after the execution of the instrument, attempts to have the conveyance, absolute in form, decreed a mortgage. What has caused the delay? Was the deed made for the purpose of defrauding creditors? If that be the case, most assuredly the Complainant cannot benefit by his fraud.

We, therefore, respectfully submit that the instrument in question expresses the true intention of the parties thereto; that it was in form and in fact and intended to be an absolute conveyance; that it conveys all title in and to the described property to the Respondent; that the Respondent is and has been since the execution of the conveyance, the true owner of the said property and is now and has been entitled to the possession thereof, and that she is now entitled to a decree by this Court, that the deed in question is in form and in fact an absolute conveyance of the said property and a writ of possession thereof.

Respectfully submitted,

BEEBE, HALL & BEEBE,

By: 

Copy delivered to Hon. Leslie Hall, Solicitor for the Complainant,
this 21st day of October, 1937.

BEEBE, HALL & BEEBE,

By: 

FRANK P. PROPST,

Complainant,

vs.

ALICE MAE PROPST PIERCE,

Respondent.

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

This cause is submitted in behalf of Complainant upon the original Bill of Complaint,
Replication to Answer; Demurrers to Cross-Bill; Replication to
Answer, as Amended; Demurrers to Cross-Bill, as Amended; Testimony
of Frank P. Propst; Testimony of Ort H. Ertzinger; and Exhibits,
Brief and Argument.

XXXXXXXXXXXXXXXXXXXX

R. J. Jones

Register.

FRANK P. PROPST,

Complainant,

vs.

ALICE MAE PROPST PIERCE,

Respondent.

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

This cause is submitted in behalf of Complainant upon the original Bill of Complaint,

and in behalf of Defendant upon Original Answer and Cross-Bill; Amended Answer and Cross-Bill; Testimony of Mrs. Mamie Propst, and Alice Mae Propst Pierce; Agreement of Counsel.

R. S. [Signature]

Register.

LESLIE HALL
ATTORNEY-AT-LAW
BAY MINETTE, ALABAMA

FRANK P. PROPST,
Complainant,

vs.

ALICE MAE PROPST PIERCE,
Respondent.

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IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 346

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BRIEF FOR COMPLAINANT ON
SUBMISSION OF THE CAUSE.

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BRIEF AND ARGUMENT OF LESLIE HALL, Solicitor for
the Complainant.

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Filed Oct 2 1937
Leslie Hall
Propst

In that case, the grantor had conveyed her property to secure the debt of another. There was no continuing binding debt from the grantor to the grantee in that case; yet the ~~Saxx~~ Supreme Court of Alabama held the deed to be a mortgage.

In the case of Giddens v. Powell (1895) 19 So. 21, where, contemporaneously with a deed to a wife's land by the husband and wife, the grantee agreed that the husband or wife could redeem within 5 years by paying the consideration named, and the grantors testified that the deed was given as security for the debts of the husband, it was held that the deed operated as a mortgage. To the same effect is Harrison v. Maury, 157 Ala. 227, 47 So. 724; Elton v. Comer (1896) 19 So. 324. *108 Ala 621*
108 Dec. 76

Probably the fullest exposition of the basic principles will be found in Lewis v. Davis (1916) 73 So. 419, 421, quoting from 3 Pomeroy Eq. Jur., sec. 1237, and stating that:

"a deed absolute and unconditional on its face, but intended and understood by the parties to be merely a security for the payment of a debt, or the performance of some other condition, is regarded and treated in equity as a mortgage."The form or particular nature of an agreement which shall create a lien is not very material for equity looks at the final intent and purpose rather than the form; and if the intent appear to give, or to charge, or to pledge the property, real or personal, as a security for an obligation, the lien follows."

So, it will be seen that the court has not been very accurate when it has said that there must be a continuing binding debt from the grantor to the grantee. The cases and texts both say that there may be other conditions, and other parties, and that the final intent is the important thing, and the form is insignificant and unimportant. Brannon v. McCormick (1924) 101 So. 56, states that "if the conveyance was intended by the parties to be a mortgage, then the debt exists." *211 Ala 546*

In 41 Corpus Juris, Mortgages, p. 458, it is stated that "a mortgage may be given to secure the performance of a contract or undertaking on the part of the mortgagor to furnish support and maintenance to the mortgagee, or to another person, during life or for a term of years, either in the form of an annuity or by providing a home." We respectfully submit that that is the situation under consideration.

ARGUMENT ON THE TESTIMONY

This Argument is presented for the purpose of calling the attention of the Court to certain parts of the testimony on both sides, and for the purpose of calling the attention of the Court to the legal effect of such testimony.

It will be noted that the testimony of the Complainant, Frank P. Propst, is quite direct and positive as to the material points in issue. Mr. Propst states that he conveyed the property in question to Mrs. Pierce with the well-understood intention between the parties at the time of the conveyance that the deed was to operate merely as security for the performance of his promise to pay for the place for Mrs. Propst at Fairhope. Mrs. Pierce denies that such was the intention of the parties. It might be conceded that if there were nothing further, this would not entitle the Complainant to a decree. However, the Complainant does not stand on his testimony alone.

In support of the Complainant, we have the admission of the Respondent that she wrote to the Complainant asking him to send her a deed to sign. Does not this show her intention to re-convey? She once recognized the right of the Complainant to a re-conveyance.

The attention of the Court is respectfully directed to certain contradictory statements made by the Respondent. On page 13, of the testimony, Mrs. Pierce states, in response to the question: "Do you remember the execution of this deed here?", that "Yes, I do". She then took pains to quote what she claims were the exact words used at the time, and states that there was no discussion of re-deeding the property at the time the deed was executed. However, on cross-examination, page 15, Mrs. Pierce makes response as follows:

"Q. Alice Mae, were you not present when the deed was drawn?

A. Yes.

Q. You heard the conversation?

A. I don't think I was there.

Q. You were there at the time the deed was discussed?

A. Yes, but I don't remember what was said because I was not in there."

Respondent's inconsistency in this respect is irreconcilable with any intention to be truthful about the matter. It is respectfully submitted that the Respondent unwittingly fell into a trap, and exposed her evident desire to conceal the real nature of the transaction.

(turn)

Respondent then offers the testimony of her mother, Mrs. Mamie A. Propst, but for what purpose the Complainant is unable to learn after a most careful perusal of all of her testimony, because it fails in every respect to support the testimony of the Respondent. The entire testimony, it is respectfully submitted, can be summed up in the phrase: "I don't know about that", or "I don't know anything".

When asked by the solicitor for the Respondent if she signed the deed "in payment of the bills she (Alice Mae) had been paying and for what she had done", Mrs. Propst answered (page 21):

"I don't know what it was - anything about it from Mr. Propst. I know, in a measure, it was on my part".

It is doubted whether that is a coherent statement.

Later, on the same page, Mrs. Propst testified, when asked as to whether Mr. Propst was to give her a place at Fairhope for the release of the home place, and that that was one of the conditions of the deed, she replied:

"I know nothing. I was too sick."

On cross-examination, Mrs. Propst is very inconsistent in regard to these matters. On page 22, she states that the only part of the agreement with which she was familiar was the one in regard to the place or house. A moment later, she never "knew anything about those things".

Now, a very important statement is made here that is contradicted by at least two other witnesses. Mrs. Propst states that she went right in and signed her name and went right back out and got in the car, without taking part in the discussion, and that she knew nothing about the understanding to re-deed the property to Mr. Propst.

Mr. Propst states, page 1, that he and Mrs. Propst discussed the terms of the divorce, and had an agreement regarding the purchase of a place at Fairhope, and that at the time, he also had an agreement with Mrs. Pierce that he would give her a deed for eighty acres of land to secure Mrs. Propst so that the place would be paid for. On page 6, Mr. Propst states that at the time of execution, he explained its significance to Mrs. Propst and to Alice Mae (Mrs. Pierce).

Mr. Propst is borne out in this, and Mrs. Propst and Mrs. Pierce are contradicted, by Mr. Ort H. Ertzinger, a witness who was present at the time the instrument was executed. Mr. Ertzinger, an impartial witness, not related to the parties, testifies that the parties all discussed the matter together in his office, and that he remembers that the deed was intended not as an absolute deed or bona fide sale, but "simply a holding arrangement of some kind", and that "it was to be held for some purpose understood between them."

Mr. Wertzinger, on cross-examination, stated that "all of them" did the talking, in answer to the question as to whether Mr. Propst, Mrs. Propst, or Alice Mae did the talking.

Now, it is respectfully submitted that the testimony shows without contradiction that Mr. Propst has remained in uninterrupted possession of the property in question; that he has assessed the property for taxation, and has paid taxes on it; that he has had the entire use of the property during the entire time; and that he has never paid any rent to Mrs. Pierce, nor has he ever been considered as her tenant so far as physical facts show. It is also shown that the grantee has never had possession of the property, nor attempted to exercise any possession therein.

In connection with these facts, we cite the following proposition and cases in support thereof:

"The fact that a grantor in a deed absolute in form, but alleged by him to have been given only as a security, remains in possession, use, and control of the property after the conveyance is evidence tending to show that the transaction was in fact a mortgage, and especially where no rent was fixed or paid. Such possession is inconsistent with theory of payment of prior debt."

41 C. J. pages 340-341, citing:
Nelson v. Wadsworth, 171 Ala. 603, 55 So. 120
Winn v. Fitzwater, 151 Ala. 171, 44 So. 97;
Hammett v. White, 128 Ala. 380, 29 So. 547;
Parks v. Parks, 66 Ala. 326, and others.
Of. also Williams v. Reggans, 20 So. 614-16.
Elston v. Comer, 19 So. 324. and Reeves v. Abercrombie, 19 So. 41.

Mr. Propst's possession has been entirely inconsistent with any theory of absolute conveyance, and tends most strongly to show that a mortgage was intended.

There is a great deal of irrelevant testimony about the payment of hospital bills and other accounts, and in every respect the Respondent's assertions are contradicted by the testimony of the Complainant as well as written exhibits in support thereof.

On the above propositions, ^{the pleadings,} and testimony, we respectfully request a decree in favor of the ~~Respondent~~ ^{Complainant}.

Respectfully submitted,

I hereby certify that a copy of this brief and argument has been furnished Beebe, Hall, & Beebe, solicitors for Respondent.

Arthur B. Hall

Solicitor for Complainant.

FRANK P. PROPST,
Complainant,

vs.

ALICE MAE PROPST PIERCE,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY
No. 346.

BRIEF FOR COMPLAINANT
ON SUBMISSION OF THE CAUSE.

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BRIEF AND ARGUMENT OF LESLIE HALL, Solicitor for
the Complainant.

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THE PLEADINGS

Complainant filed a Bill of Complaint seeking to have a deed absolute in form, executed by him in favor of the Respondent, declared to be a mortgage, or deed of trust in the nature of a mortgage, according to the alleged intention of the parties at the time of execution and delivery of the instrument.

Respondent filed his Answer denying that the instrument was intended as a mortgage, and alleging that it was intended as an absolute conveyance, and that it was given in payment of certain obligations allegedly due Respondent by Complainant.

With this Answer, Respondent filed a Cross-Bill, seeking to have the Court establish the amount of an alleged indebtedness between the parties, and also seeking a decree of alimony in favor of the divorced wife of the Complainant, but without making this lady a party to the action, either as Complainant or as Respondent.

Complainant filed a Replication to the Answer.

Complainant also filed Demurrers to the Cross-Bill, setting up the insufficiency of the Cross-Bill because of omission of a necessary and indispensable party.

Thereupon, Respondent filed an Amended Answer, and also Amended his Cross-Bill. The Answer as Amended, is the same as the original Answer.

The Cross-Bill, as Amended, alleges that the Respondent paid certain obligations of the Complainant, and that the deed was given to Respondent in full payment of moneys so paid by the Respondent for Complainant; and that the deed was intended as an absolute conveyance. The Cross-Bill, as Amended, also alleges that the Statute of Frauds is a bar to the Complainant's setting up of an oral agreement to show the intention of the parties to the instrument. It, likewise, denies the existence of a continuing binding debt from Complainant to Respondent. Said Cross-Bill then asks to have the deed construed as an absolute conveyance; that the title be established and confirmed in the Respondent; and that the Respondent be issued a Writ of Possession.

To the Answer, as Amended, Complainant filed a Replication.

To the Cross-Bill, as Amended, Complainant demurred on a number of grounds, viz.:

That the Cross-Bill, as Amended, is without Equity.

That full relief is available to Respondent under her Answer to the original bill, without the necessity of a Cross-Bill.

That Respondent's right to possession is a matter for a Court of Law.

That the Cross-Bill, as Amended, cannot stand as it denies the jurisdiction of the original bill and yet asks a remedy that is available at law.

Partial Demurrers to the Cross-Bill, as Amended, set up the general insufficiency of the various parts of the Cross-Bill, as Amended, and also that the various parts are proper subjects for Answer, not Cross-Bill; that the Statute of Frauds is not available as a Defense to a suit to have a deed declared a mortgage, where proof of the true intent of the parties may rest in parol; and that the allegation of no debt to Respondent is insufficient as not negating debt by Complainant to some third person.

This Cause is being submitted upon the above pleadings and upon proof.

This Brief is addressed to the Argument of the principles involved in the pleadings, and also of the effect of the proof adduced.

PROPOSITIONS

- I. WHERE A CONVEYANCE OF REALTY, ALTHOUGH ABSOLUTE AND UNCONDITIONAL IN ITS TERMS, WAS UNDERSTOOD AND INTENDED BY THE PARTIES TO BE A MERE SECURITY FOR THE PAYMENT OF A DEBT, OR THE PERFORMANCE OF SOME CONDITION, IT WILL BE CONSIDERED AS A MORTGAGE, WITH A CONSEQUENT RIGHT IN THE GRANTOR TO REDEEM IT, ALTHOUGH THE PROVISION FOR DEFEASANCE WAS NOT REDUCED TO WRITING, BUT RESTS WHOLLY IN THEIR MERE VERBAL AGREEMENT.
- II. A CROSS-BILL CANNOT BE MAINTAINED WHERE THE PARTY FILING IT CAN OBTAIN ALL THE RELIEF TO WHICH HE IS ENTITLED UNDER HIS ANSWER TO THE ORIGINAL BILL.
- III. A CROSS-BILL MUST EITHER STAND ON THE EQUITY JURISDICTION OF THE ORIGINAL BILL, OR IF IT FAILS IN THAT OR DENIES SUCH JURISDICTION, THE CROSS-BILL MUST CONTAIN SOME INDEPENDENT MATTER OF EQUITABLE COGNIZANCE: ELSE IT IS SUBJECT TO THE PRINCIPLE THAT EQUITY WILL NOT ENTERTAIN JURISDICTION WHERE THERE IS AN ADEQUATE REMEDY AT LAW.
- IV. A DEED FROM A DEBTOR TO A THIRD PERSON, IF MADE TO SECURE THE PAYMENT OF A DEBT, THE PAYMENT OR MONEY, OR THE PERFORMANCE OF SOME OTHER CONDITION, IS AS MUCH A MORTGAGE AS IF MADE TO THE CREDITOR FOR SUCH PURPOSE.

ARGUMENT OF PRINCIPLES

I. WHERE A CONVEYANCE OF REALTY, ALTHOUGH ABSOLUTE AND UNCONDITIONAL IN ITS TERMS, WAS UNDERSTOOD AND INTENDED BY THE PARTIES TO BE A MERE SECURITY FOR THE PAYMENT OF A DEBT, OR THE PERFORMANCE OF SOME CONDITION, IT WILL BE CONSIDERED AS A MORTGAGE, WITH A CONSEQUENT RIGHT IN THE GRANTOR TO REDEEM IT, ALTHOUGH THE PROVISION FOR DEFEASANCE WAS NOT REDUCED TO WRITING, BUT RESTS WHOLLY IN THEIR MERE VERBAL AGREEMENT.

The Respondent has not attacked the general equity of the Bill, but Complainant deems it advisable to the better understanding of the case, to state the above general principle of equity, on which the bill is based, and to cite a few authorities in support of the proposition.

This proposition is, in 41 Corpus Juris, Mortgages, sec. 94, page 328, said to be the general rule, in support of which cases are cited from practically every jurisdiction. The most complete discussion of the rule by the Alabama Supreme Court is found in the case of Shreve v. McGowin (1904), 143 Ala. 665, 42 So. 94, from which the following quotation is taken:

"Where land is conveyed by deed absolute, but is intended by the parties as a security for the payment of money or the performance of an act by the grantor, or some one for whom he becomes responsible, it is in equity a mortgage. The form is immaterial. The test is formed in the intention that the deed shall be a security".

Other Alabama cases on the same proposition are: Smith v. Thompson, 203 Ala. 87, 82 So. 101; Wells v. Morrow, 38 Ala. 125; Fowler v. Haggins (1923) 95 So. 816; and Hooper v. Reed et al. (1924) 100 So. 875, in which Justice Bouldin says:

"The power of a court of equity to declare a deed absolute in form to be a mortgage only is unquestioned".

A late case recognizing the rule is Richardson v. Curlee (1935) 231 Ala. 418, 165 So. 223.

STATUTE OF FRAUDS

The Respondent, in her Cross-Bill, as Amended, insists "that any oral agreement set up by the Complainant would be directly contrary to the Statute of Frauds".

The cases cited above are sufficient rebuttal to that point, but we respectfully submit the following direct quotation from Shreve v. McGowin, supra, viz.:

"As to the second proposition (Statute of Frauds) if the averments of the bill are sufficient to show that the relation of creditor and debtor did exist at the time of the execution of the deed, though absolute on its face, ~~was~~ and that the deed, though absolute on its face, was intended by the parties to operate as security for the debt, and all of which may be done by parol, then the Statute of Frauds has no application", citing a number of Alabama cases.

The same idea is expressed in Glass v. Hieronymous, 125 Ala. 140, 28 So. 71 (1900).

As cumulative on the same proposition, we respectfully cite:

Bryan v. Cowart (1852) 21 Ala. 92;
Richter v. Noll (1901) 128 Ala. 198, 30 So. 740;
Corley v. Vizard (1919) 203 Ala. 564, 84 So.
299;
Fowler v. Haggins, ante;
Hooper v. Reed, ante;
Kelly v. Tatum, 224 Ala. 57, 139 So. 246.

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II.

A CROSS-BILL CANNOT BE MAINTAINED WHERE THE PARTY FILING IT CAN OBTAIN ALL THE RELIEF TO WHICH HE IS ENTITLED UNDER HIS ANSWER TO THE ORIGINAL BILL.

Respondent, in her Answer, has denied that the deed was intended as a mortgage, and has alleged that it was intended as a deed, and that the title is in the Respondent. The effect of the decision in favor of the Respondent on the original Bill and this Answer would be to place title in the Respondent, with the consequent right to possession. Yet, the Respondent also files a Cross-Bill, praying that the title be "established and confirmed" in her, and that she be given a Writ of Possession. This Cross-Bill, is therefore certainly superfluous matter, and tends to clutter up the record in ~~the~~ the case, and to add to the costs. In this connection, it might be well to quote the Supreme Court of Alabama (Lamar v. Lincoln Reserve Life Ins. Co. (1930), 131 So. 223, 228):

"Another principle well established is that the cross-bill cannot be maintained where the party filing it can obtain all the relief to which he is entitled under his answer to the original bill. The reason for this rule is: 'It is unnecessary, adds to the costs, and tends to confusion; and without the restriction, cross-bills would be multiplied at the mere election of defendants'". citing Gilman & Sons Co. v. New Orleans etc. Ry. Co., 72 Ala. 566, 579.

A case very similar, in principle, to the present case is White v. Kinney (1924), 101 So. 426, which was a Bill to establish a lien on cotton, in which the Answer claimed title in the Defendant. The lower court decreed that the Defendant should have filed a cross-bill claiming title and requesting that it be declared and enforced. The Supreme Court, per Miller, J., said, in reversing the decree: "We cannot concur in this part of the opinion and decree of the trial court.....The Answer put in issue the title to the cotton and which lien is superior. It was unnecessary to make his answer a cross-bill".

(turn)

Under a similar state of facts in the Lamar case, supra, the Supreme Court said:

"All the relief to which the defendant was entitled was to have its title established as superior to the claim of the complainant, and full relief to this end was grantable under the statutory answer to the original bill. The Court should have dismissed the cross-bill."

As late as the case of Emens v. Stephens (1937) 172 So. 95, the Supreme Court is found approving the rule. In this case, a purchaser sued to restrain prosecution of an unlawful detainer action, on the ground of fraud. A cross-bill was filed, seeking possession of the premises. Decree was in favor of cross-complainant, ousting the purchaser. The Supreme Court reversed the decision, saying, per Thomas, J.:

"This relief is all to be obtained at law.the right to set up and adjudicate the respective rights growing out of the facts may be had under the bill and answer,--the aid and office of a cross-bill was not required."

"The demurrer to the cross-bill should have been sustained."

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III

A CROSS-BILL MUST EITHER STAND ON THE EQUITY JURISDICTION OF THE ORIGINAL BILL, OR IF IT FAILS IN THAT OR DENIES SUCH JURISDICTION, THE CROSS-BILL MUST CONTAIN SOME INDEPENDENT MATTER OF EQUITABLE COGNIZANCE: ELSE IT IS SUBJECT TO THE PRINCIPLE THAT EQUITY WILL NOT ENTERTAIN JURISDICTION WHERE THERE IS AN ADEQUATE REMEDY AT LAW.

The 1937 case of Emens v. Stephens, 172 So. 95, voices this proposition. Numerous other cases are collected in 8 Ala. Digest, Equity, key 196-203, and are to the same effect.

In order to give a cross-bill standing in a Court of Equity, there must be something to give the court jurisdiction. Ordinarily, it is the jurisdiction of the original bill on which the cross-bill stands. But, in order for ~~xx~~ a cross-bill to stand in that manner, it must depend on the original bill for its jurisdiction. But, if the cross-bill in effect denies the jurisdiction of the original bill, what standing does the cross-bill have in a Court of Equity? It has none, UNLESS the cross-bill sets up some independent ground for equity jurisdiction, because such a bill cannot both affirm and deny at the same time.

The Cross-Bill, as Amended, in the present action, controverts Complainant's claim to equitable relief, yet the cross-bill does not allege any affirmative grounds on which the Respondent depends for relief. The entire Cross-Bill is merely a denial of the jurisdiction of the original bill. Therefore, the Cross-Bill must stand alone. And, standing alone, it must fall because of the fact that it fails to allege a single ground of equitable cognizance. All it has asked for is relief to which the Respondent-Cross Complainant is entitled at Law; that is, it seeks a writ of possession, and that is not an equitable remedy without some independent equity, and no independent equity is alleged. Respondent cannot rely on the independent equity of the original bill, because that is denied by the cross-bill.

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IV.

A DEED FROM A DEBTOR TO A THIRD PERSON, IF MADE TO SECURE THE PAYMENT OF A DEBT, THE PAYMENT OF MONEY, OR THE PERFORMANCE OF SOME OTHER CONDITION, IS AS MUCH A MORTGAGE AS IF MADE TO THE CREITOR FOR SUCH PURPOSE.

Respondent's Cross-Bill, as Amended, raises the point that "there was no continuing binding debt from the Complainant to the Respondent."

It is conceded that there is much talk in some of the cases of the necessity for there to be a continuing binding debt from the Complainant to the Respondent. However, it is respectfully argued that the courts have been somewhat careless in their language, and that they have overlooked a class of cases that is very important.

41 Corpus Juris, Mortgages sec. 65, p. 315, states the rule that "a deed from a debtor to a third person, if made to secure the payment of money, is as much a mortgage as if made to the creditor himself for such purpose".

The attention of the Honorable Chancellor is respectfully called to the case of Harper v. T. N. Hayes Co. et al., 1907) 43 So. 360,361, in which case it developed that the Respondent's wife executed a deed to her land to one Hays, who was to hold the deed as collateral for an account owed by the Respondent. The Grantor was to remain in possession, and Hays was to reconvey to her when the account was paid. The Court said, per Dowdell, J., that "We think the evidence in this case very clearly and satisfactorily shows the deed in question was intended to operate as a mortgage."

(turn)

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DEMURRERS TO AMENDED CROSS-BILL

AND FOR ANSWER TO THE RESPONDENT-CROSS COM-
PLAINANT'S CROSS-BILL, AS AMENDED, the Complainant-Cross
Respondent now comes and Demurs to the said Cross-Bill, as
Amended, and for cause of Demurrer shows:

First

That there is no Equity in said Cross-Bill, as
Amended.

Second

That it appears by the said Cross-Bill, as
Amended, that the full relief to which Respondent-Cross Com-
plainant is entitled, in Equity, under the allegations therein
contained, is available to Respondent-Cross Complainant in the
original suit by the Original Bill of Complaint and the Answer
of the Respondent-Cross Complainant thereto.

Third

That it appears by the said Cross-Bill, as
Amended, and by the antecedent pleadings in this cause, that
the Respondent-Cross Complainant may obtain the full relief
to which she is entitled, in Equity, under the allegations
contained in said Cross-Bill, by reliance on her answer to
the original Bill of Complaint.

Fourth

That the said Cross-Bill, As Amended, and the
antecedent pleadings in this cause, show that the said Cross-
Bill is not necessary to the granting of relief to which the
Respondent-Cross Complainant would be entitled, in Equity,
under the allegations contained in said Cross-Bill, as Amended.

Fifth

That the said Cross-Bill, as Amended, shows on
its face that the Respondent-Cross Complainant has an adequate
remedy at law for the enforcement of her right of possession,
as alleged in said Cross-Bill, as Amended.

(page three)

Sixth

That the said Cross-Bill, as Amended, prays for a Writ of Possession, but fails to allege any special equity setting up the reason for asking for such a Writ of Possession ~~xxxxxxx~~ in a Court of Equity, rather than in a Court of Law where such relief properly lies.

Seventh

That the matters alleged in said Cross-Bill, as Amended, do not constitute the proper subject for a Cross-Bill in that they do not present a case of equitable cognizance.

Eighth

That the matters alleged in said Cross-Bill, as Amended, do not constitute the proper subject for a cross-bill in that they seek to deny the jurisdiction of the original bill, on which a cross-bill must necessarily depend.

Ninth

That the matters alleged in said Cross-Bill, as Amended, do not constitute the proper subject for a cross-bill, in equity, in that they seek to deny the jurisdiction of the original bill, and if such matters are taken independently of the original bill, the Respondent-Cross Complainant's remedy is at Law, and not in Equity.

WHEREFORE, this Complainant-Cross Respondent demurs to the said Cross-Bill, as Amended, and to all matters and things therein contained, and prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer thereto.

(turn)

(page four)

AND FOR FURTHER ANSWER TO THE RESPONDENT-CROSS COMPLAINANT'S CROSS-BILL, AS AMENDED, the Complainant-Cross Respondent now comes and Demurs to so much of said Cross-Bill, as Amended, as is set forth in paragraph (a) thereof, and assigns as grounds therefor:

A. That there is no Equity in said allegations.

B. That the matters therein contained constitute matters which should properly be set forth in an Answer to the Bill, rather than by way of Cross-Bill.

-0-

And the Complainant-Cross Respondent Demurs to so much of said Cross-Bill, as Amended, as is set forth in paragraph (b) thereof, and assigns as grounds therefor:

A. That there is no Equity in said allegations.

B. That the matters therein contained constitute matters which should properly be set forth in an Answer to the Bill, rather than by way of Cross-Bill.

-0-

And the Complainant-Cross Respondent Demurs to so much of said Cross-Bill, as Amended, as is set forth in paragraph (c) & thereof, and assigns as grounds therefor:

A. That there is no Equity in said allegations.

B. That the matters therein contained constitute matters which should properly be set forth in an Answer to the Bill, rather than by way of Cross-Bill.

C. That the Statute of Frauds has no application in a suit to have a deed declared a mortgage.

D. That the Statute of Frauds does not prevent a showing of the true intent of the parties to an instrument.

E. The true intent of the parties to an instrument, even though resting in parol, may be shown without regard to the Statute of Frauds.

(turn)

(page five)

And the Complainant-Cross Respondent Demurs to so much of said Cross-Bill, as Amended, as is set forth in paragraph (d) thereof, and assigns as grounds therefor:

A. That there is no Equity in said allegations.

B. That the said paragraph does not negative the existence of a continuing binding debt from the Complainant to any other person, for whom the Respondent might have been the security-holder.

C. That the matters therein contained constitute matters of Demurrer which should properly be directed against the Bill of Complaint, rather than being set out by way of a cross-bill.

D. That the said matters do not negative the existence of a Trust, under which the Complainant would be indebted to someone other than the Respondent.

E. That the said matters do not constitute a complete defense in that the existence of an indebtedness to another than the Respondent is not negated, nor in any manner controverted.


-0-

And the Complainant-Cross Respondent Demurs to so much of said Cross-Bill, as Amended, as is set forth in paragraph (e) thereof, and assigns as grounds therefor:

A. That there is no Equity in said allegations.

B. That the matters therein contained constitute matters which should properly be set forth in an Answer to the Bill, rather than by way of Cross-Bill.

WHEREFORE, as to so much of the Cross-Bill, as Amended, as is hereinbefore set forth, this Complainant-Cross Respondent Demurs, and prays the judgment of this Honorable Court whether he shall be compelled to answer such parts of the said Bill as aforesaid.


LESLIE HALL, Solicitor for Complainant-Cross Respondent.

FRANK P. PROPST, Complainant,	: IN THE CIRCUIT COURT OF : BALDWIN COUNTY, ALABAMA, : IN EQUITY : No. 346.
vs.	
ALICE MAE PROPST PIERCE, Respondent.	

Plaintiff's Replication and Demurrers to
Defendant's Answer and Cross-Bill

COMES NOW THE COMPLAINANT, Frank P. Propst,
and for Reply to Respondent, Alice Mae Propst Pierce's,
Answer says:

I. That he denies the allegations contained
in Paragraph 7 of said Answer, to the effect that "in con-
sideration of the Complainant's taking care of, assessing
and paying the taxes on said property, the Respondent has
permitted him the use of the land and the timber thereon
for turpentine purposes", and "has recognized him as her
tenant, in consideration of his caring for and protecting
her possession and taking care of all liabilities against
said property", and he demands strict proof of the same.

II. That he denies the allegations contained
in Paragraph 8 of said Answer, to the effect that the instru-
ment "is as represented, a deed and that she is the holder
of the the fee simple title of said property, free from any
and all liens and encumbrances on the part of Complainant",
and he demands strict proof of the same.

AND FOR ANSWER TO THE RESPONDENT-CROSS COMPLAINANT'S
CROSS-BILL, the Complainant-Cross Respondent now comes and De-
murs to the said Cross-Bill and for cause of Demurrer shows:

First

That there is no Equity in said Cross-Bill.

Second

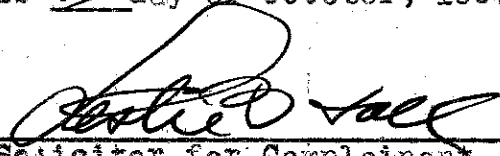
(turn)

FRANK P. PROPST, | Equity No. 396
Complainant, | :
 | :
vs. | :
 | :
ALICE MAE PROPST PIERCE, | IN THE CIRCUIT COURT OF
Respondent. | BALDWIN COUNTY, ALABAMA
 | :
 | :
 | IN EQUITY

CONSENT TO SUBMISSION AND DECREE IN VACATION

Come now the parties in the above styled cause, by their Solicitors, and file this their consent in writing, in vacation, that the Honorable Chancellor shall make such orders and render such interlocutory or final decrees in vacation as may be proper in this cause.

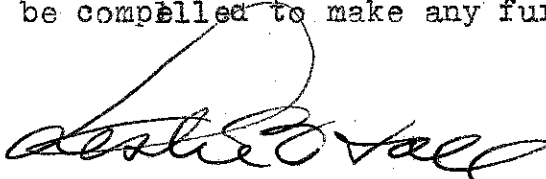
Entered into this 2nd day of October, 1937.


Solicitor for Complainant.


Solicitors for Respondent.

"to provide for the said Mamie K. Propst unless the Complainant is forced to comply with the said agreement", and "that your Honor will enter an order and decree establishing and fixing what is a reasonable amount to be paid by the said Frank P. Propst to the said Mamie K. Propst, as alimony, in accordance with the agreement entered into by him at the time of the divorce, and that an appropriate judgment, order, or decree be made against him, requiring him to make the said payments, in accordance with the decrees of the Court", because of the fact that it appears from said allegations and prayers that Mamie K. Propst, therein named, is a necessary party to said Cross-Bill, inasmuch as relief is sought in her favor, as above set forth; but that the Respondent-Cross Complainant has not made the said Mamie K. Propst a party to said Cross-Bill. Wherefore, as to so much of the Bill of Complaint (Cross-Bill) as is hereinbefore set forth, this Complainant-Cross Respondent demurs, and prays the judgment of this Honorable Court whether he shall be compelled to answer such parts of the said Bill as aforesaid.

WHEREFORE, this Complainant-Cross Respondent demurs to the said Cross-Bill, and to all matters and things therein contained, and prays the judgment of this Honorable Court whether he shall be compelled to make any further or other answer thereto.



LESLIE HALL, Solicitor for Complainant-Cross Respondent.

FRANK P. PROBST,
Complainant,

vs.

ALICE MAM PROBST PIERCE,
Respondent.

CONSENT TO DECREE
IN VACATION

IN THE CIRCUIT COURT OF
BALTIMORE COUNTY, MARYLAND
IN EQUITY

This file 22 day of
October, 1887.

H. S. Duck
Noted.

Filed this 1st day of
October, 1887.

FRANK P. PROPST,
Complainant,

vs.

ALICE MAE PROPST PIERCE,
Respondent.

Complainant's

Replication and Demurrers

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

Filed in Office this
3rd day of August, 1937.

R. S. D
Register.

FRANK P. PROPST,
Complainant,

vs.

ALICE MAE PROPST PIERCE,
Respondent.

Equity No. _____

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY

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

Comes now Your Complainant, FRANK P. PROPST,
and presents this, his Bill of Complaint against ALICE
MAE PROPST PIERCE, respectfully showing unto Your Honor
as follows:

FIRST

That Your Complainant is a resident of
the State of Alabama, in Baldwin County, and is over
the age of twenty one years.

SECOND

That the Respondent, ALICE MAE PROPST
PIERCE, is not a resident of the State of Alabama, but
that she is a resident of the State of California, and
your Complainant believes the address of the Respondent
to be Park Wilshire Hotel Apartments, Los Angeles,
California.;

that the Respondent is over the age of twenty one years.

THIRD

That the Respondent is a daughter of
your Complainant and of the former wife of your Com-
plainant, Mrs. Mamie Propst.

FOURTH

That your Complainant and the said Mrs.
Mamie Propst were divorced by Decree of this Honorable
Court dated the 2nd day of March, 1933.

FIFTH

That, prior to the rendition of the said
Decree of Divorce referred to in Paragraph Fourth, pend-
ing the proceedings therefor, and in order to effect a

(turn)

settlement of any possible claim for alimony, maintenance, and support growing out of said Divorce proceedings, the Complainant agreed with the said Mrs. Mamie Propst, his then wife, and with the Respondent herein, that he would make certain provisions for the support and maintenance of the said Mrs. Mamie Propst, his then wife; that at the said time, which was on or about February 25, 1933, the Complainant agreed that he would pay for a home or place for the said Mrs. Mamie Propst, at Fairhope, in Baldwin County, Alabama; that, as a consequence of said agreement, a debt was thus created, owing by the Complainant to the said Mrs. Mamie Propst; that the Respondent, being then and there anxious to secure the benefits of said agreement to her said Mother, the said Mrs. Mamie Propst, did, at that time, insist that the Complainant pledge some of his property as security for the full payment of the indebtedness created by the agreement to pay for the said home or place at Fairhope, as aforesaid; that the Complainant did then and there express himself as being willing to pledge some of his property as security as requested by the Respondent; that, in furtherance of that purpose, and as a part of the agreement to pay for the said home or place at Fairhope, as aforesaid, the Complainant, together with his then wife, the said Mrs. Mamie Propst, did execute and deliver unto the said Respondent an instrument purporting to be, and in the form of, a Statutory Warranty Deed, as is more particularly set out in EXHIBIT "A", hereunto attached, and by reference made a part hereof; that the Respondent was then known by the name of ALICE MAE PROPST; that the Respondent has since that time married, and is now known as ALICE MAE PROPST PIERCE; that the said instrument was in form of a Deed Absolute to the following described real estate located in Baldwin County, Alabama, to-wit:

The West half ($W\frac{1}{2}$) of the Southwest quarter ($SW\frac{1}{4}$) of Section Eighteen (18) in Township Two (2) South of Range Four (4) East;

that the said instrument was executed and delivered with the expressed understanding and agreement between the Complainant and the Respondent, at the time of such execution and delivery, that the purported conveyance was given merely as security for the performance of Complainant's agreement, as aforesaid, to pay for the said home or place at Fairhope, Alabama; that, at the time of the execution and delivery of said instrument, the Respondent expressly agreed and promised that should the Complainant fulfill his said agreement to pay for the said home or place at Fairhope, the Respondent would then execute and deliver to the Complainant an instrument reconveying the said described property to the Complainant; that the said instrument conveying the above-described property was executed and delivered to the Respondent in consideration of the said promise by the Respondent to reconvey upon the performance of the condition of the said pledge; that at the time the said instrument was executed and delivered, Complainant and Respondent mutually agreed that the said conveyance should operate merely as security for the performance of the Complainant's agreement to pay for the said home or place at Fairhope, Alabama; that, although the said instrument was in the form of an absolute deed of conveyance, its purpose, governed by the mutual intention of the parties at the time, was merely to convey the property as security for the performance of said agreement to pay for the said home or place at Fairhope, Alabama; that it was the intention of the parties, at the time, that the Complainant was to have the right to redeem the property;

SIXTH

That the Complainant has had and still does retain actual possession of the said property; that the Complainant has kept the taxes paid on the said property; that the Complainant has annually assessed the said property for taxation as his own; that the Respondent has never asserted possession of the said property, nor paid taxes on the same, nor assessed the said property for taxation since the said instrument was executed and delivered to her; that the Respondent has treated and recognized the Complainant as the mortgagor in possession.

SEVENTH

That the said instrument which Complainant executed and delivered to the Respondent, though a deed absolute in form, actually, and according to the intent of the parties, is ~~xxxxxxx~~ a Deed of Trust in the Nature of a Mortgage, from which the Complainant has a right of redemption.

EIGHTH

That the Complainant has, fully, and in every respect, performed his said agreement to pay for the said home or place at Fairhope, Alabama; that if the Honorable Court finds that the Complainant has not fully paid and discharged the condition of the pledge of the property described in paragraph Fifth, the said Complainant stands ready, willing, and able to discharge the said obligation on such terms as Equity may decree; and the Complainant does hereby offer to redeem the said property from the said pledge thereof; and the Complainant does hereby offer to do Equity in the premises.

NINTH

That, although the Complainant has fully performed his said agreement to pay for the said home or

place at Fairhope, Alabama, as aforesaid, and although
the Complainant has requested and demanded that the Respondent re-convey the said property to the said Complainant pursuant to her said agreement to do so, yet the Respondent has wholly failed and refused to reconvey the said property to the Complainant, as agreed.

TENTH

That the Respondent has expressed an intention to cause the Complainant trouble over the land; that the Respondent has expressed an intention to sell the said property to some innocent purchaser, and thus deprive the Complainant of his right of redemption under the terms of the said pledge; that the rights of the Complainant are, therefore, insecure without a decree of this Honorable Court which will grant relief in the premises.

ELEVENTH

Your Complainant submits himself to the jurisdiction of the Court to abide by its decrees, and offers to do Equity in the premises.

PRAYER FOR PROCESS

WHEREFORE, Your Complainant prays that this Honorable Court will take jurisdiction of this matter and cause summons or such other proceedings or process to issue as may be required by law to make the above-named ALICE MAE PROPST PIERCE, of Park Wilshire Hotel Apartments, Los Angeles, California.

Los Angeles, in the State of California, party Respondent to this Bill of Complaint.

PRAYER FOR RELIEF

Your Complainant further humbly prays that this Honorable Court will make and enter a Decree declaring the said instrument set forth in Exhibit "A" and described in paragraph Fifth hereof to be a Mortgage;

(turn)

-page six-

Your Complainant further humbly prays that this Honorable Court will make and enter a Decree granting to the Complainant a right to redeem the property described in said Paragraph Fifth from the operation of the pledge thereof;

Your Complainant further humbly prays that this Honorable Court will make and enter a Decree that the Complainant has paid his obligation under said pledge; that he has redeemed the property therefrom; that he is entitled to a reconveyance of the said described property;

Your Complainant further humbly prays that this Honorable Court will make and enter a Decree ordering the said Respondent, Alice Mae Propst Pierce, to reconvey the said premises to the Complainant;

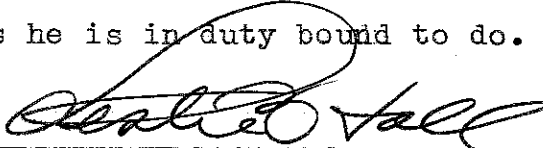
Your Complainant further humbly prays this Honorable Court that ^{if} he has not asked for the proper relief, the premises considered, that this Honorable Court will make and enter a decree declaring ^{that} the said instrument set forth in Exhibit "A" hereunto attached is an instrument of Trust; that the Respondent be declared a Trustee thereunder; that the Complainant be declared to be a Trustor with right of redemption; that the purposes of the Trust will be decreed to have been accomplished; that the Trust is now a dry trust; that the Complainant is, therefore, entitled to a reconveyance; that the Respondent will, thereupon, be order^{ed} to reconvey the said property to the Complainant.

Your Complainant further humbly prays that if he has not asked for the proper relief, the premises considered, this Honorable Court will make and enter such orders, judgments, or decrees as to Your Honor may seem meet, and just, and right, according to

(turn)

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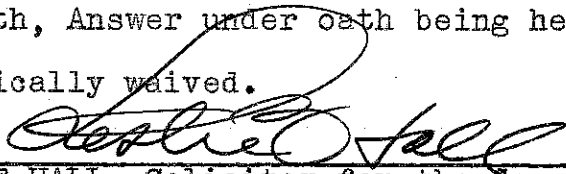
the principles of Equity, in the premises, Your Complainant hereby fully submitting himself to the jurisdiction of the Court and offering to do Equity; and Your Complainant will ever pray, as he is in duty bound to do.



LESLIE HALL, Solicitor for the Complainant.

FOOTNOTE

The Respondent, ALICE MAE PROPST PIERCE, is required to answer Paragraphs First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh, of the foregoing Bill of Complaint, and each and every allegation thereof, separately and severally, but not under oath, Answer under oath being hereby expressly and specifically waived.



LESLIE HALL, Solicitor for the Complainant.

EXHIBIT "A"

"WARRANTY DEED"

"THE STATE OF ALABAMA
BALDWIN COUNTY

"KNOW ALL MEN BY THESE PRESENTS, That for and in consideration of the sum of One Dollar and other valuable consideration to them in hand paid, by Alice Mae Propst, the receipt whereof is hereby acknowledged, Frank P. Propst and Mamie K. Propst, his wife, do grant, bargain, sell and convey unto the said Alice Mae Propst, the following described lands, situated in Baldwin County, Alabama, to-wit:

The West half ($W\frac{1}{2}$) of the Southwest quarter ($SW\frac{1}{4}$) of Section Eighteen (18) in Township Two (2) South of Range Four (4) East.

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

Witness our hand and seal this 25th day of February, 1933.

Witness: Ort H. Ertzinger

Frank P. Propst L.S.
Mamie K. Propst L.S.

STATE OF ALABAMA
BALDWIN COUNTY

I, Ort H. Ertzinger, a Notary Public, in and for said County and State hereby certify that Frank P. Propst and Mamie K. Propst, his wife, whose names are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that being informed of the contents of the conveyance, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 25th day of February, A. D. 1933.

(seal)

(turn)

Ort H. Ertzinger.

"STATE OF ALABAMA
BALDWIN COUNTY

I, Ort H. Ertzinger, a Notary Public, in and for said County and State do hereby certify that on the 25th day of February, 1933, came before me the within named Mamie K. Propst, known to me to be the wife of the within named Frank P. Propst, who, being examined separate and apart from her husband, in reference to her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord and without fear, constraint, or threats on the part of the husband.

In witness whereof, I have hereunto set my hand and official seal this 25th day of February, 1933.

(seal)

Ort H. Ertzinger,
Notary Public, Baldwin Co., Ala."

FRANK P. PROPST,
Complainant,
VS.
ALICE MAE PROPST PIERCE,
Respondent.

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

It is agreed by and between the parties hereto that the testimony of the witnesses, Frank P. Propst, Mamie K. Propst, Alice Mae Propst Pierce and Ort H. Ertzinger be taken by Miss O'Byrne Jones, as Special Commissioner; that the issuance of formal commission to Miss Jones, as Special Commissioner, is hereby waived; that the testimony of the said witnesses be taken down in shorthand in the form of questions and answers and by the said Commissioner transcribed, and when so transcribed shall have the same probative force as though taken in strict compliance with all the laws; and that it shall not be necessary for the witnesses to sign their respective testimony.

Dated this 14th day of September, 1937.



Solicitor for the Complainant.



Solicitor for the Respondent.

TESTIMONY OF FRANK P. PROPST, COMPLAINANT, DIRECT EXAMINATION OF HONORABLE
LESLIE HALL, SOLICITOR FOR THE COMPLAINANT:

Q: Mr. Propst you are the Complainant in this case of Frank P. Propst against Alice Mae Propst Pierce?

A: Yes.

Q: You are a resident of the State of Alabama, in Baldwin County, and over the age of twenty-one years?

A: I am.

Q: Mrs. Pierce is your daughter?

A: Yes.

Q: By your first wife, Mrs. Mamie K. Propst?

A: Yes.

Q: Mr. Propst you remember the occasion when you and the former Mrs. Propst were divorced?

A: Yes.

Q: About when was that?

A: The latter part of March, 1933.

Q: Before the rendition of the decree in this divorce case, did you and Mrs. Propst have an agreement regarding the purchase of a place for her and regarding her maintenance and support?

A: Yes, sir.

Q: State in your own words what the agree^{ment}/was regarding the purchase of the place.

A: Why, I agreed to purchase the place at Fairhope for One Thousand (\$1,000.00) Dollars from Mr. Dyson and to make all payments on the place until it was paid out. I could not pay for it in cash at the time.

Q: Now, at the time the agreement was made, was there any further agreement in connection with this particular agreement as to securing Mrs. Propst in the purchase of this place?

A: There was.

Q: What was that agreement as to you securing her?

A: I agreed with my daughter, Alice Mae, that I would give a deed for a certain eighty acres of land.

Q: That is the eighty acres described in the complaint?

A: Yes, sir. And when the place was paid for she would give the deed back on this piece of land. I put that up as security that the place would be paid for.

Q: As payment of the place at Fairhope?

A: Yes, sir.

Q: Mr. Propst you said that this property was pledged as security for the agreement as outlined?

A: Yes, sir.

Q: You did pay some out of your own funds?

A: Yes.

(Introduced in evidence - Exhibits 5 to 16, inclusive - Bills paid)

Q: Mr. Propst at the time you made the agreement to send Mrs. Propst \$5.00 per month, was that part of the same agreement in relation to this property out here as given in pledge for the property at Fairhope?

A: It was not.

Q: At the time this understanding was reached in regard to the pledge of the property, was Mrs. Propst there?

A: Yes, sir.

Q: Was Alice Mae there?

A: Yes, sir.

Q: Who else?

A: Frank and Myself.

Q: And I believe you came into Mr. Ertzinger's and got him to draw up the deed?

A: Yes, sir.

RE-CROSS EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE RESPONDENT:

Q: Mr. Propst you mentioned about the automobile - Alice Mae left it with you with instructions to sell it?

A: Yes, sir.

Q: Did you sell it?

A: I traded it for another automobile. I told Alice Mae I would take it and do the best I could. I thought that was the best and got \$125.00.

Q: Did you sell that automobile or what did you do with it?

A: Frank took it and sold it.

Q: Did you deliver it to Frank?

A: No, sir.

Q: How did he get it?

A: Took it.

Q: It was in your custody?

A: Yes, sir.

Q: You have identified these checks. Were all of them paid to credits of Alice Mae or some to Mrs. Propst?

A: Some were for Mrs. Propst and some for Alice Mae. All I looked at for Alice Mae.

TESTIMONY OF ALICE MAE PROPST PIERCE, RESPONDENT, DIRECT EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE RESPONDENT:

Q: Your name is Alice Mae Propst Pierce?

A: Yes, sir.

Q: You are the daughter of Frank P. Propst and Mamie K. Propst?

A: Yes. (Mrs. Propst interrupted by correcting her name: Mamie A. Propst).

Q: Alice Mae, do you remember when your father and mother were living together as husband and wife near Bay Minette?

A: Yes, sir.

Q: You were living with them at the time?

A: Part of the time.

Q: A divorce was agreed upon between them?

A: Yes.

Q: Prior to that time, was there any discussion as to how it should be gotten, or who should get it?

A: That part of the discussion I did not hear.

Q: Prior to the divorce was your father working or was he out of work?

A: He was working for himself on his own property.

Q: During the lean years. At that time were you working?

A: Yes, at Mobile.

Q: What was your income?

A: \$105.00 or \$110.00, the last part, it had come up from \$87.00, \$94.00 and then up to \$105.00 or \$110.00.

Q: What amount did you pay for board?

A: \$22.50 for the last two years.

Q: The balance of the money, where did it go?

A: Some of it went for my things and much for mother.

Q: During that time did your father request you to pay insurance for him?

A: Yes, he did.

Q: Did you pay the insurance for him?

A: Yes, I did.

Q: Do you remember approximately what you paid?

A: I can't be very definite. I know at one time I paid \$54 and some cents. I am sure. I haven't anything to prove that I did. I paid once I am sure.

Q: About how much, approximately, have you paid for insurance?

A: I think I can safely say I paid one of the premiums for him. They were \$54.00 each.

Q: During that time was the son, Frank, living with him?

A: Yes, sir.

Q: You paid it for the benefit of Mr. Propst?

A: That was his obligation in furnishing a home.

Q: Alice Mae, do you remember the execution of this deed here?

A: Yes, I do.

Q: Was there anything said as to why this land in question was given?

A: Yes. I can say it word for word: "Sister, you have done so much for us, I don't see how I can ever repay you. If anything ever happens to me, I want you to have this to take care of your mother." That is all I ever heard about it.

Q: Was there any agreement or understanding that you were to take this and when Mr. Propst finished paying for the house at Fairhope that you were to re-deed the land?

A: That discussion about re-deeding came up when they starting^{ed} looking for oil out near it.

Q: It was not mentioned at the time the deed was executed?

A: No.

Q: That deed was given to you by Mr. Propst and his then wife, Mrs. Mamie A. Propst, in satisfaction of what you had done and what you would be called upon to do?

A: Yes, in case something happened to him. He was in very ill health.

Q: That was long about the time he had agreed to support Mrs. Propst?

A: Yes.

Q: After that time do you know whether he gave Mrs. Propst anything?

A: For three months he didn't send anything and then \$5.00 a month until last November or December. At that time a check came from him for \$10.00 and he had two for himself or one for himself and one for brother.

Q: During that time has that been sufficient for Mrs. Propst to live on?

A: It has not.

Q: Have you been called upon to support Mrs. Propst?

A: I have.

Q: How much have you paid toward her support since her divorce?

A: \$350.00 for each year for the last two years and prior to that I know she suffered. I have given her some Five, Six, Seven or Eight Hundred Dollars.

Q: Your mother appealed to you for help?

A: She appealed to me for help in January of 1935 and I sent for her and had her come to me.

Q: And at the time you sent you found that she had been in destitute condition?

A: Yes.

Q: Has Mr. Propst carried out his part of the agreement in providing for Mrs. Propst?

A: He has not.

Q: During the time since the divorce do you know approximately what Mr. Propst makes per month?

- A: He has had the income from the place out here, and I know prior to the divorce he said he could make \$90.00 per month. I don't know what he has made during the time he was with the C. C. Camp. He has had the income from the cattle and a place in Colorado.
- Q: At this time he has a fair income from his property?
- A: I guess so.
- Q: Alice Mae, you say there was never an understanding between you and Mr. Propst that upon the conclusion of payment on the place at Fairhope you would re-deed the property?
- A: No.
- Q: That was never entered into between you as to the purpose of the deed to you?
- A: No.
- Q: Now who has had possession of this eighty acres of land mentioned?
- A: He has.
- Q: Whose has paid the taxes?
- A: He has.
- Q: He has had the use of the timber and benefit of the income?
- A: Yes, sir.
- Q: Was that in return for the payment of the taxes?
- A: That was part of it and until brother might be better able to make money to send to mother.
- Q: And your primary thought in the whole transaction was the maintenance and care of your mother?
- A: It has been that entirely.
- Q: Now, Mr. Propst has set out here a number of checks. Were these checks paid to your account or to the account of your mother?
- A: I couldn't possibly have had two checks for glasses, as I have never had but one pair of glasses, so the Daniels checks could not have both been mine. That one by me for \$8.00, I bought some glasses for him. This one is mine?
- Q: This \$11.50 check is yours?
- A: Yes.
- Q: Alice Mae, when you married, I believe he stated there were certain accounts in Mobile and elsewhere against you. Was there any agreement as to these?
- A: I was leaving within a week and two days and I had a car for which I was offered \$150.00 and he told me I could do better if I would allow him to sell it. I think there were two notes or he had gone on my note, or something. I was in debt to the Swiss Cleaning and my board to Mrs. and a bill at Quigleys' for \$8.50 and a bill at Hammels.
- Q: Did that total \$150.00?
- A: I suppose so.
- Q: It was understood between you and your father that this was to be given in full payment of your bills?

Q: And that you were to have the right of redemption when the place at Fairhope was paid for?

A: Yes, sir. When the payments were all made.

Q: In accordance with the agreement, did you execute this deed to Alice Mae and give her the deed to this particular land?

A: I did.

Q: Was it the understanding at the time the deed was executed that the property was given as a pledge, in accordance with the agreement?

A: It was.

Q: Since that time who has had possession of the property?

A: I have.

Q: Who assessed and paid taxes on the property?

A: I have.

Q: Who has been considered as owner of the property?

A: I have as far as I know.

Q: Have you ever been considered as a tenant of Alice Mae?

A: No, sir.

Q: Did you expect, on delivering this deed, to be able to redeem this property from the pledge by paying for the property at Fairhope?

A: I did.

Q: Mr. Propst have you performed that agreement as to paying for the place at Fairhope?

A: I have.

Q: Have you receipts to show for payment of the place?

A: I have.

Q: Have you performed all the conditions to her?

A: I have.

Q: Have you performed all the conditions in connection with the agreement of the pledge of the property?

A: I have.

Q: Now, Mr. Propst, I will ask you, have you requested your daughter, Alice Mae, to reconvey the property to you?

A: Yes, sir.

Q: And at the time you requested, did you let her know that you had finished paying for the place at Fairhope?

A: Yes, sir.

Q: WHEN, About when did you first request her to reconvey to you?

A: Something over, about a year and a half after, as I remember. About a year ago or a little over a year ago.

(Introduced in evidence - Bill from Drs. Frazer & Meeker - Marked exhibit 4)

Q: Now, Mr. Propst, at the time Alice Mae was working and teaching school, did you call on her to help you take care of the family?

A: No, sir.

Q: Did you call on her to help with your personal obligations?

A: No, sir.

Q: Did you help her out with any funds for her own personal use?

A: Yes, sir.

Q: Do you have any idea of the amounts expended by you to help her out at this time?

A: During what period.

Q: While she was teaching school - during the time Mr. Hall questioned that she helped you with your family obligations.

A: I couldn't tell. I furnished some in checks and some in cash.

Q: I show you these different cancelled checks and ask if they represent amounts paid by you to her during that time and on some of her accounts?

A: Yes, sir.

Q: Did she spend anything like a thousand dollars for your maintenance and support?

A: She did not.

Q: Has she at your request spent approximately Five Hundred Dollars for the support of Mrs. Propst - that is - at your request?

A: No, sir - Not at my request.

Q: At the time Alice Mae was married, did you pay some of her accounts at Mobile?

A: Yes, sir.

Q: Will you name some of the places at which you paid accounts?

A: Hammels, Quigleys, Swiss Dry Cleaning Company.

Q: Accounts for her at Hammels, Quigleys, Swiss Dry Cleaning Company. Did you pay any at Daniels Optical Company?

A: Yes, sir.

Q: Did she have a car at that time?

A: Yes, sir.

Q: What disposition was made of the automobile?

A: She gave the car to me to sell for her and pay all these accounts out of funds I got out of the car.

Q: Was the car sufficient to pay all the accounts?

A: No, sir.

Q: Was it necessary for you to go into your own funds in order to pay some of the accounts?

A: It was.

Q: And that you were to have the right of redemption when the place at Fairhope was paid for?

A: Yes, sir. When the payments were all made.

Q: In accordance with the agreement, did you execute this deed to Alice Mae and give her the deed to this particular land?

A: I did.

Q: Was it the understanding at the time the deed was executed that the property was given as a pledge, in accordance with the agreement?

A: It was.

Q: Since that time who has had possession of the property?

A: I have.

Q: Who assessed and paid taxes on the property?

A: I have.

Q: Who has been considered as owner of the property?

A: I have as far as I know.

Q: Have you ever been considered as a tenant of Alice Mae?

A: No, sir.

Q: Did you expect, on delivering this deed, to be able to redeem this property from the pledge by paying for the property at Fairhope?

A: I did.

Q: Mr. Propst have you performed that agreement as to paying for the place at Fairhope?

A: I have.

Q: Have you receipts to show for payment of the place?

A: I have.

Q: Have you performed all the conditions to her?

A: I have.

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A: I have.

Q: Now, Mr. Propst, I will ask you, have you requested your daughter, Alice Mae, to reconvey the property to you?

A: Yes, sir.

Q: And at the time you requested, did you let her know that you had finished paying for the place at Fairhope?

A: Yes, sir.

Q: WHEN, About when did you first request her to reconvey to you?

A: Something over, about a year and a half after, as I remember. About a year ago or a little over a year ago.

Q: And now at that time did she express a willingness to reconvey the property to you?

A: I thought she did.

Q: Did you have any communication with her to that affect?

A: Yes, sir.

Q: What did she state in that communication?

A: She said for me to send a deed and she would sign it.

Q: Was there any question of any further condition requiring you to do anything else?

A: No, sir.

Q: Has she reconveyed the property to you?

A: No, sir.

Q: She has failed to reconvey to you?

A: She hasn't done it.

CROSS-EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE RESPONDENT:

Q: Mr. Propst you say that you were supposed to buy a place in Fairhope and put it in good housable condition for Mrs. Propst?

A: The place was bought as was.

Q: Wasn't there an agreement between you, Mrs. Propst and Mrs. Pierce that it would be put in good condition?

A: It was in condition at the time.

Q: Soon after that wasn't it necessary to make certain repairs to the building?

A: Yes, sir.

Q: Who bought them.

A: I did.

Q: Did you put \$86.50 worth of repairs on the building?

A: I don't remember.

Q: It was your duty to repair the building, as a matter of fact?

A: It depended on how much it took to make the necessary repairs.

Q: You were supposed to make necessary repairs on the building before a final closing of the transaction?

A: It is according to what you call necessary repairs.

Q: Roof, for instance.

A: I put a roof on part of the building.

Q: Wasn't it in the agreement that the home would be furnished for Mrs. Propst to live in?

A: No, it wasn't.

Q: It wasn't?

A: No.

Q: Did you know, as a matter of fact, that Alice Mae has been called upon to buy certain furnishings for the house in order to make it comfortable of living in?

A: I don't know what she has been called on for.

Q: At the time it was agreed upon for the divorce, there had been friction in the family for sometime?

A: Yes, sir.

✓ Q: You finally persuaded Mrs. Propst to sue you for a divorce, didn't you?

A: No, sir.

✓ Q: Did she file that suit of her own accord?

A: It was agreed between all of us. We agreed rather than letting it go into Court.

Q: You concluded that you had no ground for divorce as against Mrs. Propst?

A: I wasn't asking for a divorce.

Q: You persuaded her to sue you?

A: I did not.

✓ Q: You agreed to pay all the costs of the divorce?

A: Yes, sir.

Q: Now, at that time was there any understanding as to what you were to pay Mrs. Propst each month?

A: Yes, sir.

Q: How much was that?

A: I was to pay \$5.00 a month.

Q: \$5.00 a month?

A: Yes, sir.

Q: Was that the way it was fixed or was it such amount as you could reasonably afford?

A: It was fixed.

Q: Later on you got a job and could have afforded more, is that right?

A: In a way, yes, I could, and in another, No.

Q: How soon after that divorce did you get a job with the C. C. Camp?

A: In July.

Q: That was after March?

A: Yes, sir.

Q: What did it pay a month?

A: \$170.00.

Q: Was it later raised?

A: Yes, sir.

Q: Later on they cut that back to what per month?

- A: \$50.00.
- Q: That was when you quit?
- A: They raised it again.
- Q: When did you quit?
- A: The 15th of June last year.
- Q: How much property do you own out there now Mr. Propst?
- A: About 1100 acres.
- Q: How many head of cattle?
- A: Something like 85.
- Q: How far is it located from the Town of Bay Minette?
- A: Two miles and a half.
- Q: Now this land involved, this eighty acres, you have been turpentineing that land?
- A: Yes, sir.
- Q: You have been using it for yourself - that turpentine?
- A: Yes, sir.
- Q: You have had the income from the property?
- A: Yes, sir.
- Q: The only charge in connection with the land is that you have been paying the taxes?
- A: Taxes, general upkeep, fighting fire.
- Q: You were doing that for Mrs. Pierce?
- A: No, sir.
- Q: You have been doing business over a period of some twenty or twenty-five years or more haven't you, Mr. Propst?
- A: No, sir.
- Q: You have known and executed mortgages time after time?
- A: Yes, sir.
- Q: You are familiar with a mortgage and know the difference between a mortgage and a deed?
- A: Yes, sir.
- Q: Why did you use the form of a deed instead of a mortgage, Mr. Propst?
- A: Acted a fool.
- Q: Now prior to the time of this divorce, you had been out of work quite a while?
- A: I have never been out of work.
- Q: You were running low on funds?
- A: Just like anybody else during that time.
- Q: Now during that time, Mrs. Pierce was working in Mobile, teaching school and drawing a regular salary?

A: Yes, sir, part of the time.

Q: During that time didn't she expend certain monies to your benefit and at your request?

A: Not at my request.

Q: Didn't she pay insurance premiums for you on your life insurance?

A: I don't remember - not for me.

Q: Didn't you not later, in order to buy the property, borrow on that same policy?

A: I borrowed from the same insurance, but she never did pay on that insurance.

Q: Prior to the time of the divorce, it was your duty to maintain Mrs. Propst - Prior to the time?

A: Yes, sir.

Q: Who paid the hospital bills for Mrs. Propst?

A: I paid the majority. Alice Mae paid some of it.

Q: How much did Alice Mae pay?

A: I don't know.

Q: It was also your duty to maintain the boy, wasn't it - Frank, Jr.

A: Yes, sir.

Q: Didn't Alice Mae pay certain amounts for him for your benefit?

A: No, sir.

Q: She didn't pay anything?

A: No.

Q: Since that time you say you have mailed Mrs. Propst \$5.00 per month to Fairhope?

A: Up to the last few months.

Q: Up until when?

A: I think it was November or December.

Q: Some eight or ten months ago?

A: Yes, sir.

Q: Mr. Propst, in your judgment, was that \$5.00 a month sufficient for Mrs. Propst to maintain herself?

A: Alice Mae and Frank agreed to pay \$5.00 per month each, which made \$15.00. I was to pay Frank's part as long as he worked for me.

Q: Since he has been away, you haven't paid his part nor your part.

A: No, sir. I paid my part part of the time. I forget when Frank went to work. I paid my part part of the time since Frank has been gone.

Q: At the time this instrument was executed did you explain it to Mrs. Propst? What was the significance of it - of this instrument to Alice Mae - did you explain it to Mrs. Propst?

A: I think I did - I know I did.

Q: Who, during the time that you were purchasing the property at Fairhope, paid the taxes on it? During the time of the purchase and up until this time - on the property at Fairhope?

A: I paid a year's standing that was out against the property and I paid another year. I know I have paid two years.

Q: How many crops of turpentine boxes are you operating?

A: I am operating more crops of boxes now than I did at any time before.

Q: How many now?

A: Twenty thousand.

Q: That is two crops?

A: Yes, sir.

Q: You own a home outhere, of course?

A: Yes.

Q: That fully paid for?

A: Yes, sir.

RE-DIRECT EXAMINATION BY HONORABLE LESLIE HALL, SOLICITOR FOR THE COMPLAINANT:

Q: Mr. Propst, Mr. Hall asked you a few questions regarding the taxes on this property. You stated that you had paid some of them on this home?

A: Yes, sir.

Q: Are these the cancelled checks for the payment of the taxes?

A: Yes, sir.

(Introduced in evidence - cancelled checks - marked Exhibits 1 and 2)

Q: Mr. Propst the question was asked by Mr. Hall regarding the repair of the property. Did you at any time while you were paying for this property pay for the repair of the roof on the house?

A: There was a roof on part of the house. All I got was a bill for it.

Q: Is this the statement you got?

A: Yes, sir.

Q: Does it show it was paid?

A: Yes, sir.

Q: Was it paid by you?

A: Yes, sir.

(Introduced in evidence - Bill from Dyson & Co. - marked Exhibit 3)

Q: Mr. Propst at the time you lived with Mrs. Propst, it was necessary for her to have Dr. bills and hospital bills?

A: Yes, sir.

Q: Who paid these bills?

A: I paid for the majority. A few Alice Mae paid for. I paid for the majority.

Q: I ask you, is this one of the bills you paid?

A: Yes, sir.

A: He was to take care of my bills. He left part of my Hammel bill. That caused me to have a lot of trouble with Hammel and caused me much inconvenience and embarrassment for a period of almost two years. It was up until January or February of last year.

Q: It was understood that he would take the car and finish paying your bills?

A: Yes.

Q: Alice Mae, it was expressly understood that this was a deed and not a mortgage?

A: A deed and not a mortgage.

Q: And it was never discussed in the light of a mortgage or the pledge for the performance of conditions on the part of Mr. Propst?

A: No.

CROSS-EXAMINATION BY HONORABLE LESLIE HALL, SOLICITOR FOR THE COMPLAINANT:

Q: Alice Mae, were you not present when the deed was drawn?

A: Yes.

Q: You heard the conversation?

A: I don't think I was there.

Q: You were there at the time the deed was discussed?

A: Yes, but I don't remember what was said because I was not in there.

Q: Were you out on the porch?

A: I think we were in the dining room.

Q: Who finally paid the Hammel bill?

A: He did.

Q: Last year?

A: Yes. It was either January, February or March of last year.

Q: Who was the beneficiary in those insurance policies that you stated that you paid?

A: I think my mother was.

Q: About when was the last policy premium paid by you?

A: I don't know. One was paid September 2nd, 1930.

Q: Have you paid any since?

A: I think I have.

Q: What year was it your mother was in the infirmary in Mobile?

A: 1932.

Q: Who did you say paid the infirmary bills there?

A: She was there - if I could remember - I know I paid it one time for two weeks and another time for one week.

Q: Mr. Propst wasn't in the infirmary at that time?

A: No.

A: No.

Q: Was this receipt given to you or to Mr. Propst, or do you know?

A: I don't know.

Q: This is the Dr. bill, did you pay it?

A: I paid nothing on the Dr. bill except the X-ray.

Q: Just the infirmary bill?

A: Just the infirmary bill.

(Introduced the infirmary bill - exhibit 16)

Mother was in there two different times and in two different rooms.

Q: Mr. Propst did have an income at the time you were working in Mobile?

A: It was very low and he said he was paying out as much as he was getting in and that he was keeping just even. He wasn't doing well.

Q: Your school checks were not coming in regular?

A: In 1932 they were not. Prior to that they had come regular.

Q: Hadn't Mr. Propst sent you checks during the time they were not coming in regular?

A: I don't know.

Q: How do you explain checks to you. In 1933 I find a check for \$15.00 payable to you, endorsed by you at 50 Bienville Avenue.

A: This is October 23rd, 1933, that is just prior to my leaving and that is one of the things - one of the bills right at the last.

Q: Were you teaching school in 1929?

A: I started in the Fall, September, 1929.

Q: You stated a minute ago that at the time the deed was made there was no condition that you were to give it back upon the payment of the place at Fairhope?

A: No.

Q: Do you remember last year writing a letter asking Mr. Propst to send you a deed and that you would sign it and send it back to him?

A: I wrote and asked that he send the deed that he gave me.

Q: Do you remember writing this? "Will get ~~down~~ to business now. You will have to send the deed to me to sign. I suppose I will have to sign it, won't I? I have never carried the deed away from there, so clean out your desk and find it. Will I have to sign it before a Notary. Please send instructions with the deed." And then further: "Send the deed to me."

A: I was asking him to send something to me in regard to my mother's future support.

Q: Did you mention anything in the letter to him about her future support?

A: I don't remember.

Q: You expected to sign the deed?

A: I did.

Q: Did you receive the deed?

A: Nothing regarding my mother's future support.

Q: Did you ever write Mr. Propst saying to go ahead and send the deed and you would sign it as soon as you got uncovered?

A: Yes, I was moving at the time.

Q: You wrote and told him to send it on and you would execute it later on?

A: It was possible that I did that.

Q: Alice Mae, isn't it true that when you were buying clothes for your mother you contributed voluntarily on your part and that she did not request you to do so?

A: It is really necessary for some one to wear clothes.

Q: Quite a number of times you bought her things you wanted her to have and not necessities?

A: My mother was going on a very small margin for clothes. She wasn't asking me to give her very much.

Q: Mr. Propst was supporting the family?

A: He was feeding the family.

Q: He was feeding the family and keeping a roof over their heads?

A: Yes. But Leslie, this goes back even before that when I was eighteen years old - that is even back before 1929, during better times - when I was teaching expression here.

Q: You sometimes did carry things home to your family?

A: Yes, once in a while.

Q: You spoke of getting glasses for your mother - Where did you get them?

A: I think it was Dr. Wright's in Mobile.

Q: Who paid the bill?

A: I did.

Q: Did you get any for her at Daniels Optical Company?

A: Not for mother. Dad had some he didn't like for some reason. I paid part of that. I can't remember exactly how that was.

Q: Now in regard to the place at Fairhope - Mr. Propst did not ask you to make any repairs?

A: No, but the roof was falling in. Somebody had to do something about it. I had it fixed and paid for it and I asked Mr. Dyson to get it from him and repay me when he paid for it. I was repaid.

Q: I believe you stated that Mr. Propst had been in possession of this property all the time?

A: Yes, he has.

Q: Have you got the deed?

A: No.

Q: Have you ever had it?

A: I can't remember ever having it. It was recorded and that is all I remember.

About the possession of the property: I went out with Brother the day the first turpentine cups were put on the land and it was my understanding - talking to him - that he was to work hard on that and see if he couldn't make some money for mother.

Q: Did Frank pay the taxes?

A: No, he was working for dad.

Q: Did he have possession of the property?

A: My father had that.

Q: Did you ever pay any taxes?

A: No, I didn't.

Q: At the time you wrote Mr. Propst and asked him to send the deed, you intended signing it?

A: I intended to sign it with the idea that he was to make a different arrangement about mama's support.

Q: Did you ever mention it in a letter to him?

A: Yes, I am sure I did.

Q: Did you mention it in that letter asking him to send the deed?

A: I have written many letters.

Q: At the time you requested the deed you intended signing it?

A: Yes.

Q: You later changed your mind and decided not to?

A: I came South on that same business last year. So much has been oral.

Q: You intended to make some disposition of this property, Alice Mae, in order to keep Mr. Propst from being able to have it?

A: I don't know that I did.

Q: You intended to sell it to some innocent purchaser?

A: I haven't been able to find any purchaser.

Q: You did intend to sell it?

A: No. I valued the trees too highly to sell it.

Q: All that time Mr. Propst was in possession and you were not claiming any right to the property?

A: Yes I was.

Q: How?

A: Just claiming it. How else was I to show possession.

Q: Did you actually try to show your possession - that this property was yours?

A: I asked Edmund Tunstall if it was necessary to pay the taxes to show it was mine. That was when the taxes were over due on the property and I didn't know whether they were going to get paid.

Q: You never paid the taxes?

A: No.

Q: You say the place at Fairhope is fully paid for?

A: I understand it is fully paid for. We have no bill of sale.

RE-DIRECT EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE RESPONDENT:

Q: Alice Mae, these receipts and checks you have expended for the benefit of Mr. Propst?

A: Yes.

(Offered in evidence checks and receipts - identified by Nos. R1 to R60, inclusive).

RE-CROSS EXAMINATION BY HONORABLE LESLIE HALL, SOLICITOR FOR THE COMPLAINANT:

Q: Alice Mae, when you paid for the repairs on the roof and paid the bill, as you stated, wasn't it a fact that Mr. Propst had finished paying for the place at the time?

A: It was a fact that it needed a roof.

Q: It was a fact that it was after he finished paying for the place?

A: It took me quite a while to save up the money.

Q: That was not until after the place was paid for?

A: They were necessary before.

Q: As I understand it, you agreed he was supposed to keep the house as long as he was paying for the place?

A: Yes. He was supposed to furnish a house that was complete.

Q: Were you at Fairhope at Mr. Dyson's office and heard the conversation regarding the purchase of the property and did you hear the discussion that took place and the agreement made between Mr. Propst and Mr. Dyson as to the up-keep of the place?

A: I was there. He was going to pay \$15.00 a month and made out notes. He decided that he would be able to pay \$15.00 per month, and then when he got the job with the C. C. Camp, he jumped ahead and paid all the notes and left the taxes.

Q: Did you say it had run down and the Dyson's were wanting to sell?

A: It was in livable condition at the time it was purchased, all but the roof. The roof almost immediately started leaking and the water coming through. The dining-room plaster was falling in.

Q: The repairs were not made until after he finished paying for the place?

A: No.

TESTIMONY OF MRS. MAMIE A. PROPST, A WITNESS FOR THE RESPONDENT, DIRECT EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE RESPONDENT:

Q: Mrs. Propst you were the former wife of the Complainant, Frank P. Propst?

A: Yes, sir.

Q: You are the mother of Alice Mae Propst Pierce?

A: Yes.

Q: Prior to the time that this divorce was granted, in March, 1933, had Alice Mae been living with you? She was a member of the family?

A: Yes.

Q: For a year or so prior to the time of the divorce had Mr. Propst been employed, or was he just working on the place?

A: He was just working on the place.

Q: His income was very limited?

A: I think so - very.

Q: Did you have to go to the hospital during that time?

A: Yes.

Q: Who paid the bills?

A: My daughter, Alice Mae, paid about half of them and her father about half. I was held up in the hospital until it was paid.

Q: During that time your daughter was paying certain bills for you and for the family?

A: Yes.

Q: And for the boy who was living there in the family?

A: Yes.

Q: When it was finally agreed upon for a divorce whose decision was that?

A: Mine.

Q: How did you reach the agreement as to whom should sue whom?

A: I sued him.

Q: That you should sue him - was that voluntary?

A: It was voluntary.

Q: Was there any agreement as to the provision of your maintenance and support subject to the divorce?

A: I was too ill at that time. They would not tell me anything. There was an agreement but they would not tell me anything. I did not hear it, in fact, my son came and took me out and I know nothing about it.

Q: It was between the two children?

A: Yes.

Q: You understood at the time he was to pay so much per month?

A: I understood after my children made the settlement, but my condition would not warrant any interference and they did not tell me anything, only that I had a living.

Q: Did he ask you to sign an instrument?

A: Yes.

Q: What?

A: To Alice Mae.

Q: What did he tell you that was?

A: I signed it to pay some of the bills Alice Mae had been paying.

Q: It was understood by you that this was a deed to Alice Mae in payment of the bills she had been paying and for what she had done?

A: I don't know what it was - anything about it from Mr. Propst. I know, in a measure, it was on my part.

Q: Did you understand that it was given as security or a pledge for the payment of a debt that he would buy you a home?

A: No.

Q: That was one of the conditions of the divorce?

A: No.

Q: That you release this out here and that he would give you a place in return for the release of this claim here?

A: I know nothing. I was too sick.

Q: He did give you that place at Fairhope for your claim against this place at Bay Minette?

A: Yes.

Q: He did give you that place at Fairhope and has paid for it?

A: Yes.

Q: Since that time has he contributed toward your maintenance down there?

A: \$5.00 a month until last December.

Q: Whom have you had to call upon?

A: My children.

Q: Do you know about how much in all Alice Mae has given you?

A: Sometimes I would get big checks and sometimes little ones - just as she could afford. I do know that she gave me more than she could afford and she must have gone without herself in order to give to me.

Q: In other words, you would be having to go hungry if it hadn't been for Alice Mae?

A: I would have perished.

CROSS-EXAMINATION BY HONORABLE LESLIE HALL, SOLICITOR FOR THE COMPLAINANT:

Q: Mrs. Propst, a minute ago you stated that the only part of the agreement that you familiar with was the part made as to the house?

A: As to the house.

Q: That was that he was to pay for the place at Fairhope, on a three year contract, or give you the place at Bay Minette. He gave you the choice?

A: Yes.

Q: Was it not also understood at the time that he was pledging this other property to Alice Mae?

A: I never knew anything about those things.

Q: You were in Mr. Ertzinger's office?

A: I went in and signed my name.

Q: Wasn't there some conversation?

A: I went right back and got in the car. I was on my way down to my new home.

Q: He has since paid for the home?

A: Yes, sir.

Q: He has sent you \$5.00 per month until December?

A: Yes.

Q: Do you know why he stopped sending that money?

A: My son told me

Q: Do you know of your own knowledge?

A: I don't know anything.

Q: You were kept in the dark?

A: Yes.

Q: You stated that you signed the deed without knowing?

A: No, I didn't.

Q: Didn't I understand you to say that you were kept in the dark as to all of the agreement?

A: I wasn't wanting to interfere with anything. When asked to sign the deed I knew what this deed was going to be - a deed to Alice Mae.

Q: Wasn't it the understanding that the property was to be deeded back to Mr. Propst?

A: I didn't know anything about it. She didn't talk to me about the property when she was here.

Q: The only part of the agreement you know about is as to the house?

A: The only thing I know.

Q: He repaired the roof before he finished paying for the place?

A: \$22.50.

Q: The other repairs were made after he finished paying for the place?

A: Yes.

RE-DIRECT EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR RESPONDENT:

Q: After you found he wasn't going to make them, Alice Mae had to do it?

A: Yes.

TESTIMONY OF ORT H. ERTZINGER, A WITNESS FOR THE COMPLAINANT, DIRECT EXAMINATION OF HONORABLE LESLIE HALL, SOLICITOR FOR THE COMPLAINANT:

Q: Is this Mr. Ort Ertzinger?

A: It is.

Q: Where is your place of residence?

A: Bay Minette.

Q: What business are you engaged in?

A: Insurance and abstract business.

Q: Mr. Ertzinger do you know Mr. Frank P. Propst and Alice Mae Propst, who is now Mrs. Alice Mae Propst Pierce?

A: I do.

Q: And do you know Mrs. Mamie A. Propst, or Mamie K. Propst, the former wife of Mr. Frank P. Propst?

A: I do.

Q: Did you know them during the year 1933?

A: I did.

Q: Mr. Ertzinger are you any relation to either of these parties?

A: None whatever.

Q: Mr. Ertzinger do you remember an occasion, about four years ago, in 1933, when Mr. Propst and Alice Mae Propst, who is now Alice Mae Propst Pierce, and the former Mrs. Propst came to your office asking you to draw up a deed for them?

A: I do.

Q: Do you remember any peculiar circumstances in connection with that transaction?

A: Only that the deed - I don't know whether you would call it actually some arrangement in connection with the divorce whereby the deed was not a bona fide sale but simply a holding arrangement of some kind.

Q: Would you call it a pledge of the property for the security of the performance of some condition?

A: I don't just know about that. There was some - you might call it a side agreement. It was not a bona fide sale and it was to be held for some purpose understood between them.

Q: All these parties were present at the time the instrument was signed?

A: Yes.

Q: Were they present at the time the terms of the transaction were discussed? Mr. Propst and Mrs. Propst and Alice Mae?

A: I don't exactly understand you - You mean in my office?

Q: Yes, in your office discussing the terms of the transaction at the time?

A: They discussed it in the office before I drew the paper.

Q: And it was your understanding at the time the deed was made that it was not given as a bona fide conveyance of the property, but that there was some condition?

A: I understood there was a condition but I don't know what. It was something in connection with the divorce or something in the family.

CROSS-EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE RESPONDENT:

Q: Mr. Ertzinger did Mrs. Propst enter into the discussion?

A: I think all of them did.

Q: Don't you remember, as a matter of fact, that Mrs. Propst did not come in until the paper was drawn?

A: They were in the front of the office before it was drawn.

Q: Who did the talking, Mr. Propst, Mrs. Propst or Alice Mae?

A: All of them.

Q: That is prior to the drawing of the paper?

A: Yes.

Q: You don't know the details of the discussion?

A: No, sir. They were in front of the office and after they reached an agreement they all came to the back and I did what they wanted done.

Q: What did they want done?

A: A paper drawn.

Q: A full Warranty Deed?

A: It was.

Q: You acknowledged it and delivered it to Alice Mae?

A: I don't know whether I delivered it to Alice Mae, but I gave it to somebody.

Q: You don't have a very vivid recollection of it, do you?

A: I don't. It was something in connection with the divorce or some family trouble. It was to be held, as I understood it, not as a bona fide deal - not a complete deal, as I understood it.

Q: Was it to be held as a pledge that Mr. Propst would support Mrs. Propst?

A: I don't remember.

Q: As a pledge that Mr. Propst would buy Mrs. Propst a place?

A: I don't know.

Q: Did that deed recite a consideration?

A: I think it did.

Q: You don't know that?

Q: I drew the deed according to instructions and it was my understanding that there was something back of it - something they didn't tell me about.

Q: As a matter of fact they were unusually secretive about the whole thing?

A: I wouldn't say that. I have had a good many people come in and stand in the corner and discuss things and not tell me.

Q: They didn't open up and tell you the details?

A: No, sir.

Q: Mr. Ertzinger, don't you remember, as a matter of fact, that the car was all packed and that they were headed to Fairhope?

A: I didn't see.

Q: You acknowledged the deed?

A: I took the acknowledgment of the deed at that time.

RE-DIRECT EXAMINATION BY HONORABLE LESLIE HALL, SOLICITOR FOR THE COMPLAINANT:

Q: Mr. Ertzinger, did you, after learning there was some condition attached to the conveyance, mention the fact that that was not the proper way to draw it up and suggest some other way.

A: I wouldn't swear that I did.

Q: Was there any mention that it should have been made in a different way - that the deed was not the proper way?

A: It has been so long ago I don't remember the details. I think they first talked about a contract and then decided on a deed and I drew the deed. They got in the front part with the stenographers and talked about it and then came to me and told me what they wanted and I drew the deed and took the acknowledgment and they both signed it.

RE-CROSS EXAMINATION BY HONORABLE HUBERT M. HALL, SOLICITOR FOR THE RESPONDENT:

Q: This execution of the deed was subsequent to the time of the conversation up in front?

A: Yes.

I, O'Byrne Jones, as Special Commissioner, hereby certify that the foregoing deposition of Frank P. Propst, Mamie K. Propst, Alice Mae Propst Pierce and Ort H. Ertzinger, on Oral Examination, was taken down in writing by me in the words of the witnesses, said witnesses having been duly sworn, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witnesses; that 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.

Given under my hand and seal this 14th day of September, 1937.

O'Byrne Jones

TO O'BYRNE JONES, COMMISSIONER:

To taking the testimony of Frank P. Propst, Alice Mae Propst Pierce, Mamie K.

Propst and Ort H. Ertzinger \$25.00

AGENCY OF
THE UNION CENTRAL LIFE INSURANCE COMPANY

E. H. ANDREWS, MANAGER
BIRMINGHAM, ALA.

EDWIN A. ZELNICKER
DISTRICT MANAGER
314 FIRST NAT'L BANK BLDG.
PHONE DEXTER 2855
MOBILE, ALA.

Sept. 2, 1930.

Received of Miss Alice May Propst,
Fifty Four & 80/100 Dollars (\$54⁸⁰)
in settlement of quarterly premium
due June 19 under policy
#1064945 on the life of
Frank P. Propst.

Edwin A. Zelnicker
Dist. Mgr

FAIRHOPE, ALABAMA

3/20

193 37

M

Mr Propst

FAIRHOPE, ALABAMA

M

Frank P Propst

IN ACCOUNT WITH

IN ACCOUNT

DYSON & COMPANY

DYSON & C

Contractors and Builders and
Dealers in Building Material

Contractors and
Dealers in Build

<i>for patchy work</i>	<i>4 50</i>
<i>over roof</i>	<i>60 00</i>
	<i>64 50</i>

*Paid
Dyson*

*To our roof
on rear of Mrs P
substance*

Paid

*Paid
May 11*

FAIRHOPE, ALABAMA

5/11

1933

M. *Frank P Propst*

IN ACCOUNT WITH

DYSON & COMPANY

*Contractors and Builders and
Dealers in Building Material*

*To our roof
on rear of Mrs Propst
residence 27 00*

Paid Dyson & Co

*Paid in full
May 11 1933*

STATEMENT

MOBILE, ALA., 9/29/33 19

TO DRS. FRAZER & MEEKER, DR.
109 N. CONCEPTION STREET
PHONE: DEXTER 726

Mr. Frank Propst,
Bay Minette, Ala.

STATEMENT RENDERED MONTHLY

TO PROFESSIONAL SERVICES

\$ 115.00

Pl -

RECEIVED PAYMENT _____ 19 _____

MINNEAPOLIS, MINN. April 24 - 1935 No. 17-2

FIRST NATIONAL BANK AND TRUST COMPANY OF MINNEAPOLIS

PAY TO THE ORDER OF

Mr. M. Olson \$12⁰⁰

Exactly twelve dollars DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. June 11 - 1935 No. 17-2

FIRST NATIONAL BANK AND TRUST COMPANY OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Maynard Propst \$5⁰⁰

Exactly five dollars DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. 5-10 1936 No. 17-2

FIRST NATIONAL BANK AND TRUST COMPANY OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Maynard Propst \$15⁰⁰

Fifteen and no/100 DOLLARS



Norman A. Pierce

MINNEAPOLIS, MINN. July 2 - 1936 No. 17-2

FIRST NATIONAL BANK AND TRUST COMPANY OF MINNEAPOLIS

PAY TO THE ORDER OF

Mr. Ruby Satsa \$7⁰⁰

Exactly seven dollars DOLLARS



Mrs. Norman A. Pierce
2706 Blandell Ave.

PAID THROUGH
2 CLEARING HOUSE 2

ANY BANK OR BANKER
MAY 19 1935
THE BANK OF FARMERS
AND MERCHANTS
MINNEAPOLIS, MINN.

MAY 29 1935
CASH COLL.
ORDER ON
THE BANK OF FARMERS
AND MERCHANTS
MINNEAPOLIS, MINN.
ALL PRIOR ENDORSEMENTS GUARANTEED
61-29 MOBILE, ALA. 61-29
T. M. TAYLOR, Cashier

W. D. Wagon

ANY BANK, BANKER OR TRUST CO.
MAY 29 1935
THE BANK OF FARMERS
AND MERCHANTS
MINNEAPOLIS, MINN.

ALL PRIOR ENDORSEMENTS GUARANTEED
FEDERAL RESERVE BANK
MINNEAPOLIS, MINN.
JAN 25 1935
THROUGH CLEARING DEPARTMENT OF
FEDERAL RESERVE BANK
MAY 29 1935
ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61-29 MOBILE, ALA. 61-29
T. M. TAYLOR, Cashier

Q-4
W. D. Wagon

Mrs. Mayme Crockett

Q-5

PAID THROUGH
2 CLEARING HOUSE
MAY 14 1935
TO THE ORDER OF
BANK OF BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61-29 MOBILE, ALA. 61-29
T. M. TAYLOR, Cashier

8-1 PAY ANY BANK OR BANKER 18-1
ON ORDER
COMMERCE TRUST CO.
ALL PRIOR ENDORSEMENTS GUARANTEED
MAY 16 1935
KANSAS CITY, MO.
E. F. WHEAT CASHIER
CASH COLL. 18-1

PAY TO THE ORDER OF
First National Bank and Trust Company
MINNEAPOLIS, MINN.
948
DRS. CONSTANCE
or RUBY M. JDTSE

Q-6

MINNEAPOLIS, MINN. Jan. 25 1935 No. _____

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme Propst \$ 10⁰⁰/₁₀₀

Exactly Ten DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. Oct. 16 1935 No. _____

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme Propst \$ 10⁰⁰/₁₀₀

Exactly ten DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. Sept. 23 1935 No. _____

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme Propst \$ 10⁰⁰/₁₀₀

Exactly ten DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. Dec. 13 1934 No. _____

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme A. Propst \$ 7⁰⁰/₁₀₀

Exactly Seven DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. *Nov - 6 - - 1935* No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Pierce \$50⁰⁰

Exactly fifty dollars — DOLLARS
PAYABLE ONLY AT ITS MAIN OFFICE



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. *Dec 4 - - 1935* No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Piercet \$50⁰⁰

Exactly fifty dollars — DOLLARS
PAYABLE ONLY AT ITS MAIN OFFICE



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. *Oct 24 - - 1935* No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Piercet \$10⁰⁰

Exactly ten dollars — DOLLARS
PAYABLE ONLY AT ITS MAIN OFFICE



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. *Aug 24 - - 1935* No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Piercet \$10⁰⁰

Exactly ten dollars — DOLLARS
PAYABLE ONLY AT ITS MAIN OFFICE



Mrs. Norman A. Pierce

Mrs. Mayme A. Proffert
A.H. Buchanan

PAID THROUGH
CLEARING HOUSE
CASH COLL. DEPT.
P. WHEAT CASHIER
KANSAS CITY, MO.
NOV 15 1935
THE BANK OF FAIRMORE
KANSAS CITY, MO.
PAY TO THE ORDER OF
PAYEE'S ACCOUNT

Q-15

Mrs. Mayme A. Proffert
A.H. Buchanan

PAID THROUGH
CLEARING HOUSE
CASH COLL. DEPT.
P. WHEAT CASHIER
KANSAS CITY, MO.
DEC 12 1935
COMMERCIAL TRUST CO.
KANSAS CITY, MO.
PAY TO THE ORDER OF
PAYEE'S ACCOUNT

Mrs. Mayme A. Proffert

PAID THROUGH
CLEARING HOUSE
CASH COLL. DEPT.
P. WHEAT CASHIER
KANSAS CITY, MO.
NOV 15 1935
COMMERCIAL TRUST CO.
KANSAS CITY, MO.
PAY TO THE ORDER OF
PAYEE'S ACCOUNT

Q-13

Mrs. Mayme A. Proffert

PAID THROUGH
CLEARING HOUSE
CASH COLL. DEPT.
P. WHEAT CASHIER
KANSAS CITY, MO.
DEC 12 1935
COMMERCIAL TRUST CO.
KANSAS CITY, MO.
PAY TO THE ORDER OF
PAYEE'S ACCOUNT

Q-12

Jan 11 '37

Received of Alice Maud Pierce
the sum of 10.00 by money order
Oct or Nov of 1936.

Mamie A. Propst.

Sent Recd. - 18

From Spokane

Received by money order, 10.00
from Alice Maud Pierce.

Mamie A. Propst.

Dep. 5- '36

Mrs. Maud A. Pierce

MINNEAPOLIS, MINN. July 15 1935 No. _____

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme Propst \$ 10⁰⁰
Ten and ²⁰/₁₀₀ DOLLARS

PAYABLE ONLY AT ITS MAIN OFFICE



Norman A. Pierce

NO PROTEST

MINNEAPOLIS, MINN. 11-12 1934 No. _____

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme Propst \$ 10⁰⁰
Ten and ²⁰/₁₀₀ DOLLARS

PAYABLE ONLY AT ITS MAIN OFFICE



Norman A. Pierce

NO PROTEST

COUNTER CHECK

Bay Minette, Ala. 7-16 1935 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the Order of Miss Mrs. Smith. Joy Call \$ 20²⁷
Twenty and ²⁷/₁₀₀ DOLLARS

For Taxes for Mrs. P. Smith -
no funds at Fairhope

Olivia M. Pierce

BAY MINETTE, ALA. July 18 1935 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of

Fairhope Single Tax Co \$ 8⁹²

Eight & 92/100 Dollars

Colony
Box

Alice M Pierce
By T.P. Propst

SOUTH-CENTRAL BOND ISSUE

MINNEAPOLIS, MINN. May 31 1935 No. _____

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Propst \$ 5⁰⁰

Exactly Five dollars DOLLARS



Norman A. Pierce

MINNEAPOLIS, MINN. 7-15 1935 No. _____

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Propst \$ 100⁰⁰

One hundred dollars DOLLARS



Norman A. Pierce

MINNEAPOLIS, MINN. March 16 1937 No. 15

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme A. Probst \$64⁵⁰/₀₀

Exactly sixty-four dollars 50 00 DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. March 2 1937 No. 14

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme A. Probst \$18⁰⁰/₀₀

Exactly eighteen dollars 00 DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. April 1 1937 No. 16

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme A. Probst \$17⁰⁰/₀₀

Exactly seventeen dollars DOLLARS



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. April 12 1937 No. 17

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme A. Probst \$5⁰⁰/₀₀

Exactly five dollars DOLLARS



Mrs. Norman A. Pierce

PAID THROUGH CLEARING HOUSE
17-8 MINNEAPOLIS, MINN. 17-2

MAR 12 '37

PAY TO THE ORDER OF
ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61.29 MOBILE, ALA. 61.29
T. M. TAUL, Cashier

PAY ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
BANK OF MOBILE
MAR 11 1937
KING WHEAT CO. Cashier

17-8 MINNEAPOLIS, MINN. 17-2
CASH CO. WHEAT CASHIER
KANSAS CITY, MO.
MAR 22 1937
ALL PRIOR ENDORSEMENTS GUARANTEED
COMMENCE TRUST CO.
CLEARING HOUSE
18-1

Mr. Morgan & Co. Cash

0-26

0-24

Mr. Morgan & Co. Cash

18-1 CASH CO. WHEAT CASHIER
KANSAS CITY, MO.
MAR 22 1937
ALL PRIOR ENDORSEMENTS GUARANTEED
COMMENCE TRUST CO.
CLEARING HOUSE
18-1

PAY TO THE ORDER OF
ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61.29 MOBILE, ALA. 61.29
T. M. TAUL, Cashier

MAR 20 '37
PAY TO THE ORDER OF
ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61.29 MOBILE, ALA. 61.29
T. M. TAUL, Cashier

Mr. Morgan & Co. Cash

18-1 CASH CO. WHEAT CASHIER
KANSAS CITY, MO.
APR 10 1937
ALL PRIOR ENDORSEMENTS GUARANTEED
COMMENCE TRUST CO.
CLEARING HOUSE
18-1

PAY TO THE ORDER OF
ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61.29 MOBILE, ALA. 61.29
T. M. TAUL, Cashier

APR 8 '37
PAY TO THE ORDER OF
ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61.29 MOBILE, ALA. 61.29
T. M. TAUL, Cashier

Mr. Morgan & Co. Cash

18-1 CASH CO. WHEAT CASHIER
KANSAS CITY, MO.
APR 28 1937
ALL PRIOR ENDORSEMENTS GUARANTEED
COMMENCE TRUST CO.
CLEARING HOUSE
18-1

PAY TO THE ORDER OF
ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61.29 MOBILE, ALA. 61.29
T. M. TAUL, Cashier

APR 23 '37
PAY TO THE ORDER OF
ANY BANK OR BANKER
ALL PRIOR ENDORSEMENTS GUARANTEED
The Merchants National Bank of Mobile
61.29 MOBILE, ALA. 61.29
T. M. TAUL, Cashier

0-25

MINNEAPOLIS, MINN.

June 5, 1937 No. 21

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Probst \$15⁰⁰/₁₀₀

Exactly fifteen dollars DOLLARS

PAYABLE ONLY AT ITS MAIN OFFICE



Mrs. Norman A. Pierce

C

MINNEAPOLIS, MINN.

Feb. 2, 1937 No. 12

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Probst \$15⁰⁰/₁₀₀

Exactly fifteen dollars DOLLARS

PAYABLE ONLY AT ITS MAIN OFFICE



Mrs. Norman A. Pierce

MINNEAPOLIS, MINN.

January 5, 1937 No. 6

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Probst \$15⁰⁰/₁₀₀

Exactly fifteen dollars DOLLARS

PAYABLE ONLY AT ITS MAIN OFFICE



Mrs. Norman A. Pierce

C

MINNEAPOLIS, MINN.

July 10, 1936 No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme A. Probst \$8¹⁸/₁₀₀

Eight dollars and 18/100 DOLLARS

PAYABLE ONLY AT ITS MAIN OFFICE



Mrs. Norman A. Pierce

PAY ANY BANK OR BANKER
OR ORDER
FEB 10 1937
BANK OF FAIRHOPE
FAIRHOPE, ALA.
KIRBY WHARTON, Cashier
61-161

8-17
Mr. Mayme A. Porter
101 PAY ANY BANK OR BANKER
OR ORDER
FEB 15 1937
KANSAS CITY, MO.
W. W. LEAT, CASHIER
CASH COLT.
18-1

PAY ANY BANK OR BANKER
OR ORDER
FEB 10 1937
BANK OF FAIRHOPE
FAIRHOPE, ALA.
KIRBY WHARTON, Cashier
61-161

8-31
Mr. Mayme A. Porter
101 PAY ANY BANK OR BANKER
OR ORDER
FEB 15 1937
KANSAS CITY, MO.
W. W. LEAT, CASHIER
CASH COLT.
18-1

Mr. Mayme A. Porter
THE BANK OF FAIRHOPE
FAIRHOPE, ALA.
KIRBY WHARTON, Cashier
JAN 19 1937
ALL PRIOR ENDORSEMENTS GUARANTEED
PAY TO THE ORDER OF THE BANK OF FAIRHOPE

8-30
101 PAY ANY BANK OR BANKER
OR ORDER
FEB 15 1937
KANSAS CITY, MO.
W. W. LEAT, CASHIER
CASH COLT.
18-1

THE BANK OF FAIRHOPE
FAIRHOPE, ALA.
KIRBY WHARTON, Cashier
JAN 19 1937
ALL PRIOR ENDORSEMENTS GUARANTEED
PAY TO THE ORDER OF THE BANK OF FAIRHOPE

8-29
Mr. Mayme A. Porter
101 PAY ANY BANK OR BANKER
OR ORDER
FEB 15 1937
KANSAS CITY, MO.
W. W. LEAT, CASHIER
CASH COLT.
18-1

MINNEAPOLIS, MINN.

November 9 1936 No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme Propst

\$10⁰⁰

Ten and no

DOLLARS

Norman A. Pierce

MINNEAPOLIS, MINN.

8-12 1936 No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme Propst

\$15⁰⁰

Fifteen and no

DOLLARS

Norman A. Pierce

MINNEAPOLIS, MINN.

6-2 1936 No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme Propst

\$15⁰⁰

Fifteen and no

DOLLARS

Norman A. Pierce

MINNEAPOLIS, MINN.

May 11 1937 No. 19

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme Propst

\$15⁰⁰

Exactly fifteen dollars

DOLLARS

Mrs. Norman A. Pierce

MINNEAPOLIS, MINN. Dec. 5 1936 No. 2

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme A. Pierce \$10⁰⁰

Exactly ten dollars DOLLARS



Norman A. Pierce

6-21
P.N.

MINNEAPOLIS, MINN. Dec. 20 1935 No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme A. Pierce \$5⁰⁰

Five and no/100 DOLLARS



Norman A. Pierce

NO CASH
1935

MINNEAPOLIS, MINN. 10-8 1936 No.

FIRST NATIONAL BANK AND TRUST COMPANY 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF Mrs. Mayme A. Pierce \$10⁰⁰

Ten and no/100 DOLLARS



N.A. Pierce

N.P.
17-2

NO CASH
1936

Mr. Magazine A. D. Export

GREER'S NO. 26

W. J. Greer

PAID TO THE ORDER OF
KANSAS NATIONAL BANK OF MOBILE
DEF. 14 1936
CASH COLLECTOR
T. M. TAUL, Cashier
61-29 MOBILE, ALA.

A-33

PAID THROUGH
2 CLEARING HOUSE 2

PAID TO THE ORDER OF
KANSAS NATIONAL BANK OF MOBILE
DEC 31 1935
T. M. TAUL, Cashier
61-29 MOBILE, ALA.

JAN 2 1936
PAY TO THE ORDER OF
ANY BANK OR BANKER
KANSAS NATIONAL BANK OF MOBILE
JAN 18 1936
COMMERCIAL TRUST BANK OF MOBILE
T. M. TAUL, Cashier
61-29 MOBILE, ALA.

GREER'S NO. 26

Mr. Magazine A. D. Export
A-38

PAID TO THE ORDER OF
KANSAS NATIONAL BANK OF MOBILE
OCT 20 1935
T. M. TAUL, Cashier
61-29 MOBILE, ALA.

PAID TO THE ORDER OF
ANY BANK OR BANKER
FEDERAL RESERVE BANK
PRIOR ENDORSEMENTS
OCT 24 1935
FIRST NATIONAL BANK AND TRUST COMPANY
MINNEAPOLIS, MINN.
T. M. TAUL, Cashier
61-29 MOBILE, ALA.

A-34

Mr. Magazine A. D. Export

BAY MINETTE, ALA.

Jan. 24 1930 No.

BALDWIN COUNTY BANK

 61-258

Pay to the order of

Cash \$5⁰⁰/₁₀₀

Exactly five dollars Dollars

Alice Mae Propst

SMITHSONIAN INSTITUTION

MINNEAPOLIS, MINN. June 27 1935 No.

FIRST NATIONAL BANK AND TRUST COMPANY

 17-2
OF MINNEAPOLIS

PAY TO THE ORDER OF

Mrs. Mayme G. Propst \$7⁰⁰/₁₀₀

Exactly seven dollars DOLLARS



Mrs. Norman A. Pierce

No. 1034

MOBILE, ALA.

Aug 15 1932

RECEIVED OF Mrs. Mayme Propst

Five and 00/100 DOLLARS

by Mrs. Propst

MOBILE INFIRMARY

S 5/10

BY M. E. L.

THANKS

BAY MINETTE, ALA. Nov. 12 1929 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Cash \$ 15 ⁰⁰/₀₀
Exactly fifteen dollars Dollars
Alice Mae Propst

BAY MINETTE, ALA. Dec. 13 1929 No. _____

BALDWIN COUNTY BANK 61-258

PAY TO THE ORDER OF Cash \$ 10 ⁰⁰/₀₀
Exactly ten dollars DOLLARS
Alice Mae Propst

BAY MINETTE, ALA. Nov. 23 1929 No. _____

BALDWIN COUNTY BANK 61-258

PAY TO THE ORDER OF Cash \$ 5 ⁰⁰/₀₀
Exactly five dollars DOLLARS
Alice Mae Propst

BAY MINETTE, ALA. Nov. 23 1929 No. 9

BALDWIN COUNTY BANK 61-258

PAY TO THE ORDER OF Cash \$ 3 ⁰⁰/₀₀
Exactly three dollars DOLLARS
Alice Mae Propst

BAY MINETTE, ALA. May 7 1927 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Hodgeson Merve Co \$ 5⁹⁵
Five Dollars

Alice Mae Propst

BAY MINETTE, ALA. Jan. 11 1930 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Hagadorn and Crist \$ 15⁰⁰
Exactly fifteen dollars as Dollars

Alice Mae Propst

BAY MINETTE, ALA. Jan 11, 1930 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Mark Propst Jr. \$ 6⁰⁰
Exactly six dollars as Dollars

Alice Mae Propst

BAY MINETTE, ALA. July 25, 1920 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the
order of

Frank Propst \$ 25⁰⁰/₁₀₀

Twenty five dollars Dollars

Alice Mae Propst

BAY MINETTE, ALA. Feb. 8 1920 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the
order of

Frank Propst \$ 5⁰⁰/₁₀₀

Exactly five dollars Dollars

Alice Mae Propst

BAY MINETTE, ALA. Jan - 11 1920 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the
order of

J. P. Propst \$ 8⁰⁰/₁₀₀

Eight dollars Dollars

Alice Mae Propst

BAY MINETTE, ALA. Oct 5th 1929 No. _____

BALDWIN COUNTY BANK 61-258

PAY TO THE
ORDER OF

Mrs. S. P. Propst \$ 25⁰⁰/₁₀₀

BAY MINETTE, ALA. Oct 5th 1929 No. 1

BALDWIN COUNTY BANK 61-258

PAY TO THE ORDER OF

Mrs. S. R. Probst \$25⁰⁰/₁₀₀

Exactly twenty five dollars DOLLARS

Alice Mae Probst

BAY MINETTE, ALA. Dec. 26 1925 No. _____

BALDWIN COUNTY BANK 61-258

PAY TO THE ORDER OF

Mrs. F. P. Probst \$1⁰⁰/₁₀₀

One no 100 DOLLARS

Alice Mae Probst

SOUTHERN LITHO CO. MOBILE, ALA.

BAY MINETTE, ALA. Dec. 22 1925 No. _____

BALDWIN COUNTY BANK 61-258

PAY TO THE ORDER OF

Frank A. Probst \$1⁰⁰/₁₀₀

One 00 100 DOLLARS

Alice Mae Probst

SOUTHERN LITHO CO. MOBILE, ALA.

BAY MINETTE, ALA.

Nov. 1, 1920

1920 No.

BALDWIN COUNTY BANK

61-258

850

Pay to the order of

CENTRAL OPTICAL COMPANY, Inc.

\$

7.00

Eight dollars

50

00

Dollars

61-26

Alice Mae Probst

BAY MINETTE, ALA.

Jan. 9, 1920

1920 No.

BALDWIN COUNTY BANK

61-258

Pay to the order of

Frank A. Probst

\$

1.95

One dollar

25

00

Dollars

Alice Mae Probst

BAY MINETTE, ALA.

Wed 5,

1920 No.

BALDWIN COUNTY BANK

61-258

N.P.
61-1

Pay to the order of

Hagadorn and Co. Inc.

\$

15.00

Exactly fifteen dollars

Dollars

MARY THOMPSON
HAGADORN & CO. INC.

Alice Mae Probst

BAY MINETTE, ALA. Mar. 15 1927 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Frank A. Propst \$ 1⁰⁰/₁₀₀
Exactly one dollar — Dollars
Alice Mae Propst

BAY MINETTE, ALA. June 4 1927 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Frank A. Propst \$ 1⁰⁰/₁₀₀
One — Dollars
Alice Mae Propst

BAY MINETTE, ALA. June 2 1927 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Hodgson's Merc Co \$ 22¹⁵/₁₀₀
twenty two — Dollars
Alice Mae Propst

BALDWIN COUNTY BANK
6-1-258

BAY MINETTE, ALA. Jan 29 1920 No.

Pay to the order of

Frank Probst
\$ 3 00
Dollars

Exact by this check

BALDWIN COUNTY BANK
6-1-258

BAY MINETTE, ALA. Feb. 21 1920 No.

Pay to the order of

Joe Smith
\$ 1 50
Dollars

Alice Mae Probst

One dollar



Baldwin County Bank
Bay Minette, Alabama

Mobile Ala. May 2, 1931

Pay to the order of

Daniela Optical Company
\$ 8 00
Dollars

Eight dollars

To ~~The~~ **Mobile National Bank**

Frank Probst

Mobile, Ala. 6-1-34

POWERS PTC. CO., MOBILE, ALA.

BAY MINETTE, ALA. Feb. 8 1930 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Hagadorn and Crist **N.P.** 61-1 \$ 15⁰⁰/₁₀₀

Exactly fifteen dollars — Dollars

MANY THANKS
HAGADORN & CRIST

Rice Mac Popert

BAY MINETTE, ALA. Sept 13 1930 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Rice Mac Popert **N.S.** \$ 50⁰⁰/₁₀₀

Frank Popert — Dollars

N.P. 61-29

Frank Popert

\$ 50⁰⁶/₁₀₀ BAY MINETTE, ALA. Aug 9 1933

On the 9 day of Nov 1933, I, we, or either of us, promise to

pay to the order of **BALDWIN COUNTY BANK**, of Bay Minette, Alabama.

50.06 DOLLARS,

for value received, in gold coin of the United States of the present standard of weight and fineness.

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

The parties to this instrument, whether maker, endorser surety, or guarantor, each for himself, hereby severally waive as to this debt, or any renewal thereof, all rights of exemption under the Constitution and Laws of Alabama, as to personal property, and they each severally agree to pay all costs of collecting or secur-

\$ 50⁰⁰ ✓

BAY MINETTE, ALA.

Aug 9

193 9

On the 9 day of Nov

Nov

193 3

I, we, or either of us, promise

pay to the order of BALDWIN COUNTY BANK, of Bay Minette, Alabama.

Kitty & Mae L. O.

DOLLAR

for value received, in gold coin of the United States of the present standard of weight and fineness.

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

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

Witness _____ hand and seal the day above given.

Alice Mae Propp

Attest: _____

Attest: _____

(Seal)

(Seal)

(Seal)

Mobile, Ala., May 27 1930

Baldwin County Bank OF Bay Minette, Ala

PAY TO THE ORDER OF L. HAMMEL DRY GOODS CO. \$ 9 ¹⁵/₁₀₀

Nine dollars and no DOLLARS

I HEREBY REPRESENT THAT THE ABOVE AMOUNT IS ON DEPOSIT TO MY CREDIT IN SAID BANK FREE FROM ANY CLAIMS, AND RESERVED, AND I WILL RESERVE SAME FOR THIS CHECK

N.P.
61-25

Pd by Cash
Alice Mae Proppert
ADDRESS 753 Macomber St.
City of Ala

BAY MINETTE, ALA. May 31 1930 No. _____

BALDWIN COUNTY BANK 61-258

Pay to the order of Alice Mae Proppert \$ 25 ⁰⁰/₁₀₀

Twenty five & 00/100 Dollars

BAY MINETTE, ALA.

March 17 1934 No.

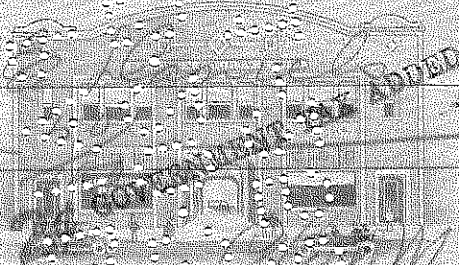


BALDWIN COUNTY BANK

61-258

PAY TO THE ORDER OF

Alvin &



\$ *11.50*
00

DOLLARS

W. M. Pierce
By W. M. Pierce

Insured against fraudulent alteration
KODAK SAFETY SUPPLY CO. INC.

BAY MINETTE, ALA.

Oct 12 1933 No. 8

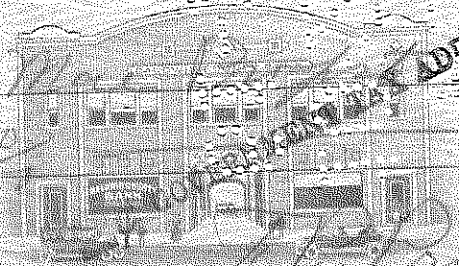


BALDWIN COUNTY BANK

61-258

PAY TO THE ORDER OF

Fifty & 00
00



\$ *5.00*
00

DOLLARS

W. M. Pierce

Insured against fraudulent alteration
KODAK SAFETY SUPPLY CO. INC.

BAY MINETTE, ALA.

March 17

19*34* No.

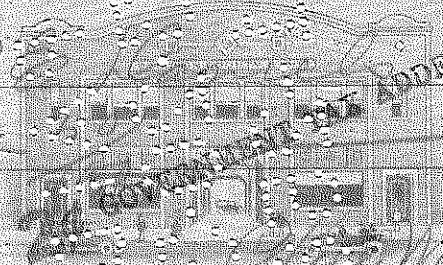


BALDWIN COUNTY BANK

61-258

PAY TO THE ORDER OF

Alvin & ...



PAID

\$ *11.00*

DOLLARS

*W. M. Pierce
By T. P. Propst*

Insured against fraudulent alteration
YOUR OWNERS SUPPLY THE INK

BAY MINETTE, ALA.

Dec 14

19*33* No.



BALDWIN COUNTY BANK

61-258

PAY TO THE ORDER OF

Twelve & ...



PAID

\$ *12.09*

DOLLARS

20
acct of Alvin M. Propst
T. P. Propst

Insured against fraudulent alteration
YOUR OWNERS SUPPLY THE INK

BAY MINNETTE, ALA.

19 23 No.

8

BALDWIN COUNTY BANK

61-258

PAY TO THE ORDER OF

\$ 50.00

DOLLARS

Insured against fraudulent alteration.
Your banker's name is on the back.



BAY MINNETTE, ALA.

19 23 No.

122

BALDWIN COUNTY BANK

61-258

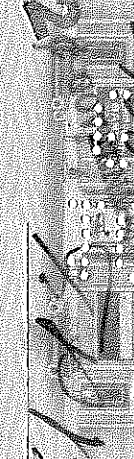
PAY TO THE ORDER OF

\$ 15.00

DOLLARS

Chester
Alice M. ...
...

Insured against fraudulent alteration.
Your banker's name is on the back.



...
...

BAY MINETTE, ALA.

7/20

1936 No.

BALDWIN COUNTY BANK

61-258

PAY TO THE ORDER OF

W. H. Hammett Bay Road. Cr. \$25 93

Twenty five 93 100

DOLLARS

Payable to Alice Mae Probst

F. P. Probst

BAY MINETTE, ALA.

Jan 23

1937 No.

BALDWIN COUNTY BANK

61-258

PAY TO THE ORDER OF

Louis Rogers Inc. \$12 00/100

Twelve 00/100

DOLLARS

Payable in full for Alice Mae Probst

F. P. Probst