

how and by what instrument or instruments such right, title or interest in or lien or incumbrance upon the said lands is derived or created.

PRAYER FOR PROCESS.

Now therefore, your oratrix prays this Honorable Court will take jurisdiction of this cause and that the State's writ be issued to Buchmann Abstract and Investment Company commanding it to appear and plead, answer or demur to the allegations of this bill within the time and under the penalties prescribed by the laws of the State of Alabama and the practice of this Honorable Court.

PRAYER FOR RELIEF.

Your oratrix further prays that upon the final hearing of this cause your Honor will order, adjudge and decree that the respondent has no right, title or interest in or lien or incumbrance upon the lands above mentioned and described.

Oratrix further prays for such other, further or different relief as in the premises may seem meet and just to this Honorable Court.

Hall & Beebe

Solicitors for Complainant.

FOOT NOTE:

Respondent is required to answer the allegations of this bill, paragraphs ONE to FOUR, inclusive; but not under oath, oath is hereby expressly waived.

Hall & Beebe

Solicitors for Complainant.

Cullman County

Maggie Roberts)

Complainant)

vs)

Buchman Abstract &

Investment Company.

Respondent).

In the Circuit Court of Baldwin County

In Equity .

Comes now the respondent and moves the court to exclude the 1906 tax receipt marked Exhibit A to Maggie Roberts deposition upon the same grounds as was made hertofore and filed to said receipt in motion already on file and the additional ground it is made a part of the deposition of Maggie Roberts and as such was not filed in the time limit fixed by the court for the taking of testimony by the complainant and on the further ground that no ^{not} ~~was~~ given by the complainant of the offering of said receipt as such exhibit ~~is~~ in evidence

S. C. Jenkins, Jess F. Hogan

Solicitors for the Respondent & CrossComplainant

MAGGIE ROBERTS,
COMPLAINANT,

VS

BUCHLIANN ABSTRACT &
INVESTMENT COMPANY,

RESPONDENT.

IN THE CIRCUIT COURT OF BALDWIN COUNTY.

IN EQUITY.

MOTION TO SUPPRESS DEPOSITION OF MAGGIE ROBERTS FILED
JULY 4, 1921.

The respondent and cross complainant moves to suppress the deposition of Maggie Roberts, filed July 4, 1921, upon the following separate and several grounds:

FIRST: Said deposition was not filed within the time prescribed by the order of court as to submission filed May 25, 1921.

SECOND: Because the complainant and cross respondent has not complied with the prerequisites for taking said deposition.

THIRD: Because it does not appear that said deposition was taken under any commission issued out of this court to the purported commissioner who took said deposition.

FOURTH: Because the alleged commission under which the person who took said deposition purported to act, is not attached to, or made a part of, said deposition.

RESPONDENT'S EXCEPTIONS TO TESTIMONY.

FIRST: The respondent objects to the deposition of Mrs. Maggie Roberts filed July 4, 1921, as a whole, upon the following separate and several grounds:

1st; It does not appear that the commissioner who purported to have taken said deposition acted under any commission issued out of the Circuit Court of Baldwin County, Alabama.

2nd; It does not appear that the commission was issued out of this court authorizing Squire S. Burke to take said deposition.

3rd; The commission under which said commissioner purported to act is not attached to, nor made a part of, said deposition.

SECOND: The respondent and cross complainant objected to "any examination of the witness, Maggie Roberts, for lack of com-

pliance with the prerequisites therefor and now renews said objection and moves to exclude the aforesaid deposition of Maggie Roberts upon the same ground.

Sustained
THIRD: The respondent and cross complainant objected to the following portion of the second interrogatory to complainant as her own witness, viz: "who formerly owned the West half of the North east quarter and the East half of the Northwest quarter of section twenty one, township six South, range four East, in Baldwin County, Alabama," upon the following grounds:

1st; Because the question states and assumes a title in Mrs. Mary James, which has not been established;

2nd; Because documentary evidence is better evidence of any title in Mrs. Mary James than oral evidence, which would be secondary evidence;

3rd; Because oral evidence is not allowed for the purpose or with the effect to contradict writings, which are the better evidence of title to lands;

4th; Because the question leads the witness to say orally that Mrs. Mary James formerly owned some title or interest in the lands;

5th; Because it calls for parole evidence to show a title in Mrs. Mary James to land and therewith connect the complainant.

6th; Because title to land by writings can not be varied by parole evidence;

7th; Because if title came down to complainant under another, the title of that other can not be shown by parole which states the contents or substance of or varies written evidence of title;

8th; Because the witness can not show by parole that any predecessor of hers in title had title to the lands;

9th; Because the question calls for inadmissible evidence. (See Objections made by Respondent and Cross Complainant to Interrogatory propounded to Maggie Roberts as her own witness. Page, 1.)

The respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer of said witness to said interrogatory, viz: "I am the daughter of the late Mary James, who formerly owned the West half of the

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Northeast quarter and the East half of the Northwest quarter of section twenty one, township six South, range four East in Baldwin County, Alabama; (See Deposition of Maggie Roberts. Page 1.) upon the same grounds, separately and severally, reserved by way of objections to said interrogatory.

Overruled
FOURTH: The respondent and cross complainant objected to the following portion of the second interrogatory, viz: "State whois the present owner?" upon the following grounds:

1st; Because the question calls for parole evidence of title to lands which is incompetent here and objectionable.

2nd; Because these lands are concerned in this suit and title to them as against this defendant can not be shown by parole evidence. (See Objections to Interrogatories Propounded to said Maggie Roberts. Page 1.)

Excluded
The respondent and cross complainant now renews said objections to said interrogatories and moves to exclude the answer, of the witness thereto, viz: "I lived on this land, and am the present owner;" (See Deposition of Maggie Roberts. Page 1.) upon the same grounds, separately and severally, reserved by way of objection to said interrogatory.

Overruled
FIFTH: The respondent and cross complainant objected to the following portion of the fourth direct interrogatory to said witness, viz: "what disposition did you make of said land after you removed from the same?"

1st; Because this calls for evidence that is inadmissible.

2nd; Because it calls for evidence that is objectionable.

X
The respondent and cross complainant now renews said objections to said interrogatory and moves to exclude the answer of the witness thereto, viz: "I left the land in Mr. Cooney's charge to look after in a general way." I let one of my neighbors a farm apart of it a year after I left (Deposition Maggie Roberts) upon the same grounds

SIXTH: The respondent and cross complainant objected to the fifth interrogatory, upon the following grounds:

Overruled
1st; Because this calls for not the best, but secondary evidence.

2nd; Because it calls for inadmissible evidence.

3rd; Because it calls for evidence that is objectionable.

(See Respondent's Objection to Interrogatories. Page 2.)

The respondent and cross complainant renews its objections to said interrogatory, and moves to exclude the answer thereto, viz; "In 1906 this land was still assessed to my mother Mrs. Mary James, but the bill was sent to me in Chicago, and I paid it in February of 1907." (See Deposition of Maggie Roberts. Page 1.) separately and severally upon the grounds assigned by way of objection to said interrogatory; and upon the following additional grounds:

4th; Said answer is heresay testimony.

The respondent and cross complainant also moves to exclude the following portion of said answer; "that the bill was sent to me in Chicago, and I paid it in February of 1907," upon the following grounds:

1st; Said answer is not responsive to the question.

SEVENTH: The respondent and cross complainant objected to the following portion of the sixth direct interrogatory, viz: "Who paid the taxes on these lands, and if you said you did, state for what year you did;" upon the following grounds:

1st; Because this question calls for a conclusion of the witness.

2nd; Because it calls for not the best, but secondary evidence.

3rd; Because it calls for evidence that is irrelevant.

4th; Because it calls for evidence that is immaterial.

The respondent and cross complainant now renews its objection to said interrogatory and moves to exclude the answer of the witness thereto, viz; "After my mother's death I paid the taxes on this land for several years thru 1909, perhaps longer," (See Deposition of Maggie Roberts. Page 1.) upon the same separate and several grounds reserved by way of objection to said interrogatory.

EIGHTH: The respondent and cross complainant objected to the following portion of the seventh interrogatory, viz; "During the years 1904 to 1910 did you or not pay the taxes on the lands above described for the year commencing October 1, 1906," upon the following grounds:

Roberts

Overruled

Refused

Overruled



- 1st, Because the question is leading.
- 2nd; Because it calls for the witness's conclusion.
- 3rd; Because it calls for evidence that is irrellevant.
- 4th Because it calls for evidence that is immaterial.
- 5th; Because it calls for evidence that is objectionable.

(See respondent's Objection to Interrogatory to said witness, Page 2.)

referred

Respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer of the witness thereto, viz: "My mother, and I after her death, paid taxes on this land from 1904 and before, through 1909, possibly 1910; this included the taxes for 1906, which fell due on October 1st of that year," (See Deposition of Maggie Roberts. Page 1.) separately and severally upon the grounds reserved by way of objection to said interrogatory, and upon the additional ground that said answer is not responsive to the question.

admitted

NINTH: The respondent and cross complainant objected to the following portion of the seventh interrogatory, "Did you pay taxes on any other lands in Baldwin County for that year?" (a) because it is a leading question. 1st, It calls for argumentative evidence.

- 2nd; Because it calls for self serving evidence.
- 3rd; Because it calls for the witness's conclusion.
- 4th; Because it calls for evidence that is irrelevant.
- 5th; Because it calls for evidence that is immaterial.
- 6th; Because it calls for evidence that is objectionable.

(See Respondent's Objections to said Interrogatory. Page 3.)

admitted

Respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer of the witness thereto, viz; "In 1908 there were no other lands assessed to Mrs. James, other than these described above and which was our home; later on this land was assessed to me and taxes on it paid with a small piece that I owned already. This was included in my tax bill for 1909, for which I have the receipt now in my lawyer's hands," (See Deposition of Mrs. Maggie Roberts, Page 1.) upon the same separate and several grounds assigned by way of objection to said interrogatory.

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TENTH: The respondent and cross complainant objected to that portion of the eighth direct interrogatory propounded to said Maggie Roberts, as follows viz; "Did you or not pay the taxes on the lands above described for the year commencing October 1, 1906, upon the following grounds:

- 1st; Because the question is leading.
- 2nd; Because it calls for the witness's conclusion.
- 3rd; Because it calls for evidence that is irrelevant.
- 4th; Because it calls for evidence that is immaterial.
- 5th; Because it calls for evidence that is objectionable.

Said respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer thereto as follows, viz: "As I have already stated I paid all taxes on the land inquired about for 1905 and 1906 in the name of my mother; who owned no other land in Baldwin County" (Deposition of Maggie Roberts, page 1.) upon the separate and several grounds assigned by way of objection to said interrogatory.

ELEVENTH: The respondent and cross complainant objected to the following portion of said direct interrogatory eight, viz: "Did you pay taxes on any other land in Baldwin County for that year upon the following grounds: (a) Because the question is leading.

- 1st; Because it calls for argumentative evidence.
- 2nd, Because it calls for self serving evidence;
- 3rd; Because it calls for the witness' conclusion.
- 4th; Because it calls for evidence that is irrelevant.
- 5th, Because it calls for evidence that is immaterial.
- 6th; Because it calls for evidence that is objectionable.

(See Respondent's Objections to Interrogatories propounded to said witness. Page 3.)

Respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer thereto, viz: "I also paid on other lands that were assessed to me. I had previously bought a small tract not far from my mother, but that stood in my name. I do not remember whether the 160 of my mother was assessed in my name in 1907 or not, or in 1908, as I have not the tax bills before me, but it was assessed to me and paid by me in 1909 with other lands" (Deposition of Maggie Roberts page 1.)

Answers

*several
referred*

excluded

2

separately and severally upon the grounds assigned by way of objections to said interrogatory.

Respondent and cross complainant moves to exclude that portion of said witness' answer to the eighth interrogatory as follows: viz; " I do not remember whether the l60 of my mother's was assessed in my name in 1907 or not, or in 1908, as I have not the tax bills beforeme, but it was assessed to me and paid by me in 1909 with other lands, (Deposition of Maggie Roberts, page 1.)

upon the following separate and several grounds:

1st; Said answer is not responsive to said interrogatory.

2nd; Said answer is illegal, irrelevant and immaterial.

TWELFTH: The respondent and cross complainant objected to the first question in the ninth interrogatory to said witness as follows: "If you say you paid the 1906 taxes on said land where were you living when such payment was made?" (See Respondent and Cross Complainant's Objection to Interrogatories propounded to said witness, page 3.) upon the following separate and several grounds:

1st; Because it calls for the witness' conclusion.

2nd; Because it calls for evidence that is objectionable.

Said respondent and cross complainant now renews its objection to said interrogatory and moves to exclude the answer, viz: "When I paid the 1906 taxes on this land I was living in Chicago" (Deposition of Maggie Roberts, page 2.) upon the same separate and several grounds assigned by way of objection to the said interrogatory;

THIRTEENTH: The respondent and cross complainant objected to the following portion of the ninth direct interrogatory, viz:

"How was such payment made and when?" upon the following grounds:

1st; Because it calls for the witness' conclusion.

2nd; Because it calls for evidence that is objectionable.

3rd; Because it calls for evidence that is incompetent;

4th; Because it calls for evidence that is immaterial.

5th; Because it calls forevidence that is not sufficient on which to infer that she paid the taxes.(See Respondent's Objections to Direct Interrogatories propounded to said witness, page 4.)



sworn

replied

sworn

The respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer thereto, viz; "I received the tax bill through the mail in either January or February 1907, and returned the bill with the cash to pay it in a letter addressed to Mr. Cooper, TaxCollector, Bay Minette, Alabama. This payment was made in the latter part of January or the first part of February and shortly after I received the bill," (Deposition of Maggie Roberts, page 2.) upon the separate and several grounds assigned by way of objection to said interrogatory.

Referred

overruled

FOURTEENTH: The respondent and cross complainant objected to that portion of the ninth direct interrogatory propounded to said witness as follows: "If you state that it was done by mail tell in what form the remittance was made and to whom the letter was addressed" upon the following separate and several grounds:

- 1st; Because this is a leading question.
 - 2nd; Because it calls for the witness' conclusion.
 - 3rd; Because it calls for evidence that is not sufficient to beget a presumption that the taxes were paid.
 - 4th; Because it calls for evidence that is incompetent.
 - 5th; Because it calls for evidence that is objectionable.
- (See said Objections, page 4.)

Respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer thereto, viz; "I received the tax bill through the mail in either January or February 1907, and returned the bill with the cash to pay it in a letter addressed to Mr. Cooper, Tax Collector, Bay Minette, Alabama. This payment was made in the latter part of January or the first part of February, and shortly after I received the bill" (See Deposition of Maggie Roberts, page 2.) upon the separate and several grounds of objection assigned to said interrogatory.

referred

overruled

FIFTEENTH: Respondent and cross complainant objected to that portion of the direct interrogatory tenth propounded to Maggie Roberts, viz: "When you paid this tax did you or not send with your remittance the bill you received?" upon the following grounds:

- 1st; Because it is a leading question;
- 2nd; Because it calls for the witness' conclusion.

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3rd; Because it calls for evidence that is incompetent.

4th; Because it calls for evidence that is objectionable.

(See Respondent's Objections to said Interrogatory, page 4.)

Respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer thereto, viz: "As I have stated before I enclosed the tax bill I received in a letter with the money" (Deposition of Maggie Roberts, page 2) upon the separate and several grounds reserved by way of objections to said interrogatory.

SIXTEENTH: The respondent and cross complainant objected to the following portion of the tenth interrogatory "Did you ever receive the receipt for this remittance?" upon the following grounds:

1st; Because it calls for the witness' conclusion.

2nd; Because it calls for evidence that is incompetent.

3rd; Because it calls for evidence that is objectionable.

4th; Because it calls for oral evidence of a paper's

contents. (See said Objections, page 4.)

Respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer thereto, viz: "In a short time I received the bill back by mail signed 'H. H. Cooper' which was the same name that was signed to several previous receipts" (See Deposition of Maggie Roberts, page 2) upon the separate and several grounds reserved by way of objections to said interrogatory.

SEVENTEENTH: The respondent and cross complainant objected to that portion of the tenth direct interrogatory propounded to said witness: "What name was signed to the receipt?" upon the following grounds:

1st; Because this calls for immaterial evidence.

2nd; Because it calls for evidence that is objectionable.

3rd; Because it calls for evidence that is incompetent.

4th; Because it calls for evidence that is secondary.

5th; Because it calls for oral evidence of the contents or part/of a written instrument. (See Respondent's Objections to Interrogatories propounded to said witness, page 4.)

Respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer there to

renewed

renewed

granted

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viz: "~~Signed 'H. H. Cooper'~~ which was the same name that had been signed to previous receipts," (Deposition of Maggie Roberts page 2.) upon the separate and several grounds assigned by way of objections to said interrogatory.

EIGHTEENTH: The respondent and cross complainant objected to the following portion of the eleventh direct interrogatory propounded to the said Maggie Roberts, viz: "How long did you keep this receipt, and what did you ultimately do with it?" upon the following ground: (a) Because this calls for her conclusion.

1st; Because this calls for the witness' conclusion that the paper was a genuine receipt. (See Objections to said Interrogatories, page 4.)

Respondent and cross complainant now renews its objections to said question and moves to exclude the answer thereto, viz:

"I kept this receipt with my other papers for several years, but in 1918, when Mr. Cooney wrote me^x that my land had been sold for failure to pay the 1906 taxes I send it to him to use in straightening out the matter" (See Deposition of Maggie Roberts, page 2.)

upon the separate and several grounds assigned by way of objection to said question.

NINETEENTH: Respondent and cross complainant objected to that portion of the eleventh ~~interrogatory~~ propounded to said witness viz: "If you said you sent it to someone state to whom and for what purpose" upon the following grounds:

1st; Because this question calls for her conclusion.

2nd; Because it calls for a statement of her uncommunicated motive or purpose, not communicated to defendant;

3rd; Because it calls for secondary evidence;

4th; Because it calls for incompetent evidence.

5th; Because it calls for evidence that is objectionable.

6th; because it calls forevidence that is immaterial.

(See Objections to Interrogatories propounded to said witness page 4 and 5.)

Respondent and cross complainant now renews its objections to said question and moves to exclude the answer of the witness thereto, viz: "When Mr. Cooney wrote me that my land had been sold for failure to pay 1906 taxes I sent it to him to use in straighten-

overruled

referred

~~*Standard*~~
overruled

referred
~~*standard*~~



ing out the matter" (Deposition of Maggie Roberts, page 2.) upon the separate and several grounds assigned by way of objection to said question.

Respondent and cross complainant especially moves to exclude the following portion of said deposition "To use in straightening out the matter." (Deposition of Maggie Roberts page 2) upon the following ground:

1st; It is a statement of the uncommunicated motive or purpose of the witness.

2nd; It is a self serving statement.

TWENTIETH: The respondent and cross complainant moves to exclude the following portion of the answer of said Maggie Roberts to the eleventh interrogatory, viz: "He turned it over to the lawyers he had engaged for me and they sent it to me in 1919 to be attached to the deposition I made then" on the following separate and several grounds:

1st; Said testimony is not responsive to any question propounded to said witness.

2nd; Said testimony is hearsay.

TWENTY FIRST: Respondent and cross complainant objected to the following portion of the eleventh direct interrogatory propounded to the said witness: "Was this paper in your possession from February 1907, when you received it ~~to~~ the time you sent it to Mr. P. J. Cooney in 1918?" on the following grounds:

1st; Because the question is a leading one.

2nd; Because it calls for evidence that is incompetent.

3rd; Because it calls for evidence that is objectionable.

(See Objections to said Interrogatories, page 5.)

Respondent and cross complainant now renews its objections to said question, and moves to exclude the answer thereto, viz:

"It has been in the possession of either myself, Mr. Cooney, or my lawyers ever since I received it," (Deposition of Maggie Roberts page 2.) upon the separate and several grounds reserved by way of objection to said interrogatory, and also upon the following ground:

1st; Said question is not responsive to the question.

Respondent and cross complainant expressly moves to exclude said answer insofar as it related to "Mr. Cooney and my

Answered

Answered

replied

franted

lawyers ever since I received it," upon the following separate and several grounds:

1st; Said testimony is hearsay.

2nd; Said testimony is illegal, irrelevant, and immaterial.

TWENTY SECOND: The respondent and cross complainant objected to the following portion of said eleventh direct interrogatory, viz: "After sending the paper to Mr. P. J. Cooney state if you ever saw the paper again, Was it in the same condition as to the writing on it as it was when you received it from Bay Minette the first time?" upon the following grounds:

1st; Because this calls for incompetent evidence.

2nd; Because this calls for evidence that is objectionable.

3rd; Because it calls for incompetent evidence.

4th; Because it calls for evidence that is insufficient to infer the payment of the taxes.

5th; Because it call sfor immaterial evidence.

(See Objections to said Interrogatories, page 5.)

Respondent and cross complainant now renews its objections to said question and moves to exclude the answer thereto, viz:

"They sent it to me in 1919 to be attached to the deposition I made them. When it came back to me it was in the same condition as when I got it back from the tax office," (Deposition of Maggie Roberts, page 2.) separately and severally upon the grounds assigned by way of objection to said question.

Respondent and cross complainant objected to that portion of said eleventh interrogatory as follows: "Was there any change in the paper other than it showed signs of having been wet?" upon the following grounds:

1st; Because it is a leading question.

2nd; Because it calls for evidence insufficient to infer payment of the taxes.

3rd. Because it calls for self serving testimony.

4th; Because it calls for incompetent evidence.

5th; Because it calls for objectionable testimony.

(See Objections to said Interrogatories page 5.)

Respondent and cross complainant now renews its objections

overruled

refused

overruled

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to said question and moves to exclude the answer of the witness thereto as follows, viz: "When it came back to me it was in the same condition that it was when I got it back from the tax office, and is in the same condition now except that it has been folded so such that it is creased. The stain is due to it having been in a box in my attic which leaked and got my papers wet,"

(Deposition of Maggie Roberts page 3.) upon the separate and several grounds assigned by way of objection to said question, and upon the following additional grounds:

1st; Said answer is not responsive to the question.

TWENTY FOURTH: The respondent and cross complainant objected to the twelfth interrogatory propounded to said witness upon the following grounds:

1st; Because this question calls for a conclusion of the witness.

2nd; Because it calls for evidence that is inadmissible.

3rd; Because it calls for evidence that is incompetent.

4th; Because it call for evidence that is immaterial.

5th; Because it calls for evidence that is insufficient to infer the payment of the taxes.

6th; Because it calls for evidence that does not sufficiently establish the validity of the paper called a tax receipt to make it competent evidence of payment of the taxes concerned.

7th; The paper is not established.

(See Objections to said Interrogatory, page 6.)

Respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer of the witness thereto as follows, viz: "I have handed the receipt I am speaking of to Mr. Burke, the Commissioner to be marked "Exhibit B" to be attached to this deposition," upon the separate and several grounds reserved by way of objection to said interrogatory.

Said respondent and cross complainant expressly moves to exclude from the evidence a writing purporting to be a tax receipt for 1906, addressed to Mrs. Mary James, and attached to said deposition of said Maggie Roberts, upon the following separate and several grounds:

Respondent

Grounds

Respondent

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1st; It does not appear that this writing is the writing handed by the said witness to Mr. Burke, the commissioner.

2nd; This writing is not identified as "Exhibit B."

Substant
TWENTY FIFTH: The respondent and cross complainant objected to direct interrogatory three propounded by the complainant to John Purifoy, a witness for complainant upon the following separate and several grounds:

1st; Said interrogatory calls for immaterial, irrelevant, and illegal testimony.

2nd; Said question may call for a collateral issue not involved or connected with the issues in this suit.

3rd; That at whose instance said examination was made is illegal, irrelevant and immaterial.

4th; Insofar as said question asks for the circumstances under which said examination was made it calls for hearsay as well as illegal testimony.

5th; Insofar as the question calls for the circumstances under which it was made it is indefinite and speculative.

6th; Insofar as the question calls for the circumstances under which the examination was made it does not appear whether or not said testimony is incompetent. (See Objections to Interrogatories propounded by complainant to John Purifoy, page 1.)

Respondent and cross complainant now renews said objections to said interrogatory and moves to exclude the answer of the witness thereto, viz: " Was instructed by the governor to make the examination, but his instructions as I recollect was based on a request from the Judge of Probate of Baldwin County," upon the same separate and several grounds assigned by way of objections to said interrogatory.

TWENTY SIXTH: The respondent and cross complainant objected to the fourth direct interrogatory propounded to said John Purifoy, upon the following separate and several grounds:

1st; Said interrogatory calls for illegal, irrelevant, and immaterial testimony.

2nd; Whether or not Mr. Cooper accounted to the state for all monies received by him as tax collector has no probative value, upon the issues in this cause.

3rd; Whether or not Mr. Cooper accounted to the state for all monies received by him as tax collector does not tend to prove whether or not the complainant or Mrs. Mary James paid the state and county taxes on the land involved in this suit for the year 1906.

4th; Said question introduces a collateral issue not involved or connected with the issues in this suit.

5th; Said question calls for highly prejudicial testimony, but having ^{very} slight or no probative value.

(See Objections to Interrogatories Propounded to John Purifoy p. 1 & 2)

The respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer of the witness thereto, viz: "I did find that he had failed to account for all monies collected and his accounts did not balance," (Deposition of John Purifoy, page 2.) upon the separate and several grounds reserved by way of objection to said interrogatory.

1st; Said interrogatory calls for irrelevant, illegal, and immaterial testimony.

Excluded

Granted

TWENTY SEVENTH: The respondent and cross complainant objected separately and severally to each of the questions propounded in direct interrogatory five to said witness, upon the following separate and several grounds;

1st; Said questions call for irrelevant, illegal and immaterial testimony.

2nd; Whether or not Mr. Cooper account to the state for all monies received by him as tax collector has no probative value upon the issues in this cause.

3rd; Whether or not Mr. Cooper accounted to the state for all monies received by him as tax collector does not tend to prove whether or not the complainant or Mrs. Mary James paid the state and county taxes on the land involved in this suit for the year 1906.

4th; Said question introduces a collateral issue not involved or connected with the issues in this suit.

5th; Said question calls for highly prejudicial testimony, but having ^{very} slight or no probative value. (Objections to Interrogatories propounded to said witness, page 2.)

The respondent and cross complainant now renews its objections to said interrogatory and moves to exclude the answer thereto, viz: "After finding that his books did not balance I learned, I do not recollect from what source, that he had kept his money on deposit in the Peoples Bank of Mobile. I had also found that he had kept what was purported to be a cash book showing amounts collected from whom and for what purpose, and that he had settled with the State in accordance with the figures in the purported cash book, Upon examining his bank account with the Peoples Bank of Mobile I discovered that a large amount of money had been deposited in that bank and placed to Mr. Cooper's credit as Tax Collector which had not been entered on his cash book, and consequently had not been accounted for by him or paid over to the State and County Treasurers. The first sum I found short, which was reported February 7, 1908, was \$7,472.12. On the demand of the State Auditor for the balance due by Mr. Cooper as Tax Collector, he disputed the correctness of my finding." (Deposition of John Purifoy page 2.)

County
substantive

Excluded

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separately and severally upon the grounds reserved by way of objections to said interrogatory.

TWENTY EIGHTH: The respondent and cross complainant objected separately and severally to each question in the sixth interrogatory propounded to John Purifoy upon the following separate and several grounds:

1st; Said interrogatory calls for illegal, irrelevant, and immaterial testimony.

2nd; Whether or not Mr. Cooper accounted ^{to the state} for all monies received by him as Tax Collector has no probative value upon the issues in this cause.

3rd; Whether or not Mr. Cooper accounted to the state for all monies received by him as Tax Collector does not tend to prove whether or not the complainant or Mrs. Mary James paid the state and county taxes on the land involved in this suit for the year 1906.

4th; Said question introduces a collateral issue not involved or connected with the issues in this suit.

Said question calls for highly prejudicial testimony, but ^{very} having/slight or no probative value. (See Objections to Direct Interrogatories propounded to John Purifoy, pages 2 & 3.)

Respondent and cross complainant now renews its objections to said interrogatories and moves to exclude the answer thereto, as follows, viz: "My investigation showed that the Agent of the L. & N. Railroad Company had paid into the State Treasury the railroad franchise tax amounting to \$4,757.37 for state and county. When the cash book showed this sum had not been collected and had not been accounted for by him in his cash book, nor in any of his other books showing this sum to be paid, though he acknowledged that he knew it had been paid and took credit for that sum in his settlement with the State Treasury on other taxes he had collected down there in the county himself. Another item for a large sum was a tax paid by the Southern Land and Timber Company for the year 1907. The tax was paid by check from the company to the Tax Collector of the County and though the sum was collected early in October as shown by his bank account with the Peoples Bank of Mobile, his own cash book showed the collection of it in January, 1908. (He had

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on Page 112

failed to enter it on his cash book until three months after it had been deposited by the collector and collected by the bank. In my examination of Cooper's bank account with the Bank of Mobile I found that he had made a number of deposits of taxes collected which had never been entered on his cash book," (Deposition of John Purifoy, page 2&3 upon the separate and several grounds assigned by way of objections to said interrogatory.

TWENTY NINTH: The respondent and cross complainant objected separately and severally to each question propounded in the seventh intoerrogatory to said John Purifoy, upon the following separate and several grounds:

1st; Said interrogatory calls for illegal, irrelevant, and immaterial testimony.

2nd; Whether or not Mr. Cooper accounted ^{to the state} for all monies received by him as Tax Collector has no probative value upon the issues in this cause.

3rd; Whether or not Mr. Cooper accounted to the state for all monies received by him as Tax Collector does not tend to prove whether or not the complainant or Mrs. Mary James paid the state and county taxes on the land involved in this suit for the year 1906.

4th; Said question introduces a collateral issue not involved or connected with the issues in this suit.

(See Objections to Interrogatories propounded to John Purifoy, page 3.)

Respondent and cross complainant now renews its objections to said interrogatories, separately and severally, and moves to exclude the answer of the witness thereto, viz: "I inspected the vault door which was alleged to have been Blown open and money stolen from it and while I am not an expert on burglary, the impression was left with me that the blowing open of the vault door was simply a scheme to afford an excuse for the shortage which was found against Mr. Cooper. I also noted that certain marks on the vault door were made which left the impression with me that the effort to bore from the front was so difficult that the effort was then transferred to the inside. The hold in the door was larger on the inside than on

Excluded

Excluded



the outside which indicated that the boring was accomplished from the inside. I was further impressed with the idea that a prudent man would not have left large sums of money in so insecure a place. The vault whose door was blown open was never intended to be made secure for the protection of money, it was intended only to protect the books of the Tax Collector from fire," (Deposition of John Purifoy, page 3.) ^{X off here} upon the separate and several grounds assigned by way of objection to said interrogatory.

THIRTIETH: The respondent and cross complainant objected, separately and severally to each question propounded to John Purifoy in Direct Interrogatory eight, upon the following separate and several grounds:

1st; Said interrogatory calls for illegal, irrelevant, and immaterial testimony.

2nd; Whether or not Mr. Cooper accounted ^{to the state} for all monies received by him as Tax Collector has no probative value upon the issues in this cause.

3rd; Whether or not Mr. Cooper accounted to the state for all monies received by him as Tax Collector does not tend to prove whether or not the complainant or Mrs. Mary James paid the state and county taxes on the land involved in this suit for the year 1906.

4th; Said question introduces a collateral issue not involved or connected with the issues in this suit.

5th; Said question calls for highly prejudicial testimony ^{very} but having slight or no probative value.

6th; Said question calls for hearsay as well as the personal knowledge of the witness.

7th; Said question calls for the conclusion or opinion of the witness. (Objections to Interrogatories propounded to John Purifoy, page 3.)

The respondent and cross complainant now renews its objections, separately and severally to said interrogatory, and moves to exclude the answer of the witness thereto, viz: "A large part of the money collected by the Bank of Mobile and placed to the credit of Mr. Cooper as Tax Collector was used by Mr. Cooper to liquidate

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an individual note he had executed to the bank. I do not remember the exact sum of such note but it amounted to thousands of dollars," (Deposition of John Purifoy, page 4.) upon the separate and several grounds assigned by way of objection to said interrogatory.

THIRTY FIRST: The respondent and cross complainant objected to Direct Interrogatory Nine propounded to said John Purifoy, upon the separate and several grounds:

1st; Said interrogatory calls for illegal, irrelevant, and immaterial testimony.

2nd; Whether or not Mr. Cooper accounted to the state for all monies received by him as Tax Collector has no probative value upon the issues in this cause.

3rd; Whether or not Mr. Cooper accounted to the state for all monies received by him as Tax Collector does not tend to prove whether or not the complainant or Mrs. Mary James paid the state and county taxes on the land involved in this suit for the year 1906.

4th; Said question introduces a collateral issue not involved or connected with the issues in this suit.

5th; Said question calls for highly prejudicial testimony very but having/slight or no probative value.

6th; It does not appear that said question calls for the condition of the books showing payment of the taxes due for the year 1906. (See Objections to Direct Interrogatories propounded to John Purifoy, page 4.)

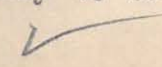
Respondent and cross complainant now renews its objections to said interrogatories separately and severally and moves to exclude the answer of the witness thereto, viz: "My answers to previous interrogatories have shown that large sums of money collected by Mr. Cooper were not shown by his cash book, nor were they shown by the stub book, which he is required to keep by law, nor was any memorandum or note made on his abstract book furnished by the Judge of Probate as to payments of many taxes collected by him," (Deposition of John Purifoy, page 4.) upon the separate and several grounds assigned by way of objections to said interrogatory.

THIRTY SECOND: The respondent and cross complainant objected separately and severally to each of the questions contained

Complainant

Defendant

Respondent



in the tenth direct interrogatory propounded to said witness upon the following separate and several grounds:

1st; Said interrogatory calls for illegal, irrelevant, and immaterial testimony.

2nd; Whether or not Mr. Cooper accounted to the state for all monies received by him as Tax Collector has no probative value upon the issues in this cause.

3rd; Whether or not Mr. Cooper accounted to the state for all monies received by him as Tax Collector does not tend to prove whether or not the complainant or Mrs. Mary James paid the state and county taxes on the land involved in this suit for the year 1906.

4th; Said question introduces a collateral issue not involved or connected with the issues in this suit.

5th; Said question calls for highly prejudicial testimony but having ^{very} slight or no probative value.

6th; Said question calls for hearsay as well as the personal knowledge of the witness.

7th; Said question calls for the conclusion or opinion of the witness.

8th; The respondent was not a party to any of said cases and is not bound by the result in any of them. (Objections to direct interrogatories propounded to John Purifoy, pages 4 & 5.)

Excluded

The respondent and cross complainant now renew s its objections to said interrogatory and moves to exclude the answer of the witness thereto, viz: "I do not remember whether suit was brought by the state against Mr. Cooper and his bondsmen as a result of my examination but my recollection is that after the suit in favor of the county was determined and the judgment secured, the bonding company settled with the state authorities without pressing the matter to a suit. The suit in favor of the County was brought to trial before the State suit was acted on. I was a witness on the trial of the County suit where judgment was obtained for the full amount of my findings. I do not think I was ever required to appear as a witness in a state suit but that the State's deficit was settled without pressing suit, " (Deposition of John Purifoy, page 4.)

separately and severally upon the grounds assigned by way of objec-

tions to said interrogatory.

over

THIRTY THIRD: The respondent and cross complainant objected to the following questions propounded to Mr. Crosby, a witness for the complainant. "Mr. Crosby, will you look at this book, which, for purposes of identification, is a book of receipts for the year 1908 of Baldwin County, and which bears on its outer cover the filing mark of Mr. James A. Crane, as Register, and also look at this receipt, which is stained a pinkish cast, and has printed at the top, in bold letters, the words "TAXES FOR 1908," and appears to be a tax collector's tax bill addressed to Mrs. Mary James, -will you note the signature at the bottom of that, and state whether, in your opinion, that was made by one and the same man whose duplicate receipts are shown in the tax books?" upon the following grounds:

1st; Because proper predicate ^{been} has not/laid to enable the witness to qualify to make the comparison asked.

2nd; Because proper predicate has not been laid with reference to the signatures on the book with which it is proposed to compare the signature on the receipt.

3rd; Because the signature or handwriting with which the signature on the receipt is proposed to be compared has not been sufficiently identified in order to establish same. (See Deposition of J. R. Crosby, page 2.)

over

The respondent and cross complainant now renews its objection to said question and moves to exclude the answer thereto, viz: "Well in my opinion, the same party who wrote this signature here on the receipt (indicating) is the same handwriting that is found in this book, (indicating) especially this No. 4975, (indicating); that is, the same handwriting that signed this receipt (indicating) is the same handwriting that signed the receipts in this book, and more especially like this No. 4975, (indicating);" (See Deposition of Mr. Crosby pages 2 & 3) upon the same grounds reserved by way of objection to the question, and upon the following additional grounds:

1st; That sufficient basis has not been established for the witness to express the opinion, and further, upon the ground

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that all of the signatures in the books have not been pointed out, either by the solicitor or by the witness; and not one of them has been identified as the signature of any particular person; and further, because it is not shown whose are the signatures in the books and has not been shown who signed any particular place in the book. (See Deposition of J. R. Crosby, page 3.)

THIRTY FOURTH: The respondent and cross complainant objected to the following questions propounded to Mr. J. R. Crosby: "Mr. Crosby, would the fact that a receipt obviously impossible to have been printed in February 1906, but which had been signed in the early part of 1907, with the year as 1906, would, or would not, in your opinion, the fact that the wrong year was put on be not only a natural mistake for people to make in the beginning of the year, but would also strengthen your theory that this signature was possibly written by someone intoxicated or under the influence of liquor," upon the following grounds:

1st; The question calls for the opinion of the witness who is not authorized by the statute of comparisons of handwriting and that it calls for the witness to state his conclusions outside of the comparisons; also it is a leading question. (Deposition of J. R. Crosby, page 11.)

Respondent and cross complainant now renews its objections to said question and moves to exclude the answer of the witness thereto, viz: "It would," upon the same grounds separately and severally as assigned to the question. (Deposition of J. R. Crosby, page 11.)

THIRTY FIFTH: The respondent and cross complainant objected to the following question propounded to J. R. Crosby, "What were their habits as to sobriety and steadiness," upon the following ground: "It is absolutely incompetent. The witness answered: "They had the reputation of being pretty dissipated."

The respondent and cross complainant thereupon objected to the answer upon the same grounds assigned to the question and further upon the ground that it is irresponsive; and upon the ground that the witness' conclusion is stated in it. (Deposition of J. R. Crosby, page 12.)

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The respondent and cross complainant now moves to exclude said answer upon the following separate and several grounds:

1st; It is absolutely incompetent.

2nd; It is irresponsible.

3rd; The witness conclusion is stated in it.

submitted

THIRTY SIXTH: The respondent and cross complainant objected to the question propounded to Mr. J. D. Beroujohn, as follows, viz: "I have here a book marked, "Tax Receipts for 1908 of Baldwin County," bearing on the cover the filing mark of James A. Crane, Register, and contains carbons of receipts issued from the Baldwin Tax Office; I have also a tax bill from the Tax Collector's books of Baldwin County, with printed on it the words "Taxes for 1906," and purporting to be a tax bill of Mrs. Mary James, - will you please note the latter and state whether, or not, the signature at the bottom of the tax bill was made by one of the two men whose names are signed to the tax receipts in the book?" upon the following grounds:

1st; That proper predicate has not been laid for this testimony by the establishment of the book in question.

2nd; Because a proper predicate has not been laid by the establishment of any signatures upon the book.

3rd; Because proper predicate has not been laid by the witness in establishing his competency to express an opinion by comparison of the two signatures;

4th; Because the question calls for the opinion of the witness, without proper predicate being laid; thereupon the witness answered said question as follows: "If this came in signed like that, to a check, you understand, and I was going to compare the signatures, I would say this signature looks close enough to pay it; in other words, I would believe that that was this signature (indicating tax receipt book). This is written with a pen, and this is with a pencil (indicating.) (indicating), and often there is a lot of difference between pencil and pen. Sometimes people tell us they can not write with a pen at all, but have to use a pencil. A pencil has a tendency to write smoother. Now, take these signatures, - this Cooper here (indicating) looks pretty much like this, except the "Hs" where

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they are joined looks a little bit different,-- this one, thought, lets see one of the same signatures here.(indicating) You see the Hs are not joined here (indicating) and the "Hs" here are not joined, and the "C" here (indicating) is more pointed, which is n natural whenea man is signing another man's signature or name and is not familiar with his signature.

Q. "The signatures in the book to which you refer appears where?"

A. "No. 4977 and 4979. Here are the two I am looking at; in other words, if I was going to sign your name, and was not familiar with it, and you joined your signature, I would not join it together. In my opinion, this signature compares favorably enough to pay it in the bank. I am referring to receipt #4977."

The respondent and cross complainant objected to the witness' answer separately and severally upon the same grounds as were assigned as objections to the question. (Deposition of Mr. J. D. Beroujohn, pages 15 and 16.)

The respondent and cross complainant now moves to exclude the answer of said witness upon the same separate and several grounds assigned by way of objection to said question to said witness.

THIRTY SEVENTH: The respondent and cross complainant objected so the following question propounded to the witness, J. D. Beroujohn, viz: "Is it then your opinion that those two signatures are written by the same man to the best of your opinion?" upon the ground that proper predicate has not been laid as yet for the expression of opinion under the statute relating to ceomparisions of handwriting. / In my opinion I would say the signatures were the same."

The respondent and cross complainant thereupon objected to the answer upon the same grounds of objection as assigned to the question. (Deposition of J. D. Beroujohn, page 16.)

The respondent and cross complainant now moves to exclude said answer upon the grounds assigned by way of objection to said question.

THIRTY EIGHTH: The following question was propounded on the direct examination to Mr. George T. Rosson, a witness for complainant: "Mr. Rosson, will you take a look at this book, which for th

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for the purpose of identification, I describe as being labeled on the outside, "Tax Receipts, 1908, of Baldwin County," and which bears also the filing signature of Mr. James A. Crane, Register, and which purports to be the carbon copies of receipts issued for the tax year of 1907, and state from that how many different kinds of signatures, that is to say, signatures by how many people do you find in that book?"

Thereupon the respondent objected to "the introduction or offer of this book with the description thereof, and the writings therein, on the ground that it is extraneous, and contains extraneous writings which have not heretofore been introduced in evidence in the case, and are not in evidence; and Respondent upon the following ground that it is incompetent and objects/also to the testimony that may be adduced from examination of these writings on the grounds that the evidence is incompetent and irrelevant, (and solely for comparison) to introduce extraneous writings or matters, in order to institute a comparison of writings, either before a jury or before a witness offered as an expert. Respondent objects upon the further ground that the book is not such a record as is officially kept; further on the ground that it has not been shown by any certificate or by any officers under whose custody said record, if it be a record, was kept, and whose duty it was to keep such a book. Respondent objects further upon the grounds that only the officer keeping such stub or memorandum book would be the proper person to identify it as genuine. Respondent objects further upon the ground that all the writings appear to be a carbon of some original entries made in the book, and that the original entries made in the book, and that the original entries therefrom are absent."

The witness then answered said question as follows:

"I have examined the signatures contained in this book, and, in my opinion, they constitute the signatures of two men. The name of "H. H. Cooper" being signed by both. The general characteristics of the two signatures are somewhat similar, but a close scrutiny reveals a difference between them by which they can be readily separated. I will name, for the purpose of comparison, the following numbered receipts: Number 4903 and Number 4904

appear to have been signed by one of the parties,--4906, 4907 and 4908 appear to have been signed by the other party. There is no necessity for going into any long list of them. The same characteristic differences appear in the signatures throughout the book."

The respondent and cross complainant made the same objections to these specifications as testified to by the witness as to what appears on the receipts and to all and each separately and severally that he made to the introduction of the book itself. (Deposition of George T. Rosson, pages 2 and 3.)

Counsel agreed that wherever objection is made to the question a motion to rule out the evidence elicited by said question is considered as timely made. (See Agreement of Counsel noted by commissioner in the caption page of Deposition.)

Respondent and cross complainant now moves to exclude said answer upon the grounds reserved by way of exception to said question.

THIRTY NINTH:: The complainant propounded the following question to said witness upon direct examination: "You have testified as to #4906 and 4907, will you look at #4909 and 4910? Is that by the same man who wrote #4906?"

The respondent objected to said question on the same grounds as interposed to the above question upon the following grounds: It is irrelevant, incompetent and immaterial.

The witness thereupon answered as follows: "In my opinion the signatures #4909 and #4910 were the same as on #4906 and #4907. (Deposition of George T. Rosson, pages 3 and 4.)

The respondent and cross complainant moves to exclude said answer upon the same separate and several grounds assigned by way of objection to said question. (See Agreement of Counsel)

Respondent and cross complainant now renews its motion to exclude this answer separately and severally, upon the grounds assigned by way of objection to said question.

FORTIETHENTH: The complainant propounded to Mr. Rosson on the direct examination the following question: "Mr. Rosson will you look at that paper that I hand you, which bears the signs of having been wet, and is on a printed blank, which has printed at the top "Assessor's Book for 1906, Taxes for 1906, State of

referred

referred

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Alabama, Baldwin County," and which appears to be a tax bill addressed to Mrs. Mary James, - please note the signature "H. H. Cooper" at the bottom of this, and state whether, or not, in your opinion, it was written by one or the other of the two men whose signatures you have just discussed, and if so, by which?"

Respondent
Respondent and cross complainant objected to said question upon the following grounds: "The same objections as heretofore made to the introduction of the book of receipts, the respondent makes to the introduction of this purported tax bill for the year 1906; and on the further grounds,

1st; that it has not been introduced in evidence.

2nd; On the ground that it is offered merely for the purpose of comparison with extraneous matters not in evidence heretofore in the case; and on the further ground that it has markings of having been torn and pasted together, and for aught it appears from the bill, it may be parts of two bills, one for some year prior to the tax year 1906, with the name H. H. Cooper written on it as Tax Collector of Baldwin County, torn off and appended or pasted on tax bill for the year 1906; and on the further ground that the same appears to be mutilated and bears on its face all the ear marks of incompetent evidence."

Witness answered said question as follows: "In my opinion the signature on the paper just described was written by one of the two whose signature appears on the duplicate tax receipt record heretofore referred to; and it is further my opinion that the signature on the paper submitted was written by the same party who signed the duplicate receipt, #4979 contained in the book referred to." (Deposition of George T. Rosson, pages 4 and 5.)

Respondent and cross complainant thereupon moves to exclude said answer upon the same separate and several grounds assigned by way of objection to said question. (See Agreement of Counsel.)

Respondent and cross complainant now renews its motion to exclude said answer separately and severally upon the grounds assigned by way of objection to said question.

FORTY FIRST: The following question was propounded to said witness on his direct examination, viz: "Now will you state upon what features of the two signatures you particularly base your conclusion?"

"The respondent and cross complainant objected to the question and also to the prior one, speaking of comparison of the signatures, on the ground that the evidence is incompetent, and irrelevant, and is contrary to the law of evidence of submitting different writings having no connection with the matter at issue, being submitted purely for the purpose of comparison; also, upon the further ground that none of the papers testified to by the witness, either the disputed receipt, or the receipts in the memorandum or stub book are in evidence in the case; and on the further ground that the witness has not shown to have any knowledge of the handwritings of the parties who signed the receipts testified to,"

Thereupon the witness answered as follows: "Upon a close comparison of the signature shown on the bill, with that shown on the duplicate receipt, book, following out the outlines of the two signatures, and based upon my knowledge of penmanship and handwriting, I find that in the main the same characteristics exist in the signature on the tax bill with that shown on #4979. There is this difference, however, the signature on the duplicate tax receipt was written with pencil, the carbon showing the impression, and therefore, being heavy; while the signature on tax bill was written with a pen. { In my opinion, the signature on the duplicate tax receipt book was written by the same man when in a condition of inebriety or some other mental condition that disturbed his sight and the faculty of controlling his fingers with a pen. } The beginning stroke on the first "H" in the tax bill differs somewhat from the first stroke on the duplicate tax receipt. The "C's" have the same general characteristics. The double "o's" are somewhat similar. The "p" is similar, except that in the tax bill it has more of a slant, and the "e" and "r" look very much alike. It will be noted that on duplicate receipt No. 4925, the signature on the tax bill, with the exception of the two "H's" is very similar to that on the duplicate of the tax receipt. My scrutiny reveals

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the further fact that the tax bill was written out by one of the two parties, the one whose writing is shown on receipt 4905 and receipt 4906, while in my opinion, the signature is that of the party who wrote No. 4979.

The respondent and cross complainant thereupon made the same objections ~~to the testimony as testified to by the witness as to the signatures, that he made on the introduction of the stub book; and on the further ground that the signatures offered as standard in said stub book out of which he has testified are not shown to be the genuine signatures of any one person or persons, nor prove a sufficient exactness as to be offered as standard by which to compare the disputed tax bill for the year 1906 referred to by him in his testimony; and respondent moves that all the evidence that the witness has testified to about the mental condition of H. H. Cooper, or other person who might have signed his name, be excluded, on the ground that it is improper to introduce evidence that may prejudice the court or jury on any matters, when other means are obtainable or available, and that said statement is a mere conclusion of the witness, and has no relation or bearing upon the question of expert testimony of the signature therein involved.~~ (Deposition of George T. Rosson pages 6, 7 & 8,)

Respondent and cross complainant now renews its motion to exclude said testimony upon the grounds assigned by way of objections to said testimony on the examination as follows: and also to the testimony as testified to by the witness as to signatures, that he made on the introduction of the stub book; and on the further ground that the signatures offered as standard in said stub book out of which he has testified are not shown to be the genuine signatures of any one person or persons, nor prove a sufficient exactness as to be offered as standard by which to compare the disputed tax bill for the year 1906 referred to by him in his testimony; and respondent moves that all the evidence that the witness has testified to about the mental condition of H. H. Cooper or other person who might have signed his name, be excluded on the grounds that it is improper to introduce

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Excluded

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evidence that may prejudice the court or jury on any matters, when other means are obtainable or available, and that said statement is a mere conclusion of the witness, and has no relation or bearing upon the question of expert testimony of the signature therein involved." (Deposition of George T. Rosson, pages 6,7 & 8)

FORTY SECOND: The following question was propounded to James M. Voltz, on the direct examination as a witness for the complainant: "Have you made a search for, and have you found the report made by the tax collector to the Probate Judge upon which such court ordered sale of lands for 1906 taxes, particularly lands assessed to Mrs. Mary James, being the West half of the Northeast quarter and the East half of the Northwest quarter, section twenty one, township six South, range four East, Baldwin County, Alabama.

The respondent and cross complainant objected to said question upon the following grounds:

1st; The question is not confined to such facts as may be developed by the tax records required by law to be kept in the office of the Probate Judge which are to wit, records of the books of assessment, delinquent and decree docket and the tax sales book which are the only records required by law to be kept in the probate office on the subject of taxes.

2nd; That under section 2268 of the Code the tax collector is only required to report to the court of probate that he is unable to collect the taxes assessed against any lands without a sale of such lands; and does not state that such reports shall be verbal or in writing; and on the further grounds that it is not shown that the witness was the custodian or probate judge during the year 1906 or the time alleged in such question.

5th; On the further ground that any papers, receipt or reports that might have been filed by the tax collector other than what appeared in the tax record books filed in said office are not required to be kept by law for a longer period than five years.

The witness answered said question as follows, viz:
"Yes, I have in the delinquent decree docket #5 page 70 to 103 inclusive, on the left hand page appears the tax collector's report for 1906 upon which such decree of sale was made; the decree of sale

being on the right hand side of the objection. The collector's report of the Mary James taxes appears on page 123 of such book.

The complainant offered said book in evidence and it is agreed that a certificate kept of such record and decree or the book itself may be delivered to the chancellor upon the hearing.

The respondent and cross complainant now moves to exclude said answer and said book or certificate kept thereon upon the same separate and several grounds as assigned by way of objection to said question. (See Deposition of James M. Voltz, pages 1 and 3.)

The respondent and cross complainant objected to the following question propounded to said witness, viz: "Have you examined such report of the tax collector as to whether he stated therein to sauch court that he was unable to collect the taxes assessed against Mary James, without a sale of such lands."

1st; That the law does not require any statement or certificate in writing other than that the tax collector report to the court that the lands are delinquent to be made of the fact of delinquency o^r said land for taxes and upon the further grounds that the record shows that the court ascertained and that it appeared to the court that the taxes assessed against the persons mentioned in the cause on the real estate mention in the cause was still due and unpaid and that due notice had been given as required by law of the proceedings therein taken and that no valid defence was imposed against the sale of said real estate. The witness thereupon answered as follows, viz " I have nonenother than was shown by the record. The witness was thereupon asked the following question:

"Does such report show any such statement of the Probate court?"

The respondent and cross complainant objected thereto on the following grounds:

1st; That it calls for an opinion of the witness.

2nd; That the witness was not present when said decree of said court, upon to wit, May 27, 1907 and could not possibly know what evidence the court had before it when it ascertained the fact in a report made by the tax collector made at that time; that the taxes upon said real estate were still due and unpaid and on the further grounds that said writing on said page 222 on said book #5 show as its heading "List of Real Estate in Baldwin County, Alabama,

for which taxes for 1906 are delinquent, due and unpaid; that the word "delinquent" means in connection with taxes matters that the tax collector has been unable to collect the taxes assessed upon the land without the sale of such land; and that the purport of said book of delinquency itself is to record that fact and show a proper decree made thereon which said book properly shows.

The witness thereupon answers as follows: "The record does not show any statement or report of the tax collector to the probate court that he was unable to collect the taxes assessed against said land without a sale of such land."

Respondent and cross complainant now renews objections to said interrogatory and moves to exclude the answer upon the same separate and several grounds

J. C. Jenkins

John F. Hobson

*Solicitors for Respondent
and Cross Complainant*

DOZIER & GRAY

ATTORNEYS AT LAW

1204-1207 MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALA.

December 12, 1929

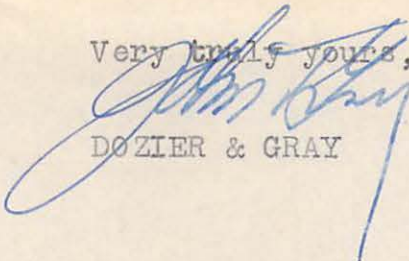
Mr. T. W. Richerson, Clerk,
Circuit Court of Baldwin County,
Bay Minette, Alabama.

Re: 8513 - Gillespie, Shields & Co.
vs. Lowell Brothers,
Fairhope, Alabama.

Dear Sir:

We are enclosing to you summons and complaint in the above styled cause, and we will thank you to file the same and turn over the papers to the Sheriff for immediate service. This Defendant lives at Fairhope, Alabama.

Very truly yours,


DOZIER & GRAY

D/McL

MAGGIE ROBERTS, COMPLAINANT,

VS

BUCHMANN ABSTRACT & INVESTMENT
COMPANY, DEFENDANT.

NO. 326.
IN EQUITY.

IN THE CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA.

Comes the Complainant and shows to the Court that interrogatories and cross-interrogatories to said Complainant as a witness were duly sent, together with commission, to one Squire S. Burke of 9233 Commercial Avenue, Chicago, Illinois; that said Burke took the testimony of the witness in proper form, but, being unacquainted with the laws of Alabama and not having noticed the instructions to commissioners on the back of the commission, returned said testimony without the signature of the witness and without executing a certificate in proper form.

Complainant therefore moves that the order of publication of the testimony of Complainant heretofore made be set aside and that the Register of this Court be instructed to return all papers to the Commissioner with instructions to secure the signature of the witness to her deposition, execute certificate reciting the facts and return same with interrogatories, answers and exhibits all properly attached to this Honorable Court.

Oliver L. Austin & Burke
Solicitors for Complainant.

Margie Roberts,

No. 326 VS.

Buchmann Anstract & Investment Co.

This cause coming on to be heard, upon motion of Complainant it is ordered that the Register publish the testimony without prejudice.

In Term Time. June 16th., 1919.

No. 326

Maggie Roberts,

vs.

Buchmann Abstract & Investment
Co.

Order Publishing Testimony

January Term, 1919

June 16, 1919.

Ent. Min. 3 Page 637
837

*Order neg.
Dep. return to Com*

MAGGIE ROBERTS, COMPLAINANT,

VS

BUCHMANN ABSTRACT & INVESTMENT
COMPANY, DEFENDANT.

NO. 326.
IN EQUITY

IN THE CIRCUIT COURT OF
MOBILE COUNTY, ALABAMA.

This cause coming on to be heard upon Complainant's motion to return the deposition of Maggie Roberts to Squire S. Burke, the commissioner taking same, with instructions to complete the execution of said deposition in the form as required by law and it appearing to the Court upon an inspection of the papers relating to said deposition as returned by the Commissioner that same are defective as indicated by Complainant's motion the Register is hereby ordered to return the commission and all papers connected with the deposition to Squire S. Burke, the commissioner at Chicago, calling his attention to the instructions as to taking testimony under the laws of Alabama as found on the back of commission and instructing him to comply with said instructions in all respects and return the papers as speedily as possible to this Court.

It is further ordered that the order of publication made as to this deposition be set aside.

July 7, 1919

Clara Grayson
Judge.

No. 326

Maggie Roberts.

vs.

Buchmann Abstract & Investment
Company,

ORDER REQUESTING DEPOSITIONS
RETURNED TO COURT.

July 7, 1919

Ent. Min. 3 Page 262

Maggie Roberts

No. 326 VS.

Buchman Abstract & Investment Company

This cause coming on to be heard, is submitted for decree on the pleadings
and on the **proof**
as noted by the Register.

In Term time **February 8th, 1918**

No. 326

Maggie Roberts.

vs.

Buchmann Abstract & Investment
Company.

Order of Submission

January Term, 1918.

February 8th., 1918.

Ent. Min. No. 2m Page 356

Mrs. Maggie Roberts, Complainant,

vs. No. 326 in Circuit Court of Mobile County .

Buchmann Abstract & Investment Company, Defendant .

Now comes the defendant Buchmann Abstract & Investment Company, and at the time of filing cross interrogatories to the complainant upon the direct interrogatories filed to her, first objects to her being examined at all on said direct interrogatories and the cross interrogatories or other interrogatories, upon grounds following :-

1st. Complainant has not complied with the rules provided by law as a pre-requisite to the examination of a witness.

2nd. Complainant has not complied with the requirement of law that the party before filing interrogatories shall file, or file along with them, the affidavit for taking the deposition.

3rd. Complainant has not complied with the rules for examining a party to the cause, by the taking of depositions-- the rules for procuring testimony by depositions .

4th. Because complainant has not made any affidavit for the purpose of procuring the deposition of herself , as is required by law .

And without waiving any of the foregoing objections, the defendant hereby demands notice of the time and place of taking complainant's deposition upon said direct interrogatories so filed to her.

H. B. Bobbs, *S. C. Jenkins,*
Solicitors for Defendant .

The State of Alabama,
Mobile County

Circuit Court of Mobile County
In Equity

Mrs. Maggie Roberts,

.....

No. 326 Vs.

Rickarby, Austill & Beebe,

Buchmann Abstract & Investment Co.

Greeting:

You will please take notice that in the above entitled cause

Cross-Interrogatories have been filed by the Buchmann Abstract & ~~Investment~~ Investment Co.

to Mrs. Maggie Roberts.

witnesses for the complainant; which said Cross-Interrogatories will remain on file as aforesaid for five days, during which time you may file rebutting interrogatories if you think proper.

WITNESS, JAMES A. CRANE, Register of said Circuit Court, at office in Mobile, Ala., this 24th

day of August A. D. 19 18.

ATTEST:

James A. Crane

Register.

(54) 326

CIRCUIT COURT
of Mobile County

Mobile, Ala.
IN EQUITY.

Mrs. Maggie Roberts,

vs. } Notice of Cross-Interrogatories Filed

Buchmann Abstract & Investment
Co.

Filed 24 day of Aug. 19 18.

Sheriff's Return

Received this the 21st day of Aug. A. D. 19 18
and on the 27th day of August 1918 I served a copy of the within notice of Cross-Interrogatories filed in
on G. S. Rindley one of firm of Rindley, Annell, & Beck
W. H. Beck
By W. H. Beck Sheriff, M. C.
D. S.

Maggie Roberts,

No. 326 VS.

Buchman Abstract Company et al

This cause coming on to be heard, upon motion of Complainant it is ordered that the Register publish the testimony , without prejudice

In Term time January 27th, 1919

No. 326

No.

Order Publishing Testimony

Jan 1919

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No. 326

Maggie Roberts

vs.

Buchman Abstract Co et al

Order Publishing Testimony
without prejudice

January Term, 1919

January 27th, 1919

Ent. Min. 3 Page 233

The State of Alabama,
BALDWIN COUNTY.

CIRCUIT COURT, Fall TERM, 1908.

THE GRAND JURY OF SAID COUNTY CHARGE THAT BEFORE THE FINDING OF THIS INDICTMENT ~~THAT~~
H.H.Cooper being at said time the Tax Collector of Baldwin County, Alabama
did collect sums of money for the county taxes due to said County, about
five hundred dollars(\$500.00) and did fail to make returns of the said
tax money collected and which was at the time in his hands for the fiscal
year of 1907, and did fail to forward the said tax money to Charles E
Wilkins, the Treasurer of Baldwin County, Alabama, as provided by law.
2. And said Grand Jury further charge that before the finding of this
Indictment Henry H Cooper , being at said time the Tax Collector of Baldwin
County, Alabama, and having collected certain taxes due said County,
about Five hundred Dollars (\$500.00) and failed to make and file with
the County Treasurer of said County , Charles Wilkins and itemized
report in writing and under oath within the fixed 3 business days
of November 1907, setting forth the seperate/~~take~~ taxes collected, by
him for the state of Alabama, and County of Baldwin, during the month of
October 1907, and did fail to pay the said County Treasurer as aforesaid ,
not later than the eighth day of November 1907, all County taxes due from
him to County and which had come in to his hands and by him collected for
the Month of October 1907,

AGAINST THE PEACE AND DIGNITY OF THE STATE OF ALABAMA.

James N. Granade Thirteenth
Solicitor of the Second Judicial Circuit.

