

Phillip E. Valle
et al

vs.

Thos Baara

CIRCUIT COURT OF

Baldwin COUNTY.

IN EQUITY.

I, W. McInnis, Register of said Court, do hereby certify that I

did, on the 31 day of May 1921, send to

Thos Baara

Defendant.

whose address was Panama Fla.

by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," a copy of the Bill of Complaint filed in this cause; that I demanded a return receipt addressed to the Register of this Court; and that such

receipt was duly received and filed by me in this cause, on the 2nd day of June 1921.

Witness my hand, this 3rd day of June 1921.

W. McInnis

Register.

1 1/2

~~_____~~

No. 310

CIRCUIT COURT OF
BALDWIN COUNTY.
IN EQUITY.

Phillip E. Vallen

vs.

Thos H. Bann

CERTIFICATE OF REGISTER AS TO NOTICE
BY REGISTERED MAIL.

Filed in office on this 3rd

day of June 1921

J. P. McInnis

Register.

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon Theo Beers,

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

Phillip E. Vallee, Henry A. Testard, and Joseph V. Ferguson

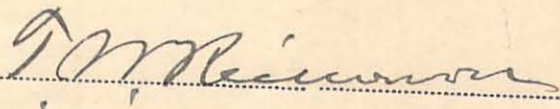
against said

Theo Beers,

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

WITNESS, T. W. Richerson, Register of said Circuit Court, this 30th day of May

1921.



Register.

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

Serve on _____

Circuit Court of Baldwin County
In Equity

No. _____

SUMMONS

vs.

Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this _____
day of _____ 192__

Sheriff

Executed this _____ day of _____
192__

by leaving a copy of the within summons with

Defendant

Sheriff

By _____
Deputy Sheriff

*Copy of Amended
copy of
complaint
mailed by Reg
mail to Dept
May 31/1921
J. M. [Signature]
Regan*

RETURN RECEIPT.

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

Geo. A. Aar

(Signature or name of addressee.)

(Signature of addressee's agent.)

Date of delivery, *JUN 1 1921*, 191

Post Office Department

OFFICIAL BUSINESS

REGISTERED ARTICLE

No. _____

INSURED PARCEL

No. _____

Return to

F. W. Richerson
(NAME OF SENDER)

Street and Number, }
or Post Office Box, }

Post Office at

Raymonte
State *Cal.*



*Filed
June 2/921
J. M. Richerson
C. C. M.*

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

POSTMARK OF DELIVERING
OFFICE

AND DATE OF DELIVERY

Bay Minette, Ala., July 6th, 1921

M

Phillip E. Vallee, et al
vs
Theo Baars

CHANCERY NOTICE

THE BALDWIN TIMES

ABNER J. SMITH, PROPR.

FINE JOB PRINTING. BEST ADVERTISING MEDIUM

PROMPT SERVICE. LOWEST PRICES.

LOCAL AND LONG DISTANCE TELEPHONE

All Bills Must Be Paid Within 30 Days

To publishing Chancery Notice, Philip Vallee, et al
as Liquidators of Pan American Bank & Trust Co.,
of New Orleans, La., in issues June 2nd, June 9th
June 16th, June 23rd and June 30th, 1921:

229 words @ 4½¢ per word..... \$10.30

Philip E. Vallee, Henry A. Testard and Joseph V. Ferguson, as liquidators of the Pan American Bank and Trust Company, of New Orleans, Louisiana, Complainants. vs. Theo. Baars, Defendant. Circuit Court of Baldwin County, Alabama, Equity Division, No.—

ALL COUNTY ADVERTISING

CIRCULATION GUARANTEED TO BE THE LARGEST IN BALDWIN COUNTY

THE BALDWIN TIMES

ABNER J. SMITH, PROPRIETOR

TO THE INTEREST OF BALDWIN COUNTY AND HER PEOPLE

SUBSCRIPTION: \$1.00 PER YEAR IN ADVANCE

ADVERTISING RATES ON APPLICATION

TELEPHONE No. 7, LOCAL AND LONG DISTANCE

BAY MINETTE, ALA.,

AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,
BALDWIN COUNTY.

P. C. Smith

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

CHANCERY NOTICE

Philip E. Vallee, et al, Complainant

VS

Theo. Baars, Defendant

It is ordered that said above named and described defendant, the said Theo. Baars plead, answer or demur to the allegations of the bill of complaint filed against him in this cause by Philip E. Vallee, Henry A. Testard and Joseph V. Ferguson, as liquidators of the Pan American Bank and Trust Company of New Orleans, Louisiana, on or before July 5th, 1921, or upon the expiration of thirty days from said date, the same will be taken as confessed against him.

It is further ordered that notice of this order be published once a week for four consecutive weeks in The Baldwin Times, a newspaper published in Bay Minette, Baldwin County, State of Alabama

In Term May 31st, 1921.

Was published in said Newspaper for 4 consecutive weeks in the following issues:

Date of first publication	<u>June 2nd, 1921</u>	Vol.	<u>39</u>	No.	<u>16</u>
“ “ second “	<u>June 9th, 1921</u>	Vol.	<u>32</u>	No.	<u>17</u>
“ “ third “	<u>June 16th, 1921</u>	Vol.	<u>32</u>	No.	<u>18</u>
“ “ fourth “	<u>June 23rd, 1921</u>	Vol.	<u>32</u>	No.	<u>19</u>

Subscribed and sworn to before the undersigned

this 22 day of July 1921.

T. W. Williams
Clerk Circuit Court,

Pearl C. Smith
Foreman.

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

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

September 15, 1923.

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

Dear Sir:

We have prepared form of decree for Judge Leigh to sign in the matter of Philip Vallee, et al, vs. Theo Barrs. However, we were not able to complete the decree, because we did not know the amount of court costs. You will observe that on the second page there are some blanks left. In the first blank space there should be inserted the amount of court costs; in the second blank space, the amount of court costs should be added to \$5,009.28, and the total of the two amounts placed in the blank space. The same figures should be put in the third blank space, and also in the blank space on page 3.

After you have carefully filled in these spaces, please forward the decree to Judge Leigh, and as soon as you receive the same, advise us, in order that we may prepare proper form of deed for you to execute. We would also like to have the cost bill as soon as possible, so that we may get the same from our clients.

Yours very truly,

SMITHS, YOUNG, LEIGH & JOHNSTON,

By *Harry H. Smith*.

HHS/A
Enc.

TO
MAN
LOR

*Not to be
Recorded
and Recorded*



Hon. T. W. Richerson,

Clerk, Circuit Court, Baldwin Co.,

Bay Minette, Ala.

RETURN AFTER FIVE DAYS TO

T. W. RICHESON
CLERK OF THE CIRCUIT COURT AND
REGISTER IN CHANCERY
BAY MINETTE, ALA.

T.W.Richerson
Bay Minette Alabama.



Deer
to be received
in minute

Phillip E. Vallee et al.

vs.

Theo Boors

Respondents note of Evidence.

- ① Respondents' answers & the pleas therein incorporated.
- ② Objections to the Evidence offered by Complainants, said objections having been this day filed.
- ③ Articles of Act of Incorporation of Pan American Bank and Trust Company, same being attached to Complainants' deposition and marked P. 52.
4. Letter May 10, 1920 signed A.C. Wuerpel, Vice President addressed to Mr Theo. Boors, Pres - same being attached to Complainants' deposition marked P "C".
5. Letter May 21st, 1920 attached to Complainants' deposition marked P "D".
6. Letter of May 31st 1920 to Theo Boors, Pres. same being attached to Complainants' deposition marked P "E".
7. Letter of June 4th 1920 to Mr Theo Boors, Pres, same being attached to Complainants' deposition marked P. 7. "
8. Letter of Aug 31st, 1920, from A.C. Wuerpel, Vice-President to Mr Theo Boors President, same being attached to Complainants' deposition marked P. 8.

9. Letter of Aug. 18, 1920 from A.C. Wuerfel
Vice President to Mr. Theo Boers, President
same being attached to Complainants'
depositions marked D1

10. Letter May 17, 1920 from Emmet
Jones, Cashier to Mr. Theo Boers, President,
same being attached to Complainants'
depositions marked P B 2.

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Philip Talbot vs
Theodore Pease

It is agreed that the Mobile Fee bill may be ~~introduced~~ introduced by Complainant as Evidence as to the ~~reasonable~~ what is a reasonable fee for Complainant's solicitor for services in this cause and especially the provisions under the title of "Actors generally" and under the title of "partition or sales for divisions" it is further agreed that Guyon L. Smith if sworn as a witness would testify that he has been a practicing attorney at Mobile for more than forty years and has been acquainted with the charges usually made by lawyers practicing at Mobile and that in ^{litigation} cases involving more than \$25,000 the fee usually charged on the excess over \$25,000 has been not less than 7 1/2% percent; that in two or three cases where the excess has been considerable, 5% has been to be charged but that where the matter exceeded \$100,000 the fee on the excess over \$25,000 ^{has some times been, as found} was 7 1/2%.

It is agreed that this statement may be treated as evidence in this cause by said G. L. Smith

Harry J. Smith & Coffey
Philip Talbot for Respondent.
Smith & Coffey for Complainant

After five days return to
W. D. STAPLETON
Probate Judge, Baldwin County
BAY MINETTE, ALA.

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

310
New Bank
Copies
of Books

SMITHS, YOUNG, LEIGH & JOHNSTON

LAWYERS

622-629 CITY BANK BUILDING

MOBILE, ALA.

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

July 5th, 1923.

Mr. T. W. Richerson,
Register in Chancery,
Bay Minette, Ala.

Dear Sir:-

IN RE: LIQUIDATORS of PAN AMERICAN BANK &
TRUST COMPANY vs. THEO BAARS.

We enclose herewith form of notice to be published in the above case.

Please have this notice inserted in the publication of your weekly paper next Thursday. It has to be published once a week for three consecutive weeks. We have set the date of sale for August 6th, which is the Monday following the three weeks of publication.

Yours very truly,

SMITHS, YOUNG, LEIGH & JOHNSTON,

By *Nancy H. Smith*

HHS:V.

Enclosure.

SMITHS, YOUNG & LEIGH
LAWYERS
CITY BANK BUILDING
MOBILE, ALA.

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

May 30, 1921.

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

Dear Sir:

We are handing you herewith the order of application in the case of Vallee, et al vs. Theo. Baars, (which suit we filed to-day) to be signed by Judge Leigh. Will you be kind enough to present this order for his signature and have publication made in your next issue of the Baldwin Times requesting the news paper publisher to send us a copy for our file.

In connection with this suit we wish to assure you that the costs will be promptly paid and that we will either furnish personal security or make such deposit to cover the cost as you may indicate.

Thanking you for your courtesies, we are,

Yours very truly,

Smiths, Young, Leigh & Johnston,

By



WJY/D
Enc.

"Acts
"Passed by
"The General Assembly
"of the
"State of Louisiana
"at the
"Regular Session
"Begun and held in the City of Baton Rouge on the
"Twelfth day of May, 1902.
"Published by authority of the State.
"Baton Rouge
"The advocate official journal of the State of
Louisiana.
"1902."

Act of the Louisiana Legislature, No. 184, approved
July 6, 1916, as the same appears in the Published Acts of
Louisiana of 1916, the title page whereof reads as follows:

ACTS
PASSED BY
THE GENERAL ASSEMBLY
of the
STATE OF LOUISIANA
at the
REGULAR SESSION
Begun and Held in the City of Baton Rouge
on the ~~Eighth~~ Day of May, 1916.
Published by Authority of
the State

Baton Rouge, La.
Ramires-Jones Printing Co.
1916.

*Agreement between solicitor as to ~~cost~~ the amount
of Complainant's solicitor fees
Agreement between Council as to disposition of all ~~gross~~
and withdrawal of original of documentary evidence*

Sections 275 to and including 279 of the Statutes of Louisiana, as the same appear in the Digest of the Statutes of Louisiana, Volume 1, A to H, 1870, the title page whereof reads as follows:

"Digest

"of

"The Statutes

"of the

"State of Louisiana

"In Two Volumes.

"Volume 1.

"Collated and arranged under appropriate heads, and embracing all the Statute Laws of the State of a general **Character**, inclusive of the Acts of One Thousand Eight Hundred and Seventy, except what are contained in the Revised Civil Code and Code of Practice, adopted in One Thousand Eight Hundred and Seventy.

"John Ray, Compiler.

"By Authority."

On the second page of said Digest, appears the following:-

"Acts No. 95

"Section Two.

"Be it further enacted, etc., that John Ray be, and is hereby, appointed and authorized to compile a digest of the Statutes of the State of a general character from the acts passed at the present session of the General Assembly including the Acts of Revision, and to superintend the printing of the Revised Civil Code and Code of Practice adopted at the present session under supervision of a Committee on Revision; and that such Digest and Codes be stereotyped and printed as required by the Seventh and Eighth Sections of an act entitled "An Act relative to the purchase and distribution of certain books", approved March ninth, eighteen hundred and sixty-nine.

Approved March 16, 1870."

An Act of the Legislature of the State of Louisiana No. 179, approved in 1902, as the same appears in the Acts of the State of Louisiana in 1902, the title page whereof reads as follows:-

Certified copy of the amendment to the charter of the Metropolitan Bank of New Orleans, changing its name to the Pan American Bank & Trust Company, attached to the deposition of A. C. Wuerpel.

Act of the Louisiana Legislature No. 166, approved March 15, 1855, as the same appears in the published Acts of Louisiana of 1855, the title page whereof reads as follows:

"Acts

"Passed by the Second Legislature

"of the

"State of Louisiana

"at its second session

"held and begun in the Town of Baton Rouge

"on the 15th January, 1855.

"Published by Authority."

New Orleans. Printed by Emile La Sere, State Printer.

Decision of the Supreme Court of Louisiana in the case of the President and Directors of the Consolidated Association of the Planters of Louisiana v. George J. Lord, as the same appears in the Louisiana Annual Reports, the title page whereof reads as follows:

"Reports

"of

"Cases Argued and Determined

"in the

"Supreme Court

"of

"Louisiana.

"Volume 35

"for the year

"1883.

"Henry Denis,

"Reporter."

Letter dated January 13, 1920, addressed to the Pan American Bank & Trust Company, signed by Theodore Baars, attached to the deposition of Emmet Jones.

Copy of resolutions adopted at a meeting of the Board of Directors of the Chical Lumber Company on the 23rd day of August, 1919, attached to the deposition of Emmet Jones.

Letter dated January 13, 1920, addressed to Theodore Baars, signed by Emmet Jones, attached to the deposition of Emmet Jones.

Letter dated November 2, 1919, addressed to Theodore Baars, Pres., signed Emmet Jones, Cashier, attached to the deposition of Emmet Jones.

Letter dated May 15, 1920, addressed to the Pan American Bank & Trust Company and signed Chical Lumber Company, by Theodore Baars, attached to the deposition of A. C. Wuerpel.

Carbon copy of letter dated May 17, 1920, addressed to Theodore Baars, attached to the deposition of A. C. Wuerpel.

Note of the Chical Lumber Company, dated August 13, 1920, for Thirty Thousand (\$30,000) Dollars, to the Pan American Bank & Trust Company, attached to the deposition of A. C. Wuerpel.

Note of the Chical Lumber Company, dated August 31, 1920, for Twenty Thousand (\$20,000) Dollars, to the Pan American Bank & Trust Company, attached to the deposition of A. C. Wuerpel.

Banking signature card of the Chical Lumber Company, attached to the deposition of A. C. Wuerpel.

Banking signature card of Theodore Baars, attached to the deposition of A. C. Wuerpel.

Original mortgage of Theodore Baars to the Pan American Bank & Trust Company, dated the 15th day of November, 1919, and attached to the deposition of A. C. Wuerpel.

PHILLIP E. VALLEE, ET AL, : NO. _____
COMPLAINANTS, : IN THE CIRCUIT COURT OF
VS. : BALDWIN COUNTY, ALABAMA.
THEODORE BAARS, : SITTING IN EQUITY.
DEFENDANT. :

COMPLAINANT'S NOTE OF EVIDENCE.

Admissions contained in the second paragraph of the defendant's answer.

Admissions contained in the third paragraph of the defendant's answer.

Deposition of Charles Traub.

Deposition of Emmet Jones, with the exhibits there-
to.

Deposition of A. C. Wuerpel, with the exhibits
thereto.

Deposition of Eugene J. McGivney.

Notice to Solicitors for deposit and of documents and evidence to be offered

Affidavit of M. Beyers Dorfer as certified by
Emmet Jones from the minutes of the stockholders' meeting
of the Pan American Bank & Trust Company attached to the
deposition of Emmet Jones.

Minutes of the stockholders' meeting of the Pan
American Bank & Trust Company attached to the deposition of
Emmet Jones.

Carbon copy of letter dated November 17, 1919, to
Theodore Baars attached to the deposition of A. C. Wuerpel.

Letter dated November 21, 1919, addressed to the
Pan American Bank & Trust Company, signed by Theodore Baars,
attached to the deposition of A. C. Wuerpel.

Letter dated November 24, 1919, addressed to
Theodore Baars, Pres., signed by Emmet Jones, and attached
to the deposition of Emmet Jones.

you have referred to and which have been introduced in evidence are the only statutes in the State of Louisiana pertaining to the liquidation of banking corporations.

MR. CAFFEY:- We object upon the same ground.

A:- They are.

Q:- I wish that you would please state whether or not the Supreme Court of the State of Louisiana has rendered any decisions with reference to who are the proper parties to file suit in case of liquidators winding up the assets of a corporation?

MR. CAFFEY:- We object on the same ground, and on the further ground that the decisions would be the best evidence.

A:- The Supreme Court of the State of Louisiana in the case of the President and Directors of the Consolidated Association of Planters of Louisiana vs. George L. Lord, reported in the ³35 Louisiana Annual, page 425, decided that question.

MR. SMITH:- We offer in evidence the decision of the Supreme Court of Louisiana in the case of the President and Directors of the Consolidated Association of Planters of Louisiana vs. Geo. L. Lord, Volume 35 of the Louisiana Annual Reports, page 425, 427 and 428, and marked Plaintiff H-3.

MR. CAFFEY:- We object on the ground that it is irrelevant, incompetent and immaterial testimony and is not sufficiently shown to be the law of Louisiana governing this transaction.

STIPULATION:-

It is stipulated and agreed that the portions of the books referred to consisting of the Acts of 1855, the Revised Statutes of 1870, the Acts of 1902 and the Acts of 1916, also the decision of the Supreme Court La. Annual

35, page 425 may be copied by the Commissioner in the record and no objection will be made by the defendant on the ground that they are copies.

MR. SMITH:-

Q:- Under the law of the State of Louisiana will you please state whether or not the title to the assets of any bank which may be in the process of liquidation vests in the liquidators?

MR. CAFFEY:- We object as the question calls for irrelevant and incompetent and immaterial testimony, and the law of Louisiana is written law and is the best evidence.

A:- In my opinion the charter provides for the appointment of liquidators, and it is competent for the stockholders in the proceedings for liquidators to vest the title in the liquidators.

of the Revised Statutes of 1870, and has not since that date been amended or modified by any act of the legislature except Act 179 of 1902, and Act 184 of 1916.

MR. CAFFEY:-

We object on the ground that these acts would speak for themselves and are therefore the best evidence.

MR. SMITH;- Counsel for the plaintiff offers in evidence Section 5 of Act 166 of 1855, and offers in evidence the bound volume in which it is contained, and marks same Plaintiff F:-1.

MR. CAFFEY;- We object to the offer on the ground that it constitutes incompetent, irrelevant and immaterial evidence and because it is not properly proven to be the law of the State of Louisiana.

MR. SMITH;- We offer in evidence the Revised Statutes of the State of Louisiana of 1870, Section 279, and mark same Plaintiff G-2.

MR. CAFFEY;- We object to that on the same ground.

MR. SMITH;- And we mark same G-2. We also offer in evidence Section 7 of Act 179 of 1902, an official copy of which I will produce and mark same H-2.

MR. CAFFEY;- We make the same objection to this offer.

MR. MCGIVNEY (continuing) The charter under the provision of the laws of the State of Louisiana --

MR. CAFFEY;- We object to the witness stating what the charter provides, the charter itself being the best evidence.

MR. SMITH;- We offer in evidence Section 7 of Act 184 of 1916 and mark the same I-2.

MR. CAFFEY;- We make the same objection to this offer.

Q:- Will you please state whether or not the acts which

EUGENE J. MCGIVNEY, a witness for the Plaintiff, being first duly sworn by Edward Rightor, Notary Public, testified as follows:-

-----DIRECT EXAMINATION-----

BY MR. SMITH:-

Q:- Your name is Eugene J. McGivney?

A:- Yes, sir.

Q:- You are an attorney practicing law?

A:- Yes, sir.

Q:- How long?

A:- Since 1908.

Q:- You were admitted to the bar in New Orleans, Louisiana?

A:- Yes, sir.

Q:- And you have practiced in Louisiana all the time?

A:- Yes, sir.

Q:- I wish that you would state if there is a statute in the State of Louisiana with reference to who would be the proper party in the case of liquidators being appointed to liquidate a corporation to file suit?

MR. CAFFEY;- We object on the ground that the statute would be the best evidence.

A:- The law of the State of Louisiana in existence at the time of the charter of the Pan American Bank & Trust Company was incorporated on the question of liquidators of banking corporations was Section 279 of the Revised Statutes of the State of Louisiana of 1870, which provides as follows:-

Q:- Have you the Revised Statutes?

A:- Yes, sir, every charter --

MR. CAFFEY;- We object to any statements by the witness of what the Revised Statutes contain.

MR. SMITH:- We offer in evidence the said provision, the identical provision of Section 5 of Act 166 of 1855, which is incorporated in Section 279

PHILLIP E. VALLEE, ET AL, :
 Liquidators, PAN AMERICAN :
 BANK & TRUST COMPANY, : NO. _____.

COMPLAINANTS, : IN THE CIRCUIT COURT OF

VS. : BALDWIN COUNTY, ALABAMA.

THEODORE BAARS, : SITTING IN EQUITY.

RESPONDENT. :

It is agreed by and between Smiths, Young, Leigh & Johnston, attorneys for the complainants, and Harry T. Smith & Caffey, attorneys for the respondent, in the above entitled cause, that the paper hereto attached be treated as the original deposition of Eugene J. McGivney duly taken in this cause before a commissioner in New Orleans.

It is further agreed that ~~after the complainants have introduced in evidence the originals of the laws and acts, as well as decisions of Louisiana, referred to in the testimony of Eugene J. McGivney, the complainants shall have the right to withdraw the same from the record and substituting therefor a copy of said laws, together with the title pages of the volumes in which they are included, and such other portions of said volumes as either party shall desire included,~~

documents or books offered in Evidence may be
by complainants or
the portions of said documents or books to read

Smith Young Leigh & Johnston
 Attorneys for Complainants.

Phillip D. Beall
Harry J. Smith & Caffey
 Attorneys for Respondent.

TO THE HONORABLE JOHN D. LEIGH,

JUDGE OF THE CIRCUIT COURT

IN AND FOR BALDWIN COUNTY, ALABAMA,

SITTING IN EQUITY:

Your Orators, Philip E. Vallee, Henry A. Testard, and Joseph V. Ferguson, the duly appointed and qualified liquidators of the Pan-American Bank and Trust Company, of New Orleans, Louisiana, bring this, their bill of complaint, against Theo. Baars, who resides in the City of Pensacola, Escambia County, Florida, and respectfully show to the Court and to your Honor:

1st. That the Pan-American Bank and Trust Company was formerly a corporation, organized under the laws of the State of Louisiana, and had its principal place of business in the City of New Orleans, in said State, and that the said Theo. Baars is over twenty-one years of age, and resides in the City of Pensacola, State of Florida, as aforesaid.

to-wit,

2nd. That on/the 20th day of November, 1919, the said Pan-American Bank and Trust Company of New Orleans, Louisiana, then existing as a corporation, loaned to the Chical Lumber Company, a corporation under the laws of the State of Florida, the sum of Thirty-five Thousand Dollars (\$35,000.00), which loan was evidenced by a note endorsed by the said Theo. Baars, and payable to the order of the Pan-American Bank and Trust Company of New Orleans, Louisiana, said note being payable six months after its date; that contemporaneously with the lending of said sum of Thirty-five Thousand Dollars (\$35,000.00) by the said Pan-American Bank and Trust Company to the said Chical Lumber Company, the said Theo. Baars delivered a certain mortgage, bearing date the 15th day of November, 1919, securing said loan evidenced by the note aforesaid. Your Orators aver that the property described in said mortgage is situ-

ate in the County of Baldwin, State of Alabama, and is more particularly described as follows, to-wit:

Fractional West Half of Section Six, Township Two South, Range Five East.

West Half of Section Six; All of Section Nineteen; South West Quarter of North East Quarter, North Half of South West Quarter, South West Quarter of South West Quarter of Section Thirty; Township Three South, Range Four East.

All of Section Eighteen, South West of Styx River in South West Quarter of Section Twenty; North East Quarter, East Half of South West Quarter, West Half of South East Quarter of Section Thirty, Township Four South, Range Four East.

East Half of East Half of Section Two; North East Quarter, West Half of South East Quarter, South East Quarter of South East Quarter of Section Ten; West Half of West Half of Section Twelve; East Half of North East Quarter, South East Quarter of South West Quarter, North Half of South West Quarter, and North West Quarter of South East Quarter of Section Fourteen; North Half of Section Twenty-two; North East Quarter, North Half of South East Quarter, South West Quarter of Section Thirty-six, Township Three South, Range Three East.

All of Section Three; All of Section Eleven; North Half of North East Quarter of Section Twelve; All of Section Thirteen; Township Four South, Range Three East.

All in Baldwin County, State of Alabama, and containing five thousand, seven hundred eighty-seven and 87/100 acres, more or less.

A copy of said mortgage is hereto attached, marked "Exhibit A", and is made a part hereof, and reference is hereby made as often as may be necessary. Orators further show that said mortgage was filed for record in the office of the Probate Judge of Baldwin County on December 1, 1919, and recorded in Record Book 22 of Mortgages, pages 593 and 594, of the Probate Records of Baldwin County, Alabama.

3rd. Your Orators further show that the said Theo. Baars endorsed said note for Thirty-five Thousand Dollars (\$35,000.00) made by the Chical Lumber Company, as aforesaid, prior to the time that said note was delivered to the said Pan-American Bank and Trust Company.

4th. Orators further show that on the date of the maturity of the note first hereinabove described, a payment of Five Thousand Dollars (\$5,000.00) was made thereon, and the balance of Thirty Thousand Dollars (\$30,000.00) was extended for a period of ninety days from said date. Orators further show that at the expiration of said extended period, and on, to-wit, August 13, 1920, a further

extension was granted to the maker of said note, as well as to the endorser thereof, for an additional period of ninety days, said extended period expiring on November 11, 1920, upon which date said sum of Thirty Thousand Dollars (\$30,000.00) became due and payable. Orators further show that no further extensions of said indebtedness have ever been made, and that said note is past due and remains unpaid, though payment has frequently been demanded by Orators, and that said amount, to-wit, the sum of Thirty Thousand Dollars (\$30,000.00), together with interest at the rate of eight per cent thereon, from its maturity, is past due and remains unpaid.

5th. Orators further state that in and by said mortgage, and as a part thereof, Theo. Baars did promise and agree to pay all costs and expenses, including a ttorneys' fees, and commissions incurred in collecting this mortgage debt, and that the same should be a part of the mortgage debt, and a lien upon the property mortgaged; and did further promise and agree that if a foreclosure of said mortgage be had, or a suit to foreclose the same be begun, to pay all costs and expenses of said suit, including a reasonable attorney's fee, which costs and fees should be included in a lien of this mortgage, and in the same decree upon foreclosure. And Orators state that they have employed attorneys to colledt said debt and to prosecute this suit, hence are entitled to their reasonable solicitors' fees incurred in the prosecution of this suit, and in attempting to collect the debt secured by said mortgage.

6th. Orators further show that in and by the terms of said mortgage, the said Theo. Baars covenanted to keep perfect and unimpaired the security given by said mortgage, and agreed to pay all taxes, assessments and charges which may or might become liens superior to that created by said mortgage; and in the event that such taxes, assessments and charges be not paid, the mortgagee, viz: the Pan-American Bank and Trust Company, or its successors in inter-

est, might pay the same, and the lien created by said mortgage should extend to all such sums expended, with interest at the rate of eight per cent per annum from the date of said payments. Orators show unto your Honor that the said Theo. Baars neglected to pay said State and County taxes due the State of Alabama and County of Baldwin, upon the lands described in said mortgage, for the year 1920; that the same are now delinquent, and that the said property was advertised for sale for the non-payment of said taxes for the year 1920, said sale being advertised to take place on Wednesday, June 1, 1921. Orators further show unto your Honor that in order to preserve the lien created by the mortgage aforesaid, they were required to pay said taxes, and did, on, to-wit, the 28th day of May, 1921, pay to G. W. Humphries, the Tax Collector of Baldwin County, Alabama, the sum of Four Hundred Forty-three and 97/100 Dollars (\$443.97); which amount Orators claim as an additional lien upon said property, together with interest thereon at the rate of eight per cent per annum from the date of said payment.

7th. Orators further show that on or about May 31, 1920, the Pan-American Bank and Trust Company made a further loan to the Chical Lumber Company, in the sum of Twenty Thousand Dollars (\$20,000.00), said note being endorsed by said Theo. Baars, and made payable on August 31, 1920, to its own order, and endorsed to the Pan-American Bank and Trust Company; which said note, in addition to the individual endorsement of said Theo. Baars, was further secured by the said mortgage of Theo. Baars hereinabove particularly described, and a copy of which is hereto attached and made a part hereof as "Exhibit A". Orators further show that at the maturity of said note, on, to-wit, August 31, 1920, an extension was granted, and the same renewed for a period of ninety days; that said note still remains unpaid, though payment has been frequently demanded by Orators, and that the amount thereof, to-wit, Twenty Thousand Dollars (\$20,000.00), and interest from November 29, 1920, at the rate of eight per cent per annum, is unpaid.

PRAYER FOR PROCESS.

WHEREFORE, the premises considered, your Orators pray that the said Theo. Baars be made a party defendant to this bill of complaint, and that the usual process of this Honorable Court be forthwith issued and served upon him, commanding him to appear, demur, plead to, or answer this bill of complaint, within the time, and under the pains and penalties provided by law, and by the rules of this Honorable Court.

PRAYER FOR RELIEF.

Orators further pray that upon the final hearing of this cause, the court will order and decree that Orators, as liquidators of the Pan-American Bank and Trust Company of New Orleans, Louisiana, own and hold a valid and subsisting mortgage upon the real property described in paragraph 2nd of this bill of complaint, and that this cause be referred to the Register of this Honorable Court, with direction that he hold a reference, take and state an account between Orators and the said Theo. Baars, and report to this court the amount due to Orators upon said notes and mortgage, as well as the amount of taxes paid by Orators as aforesaid, and including a reasonable solicitors' fee for services in this suit.

Orators further pray that upon the coming in and confirmation of the Register's report, this court will order and decree a sale of said property, for the payment and satisfaction of the amount reported and decreed to be due to your Orators, together with the costs of this proceeding; and that if the proceeds derived from said sale are insufficient to pay in full the amount decreed to be due to your Orators, together with the court costs, taxes and solicitors' fees, a decree over be rendered in favor of Orators, and against the said Theo. Baars for the balance remaining unpaid.

And Orators pray for such other, further, different and general

relief as the facts in equity and good conscience may entitle them to receive.

And as in duty bound, Orators will ever pray.

Smith, Young, Leigh & Johnston
Eugene J. McGinley
Solomon S. Goldman
Solicitors for Complainants.

FOOT-NOTE: The defendant is required to answer each paragraph of the foregoing bill of complaint, numbered 1st to 7th, both inclusive, but not under oath; answer under oath being hereby expressly waived.

Smith, Young, Leigh & Johnston
Eugene J. McGinley
Solomon S. Goldman
Solicitors for Complainants.

STATE OF ALABAMA,)
COUNTY OF MOBILE.)

Before me, the undersigned Notary Public in and for the above State and County, personally appeared Solomon S. Goldman, who, being by me first/duly sworn, upon oath says that he is one of the attorneys and solicitors for the complainants in the foregoing bill of complaint, and as such, makes this affidavit, neither of said complainants being present within this State to make such affidavit. And affiant further says that the said Theo. Baars, the defendant in the foregoing bill of complaint, is over the age of twenty-one years, and is a resident of the City of Pensacola, Escambia County, State of Florida, and that his last known Post Office address was care American National Bank Building, Pensacola, Florida.

Solomon S. Goldman

Subscribed and sworn to before me,
this, the 28th day of May, 1921.

Julia M. Allen
Notary Public, Mobile County, Alabama.

EXHIBIT "A".

STATE OF FLORIDA,)
)
COUNTY OF ESCAMBIA.)

KNOW ALL MEN BY THESE PRESENTS, That I, Theo. Baars (Unmarried) for and in consideration of the sum of Thirty-five Thousand (\$35,000.00) Dollars to me in hand paid by the Pan-American Bank and Trust Company of New Orleans, La. a corporation, the receipt whereof is hereby acknowledged, have granted, bargained and sold and by these presents do grant, bargain, sell and convey unto the said Pan-American Bank and Trust Company of New Orleans, La. a corporation and its assigns forever, the following described real estate situate, lying and being in the County of Baldwin, State of Alabama, to-wit:

Fractional West Half (W 1/2) of Sec. Six (6), Township Two (2) South, Range Five (5) East.

West half (W 1/2) of Sec. Six; All of Sec. Nineteen (19); Southwest Quarter of Northeast Quarter (SW 1/4 of NE 1/4), North half of Southwest Quarter (N 1/2 of SW 1/4), Southwest Quarter of Southwest Quarter (SW 1/4 of SW 1/4) of Sec. Thirty (30); Township Three (3) South, Range Four (4) East.

All of Sec. Eighteen (18); Southwest of Styx River in Southwest quarter (SW 1/4) of Sec. Twenty (20); Northeast quarter (NE 1/4), East half of Southwest Quarter (E 1/2 of SW 1/4), West Half of Southeast Quarter (W 1/2 of S. E. 1/4) of Sec. Thirty (30); Township Four (4) South, Range Four (4) East.

East half of East half (E 1/2 of E 1/2) of Sec. Two (2); Northeast Quarter (NE 1/4), West half of Southeast Quarter (W 1/2 of SE 1/4), Southeast quarter of Southeast Quarter (SE 1/4 of SE 1/4) of Sec. Ten (10); West half of West Half (W 1/2 of W 1/2) of Section Twelve (12); East half of Northeast Quarter

(E 1/2 of NE 1/4), Southeast quarter of Southwest quarter (SE 1/4 of SW 1/4), North Half of Southwest quarter (N 1/2 of SW 1/4) and Northwest quarter of Southeast quarter (NW 1/4 of SE 1/4), of Section Fourteen (14), North half (N 1/2) of Sec. Twenty-two (22); Northeast quarter (NE 1/4), North half of Southeast quarter (N 1/2 of SE 1/4), Southwest quarter (SW 1/4) of Sec. Thirty-six (36); Township Three (3) South, Range Three (3) East.

All of Sec. Three (3); All of Sec. Eleven (11); North half of Northeast quarter (N 1/2 of NE 1/4) of Sec. Twelve (12); All of Section Thirteen (13); Township Four (4) South, Range Three (3) East.

All in Baldwin County, State of Alabama, and containing Five Thousand, Seven Hundred and Eighty-seven (5,787.87) 87/100 acres, more or less.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or appertaining, the whole free from all exemptions and right of homestead.

And I, the said Theo. Baars the said mortgagor, for myself and my heirs, do covenant with the said mortgagee and its assigns that I am well seized of the said property and have a good right to convey the same; that it is free from any lien or incumbrance in law or equity and that the said mortgagor shall warrant and by these presents forever defend the said premises unto the said mortgagee and its assigns, against the lawful claims of all and every person or persons whomsoever.

THE FOREGOING CONVEYANCE is intended to be, and is, a mortgage to secure the payment of one promissory note of date of November 15th, 1919, for the sum of Thirty-five Thousand (\$35,000.00) Dollars, made by Chical Lumber Company, a corporation under the laws of the State of Florida, payable to the order of the Pan-American Bank and Trust Company of New Orleans, La. a corporation, the said mortgagee six months (6) after the said date.

The mortgagor covenants that he will keep perfect and unimpaired the security hereby given; that he will pay all

taxes, assessments and charges which may or might become liens superior to that hereby created and if such taxes, assessments and charges be not paid, the mortgagee may pay the same and the lien hereby created shall extend to all such sums expended with interest at the rate of eight (8%) per cent per annum.

The mortgagor agrees that the indebtedness covered by this mortgage shall become immediately due and payable and this mortgage shall become immediately foreclosable, for all sums secured hereby, if the said indebtedness, or any part thereof, shall not be paid according to the terms of the said note, or if the mortgagor shall omit the doing of anything herein required to be done for the protection of the mortgagee; and all costs and expenses including attorneys fees and commissions incurred in collecting this mortgage debt, shall be a part of the mortgage debt and a lien upon the mortgaged property, and if a foreclosure of this mortgage be had, or a suit to foreclose the same be rightfully begun, he will pay all costs and expenses of the said suit, including a reasonable attorneys fee, which costs and fees shall be included in the lien of this mortgage and in the sum decreed upon foreclosure.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 15th day of November, A. D. 1919.

THEO. BAARS, (SEAL)

Signed, sealed and delivered

in the presence of :

JACOB BERLIN,

ALMA E. FISHER.

STATE OF FLORIDA,
ESCAMBIA COUNTY.

Before the subscribed personally appeared Theo/ Baars, known to me to be the individual described and who is known to me and acknowledged before me on this day that being informed of the contents of the foregoing instrument, he executed the same

voluntarily on the day the same bears date.

GIVEN under my hand and seal this 15th day of
November, A. D. 1919.

JACOB BERLIN,

Notary Public.

My commission expires 9th March, 1921.

(NOTARIAL SEAL)

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT
COURT IN AND FOR BALDWIN COUNTY, ALABAMA.
SITTING IN EQUITY.

Your Orators, Philip E. Vallee, Henry A. Testard, and Joseph V. Ferguson, the duly appointed and qualified liquidators of the Pan-American Bank & Trust Company, of New Orleans, Louisiana, bring this, their bill of complaint, against Theo. Baars, who resides in the City of Pensacola, Escambia County, Florida, and respectfully show to the Court and to your Honor:

1st. That the Pan-American Bank & Trust Company was formerly a corporation, organized under the laws of the State of Louisiana, and had its principal place of business in the City of New Orleans, in said State, and that the said Theo. Baars is over twenty-one years of age, and resides in the City of Pensacola, State of Florida, as aforesaid.

2nd. That, on to-wit, the 20th day of November, 1919, the said Pan-American Bank & Trust Company, of New Orleans, Louisiana, then existing as a corporation, in consideration of the mortgage hereinafter mentioned, and the endorsement of the said note of the Chical Lumber Company, a corporation existing under the laws of the State of Florida, by the respondent, Theo. Baars, loaned to the said Chical Lumber Company, the sum of Thirty-Five Thousand and 00/100 (\$35,000.00) Dollars, which loan was evidenced by a note endorsed by the said Theo. Baars, and payable to the order of the Pan-American Bank & Trust Company, of New Orleans, Louisiana, said note being payable six months after its date; that contemporaneously with the lending of said sum of Thirty-Five Thousand and 00/100 (\$35,000.00) Dollars by the said Pan-American Bank & Trust Company to the said Chical Lumber Company, the said Theo Baars delivered a certain mortgage, bearing date the 15th day of November, 1919, securing said loan evidenced by the note aforesaid. Your Orators aver that the property described in said mortgage is situate in the County of Baldwin, State of Alabama, and is more particularly described as follows, to-wit:

Fractional West Half of Section Six, Township Two South, Range Five East.

West Half of Section Six; all of Section Nineteen; South West Quarter of North East Quarter, North Half of South West Quarter, South West Quarter of South West Quarter of Section Thirty, Township Three South, Range Four East.

All of Section Eighteen, South West of Styx River in South West Quarter of Section Twenty; North East Quarter, East Half of South West Quarter, West Half of South East Quarter of Section Thirty, Township Four South, Range Four East.

East Half of East Half of Section Two; North East Quarter; West Half of South East Quarter, South East Quarter of South East Quarter of Section Ten; West Half of West Half of Section Twelve; East Half of North East Quarter; South East Quarter of South West Quarter; North Half of South West Quarter; and North West Quarter of South East Quarter of Section Fourteen; North Half of Section Twenty-Two; North East Quarter; North Half of South East Quarter; South West Quarter of Section Thirty-Six, Township Three South, Range Three East.

All of Section Three; All of Section Eleven; North Half of North East Quarter of Section Twelve; All of Section Thirteen, Township Four South, Range Three East.

All in Baldwin County, State of Alabama, and containing five thousand seven hundred eighty-seven and .87 acres, more or less.

A copy of said mortgage being attached to the original bill and marked "Exhibit A", is made a part hereof, and reference thereto is hereby made as often as may be necessary. Orators further show that said mortgage was filed for record in the office of the Probate Judge of Baldwin County on December 1, 1919, and recorded in Record Book 22 of Mortgages, pages 593 and 594, of the Probate Records of Baldwin County, Alabama.

3rd. Your Orators further show that the said Theo Baars endorsed said note for Thirty-Five Thousand and 00/100 (\$35,000.00) Dollars made by the Chical Lumber Company as aforesaid, prior to the time that said note was delivered to the said Pan-American Bank & Trust Company.

4th. Orators further show that on the date of the maturity of the note first hereinabove described, a payment of Five Thousand and 00/100 (\$5,000.00) Dollars was made thereon, and the balance of Thirty Thousand and 00/100 (\$30,000.00) Dollars was, at the request of the respondent, Theo Baars, extended for a period of ninety days from said date. Orators further show that at the expiration of said extended period and on, to-wit, August 13, 1920, a further extension was, at the request of the said Theo Baars, granted to the maker of said note, as well as to the endorser thereof, for an additional period of ninety days, said extended period expiring on November 11, 1920, upon which date said sum of Thirty Thousand and 00/100 (\$30,000.00) Dollars became due and payable. Orators further show that no further extensions of said indebtedness have ever been made, and that said note is past due and remains unpaid, though payment has frequently been demanded by Orators, and that said amount, to-wit, the sum of Thirty Thousand and 00/100 (\$30,000.00) Dollars, together with interest at the rate of eight per cent thereon, from its maturity, is past due and remains unpaid.

5th. Orators further state that in and by said mortgage and as a part thereof, Theo Baars did promise and agree to pay all costs and expenses, including attorneys' fees, and commissions incurred in collecting this mortgage debt, and that the same should be a part of the mortgage debt, and a lien upon the property mortgaged; and did further promise and agree that if a foreclosure of said mortgage be had, or a suit to foreclose the same be begun, to pay all costs and expenses of said suit, including a reasonable attorney's fee, which costs and fees should be included in a lien of this mortgage, and in the same decree upon foreclosure. And Orators state that they have employed attorneys to collect said debt and to prosecute this suit, hence are entitled to their reasonable solicitors' fees incurred in the prosecution of this suit and in attempting to collect the debt secured by said mortgage.

6th. Orators further show that in and by the terms of said mortgage, the said Theo Baars covenanted to keep perfect and unimpaired the security given by said mortgage, and agreed to pay

all taxes, assessments and charges which may or might become liens superior to that created by said mortgage; and in the event that such taxes, assessments and charges be not paid, the mortgagee, viz: the Pan-American Bank & Trust Company, or its successors in interest, might pay the same, and the lien created by said mortgage should extend to all such sums expended, with interest at the rate of eight per cent per annum from the date of said payments. Orators show unto your Honor that the said Theo Baars neglected to pay said State and County taxes due the State of Alabama and County of Baldwin upon the lands described in said mortgage for the year 1920; that the same are now delinquent, and that the said property was advertised for sale for the non-payment of said taxes for the year 1920, said sale being advertised to take place on Wednesday, June 1, 1921. Orators further show unto your Honor that in order to preserve the lien created by the mortgage aforesaid, they were required to pay said taxes, and did, on to-wit, the 28th day of May, 1921, pay to G. W. Humphries, the Tax Collector of Baldwin County, Alabama, the sum of Four Hundred Forty-Three and 97/100 (\$443.97) which amount Orators claim as an additional lien upon said property, together with interest thereon at the rate of eight per cent per annum from the date of said payment.

7th. Orators further show that on or about May 31, 1920, the Pan-American Bank & Trust Company, at the request of respondent, Theo Baars, made a further loan to the Chical Lumber Company in the sum of Twenty Thousand and 00/100 (\$20,000.00) Dollars, said note being endorsed by said Theo Baars, and made payable on August 31, 1920, to its own order, and endorsed by the Pan-American Bank & Trust Company; which said note, in addition to the individual endorsement of said Theo Baars, was further secured by the said mortgage of Theo Baars hereinabove particularly described, and a copy of which is hereto attached and made a part hereof, as "Exhibit A". That said note contained the following on the back of same:

"In consideration of the making at the request of the undersigned of the loan evidenced by the within note, the undersigned has taken notice of the conditions and promises on the reverse hereof, and binds himself in solido by each and all of them, as there stated.

"Mortgage Note.

CHICAL LUMBER COMPANY.

By THEO BAARS
President.

THEO BAARS. "

Orators further show that at the maturity of said notes, on, to-wit, August 31, 1920, an extension was granted, at the request of the respondent, Theo Baars, and the same renewed for a period of ninety days; that said note still remains unpaid, though payment has been frequently demanded by Orators, and that the amount thereof, to-wit, Twenty Thousand and 00/100 (\$20,000.00) Dollars and interest from November 29, 1920, at the rate of eight per cent per annum is unpaid.

8th. Your Orators further show that the charter, under and by virtue of which the Pan-American Bank & Trust Company existed as a corporation, contained the following provision:

"Whenever this corporation may be dissolved, either by limitation or from any other cause, its affairs shall be liquidated by three stockholders to be appointed at a general meeting to be convened by publication for thirty days in a newspaper published in the City of New Orleans, and by notice mailed to each stockholder to his last designated address, or to General Delivery at New Orleans if he has not designated any address, at least thirty days before said meeting. A majority of the stock voting at such election shall be requisite to elect. Said commissioners shall remain in office until the affairs of the said corporation shall have been fully liquidated, and, in case of vacancy or vacancies in the office of one or more of said commissioners, the vacancy or vacancies shall be filled by the remaining commissioners from among the stockholders."

- That, in accordance with said provision, a general meeting of the stockholders was convened by publication for thirty days in a news paper published in the City of New Orleans, and notice mailed to each stockholder to his last designated address or to general delivery at New Orleans if he had not designated any address at least thirty days before such holding of a meeting of the stockholders. That, at said meeting, a majority of the stock voting, the complainants were unanimously elected as liquidators to wind up the

affairs of the Pan-American Bank & Trust Company. That it was further resolved at said meeting by the unanimous vote of all the stockholders at such meeting, which constituted two-thirds of all the outstanding stock of the corporation, that "without in any manner limiting the full powers vested in them, the said liquidators shall be and they hereby are vested with all of the assets of this corporation, with full power and authority to transfer and make title to same. They shall have authority to sue and be sued; to stand in judgment for the corporation; to discontinue, dismiss, control, compromise and defend any and all suits, either instituted or threatened, and to make any and all agreements relative to the venue or conduct of same; " etc. and complainants allege that all of said proceedings were legal under the laws of the State of Louisiana.

PRAYER FOR PROCESS.

WHEREFORE, the premises considered, your Orators pray that the said Theo Baars be made a party defendant to this bill of complaint, and that the usual process of this Honorable Court be forthwith issued and served upon him, commanding him to appear, demur, plead to, or answer this bill of complaint within the time and under the pains and penalties provided by law, and by the rules of this Honorable Court.

PRAYER FOR RELIEF.

Orators further pray that, upon the final hearing of this cause, the court will order and decree that Orators, as liquidators of the Pan-American Bank & Trust Company, of New Orleans, Louisiana, own and hold a valid and subsisting mortgage upon the real property described in paragraph 2nd of this bill of complaint, and that this cause be referred to the Register of this Honorable Court, with direction that he hold a reference, take and state an account between Orators and the said Theo Baars, and report to this court the amount due to Orators upon said notes and mortgage, as well as the amount of taxes paid by Orators as aforesaid, and including a reasonable solicitors' fee for services in this suit.

Orators further pray that, upon the coming in and con-

firmation of the Register's report, this court will order and decree a sale of said property, for the payment and satisfaction of the amount reported and decreed to be due to your Orators, together with the costs of this proceeding; and that if the proceeds derived from said sale are insufficient to pay in full the amount decreed to be due to your Orators, together with the court costs, taxes and solicitors' fees, a decree over be rendered in favor of Orators, and against the said Theo Baars for the balance remaining unpaid.

And Orators pray for such other, further, different and general relief as the facts in equity and good conscience may entitle them to receive.

And, as in duty bound, Orators will ever pray.

Smiths Young Leigh & Johnston
Eugene J. M^c Givney
Solomon S. Goldman.

Solicitors for Complainant.

FOOT NOTE: The defendant is required to answer each paragraph of the foregoing bill of complaint numbered 1st to 8th, both inclusive, but not under oath, answer under oath being hereby expressly waived.

Smiths Young Leigh & Johnston
Eugene J. M^c Givney
Solomon S. Goldman.

Solicitors for Complainant.

7. Because it appears that there was no consideration for the respondents' executing the mortgage sought to be foreclosed.

8. Because it does not appear that there was any consideration for the respondents' executing the mortgage sought to be foreclosed.

9. Because it does not appear that when the Five Thousand Dollars was paid at maturity of the Thirty-five Thousand Dollar note described in the complaint and the balance was extended for ninety days such extension was made with the consent of the respondent.

10. Because it does not appear that the second extension of the note for Thirty-five Thousand Dollars described in the complaint was made with the knowledge and consent of the respondent.

11. Because it does not appear that the Pan-American Bank and Trust Company or the complainants have taken the necessary steps to charge respondent as endorser on the note for Thirty-five Thousand Dollars.

12. Because it does not appear that the respondent was indebted in any sum on the note for Thirty-five Thousand Dollars at the time the bill of complaint was filed.

13. Because it does not appear that the respondent was indebted in any sum on account of the two notes described in the bill of complaint at the time said bill was filed.

14. Because it appears that the mortgage sought to be foreclosed was discharged on May 20, 1920, when the time for payment of the note secured thereby was extended without the respondents' knowledge and consent.

15. Because it appears that the Pan-American Bank and Trust Company was formerly a Louisiana Corporation which has been dissolved and it does not appear that any one under the laws of Louisiana had any right or power to foreclose the mortgage sought to be foreclosed in the original bill of complaint.

The respondent demurs to so much of the bill of complaint as is contained in the Seventh Paragraph thereof and for grounds of demurrer thereto assigns separately and severally the following:-

1. Because the allegation that the note for Twenty Thousand Dollars was further secured by mortgage, a copy of which is attached, is but the allegation of the legal conclusion of the pleader and no sufficient facts are alleged to justify this conclusion.

2. Because it does not appear that there was any writing evidencing the fact that the mortgage referred to in said paragraph secured or secures the said note for Twenty Thousand Dollars.

3. Because no sufficient writing is offered to show that the mortgage referred to in said count in fact secured the note for Twenty Thousand Dollars therein referred to.

4. Because it does not appear that the note for Twenty Thousand Dollars was extended with the knowledge of the respondent,

5. Because from aught that appears the note for Twenty Thousand Dollars was extended without the knowledge or consent of the respondent and the respondent was thereby released.

Phillip D. Beall
Solicitors for Respondent.

Walter J. Smith & Coffey
Solicitors for Respondent.

PHILIP E. VALLEE ET AL,
COMPLAINANTS,
VS.
THEO BAARS,
DEFENDANT.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Come the complainants in the above entitled cause,
and amend their bill of complaint, as last amended, in the following
respects:

1st. By striking out of the fourth paragraph the
words "at the request of said Theo Baars", and inserting in lieu
thereof "with the knowledge and consent of said Theo Baars."

2nd. By striking out of the seventh paragraph the
words in the sixth and seventh lines of said paragraph "Pan American
Bank & Trust Company," and insert in lieu thereof "Chical Lumber
Company."

3rd. By striking out the words in the seventh paragraph,
in the sixth and seventh lines from the end of said paragraph, "at the
request of the respondent Theo Baars," and insert in lieu thereof the
words "with the knowledge and consent of the said Theo Baars."

Smith Young Leigh & Johnston
Engine Mc Gowan
Attorneys for Complainants.