

Respondent objects to the copy of the resolution purporting to have been adopted at the meeting of the Board of Directors of the Chical Lumber Company on the 24th day of August, 1919, and for grounds of objection assigns, separately and severally, the following:

1. Because it is not the best evidence.
2. Because it does not appear by ^{competent} any evidence that such resolution was adopted by said Board of Directors.
3. Because the same is immaterial to any issue in this case. *Overruled*

Respondent objects, separately and severally, to each of the following paper writings, namely:

Writing dated May 15th, 1920, purporting to be a letter signed "Chical Lumber Company, By Theo Baars, President" and addressed to Pan American Bank and Trust Company being Exhibit "Plaintiff A 2". *Overruled*

Paper writing purporting to be letter dated August 13, 1920, and purporting to be addressed to Mr. Theo Baars, President and signed A. C. Wuerpel, Vice President, being Exhibit "Plaintiff G". *Overruled*

Instrument purporting to be a letter dated August 27, 1920, and purporting to be addressed to Mr. Theo Baars, President and signed A. C. Wuerpel, Vice President, being Exhibit "Plaintiff H". *Overruled*

Instrument purporting to be letter dated May 7th, 1920, and purporting to be signed Theo Baars and to be addressed to Pan American Bank and Trust Company, being Exhibit "Plaintiff J". *Overruled*

Instrument purporting to be letter signed by Chical Lumber Company, By Theo Baars, President, and to be addressed to Mr. A. C. Wuerpel, Vice President, Pan American Bank and Trust Company, dated August 7th, 1920, and being Exhibit "Plaintiff M". *Overruled*

Instrument purporting to be letter signed by Chical

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Lumber Company, By Theo Baars, President, and to be addressed to Pan American Bank and Trust Company, dated August 11th, 1920, and being Exhibit "Plaintiff O". *Overruled*

Instrument purporting to be letter signed by Chical Lumber Company, By Theo Baars, President, and to be addressed to Pan American Bank and Trust Company, dated August 26th, 1920, and being Exhibit "Plaintiff R".

Instrument purporting to be letter signed by Chical Lumber Company, By Theo Baars, President, and to be addressed to Pan American Bank and Trust Company, dated August 28th, 1920, and being Exhibit "Plaintiff S".

For grounds of objection, separately and severally, to each of the above and foregoing paper writings, respondent assigns, separately and severally, the following:

1. Because the same constitutes irrelevant evidence.

2. Because the same constitutes incompetent evidence.

3. Because the same constitutes immaterial evidence.

4. Because there is no sufficient proof of the genuineness of said instrument.

5. Because there is no sufficient proof that the instrument purporting to be a letter was written by the party purporting to have signed the same.

6. Because there is no sufficient proof that said letter was received by the party to whom it purports to be addressed. *Overruled*

Respondent objects, separately to the instrument purporting to be a note dated August 13th, 1920, for \$30,000.00, payable to Pan American Bank and Trust Company ninety days after date, and purporting to be signed by Chical Lumber Company, By Theo Baars, President; and separately to the instrument purporting to be a note dated August 31st, 1920, for \$20,000.00, payable to Pan American Bank and Trust Company, ninety days after

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date and purporting to be signed Chical Lumber Company, By Theo Baars, President, and for grounds of objection, separately and severally to each of said instruments the respondent assigns, separately and severally the following:

1. Because the same constitutes irrelevant testimony.
2. Because the same constitutes incompetent testimony.
3. Because the same constitutes immaterial testimony.
4. Because it appears that the obligation secured by the mortgage which is sought to be foreclosed in this suit has been paid.
5. Because it does not appear that the note secured by the mortgage sought to be foreclosed has not been paid.
6. Because it does not appear that the complainant's had any right, title or interest in said note at the time this suit was filed.
7. Because it does not appear that the complainants ever acquired the right or title of the Pan American Bank and Trust Company in or to said note.
8. Because it affirmatively appears that this note is not the note secured by the mortgage sought to be foreclosed.
9. Because it affirmatively appears that this note was never secured by the mortgage sought to be foreclosed.
10. Because it appears that the mortgage sought to be foreclosed secured the payment of one promissory note of the date of November 15th, 1919, for the sum of \$35,000.00, made by Chical Lumber Company and payable to the order of Pan American Bank and Trust Company, six months after date, and it does not sufficiently appear that this note is a renewal or extension of said original note.

Overruled

Respondent objects, separately and severally, to each of the signature cards offered in evidence as Exhibit "Plaintiff E-2"

and for grounds of objection as to each of said signature cards assigns, separately and severally, the following:

1. Because the same constitutes irrelevant testimony.
2. Because the same constitutes incompetent testimony.
3. Because the same constitutes immaterial testimony.

Respondent objects to the instrument purporting to be a mortgage from Theo Baars dated November 15th, 1919, to Pan American Bank and Trust Company, being Exhibit "Plaintiff F-2" and for grounds of objection thereto assigns, separately and severally, the following:

1. Because the same is irrelevant.
2. Because the same is incompetent.
3. Because the same is immaterial.
4. Because said mortgage purported to secure a note for \$35,000.00, dated November 15th, 1919, and payable six months after date, and it does not appear that the notes offered in evidence were renewals or extensions thereof.
5. Because it appears that the indebtedness secured by the mortgage has been paid.
6. Because it does not appear that the indebtedness secured by said mortgage has not been paid.
7. Because it does not appear that the complainants have any right, title or interest in or to said mortgage, or in or to the note or notes secured by said mortgage, or any right to foreclose the same.
8. Because it appears that the mortgage was made to the Pan American Bank and Trust Company and not to these complainants, and it does not appear by any competent evidence that these complainants have acquired any right, title or interest of the Pan American Bank and Trust Company in or to said mortgage or the indebtedness secured thereof.

Overruled

The Respondent objects separately to the following:-

1. alleged act of the Louisiana Legislature no 166, purporting to be approved Nov. 15, 1855.
2. Sections 275 to and including 279 of what purports to be the Statutes of Louisiana, as same appear in what purports to be a Digest of the Statutes of Louisiana, Volume 1, A to N, 1870.
3. Alleged act of the Legislature of the State of Louisiana no 179, purporting to be approved in 1902.
4. Alleged act of the Louisiana Legislature no 184, purporting to have been approved July 6, 1916.
5. Section 3 of act 131 of 1855 of what purports to be an act of the Legislature of Louisiana.
6. What purports to be Section 685 of Revised Statutes of Louisiana of 1870.
7. What purports to be Act 267 of 1914 of the Legislature of Louisiana.

And for grounds of objection thereto the Respondent assigns separately and respectively the following:-

- ① Because the same is a void act
- ② Because the same is incompetent
- ③ Because the same is unconstitutional.

4. Because the same is not shown to be the law of Louisiana by any competent evidence.
5. Because the same is not shown to have been the law of Louisiana governing the matters in dispute in this suit.
6. Because it appears that the same has no application to banks.
7. Because the same is not so authenticated as to make it admissible in evidence.
8. Because the book in which the same is contained is not shown to ^{have} been published by authority of the State of Louisiana.
9. Because there is no competent that such act was the law of Louisiana at the time of the attempted appointment of the Complainants as liquidators of the Pan American Bank & Trust Co.
10. Because the book in which same appears does not appear to have been published by authority of the State of Louisiana or any other competent authority.

11. Because same is offered as a whole whereas much of it is wholly irrelevant.

The Respondent objects to the alleged opinion of the Supreme Court of Louisiana in the case of President and Directors of the Consolidated Association of Bankers of Louisiana vs George L. Lord, 35 La. Ann 425, and for grounds of objection assigns separately & severally the following:-

- ① Because the same is irrelevant
- ② Because the same is incompetent

3. Because the case is immaterial.
4. Because the said decision is not shown to be a decision of the Supreme Court of Louisiana.
5. Because the volume in which said decision appears does not appear to have been published by authority of the State of Louisiana.
6. Because said decision is not so authenticated as to make it admissible in evidence.
7. Because it does not appear that said decision has any application to banking corporations.
8. Because it appears that this decision construed and applied other statutes than those here recited and it does not appear what were the terms & conditions of those statutes.
9. Because it does not appear that the decision states the law of Louisiana as to banking corporations at the time the complainant's claim to have been appointed liquidators of the Pan American Bank & Trust Company, ^{owned by}

Phillip A. Beall
Harry J. Smith & Cassey
Att'ys. Sols. for Respondent.

Philip E. Waller
et al.

vs.
Meekins Bros

Objections of
Respondent to
Evidence Offered
by Complainant.

Filed this 17th May, 1923

Tom Peckham

X

Note for \$30,000.00
Interest. 6039.42

36039.42

Note for 20,000.00
3945.50

\$23945.50

36039.42

23945.50

4319.25

64304.17

Atty. fees 4319.25
59984.92

\$64,304.17

UNITED STATES OF AMERICA, STATE OF ALABAMA
CIRCUIT COURT OF BALDWIN COUNTY

PAN-AMERICAN BANK & TRUST X
COMPANY :
VERSUS : No: -6 _____
THEODORE BAARS X

DEPOSITIONS of Charles Traub, Emmet Jones,
A. C. Wuerpel and Eugene J. McGivney, taken before Edward
Rightor, Notary Public, New Orleans, Louisiana, by James A.
Taylor, Shorthand Reporter, 823 Canal-Commercial Building,
New Orleans, Louisiana.

I N D E X

Charles Traub,-----	Page 1
Emmet Jones,-----	" 2
A. C. Wuerpel,-----	" 18
Eugene J. McGivney,-----	" 27

UNITED STATES OF AMERICA, STATE OF ALABAMA

CIRCUIT COURT OF BALDWIN COUNTY

PAN AMERICAN BANK & TRUST CO. X
VS, : No:-
THEODORE BAARS. X

STIPULATION:-

It is agreed by and between Counsel representing the Complainant and Counsel representing the Respondant that the testimony of the witnesses following taken before Edward Rightor, Notary Public, by James A. Taylor, Court Reporter for the Civil District Court for the Parish of Orleans, shall when reduced to writing be admissible in evidence in the above styled cause the same as though a Commission in due and proper form had been issued by the proper Court, the necessity of signature being hereby waived. It is further agreed and understood that the evidence shall be admissible, subject to the objections interposed to the testimony. Present for the Plaintiffs Messrs. Smiths, Young, Leigh & Johnson, (Mr. Smiths) and Eugene J. McGivney, Esq., and for the Respondant Messrs. Smith & Caffey, and P.D. Beal, Esq., (Mr. Caffey).

CHARLES TRAUB, a witness for the Complainant, being duly sworn by Edward Rightor, Notary Public, deposed as follows, to-wit:

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

BY MR. SMITHS:-

Q:- Were you employed by the Pan American Bank & Trust Company in October, 1920? A:- Yes, sir.

Q:- In what capacity? A:- As mail clerk.

Q:- Do you remember mailing a number of notices on October 6th 1920? A:- Yes, sir. I do.

Q:- Where did you get those notices?

A:- From Mr. Jones.

Q:- Mr. Jones gave them to you? A:- Yes, sir.

Q:- Did you carry them to the mail yourself?

A:- Yes, sir, I mailed them myself.

Q:- Did you mail all of them?

A:- Yes, sir, I sealed and mailed them myself.

-----CROSS EXAMINATION-----

BY MR. CAFFEY:-

Q:- Your business was mailing out notices for the bank, that was your business at that time?

A:- Yes, sir, not only notices but all the mail.

Q:- You handled all the mail of the bank?

A:- Yes, sir.

Q:- And this occurred in October, 1920? A:- Yes, sir, 1920.

Q:- The papers that you mailed out, the letters that were mailed out, were they sealed or not when you received them?

A:- I seal them myself.

Q:- You, of course, do not remember the contents of any particular notice that you mailed at that time?

A:- I know that they were notices to stockholders.

Q:- You do not remember any of the particular individuals to whom you mailed those notices?

A:- No, sir.

Q:- Do you remember how many notices there were?

A:- I do not remember just how many, a good number of them.

ERNEST JONES, a witness for Complainant, being first duly sworn by Edward Richter, Notary Public, testified as follows:-

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

BY MR. SMITHS:-

Q:- Were you connected with the Pan-American Bank & Trust Company in 1920? A:- Yes, sir.

Q:- In what capacity? A:- Cashier.

Q:- You acted as the secretary of the meetings of the stock-

holders?

A:- I did.

Q:- With reference to sending any notices to the stockholders in October, 1920?

A:- Yes, sir.

1. Q:- What did you send out?

2. A:- I sent out notices notifying them of the stockholders meeting which would be held.

MR. CATTY:-

Counsel for the defense objects to the question and answer on the ground that the notices themselves are the best evidence.

Q:- Have you a copy of the notice?

A:- Yes, sir.

10 x Q:- This is a copy of the notice mailed out to the stockholders?

A:- Yes, sir.

x Q:- This is a copy of the notice that you mailed to them?

A:- Yes, sir.

x Q:- To whom did you mail that notice?

x A:- To all of the stockholders.

x Q:- Of the Pan-American Bank and Trust Company?

A:- Yes, sir.

x Q:- Mailed on that day?

A:- Yes, sir.

Q:- Did you personally check that over yourself?

A:- Yes, sir, I personally checked every one over.

Q:- What did you do after you check them?

A:- I delivered them to the mailing clerk.

Q:- This young man who has just testified is the mailing clerk?

A:- Yes, sir.

Q:- Who put them in the envelopes?

A:- I put them in the envelopes myself.

11 x Q:- To whom where they addressed?

To the stockholders of the Pan-American Bank & Trust Com-

x Q:- Did you mail them to the last designated address of the stockholders?

A:- To the last designated address we had of the residence of the stockholders.

Q:- Did you deliver them to this boy who testified?

A:- Yes, sir.

Q:- What is his name?

A:- Traub, -Charles Traub.

Q:- He was the mailing clerk at that time?

A:- Yes, sir.

Q:- Was a notice of this meeting published in the newspapers?
A:- Yes, sir.

Q:- Did you see it in the newspapers yourself?

A:- Yes, sir.

BY MR. SMITHS:-

x It is agreed and stipulated that if Mr. Beyersdorfer were present he would testify that the notices according to the copy of the affidavit was published in the Daily States, a newspaper published in the City of New Orleans, State of Louisiana, and we now offer the copy of the affidavit in evidence marked Plaintiff A.

MR. CAFFY:-

Counsel for the defense objects to the offer of the affidavit on the ground that it constitutes incompetent, irrelevant and immaterial and inadmissible testimony, the objection not being based on the ground that the offer made is a copy and not the original

3- Q:- Pursuant to those notices was there a meeting of the stockholders of the Pan-American Bank & Trust Company?

MR. CAFFY:-

Counsel for the defense objects on the ground that it calls for the mere opinion

and conclusion of the witness and is irrelevant,
incompetent and immaterial testimony.

4 A:- Yes, sir.

5 Q:- Was there a meeting of the stockholders of the Pan-American Bank & Trust Company held after this notice was given?

MR. CAFFY:-

We make the same objection to this question.

6 A:- Yes, sir.

Q:- When was this held?

A:- On November 15th, 1920.

Q:- Where?

A:- At the Pan-American Bank & Trust Company's Board room.

Q:- Were you present at that time?

A:- Yes, sir.

Q:- In what capacity were you there?

A:- As Secretary.

Q:- Secretary of the Pan-American Bank & Trust Company?

A:- Yes, sir.

Q:- Have you the minutes of what transpired at that time?

A:- Yes, sir.

Q:- Mr. Jones, have you the original minutes of the meeting?

A:- Yes, sir.

Q:- I wish that you would produce them please sir?

Q:- Here they are (handing minutes to counsel)

7 Q:- Are these minutes a true report of what happened at that meeting?

MR. CAFFY:- Counsel for the defense objects to the minutes, and the above question on the ground that it calls for incompetent, irrelevant and immaterial testimony.

8 A:- Yes, sir.

Q:- You made those minutes?

A:- I dictated them to my stenographer.

Q:- They are written out as you dictated them?

A:- Yes, sir.

Q:- And you were present at the meeting I think you said?

A:- Yes, sir.

Q:- And you dictated them from your personal knowledge of what took place at the time?

A:- Yes, sir.

Q:- Is that not a true and correct statement of what took place?

MR. CAFFEY:- We make the same objection.

A:- Yes, sir.

MR. SMITHS:- We offer in evidence the original book of minutes of the meeting of the stockholders of the Pan-American Bank & Trust Company held on Monday, November 15th, 1920 at 12 o'clock noon, with the stipulation and agreement between counsel that a substituted copy may be offered and the original minutes withdrawn, marked Plain tiff-B.

MR. CAFFEY:- Counsel for the defense objects to the offer on the ground that the same as a whole constitute irrelevant, incompetent and immaterial testimony against this defendant.

Q:- The stockholders enumerated here and listed here, were they present at the meeting of the stockholders?

MR. CAFFEY:- We make the same objection on the same ground.

A:- They were either present or voted by proxy, the minutes give the names of those appearing in person and those whose stock was voted by proxy.

Q:- They were either present in person or voted by proxy?

A:- Yes, sir.

Q:- And the number of shares set out opposite each name is the number of shares held by each person?

MR. CAFFEY:- We make the same objection.

A:- Yes, sir.

15 Q:- What per centage of the total stock of the corporation was represented at that meeting?

MR. CAFFEY:- We make the same objection.

A:- If my memory serves me right more than two thirds.

16 Q:- Is that right?

A:- Yes, sir, morethan two-thirds.

Q:- Were you present during the entire meeting?

A:- Yes, sir.

17 Q:- Do you remember a resolution being made as shown on page six and page seven?

MR. CAFFEY:- We make the same objection.

A:- Yes, sir.

18 Q:- Was that resolution offered?

A:- Yes, sir.

19 Q:- Was it voted on, Mr. Jones?

MR. CAFFEY:- We make the same objection.

A:- Yes, sir.

20 Q:-Will you please look at the names on pages 6,7,8,9 and 10, and the number of shares set out opposite those names and state whether or not those parties either in person or by proxy voted the number of shares set out opposite their names on this resolution?

MR. CAFFEY:- We make the same objection.

A:- They did.

21 Q:- How did they vote, Mr. Jones, in favor or against the resolution?

MR. CAFFEY:- We make the same objection.

A:- Unanimously in favor of it, there was no opposition to the resolution.

22 Q:- Mr. Jones, will you please state whether or not the following resolution was adopted at that meeting of the

stockholders: "RESOLVED, that H. A. Testard, Jos. V. Ferguson and Philip E. Vallee be, and they hereby are elected and appointed Liquidating Commissioners of this corporation, to have all the right, power and authority provided by the resolutions heretofore adopted at this meeting, said Liquidators to remain in office until the affairs of the corporation shall have been fully liquidated, and each of them to receive the sum of One Thousand (\$1,000,00) Dollars as full compensation for their services." WAS that resolution adopted?

MR. CAFFY:- We make the same objection.

A:- Yes, sir.

12 Q:- Will you please look at the original of the minutes, Mr. Jones, and state whether or not that is your signature as cashier and secretary of the Pan-American Bank & Trust Company?

MR. CAFFY:- We object to that on the same grounds.

A:- Yes, sir, that is my signature.

24 Q:- Look at the signature of Crawford H. Ellis, are you familiar with his signature?

MR. CAFFY:- We make the same objection.

A:- Yes, sir.

Q:- Is that his signature?

A:- Yes, sir.

3 MR. SMITHS:- It is admitted that the letter of November 17th, 1919, addressed to Theo Baars care Chical Lumber Company was signed by Mr. T.S Witherspoon, Vice President of the Pan American Bank & Trust Company, which has been offered in evidence and marked Plaintiff-T.

MR. CAFFY:- Counsel for the defense objects to the offer of the letter as irrelevant and incompetent and not on the ground that it is carbon copy.

MR. SMITHS:-

Counsel for the Plaintiff now offers in evidence letter of November 21st, 1919, addressed by Mr. Theo Baars to the Pan-American Bank & Trust Company and Marked Plaintiff-U.

Q:- Did the Pan-American Bank receive this letter dated November 21st, 1919, from Mr. Theo Baars?

A:- Yes, sir.

Q:- Whose receiving stamp is on that do you know?

A:- Mine.

Q:- This is your stamp?

A:- Yes, sir.

Q:- Showing that you received it?

A:- Yes, sir, Mr. Wuerpel has a different kind of ink.

MR. CAPPY:- We now make the same objection to the offer of the letter marked Plaintiff:-U.

Q:- This letter of November 24th, 1919, addressed to Mr. Theo Baars which has been produced by the attorney for the respondent, that was written by you?

A:- Yes, sir.

MR. SMITHS:- Counsel for the Plaintiff produces, offers and files in evidence the letter of November 24th, 1919, from the Pan-American Bank and Trust Company to Theo Baars, marked Plaintiff:-V.

MR. CAPPY:- We make the same objection to the offer.

Q:- Will you please look at this letter dated January 13th, 1920, from Theo Baars to the Pan-American Bank and Trust Co. and state if you received that letter?

A:- There is no identification mark on that.

Q:- Then I wish that you would look at the letter of January 14th, 1920, from the Pan-American Bank & Trust Company and state if you wrote that letter, and state if that refreshes

your memory with reference to the letter of January 13th, 1920, from Mr. Baars?

A:- Yes, sir, I wrote this letter in answer to this one.

Q:- Do you know if you received this letter of January 13th, 1920, from Mr. Baars?

A:- Yes, sir, it was received into the bank.

Q:- That is Mr. Baars signature?

A:- From what I can gather, yes, sir.

Q:- Did you correspond with Mr. Baars?

A:- I did have some correspondence with him.

Q:- Is that the same signature that was signed to the letters that you received from him?

A:- Yes, sir, exactly the same.

MR. SMITHS:- Counsel for the plaintiff offers in evidence the letter dated January 13th, 1920, from Mr. Theo Baars to the Pan-American Bank & Trust Company, and marks same Plaintiff:- W.

MR. CAPPY:- We make the same objection.

Q:- I wish you would state if as stated in the letter of January 13th, 1920, from Mr. Theo Baars, there was enclosed this paper styled "Copy of resolution adopted at a meeting of the Board of Directors of the Chical Lumber Company, held in Pensacola Florida, on the 23rd day of August, 1919"?

A:- Yes, sir, that came with the letter.

Q:- That was received by the bank?

A:- Yes, sir.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence the copy of the resolutions and marks the same Plaintiff:-X.

MR. CAPPY:- Counsel for defendant makes the same objection to the offer of the resolutions.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence the letter of January 14th, 1920, from the

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Pan-American Bank and Trust Company to Mr. Theo Baars and marks same Plaintiff:-Y.

MR. CAPPY:-

We make the same objection to the offer.

Q:- I wish you would look at this letter of November 22nd 1919, from the Pan-American Bank and Trust Company to Mr. Theo Baars president of the Chical Lumber company, the original of which has been produced by the attorney for the defense, and state whether or not that is your signature and if you wrote that letter?

A:- Yes, sir, that is my signature.

MR. SMITHS:-

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We offer in evidence the letter dated November 22nd, 1919, from the Pan-American Bank & Trust Company to Mr. Theo Baars and marks same Plaintiff:-Z.

MR. CAPPY:- We make the same objection to this offer.

Q:- I wish that you would look at this letter of May 15th, 1920, addressed to the Pan-American Bank and Trust Company, and signed Chical Lumber Company by Theo Baars, President, and state if that letter was received by the Pan-American Bank & Trust Company?

A:- Let me see my answer to it if it was acknowledged-(after looking at answer) Yes, sir, that was received by me.

MR. SMITHS:-

9
Counsel for the Plaintiff offers in evidence the letter of May 15th, 1920, from the Chical Lumber Company, Theo Baars, President, to the Pan-American Bank & Trust Company, and marks same Plaintiff P-A-2.

MR. CAPPY:- We make the same objection.

Q:- Was the enclosures in that letter referred to received by the bank?

A:- Yes, sir.

Q:- Will you please look at this letter of May 17th, 1920 to Mr. Theo Baars, and state whether or not that is a copy of a letter written by you to Mr. Baars?

A:- In all likelihood it is but in the absence of the original I could not swear that it was.

Q:- What are the initials on the bottom of the copy?

A:- "E. J."

Q:- What does that stand for?

A:- E. Jones and the "O" is the stenographer's initial.

Q:- Is there any other person in that bank that has those initials?

A:- No, sir.

MR. SMITHS:- Counsel for the plaintiff offers in evidence carbon copy of the letter May 17th, 1920, from the Pan-American Bank & Trust Company to Mr. Theo Baars and marks same Plaintiff -B2.

MR. CAFFEY:- We make the same objection to the introduction of the letter but no objection on the ground that it is a carbon copy and not the original.

Q:- Have you the originals of the notes given by Mr. Baars to the Pan-American Bank and Trust Company?

A:- Yes, sir.

Q:- I wish that you would produce them please?

A:- Here they are.

MR. SMITHS:- We introduce in evidence the original note dated August 13th, 1920 for Thirty thousand dollars, payable ninety days after date and signed by the Chical Lumber Company by Theo. Baars, President, and endorsed on the reverse thereof as follows:- "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 thereof and binds himself in solido by each and all of them as there stated. Mortgage made by Theo Baars to Pan-American Bank and Trust Company, New Orleans, Louisiana, dated November 15th, 1919. (signed) Chical Lumber Company by Theo Baars, President and Theo. Baars individually, and the two Revenue Stamps for Six Dollars, and marked P:-C-2.

MR. CAPPY:- We object to the offer on the ground that it constitutes incompetent, irrelevant and immaterial evidence.

MR. SMITHS:-

Counsel for the Plaintiff, offers in evidence the promisory note dated New Orleans, Louisiana, August 31st, 1920, for the sum of Twenty thousand dollars, payable ninety days after date to the Pan-American Bank & Trust Company of New Orleans, signed by the Chical Lumber Company by Theo Baars, President and endorsed on the reverse thereof as follows:- "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 thereof and binds himself in solido by each and all of them as there stated. Mortgage made by Theo Baars to Pan-American Bank & Trust Company, New Orleans, Louisiana, , etc. (Signed* Chical Lumber Company by Theo Baars President and by Theo Baars individually, with the two Revenue Stamps thereon for four dollars, and marks same Plaintiff :-D-2.

MR. CAPPY:- We make the same objection to this offer.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence

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two signature cards purporting to contain the signatures of the Chical Lumber Company signed by Theo Baars and of Theo Baars individually, which signature cards were identified by the witness, Ernest Jones, as being the signature of Theo Baars, and marked Plaintiff E-2 and Plaintiff E-2.

Q:- State if you received those cards in correspondence with Mr. Theo Baars? A:- Yes, sir.

MR. CAPPY:- We object to each of the offers on the grounds above specified.

25 Q:- Will you please state if the Pan-American Bank & Trust Company received from Mr. Theo Baars or from the Chical Lumber Company more than one mortgage?

MR. CAPPY:- We object on the same grounds.

A:- No, sir, I do not remember.

26 Q:- I show you a document purporting to be a mortgage of Theo Baars on certain lands in Baldwin County, State of Alabama, dated 15th of November, 1919 and signed by Theo Baars in the presence of two witnesses and attested before Jacob Berlin, Notary Public, November 15th, 1919, and purporting to be recorded in the records of the said county on the 1st day of December, 1919 in record book 22 of Mortgages pages 593 and 594, and ask you if that is not the mortgage that was received by the bank, the Pan-American Bank and Trust Company from Mr. Theo Baars, and which has remained in its custody since the date that it was received?

MR. CAPPY:- We make the same objection.

A:- Yes, sir.

Q:- And you are the custodian of the records of the Pan-American Bank & Trust Company and of its liquidators?

A:- Yes, sir.

27 Q:- And if there was any other mortgage received from Mr.

Baars you would have known it?

MR. CAPPY:- We make the same objection.

A:- Yes, sir.

Q:- Do you know of any other mortgage than this being received from Mr. Baars?

MR. CAPPY:- We make the same objection.

A:- No, sir.

MR. SMITHS:-

Counsel for the Plaintiff, in connection with the testimony of the witness offers, introduces and files in evidence the mortgage identified and described by the witness and marks same Plaintiff F-2.

MR. CAPPY:- We make the same objection to the offer.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence a certified copy of the act of incorporation of the Pan-American Bank & Trust Company duly certified by W. O. Hart, Notary Public, before whom the said act was passed, and it is stipulated between counsel that the copy so certified will not be objected to on the ground that it is not certified in accordance with the Act of Congress, marked Plaintiff G-2.

MR. CAPPY:- Counsel for the defense objects to the offer on the ground that it constitutes irrelevant and incompetent testimony, but not on the ground that the copy has not been certified in accordance with the act of Congress.

-----CROSS EXAMINATION-----

BY MR. CAPPY:-

Q:- Who got up the data for you in regard to the stockholders of the Pan-American Bank & Trust Company on or just prior to October 6th, 1920?

A:- What do you mean by data.

Q:- The data on which you sent out the notices?

A:- Well, I believe that it was arranged between Mr. Dumser Mr. Wuerpel and myself?

Q:- The three of you got up the list of the stockholders, that is right?

A:- Well, no, sir, not the list of the stockholders, -you men the formation of the notice, the wording of the notice?

Q:- No, I am not referring to that at all, the information on which you mailed or had mailed the notices to the stockholders? You got such information?

A:- Yes, sir.

Q:- What I want to know is who got up the compilation of the stockholders?

+ A:- The records of the stockholders and the names of the parties holding stock in the bank was kept by me, and a compilation of that was probably made by the stenographer who gave me a typewritten list.

Q:- Who kept up with the address of the stockholders?

+ A:- No one kept up with it that I know of, the parties would notify us of any change in their address.

Q:- When you got the list to send out these notices you told the stenographer, to address the envelopes to those people shown on that record, to those addresses?

A:- Yes, sir.

Q:- Then those notices were turned over by whom, probably by her to the mailing clerk?

A:- No, sir, they were turned over to me.

Q:- And then you delivered these notices to the mailing clerk?

A:- Yes, sir.

Q:- How many notices were there?

A:- I do not know just the number there were, there was quite a number.

Q:- A big bundle of notices?

A:- Not necessarily a big bundle. 16

Q:- How many stockholders did the Pan-American Bank & Trust Company have on October 6th, 1920?

A:- That I do not know.

Q:- Do you know their names?

A:- Not every one, I have the list.

Q:- You know the addresses of the stockholders?

A:- No, sir.

Q:- How many mailing clerks did the Pan-American Bank & Trust Company have on October 6th, 1920?

A:- One to my knowledge.

Q:- Did they have any others that you did not know about?

A:- No, sir, not that I know of.

Q:- So far as you know there was one mailing clerk?

A:- Yes, sir, one mailing clerk.

Q:- What color of ink does Mr. Wuerpel use in his receiving stamp?

A:- Ordinarily green.

Q:- He have any other kind?

A:- I do not know of any other he had.

Q:- What color was yours?

A:- My preference was pink or red.

Q:- Sometimes you did not use any stamp at all?

A:- No, I may not have.

Q:- Did any other officers of the bank handle this Chical Lumber Company matter besides yourself and Mr. Wuerpel?

A:- And Mr. Witherspoon now deceased.

Q:- The three of you handled it?

A:- Yes, sir.

MR. SMITHS:-

Q:- When did Mr. Wuerpel die?

A:- To the best of my knowledge and belief March 27th, 1921.

A. C. WUERPEL, a witness for the Plaintiff, being first duly sworn by Edward Rightor, Notary Public, testified as follows, to-wit:-

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

MR. SMITHS:-

Q:- What was your position with the Pan-American Bank in the year of 1920?

A:- Vice President.

Q:- Did you write this letter?

A:- Yes, sir.

Q:- Is that your signature?

A:- Yes, sir.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence letter dated May 20th, 1920 addressed to Theo Baars President, Chical Lumber Company, Pensacola, Florida, and signed A. C. Wuerpel, and Marks same Plaintiff C.

Q:- Did you write the letter of May 21st, 1920 addressed to the Chical Lumber Company of which this is a copy?

A:- I am quite sure that I wrote it but my signature is not there.

Q:- Those are your initials?

A:- That denotes it is for me.

MR. SMITHS:- Counsel for Plaintiff offers the copy in evidence and marks same Plaintiff D.

MR. CAFFY:- Counsel for the defense objects on the ground it is irrelevant, immaterial and incompetent testimony, and not on the ground that it is a copy.

Q:- Is that letter written by you, are those your initials?

A:- That shows the stenographers note of my initials and I presume I wrote it.

MR. SMITHS:- Counsel for Plaintiff offers in evidence letter of May 31st, 1920, to Theo Baars, President,

Chical Lumber Company, Pensacola, Florida, and signed A. C. Wuerpel, Vice President, marked Plaintiff-E

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MR. CAFFEY:-

Counsel for the defense objects to the offer as irrelevant, incompetent and immaterial and not on the ground that it is a copy.

Q:- Here is one of June 4th, 1920, did you write this letter?

A:- The stenographer's note shows that I must have written it

19
MR. SMITHS:-

Counsel for the Plaintiff offers in evidence the letter of June 4th, 1920, and marks same Plaintiff-F.

MR. CAFFEY:- We make the same objection.

Q:- Will you look at this letter of August 13th, 1920, to Theo Baars, Pensacola, Florida,, and state who wrote that letter?

A:- I signed it.

20
MR. SMITHS:- Counsel for the Plaintiff offers in evidence the letter of August 13th, 1920, to Theo Baars, and signed by A. C. Wuerpel, marking same Plaintiff;-G.

MR. CAFFEY:- We make the same objection.

Q:- Have you a letter of August 27th?

A:- Yes, sir.

Q:- I wish that you would look at this, letter dated August 27th, 1920, addressed to Theo Baars, President, Chical Lumber Company, Pensacola, Florida, and state if that was signed by you and mailed by yourself?

A:- Yes, sir, that is my initials.

21
MR. SMITHS:- Counsel for the plaintiff offers the letter of August 27th, 1920, to They Baars in evidence and marks same Plaintiff-H.

MR. CAFFEY:- We make the same objection.

Q:- Will you look at this letter of August 31st, 1920, addressed to Theo Baars and signed by yourself and state if that is your signature?

A:- That is my signature.

Q:- That was mailed to Mr. Baars? A:- Yes, sir.

22
MR. SMITHS:- Counsel for the Plaintiff offers in evidence the letter of August 31st, 1920, to Mr. Baars and signed A. C. Wuerpel, Vice President, marking same Plaintiff:- I.

MR. CANNY:- We make the same objection.

Q:- This letter of May 10th, 1920, which we have introduced in evidence and which was addressed to Theo Baars, President Chical Lumber Company, was signed by you as Vice President of the Pan-American Bank and Trust Company. I wish that you would state if that letter was in answer to this letter of May 7th, signed by Mr. Theo Baars?

MR. CANNY:- We object on the same ground.

A:- The stenographer's notes show that it is in answer to this one signed by me.

Q:- Did you get this letter from Mr. Baars?

A:- Yes, sir.

Q:- Addressed to the Pan-American Bank & Trust Company?

A:- Yes, sir.

Q:- And the answer to that was written on May 10th, 1920, by yourself?

A:- Yes, sir.

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MR. SMITHS:- Counsel for the Plaintiff offers in evidence the letter dated Pensacola, Florida, May 7th 1920, addressed to the Pan American Bank and Trust Company and marked Plaintiff:- J.

Q:- I wish that you would look at this letter, dated May 20 1920, addressed to the Pan-American Bank & Trust Company and state if that is the signature of Theo Baars?

A:- It is the same as

A:- That is the same Theo Baars as far as I know, yes, sir, that is the signature of Mr. Theo Baars.

Q:- I wish that you would state if the letters that you received from him in answer to yours had that same signature on them?

A:- Yes, sir, that is the same signature.

Q:- You have any notes or other papers from him?

A:- They all bear the same signature.

Q:- I wish that you would state if that letter of May 28th 1920, addressed to the Pan American Bank & Trust Company and signed by the Chical Lumber Company, Theo Baars, President, was answered by you on May 31st, 1920 (Referring to letter marked Plaintiff E)?

A:- Yes, sir, that is my reply to his letter of May 28th.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence the letter of Mr. Theo Baars of May 28th, 1920, and marks same Plaintiff:-K.

MR. CAPPY:- We make the same objection to this offer.

Q:- I wish that you would examine this letter of June 2nd 1920 to the Pan-American Bank and Trust Company and state if that was received in answer to the letter of May 31st, 1920?

A:- Yes, sir, that came in reply to my letter. That letter was received by me as my stamp is on it, and this is a copy of the letter of May 31st written by me as the stenographer's initials will show.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence letter from the Chical Lumber Company by Theo Baars to the Pan-American Bank & Trust Co. of June 2nd, 1920, and marks same Plaintiff-L.

MR. CAPPY:- We make the same objection.

Q:- State whether or not you answered that letter of June 2nd from the Chical Lumber Company and signed by Theo

Baars, by a letter dated June 4th, 1920, a copy of which was introduced in evidence marked Plaintiff:-P?

MR. CAPPY:- We object to the question on the same grounds as heretofore stated.

A:- Yes, sir, that is my answer to the letter of June 2nd.

Q:- I wish that you would look at this letter dated August 7th, 1920, addressed to you as Vice President of the Pan-American Bank & Trust Company, and say if you received that letter from Mr. Theo Baars?

A:- That was received by me according to my stamp.

Q:- That is the stamp that you put on them when you receive letters?

A:- Yes, sir.

Q:- That is the signature of Mr. Baars the same as the others?

A:- The same as on the other papers as far as I remember.

MR. CAPPY:- We object on the same grounds.

MR. SMITHS:- We offer in evidence the letter dated August 7th, 1920 addressed to A. C. Wuerpel, Vice President of the Pan-American Bank and Trust Company, and signed by the Chical Lumber Company by Theo Baars, marking same Plaintiff:-M.

MR. CAPPY:- We make the same objection.

Q:- I wish that you would look at this letter dated August 9th, 1920, addressed to Theo Baars president of the Chical Lumber Company, and state if that is a copy of a letter written by you in reply to his letter of August 7th, 1920?

A:- It was evidently written by me if the stenographer's notes say so, and is in reply to his letter of August 7th.

MR. SMITHS:- We offer in evidence the letter of August 9th 1920, and mark same Plaintiff:-N.

MR. CAPPY:- We make the same objection.

Q:- I wish that you would look at this letter of August 11th, 1920, addressed to the Pan-American Bank & Trust Company and signed Chical Lumber Company by Theo Baars, and state if that was received in answer to your letter of August 9th addressed to Theo Baars?

A:- Yes, sir, that was received by me in reply to my letter of August 9th.

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MR. SMITHS:- Counsel for the Plaintiff offers in evidence the letter dated August 11th, 1920, to the Pan American Bank & Trust Company and signed by the Chical Lumber Company by Theo Baars marking same Plaintiff:-O.

MR. CAPPY:- We make the same objection.

Q:- I wish that you would look at this letter addressed to the Pan-American Bank & Trust Company by the Chical Lumber Company and state if you received that letter in reply to your letter of August 13th?

A:- Yes, sir, the letter of August 16th is in reply to out letter of August 13th.

29
MR. SMITHS:- Counsel for Plaintiff offers in evidence the letter of August 16th, 1920 to the Pan-American Bank signed Chical Lumber Company by Theo Baars, President, and marks same Plaintiff :-Q

MR. CAPPY:- We make the same objection to this offer as to the others.

Q:- Will you look at this letter of August 26th, 1920, to the Pan-American Bank & Trust Company from the Chical Lumber Company and state if that was received by you?

A:- Yes, sir, it was duly received by me from Theo Baars President of the Chical Lumber Company.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence the letter of August 26th, 1920 to the Pan-

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American Bank & Trust Company signed by the Chical Lumber Company by Theo Baars, President, and marked Plaintiff:-B.

MR. CAFFY:- We make the same objection to this offer.

Q:- Please examine this letter of August 28th, 1920, to the Pan-American Bank & Trust Company from the Chical Lumber Company, by Theo Baars, President, and state whether or not that letter was received in answer to your letter of August 27th, and previously identified and marked Plaintiff:-H?

MR. CAFFY:- We make the same objection.

A:- Yes, sir, that was duly received by us in reply to our letter of August 27th, 1920.

MR. SMITHS:- Counsel for the Plaintiff offers in evidence the letter of August 28th, 1920, to the Pan-American Bank from the Chical Lumber Company by Theo Baars, President, and marks same Plaintiff:-S.

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MR. CAFFY:- We make the same objection.

Q:- In this correspondence that was carried on between yourself and Mr. Baars were you acting for yourself individually or for the Pan-American Bank & trust Company?

A:- For the Pan-American Bank & Trust Company.

Q:- Was this money that was loaned him loaned by the Pan-American Bank and Trust Company?

A:- The money was loaned to him by the Pan-American Bank and Trust Company.

Q:- Please state whether or not your entire arrangements and agreements with the Chical Lumber Company and with Theo Baars were contained in the correspondence that passed between Theo Baars, the Chical Lumber Company and the Pan-American Bank & Trust Company?

A:- Yes, sir, so far as I know.

Q:- Did you have any personal agreements or conversations with him?

A:- I never met Mr. Baars that I know of.

MR. CAFFY:- We make the same objection.

Q:- And all the dealings that you had with him was through letters?

MR. CAFFY:- We make the same objection.

A:- Yes, sir.

-----CROSS EXAMINATION-----

BY MR. CAFFY:

Q:- After January, 1920, did you handle exclusively this Chical Lumber Company mortgage?

A:- No, sir.

Q:- Who else handled it besides you?

A:- Mr. Jones, our Cashier, and Mr. Witherspoon, and some of the other clerks.

Q:- This is a letter written by you to Mr. Theo Baars under date of August 18th, 1920?

A:- Yes, sir.

Q:- You wrote that as Vice President of the Pan-American Bank and Trust Company?

A:- Yes, sir.

MR. CAFFY:- Counsel for the defense offers in evidence the letter of August 18th, 1920, addressed to Theo Baars and signed A. C. Wuerpel, Vice President, marking same D:-1.

Q:- Were there any other stamps used by the Pan-American Bank & Trust Company identical with this stamp?

A:- The same stamp but they used different ink, Mr. Jones had a different colored ink.

Q:- And this is the colored ink that you used?

A:- Yes, sir.

Q:- That on the letter of August 28th, 1920, from the

Chical Lumber Company to the Pan-American Bank & Trust Co?

A:- Yes, sir.

Q:- That was the color of ink that you used?

A:- Yes, sir.

Q:- You have no personal knowledge at this time of the receipt of these letters which you have testified were received except from the stamp that you have on them?

A:- I cannot have any direct personal knowledge, but the identifying mark put on them at the time refreshes my memory.

Q:- The letters that you have testified were written by you, you identify by the marks put on them by the stenographer's notes?

A:- Yes, sir.

Q:- You are testifying from that as to your having written them?

A:- Yes, sir.

Q:- The Pan-American Bank & Trust Company had a mailing clerk during all of this period did they not?

A:- Yes, sir.

Q:- Up through October, 1920?

A:- Yes, sir, up to the end of September I think it was.

Q:- After the 1st of October you did not have any regular mailing clerk?

A:- I imagine they did sure.

Q:- You know who it was?

A:- No, sir, there were changes there.

Q:- The duty of the mailing clerk of the Pan-American Bank and Trust Company was to mail all the letters and other mail of every kind was it not?

A:- Yes, sir.

Q:- What was the volume of that mail a day?

A:- I could not give the exact figures on that.

Q:- Have you any idea?

A:- It was large, forty or fifty letters a day may be I

handled myself besides the others.

Q:- Forty or fifty of your letters and the other officers of the bank wrote numerous letters?

A:- Yes, sir.

Q:- And there were numerous notices going out from the Bank every day?

A:- I imagine so, yes, sir.

BY MR. MC GIVNEY:

Q:- The letters of which the defendant could not produce the originals signed by you and which you identified the carbon copies of by the initials made thereon by the stenographer is the customary carbon copies of the original letters signed by you?

MR. CAPPY:- We object to the question as being leading and calling for the conclusions of the witness and for irrelevant and incompetent testimony.

A:- Yes, sir.

Q:- Was it customary to so identify the letters written by you?

MR. CAPPY:- We make the same objection.

A:- Yes, sir, by putting my initials on them.

Q:- And that was done to all of your letters?

MR. CAPPY:- We make the same objection.

A:- Yes, sir.

Q:- And the carbon copies that you have identified contain the usual initials put on them by the stenographer?

MR. CAPPY:- We make the same objection.

A:- Yes, sir.

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

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

BY MR. SMITHS:-

Q:- Your name is Eugene J. Mc^Givney?

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 yo file suit?

MR. CANNY:- 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 the Charter of the Pan-American Bank & Trust Company was incorporated on the question of liquidators was section 685 of the Revised Statutes of the State of Louisiana, which provides as follows--

Q:- Have you the revised statutes?

A:- Yes, sir. Every charter--

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

MR. SMITHS:- We offer in evidence the said provision, the identical provision of Section 3 of Act 131 of 1855, which is incorporated in the Revised Statutes of 1870, and has not since that date been amended or modified by any Act of the Legislature except Act 267 of 1914, which purports to repeal the said provision--

MR. CANNY:- We object on the ground that these acts would

speaking for themselves and are therefore the best evidence.

A:-(continued) This act excepts banks from its provisions.

MR. SMITHS:-

Counsel for the plaintiff offers in evidence Section 3 of Act 131 of 1885, 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. SMITHS:-We offer in evidence the Revised Statutes of the State of Louisiana of 1870, Section 685, and mark same Plaintiff G:-2.

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

MR. SMITHS:-And we mark same G:-2. We also offer in evidence Act 267 of 1914, an official copy of which I will produce, and mark same H.-2.

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

MR. Mc GIVNEY (continuing) The charter under the provisions 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.

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

MR. CAFFEY:-

We object on 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. CAPPY:- 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 35 Louisiana Annual, page 425 decided that question.

MR. SMITHS:- 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 *mark it Plaintiff # 3*

MR. CAPPY:- 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 1914, and the decision of the Supreme Court, La. Ann. 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. SMITHS:-

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. 2

REVISED STATUTES OF LOUISIANA, 1870, SECTION 685:-

"Every charter of incorporation shall contain, first, the name and title of the corporation, and the place chosen for its domicile; second, a description of the purposes for which it is established, the nature of the business to be carried on, and the designation of the officer on whom citation may be served; third, the amount of the capital stock, the number of shares, the amount of **each** share, and the time when, and the manner in which payment on stock subscribed shall be made; fourth, the mode in which the elections of directors/^{or managers} shall be ~~XXXX~~ conducted; fifth, the mode of liquidation at the termination of the charter."

ACT 131 of 1855, Section 3, page 183:-

"Section 3:- Be it further enacted, etc, that every charter of incorporation shall contain

first, the name and title of the corporation, and the place chosen for its domicile; second, a description of the purpose for which it is established, the nature of the business to be carried on, and the designation of the officer on whom citation may be served; third, the amount of the capital stock, the number of shares, and the amount of each share and the time when and the manner in which payment on stock subscribed shall be made; fourth, the mode in which the election of officers or managers shall be conducted; fifth, the mode of liquidation at the termination of the charter."

ACT 267 of 1914:- ---TITLE-

"AN ACT (a) To prescribe the manner in which corporations of all kinds, except corporations engaged in banking and insurance in all of its forms, honesteads, building and loan associations may be organized, the articles of incorporation amended and their conduct and management after organization."

SECTION 30 (b) "The liquidators shall have authority to sue for and recover the debts and property in the name of the corporation, and may be sued by the same name, and citation may be served on any one of them, and they shall be liable in solido to any creditor or stockholder for the moneys and property of the corporation which shall come to their hands or possessions as such liquidators, and for the proper application and distribution thereof."

DECISION OF Supreme Court of Louisiana in case of President and Directors of the Consolidated Association of the Planters of Louisiana vs George L. Lord, page 425, etc, 35 La. Ann. Reports:-

"The Plaintiffs were appointed under authority of Acts Nos:-113 of 1853 and 40 of 1870, for the purpose of bringing the liquidation of the affairs of the concern to a final close.

To that end they brought the present suit. The complaint is that they did not set forth their names, but they merely stated their official capacities.."

"It was not requisite that they should have given their names. As corporate bodies and chartered institutions can, during their existence, act judicially under the name or title given them in the act of incorporation, without mentioning the names of the officers representing them, so, when those organizations have ceased to operate and are in liquidation, the parties entrusted with the winding up of their business can sue in their official capacities without stating their individual names. C.P. 112 (Commercial Bank v Villavaso) 6 Ann.542. The Plaintiffs have made themselves sufficiently known to the defendants by designating their titles."

"Suits brought by persons as agents, or for the use of others, have often been decided to have been properly instituted, and defendants have been held to answer the demand. H D.1124. Had the defendant seasonably denied the existence of any person entitled to the capacity alleged, the plaintiffs could have been held before issue joined to identify themselves with the trust, but the denial was never entered."

":- The corporation was created in 1827. Its charter was modified in the year ~~XXXXX~~ following. Its existence was to terminate in 1843, but in 1842 its charter was judicially declared forfeited."

"In 1847, with the consent of the stockholders, an assessment was levied and the period of liquidation was extended to 1865. In the year following the

Legislature authorized a continuation of the liquidation until the maturity of the bonds which the State had issued in aid of the institution."

"In 1878 an act was passed directing a process of liquidation and providing for the continuation of previous officials, and for the appointment of additional ones. This suit was brought by such officials."

"In the exercise of powers inherent to all well regulated governments over insolvent estates, the legislature was authorized to adopt the acts which it passed for the liquidation of the business of the association. Those powers have constantly been exercised in Europe and our sister states and in our own, in some form or other. (State vs Patton) 12 Ann. 288 Mudge v Commissioners 10 R. 460, Consolidated Association vs Claiborne, 7 Ann, 319, Henderson v Rost, 5 Ann. 470, Citizens Bank v Levee Steam Cotton Press Co., 7 Ann. 286, New Orleans Gas Light Co. v Bennett, 6 Ann. 457, Stark v Burke, Watt & Co., 5 Ann. 740."

"The Plaintiffs are rightfully in Court and can sue as they have done. A payment made to them in their official capacity, of any sum due to the concern, would exonerate the debtor and conclude the organization and all interested therein. (Haynes v Carter) 9 Ann. 265 (Gaslight and Banking Co. vs Haynes) 7 An. 114. (Haynes v Kent) 8 Ann. 132, (Stark v Burke, Watt & Co) 9 An. 341..

"The exception to the right of plaintiffs to represent the concern in this suit and to the mode in which they have appeared in Court to represent it was not well taken and was properly overruled. The

other defenses advanced in limine could not be dealt with as exceptions and were properly referred to the merits, to which they really belong. The reference could occasion defendant no injury."

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Edward Rightor, A Notary Public, duly commissioned and sworn in and for the Parish of Orleans, State of Louisiana, do hereby certify that the above named Charles Traub, Ernest Jones, A. C. Wuerpel and Eugene Mc^Givney, were by me first severally sworn to testify to the truth, the whole truth, and nothing but the truth, and that the said depositions were reduced to writing by James A. Taylor, a Court Reporter in the City of New Orleans, Parish of Orleans and State of Louisiana, in accordance with stipulation between counsel representing the Plaintiff and Respondant in the above entitled cause, by the said stipulation the signatures of the said witnesses having been waived, and I am not counsel, attorney or relative of either party, or otherwise interested in the event of this suit.

In testimony whereof, I have set my hand and official seal, this 9th day of November, 1922.

Edward Rightor

Notary Public in and for the Parish
of Orleans, State of Louisiana.

P-a
The Cashier further presented an affidavit from the Business Manager of the Daily States Publishing Company, Ltd., reading as follows, to-wit:

STATE OF LOUISIANA)
PARISH OF ORLEANS)

BEFORE ME, the undersigned authority, this day personally came and appeared:

M BEYERSDORFER

who being first duly sworn, did depose and say:-

That he is Business Manager of the Daily States Publishing Company, Ltd. That the said Company is the publisher of The Daily States, a daily newspaper published in the City of New Orleans, of general circulation. That there was published in the said newspaper, on each and every day from the 6th day of October, 1920, up to and including the 15th day of November, 1920, a notice in words and figures as follows: to-wit:

TO THE STOCKHOLDERS OF THE PAN-AMERICAN BANK AND TRUST COMPANY

New Orleans, Louisiana, October 6th/1920.

You are hereby notified that in accordance with a resolution of the Board of Directors, unanimously adopted at a meeting held on the 28th day of September, 1920, a general meeting of the stockholders of the Pan-American Bank and Trust Company will be held at the banking house at the corner of Camp and Poydras Streets in the City of New Orleans, Louisiana, on the 15th day of November, 1920, at 12 o'clock, noon, to consider and vote upon all matters coming before said meeting and especially upon the proposition to liquidate and dissolve said bank; to elect liquidating commissioners for the purpose of liquidating the affairs of said bank, to vest said liquidating commissioners with the fullest powers which may be vested in them under the charter of the bank and/or the provisions of law; and to authorize them to do all such acts and things as may be convenient or necessary in furtherance of the terms of the consolidation of said bank made with the Whitney-Central Trust and Savings Bank by the sale to said Whitney-Central Trust and Savings Bank in accordance with law upon the approval of the holders of more than two-thirds of the stock of said Pan-American Bank and Trust Company.


Oct. 6th to Nov. 15th (Singed) EMMET JONES, CASHIER

Subscribed and sworn to before me,
at New Orleans, La. this 15th day
of November 1920.

(Singed) M BEYERSDORFER

(Signed) FRED C MARX, NOTARY PUBLIC

I certify the above to be an extract from the minutes of the Stockholders meeting of the Pan-American Bank and Trust Company, held on November 15th/1920.


Emmet Jones
Secretary and Cashier.

MINUTES OF "STOCKHOLDERS" MEETING

of the

PAN-AMERICAN BANK & TRUST CO.

Held

Monday, November, 15th/1920 at 12:00 Noon

Pursuant to a resolution of the Board of Directors of the PAN-AMERICAN BANK & TRUST COMPANY unanimously adopted at a meeting held on the 28th day of September, 1920, and further pursuant to due notice of said meeting given by publication and by mail to each stockholder in accordance with the provisions of the charter and of the law, a meeting of the stockholders of the Pan-American Bank & Trust Company was held this day in the Pan-American Building at the corner of Camp & Poydras Streets, in the City of New Orleans, at 12:00 O'clock noon. The meeting was called to order by Mr. Crawford H. Ellis, Chairman of the Board of the Bank, and, upon motion duly seconded, organization was effected by the election of Mr. Ellis as Chairman, and Mr. Emmet Jones, Cashier, as Secretary of the meeting.

The Cashier presented the following affidavit:

STATE OF LOUISIANA
PARISH OF ORLEANS.

BEFORE ME, the undersigned authority, this day personally came and appeared:

EMMET JONES

to me personally known, who being first duly sworn, did depose and say:

That he is the Cashier of the PAN-AMERICAN BANK & TRUST COMPANY, and that, in that capacity, he caused to be mailed to each stockholder of that Bank, to his last designated address, or to General Delivery at New Orleans if no address has been designated, on October 6th/1920, more than thirty days prior to the date specified for the meeting, a notice reading as follows, to-wit:

New Orleans, LA., October 6/1920.

TO THE STOCKHOLDERS OF THE PAN-AMERICAN BANK & TRUST CO:

YOU ARE HEREBY NOTIFIED That, in accordance with a resolution of the Board of Directors unanimously adopted at a meeting held on the 28th day of September, 1920, a general meeting of the stockholders of the PAN-AMERICAN BANK & TRUST COMPANY will be held at the banking house, at the corner of Camp and Poydras Streets, in the city of New Orleans, Louisiana, on the 15th day of November, 1920, at 12 o'clock noon, to consider and vote upon all matters coming before said meeting, and especially upon the proposition to liquidate and dissolve said bank; to elect liquidating commissioners for the purpose of liquidating the affairs of said Bank; to vest said liquidating commissioners with the fullest powers which may be vested in them under the charter of the Bank and/or the provisions of law; and to authorize them to do all such acts and things as may be convenient or necessary in furtherance of the terms of the consolidation of said Bank

E. R.
N. P.
11/19/22.

made with the WHITNEY-CENTRAL TRUST & SAVINGS BANK by the sale to said WHITNEY-CENTRAL TRUST & SAVINGS BANK in accordance with law upon the approval of the holders of more than two-thirds of the stock of said PAN-AMERICAN BANK & TRUST COMPANY.

Respectfully,

(Signed) EMMET JONES, Cashier.

New Orleans, La., October 6/1920

TO THE STOCKHOLDERS OF THE PAN-AMERICAN BANK & TRUST CO:

As you are already aware, this Bank has been consolidated with the Whitney-Central Trust & Savings Bank by the sale of the assets and liabilities of this Bank to the Whitney-Central Trust & Savings Bank in accordance with the written consent of more than two-thirds of the stockholders, as provided by law. It is now necessary to formally liquidate the Bank and to elect liquidating commissioners for the purpose of carrying out the provisions of the consolidation agreement.

Formal notice is accordingly enclosed herewith of a meeting of the stockholders to be held on the 15th day of November, 1920, at the banking house, at the corner of Camp and Poydras Streets, in the city of New Orleans, at 12 o'clock noon, for the purpose of taking the necessary action.

In the event that you will be unable to be present in person, you are requested to fill out and return the enclosed proxy. A Stamped envelope is enclosed for that purpose.

Respectfully,

(Signed) EMMET JONES, Cashier.

Sworn to and subscribed before)
me this 13th day of November, 1920)

(Signed) EMMET JONES

(Signed) Morgan Gurley
Notary Public.

*E. R.
N. P.
Nov. 9/22*

The Cashier further presented an affidavit from the Business Manager of the Daily States Publishing Company, Ltd., reading as follows, to-wit:

STATE OF LOUISIANA)
PARISH OF ORLEANS)

BEFORE ME, the undersigned authority, this day personally came and appeared:

R. BEYERSDORFER

who being first duly sworn, did depose and say:

That he is Business Manager of the Daily States Publishing Co., Ltd. That the said Company is the publisher of The Daily States, a daily newspaper published in the City of New Orleans, of general circulation. That there was published in the said newspaper, on each and every day from the 6th day of October, 1920, up to and including the 15th day of November, 1920, a notice in the words and figures as follows: to-wit: