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for the said Harry E. Miller, and that so far as she knows and to the best of her knowledge, information and belief, she has never joined with the said Harry E. Miller in executing the note alleged to the Loxley State Bank nor ever authorized H. L. McCain or anyone else to write any letter to the Loxley State Bank binding her for any obligation of said Harry E. Miller to the said Loxley State Bank, but that the truth of the matter is that the said Harry E. Miller, individually, borrowed money personally from the Loxley State Bank and did execute his personal note as evidencing such debt and that he alone is liable for the debt evidenced by said note, if there be any liability thereon.

Wherefore, these respondents having fully answered, they pray that the bill of complaint may be dismissed and that the complainant be taxed with the costs thereof.

Respectfully submitted,


ATTORNEYS FOR RESPONDENTS HARRY
E. MILLER and BERTHA N.
MILLER

J. H. WILLIAMS, as Superintendent
of Banks, Liquidating the Consoli-
dated State Bank,

Complainant

vs.

HARRY E. MILLER, BERTHA N. MILLER,
et al,

Respondents

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

Now come the respondents, Harry E. Miller and Bertha N. Miller, each separately and severally, and for answer to the bill of complaint filed in this cause say as follows:

That each and every material allegation of said bill of complaint is untrue.

Further answering the complaint, the said respondents, each separately and severally, say that the said Harry E. Miller did execute a mortgage to the Farmers & Merchants Bank and that the said Bertha N. Miller only executed said mortgage as the wife of said Harry E. Miller, and that at the time of the execution and delivery of said mortgage there was no agreement between the said Farmers & Merchants Bank and these respondents or with the Loxley State Bank that the said mortgage was executed or should be held for the benefit of the said Loxley State Bank; neither was there any agreement at said time that the said two banks should lend to the said Harry E. Miller and Bertha N. Miller the sum of Five Thousand (\$5,000.00) Dollars, but, to the contrary, that the mortgage was made through and solely to the Farmers & Merchants Bank and upon which there was advanced to the said Harry E. Miller a portion of the said Five Thousand (\$5,000.00) Dollars and which portion so advanced has been paid back to the said Farmers & Merchants Bank by the said Harry E. Miller, and that said Bertha N. Miller at no time borrowed any money upon said mortgage, and has never executed any note to the Loxley State Bank or its successors to evidence any such debt as that alleged in said bill of complaint; and said respondents

further deny that the said Loxley State Bank ever advanced to the said respondents the sum of Two Thousand (\$2,000.00) Dollars and took their note therefor, but, to the contrary, that the said Harry E. Miller did borrow from said Bank, individually, such a sum and executed his own note therefor and that his wife, the said Bertha N. Miller, at no time ever signed said note or ever had any agreement to sign said note, nor did either of them ever agree or authorize anyone to hold the above said mortgage as security for the loan made by the said Loxley State Bank to the said Harry E. Miller or that said mortgage should be and was executed for the benefit of said Loxley State Bank.

And the said respondents, each separately and severally, deny that the cashier of the Farmers & Merchants Bank was authorized to write any letter to the Loxley State Bank, and especially the letter bearing date of September 10, 1926, a copy of which is attached to the bill of complaint, neither did they know or consent for such a letter to be written nor was said letter written at their instance and direction, and that at the time of the writing of the letter they did not renew any note executed by the said parties jointly.

And further answering said bill of complaint the said Bertha N. Miller avers that at the time of the matters alleged in the bill of complaint she was the wife of Harry E. Miller and that at no time was any credit extended to her by the Farmers & Merchants Bank by reason of said mortgage nor did she receive any money whatsoever or other thing of value by reason of her executing said mortgage but that all she did in the premises touching the said mortgage and touching the said obligation of said Harry E. Miller to the said Farmers & Merchants Bank was done as his wife and that any agreement or contract or instrument she made or executed with the Loxley State Bank was simply as the wife of said Harry E. Miller and as security or surety

SUMMONS--ORIGINAL.

The State of Alabama, { Circuit Court of Baldwin County, In Equity.
Baldwin County.

To Any Sheriff of the State of Alabama--GREETING:

WE COMMAND YOU, That you summon Harry E. Miller, Bertha N. Miller,
Farmers & Merchants Bank, a corporation,

of Foley County, to be and appear before the Judge of the Circuit Court
of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by
J. H. Williams, as Superintendent of Banks, liquidating the Con -
solidated State Bank ,

against said Harry E. Miller, Bertha N. Miller, and the Farmers &
Merchants Bank, a Corporation,

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, M. A. Stone, Register of said Circuit Court, this 28th day of
August 1934

M. A. Stone Register

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

CIRCUIT COURT, BALDWIN COUNTY, ALA. IN EQUITY

No. 175

J.H. Williams
vs. Bonds

VS.

Harry Emiler
PLAINTIFF
DEFENDANT

BILL OF COSTS

FEES OF REGISTER	Dollars	Cents	Brought Forward	
Filing each bill and other papers	\$	10		\$ 520
Issuing each subpoena		50		
Issuing each copy thereof		40		
Entering each return thereof		15		
For each order of publication	1	00		
Issuing Writ of injunction	1	50		
For each copy thereof		50		
Entering each return thereof		15		
Issuing Writ of Attachment	1	00		
Entering each return thereof		15		
Docketing each case	1	00		
Entering each appearance		25		
Issuing each decree pro confesso on per ser.	1	00		
Issuing each decree pro confesso on publica	1	00		
Each order appointing guardian	1	00		
Any other order by Register		50		
Issuing Commission to take testimony		50		
Receiving and filing		10		
Endorsing each package		10		
Entering order submitting cause		50		
Entering any other order of court		25		
Noting all testimony		50		
Abstract of cause, etc.	1	00		
Entering each decree		75		
For every 100 words over 500		15		
Taking account, etc.	3	00		
Taking testimony, etc.		15		
Each report, 500 words or less	2	50		
For every 100 words over 500		15		
Amount claimed less than \$500, etc.	2	00		
Issuing each subpoena		25		
Witness certificate, each		25		
Issuing execution, each		75		
Entering each return		15		
Taking and approving bond, each	1	00		
Making copy of bill, etc.		15		
Each notice not otherwise provided for		50		
Each certificate or affidavit, with seal		50		
Each certificate or affidavit, no seal		25		
Hearing and passing on application, etc.	3	00		
Each settlement with Receiver, etc.	3	00		
Examining each voucher of Receiver, etc.		10		
Examining each answer, etc.	3	00		
Recording resignation, etc.		75		
Entering each certificate to Supreme Court		50		
Taking questions and answers, etc.		25		
For all other ser relating to such proceedings	1	00		
For services in proceeding to relieve minors, etc., same fee as in similar cases.				
Commission on sales, etc: 1st \$100, 2 per cent: all over \$100 and not exceeding \$1,000, 1 1-2 per cent; all over \$1,000, and not exceeding \$20,000, 1 per ct; all over 20,000, 1-4 of 1 per cent.				
Sub Total Carried Forward				
			For Receiving, keeping and paying out or distributing money, etc.: 1st \$1,000, 1%, all over \$1,000, and not over \$5,000, 3-4 of 1%; all over \$5,000 and not exceeding \$10,000, 1-2 of 1%, all over \$10,000 1-4 of 1%.	
			Receiving, keeping and paying out money paid into court, etc., 1-2 of 1% of amount received.	
			Each notice sent by mail to creditor	15
			Filing receipting for and docketing each claim, etc.	25
			For all entries on subpoena docket, etc.	50
			For all entries on commission docket, etc.	50
			Making final record per 100 words	15
			Certified copy of decree	1 00
			Report of divorce to State Health Office (Acts 1915)	50
			TOTAL FEES OF REGISTER	
			FEES OF SHERIFF	1520
			Serving and returning subpoena on deft.	\$1 50
			Serving and returning subpoena for witness	65
			Levying attachment	1 50
			Entering and returning same	25
			Selling property attached	
			Impanelling Jury	75
			Executing Writ of possession	2 50
			Collecting execution for costs	1 50
			Serving and returning sci. fa., each	65
			Serving and returning notice	65
			Serving and returning writ of injunction	1 50
			Serving and returning writ of exeat	1 50
			Taking and approving bonds, each	75
			Collecting money on execution	
			Making Deed	2 50
			Serving and returning application, etc.	1 00
			Serving attachment, contempt of court	1 50
			TOTAL FEES OF SHERIFF	
			RECAPITULATION	
			Register's Fees	1520
			Sheriff's Fees	0 00
			Commissioner's Fees	
			Solicitor's Fees	
			Witness Fees	
			Guardian Ad Litem	
			Printer's Fees	
			Trial Tax	3 00
			Recording Decree in Probate Court	3 00
			TOTAL	2120

Received payment this 21 day of Oct 193

W. J. ...
Register.

J. H. WILLIAMS, as Super-
intendent of Banks, liquidat-
ing the Consolidated State
Bank,

Complainant

vs.

HARRY E. MILLER, BERTHA N.
MILLER, and the FARMERS &
MERCHANTS BANK, a Corporation,

Respondents

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Now come the respondents, Harry E. Miller and
Bertha N. Miller, each separately and severally, and file
this their objection to the allowance of the proposed
amendment in said cause, wherein and whereby it seeks to
amend the complaint by making J. H. Williams, as Superin-
tendent of Banks, liquidating the Consolidated State Bank,
Shing for the use and benefit of the Reconstruction Finance Cor-
a corporation, poration, complainant instead of J. H. Williams, as Super-
intendent of Banks, liquidating the Consolidated State
Bank, as originally filed, upon the following ground:

1. Because said amendment would work an entire
change of party complainant in said cause.

Gordon Livingston & Leigh
SOLICITORS FOR RESPONDENTS HARRY
E. MILLER and BERTHA N. MILLER.

J. H. WILLIAMS, AS SUPERINTENDENT
OF BANKS, Liquidating the Consolidated
State Bank,

-vs-

HARRY E. MILLER, BERTHA N. MILLER,
and THE FARMERS & MERCHANTS BANK,
a corporation.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY


SEPARATE ANSWER OF FARMERS
AND MERCHANTS BANK

Comes now Farmers & Merchants Bank and for answer to the Bill of Complaint admits the allegations of the first paragraph of said bill.

For answer to the second and third paragraphs of the bill this answering defendant says that it does not know whether such allegations are true or not and therefore it denies the same and asks that the Complaint be required to furnish strict proof thereof.

Further answering this answering Defendant says that it is true that it holds the mortgage referred to in the Bill of Complaint and attached thereto as exhibit "A", and that it is also true that it wrote the letter referred to in the Bill of Complaint and attached thereto as exhibit "B". That this answering Defendant has no claim against the Defendants Harry E. Miller and Bertha N. Miller under said mortgage referred to in the Bill of Complaint and that any indebtedness from the said Millers to it which was secured by said mortgage has been fully paid and satisfied, and that this Defendant is willing to release said mortgage or to assign the same to the Complainant, or to make such other disposition thereof as this Court may direct.

Wherefore, having fully answered, this answering Defendant prays that it may go hence without day and have judgment against the Complainant for its costs herein expended.


Solicitor for Defendant
FARMERS AND MERCHANTS BANK

J. H. WILLIAMS, as Superin- tendent of Banks,	}	IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.
Complainant		
vs.		
MR. and MRS. H. E. MILLER,	}	IN EQUITY.
Respondents		

This case has been submitted on a motion to amend the bill of complaint by changing the parties complainant from J. H. Williams, Superintendent of Banks, to J. H. Williams, Superintendent of Banks, suing for the use and benefit of the Reconstruction Finance Corporation.

The authorities we offer, which we respectfully submit support our contention, are as follows:

Morton v. Bliss and New Orleans & S. Ry. Co. & L. Ass'n., 79 Alabama and on page 603:

"This section of the Code can not, in our opinion, be construed to authorize as a matter of right, in every case, the introduction of parties who have acquired by purchase, or voluntary assignment pendente lite, an interest in the subject-matter of litigation. It must be construed in the light of the established rules of chancery practice, which are in harmony with the known purpose of its enactment. One of these prevailing and necessary rules is, that courts of equity are never compelled to take notice of such assignments of interest as result from the voluntary act of parties, as distinguished from mere assignments by operation of law,--as in cases of death,

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bankruptcy, and the like. The two classes of cases are clearly distinguishable on the soundest principle, both in the light of reason and authority. Whoever purchases property prenent lite, takes it subject to the hazards of the pending litigation. * "

Then we quote as follows from Sim's Chancery Practice, Section 358, and on page 232:

"And for the same reason persons who have voluntarily acquired interest in the subject matter of this cause since its pending cannot be brought in by amendment, such additions being limited to those who acquire by operation of law."

We feel sure that you will find the term "by operation of law" has reference to bankruptcy, administration by reason of death, and matters of this type.

Then in the case of Benton v. Benton, 214 Ala. page 321, is the following language:

"Our statute allows amendments to bills in equity, as a matter of right, 'at any time before final decree, by striking out, or adding new parties, or to meet any state of evidence which will authorize relief.' Code 1923, Sec. 6558. This statute has been given a broad and liberal construction, * but it does not change the general principles of equity which regulated the character of permissible amendments before the enactment of the statute. * Hence, the right to amend is not absolute when the amendment makes an entirely new case, or is

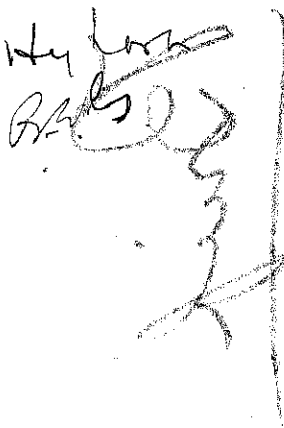
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a radical departure from the cause of
action stated in the original bill, or
works an entire change of parties. * "

Respectfully submitted,

Gordon Sumner Blair
Solicitors for Respondents

Copy sent to Mr. H. L. [unclear]
R. S. [unclear]



J. H. WILLIAMS, as Superintendent
of Banks, Liquidating the Consoli-
dated State Bank,
Complainant,

vs.

HARRY E. MILLER, BERTHA N. MILLER,
and THE FARMERS & MERCHANTS BANK,
a corporation,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Comes the complainant in the above styled cause, and by
leave of court first had and obtained, amends his bill of complaint
in said cause to read as follows:

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

Comes J. H. Williams, as Superintendent of Banks of the
State of Alabama, liquidating the Consolidated State Bank, suing
for the use and benefit of Reconstruction Finance Corporation, a
corporation, and humbly complaining against Harry E. Miller, Bertha
N. Miller and The Farmers & Merchants Bank, a corporation, and re-
spectfully shows unto your Honor as follows:

FIRST:

That your complainant, J. H. Williams, is Superintendent
of Banks of the State of Alabama and as such under the laws of the
State of Alabama is liquidating the affairs of the Consolidated
State Bank, a corporation, organized under the laws of the State of
Alabama, and formerly doing a banking business at Robertsdale, in
Baldwin County, Alabama; that subsequent to the filing of the bill
of complaint in said cause the said J. H. Williams, under an order
of this court, has been required to transfer, convey and assign the
property involved in this suit to the Reconstruction Finance Cor-
poration, a corporation, in settlement of an indebtedness owing to
it; that under and by virtue of the said order and decree the said
J. H. Williams, as Superintendent of Banks as aforesaid, is required
to perfect the title to the said property; that Harry E. Miller and
Bertha N. Miller are each over the age of 21 years and reside in
Baldwin County, Alabama; that the Farmers and Merchants Bank is a

corporation organized under the laws of the State of Alabama, with its principal office in Foley, Baldwin County, Alabama.

SECOND:

That on, to-wit, the 14th day of June, 1926, the said Harry E. Miller and Bertha N. Miller executed to the said Farmers & Merchants Bank a mortgage, a copy of which is hereto attached, marked Exhibit "A" and made a part of this complaint; that at the time of the execution and delivery of the said mortgage to the Farmers & Merchants Bank it was agreed by and between the said Farmers & Merchants Bank, the said Harry E. Miller and Bertha N. Miller, and the Loxley State Bank, that the said mortgage should be and was executed to the said Farmers & Merchants Bank for the benefit of said Farmers & Merchants Bank and for the benefit of the said Loxley State Bank; that the two said banks should lend to the said respondents, Harry E. Miller and Bertha N. Miller, the sum of Five Thousand Dollars (\$5,000.00); the said Loxley State Bank to lend the sum of Two Thousand Dollars (\$2,000.00) and the said Farmers & Merchants Bank the remainder of said Five Thousand Dollars (\$5,000.00), or so much thereof as the said Harry E. Miller and the said Bertha N. Miller should require. That thereupon the said Loxley State Bank advanced to the said Harry E. Miller and Bertha N. Miller the sum of Two Thousand Dollars (\$2,000.00) and took their note therefor; that the said note was from time to time extended and renewed, and that the same is now still unpaid and long past due, and the said Harry E. Miller and Bertha N. Miller are indebted to this complainant as successor to the rights of the Loxley State Bank in the sum of Two Thousand Dollars (\$2,000.00), together with interest thereon, all of which is secured by the said mortgage.

That on September 10, 1926, the Cashier of the Farmers & Merchants Bank wrote to the Cashier of the Loxley State Bank a letter, copy of which is attached to this amended bill of complaint, marked Exhibit "B" and made a part of this complaint, all of which was with the full knowledge and consent and at the instance and direction of the said Harry E. Miller and Bertha N. Miller.

That at the time of the writing of said letter, the note of the said Harry M. Miller and Bertha N. Miller to the said Loxley State Bank was renewed by them direct to the Loxley State Bank, so that the same did not on its face appear to be secured by the said mortgage to the Farmers & Merchants Bank, and the object, purpose, intent and effect of the said letter was to identify the said note as being secured by the said mortgage.

Complainant further shows that the said note and said mortgage provided that the said respondents, Harry M. Miller and Bertha N. Miller, would pay all cost of collecting or attempting to collect the said note, including a reasonable attorney's fee, and this complainant has incurred expenses in this suit.

Complainant further shows that the Loxley State Bank, before the filing of said complaint, sold all of its assets, including the said note, to the Farmers State Bank of Loxley, that the said Farmers State Bank of Loxley, prior to the filing of said bill of complaint, merged with the State Bank of Silverhill and with the Robertsdale State Bank under the name of the Consolidated State Bank of Robertsdale; and that prior to the filing of said bill of complaint the Consolidated State Bank failed and the same was turned over to this complainant as Superintendent of Banks of the State of Alabama for liquidation, and that this complainant, as such Superintendent of Banks of the State of Alabama, was at the time of the filing of the original bill of complaint the legal holder of the assets of the said Bank, including the said note and mortgage, in trust for the creditors of the said Bank and was entitled to institute this suit; that subsequent to the filing of the said suit the said assets have under an order of this court been transferred and conveyed to the Reconstruction Finance Corporation in settlement of a loan made by the said Reconstruction Finance Corporation to the Superintendent of Banks on the assets of the said Bank, which said conveyance and transfer was in settlement of the said debt, and under the decree of this court authorizing and directing the sale and transfer of the said assets to the Reconstruction Finance Corporation, the Superintendent of Banks of the State of

Alabama is required to further prosecute this suit to completion and to perfect the title to the said property for the use and benefit of the Reconstruction Finance Corporation, the title and benefit to the said property being now vested in the Reconstruction Finance Corporation.

THIRD:

Complainant further says that the debt owing to the Farmers & Merchants Bank has been paid, and that by virtue of the said arrangement hereinabove set out the said Farmers & Merchants Bank holds the said mortgage for the benefit of this complainant in his capacity as aforesaid, and that it refuses to foreclose the said mortgage and refuses to transfer the same to this complainant that he may foreclose the same.

WHEREFORE, this complainant prays that the said Farmers & Merchants Bank, the said Harry E. Miller and the said Bertha N. Miller be made parties respondent hereto and by appropriate process be required to plead, answer or demur within the time required by law and the practice of this Honorable Court; that this Honorable Court will, upon a hearing of this cause, ascertain, find and decree that the said Harry E. Miller and Bertha N. Miller are indebted to this complainant, as Superintendent of Banks of the State of Alabama, liquidating the Consolidated State Bank of Robertsdale, for the use and benefit of the Reconstruction Finance Corporation, in the sum of Two Thousand Dollars (\$2,000.00), with interest thereon, as evidenced by the said note, and that the same is secured by the said mortgage; that a reference be held under the order and direction of this court to ascertain the amount owing under the said note, principal and interest, and a reasonable attorney's fee in the premises; that the said Harry E. Miller and Bertha N. Miller be required to pay the same to this complainant; that upon their failure to pay the same within the time prescribed by this Court, that the aforesaid mortgage be foreclosed and the property described therein be ordered sold, and the proceeds thereof be paid to this complainant as his interest shall appear under the order and direction of this court.

And this complainant prays for such other, further or dif-

ferent relief as in equity and good conscience he shall be entitled to receive.

Complainant places himself within the jurisdiction of this court and offers to do whatsoever this court shall in equity require.

W. C. Beebe

Solicitor for J. H. Williams, as
Superintendent of Banks of the
State of Alabama, liquidating the
Consolidated State Bank of Roberts-
dale.

FOOT NOTE:

The respondents are required to answer the allegations of the foregoing amended bill of complaint, but not under oath; oath is hereby expressly waived.

W. C. Beebe

Solicitor for J. H. Williams, as
Superintendent of Banks of the
State of Alabama, liquidating the
Consolidated State Bank of Roberts-
dale.

STATE OF ALABAMA.

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS, That Harry E. Miller and Bertha N. Miller, his wife, in consideration of the sum of Five Thousand and no/100- - - Dollars to them in hand paid, by the Farmers & Merchants Bank, a corporation of Foley, Alabama, the receipt of which is hereby acknowledged, do grant, bargain, sell and convey unto the said Farmers & Merchants Bank, a corporation, its Successors and assigns forever, ALL of the real estate described as follows: Northeast quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section twenty-four (24) Township five (5) South of Range three (3) East. Also Southwest quarter (SW $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of Section twenty four (24) Township five (5) South of Range three (3) East, in Section eighteen (18) Township five (5) South of Range four (4) East, the Southwest quarter (SW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$). All being in Baldwin County, Alabama. Subject to mortgage of \$6,000.00 to First Joint Stock Land bank of Montgomery, Ala., TO HAVE AND TO HOLD, the above granted and described premises with the appurtenances unto the said Farmers & Merchants Bank, a Corporation and to its Successors and assigns, and to their sole and only proper use, benefit and behoof forever, PROVIDED ALWAYS, and these Presents are upon the express condition, that if the said Harry E. Miller and Bertha N. Miller his wife shall well and truly pay to the said Farmers & Merchants Bank a corporation the sum of Five Thousand Dollars as evidenced by one promissory note of even tenor and date due and payable

Then these presents shall cease, determine and be void, otherwise to remain in full force.

AND the said Harry E. Miller & Bertha N. Miller do hereby vest the said Farmers & Merchants Bank its successors or assigns, with full power and authority upon the happening of a default in the payment of the note above described, to sell their interest in said real property at public sale for cash, giving thirty days notice in a newspaper published at Bay Minette, Baldwin County, Alabama and the proceeds to apply first, to the payment of the amount due on said note with interest on same; second, to the payment of the costs of sale, including a reasonable attorney's fee, and if there shall be a surplus, then the balance to be paid over to Harry E. & Bertha N. Miller and they do authorize the said Farmers & Merchants Bank or its Agent or Attorney to conduct the sale, and to make Deed to the purchaser, and the title so made they hereby agree to defend against all persons. It is agreed that the mortgagee herein may bid at said sale as if he were a stranger to this instrument.

GIVEN Under our Hand and Seal this 14th day of June in the year of our Lord one thousand nine hundred and Twenty-six.

SIGNED, SEALED AND DELIVERED IN PRESENCE

OF

R.G. Pearson
N.E. Anderson

Harry E. Miller (SEAL)

Bertha N. Miller (SEAL)

On the back of said mortgage appears the following:-

STATE OF ALABAMA.

BALDWIN COUNTY.

I, R.G. Pearson, a Notary Public in and for said County and State hereby certify that Harry E. Miller and Bertha N. Miller, 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 seal this 18th day of June, A.D. 1926.

the wife of the above named Harry B. Miller who being examined by me separate and apart from her husband touching her signature to the above instrument, acknowledged that she signed the same of her own free will and accord and without fear, constraint or threats on the part of her husband.

In witness whereof, I have hereunto set my hand and seal this 18th day of June, 1926. Miller, executed to this bank on the following property in which you are to participate to the extent of \$2,000.00 Pearson,

Notary Public, Baldwin County, Ala., My commission expires Feb. 9th, 1927.

Endorsed on the back of said mortgage are the following endorsements:-

I hereby certify that the mortgage or privilege tax on within instrument was paid by the lender or creditor (See general acts of the Legislature of 1919, page 20.)

Also Southwest quarter (SW¹/₄) of the Northeast quarter (NE¹/₄) of Section twenty four (24) township four (4) north range four (4) east. All being Foley, Alabama. Subject to mortgage of \$2000.00 to Stock Joint Land Bank, Montgomery, Ala.

STATE OF ALABAMA. BALDWIN COUNTY.

I, W.D. STAPLETON, Judge of Probate, for said county, hereby certify that the following privilege tax has been paid on the within instrument by acts 1902 and 1908 viz: \$7 cts 50.

W.D. Stapleton, Judge of Probate.

STATE OF ALABAMA. BALDWIN COUNTY) Office of the Judge of the Probate Court.

I, W.D. Stapleton, Judge of said Court in and for said County, do hereby certify that the within instrument was filed in this office for record on the 7th day of Aug. 1926 at 2 o'clock P.M. and I further certify that the same is duly recorded in Record Book No. 36 Mtgs. Page 539 and duly examined.

Witness my hand this 9th day of August, 1926.

W. D. STAPLETON, Judge of Probate Court.

Exhibit "A".

CHANCERY EXECUTION

BILL OF COSTS

No. 75 *JH William* vs. *Harry E Miller* PLAINTIFF
Super Bank vs. *Coal* DEFENDANT

FEES OF REGISTER	Dollars	Cents	Brought Forward	\$
Filing each bill and other papers	\$	10	Brought Forward	540
Issuing each subpoena		50	For Receiving, keeping and paying out or distributing money, etc.: 1st \$1,000, 1%, all over \$1,000, and not over \$5,000, 3-4 of 1%; all over \$5,000 and not exceeding \$10,000, 1-2 of 1%, all over \$10,000 1-4 of 1%.	
Issuing each copy thereof		40	Receiving, keeping and paying out money paid into court, etc., 1-2 of 1% of amount received.	
Entering each return thereof		15	Each notice sent by mail to creditor	15
For each order of publication	1	00	Filing receipting for and docketing each claim, etc.	25
Issuing Writ of injunction	1	50	For all entries on subpoena docket, etc.	50
For each copy thereof		50	For all entries on commission docket, etc.	50
Entering each return thereof		15	Making final record. per 100 words	15
Docketing each case	1	00	Certified copy of decree	100
Entering each appearance		25	Report of divorce to State Health Office (Acts 1915)	
Issuing each decree pro confesso on per ser.	1	00	TOTAL FEES OF REGISTER..	1440
Issuing each decree pro confesso on publica	1	00	FEES OF SHERIFF	
Each order appointing guardian	1	00	Serving and returning subpoena on deft.	50
Any other order by Register		50	Serving and returning subpoena for witness	65
Issuing Commission to take testimony		50	Levying attachment	300
Receiving and filing		10	Entering and returning same	25
Endorsing each package		10	Selling property attached	
Entering order submitting cause		50	Impaneling Jury	75
Entering any other order of court		25	Executing Writ of possession	250
Noting all testimony		50	Collecting execution for costs	150
Abstract of cause, etc.	1	00	Serving and returning sci. fa., each	65
Entering each decree		75	Serving and returning notice	65
For every 100 words over 500		15	Serving and returning writ of injunction	150
Taking account, etc.	3	00	Serving and returning writ of exeat	150
Taking testimony, etc.		15	Taking and approving bonds, each	75
Each report, 500 words or less	2	50	Collecting money on execution	
For every 100 words over 500		15	Making Deed	250
Amount claimed less than \$500, etc.	2	00	Serving and returning application, etc.	100
Issuing each subpoena		25	Serving attachment, contempt of court	150
Witness certificate, each		25	TOTAL FEES OF SHERIFF..	450
Issuing execution, each		75	RECAPITULATION	
Entering each return		15	Register's Fees	1440
Taking and approving bond, each	1	00	Sheriff's Fees	450
Making copy of bill, etc.		15	Commissioner's Fees	
Each notice not otherwise provided for		50	Solicitor's Fees	
Each certificate or affidavit, with seal		50	Witness Fees	
Each certificate or affidavit, no seal		25	Guardian Ad Litem	
Hearing and passing on application, etc.	3	00	Printer's Fees	
Each settlement with Receiver, etc.	3	00	Trial Tax	300
Examining each voucher of Receiver, etc.	1	0	Recording Decree in Probate Court	
Examining each answer, etc.	3	00	TOTAL	2190
Recording resignation, etc.		75		
Entering each certificate to Supreme Court		50		
Taking questions and answers, etc.		25		
For all other ser relating to such proceedings	1	00		
For services in proceeding to relieve minors, etc., same fee as in similar cases.				
Commission on sales, etc: 1st \$100, 2 per cent; all over \$100 and not exceeding \$1,000, 1 1-2 per cent; all over \$1,000, and not exceeding \$20,000, 1 per ct; all over 20,000, 1-4 of 1 per cent				
Sub Total Carried Forward				

The State of Alabama, } No. 75
Baldwin County } Circuit Court, In Equity Aug Term, 1937

To any Sheriff of the State of Alabama—GREETING:
 You are hereby commanded, That of the goods and chattels, lands and tenements of JH William Super Bank Pl Defendant
 you cause to be made the sum of Twenty One and 90/100 Dollars,
 which Harry E Miller Plaintiff
 recovered of _____ on the 18 day of Aug 1937
 by the judgment of our Circuit Court, held for the county of Baldwin, besides the sum of 2190 Dollars,
 costs of suit, and have the same to render to the said as due
 and make return of this Writ and the execution thereof, according to law.

Interest from _____ 1937 to date of collection.

Witness my hand, this 22 day of Sept 1937
Register Register

J. H. WILLIAMS, as Superintendent
of Banks, Liquidating the Consoli-
dated State Bank,

-vs-

HARRY E. MILLER, BERTHA N. MILLER,
and THE FARMERS & MERCHANTS BANK,
a corporation.

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 J. H. Williams, as Superintendent of Banks of
the State of Alabama, liquidating the Consolidated State Bank,
and humbly complaining against Harry E. Miller, Bertha N. Miller
and The Farmers & Merchants Bank, a corporation, and respectfully
shows unto your honor as follows:

FIRST:

That your Complainant, J. H. Williams, is superintendent
of Banks of the State of Alabama and as such under the laws of the
State of Alabama is liquidating the affairs of the Consolidated
State Bank, a corporation, organized under the laws of the State of
Alabama, and formerly doing a banking business at Robertsdale in
Baldwin County, Alabama; That Harry E. Miller and Bertha N. Miller
are each over the age of 21 years and reside in Baldwin County, Ala-
bama; That the Farmers and Merchants Bank, is a corporation organized
under the laws of the State of Alabama, with its' principal office
in Foley, Baldwin County, Alabama.

SECOND:

That to-wit the 14th day of June, 1926, the said Harry E.
Miller and Bertha N. Miller executed to the said Farmer & Merchants
Bank a mortgage, a copy of which is hereto attached marked Exhibit A
and made a part of this complaint; That at the time of the execution
and delivery of the said mortgage to the Farmers & Merchants Bank it
was agreed by and between the said Farmers & Merchants Bank, the said
Harry E. Miller and Bertha N. Miller, and the Loxley State Bank, that

the said mortgage should be and was executed to the said Farmers & Merchants Bank for the benefit of said Farmers & Merchants Bank and for the benefit of the said Loxley State Bank; that the two said banks should lend to the said respondents, Harry E. Miller and Bertha N. Miller the sum of Five Thousand Dollars (\$5,000.00); the said Loxley State Bank to lend the sum of Two Thousand Dollars (\$2,000.00) and the said Farmers & Merchants Bank the remainder of said Five Thousand Dollars (\$5,000.00), or so much thereof as the said Harry E. Miller and the said Bertha N. Miller should require. That thereupon the said Loxley State Bank advanced to the said Harry E. Miller and Bertha N. Miller the sum of Two Thousand Dollars (2,000.00) and took their note therefor; that the said note was from time to time extended and renewed, and that the same is now still unpaid and long past due, and the said Harry E. Miller and Bertha N. Miller are indebted to this respondent as successor to the rights of the Loxley State Bank in the sum of Two Thousand Dollars (\$2,000.00), together with interest thereon, all of which is secured by the said mortgage.

That on September 10, 1926, the Cashier of the Farmers & Merchants Bank wrote to the Cashier of the Loxley State Bank a letter, copy of which is attached to this bill of complaint, marked Exhibit B and made a part of this complaint, all of which was with the full knowledge and consent and at the instance and direction of the said Harry E. Miller and Bertha N. Miller. That at the time of the writing of said letter, the note of the said Harry E. Miller and Bertha N. Miller to the said Loxley State Bank was renewed by them direct to the Loxley State Bank, so that the same did not on its face appear to be secured by the said mortgage to the Farmers & Merchants Bank; and the object, purpose, intent and effect of the said letter was to identify the said note as being secured by the said mortgage.

Respondent further shows that the said note and said mortgage provided that the said respondents, Harry E. Miller and Bertha N.

CIRCUIT COURT, BALDWIN COUNTY, ALA. IN EQUITY

No. 175 *J. H. Williams*
Ryan Bonds

vs. *Harry Emile Coe*
PLAINTIFF
DEFENDANT

BILL OF COSTS

FEES OF REGISTER	Dollars	Cents	Brought Forward	
Filing each bill and other papers	\$	10	For Receiving, keeping and paying out or distributing money, etc.: 1st \$1,000, 1%, all over \$1,000, and not over \$5,000, 3-4 of 1%; all over \$5,000 and not exceeding \$10,000, 1-2 of 1%, all over \$10,000 1-4 of 1%.	\$ 320
Issuing each subpoena		50	Receiving, keeping and paying out money paid into court, etc., 1-2 of 1% of amount received.	
Issuing each copy thereof		40	Each notice sent by mail to creditor	15
Entering each return thereof		15	Filing receipting for and docketing each claim, etc.	25
For each order of publication	1	00	For all entries on subpoena docket, etc. For all entries on commission docket, etc.	50
Issuing Writ of injunction	1	50	Making final record. per 100 words	15
For each copy thereof		50	Certified copy of decree	1 00
Entering each return thereof		15	Report of divorce to State Health Office (Acts 1915)	50
Issuing Writ of Attachment	1	00	TOTAL FEES OF REGISTER..	
Entering each return thereof		15	FEES OF SHERIFF	1536
Docketing each case	1	00	Serving and returning subpoena on deft. \$1 50	300
Entering each appearance		25	Serving and returning subpoena for witness	65
Issuing each decree pro confesso on per ser. 1 00		00	Levying attachment	1 50
Issuing each decree pro confesso on publica 1 00		00	Entering and returning same	25
Each order appointing guardian	1	00	Selling property attached	
Any other order by Register		50	Impaneling Jury	75
Issuing Commission to take testimony		50	Executing Writ of possession	2 50
Receiving and filing		10	Collecting execution for costs	1 50
Endorsing each package		10	Serving and returning sci. fa., each	65
Entering order submitting cause		50	Serving and returning notice	65
Entering any other order of court		25	Serving and returning writ of injunction 1 50	
Noting all testimony		50	Serving and returning writ of exeat	1 50
Abstract of cause, etc.	1	00	Taking and approving bonds, each	75
Entering each decree		75	Collecting money on execution	
For every 100 words over 500		15	Making Deed	2 50
Taking account, etc.	3	00	Serving and returning application, etc.. 1 00	
Taking testimony, etc.		15	Serving attachment, contempt of court.. 1 50	
Each report, 500 words or less	2	50	TOTAL FEES OF SHERIFF..	
For every 100 words over 500		15	RECAPITULATION	990
Amount claimed less than \$500, etc	2	00	Register's Fees	1536
Issuing each subpoena		25	Sheriff's Fees	300
Witness certificate, each		25	Commissioner's Fees	
Issuing execution, each		75	Solicitor's Fees	
Entering each return		15	Witness Fees	
Taking and approving bond, each	1	00	Guardian Ad Litem	250
Making copy of bill, etc		15	Printer's Fees	
Each notice not otherwise provided for .. 50		00	Trial Tax	3 00
Each certificate or affidavit, with seal .. 50		00	Recording Decree in Probate Court	
Each certificate or affidavit, no seal		25	TOTAL	2120
Hearing and passing on application, etc. 3 00		00		
Each settlement with Receiver, etc. 3 00		00		
Examining each voucher of Receiver, etc .. 10		00		
Examining each answer, etc.	3	00		
Recording resignation, etc		75		
Entering each certificate to Supreme Court 50		00		
Taking questions and answers, etc		25		
For all other ser relating to such proceedings 1 00		00		
For services in proceeding to relieve minors, etc., same fee as in similar cases.				
Commission on sales, etc: 1st \$100, 2 per cent; all over \$100 and not exceeding \$1,000, 1 1-2 per cent; all over \$1,000, and not exceeding \$20,000, 1 per ct; all over 20,000, 1-4 of 1 per cent.				
Sub Total Carried Forward				

Received payment this 25 day of Oct 1994 *Register* Register.

Miller, would pay all cost of collecting or attempting to collect the said note, including a reasonable attorney's fee, and this respondent has incurred expenses in this suit.

Respondent further shows that the Loxley State Bank, before the filing of said complaint, sold all of its assets, including the said note, to the Farmers State Bank of Loxley; that the said Farmers State Bank of Loxley, prior to the filing of said bill of complaint, merged with the State Bank of Silverhill and with the Robertsdale State Bank under the name of the Consolidated State Bank of Robertsdale; and that prior to the filing of said bill of complaint the Consolidated State Bank failed and the same was turned over to this respondent as Superintendent of Banks of the State of Alabama for liquidation, and that this respondent, as such Superintendent of Banks of the State of Alabama, is the legal holder of the assets of said Bank, including the said note and mortgage, in trust for the creditors of the said Bank, and is entitled to defend this suit.

THIRD:


Complainant further says that the debt owing to the Farmers & Merchants Bank has been paid. And that by virtue of the said arrangement hereinabove set out the said Farmers & Merchants Bank holds the said mortgage for the benefit of this complainant in his capacity as aforesaid, and that it refuses to foreclose the said mortgage and refuses to transfer the same to this complainant that he may foreclose the same.

WHEREFORE this Complainant prays that the said Farmers & Merchants Bank, the said Harry E. Miller and the said Bertha N. Miller be made parties respondent hereto and by appropriate process be required to plead, answer or demur within the time required by law and the practice of this Honorable Court; that this Honorable Court will, upon a hearing of this cause, ascertain, find and decree that the said Harry E. Miller and Bertha N. Miller are indebted to this respondent, as Superintendent of Banks of the State of Alabama, liquidating the Consolidated State Bank of Robertsdale, in the sum of Two Thousand Dollars (\$2,000.00), with interest thereon, as evidenc-

ed by the said note, and that the same is secured by the said mortgage; that a reference be held under the order and direction of this court to ascertain the amount owing under the said note, principal and interest, and a reasonable attorney's fee in the premises; that the said Harry E. Miller and Bertha N. Miller be required to pay the same to this complainant; that upon their failure to pay the same within the time prescribed by this court, that the aforesaid mortgage be foreclosed and the property described therein be ordered sold, and the proceeds thereof be paid to this respondent as his interest shall appear under the order and direction of this court.


And this respondent prays for such other, further and different relief as in equity and good conscience he shall be entitled to receive.

Complainant places himself within the jurisdiction of this court and offers to do whatsoever this court shall in equity require.


Solicitor for J. H. Williams,
as Superintendent of Banks of
the State of Alabama, liquidat-
ing the Consolidated State Bank
of Robertsdale.

FOOT NOTE:

The respondent is required to answer the allegations of the foregoing bill of complaint, but not under oath; oath is hereby expressly waived.


Solicitor for J. H. Williams,
as Superintendent of Banks of
the State of Alabama, liquidat-
ing the Consolidated State Bank
of Robertsdale.

STATE OF ALABAMA.

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS, That Harry E. Miller and Bertha N. Miller, his wife, in consideration of the sum of Five Thousand and No/100- - - Dollars to them in hand paid, by the Farmers & Merchants Bank, a corporation of Foley, Alabama, the receipt of which is hereby acknowledged, do grant, bargain, sell and convey unto the said Farmers & Merchants Bank, a corporation, its Successors and assigns forever, ALL of the real estate described as follows: Northeast quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section twenty-four (24) Township five (5) South of Range three (3) East. Also Southwest quarter (SW $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of Section twenty four (24) Township five (5) South of Range three (3) East, in Section eighteen (18) Township five (5) South of Range four (4) East, the Southwest quarter (SW $\frac{1}{4}$) of the Southwest quarter (SW $\frac{1}{4}$). All being in Baldwin County, Alabama. Subject to mortgage of \$6,000.00 to First Joint Stock Land Bank of Montgomery, Ala., TO HAVE AND TO HOLD, the above granted and described premises with the appurtenances unto the said Farmers & Merchants Bank, a Corporation and to its Successors and assigns, and to their sole and only proper use, benefit and behoof forever, PROVIDED ALWAYS, and these Presents are upon the express condition, that if the said Harry E. Miller and Bertha N. Miller his wife shall well and truly pay to the said Farmers & Merchants Bank a corporation the sum of Five Thousand Dollars as evidenced by one promissory note of even tenor and date due and payable

Then these presents shall cease, determine and be void, otherwise to remain in full force.

AND the said Harry E. Miller & Bertha N. Miller do hereby vest the said Farmers & Merchants Bank its successors or assigns, with full power and authority upon the happening of a default in the payment of the note above described, to sell their interest in said real property at public sale for cash, giving thirty days notice in a newspaper published at Bay Minette, Baldwin County, Alabama and the proceeds to apply first, to the payment of the amount due on said note with interest on same; second, to the payment of the costs of sale, including a reasonable attorney's fee, and if there shall be a surplus, then the balance to be paid over to Harry E. & Bertha N. Miller and they do authorize the said Farmers & Merchants Bank or its Agent or Attorney to conduct the sale, and to make Deed to the purchaser, and the title so made they hereby agree to defend against all persons. It is agreed that the mortgagee herein may bid at said sale as if he were a stranger to this instrument.

GIVEN Under our Hand and Seal this 14th day of June in the year of our Lord one thousand nine hundred and Twenty-six.

SIGNED, SEALED AND DELIVERED IN PRESENCE

OF

R.G. Pearson
N.E. Anderson

Harry E. Miller (SEAL)

Bertha N. Miller (SEAL)

On the back of said mortgage appears the following:-

STATE OF ALABAMA.

BALDWIN COUNTY.

I, R.G. Pearson, a Notary Public in and for said County and State hereby certify that Harry E. Miller and Bertha N. Miller, 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 seal this 18th day of June, A.D. 1926.

R.G. Pearson,
Notary Public, Baldwin County,
Ala., My commissioner Expires Feb.
9th, 1927.

And I do further certify that on the 18th day of June, 1926 came before me the above named Bertha N. Miller known to me to be the wife of the above named Harry E. Miller who being examined by me separate and apart from her husband touching her signature to the above instrument, acknowledged that she signed the same of her own free will and accord and without fear, constraint or threats on the part of her husband.

In witness whereof, I have hereunto set my hand and seal this 18th day of June, 1926.

R.G. Pearson,
Notary Public, Baldwin County,
Ala., My commission expires Feb.
9th, 1927.

Endorsed on the back of said mortgage are the following endorsements:-

I hereby certify that the mortgage or privilege Tax on within instrument was paid by the lender or creditor (See general acts of the Legislature of 1919, page 20.)

Farmers & Merchants Bank,
Foley, Alabama.

STATE OF ALABAMA.
BALDWIN COUNTY.

I, W.D. STAPLETON, Judge of Probate, for said county hereby certify that the following privilege tax has been paid on the within instrument by acts 1902 and 1908 viz: \$7 cts 50.

W.D. Stapleton,
Judge of Probate.

STATE OF ALABAMA.) Office of the Judge of the Probate
BALDWIN COUNTY) Court.
I, W.D. Stapleton, Judge of said Court in and for said County, do hereby certify that the within instrument was filed in this office for record on the 7th day of Aug. 1926 at 2 o'clock P.M. and I further certify that the same is duly recorded in Record Book No. 36 Mtgs. Page 539 and duly examined.

Witness my hand this 9th day of August, 1926.

W.D. STAPLETON,
Judge of Probate Court.

September 10, 1926,

Mr. Carl Schlich
Loxley State Bank,
Loxley, Ala.

Dear Mr. Schlich:

This is to advise you that we hold as security a mortgage of Harry E. Miller, executed to this bank on the following property in which you are to participate to the extent of \$2,000.00.

Northwest quarter (NE $\frac{1}{4}$) of the Northwest quarter (NW $\frac{1}{4}$) of Section twenty four (24) Township Five (5) South of Range three (3) East. Also Southwest quarter (SW $\frac{1}{4}$) of the Northeast quarter (NE $\frac{1}{4}$) of Section twenty four (24) Township five (5) South of Range three East (3). Also Southwest quarter of (SE $\frac{1}{4}$) the Southwest quarter (sw $\frac{1}{4}$) of Section eighteen (18) Township five (5) South of Range four (4) East. All being in Baldwin County, Alabama. Subject to mortgage of \$6000.00 to First Stock Joint Land Bank, Montgomery, Ala.

Very truly yours,

H.L. McCain,
Cashier.

Exhibit "B".