

FIRST NATIONAL BANK
ALABAMA
MOBILE

No. 5

Mobile, Ala.,

August 15th 1928

Thirty months AFTER DATE, WITHOUT GRACE I PROMISE TO PAY TO THE ORDER OF

GEO. W. UNRUH, Trustee - - - - - \$ 122.50

One Hundred Twenty-two - - - - - & 50/100 DOLLARS

For Value Received, PAYABLE at the **First National Bank in Mobile, Ala.**

The Parties to this Instrument, whether Maker, Endorser, Surety, or Guarantor, each for himself, hereby severally agrees to pay this Note, and waives as to this debt all right of exemption under the Constitution and Laws of Alabama, or any other State, 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 them.

This is one of six interest notes secured by mortgage of even date herewith Thomas R. Riceman

Due February 15th 1931

Address 27 Lafayette St



Mr J. W. Richerson
Bay Minette
Ala.

WARREN W. WORCESTER,	:	
Executor,	:	
	:	
Complainant,	:	
	:	
-vs-	:	IN THE CIRCUIT COURT OF
	:	BALDWIN COUNTY, ALABAMA.
THOMAS S. McCALEB,	:	
	:	
Respondents.	:	IN EQUITY NO. _____
_____	:	

INTERROGATORIES PROPOUNDED TO E. M. KELLER,
A WITNESS FOR COMPLAINANT.

AS TO THE FIRST INTERROGATORY, HE SAITH:

"My name is Emanuel Keller and my present address is Rural Route 1, Box 459, Miami, Florida. During 1906 I resided in Baldwin County."

AS TO THE SECOND INTERROGATORY, HE SAITH:

"Yes, sometime during the year 1906."

"No."

"When I first went there, I lived about half a mile from said land."

AS TO THE THIRD INTERROGATORY, HE SAITH:

"Yes, he was my father."

"Yes."

AS TO THE FOURTH INTERROGATORY, HE SAITH:

"Yes, they were my sister and brother-in-law."

"Mrs. Emma Kimmell died sometime during 1920."

"Yes, she acquired the land from my father about 1907."

AS TO THE FIFTH INTERROGATORY, HE SAITH:

"A man by the name of McCaleb bought the property from my sister. I do not know his full name. I do not know the particulars of the transaction."

AS TO THE SIXTH INTERROGATORY, HE SAITH:

"Yes, he bought the property about 1907."

AS TO THE SEVENTH INTERROGATORY, HE SAITH:

"I do not know."

AS TO THE EIGHTH INTERROGATORY, HE SAITH:

"I hauled wood on the property by authority of my sister."

AS TO THE NINTH INTERROGATORY, HE SAITH:

"When I was up there, I watched the land and no timber was cut or hauled."

AS TO THE TENTH INTERROGATORY, HE SAITH:

"Yes, I bought and moved on land adjoining on the north of said land, about 1905. I never cut any timber."

AS TO THE ELEVENTH INTERROGATORY, HE SAITH:

"Yes, he is my brother."

"No."

"He was living about four months ago and I believe his address is Neck City, Missouri."

AS TO THE TWELFTH INTERROGATORY, HE SAITH:

"As long as I stayed there, I watched the lands."

"Joseph Keller, my father, left the property in the care of his sons. Joseph Keller owned the land."

AS TO THE THIRTEENTH INTERROGATORY, HE SAITH:

"I moved to Fairhope sometime during 1906."

"Nothing."

"I made no effort towards looking after the lands."

"I did nothing." "I can't say definitely, but I think it was about 1912 or 1913."

AS TO THE FOURTEENTH INTERROGATORY, HE SAITH:

"I did not visit said land after the sale."

AS TO THE FIFTEENTH INTERROGATORY, HE SAITH:

"Mrs. Pearl Johnson is my sister. Joseph Keller was my father. Yes, Arthur Sanderson was her first husband. I do not know."

AS TO THE SIXTEENTH INTERROGATORY, HE SAITH:

"I never heard."

E. M. Keller

*Witness.
J. P. Quinn*

Rafatsdale Ala

Jan 31/19/81

Sir J. P. Richardson

Baybunittela

Clerk Circuit Court

Dear Sir I am sending

you $\$10.00$ this morning

all I have and can get

I have did my best to get

it all but I like $\$1.85$

of having it all but will

send that next Saturday

morning with out fail.

asking you to wait on me

for the $\$1.85$ till next Saturday morning

I'll send it all then I remain

yours Truly

W. C. Kellam

Rafatsdale Ala

BAY MINETTE, ALA.

5/29/30

M J.W. Richardson Clerk

THE BALDWIN TIMES

PUBLISHED IN THE LAND OF THE GOLDEN SATSUMA

SUBSCRIPTION \$2.00 PER YEAR IN ADVANCE
ADVERTISING RATES GIVEN ON APPLICATION

5/29. Notice of Thos M. Cobb vs W.W. Worcester
Run 5/29 - 6/15 - 12 - 19 - 996 nos 4 1/2

44⁸²
-

D. Hogan Atty
P.F. Mc Miller Atty

THE BALDWIN TIMES

PRINTED IN THE LAND OF THE GOLDEN SATSUMA

SUBSCRIPTION \$2.00 PER YEAR IN ADVANCE
ADVERTISING RATES GIVEN ON APPLICATION

NOTICE

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

THOMAS S. MCCALED, Cross-
Complainant, VS.

WARREN W. WORCESTER, individ-
ually, and as Executor, and V. L.
Pickens, and against the Southwest
quarter of Section 10, Township 7
south, range 2 East, Baldwin County,
Alabama. Cross-Respondents.

Notice is hereby given that, in the
above entitled suit, a cross-bill has
been filed by Thomas S. McCaleb
against the Southwest quarter of Sec-
tion 10, Township 7 South, Range 2
East, Baldwin County, Alabama,
against Warren W. Worcester, individ-
ually, and as executor of the last
Will and Testament of George H.
Hoyle, deceased, and V. L. Pickens, to
establish the title to said lands in said
Thomas S. McCaleb; that said
Thomas S. McCaleb claims to own
said lands under a warranty deed
from Oscar O. Kimmel and wife dated
April 30th, 1912, and recorded in Deed
Book 19 N. S., page 198, of the Pro-
bate Records of Baldwin County,
Alabama, conveying said lands to said
Thomas S. McCaleb; that title of the
said Oscar O. Kimmel to said lands
was derived through the following
conveyances viz: Certificate of entry
No. 15012, dated March 5th, 1858, and
recorded in Tract Book No. 1 page
902, Probate Records of Baldwin
County, in behalf of George E. Sher-
win; certificate of entry No. 138, dated
July 20th, 1858, recorded in Tract
Book No. 1 page 209, Probate Records
of Baldwin County, Alabama, in be-
half of George E. Sherwin; patent
from the United States of America to
George E. Sherwin, dated the 1st day
of February, 1860, conveying the east
half of the Southwest quarter of Sec-
tion 10, in Township 7 South, Range
2 East, in the district of lands, sub-
ject to sale at St. Stephens, Alabama;
Patent from the United States of
America to George E. Sherwin, dated
the 15th day of August, 1860, convey-
ing the west half of the Southwest
quarter of Section 10, Township 7
South of Range 2 East, of the district
of lands, subject to sale at St. Stevens
Alabama; deed from George E. Sher-
win and wife to F. J. McCoy, dated
April 7th, 1858, recorded in Deed
Book G pages 415-416, Probate Records
of Baldwin County, Alabama, convey-
ing the Southwest quarter of Section
10, Township 7 South, of Range 2
East, Baldwin County, Alabama; War-
ranty deed made by F. J. McCoy to
Allen and James R. Grist, dated June
28th, 1858, recorded in Deed Book H,
pages 195-196; warranty deed made by
Grist and Hughes to Isaac W. Hughes
dated April 14, 1868, recorded in Book
1 page 116; Power of Attorney from
Isaac W. Hughes to Theo. J. Hughes,
dated February 27, 1871, recorded in
Deed Book 1, page 504; mortgage by
Isaac W. Hughes to Marshall J.
Smith & Company dated March 11,

BAY MINETTE, ALA.

ALFIDAVIT OF PUBLICATION

STATE OF ALABAMA,
BALDWIN COUNTY.

R. B. Vail

being duly sworn, deposes and says that he is
the PUBLISHER of THE BALDWIN TIMES, a Weekly Newspaper published at Bay

Minette,, Baldwin County, Alabama; that the notice hereto attached of _____

Thos. M. Cahh

75

W. W. Worcester

Was published in said Newspaper for *4* consecutive weeks in the following

May 29 1930

Vol. *41* No. *17*

June 5 1930

Vol. *41* No. *18*

June 12 1930

Vol. *41* No. *19*

June 19 1930

Vol. *41* No. *30*

75

before the undersigned this _____ day of

Sept 30 192

R. B. Vail

Publisher.

County Court

October 18th, 1870, recorded in Book K., pages 45-47; Statutory warranty deed by Isaac W. Hughes to Zophar Mills, dated May 3rd, 1873, recorded in Book J., pages 705-707; Release of dower by Annie M. Hughes, wife of Isaac W. Hughes, to Zophar Mills, dated May 3rd, 1873, recorded in Book J., Pages 707-8; Quit claim deed by Zophar Mills and wife to John Bowen, dated December 31st, 1881, recorded in Book M., pages 542-3; Will of John Bowen, recorded in Will Book 6, pages 284, Mobile County Records; Statutory warranty deed by Executor of John Bowen to George C. Black, dated January 2nd, 1903, recorded in Deed Book 5 N. S., Pages 635-6; Warranty deed dated April 26th, 1904, by George C. Black and wife to Joseph Keller, recorded in Deed Book 7 N. S., page 244; Warranty deed by Joseph Keller and wife to Oscar O. Kimmel, dated December 19th, 1904, recorded in Deed Book 8 N. S., page 103; that cross complainant also claims said lands under the following conveyances, viz: T. S. McCaleb by C. E. Eubanks, Sheriff, to D. P. Bestor, Jr., dated February 12th, 1917, recorded in Deed Book 26 N. S., page 103; Statutory warranty deed by D. P. Bestor, Jr. and wife to T. S. McCaleb, dated March 2nd, 1917, recorded in Deed Book 28, N. S., page 99. That the title to said lands, as shown by said cross-bill, stands in the name of Thomas S. McCaleb on the records of the Probate Court of Baldwin County; that, as shown by said cross-bill, Thomas S. McCaleb has paid the State and County taxes on said lands, continuously, for the ten years next preceding the filing of said cross-bill, and no one else other than the said Thomas S. McCaleb has paid taxes on said lands during said period, and that, as shown by said cross-bill said Thomas S. McCaleb has been in possession of said lands continuously during the ten years next preceding the filing of the cross bill; or, if, this be true, then no one, has been in possession of said lands at any time within the ten years next preceding the filing of the cross-bill.

T. W. RICHEKSON.

I hereby certify that the foregoing is a correct copy of the notice of the pendency of said cross-bill, drawn and signed by me as Register of the Circuit Court of Baldwin County, Alabama.

T. W. RICHEKSON,
 Register of the Circuit Court of
 Baldwin County, Alabama. 17-4t

Not correct

*Filed Sept 10, 1930
T. W. Richekson
Register*

ALABAMA REGISTER OF PROBATE

ALABAMA REGISTER OF PROBATE

PUBLISHED IN THE FUND OF THE GOLDEN GUILD

THE BALDWIN TIMES

ESTABLISHED 1882

Largest Weekly Circulation in South Alabama

Bay Minette, Ala.,

August 4th, 1920

M

Warren W. Worcester, Executor, Complainant

vs

Thomas M. McCaleb, et al Defendants

THE BALDWIN TIMES

ABNER J. SMITH, PROPR.

FINE JOB PRINTING. BEST ADVERTISING MEDIUM

PROMPT SERVICE. LOWEST PRICES.

LOCAL AND LONG DISTANCE TELEPHONE

All Bills Must Be Paid Within 30 Days

To publishing Non-Resident Notice in issues of July 8th,
15th, 22nd and 29th, 1920:

213 words @ 4½¢ per word..... \$9.58

THE BALDWIN TIMES

ABNER J. SMITH, PROPRIETOR

DEVOTED TO THE INTEREST OF BALDWIN COUNTY AND HER PEOPLE

PUBLISHED EVERY THURSDAY

SUBSCRIPTION: \$1.00 PER YEAR IN ADVANCE

ADVERTISING RATES ON APPLICATION

TELEPHONE NO. 7, LOCAL AND LONG DISTANCE

BAY MINETTE, ALA.,

AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,
BALDWIN COUNTY.

ABNER J. SMITH, being duly sworn, deposes and says that he is the PUBLISHER of THE BALDWIN TIMES, a Weekly Newspaper published at Bay Minette, Baldwin County, Alabama; that the notice hereto attached of

Notice to Non-Resident.

Warren W. Worcester, Executor, Complainant, vs. Thomas N. McCaleb, and D. P. Bestor, Jr., Defendants. No. 238.
The State of Alabama, Baldwin County. Circuit Court, in Equity. This the 8th day of July, 1920.

In this cause it being made to appear to the Clerk of this Court by the affidavit of S. P. Gaillard, Jr., one of the Attorneys for Complainant, that the Defendant, Thomas N. McCaleb, is a non-resident of the State of Alabama, that he is informed and believes that said defendant resides and lives at 715 Redgate Avenue, Norfolk, Va., and further, that, in the belief of said Affiant the Defendant is over the age of 21 years; it is, therefore, ordered that publication be made in The Baldwin Times, a newspaper published in Bay Minette, Baldwin County, Alabama, once a week for four consecutive weeks, requiring the said Thomas N. McCaleb, to answer or demur to the Bill of Complaint in this cause by the 9th day of August, 1920, for the Southwest Quarter of Section 10, Tp 7 S. R. 2. E., in Baldwin County, Ala., or after thirty days therefrom a decree Pro Confesso may be taken against him.

T. W. Richerson,
Register.
Gaillard, Mahorner and Arnold,
Attys for Complainant. 21-4t

Notice to Non-Resident.

Warren W. Worcester, Executor, Complainant, vs. Thomas N. McCaleb, and D. P. Bestor, Jr., Defendants. No. 238.
The State of Alabama, Baldwin County. Circuit Court, in Equity. This the 8th day of July, 1920.

Was published in said Newspaper for 4 consecutive weeks
issues:

Date of first publication	July 8th, 1920	Vol. 31	No. 21
“ “ second “	July 15th, 1920	Vol. 31	No. 22
“ “ third “	July 22nd, 1920	Vol. 31	No. 23
“ “ fourth “	July 29th, 1920	Vol. 31	No. 24

Subscribed and sworn to before the undersigned

this 3rd day of August 1920

T. W. Richerson
Clerk Circuit Court
Baldwin Co., Ala.

Abner J. Smith
Publisher.

WARREN W. WORCESTER,
Executor,

Complainant,

-vs-

THOMAS S. McCALEB,

Respondents.

NO. _____

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

CROSS - INTERROGATORIES PROPOUNDED BY

COMPLAINANT TO WITNESS - E. M. KELLER:

AS TO THE FIRST INTERROGATORY, HE SAITH:

"I was a farmer. No. No. "

"I resided on 80 acres of the northwest quarter (as to section and township, I am not sure) Baldwin County, Alabama."

"The last time I saw the land, it was rocked off."

AS TO THE SECOND INTERROGATORY, HE SAITH:

"I know that he bought the land but I do not know from whom he bought it." "No, I know that he actually owned this land." "He did

not do anything on the land." "There were 160 acres in the tract."

"I do not know the specific description of said lands."

AS TO THE THIRD INTERROGATORY, HE SAITH:

"My father gave the land to Mrs. Emma Kimmell, and made the deed out to her. She never did anything on the land. There were 160 acres, and she owned them all. I do not know the specific description."

AS TO THE FOURTH INTERROGATORY, HE SAITH:

"No one ever lived on the land. My brother and I had possession of it, taking care of the land for my sister. It was wild land when I lived there. To my knowledge, there was no hut on the land. I do not know. I do not know."

AS TO THE FIFTH INTERROGATORY, HE SAITH:

"He bought the land but did not live on it. No one ever lived on it to my knowledge. The land was never farmed to my knowledge and it would have to be broken for that purpose. They never did while I lived there. It is the custom but no one lived around there to bother it."

AS TO THE SIXTH INTERROGATORY, HE SAITH:

"Mark Keller helped to haul timber with me on authority of my sister. The storm blew quite a bit of the timber down."

AS TO THE SEVENTH INTERROGATORY, HE SAITH:

"By looking after the land, I mean keeping trespassers off the land. I looked after my own land at the same time."

AS TO THE EIGHTH INTERROGATORY, HE SAITH:

"Fairhope is about nine miles from the land. I went down there two or three times. About the time I moved to Fairhope, the land was sold and after that I never went near it."

AS TO THE NINTH INTERROGATORY, HE SAITH:

"While in Fairhope, I was a carpenter. From Fairhope, I came to Miami."

AS TO THE TENTH INTERROGATORY, HE SAITH:

"None. He only stayed there a year after I went there."

*Witness
J. P. Pritchard*

M Keller

COMMISSIONER'S CERTIFICATE.

I, G. S. Smith, Commissioner under the Commission heretofore issued out of the Circuit Court of Baldwin County, Alabama, sitting in equity in said cause, do hereby certify that under and by virtue of the power conferred upon me by said Commission, I caused the said E. M. Keller, a witness for the respondent, in said cause, who is known to me, and who is known to me to be the identical witness named in said deposition, to come before me at the office of BROWN & STOKES,
Attorneys, Seventh Floor, Ralston Building, Miami, Florida,
at two o'clock P.M., on the Eighteenth ^{day of April,} ~~Month~~ 1925 A. D.; that said witness was first duly sworn by me before testifying, as aforesaid, and that the foregoing direct and cross-interrogatories were propounded by me to him, and that he testified in response thereto as hereinabove written; that his testimony was by me reduced to writing as given by the said witness, and that said deposition was read over to said witness by me, and that he signed his name to said deposition.

I further certify that I am not of counsel or of kin to any of the parties to this cause, and am not in anywise interested in the result thereof.



G. S. Smith
Commissioner.

The State of Alabama, }
Baldwin County

CIRCUIT COURT.

To Hon. G. S. Smith, Miami Fla.

KNOW YE, That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine E. M. Keller, Route 1 Box 459 Miami Fla,

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

W. W. Worcester

is Complainant

and Thomas S. Mc Calbb

is Defendant,

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

Witness 10th day of March 1925

T. W. Reel

Register.

Commissioners Fee \$ 25.00

Witness Fee's \$ 5.00



No.....

THE STATE OF ALABAMA,

Baldwin

County.

CIRCUIT COURT.

W.W.Worcester

Complainant.....

vs.

Thomas S. Mc Caleb,

Defendant.....

COMMISSION TO TAKE DEPOSITION
ON INTERROGATORIES.

COMMISSIONER:

Hon. G. S. Smith,

Miami Fla.

WITNESSES:

E. M. Keller, Route 1 bx 459

Miami Fla.



JESSE F. HOGAN
LAW OFFICES
427-428 FIRST NATIONAL BANK BUILDING
MOBILE, ALA.

August 30, 1930

Hon. T. W. Richerson,
Day Minette, Ala.

Dear Mr. Richerson:-

I am enclosing herewith some additional interrogatories to be propounded to Major McCaleb. Service has been accepted by the adverse parties. As soon as cross-interrogatories have been filed or ten days from acceptance of service, please send the original and cross interrogatories to Mr. Gaston J. Wiltz, 204 Lameuse st., Biloxi, Miss.

Very truly yours,

Jesse F. Hogan

Commission issued Sept 10/1930

No cross interrogatories filed

J. M. R...

JESSE F. HOGAN

WALTER MITCHELL, JR.

HOGAN & MITCHELL
ATTORNEYS
AND COUNSELLORS-AT-LAW
FIRST NATIONAL BANK BUILDING
MOBILE, ALA.

June 24, 1925.

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

Dear Mr. Richerson:

We are enclosing herewith an amended answer and cross-bill in the case of Warren W. Worcester vs. Thomas S. McCaleb; I have also delivered a copy of each to McMillan & Grove, Solicitors for Complainants.

Very truly yours,

HOGAN & MITCHELL,

By

Jesse F. Hogan

HOGAN & MITCHELL

ATTORNEYS
AND COUNSELLORS-AT-LAW
FIRST NATIONAL BANK BUILDING
MOBILE, ALA.

June 25, 1925.

Hon. T. W. Richerson,
Clerk Circuit Court,
Bay Minette, Alabama.

Dear Sir:

We are enclosing herewith a notice of the pendency of a cross-bill as required by Sections 9914-9917, Code 1923. Will you not please advise us at once, the cost of publishing this notice in the Baldwin County Times, so that we may collect the same from Major McCaleb.

You will observe that a copy of this notice must be served on the named defendants, and that another copy certified by you as being correct, shall be recorded as a lis pendens in the office of the Probate Judge.

Section 9915 of the Code, apparently authorizes you to prepare this notice without an order from the Judge. It occurred to me, however, that on the analogy of the notice of publication, it might be appropriate, if not necessary, for the Judge to order this notice to be given. I have prepared such an order, which may be submitted to Judge Leigh.

Very truly yours,

HOGAN & MITCHELL,

By Jesse F. Hogan

JESSE F. HOGAN
LAW OFFICES
427-428 FIRST NATIONAL BANK BUILDING
MOBILE, ALA.

NOV. 26, 1930.

Hon. T. W. Richerson,
Register Circuit Court,
Bay Minette, Ala.

Dear Sir:

In re; Worcester vs. McCaleb

I am enclosing herewith note of evidence for the respondent and cross complainant, which I shall be glad for you to sign and put in the file.

I am also enclosing an agreement of counsel with reference to the revivor of the cross bill, together with form for such an order. If this seems to be in due form I shall be glad for you to sign it and put in the file.

I am also enclosing an agreement of counsel that the cause may be submitted for final decree.

Very truly yours,

Jesse F. Hogan

JESSE F. HOGAN
LAW OFFICES
427-428 FIRST NATIONAL BANK BUILDING
MOBILE, ALA.

Feb. 24, 1931.

Hon. T. W. Richerson,
Bay Minette, Ala.

Dear Sir:

In re: Worcester vs. McCaleb

I am enclosing herewith an appeal bond in this cause.

If it is possible for you to make an estimate of the cost of the transcript in this case, I shall be glad to have you advise me what the cost of same would be. I advised my client that I did not think the costs of the appeal would exceed \$100.00; that to cover everything.

Very truly yours,

JESSE F. HOGAN,

JFH

SMITHS, YOUNG, LEIGH & JOHNSTON
LAWYERS
622-629 CITY BANK BUILDING
MOBILE, ALA.

GREGORY L. SMITH
WILLIAM J. YOUNG
NORVELLE R. LEIGH, JR.
HARRY H. SMITH
SAMUEL M. JOHNSTON

January 2nd 1924,

Mr. T. W. Richerson,
Clerk Circuit Court,
Bay Minette, Alabama,

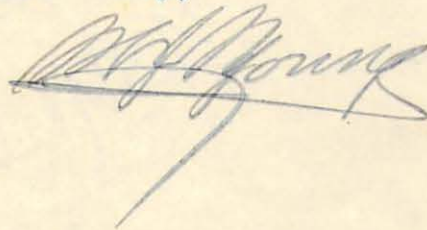
Dear Sir:

I am returning herewith the file in the case of Worcester vs McCaleb. The answer and disclaimer of Mr Bestor should have been marked re-filed the same date as the answer of Mr McCaleb. Please sign the memoranda showing such re-filing. Kindly acknowledge receipt of the papers and oblige,

Yours truly,

Enclosure

Registered Mail.



of the district of lands, subject to sale at St. Stevens, Alabama; Deed from George E. Sherwin and wife to F. J. McCoy, dated April 7th, 1858, recorded in Deed Book G pages 415-416, Probate Records of Baldwin County, Alabama, conveying the southwest quarter of Section 10, Township 7 South of Range 2 East, Baldwin County, Alabama; Warranty deed made by F. J. McCoy to Allen and James R. Grist, dated June 26th, 1858, recorded in Deed Book H., pages 195-196; Warranty deed made by Grist and Hughes to Isaac W. Hughes dated April 14, 1868, recorded in Book I page 116; Power of Attorney from Isaac W. Hughes to Theo. J. Hughes, dated February 27, 1871, recorded in Deed Book I., page 504; Mortgage by Isaac W. Hughes to Marshall J. Smith & Company dated March 11, 1871, recorded in Book I. 506-7; Mortgage by James R. Grist to Zophar Mills, dated February 3, 1868, recorded in Book I, page 221; Official deed James Gillette, Register in Chancery, to Isaac W. Hughes, dated October 16th, 1870, recorded in Book K., pages 45-47; Statutory warranty deed by Isaac W. Hughes to Zophar Mills, dated May 3rd, 1873, recorded in Book J., pages 705-707; Release to Dower by Annie M. Hughes, wife of Isaac W. Hughes, to Zophar Mills, dated May 3rd, 1873, recorded in Book J., pages 707-8; Quit-claim deed by Zophar Mills and wife to John Bowen, dated December 31st, 1881, recorded in Book M., pages 542-3; Will of John Bowen, recorded in Will Book 6, pages 284, Mobile County Records; Statutory Warranty deed by Executor of John Bowen to George C. Black, dated January 2nd, 1903, recorded in Deed Book 5 N. S., pages 625-6; Warranty deed dated April 26th, 1904, by George C. Black and wife to Joseph Keller, recorded in Deed Book 7 N. S., page 244; Warranty deed by Joseph Keller and wife to Oscar C. Kimmel, dated December 19th, 1904, recorded in Deed Book 8 N. S., page 103; that cross-complainant also claims said lands under the following conveyances, viz: T. S. McCaleb by C. E. Eubanks, Sheriff, to D. P. Bestor, Jr., dated February 12th, 1917, recorded in Deed Book 26 N. S., page 103; Statutory Warranty deed by D. P. Bestor, Jr., and wife to T. S. McCaleb, dated March 2nd, 1917, recorded in Deed Book 26 N. S. page 99.

221
That the title to said lands, as shown by said cross-bill, stands in the name of Thomas S. McCaleb on the Records of the Probate Court of Baldwin County; that, as shown by said cross bill, Thomas S. McCaleb has paid the State and County taxes on said lands, continuously, for the ten years next preceding the filing of said cross-bill, and no one else other than the said Thomas S. McCaleb has paid taxes on said lands during said period, and that, as shown by said cross-bill said Thomas S. McCaleb has been in possession of said lands continuously during the ten years next preceding the filing of the cross-bill; or, if this be not true, then no one has been in possession of said lands at any time within the ten years next preceding the filing of the cross-bill.

T. W. Patterson, Register

THOMAS S. McCaleb,

Cross-complainant,

-vs-

WARREN W. WORCESTER,
individually, and as Executor, and
V. L. PICKENS, and against the
Southwest quarter of Section 10,
Township 7 South, Range 2 East,
Baldwin County, Alabama.

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

Notice is hereby given that, in the above entitled suit, a cross-bill has been filed by Thomas S. McCaleb against the southwest quarter of Section 10, Township 7 South, Range 2 East, Baldwin County, Alabama, against Warren W. Worcester, individually, and as Executor of the last will and testament of George H. Hoyle, deceased, and V. L. Pickens, to establish the title to said lands in said Thomas S. McCaleb; that said Thomas S. McCaleb claims to own said lands under a warranty deed from Oscar C. Kimmel and wife dated April 30th, 1912, and recorded in Deed Book 19 N. S. page 198, of the Probate Records of Baldwin County, conveying said lands to said Thomas S. McCaleb; that title of the said Oscar C. Kimmel to said lands was derived through the following conveyances, viz: Certificate of entry No. 15012, dated March 5th, 1858, and recorded in Tract Book No. 1 page 902, Probate Records of Baldwin County, in behalf of George E. Sherwin; certificate of entry No. 138, dated July 20th, 1858, recorded in Tract Book No. 1 page 209, Probate Records of Baldwin County, Alabama, in behalf of George E. Sherwin; Patent from the United States of America to George E. Sherwin, dated the 1st day of February, 1860, conveying the east half of the southwest quarter of Section 10, in Township 7 South of Range 2 East, in the district of lands, subject to sale at St. Stevens, Alabama; Patent from the United States of America to George E. Sherwin, dated the 15th day of August, 1860, conveying the west half of the southwest quarter of section 10, Township 7 South of Range 2 East,

of the district of lands, subject to sale at St. Stevens, Alabama; Deed from George E. Sherwin and wife to F. J. McCoy, dated April 7th, 1858, recorded in Deed Book G pages 415-416, Probate Records of Baldwin County, Alabama, conveying the southwest quarter of Section 10, Township 7 South of Range 2 East, Baldwin County, Alabama; Warranty deed made by F. J. McCoy to Allen and James R. Grist, dated June 28th, 1858, recorded in Deed Book H., pages 195-196; Warranty deed made by Grist and Hughes to Isaac W. Hughes dated April 14, 1868, recorded in Book I page 116; Power of Attorney from Isaac W. Hughes to Theo. J. Hughes, dated February 27, 1871, recorded in Deed Book I., page 504; Mortgage by Isaac W. Hughes to Marshall J. Smith & Company dated March 11, 1871, recorded in Book I. 506-7; Mortgage by James R. Grist to Zophar Mills, dated February 3, 1868, recorded in Book I, page 221; Official deed James Gillette, Register in Chancery, to Isaac W. Hughes, dated October 18th, 1870, recorded in Book K., pages 45-47; Statutory warranty deed by Isaac W. Hughes to Zophar Mills, dated May 3rd, 1873, recorded in Book J., pages 705-707; Release to Dower by Annie M. Hughes, wife of Isaac W. Hughes, to Zophar Mills, dated May 3rd, 1873, recorded in Book J., pages 707-8; Quit-claim deed by Zophar Mills and wife to John Bowen, dated December 31st, 1881, recorded in Book M., pages 542-3; Will of John Bowen, recorded in Will Book 6, pages 284, Mobile County Records; Statutory Warranty deed by Executor of John Bowen to George C. Black, dated January 2nd, 1903, recorded in Deed Book 5 N. S., pages 635-6; Warranty deed dated April 26th, 1904, by George C. Black and wife to Joseph Keller, recorded in Deed Book 7 N. S., page 244; Warranty deed by Joseph Keller and wife to Oscar O. Kimmel, dated December 19th, 1904, recorded in Deed Book 8 N. S., page 103; that cross-complainant also claims said lands under the following conveyances, viz: T. S. McCaleb by C. E. Eubanks, Sheriff, to D. P. Bestor, Jr., dated February 12th, 1917, recorded in Deed Book 26 N. S., page 103; Statutory Warranty deed by D. P. Bestor, Jr., and wife to T. S. McCaleb, dated March 2nd, 1917, recorded in Deed Book 28 N. S. page 99.

That the title to said lands, as shown by said cross-bill, stands in the name of Thomas S. McCaleb on the records of the Probate Court of Baldwin County; that, as shown by said cross bill, Thomas S. McCaleb has paid the State and County taxes on said lands, continuously, for the ten years next preceding the filing of said cross-bill, and no one else other than the said Thomas S. McCaleb has paid taxes on said lands during said period, and that, as shown by said cross-bill said Thomas S. McCaleb has been in possession of said lands continuously during the ten years next preceding the filing of the cross-bill; or, if this be not true, then no one has been in possession of said lands at any time within the ten years next preceding the filing of the cross-bill.

23
170

T. W. Sullivan

THOMAS S. McCALEB,

Cross-Complainant,

-vs-

WARREN W. WORCESTER,
individually, as as Executor,
and V. L. PICKENS, and against
the southwest quarter of Section
10, Township 7 South, Range 2
East, Baldwin County, Alabama.

Cross Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Come now Jesse F. Hogan, Esq., as solicitor for Thomas S. McCaleb, Gaillard, Mahorner & Gaillard, Esqs., as Solicitors for V. L. Pickens, and B. F. McMillan, Jr., Esq., as Solicitor for Warren W. Worcester, individually, and as Executor, and agree that the depositions of Clarence O. White, Hugh Lowell and Thomas S. McCaleb, witnesses for Cross Complainant, heretofore taken in this cause, may be introduced in evidence by the Cross Complainant, subject to all legal objections except that the cause was not at issue when said depositions were taken, and that the depositions were not signed by the respective witnesses, and that said depositions were not read by the Commissioner to the respective witnesses, the right to make all other legal objections being expressly reserved to the Cross Respondents.

Dated this 10th day of August, 1930.

Jesse F. Hogan
Solicitor for Cross Complainant,

Gaillard Mahorner Gaillard
Solicitor for v. L. Pickens,

B. F. McMillan, Jr.
Solicitor for Warren W. Worcester,
individually, and as Executor.


WARREN W. WORCESTER
EXECUTOR.
COMPLAINANT.

VS.

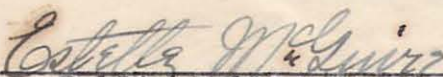
THOMAS N. McCALEB &
D. P. BESTOR.
RESPONDENTS.

STATE OF ALABAMA.)
COUNTY OF MOBILE.)

Before me, Estelle McGuire, a Notary Public in and for said County and State, personally appeared S. P. Gaillard Jr., who being by me first duly sworn, deposes and says that he is one of the solicitors of the complainant in the above entitled cause. Affiant further states that he is informed and believes and upon his information and belief so alleges and states that the defendant Thomas N. McCaleb is over the age of twenty-one years and a non resident of the State of Alabama. Affiant also says that he is informed and believes that said defendant resides and lives at 715 Redgate Ave., Norfolk, Virginia.



Subscribed and sworn to before me
this the 1st day of July, 1920.


Notary Public, Mobile County, Alabama.



Warren W. Worcester,

vs.

Thomas N Mc Caleb and D.P. Bestro, Jr.,

CIRCUIT COURT OF

Baldwin COUNTY,
IN EQUITY.

I, T.W. Richerson,

Register of said Court. do hereby certify that I

did, on the 24th day of June, 1920, send to

Thos N Mc Caleb, ~~715 Redgate Ave, Norfolk Va,~~ Defendant

whose address was 715 Redgate Ave, Norfolk Va,

by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," a copy of the

Bill of Complaint filed in this cause; that I demanded a return receipt addressed to the Register of this Court;

and that such receipt was duly received and filed by me in this cause, on the 30th, day of

June, 1920.

Witness my hand, this 30th day of June, 1920, 19

T.W. Richerson

500
No. 238.

CIRCUIT COURT OF

Baldwin COUNTY,
IN EQUITY.

Warren W Worcester,

vs.

Thomas N Mc Caleb

and D.P. Bestor, jr.

CERTIFICATE OF REGISTER AS TO
NOTICE BY REGISTERED MAIL.

Filed in office on this 30th

day of June, 1920, 19

T. W. Richardson
Register.

RECORDED



Baldwin

The State of Alabama, Mobile County

W.W. Worcester
as Executor of Hoyle Complainant

No. vs.

Thomas McCall
et al Defendant

Baldwin
Circuit Court of Mobile County

IN EQUITY.

The Plaintiff

requests the oral examination of the following named witness

on his behalf, viz.: *J.W. Pratt*

- W.W. Worcester*
- John W. Lea*
- V. L. Pickens*
- E. S. Wilson*
- Harry H. Parker*
- J. Mc Coy*

Wm Youille

said witnesses reside in the County of *Baldwin*

State of Alabama.

Stephen Carlin
who reside at *Mobile, Ala*

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

witnesses on such oral examination

Gullah Mahomed

Solicitor for *Plaintiff*

No.

Baldwin
Circuit Court of Mobile County
Bay Minette
Mobile, Alabama.

IN EQUITY.

Her Executor
.....
Executor
.....

vs.

Thomas Lee Cabel
.....
et al
.....

DEMAND FOR ORAL EXAMINATION

Filed *Jan 12* 1923.....

D. W. Williams
.....
Register.

LAW OFFICES OF
GAILLARD, MAHORN & GAILLARD
1102-3-4-5-6 MERCHANTS NATIONAL BANK BUILDING
MOBILE, ALABAMA

S. PALMER GAILLARD
MATTHIAS MAHORN
S. PALMER GAILLARD, JR.

July 14, 1930.

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

Dear Sir:

Will you kindly do us the favor of fixing our name to the answers to the cross-bill heretofore filed by McCaleb in the old suit of W. W. Worcester, complainant, vs. Thomas McCaleb, et al, recently prepared by Mr. McMillan on behalf of our client, Viva L. Pickens, and his clients the Worcesters. He was not able to present it to us before having to send it to you.

Kindly let this be your authority to fix our names as attorneys for Viva F. Pickens.

Yours very truly,

GAILLARD, MAHORN & GAILLARD,

BY, 

G:g:8

B. F. McMILLAN, JR.
ATTORNEY AT LAW
803-806 VAN ANTWERP BLDG.
MOBILE, ALABAMA

July 9th, 1930

Mr. T. W. Richerson, Clerk,
Circuit Court,
Bay Minette, Alabama.

Dear Tom:-

RE: Worcester vs McCaleb.

I don't know when the sixty days from date of Hogan's publication in the foregoing matter will expire but I know the time has not elapsed yet when he could take a decree pro confesso on his cross-bill. I have therefore prepared and herewith send answer signed by myself for the Worcester heirs. Mrs. Veva L. Pickens owns a one-fifth of the land and she is represented by Gaillard, Mahorner and Gaillard. I tried to see these gentlemen today to let them sign the answer for their client but was unable to do so. I think they will adopt the answer as I have prepared it and sign the same jointly with me but they may not do so and consequently I am leaving the line for their signatures blank and I am sending them a copy of this answer. If they so advise I will have their names signed to the answer as attorneys for Mrs. Pickens. In the meantime the enclosure will stand as the answer duly filed for the Worcester heirs. Please acknowledge receipt and tell me if you can and will when your non jury term will commence in August.

Yours very truly,

B. F. McMILLAN, JR.

Mc/M
Encls.

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 D.P. Bestor, Jr.

of Mobile, 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

Warren W. Worcester, Executor,

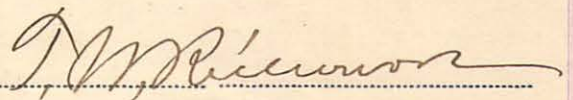
against said

D.P. Bestor, Jr and Thomas N Me Caleb,

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

WITNESS, T. W. Richerson, Register of said Circuit Court, this 24th, day of June, 1920.

.....192.....



Register.

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

Original
RECORDED (84)

Serve on D.P. Bestor, Jr,

Circuit Court of Baldwin County
In Equity

No. _____

SUMMONS

Warren W. Worcester, Executor.

vs. 3

Thomas N Mc Caleb and

D.P. Bestor Jr

serve copy on DP Bestor Jr mobile and

Gaillard. Mahorner and Arnold.

Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this _____
day of _____ 192__

Sheriff

Executed this 9 day of
July 192__

by leaving a copy of the within summons with

D.P. Bestor Jr

Defendant

Mahorner Jr

Sheriff

By *Mr. J. P. Gildgrem*
Deputy Sheriff

RECORDED

RECORDED

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 Warren W Worcester, as executor of the last
Will and Testament of George H Hoyle, deceased.

of Baldwin County, to be and appear before the Judge of the Circuit Court of Bald-

win County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer,

plead or demur, without oath, to a Cross Bill ~~Bill of Complaint~~ lately exhibited by Thomas Mc Caleb and D.P. Bestor, Jr,

against said Warren W Worcester, as executor of the last will and Testament of
of George H Hoyle, deceased.

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

WITNESS, T. W. Richerson, Register of said Circuit Court, this 16th, day of May 1921.
.....192.....

T. W. Richerson
Register.

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

Copy
Serve on *W. W. Worcester*
Fairhope
Circuit Court of Baldwin County
In Equity

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this _____
day of _____ 192

No. _____

SUMMONS

Sheriff

W. W. Worcester

Executed this *17* day of
May 1921

by leaving a copy of the within summons with

W. W. Worcester
Executive of W. P. Hoyle
Defendant

W. B. Stuart
Sheriff

vs.

By *B. D. Higgins*
Deputy Sheriff

Serve Copy on
W. W. Worcester
Fairhope Ala

Solicitor for Complainant

Recorded in Vol. _____ Page _____

RECORDED
RECORDED

RETURN RECEIPT

76399

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

[Handwritten signature]

(Signature or name of addressee.)

(Signature of addressee's agent.)

Date of delivery, 9/29/20, 19

Form 3811

05-6116

*Filed
June 30/1920
McGinnis
Registered*

Post Office Department
OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 1807.

INSURED PARCEL

No. _____

Return to

J. W. Pickerson

(NAME OF SENDER)

Street and Number, }
or Post Office Box, }

Post Office at

Daytonville,
Ala.

State



PENALTY FOR PRIVATE USE
TO AVOID PAYMENT OF
POSTAGE, \$300.

POSTMARK OF DELIVERING
OFFICE

AND DATE OF DELIVERY

In the Circuit Court of Baldwin
County, Alabama.

BROWN & STOKES

LAW OFFICES

MIAMI, FLORIDA

WARREN W. WORCESTER, Executor,
vs.
THOMAS S. McCALEB.

Deposition of witness, taken be-
fore me pursuant to notice and by
me herein inclosed, securely seal-
ed and hereon endorsed, and deposit-
ed in the United States Post Office,
duly addressed and postage prepaid by
me.

Henry P. ...
NOTARY PUBLIC, STATE OF FLORIDA.

Filed May 11th 1925

*T. M. Richerson
Register*

*opened by
Order Court
Aug 11th 1925*



*T. M. Richerson
Register*

Bay Minette,
Alabama.

To be opened



NOTICE TO NON-RESIDENT.

Warren W Worcester, Executor,

Complainant

No. 238.

vs.

Thomas N Mc Caleb and D.P. Bestor Jr.

Defendants

THE STATE OF ALABAMA,

Baldwin COUNTY.

CIRCUIT COURT, IN EQUITY.

This the 8th day of

July 1920

In this cause it being made to appear to the Clerk of this Court by the affidavit of S.P. Gaillard, Jr the one of Attorneys of Record, for Complainant,

that the Defendant Thomas N Mc Caleb

is a non-resident of the State of Alabama that he is informed and believes that said defendant resides and lives at 715 Redgate Ave, Norfolk Va.

and further, that, in the belief of said Affiant the Defendant is over the age of 21 years; it is, therefore, ordered that publication be made in the Baldwin Times, a newspaper published in Bay Minette, Baldwin County; Alabama, once a week for four consecutive weeks, requiring the said

Thomas N Mc Caleb,

to answer or demur to the Bill of Complaint in this cause by the 9th day of August, 1920, for the Southwest 1/4 of Sec 10, Tp 7 S.R.2.E in Baldwin Co, Ala. or after thirty days therefrom a decree Pro Confesso may be taken against him

T.W. Richerson,

Register.

Warren W. Worcester, executor,)
vs)
Thomas S. McCaleb, et., als.)

In the Circuit Court of Baldwin County, Alabama.

Comes the undersigned and moves the court for leave to withdraw their appearance as counsel for the defendant Thomas S. McCaleb.

*Smiths, Young, Leigh Johnston &
H. S. Anderson*

To be ³ omitted

RECORDED

Warren W. Worcester
as executor,

vs

T. S. McCaleb, et. al.

Withdrawal of appearance
by Smiths, Young, Leigh and
Johnston *A. J. Johnson*

Filed Jan 11th 1924
T. W. Richardson
Registrar

775 -
3
2325

*Warren W. Worcester
as executor
vs
T. S. McCaleb, et. al.
A. J. Johnson*

Harren W. Rice
Executor

vs.

Thomas W Mc Call
et al

THE STATE OF ALABAMA,
Baldwin COUNTY.

CIRCUIT COURT, IN EQUITY.
July Term, 19*20*

I, *J. W. Rice* Register of the Circuit Court of
Baldwin County, of the State of Alabama, hereby certify that on the affidavit

of *J. P. Galloway* one of

the attorneys for complainant

on the *8th* day of *July* 19*20*, an order of publication was made to

Thomas W Mc Call

who *is* non-resident.

who reside at *715 Redgate Ave Norfolk Va.*

and was published in the *Baldwin News*

a newspaper published in *Bay Minette Baldwin Ala.* once a week, for four

consecutive weeks, commencing on the *8th* day of *July* 19*20*, requiring

the said *Thomas W Mc Call*,

to answer or demur to the Bill of Complaint in the cause on the *7th* day of *Aug.*

19*20*, or in thirty days therefrom a decree Pro Confesso may be taken against

Thomas W Mc Call

And that a copy of said order was forwarded by mail, on the *10th* day of *July*

19*20*, addressed to *Thomas W Mc Call*

at *715 Redgate Ave Norfolk Va.*

and that one other copy of said order was posted at the Courthouse door of said County for four consecutive weeks,

commencing on the *9th* day of *July* 19*20*

J. W. Rice
Register.

600

No. *238*

THE STATE OF ALABAMA,

Baldwin County.

CIRCUIT COURT, IN EQUITY.

Warren G. Spencer

vs.

*Thomas K. Caldwell
et al*

CERTIFICATE OF PUBLICATION.

Filed in office this *3rd*
day of *August* 19 *24*

R. M. Cannon
Register.

RECORDED

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page]

of the district of lands, subject to sale at St. Stevens, Alabama; Deed from George E. Sherwin and wife to F. J. McCoy, dated April 7th, 1858, recorded in Deed Book G pages 415-416, Probate Records of Baldwin County, Alabama, conveying the southwest quarter of Section 10, Township 7 South of Range 2 East, Baldwin County, Alabama; Warranty deed made by F. J. McCoy to Allen and James R. Grist, dated June 28th, 1858, recorded in Deed Book H., pages 195-196; Warranty deed made by Grist and Hughes to Isaac W. Hughes dated April 14, 1868, recorded in Book I page 116; Power of Attorney from Isaac W. Hughes to Theo. J. Hughes, dated February 27, 1871, recorded in Deed Book I., page 504; Mortgage by Isaac W. Hughes to Marshall J. Smith & Company dated March 11, 1871, recorded in Book I. 506-7; Mortgage by James R. Grist to Zophar Mills, dated February 3, 1868, recorded in Book I, page 221; Official deed James Gillette, Register in Chancery, to Isaac W. Hughes, dated October 18th, 1870, recorded in Book K., pages 45-47; Statutory warranty deed by Isaac W. Hughes to Zophar Mills, dated May 3rd, 1873, recorded in Book J., pages 705-707; Release to Dower by Annie M. Hughes, wife of Isaac W. Hughes, to Zophar Mills, dated May 3rd, 1873, recorded in Book J., pages 707-8; Quit-claim deed by Zophar Mills and wife to John Bowen, dated December 31st, 1881, recorded in Book M., pages 542-3; Will of John Bowen, recorded in Will Book 6, pages 284, Mobile County Records; Statutory Warranty deed by Executor of John Bowen to George C. Black, dated January 2nd, 1903, recorded in Deed Book 5 N. S., pages 635-6; Warranty deed dated April 26th, 1904, by George C. Black and wife to Joseph Keller, recorded in Deed Book 7 N. S., page 244; Warranty deed by Joseph Keller and wife to Oscar O. Kimmel, dated December 19th, 1904, recorded in Deed Book 8 N. S., page 103; that cross-complainant also claims said lands under the following conveyances, viz: T. S. McCaleb by C. E. Eubanks, Sheriff, to D. P. Bestor, Jr., dated February 12th, 1917, recorded in Deed Book 26 N. S., page 103; Statutory Warranty deed by D. P. Bestor, Jr., and wife to T. S. McCaleb, dated March 2nd, 1917, recorded in Deed Book 28 N. S. page 99.

That the title to said lands, as shown by said cross-bill, stands in the name of Thomas S. McCaleb on the Records of the Probate Court of Baldwin County; that, as shown by said cross bill, Thomas S. McCaleb has paid the State and County taxes on said lands, continuously, for the ten years next preceding the filing of said cross-bill, and no one else other than the said Thomas S. McCaleb has paid taxes on said lands during said period, and that, as shown by said cross-bill said Thomas S. McCaleb has been in possession of said lands continuously during the ten years next preceding the filing of the cross-bill; or, if this be not true, then no one has been in possession of said lands at any time within the ten years next preceding the filing of the cross-bill.

T. W. Richardson Register

WARREN W. WORCESTER,
individually, and as Executor of
the Last Will and Testament of
George H. Hoyle, deceased, and
V. L. Pickens,

Complainants,

-vs-

THOMAS S. McCaleb,

Respondent.

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

Come now B. F. McMillan, Jr., Esq., Solicitor for
Warren W. Worcester, et al., Gaillard, Mahorner & Gaillard, Esqs.,
Solicitors for V. L. Pickens, and Jesse F. Hogan, Esq., Solicitor
for Thomas S. McCaleb, and agree that copies of the depositions
of Thomas S. McCaleb, Clarence O. White and Hugh E. Lowell, hereto
attached, may be substituted for the original depositions which
have been lost or misplaced, and shall be considered by the Court
as though they were the original depositions; and that no objections
shall be made thereto because they are not the original depositions,
nor because they were not signed by the respective witnesses or
read over to ~~them~~ the respective witnesses by the commissioner who
took the same; nor because of the want of the certificate of the
commissioner who took said depositions; nor because the case was
not at issue when said depositions were taken.

Dated this 1st day of October, 1930.

B. F. McMillan, Jr.

Solicitor for Warren W. Worcester,
et al.,

Gaillard Mahorner Gaillard

Solicitors for V. L. Pickens,

Jesse F. Hogan

Solicitor for Thomas S. McCaleb

Thomas S. McCaleb, a witness for the Respondent, having been first duly sworn by the Commissioner, testified in his own behalf, as follows:

DIRECT EXAMINATION BY JESSE F. HOGAN, Esq.,
Solicitor for Respondent.

My name is Thomas S. McCaleb. I am the respondent in the foregoing cause.

Q. When did your claim to this land first arise?

Complainant objects to the question because it calls for immaterial, incompetent and irrelevant testimony, and because it is not shown that he has any claim to the lands.

A. In 1912 - in the Spring of 1912.

It is agreed that, wherever a question is asked and an objection made, and the witness answers, a motion to exclude the answer on the ground stated in the objection shall be considered made.

My claim to this land begins with the writing which purports to be a deed dated the 30th day of April, 1912, from Oscar O. Kimmel and Emma M. Kimmel, his wife, to me, for the Southwest quarter of Section 10, Township 7 South, Range 2 East of St. Stephen's Meridian, in Baldwin County, Alabama.

Complainant moves to exclude the answer of the witness next above set forth, on the following grounds: The testimony is incompetent; 2nd, the witness undertakes to state the contents of the instrument not in evidence when the instrument itself is the best evidence; 3rd, it is not shown that the grantors in the deed had any title or possession in the land involved in this suit.

Q. State whether or not you entered into an agreement to purchase this land from Oscar O. Kimmel and Emma M. Kimmel, his wife, and if so, whether or not this instrument above referred to and which is marked Exhibit "A", was made in execution of that agreement of purchase?

Complainant objects to the question on each of the grounds next above assigned, and on the further ground that any agreement with reference to the purchase of land is void, unless in writing; and on the further ground that that part of the question calling for the answer: "As to whether the arrangement was made in execution of that agreement" calls for the conclusion of the witness.

A. I made the agreement with James Keller as the agent for Mr. Kimmel, and I paid him \$900.00 down on account of the purchase money, and the deed which I have referred to was given to me at the time I made this said cash payment on the purchase price.