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EDITH M. WYATT,
Complainant,

Vs.

J. W. CREAMER,
Respondent.

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

This cause coming on to be heard in term time was submitted for final decree upon the pleadings and proof is noted by the Register and the same being considered by the Court, the Court is of the opinion that the Complainant is entitled to the relief prayed for in her bill of complaint.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the defendant J. W. Creamer has no right, title, interest, claim or demand in or to, or encumbrance upon, the whole or any part of the following described land situated in the County of Baldwin, State of Alabama, to wit:

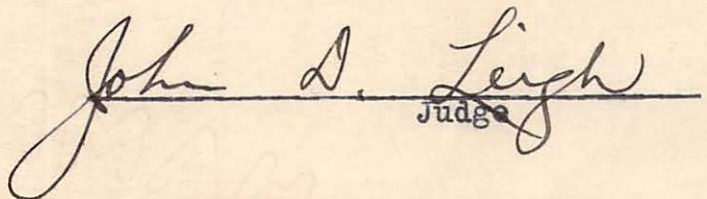
The northeast quarter of the southeast quarter of Section Thirty-one, Township Five South of Range Four East.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the title of complainant be and is hereby established against the defendant and the defendant be and is hereby forever enjoined from asserting any interest in or claim to or encumbrance upon said lands as against the complainant.

IT IS FURTHER ADJUDGED AND DECREED that the defendant pay the costs of this proceeding, for which let execution issue.

IT IS FURTHER ADJUDGED AND DECREED that the Register of this Court record a copy of this decree in the records of the Probate office of this County, within thirty days and that the costs thereof be charged as costs in this proceeding.

Made and entered this the twelfth day of August, 1925.


Judge

Edyth M. Wyatt, Complainant.)

vs.)

J. W. Creamer, Defendant)

Circuit Court of Baldwin County,

In Equity.

Comes J. W. Creamer, the defendant in the above entitled cause, and for answer to the bill of complaint alleges and states:-

~~First~~ First.

Defendant admits that he is over the age of twenty one years and resides in Baldwin County, Alabama, but does not know the age nor the residence of complainant.

Second.

Defendant denies that complainant is in the peaceable possession of that tract of land in Baldwin County, Alabama, described as follows, to-wit:- The North-East Quarter of the South-East Quarter of Section Thirty One (31) Township Five (5) South of Range Four(4) East, at the time of the filing of the bill of complaint, or at any other time. That on the other hand, defendant has been in the peaceable possession of said land for more than twenty years, but on to-wit:- January 1921, Fred L. Brown and Monroe Price, who claimed to have a contract of purchase from complainant, forcibly entered on said lands, while defendant was at work on said land clearing same, and by force and arms compelled defendant to leave said land, threatening to do him bodily harm, if he did not leave said premises, and one of the sons of Monroe Price did hit him with an axe on the head injuring him considerably on the head.

Third.

In answer to third paragraph of said bill, defendant says up to the time of the forcible ejection mentioned in paragraph two, he was in the peaceable possession of said land.

That on to-wit:- June 27, 1898, ~~xxx~~ P. K. Yonge and Dick Tyce made and executed a warranty deed to defendant to the land described in the bill of complaint, said deed being recorded in Deed Book 31 N. S. at Page 38 of the Baldwin County Probate Office Records; that at the time of the execution of said deed by Yonge and Tyce, they were in possession of said land claiming it as their own.

That immediately after the execution of said deed, defendant went into possession surrounded the entire tract with a wire fence,

erected buildings on same, and cleared and cultivated some of this land; that defendant has been in possession under claim of title since the Fall of 1898.

Fourth.

Defendant makes this answer his cross-bill, and requires complainant to set forth and specify her title, claim, interest or encumbrance, and how and by what instrument or instruments the same is derived and created.

Prayer for process.

That equity may be done in the premises, defendant and cross-complainant prays that the state's writ of subpoena may issue to said Edyth M. Wyatt, requiring her to plead, answer or demur to this ~~xxxxxxx~~ cross-bill, within the time required by law and the rules of this Honorable Court.

Prayer for relief.

Defendant and Cross-Complainant further prays that upon the hearing of this cause, Your Honor will inquire into and ascertain the true nature of the claim, interest or incumbrance asserted by said Complainant, and will decree that said complainant has no interest in, estate or encumbrance upon said land or any part thereof, and that the title of defendant and cross-complainant may be ^{fully} ~~forever~~ established, and she be forever enjoined from asserting any interest in and claim to or encumbrance upon said land as against J. W. Creamer and that the title of the said J. W. Creamer may be forever established against said ~~to~~ Edyth M. Wyatt, and that cross-complainant may have such other or further relief as in equity may seem proper.

And in duty bound he will ever pray etc.

W. H. Hawkins

Solicitor for Defendant and Cross-Complainant.

Foot Note:

The Cross-Respondent is required to answer each paragraph of the foregoing cross-bill from paragraph first to paragraph Four, both inclusive, but not under oath her oath being expressly waived.

W. H. Hawkins

Solicitor for Defendant and Cross-Complainant.

Edyth M. Wyatt,)
Complainant) CIRCUIT COURT, BALDWIN COUNTY, ALABAMA.
vs.) In Equity.
J. W. Creamer,)
Defendant.)

To the Hon. John D. Leigh, Judge of said Court:

The Bill of Complaint of Edyth M. Wyatt exhibited against J. W. Creamer, shows unto your Honor as follows:

First.

Complainant shows unto your Honor that she is over the age of twenty-one years and resides in the City of Denver in the State of Colorado; that the defendant is over the age of twenty-one years and resides in Baldwin County, Alabama.

Second.

Complainant shows unto your Honor that she is in peaceable possession of, claiming to own the same in her own right, all that tract of land in Baldwin County, Alabama, described as follows, to wit:- the North-East quarter of the South-East quarter of Section Thirty-one (31) Township Five (5) South, Range Four (4) East.

Third.

Complainant further shows unto your Honor that the defendant, said J. W. Creamer, claims, or is reputed to claim some right, title, or interest in or encumbrance upon such land, and Complainant now calls upon said defendant, J. W. Creamer, to set forth and specify his title, claim, interest or encumbrance, and how and by what instrument the same is derived and created; And Complainant further shows unto Your Honor that no suit is pending to enforce or test the validity of the title, claim or incumbrance asserted by said defendant to said land.

Prayer for Process.

To the end therefore that equity may be done in the premises Complainant prays that the state's writ of sunpoena may issue to said J. W. Creamer, requiring him to plead, answer or demur to this her bill of complaint against him within the time required by law and the rules of this Honorable Court.

Prayer for Relief.

Complainant further prays that, upon the hearing of this cause Your Honor will inquire into and ascertain the true nature of the claim, interest or incumbrance asserted by said defendant, and will decree that said defendant has no estate or interest in, or incumbrance

upon said land or any part thereof, and that the title of Complainant may be fully established, and defendant forever enjoined from asserting any interest in, and claim to or incumbrance upon said land as against Complainant, and that the title of Complainant may be forever established against said defendant, and that Complainant may have such other or further relief as she may be entitled to in the premises.

And as in duty bound, she will ever pray &c.

Mrs. Anderson

Solicitor for Complainant.

Foot note;

The defendant is required to answer each paragraph of the foregoing Bill of Complaint from Paragraph First, to Paragraph Third, both inclusive, but not under oath, his oath being expressly waived.

Mrs. Anderson

Solicitor for Complainant.

We agree to become security for the
costs in the above suit -

Sept 14th 1921 -

S. L. Price -

Fred L. Brown

~~S. L. Price.~~

~~Fred L. Brown~~

Edyth M. Wyatt,
Complainant.

vs.

J. W. Creamer, Defendant.

Answers ~~propounded~~ to cross-interrogatories propounded by complainant.

1st.

The deed was delivered to me June 28, 1898. I knew Dick Tyce but did not know P. K. ~~Yonge~~ Yonge. I had known Dick Tyce four or five years. Neither of them resided on any part of said land. I do not know where they lived, but Norwood said he would have to go to Seminole to get the deed executed. I do not know about their education. I do not know where they are living now. Dick Tyce was foreman of The Southern States Land & Timber Co.; but I do not know what position P. K. Yonge held but from letters received from him dated at Seminole, Ala., I think he was President of said Company. I do not know where these men are, or whether living or dead, married or single.

2nd.

I made the deal with Dick Tyce, and I gave Thomas J. Norwood my buggy to go and get the deed executed, and Norwood said he would have to go down about Seminole to get the deed signed, and Henry Lowell drove the buggy and was one of the witnesses. I was not present when the deed was signed ~~and~~ and acknowledged, and consequently did not see any of the parties sign. Thomas J. Norwood, the Notary gave the deed to me the next day after it was executed.

3.

Henry Lowell and Albert Smith, the witnesses are both dead, I understand. I do not know the date of their death. I do not know what has become of Thomas J. Norwood.

4.

The deed was filed for record about April 1st. 1921.

5.

I listed it for taxation three years. I do not remember for what years. I do not remember for what years I paid taxes on this land. The original deed is of record, and a copy of same can be secured at the Probate Office.

J. W. Creamer

State of Alabama,
Baldwin County.

Personally appeared before me, W. H. Hawkins, a Notary Public, J. W. Creamer, who first being duly sworn deposes and says that he is the defendant and cross-complainant in this cause. That the foregoing answers to ~~EXHIBIT~~ interrogatories are true and correct.

W. H. Hawkins

Notary Public, Baldwin County, Ala.



BOND
HAWKINS

BOND
HAWKINS

Edyth M. Wyatt, Complainant) In CIRCUIT COURT, BALDWIN COUNTY, ALA.
vs.) Equity Side.
J. W. Creamer, Respondent.)

Brief of Complainant on Demurrers to Cross Bill.

The Respondent files a statutory Answer to the Bill, denying the material allegations of the Bill, then he sets out his title or claim as derived from a certain conveyance made by P. K. Yonge and Dick Tyce and possession under such deed, then he says, Paragraph Fourth.

"Defendant makes this Answer his Cross Bill and requires Complainant to set forth and specify her title, claim interest or encumbrance and how and by what instrument or instruments the same is derived and created".

There are no allegations claiming any special relief against the Complainant.

In order to try the title of Complainant in Original Bill, Cross Complainant, should show or allege, some ground or right to relief. He should allege that he is in the peaceable possession of the land. On the contrary he admits, that he is not in the possession, but alleges, that some time, in January 1921, "he was compelled to leave the land.

If defendant is not in possession of the land, he cannot by calling his answer a cross bill try Complainants title.

The entire statute as embodied in the Code of 1907 provides solely for the trial of the defendants title.

Sec. 5446. "Upon such and determination, (the court) must finally,

"adjudge and decree whether the defendant has any right, title, or interest in, or incumbrance upon, such lands, or any part thereof, and ~~such~~ what such right, title, interest or incumbrance is, and in and upon what part of the lands the same exists; and such decree is binding and conclusive upon all the parties to the suit."

"The Act does not require that the Complainant have title by possession, or the right to the possession, or even adverse possession. It requires merely possession, the only qualification being that it shall be peaceable as contradistinguished from disputed or contested possession, and that it should be under claim of ownership.

"The statute is remedial and highly beneficial. It should therefore be construed liberally. It is a statute of repose. It deprives the defendant of no right. His claim may be tried at law if he desires it. It compels him to a speedy trial of the question of his title"

Adler v. Sullivan, 115 Ala. 582 (22 So. 87).

If he becomes a Complainant and seeks to try the title of the other party, his Cross Bill must allege that he is in the peaceable possession of the land claiming to own it.

to be in possession

He cannot require the party whom he admits/of the land to show his title. Proceedings under the Statute to quiet the title to lands provides only for the trial of the title of the party out of possession.

As said in Vaughan vs. Palmore, 176 Ala.72, (57 So.488).

"It is the defendants title, claim or right that is to be inquired into and not that of the Complainant."

Quoting further from the same opinion, the Court says:-

"Our statute is a substantial copy of the New Jersey statute, which was held by the courts of that state to be intended to relieve those persons whose situation afforded them no opportunity to test the hostile claim of third persons by a direct proceeding in ejectment, or by usual modes. That is, if a party is in possession, claiming the land as his own, and the land is claimed by other persons, who deny and dispute the title of the party thus in possession, he of course cannot maintain ejectment to test their claim of title. The statute in question was intended to enable him, under such conditions, to test the title, right or claim of the persons who were out of possession, but who were attempting to assert and claim some right, title or interest in the land".

The rights of parties under this statute cannot be extended beyond the express provisions of the statute, "to try the title or claim of the party out of possession. To maintain a cross-bill to try Complainants title, we insist that the cross complainant must allege that he is in the peaceable possession of the land, and when as in this Answer and ~~Cross~~ Bill, he alleges that "he was compelled to leave the land in January 1921", he shows no right to call upon Complainant to show his title, and the demurrers should be sustained.

I do not contend that a defendant under this statute, may not have affirmative relief against the Complainant by a proper Cross Bill; But when as in this case, his answer is simply a denial of the material allegations of the Bill, and a statement setting forth his title, derived from a certain conveyance and adverse possession for a number of years, he cannot require the Complainant to set forth her title, by simply making his answer a cross bill.

There are no averments of fact in his answer entitling him to affirmative relief.

In the case of Inter state Building & Loan Ass'n.v.Stocks, 124 Ala.109 (27 So.506), McClellan, C.J. uses the following language:-

"Under a bill filed under the Act of Dec 10, 1892, to compel the determination to claims to real estate in certain cases and to quiet the title to the same" now embraced in sections 809 to 813 of the Code, - and containing only the averments necessary under that statute, there can be no adjudication except as to whether the defendant, "has any right, title, interest ~~or incumbrance~~ in or claim upon such land, or any part thereof, and what said right, title, interest or incumbrance is".

Opinion in INTERSTATE BUILDING & LOAN ASS'N. V. STOCK, Contd.

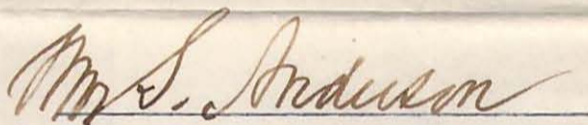
"and upon such bill and statutory answer thereto neither party is entitled to any final relief beyond a determination of the status of the title between them. Such a bill need not disclose how, or in what way, or from what source the complainant became the owner of the land, nor describe the claim of the defendant, but such answer must specify and set forth "the title, claim, interest or incumbrance, if any claimed by the defendant".

If the complainant seeks other than the statutory relief, however, there must be other than the statutory averments in the bill, and such other averments must be appropriate to the additional relief sought. And so on the part of the respondent, while upon the statutory bill and statutory answer he is entitled only to an adjudication of title, yet being properly before the court under the act, he may seek affirmative relief by making his answer a cross-bill, and setting forth therein, the facts which entitle him to it".

Citing, Cheney v. Nathan, 110 Ala 254 (20 So.99)

This conclusion is affirmed in Gill v. Moore, 76 So. 543.

The Answer is nothing more than the statutory answer, but no facts are set forth in the answer which entitles him to try the title of the complainant. He simply makes the statutory answer, and then says, "Defendant makes this answer his cross-bill, and requires complainant to set forth and specify her title, claim, interest or encumbrance and how and by what instrument or instruments the same is derived and created."



Solicitor for Complainant.

Opinion in *Wheeler v. Jackson*, 110 Ala. 254 (1902).
 "and upon such bill and statutory answer thereon neither party
 is entitled to any final relief beyond a determination of the
 state of the title between them. When a bill need not disclose
 how or in what way or from what source the complaint became the
 owner of the land, nor describe the claim of the defendant, but
 such answer must specify and set forth the title, estate, interest
 or inheritance in any claim by the defendant."

If the complaint seeks other than the statutory relief,
 however, there must be other than the statutory averments in the
 bill, and such other averments must be appropriate to the addi-
 tional relief sought, and so on the part of the respondent, while

to an adjudication of title, yet such averments before the court
 may be made by any party, and setting forth therein the facts which en-

Wheeler v. Jackson, 110 Ala. 254 (1902)

conclusion is affirmed in *Wheeler v. Jackson*, 110 Ala. 254.

is not any more than the statutory answer, but no
 answer which entitles him to say the title
 of the defendant. He simply makes the statutory answer, and then
 makes this answer his cross-bill, and requires com-
 plaint to set forth and specify his title, estate, interest or in-
 heritance and how and by what instrument or instruments the same

Edyth M. Wyatt

vs.

J. W. Creamer.

BRIEF FOR COMPLAINANT
 on Demurrers.

Wheeler v. Jackson
 Brief for Complainant

State of Alabama)
County of Baldwin)

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of One Dollar and other valuable considerations, Dollars, to us in hand paid by Edyth M. Wyatt, the receipt of which is hereby acknowledged, the Southern Plantation Development Company, does hereby grant bargain, sell and convey unto the said Edyth M. Wyatt, the following described land situated in Baldwin County, Alabama, to-wit:

Farm nine (9) being the North East one quarter of the South-East one quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section Thirty-one (31) Township Five (5) South, Range Four (4) East, containing Forty(40) acres more or less.

The said Southern Plantation Development Company reserves the right to open at any time such highways as may be necessary to give free access to the public to and from each Forty (40) acre tract, same to be opened on either section or half section lines.

TO HAVE AND TO HOLD to the said Edyth M. Wyatt, her heirs and assigns forever, and the said Southern Plantation Development Company, a corporation, does hereby covenant with the said Edyth M. Wyatt, that it is seized in fee of the above described premises; that it has the right to sell and convey the same; that the said premises are free from all incumbrance and it will, and its successors and assigns will forever warrant and defend the same to the said Edyth M. Wyatt, her heirs and assigns against the lawful claims of all persons whomsoever. In Witness whereof the said SOUTHERN PLANTATION DEVELOPMENT COMPANY, a corporation, has caused these presents to be signed by its Vice President and Secretary duly authorized thereto, and its corporate seal attached this tenth day of July A.D 1915.

SOUTHERN PLANTATION DEVELOPMENT COMPANY,

(Corporate Seal)

C. N. Souther
President.
P. G. Baker,
Secretary

In presence of,
I.H.Penson
Mrs A.C.Daly

State of Illinois)
County of Cook.) I, C. L. Keith, a Notary Public in and for said County in said State, hereby certify that C. N. Souther and P.G.Baker whose names as Pres. and Secty. of the Southern Plantation Development Company, a corporation, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day, that being informed of the contents of the conveyance, they as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this Tenth day of July 1915.

(Notary Seal)

C. L. Keith, Notary Public
In and for Cook County, Illinois
My Commission expires Feby 7, 1916.

The State of Alabama) Office of the
Baldwin County.) Judge of Pro-
bate Court.

I, J. H. H. Smith, Judge of said Court
in and for said county, do hereby
certify that the within instrument
was filed in this office for rec-
ord on the 12th day of Aug. 1915,
at o'clock, and I further
certify that the same is duly re-
corded in Record Book No. 23 N S
Page 417 and duly examined.

Witness my hand this 13th day of
Aug. 1915.

J. H. H. Smith, Judge of Probate Court
By J. L. Kessler, Clerk.

Filed Aug 12/1925
J. W. Anderson
Register

State of Alabama)
Baldwin County.)

Before me T. W. Richerson, Clerk of the Circuit
Court of Baldwin County, Alabama, personally appeared
W. S. Anderson, who is known to me, and who is the attorney for Edyth
M. Wyatt in the case of Edyth M. Wyatt against J. W. Creamer in said
Circuit Court, who after being by me first duly sworn, deposes and says
the the within instrument is a full and correct copy of the deed of
conveyance made by the Southern Plantation Development to said Edyth
M. Wyatt, dated the Tenth day of July 1915 and recorded on Augt 12th.
1915 in Record Book 23 N.S. Page 417 of the Probate Records of Baldwin
County, Alabama. That this copy is filed in the papers of said cause
in the place of the original deed of conveyance, which was filed at the
submission of the cause of Edyth M. Wyatt vs J. W. Creamer, the origi-
nal deed having been by him withdrawn.
Subscribed and sworn to before me
this 12th day of August 1925.

W. S. Anderson

T. W. Richerson

Clerk Circuit Court, Baldwin County, Alabama,

Bay Minette, Ala.,

Aug 13th

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Hon J. W. Richardson

IN ACCOUNT WITH
W. D. STAPLETON
JUDGE OF PROBATE, BALDWIN COUNTY

Please Return this Bill With Remittance

Mortgage Tax

Recording Fee

Total

Deed
Recording Mortgage from

Shawbuck E. M. H. to J. W. Richardson

85

*Paid 8/13/25
W. D. Stapleton Judge
by J. Shawbuck*

Edyth M. Wyatt, Complainant,)
vs.) IN THE CIRCUIT COURT, BALDWIN COUNTY, ALA
J. W. Creamer, Defendant.) In Equity.

To any Sheriff of the State of Alabama, Greeting:

You are hereby commanded to notify J. W. Creamer, the defendant in the above stated cause, that by an order made by the Hon, John D. Leigh, Judge of this Court, he is required "to appear on the 22nd day of August 1923, and fully answer the interrogatories odered to be answered by an order of this Court, issued May 25, 1922, and to produce in open Court on the 22nd day of August 1923, the original deed executed by P. K. Yonge and Dick Tyce to J. W. Creamer, dated the 27th day of June 1898 and relating to the lands in controversy".

Witness my hand this 11th day of August 1923.

J. W. Rice

Register.

Edyth M. Wyatt

Complainant.

vs.

J. W. Creamer, Defendant.

In Circuit Court of Baldwin County, Ala.

In Equity.

Comes, J. W. Creamer, the defendant in the above entitled cause, and moves the Court to require complainant to give ^{additional} security for costs ~~in the~~ approved by the Register, or on complainant failing to do so, this cause be dismissed out of this court.

Second.

That by the averments of the complaint, complainant is a non-resident of the State of Alabama, residing at Denver, Colorado and no security for costs have been given and approved by the Register, as required by code section 3687.

W. H. Hankins

Solicitor for Defendant.

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 J. W. Creamer,

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of Baldwin 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

Edyth Wyatt,
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against said J. W. Creamer,

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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 28th day of October,
.....1921.

T. W. Richerson
Register.

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

Original

Serve on _____

Circuit Court of Baldwin County
In Equity

No. _____

SUMMONS

Edyth Wyatt,

vs.

J. W. Creamer,

W. S. Anderson.

Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY

Received in office this 28th
day of October, 1921

Sheriff

Executed this 11th day of
Nov. 1921

by leaving a copy of the within summons with

J. C. Creamer

Defendant

W. R. Stuart

Sheriff

By *B. O. Higgins*
Deputy Sheriff

RECORDED

Edyth M. Wyatt,) In Circuit Court, Baldwin County, Alabama.
 Complainant,)
 vs.) In Equity.
 J. W. Creamer,)
 Defendant.)

Interrogatories to be propounded to J. W. Creamer, defendant by the Complainant in the above stated cause.

1st. Please state when the deed made by P. K. Yonge and Dick Tyce to you dated June 27th.1898, under which you claim the land, the subject matter of this suit, was delivered to you. Were you acquainted with the said P. K. Yonge and Dick Tyce at the time, and how long had you known each of them. Did they reside on any part of the land, if so on what part of said land. Did they reside in Baldwin County at the time. State as well as you can where they resided. Were they educated men, or were they illiterate. Please state what has become of each of them. What business or occupation were each of them engaged in at the time of the execution of said deed, and prior and subsequent thereto. Please give all the information you can as to said P. K. Yonge and Dick Tyce. If dead when did they die, and if living, where were they living when you last heard of them. Were either of them married men at the time said deed was executed.

2nd. Where was said deed signed and acknowledged, that is at what place in Baldwin County. State at whose house or place of business the deed was signed. Were you present when the deed was signed and acknowledged. Did you see P. K. Yonge sign the deed. Did you see Dick Tyce sign said deed. Who delivered the deed to you. Was it delivered to you on the day it was signed. State the facts fully.

3rd. What has become of the two persons who signed their names to the deed as witnesses. Are they living or dead. If dead when did they each die. What has become of the Notary Public, who took the acknowledgments to said deed.

4th. When did you file the deed from P. K. Yonge and Dick Tyce to you dated June 27th.1898 for record in Baldwin County, Alabama. Give the date, when you filed said deed for record.

5th. Have you ever listed the land, the subject of this suit for taxation? If so, state for what years, and state for what years you have paid the taxes on said land. Give each year, that you have paid the taxes on this land. Please attach the original deed referred to, to your answers to these interrogatories.

M. S. Anderson
 Solicitor for complainant.

The State of Alabama)
 Baldwin County.) Before me T. W. Richerson, Clerk of the
 Circuit Court of Baldwin County, Alabama, personally appeared,
 Wm. S. Anderson, the Solicitor of record for the Complainant in
 the above stated cause, who after being by me first duly sworn
 deposes and says, that the answers to the foregoing interrogato-
 ries will be material evidence for the Complainant in the cause.

Subscribed and sworn to before me)
 this 30th day of January 1922.)

Wm. S. Anderson

T. W. Richerson,

Clerk.

Edyth M. Wyatt, Complainant,) In Circuit Court, Baldwin County,
 vs.) Alabama.
 J. W. Creamer, Defendant.) In Equity.

I, hereby accept service of the copy of the interroga-
 ries propounded to the defendant, J. W. Creamer, by the Complain-
 ant Edyth M. Wyatt, in the above stated cause.
 This 30 day of January 1922.

W. H. Hankins
 Solicitor for the defendant, J. W. Creamer

Edyth M. Wyatt, complainant,)
 vs.)
 J. W. Creamer, Defendant.)
 In Equity.
 Circuit Court, Baldwin County, Alabama

Edyth M. Wyatt,

vs

J. W. Creamer.

Dec 8th, 1923.

Submitted on demurrer of complainant to cross
bill of Respondent.

Above order made on trial docket De 8th, 1924.

J. W. Creamer

THE STATE OF ALABAMA,
Baldwin County.

Edyth M. Wyatt,

No.

Complainant.....

CIRCUIT COURT, IN EQUITY.

vs.

July 8th, 1925

James W. Creamer,

Defendant.....

To James W. Creamer, Defendant,

~~Subscribed & sworn to before me~~

Please take notice that in the above stated cause pending in the Circuit Court of Baldwin,

County, in Equity, we will proceed at 10 o'clock on the 29th day of July, 1925,

at the office of Clerk of Circuit Court

in Bay Minette Alabama,

~~Subscribed & sworn to before me~~ before

to take the oral examination of the witnesses

Rim M. Price, C.G. Price, Dan Durden, Charles Phillips, Fred L. Brown,

Witness, this the 8th day of July, 1925.

J.W. Nicholson

~~Subscribed & sworn to before me~~ Register,

Original

No.

THE STATE OF ALABAMA,

Baldwin County.

CIRCUIT COURT, IN EQUITY.

Edyth M. Wyatt.

Complainant.....

vs.

James W. Creamer.

Defendant.....

NOTICE OF TIME AND PLACE OF
ORAL EXAMINATION.

Issued July 8th, 19 25

Serve copy on James
W. Creamer.

3 days before July 20

Executed July 22nd / 1925 by Perry

Copy of Within Notice on James W. Creamer

*W. R. Swift
Att'y*

Edyth M Wyatt, Complainant.

vs

J.W.Creamer, Defendant.

Circuit Court Baldwin

County, Alabama,

In Equity .

To J.W.Creamer:-

You are hereby notified that by an order of the Honorable John D Leigh, Judge of the Circuit Court of Baldwin County, Alabama, made on November 30th, 1923, you are ordered to produce in open Court on Thursday December 6th, 1923, the original deed of P.K.Yonge and Dick Tice to J.W.Creamer, dated June 27th, 1898.

J.W. Pickens

-----Register.

EDITH M. WYATT,
Complainant,

Vs.

J. W. CREAMER,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

IN EQUITY

This cause is submitted for final decree on behalf of the complainant upon the bill of complaint, the depositions of Rion M. Price and Charles Phillips, original deed, Southern Plantation & Development Company to Edith M. Wyatt, dated July 10, 1915, recorded in the office of the Judge of Probate of Baldwin County, in Record Book 23, N. S., page 417.

Aug 11th 1921-

J. W. Creamer
Register

The State of Alabama, } Circuit Court of Baldwin County, Alabama
 Baldwin County. } (In Equity.)

Edyth M. Wyatt, Complainant.

VS.

J. W. Creamer, Respondent.

I T. W. Richerson,

as Register and Commissioner

have called and caused to come before me Rion M. Price and Chas. Phillips,

witnesses named in the Requirement for Oral Examination, on the 25 day of July
 1925, at the office of Register of the Circuit Court,
 in Bay Minette, Alabama, and having first sworn said witnesses to speak the
 truth, the whole truth, and nothing but the truth, the said witnesses,
 doth depose and say as follows:

Chas Phillips witness for complainant who being duly sworn testified
 as follows: My name is Chas. Phillips, I am 47 years of age and
 live in Baldwin County, Alabama, on Section 32, Tp. 5 S. R. 4 E.
 I have been living in that neighborhood since Oct 1898,

I know the land involved in this suit, the N. 1/4 of S. E. 1/4
 of Section 31, Tp 5 S. R. 4 E, in Baldwin County, and have known it
 for more than 20 years, &&.

I remember that some time in the latter part of the summer
 of 1920, Fred L. Brown and Rion M. Price went on this piece of land
 and took possession of it for Mrs. Edyth M. Wyatt, they had a
 contract with Mrs. Wyatt, to purchase the land and they took
 possession for her in order to carry out this contract of purchase
 at the time they took such possession the land was lying out
 and no one was in possession of it so far as you could tell by
 appearances; there had been ~~was~~ and old fence around 3 sides of
 this land but it had fallen down and nearly all of it had disappeared
 at the time Brown and Price took possession of said land,

When they took such possession Fred L. Brown went on the west
 half of this 40, built him a house in the fall of 1920, and Rion
 M. Price went on the east half of said 40, and built a house,

They have each been in the peaceable possession of this land
 ever since and have cultivated about 20 acres every year since,
 and are still in the possession of said land for Mrs. Edyth M. Wyatt,
 there has been no trouble between Brown and Price and the defendant,
 J. W. Creamer since the filing of the bill in this case in October
 1921. I am not related to either party and have no interest in the suit.
 The old fence referred to above had fallen down and gone to
 pieces for more than 10 years before Price and Brown took
 possession of said piece of land.

Chas Phillips

..... Rion M. Price a witness for Complainant who being duly sworn
testified as follows: My Name is Rion M. Price and 52 years old,
..... I live in Baldwin County, Alabama, and have lived there for more
than 20 years. No suit is pending to test the validity of defendant's
..... claim to the land; none was pending when this suit was filed.

..... I know the land involved in this suit, but I never paid
particular attention to it until some time in 1919, about a
..... year before I entered into a contract with Fred L. Brown to
purchase said land from Mrs. Edyth M. Wyatt, I went out and looked
..... at the land, went over it 3 or 4 times and looked at it,
and no one was in the possession of it, I could see no evidence
..... of any possession by anyone, in the early part of July, 1920,
I went on this land with Fred L. Brown and took possession of it,
..... by the authority of Mrs. Edyth M. Wyatt, and Brown and I have been in
the possession of it ever since, I have occupied the East half
..... of the 40, on which I have built a house; and cultivated about
10 acres of land ever since; Fred L. Brown went on the West half
..... of said 40 acre piece and built his house in 1920, and he has been
in possession ever since and cultivated each year about 10 acres
..... of land, Mrs. Edyth M. Wyatt, Complainant is a resident of Denver, Colorado.
..... Fred L. Brown and myself have been in the peaceable possession
of said land the N.E. 1/4 of S.E. 1/4 of Sec 31, in Tp 5 S. R. 4 E, in Baldwin
..... County, Alabama, ever since before the filing of the bill in this
case, and we have had no trouble with J.W. Creamer the defendant
..... about the possession of said land. Fred L. Brown has lived with his
family in the house he built in 1920 continuously, to this time and
my son has lived all the time in the house I built.

Rion M. Price.

ORAL EXAMINATION.

I, T.W. Richerson, as Register and Commissioner hereby certify that the foregoing deposition... on Oral Examination was taken down in writing by me in the words of the witnesses and read over to them and they signed the same in the presense of myself and Hon. W. S. Anderson Atty for Complainant, at the time and place herein mentioned; that I have personal knowledge of personal identity of said witnesses or had proof made before me of the identity of said witnesses; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof. The other witness named in demand for oral examination failed to appear. I enclose the said Oral Examination in an envelope to the Register of said Court. Witnesses Fred L. Brown and Dan Durden were not notified, they were reported out of the State. Given under my hand and seal, this 25th day of July, 1925.

T.W. Richerson (L. S.)



NO. 321 PAGE

THE STATE OF ALABAMA
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY.

Elytta M Bryant

vs. Complainant

Jim Creason

Respondent.

Oral Deposition

Filed July 25, 1925

T.W. Richerson Register.

Recorded in

Record

Vol. Page

Register

The State of Alabama, Baldwin County

Edyth M Wyatt Complainant

**CIRCUIT COURT
OF BALDWIN COUNTY**

No. vs.

James W. Brewer Defendant

IN EQUITY

The Complainant *Edyth M Wyatt*

requests the oral examination of the following named witness

on *her* behalf, viz.: *Wm M. Price, G. G. Price,
Dau Gardner, Charles Phillips,
Fred L. Brown*

said witnesses reside in the County of *Baldwin*
State of Alabama. *at Robertsdale Ala*

who reside at

The Register of this Court *J. W. Richardson*

is suggested as *a* suitable person to be appointed Commissioner to take deposition
of said witness on such oral examination

Date July 20 1920
M. S. Anderson
Solicitor for *Complainant*

Edyth M. Wyatt,)
Complainant) In CIRCUIT COURT, BALDWIN COUNTY, ALABAMA.
vs.) In Equity.
J. W. Creamer,)
Defendant.)

Now comes the Complainant in above stated cause and demurs to the defendant's Answer, so far as the same is to be taken as a Cross-Bill, and for grounds of demurrer sets out the following:

1st. That there is no equity in the Cross Bill.

2nd. Said Cross Bill fails to allege that Cross Complainant, is in the peaceable possession of said lands.

3rd. Said Cross Bill fails to allege, that there is no suit pending to enforce or test the validity of such title, claim or incumbrance.

4th. Because Cross Complainant basés his claim on a deed purporting to have been made on June 27, 1898, which he alleges was recorded in Deed Book 31 N.S. page 38, and a reference to that Book and page shows that the same was recorded on April 1, 1921, while Complainant was in the peaceable possession of said land claiming to own the same.

Said Alleged deed was never recorded according to the allegations of the Cross Bill until April 1, 1921, and while Complainant was in the peaceable possession of said land, claiming to own it.

5th. Because the Cross Bill fails to allege that Cross Complainant and those through whom he claims have annually listed said land for taxation in the proper county for ten years prior to the commencement of this action.

M. S. Anderson

Solicitor for Complainant.

57 So. 488.

Edyth M. Wyatt, Complainant) IN CIRCUIT COURT BALDWIN COUNTY, ALABAMA
vs)
J. W. Creamer, Defendant) In Equity.

This cause having been submitted to the Court at a previous term of Court for a decree on the Demurrers of the Complainant to the Cross-Bill filed by the Defendant, and the same having been argued and considered by the Court, the Court is of the opinion that said demurrers are well taken;

It is therefore ordered, adjudged and decreed by the Court that the demurrers to said Cross-Bill be and the same are sustained, and defendant has 30 days in which to amend if he sees proper.

In Term Time this 10th. day of February 1925.

John D. Leigh

Judge.

Handwritten note:
Filed in Baldwin County
Feb 11 1925