1932-001 Chancery Causes. Ethel May Baber, gdn of Martha Frances Jordan vs J. B. Jones 610
Dsh of Wright County + A. S Johnson, trustee

other SURNAMES: Cofer, Barrett

COMMISSIONER IN CHANCERY

COMMISSIONER OF ACCOUNTS
NOTARY IN OFFICE

E. H. WILLIAMS
Attorney-at-Law
SMITHFIELD, VA.

July 18, 1932.

Mr. R. A. Edwards,
Isle of Wight, Virginia.

Dear Gus:

I beg to herewith enclose answer of J. B. Jones in the case of Baber vs. Jones. I am

Very truly yours,

E. H. Williams

EHW:W

ENCL.

LAW OFFICES
SAMUEL R. BUXTON
LAW BUILDING
NEWPORT NEWS, VA.

May 18, 1932.

Mr. R. A. Edwards, Clerk,
Circuit Court
Smithfield, Va.

Dear Mr. Edwards:

Please find herewith bill of complaint in the suit of Ethel May Baber, guardian, vs. A. S. Johnson, Trustee, et als.

Yours very truly,

SRB/g

A. S. JOHNSON A. E. S. STEPHENS

JOHNSON & STEPHENS

ATTORNEYS AND COUNSELORS AT LAW

SMITHFIELD, VA.

June 23, 1932.

Mr. R. A. Edwards,
Isle of Wight,
Virginia.

Dear Gus: Re: Ethel May Baber

Vs: A. S. Johnson, Trustee, et al.

Herewith, is enclosed the answer of Mr. A. S. Johnson to a bill filed against himself and J. B. Jones by Ethel May Baber. I would appreciate your filing it with the papers in this cause.

Very truly yours,

A E S Stephens

Aess:R
Enc:

A. S. Johmson, Trustee

To: Bargain and Sale

J. B. Jones

THIS DEED, made this the 10th. day of December, 1930, by and between A. S. Johnson, trustee, of the County of Isle of Wight, in the State of Virginia, of the first part; and J. B. Jones of the Town of Smithfield, County and State aforesaid, of the second part:

WHEREAS, on the 13th. day of December, 1919, L. L. Jordan and Ethel M. Jordan, his wife, by their deed of that date, did convey to the said A. S. Johnson, as trustee, a certain parcel of land, together with all the appurtenances thereto belonging or in any wise appertaining, known as the "Harvey Lot" and situate, lying and being in the town of Smithfield, in Isle of Wight County, and State of Virginia, and located on the South side of "Grace" Street, known now as West End Avenue, and fronting on the said street a distance of thirty (30) feet, and running back in a Southerly direction in parallel lines a distance of One Hundred and Fifty Two (152) feet and further bounded and described as follows: Bounded on the North by West End Avenue, on the East by the property of the Gwaltney-Bunkley Peanut Co., formerly Mrs. S. A. Eley, on the South by the property of S. W. Hearne and on the West by the property of Mrs. A. D. Eley. The property herein conveyed being the same that was conveyed to the parties L. L. Jordan and Ethel M. Jordan, by deed of Mrs. A. J. Cofer, duly recorded in the Clerk's Office aforesaid. In trust to secure the payment of a certain sum of money in the said deed of trust set forth; and,

WHEREAS, as it was provided in said deed of trust that in event of default in the payment of the debt secured thereby that the said trustee should make sale of the property, and apply the proceeds of such sale to the payment of the said debt; and,

WHEREAS, default has been made in the payment of the debt secured by said deed of trust and the said trustee has

been requested by the beneficiary thereunder to make sale of said property; and,

WHEREAS, after having advertised the time, place and terms of sale as in said deed of trust is required the said trustee die, on the 10th. day of December, 1930, and in accordance with the advertisement and requirements of the said deed of trust, make sale of the said property, in front of the United States Postoffice, in the Town of Smithfield, County of Isle of Wight, State of Virginia, at which sale J. B. Jones became the purchaser having made the highest and last bid therefor, the said bid being the sum of Seven Hundred and Thirty Dollars, which sum is to be applied upon the debt of the said L. L. Jordan and Ethel M. Jordan, secured by the said deed of trust, the said J. B. Jones, the beneficiary therein by virtue of an assignment of the evidence of debt thereby secured, which said bid is much less than the total amount of said debt; and,

WHEREAS, the said J. B. Jones has entered a credit upon the evidence of debt against L. L. Jordan and Ethel M. Jordan, for the amount of his bid, less the expense of executing the said trust, and has asked that a deed be now executed, conveying to him the said tract of land:

NOW, THEREFORE, THIS DEED WITNESSETH: THAT for and in consideration of the premises and the entering of the credit aforesaid, upon the evidence of debt, aforesaid, it being the net amount of the purchase price for the said tract of land, the said A. S. Johnson, trustee, as aforesaid, doth, hereby, grant, sell, release and convey with Special Warranty, unto the said J. B. Jones, the tract, piece or parcel of land aforesaid.

Witness the following signature and seal:

A. S. Johnson, Trustee (SEAL)

State of Virginia,

County of Isle of Wight, to-wit:

I, Elizabeth Moody, a Notary Public for the County of Isle of Wight, State of Virginia, do, hereby, certify that A. S. Johnson, trustee, whose name is signed to the foregoing writing bearing date the 10th. day of December, 1930, has this day personally appeared before me in my said County and acknowledged the same.

Given under my hand this the 30th day of December, 1930.

Elizabeth Moody
Notary Public

My Commission expires:

May 3rd, 1934.

VIRGINIA: Clerk's Office of the Circuit Court of the County of Isle of Wight, January 2nd, 1931, at 3:30 o'clock P. M. this deed was received and with the certificate annexed, admitted to record.

Teste: R. A. Edwards, Clerk.

A Copy:

Teste R. A. Edwards Clerk

Bargain and Sale Book 103

At Page 259

Isle of Wight County Records

A. S. Johnson. Sister

To Dud

J. B. Jones—

a copy

SMITHFIELD, VA. Dec 15 1920 No.

BANK OF SMITHFIELD 68-233

PAY TO THE ORDER OF Mrs. J. C. Jordan & Children $ 184 00

One Hundred & Eighty Four DOLLARS

DEC 16 1920

FOR

E. Thelma Jordan
Guardian for
Martha Flavia Jordan

PARAGON PTG WKS BEAVER DAM, KY

Mrs A J Cofer
Mrs L S Barrett
By
A L Barrett Agt

November 27th. 1923.

Mr. A. S. Barrett,
Smithfield,
Virginia.

Dear Mr. Barrett:

I am trustee ina certain deed of trust, made by L. L. Jordan and wife, bearing date the 17th. day of December, 1919, which secures thee bonds, payable in one, two and three years from date, to Mrs. A. J. Cofer and Mrs. J. D. Barrett (your wife). The first of the notes, it being for $400, has been assigned by you to Mrs. Ethel M. Jordan, guardian of Mary Frances Jordan, without recourse.

Some time ago Mr. C. L. Jordan came to me and stated that you had requested him to have sale made of the property by the trustee. I, at once, had sale notices printed and sent them to Smithfield by Mr. F. L. Wilson, Deputy Sheriff, for posting, with express direction to leave one with you. He does not remember whether he did so or not. I appeared at the time mentioned in the notice, and it appears that they were posted as required by the deed of trust, and made sale of the property, Mr. C. L. Jordan having bid it in at $900. Upon noticing that you were not there I asked Mr. Jordan about the direction you gave him and I found that it was not such as fully authorized a sale without your acquiescense, and suggested to him that he see you. I did not see the deed of trust, nor the papers secured thereby. Upon his visit to the office this morning I learn that he has seen you and promised to pay you a thousand dollars and let deed be made to him, upon the assumption that this would give him good title to the property? It turns up, now, that the first note secured was transferred, by assignment, to Mrs. Jordan, as guar ian as aforesaid, and that note will have to participate, as the law provides in such cases, in the fund arising from any sale made or to be made. Such being the case I have advised Mr. Jordan to take no deed and let the place be sold again, and at your request. I believe the first note due will certainly get as much pro-rata, as the others, if it does not all have to be paid. I am not prepared, just now, to say which is the case, positively. So, it seems the whole matter is off.

I shall be glad to serve you in the matter in any way I can.

Yours very truly,

L.L. Jordan et ux

To)

A.S. Johnson, trustee.

THIS DEED, made this, the 13th day of December in the year nineteen hundred and nineteen, between L.L. Jordan and Ethel M. Jordan, his wife, of the County of Isle of Wight in the State of Virginia, part of the first part, and A.S. Johnson, trustee, party of the second part.

WITNESSETH: That the said L.L. Jordan and Ethel M. Jordan, doth grant unto the said A.S.Johnson, the following property, to-wit: All of that certain piece or parcel or lot of land together with all the appurtenances thereto belonging, or in any wise appertaining, known as the "Harvey Lot" and situate, lying and being in the town of Smithfield, in Isle of Wight County and State of Virginia, and located on the South side of "grace street", now known as West End Avenue, and fronting on the said street a distance of thirty (30) feet and running back in a Southerly direction, in parallel lines a distance of one hundred and fifty two (152) feet and fuether bounded and described as follows; Bounded on the North by West End Avenue, on the East by the property of the Gwalthey- Bunkley Peanut Co, formerly Mrs S. A. Eley, on the South by the property of S. W. Hearne and on the West by the property of Mrs A.D. Eley.

The property herein conveyed being the same that was conveyed to the party of the first part by deed of Mrs A.J.Cofer and others, bearing date even herewith and recorded simultaneously herewith.

IN TRUST, to secure the payment of fourteen hundred dollars, due to Mrs A. J. Cofer and Mrs A.S. Barrett, and evidenced by three bonds bearing date even herewith, viz; one bond for four hundred dollars, payable one year after date, one bond of five hundred dollars,payable two years after date; one bond of five hundred dollars, payable three years after date, all bearing interest from date, with interest pay- annually from date, payable to Mrs A. J. Cofer and Mrs A.S.Barrett,

made by L.L. Jordan and Ethel M. Jordan, for value received and with a waiver of the Homestead Exemption. It is agreed that in event of default of of principal or interest or any part thereof, that all shall become due and payable, and upon the further trust that the said grantors shall remain in quiet and peaceable possession of the above granted and described premises, and take the profits thereof to their own use, until default be made in the payment of the debt aforesaid, in whole or in part, or in the observance of any covenant in this deed contained, upon such default being made, the said trustee shall, so soon thereafter as he shall be requested by the said creditor herein secured or their assigns so to do, sell the above granted property at public auction at such time and place, and upo such terms and conditions as he may deem expedient, having first given notice of the time, place and terms of sale for at least ten days, by advertisements in one or more places in Isle of Wight County, Virginia, and out of the proceeds of such sale, after paying all expenses attending xxxxxxxxx the execution of this trust, including commissions on said proceeds of sale to the said trustee, at the rate of five per cent, shall pay to the said creditor herein secured or their assigns, the debt aforesaid with interest thereon or so much thereof as may then remain unpaid, and the balance, if any, to the grantor or his assigns.

The said grantors covenant that they will during the continuance of this trust keep the buildings upon the aforesaid land insured against loss by fire in some good solvent insurance company in the sum not less than eight hundred dollars dollars , and assigns the policy of insurance to the said trustee as an additional security for the payment of the debt aforesaid. and if he the said grantor fail to keep the said buildings insured as aforesaid, the said trustee may cause the same to be insured and the premium of such insurance shall be a charge on the trust property aforesaid; and in case any money becomes

payable under such insurance policy, the said trustee shall collect the same andshall distribute the amount so collected as if it were the proceeds of a sale has under this deed. The said grantors covenant that they will warranty generally the property hereby conveyed, and will pay all taxes, levies and assessments upon said property so long as they or their assigns shall hold the same, and the said grantors hereby waive the benefit of the homestead exemption as to this obligation and agrees that upon payment of the debt herein secured a release deed shall be executed and recorded at their cost and expense.

Witness the following signatures and seals:

L.L. Jordan (SEAL)

Ethel M. Jordan (SEAL)

Virginia,

Isle of Wight County, to-wit;

I, J. R. Rowell, Jr, a Notary Public for the County aforesaid, in the State of Virginia, do certify that L.L. Jordan and Ethel M. Jordan, whose names are signed to the writing above, bearing date on the 13th day of December in the year nineteen hundred and nineteen, have acknowledged the same before me in my County aforesaid.

Given under my hand this 13th day of December in theyear 1919.

Jas. R. Rowell,Jr.
Notary Public

My commission expires Nov. 14th, 1921.

Virginia: Clerk's Office of the Circuit Court of the County of Isle of Wight, December 17th, 1919, at nine o'clock A.M. this deed was received and with the certificate annexed, admitted to record.

Teste,
A.S.Johnson, Clerk.

Deed Book 90, page 13.

A Copy,
Teste, R. A. Edwards. Clerk.

J-B

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

ETHEL MAY BABER (formerly Ethel May Jordan) Guardian of Martha Frances Jordan. Complainant,

VS. 610 IN CHANCERY.

A. S. JOHNSON, Trustee and J. B. JONES. Defendant.

Clerk will please issue summons in chancery as to the defendants named, returnable to second May Rules, 1932.

S. R. Buxton, p.q.

1

Ethel M. Baker, Ln.

vs. Eq 610

A.S. Johnson, Asst et als

memo.

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Fwd.

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IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

Ethel May Baber (formerly Ethel May Jordan), Guardian of Martha Frances Jordan, Complainant,

vs.

A. S. Johnson, Trustee, and J. B. Jones. Defendants.

This cause came on this day to be heard upon the bill of complaint and its exhibits, the separate answer of each of the defendants and the general replication thereto, the depositions taken and filed in this cause and the accompanying exhibits, and upon the argument of counsel.

Upon consideration whereof, it appearing to the Court that at the sale of the property, under the deed of trust in the Bill and proceedings mentioned, the defendant, J. B. Jones, became the purchaser at the price of Seven Hundred Thirty Dollars ($730.00), and that no part of the said purchase price has been paid, except the sum of Seventy-Eight Dollars and Ninety-Seven Cents ($78.97), paid by said defendant on account of the expenses of sale and taxes due and unpaid on said property; and that there still remains unpaid on account of delinquent taxes on said property the sum of Seventy Two Dollars and Seventy-One Cents ($72.71) for the years 1925, 1926, 1927, and 1928; and that after the payment of said delinquent taxes and the amounts already paid by said defendant there still remains unpaid on account of said purchase price of said property the sum of Five Hundred Seventy-Eight Dollars and Thirty-Two Cents ($578.32); and it further appearing that of the three (3) bonds secured by said deed of trust the complainant is the holder for value of the bond of Four Hundred Dollars

($400.00), which bond was acquired by complainant by assignment thereof on December 15, 1920, and that the defendant, J. B. Jones, is the holder for value of the remaining two bonds secured by said trust deed, which two said bonds were acquired by the said defendant, J. B. Jones, by assignment on the _____day of _____, 1930, and the Court being of opinion that the complainant, as such prior assignee of the bond so held by her, has the preferable right to satisfaction of said bond with interest, out of the proceeds of said sale, over the two bonds held by the defendant, J. B. Jones, and that the complainant is entitled to be paid on account of the bond so held by her the sum of Four Hundred Dollars ($400.00) with interest thereon from December 15, 1920;

It is therefore, adjudged, ordered and decreed that the said defendant, J. B. Jones, within thirty (30) days from the rising of this court, do pay unto the Clerk of the Circuit Court of Isle of Wight County, Virginia, the sum of Seventy-Two Dollars and Seventy-One Cents ($72.71), for delinquent taxes as above stated on said property, and, further, that the defendant, J. B. Jones, do pay unto Ethel May Jordan (formerly Ethel May Jordan) guardian of Martha Frances Jordan, complainant, the sum of Five Hundred Seventy-Eight Dollars and Thirty-Two Cents ($578.32), that being the amount of the balance of the purchase price of said property after deducting the amounts already paid by the defendant and the amount directed above to be paid for delinquent taxes, which payment shall be in full satisfaction of any and all claims and demands of said complainant against said property by reason of the bond held by her as well as under the deed of trust securing the same; and in default thereof, the said A. S. Johnson, Trustee, shall sell the real estate described and conveyed in said deed of trust, such

sale to be made pursuant to and in accordance with the terms of said trust deed, and out of the proceeds of such sale, after payment of the expenses incident to such sale and the delinquent taxes above mentioned, shall pay to the complainant the said bond of Four Hundred Dollars ($400.00) with interest thereon from December 15, 1920, and the costs of this suit, and the residue, if any, shall be paid to the defendant, J. B. Jones. It is further ordered that the defendant, J. B. Jones, do pay unto the said complainant her costs about this suit in this behalf expended. To the entry of which decree, the defendant, J. B. Jones, by counsel, excepted.

It being suggested to the court that the defendant, J. B. Jones, desires to present a petition for an appeal and supersedeas to this decree, the court doth further, adjudge, order and decree that the execution of the provisions of this decree be suspended for a period of sixty (60) days from the entry of this decree, in order to enable the said defendant to present his petition for an appeal and supersedeas herefrom; provided that the suspension of this decree is condition upon the said defendant, or someone for him, entering into a bond in the penalty of One Thousand ——— dollars, with good and sufficient security, to be approved by the Clerk of this Court, payable to said complainant, and providing for the payment of all such damages as may accrue to said complainant by reason of this suspension, in case the said appeal and supersedeas shall not be allowed.

Chancery # 610

Ethel M. Baber(formerly
Ether M. Jordan, Guardian of
Martha Frances Jordan,

vs

J. B. Jones.

- - - - -

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9-61-

S. R. BUXTON
ATTORNEY AND COUNSELOR AT LAW
NEWPORT NEWS
VIRGINIA

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

Ethel May Baber (formerly Ethel May Jordan, Guardian of Martha Frances Jordan. Complainant.

vs. IN CHANCERY.

A. S. Johnson, Trustee, and J. B. Jones. Defendants.

The depositions of Ethel May Baber, Mr. A. S. Johnson, Mr. J. B. Jones, Mr. A. S. Barrett, and Mr. C. L. Jordan, taken before Virginia Wilson, a Notary Public, by agreement of counsel, at the office of E. H. Williams, Smithfield, Virginia, on the 9th day of July, 1932, to be read in evidence in the above named suit.

Present: S. R. Buxton, Counsel for complainant.

E. H. Williams, counsel for J. B. Jones.

MRS. ETHEL MAY BABER, who as guardian for Martha Frances, is the complainant in this suit, being duly sworn deposes and says:

Examination by Mr. Buxton.

Q. Please state your name and residence?

A. Mrs. Ethel M. Baber, 223-44th St., Newport News, Va.

Q. You were formerly Mrs. Ethel May Jordan, I believe?

A. Yes, Sir.

Q. You are the guardian of Martha Frances Jordan?

A. Yes, Sir.

Q. I desire to file at this time certificate of R. A. Edwards, Clerk of the Circuit Court of Isle of Wight County, showing the appointment of Ethel May Jordan as guardian of Martha Frances Jordan. This certificate shows qualification as guardian

on the 6th day of July, 1920. This certificate is marked for identification as Exhibit "1" with the testimony of Ethel May Baber.

Q. It is alleged in your bill and admitted in the answer of Mr. J. B. Jones, filed in this suit, that L. L. Jordan, and wife, conveyed to A. S. Johnson, Trustee, on the 13th day of December, 1919, certain property located in the Town of Smithfield, Virginia, and described in the bill of complaint, to secure to Mrs. A. J. Cofer and Mrs. A. S. Barrett, the sum of Fourteen Hundred Dollars ($1400.00), evidenced by three bonds, bearing even date with said deed; one bond for Four Hundred Dollars ($400.00), payable one year after date; one bond for Five Hundred Dollars ($500.00), payable two years after date; and one bond of Five Hunared Dollars ($500.00), payable three years after date. Each of said bonds bearing enterest from date, payable annually and payable to the order of Mrs. A. J. Cofer and Mrs. A. S. Barrett. The said bond being made by L. L. Jordan and Ethel M. Jordan.

You were, I believe, the wife of L. L. Jordan?

A. Yes, Sir.

Q. When did he die?

A. 1920, in June, June 30th.

Q. I here offer in evidence a certified copy of the deed of trust referred to as a part of the evidence of this witness and ask that it be marked Exhibit B with the evidence of Ethel May Jordan?

Counsel for complainant filed the certified copy of the said deed of trust marked "Exhibit B".

Q. Are you, as guardian of Martha Frances Jordan, the holder of any one of the three bonds referred to in the deed of trust?

A. Yes, Sir, I have the first one.

Q. I hand you a paper and ask if that is the bond to which you refer?

A. Yes, Sir.

Q. I ask that you file same with your evidence?

A. Yes, Sir.

Q. The bond referred to read as follows:

"$400.00 Smithfield Virginia,
December 13, 1919.

"One year after date, with interest from date, we promise and bind ourselves, our heirs, personal representatives and assigns, to pay unto Mrs. A. J. Cofer and Mrs. Julia D. Barret, the just and full sum of Four Hundred Dollars ($400.00) for value received, and as to this debt evidenced by this bond, we do hereby waive the benefit of the homestead exemption.

"Witness our hands and seals this the 13th day of December,1919.

L. L. Jordan (Seal)
Ethel May Jordan (Seal) "

Q. This bond, on the back, contains the following endorsement:

" "Smithfield,Virginia,
December 15, 1920.

"Received of Ethel M. Jordan, guardian for Martha Frances Jordan, Twenty Four Dollars ($24.00), interest on the within bond to December 13, 1920.

Mrs. A. J. Cofer,
Mrs.Julia D. Barrett
By A. S. Barrett, Agent."

"December 15, 1920.

"For value received we hereby assign our right, title and interest in the within bond to Ethel M. Jordan, guardian of Martha Frances Jordan, without recourse to us.

Mrs. A. J. Cofer,
Mrs. Julia D. Barrett,
By A. S. Barrett, Agent."

Q. What amount, Mrs. Baber, was paid for this bond?

A. Four Hundred Dollars ($400.00).

Q. And what funds were used by you for the purchase of this bond?

A. They were my daughter's funds, Martha Frances Jordan's money.

Q. Has anything by way of interest or principal been paid on this bond since it was assigned to you on December 15, 1920?

A. No, Sir.

Q. It is alleged in your bill of complaint and admitted in the answer of J. B. Jones, filed herein that A. S. Johnson, Trustee under the said deed of trust, did on the 10th day of December, 1930, make sale of the property thereby conveyed, at public auction, to the highest bidder, and that at this sale the defendant, J. B. Jones, became the purchaser thereof for the sum of Seven Hundred Thirty Dollars ($730.00). Did you have any notice or knowledge of the sale by the said trustee of this property?

A. No, I did not. I did not know it was sold until a month after it was sold. At least a month, maybe longer.

Q. I here offer in evidence a certified copy of the deed from A. S. Johnson, Trustee, to J. B. Jones, dated December 10, 1930, as a part of the evidence of this witness and ask that it be marked "Exhibit 3" with the testimony of Ethel May Baber.

Counsel for complainant here files certified copy of deed marked "Exhibit 3".

Q. When you ascertained that this sale had been made of this property, did you make any demand on Mr. Jones for the payment of your bond?

A. Yes, Sir. I came over to see Mr. Jones about it. He said he knew nothing about it. It was something new to him.

Q. Have you, as a matter of fact, received any of the proceeds of the sale of this property to Mr. Jones?

A. No, Sir.

Q. Have you lived on the property conveyed by this deed of trust since the death of Mr. L. L. Jordan?

A. No, Sir.

Q. Have you ever received any rents or profits from this place?

A. I have had about three months' rent from it. Not more than that--just about three months rent.

Q. How much did that amount to?

A. Nine Dollars ($9.00) a month. I think it was $9.00. It was Ten Dollars ($10.00).

Q. Do you know when you received that rent?

A. I can't remember the exacts date, but I received it the three months after her father died. The next three months and then I didn't get any more.

Q. And you state that you have never been paid anything on account of the bond?

A. No, Sir.

Q. No further questions.

Cross-Examination by Mr. E. H. Williams:

Q. Is Martha Frances Jordan, the only heir of L. L. Jordan?

A. Yes, Sir.

Q. When did L. L. Jordan buy this house and lot?

A. In December, 1919, I wont say for sure about the exact date, but it was in 1919 that he bought it.

Q. The same time he gave the deed of trust?

A. Yes, Sir.

Q. What was the price of it at that time?

A. Two Thousand Dollars ($2,000.00), I think. I won't say for sure.

Q. Just as soon as he died you left and have only got three months rent?

A. Yes, Sir.

Q. It has been rented out ever since then. Has it not?

A. No, not all of the time. I hardly know. I haven't been over here.

Q. You then collected $30.00 in rent?

A. Yes, Sir.

Q. And that's all you collected?

A. That's all I got.

Q. Who collected the other rent?

A. I coulan't tell you.

Q. You tell the court that for ten years you, acting as the guardian of your daughter, Martha Frances Jordan, and she being the owner of a house and lot on which was due each month Ten Dollars ($10.00, and that you don't know what became of that rent?

A. No, I don't. Mr. Jordan took it over to look after it and I don't know whether he collected it or not.

Q. You knew that as guardian you were entitled to that rent?

Question objected to by counsel for complainant, the witness, on the ground that the question is purely one of law and that the witness should not be asked to pass upon it.

A. I didn't know, so I didn't bother it.

Q. No part of the rent has ever been paid to you as guardian, or as an individual, has it?

A. No.

Q. Did you ever authorize anybody to collect the rent for you?

A. No, I didn't know anything about that business. All I want to know is about this bond. That is all I have to do with it. I don't know anything about the other.

Q. Well, was that all the money you paid out in order to save the place for your daughter?

Counsel for Complainant: "I object to that question. The witness has not said that she paid this money for her daughter. The question is not a proper one."

A. I didn't say that.

Q. Did you pay any taxes?

A. No, I didn't.

Q. And the Four Hundred Dollars ($400.00), and that amount of interest marked on the back of that bond is all you have paid?

A. That's all.

Q. That amounted to Four Hundred Twenty-Four Dollars ($424.00). So that's the total amount you paid out as guardian of your daughter in reference to this property, that you know of?

A. Yes, Sir.

Q. Are you sure that's all?

A. That's all.

Q. I hand you herewith for your inspection two bonds of L. L. Jordan and Ethel M. Jordan for Five Hundred Dollars ($500.) each, upon which there appears the following notation?

(Interruption)

Q. Mr. Buxton just handed me a check which you paid, which amounts to Four Hundred Eight Four Dollars ($484.00), on December 15, 1920. So you really did pay out Sixty Dollars ($60.00) more than you thought?

A. That check was for it, yes Sir.

Q. That Sixty Dollars ($60.00) was interest paid on the other bonds wasn't it? The ones secured by that deed of trust Wasn't it?

A. I don't know.

Q. Well, on bond due two years after December 13th, appears that on December 13, 1920, you, as guardian of Martha Frances Jordan, paid Thirty Dollars ($30.00) interest. That's true isn't it?

A. In December, when?

Q. 13th of December, 1920.

A. I didn't pay any interest except on that one bond.

Q. This is on December 20th, when you paid the interest. And on the bond due three years after date, on December 15th, 1920, you paid Thirty Dollars ($30.00) interest. Is that right?

A. No, I didn't pay it. Indeed I didn't.

Counsel for defendant hands bonds to counsel for complainant.

Counsel for complainant inspects bonds.

Q. You didn't pay it? Then who did pay it?

A. I don't know who paid it. Who is marked there as having paid it. I didn't.

Q. The notation on the bond is as follows:

"Received of Ethel M. Jordan, guardian of Martha Frances Jordan, Thirty Dollars ($30.00), interest on this bond, to December 15, 1920.
"Smithfield, Virginia, December 15, 1920.

Mrs. A. J. Cofer,
Mrs. Julia D. Barrett,
By, A. S. Barrett, Agent."

Is that correct?

A. I didn't pay it. I don't know how it got paid.

Q. And the notation on the other bond is:

"Received of Mrs. E. M. Jordan, guardian of Martha Frances Jordan, Thirty Dollars ($30.00) interest on this bond to December 15, 1920.
"Smithfield, Virginia, December 15, 1920.

Mrs. A. J. Cofer,
Mrs. Julia D. Barrett,
By, A. S. Barrett, Agent."

Did you pay this?

A. No, I didn't.

Q. Do you know who paid it?

A. No, I don't know who paid it.

Q. Do you know that Thirty Dollars ($30.00) was paid on December 15th, and Thirty Dollars ($30.00) on December 20, 1920.

A. Ido not.

Q. Do you know whether any interest was paid on the two bonds for $500. each, after 1920?

A. No, I don't, I didn't know anything had been paid on it.

Q. Who is Mr. C. L. Jordan?

A. Mr. Jordan, my daughter's grand-father.

Q. And on February 27, 1922, Thirty Dollars ($30.00) was paid on each of the Five Hundred Dollars ($500.00) bonds, according to the notation on the back of the bond, which I herewith show you.

Mr. Buxton: Paid by you?

Mrs. Baber: No, I didn't pay them.

Mr. Williams: Do you know anything about the particulars of them?

A. No, Sir. They must have been paid by Mr. C. L. Jordan.

Q. Can you explain to the court why Mr. Jordan paid the interest for the year 1921 on the two Five Hundred Dollars ($500.00) bonds and didn't pay you as guardian for Martha Frances Jordan any interest?

Counsel for plaintiff submits that this is a question purely within the knowledge of Mr. C. L. Jordan, and does not see how the witness could be expected to tell the reason why Mr. C. L. Jordan did or did not do a thing.

Q. You were living with Mr. C. L. Jordan at that time?

A. No, I was in Newport News. My home has been in Newport News ever since Mr. Jordan died.

Q. Did you authorize Mr. Jordan to collect the rent?

A. He was administrator and I didn't bother him.

Q. He was administrator of L. L. Jordan?

A. Yes, of his estate.

Q. Again, on the 2nd day of January 1923, appears a credit of Thirty Dollars ($30.00), on each of the two Five Hundred Dollars

($500.00) bonds, the payments being made by C. L. Jordan. No payment was made to you as guardian of Martha Frances Jordan. Can you explain why the interest was being paid on the two Five Hundred Dollars ($500.00) bonds, and no interest on your bond?

A. I don't know.

Q. Did you ever demand payment of any interest?

A. No, I didn't.

Q. Did you ever make any effort to collect this bond?

A. No I didn't, I was waiting for the place to be sold and I didn't know any interest was being paid on the other two.

Q. This is then the first you knew of it?

A. Yes.

Q. You were waiting for the place to be sold?

A. That the only way I knew how to get my money back. I was waiting for the place to be sold so I could get the money I had put in it.

Q. This was her place?

A. It was her father's place.

Q. Her place as her father's daughter after her father died. You knew that didn't you?

A. No, I didn't know that.

Q. No! You know it now don't you?

A. No, I don't know it now.

Q. Didn't you think it was her place?

A. It wasn't paid for.

Q. What is the balance due on it?

A. Those two Five Hundred Dollars ($500.00) bonds and my Four Hundred Dollars ($400.00) bond.

Q. When the place was sold, was it worth as much as Fourteen Hundred Dollars?

A. I reckon it was, I don't know.

Q. Did you ever come over to look after it?

A. No.

Q. Did you ever ask Mr. Jordan to pay you any interest on this bond?

A. No, I didn't ask him.

Q. You tell the court that for more than ten years you had invested the funds of your ward and had never even so much as demanded a single years payment from anybody?

A. No, I didn't know I had to.

Q. And you also tell the court that for ten years this property, which belonged to your daughter, and you were guardian; that you didn't even know whether the rents were collected or not, and don't know to this day? Is that right?

A. I didn't know it was hers because it wasn't paid for.

Q. Did you intend that the rents should go to the payment of the balance due on that house.

A. I knew nothing about it.

Q. You had some idea--what was your idea as to what had become of the rents?

A. I didn't know, Mr. Williams.

By Mr. Buxton: Counsel for complainant has not objected to any of the questions propounded although immaterial and irrelevant in this case, as he desired to allow all possible, reasonable latitude, but does not see the relevancy of the line of questioning now being followed by counsel for the defendant Jones.

By Mr. Williams: Counsel for defendant states that the evidence shows unmistakable laches on the part of the guardian, therefore, on account of the course of her conduct she is estopped to assert any prior right with reference to any assignment of the bond in this matter. She having, with the grossest negligence, stood by and let an innocent part become the holder of the two $500.00 bonds, the same being assigned subsequent to the purported assignment to the said guardian.

By Mr. Williams:

Q. Did you come over to look at the property? When was the last time you saw it?

A. Last week.

Q. I mean before this suit was bought?

A. I have driven by it at least one time every year, but I haven't stopped. Just driving by.

Q. Do you know what the taxes were?

A. No, I do not.

Q. Who was your attorney in these transactions--with reference to making this investment?

A. I didn't have any.

Q. You say you didn't find out anything about this sale until thirty days after it had been made?

A. No.

Q. How did you find out then?

A. My daughter's grand-father wrote me that it had been sold?

Q. He was the administrator of the estate?

A. Yes, Sir.

Q. Have you the letter?

A. No, I haven't.

Q. Your grand-father--did he send you a circular?

A. No.

Q. Did he tell you how he knew it had been sold?

A. No. He just told me it had been sold.

Q. Now what was said between you and Mr. Barrett when this reported assignment was made, with reference to the transfer of this bond?

A. I took that bond as an investment of her money and with the understanding that when the place was sold that I would get my money back.

Q. You have been over that considerably--about the investment--but what I am talking about now is who was present when this was done?

A. Mr. Jordan, Mr. Barrett and myself, when I gave him the check for the bond.

Q. What was said?

A. Said about what?

Q. Said in Barrett's office when this assignment was made.

A. I didn't say anything about it, but that I wanted it marked so that I could get the money back when the place was sold.

Q. And instead of being marked paid it was marked assigned?

A. Yes, Mr. Johnson advised us to have it that way.

Q. Mr. Johnson advised you that at that time?

A. Yes, Sir.

Q. That's Mr. A. S. Johnson, the Trustee?

A. Yes, Sir.

Q. He was present at that time?

A. No. He wasn't present at the time I gave the money for the bond, but he advised me to have it marked that way.

Q. When was he present?

A. At the time we came down to pay it.

Q. Was that at the time it was paid or after?

A. Before.

Q. Where did he tell you that?

A. In his office.

Q. Do you know anything about the value of the house at the time you paid the money?

A. No, Sir.

Q. Did you want to keep that piece of property for your daughter?

A. No, I did not. I didn't have anything to pay for it with. So why should I want to keep it?

Q. Then why did you want to keep that bond for ten years without collecting any interest on it?

A. I didn't know where to collect it from.

Q. Do you remember what was said when you went to Mr. Barrett's office?

A. No, I do not.

Q. Nothing that was said by either you or Mr. Jordan, or Mr. Barrett?

A. No, Sir, except that Mr. Jordan said he wanted the bond marked so that Martha Frances would get the money back when it was sold, I was with them, but I didn't say anything as I remember.

Q. Do you know what relation Mr. A. J. Cofer and Mrs. Julia D. Barrett were to Mr. A. S. Barrett?

A. The Mrs. Barrett was his wife, I don't know about the other lady.

Q. Did you think during all these ten years that you had a first lien for the Four Hundred Dollars ($400.00)?

A. I thought I was good for the money I invested in it.

Q. You knew that the One Thousand Dollars ($1,000.00) bonds were not paid?

A. I did.

Q. You knew that the house wouldn't sell for enough to pay the interest and the principal of the three bonds, didn't you?

A. I didn't know anything about that. I don't know anything about the price of property.

Q. Did you ask anybody?

A. No.

Q. In other words, after you had paid that money on that date, you just simply carried the bond home with you and you have never done anything about it until after this sale?

A. I didn't do anything. I didn't see anything to do.

Q. I didn't ask you what you saw to do, but did you do anything and if you did do anything, what was it?

By Mr. Buxton: Counsel has no desire to prompt the witness, but he does not think that the question as propounded is fairly propounded and the witness has several times answered in substance the propounded question.

A. I didn't say or do anything.

Q. And you didn's say anything to anybody aboutit?

A; No, I didn't see any need.

Q. How did you happen to bring this suit?

A. Well, I just looked at the bond and I thought my bond was good for the money in it, so I talked to Mr. Buxton and asked him to see about it for me.

Q. Did you see anyone else about it?

A. No, but my husband brought it over and talked with Mr. Stevens.

Q. What did he ask Mr. Stevens?

A. I don't know.

Q. When was it he came over?

A. Last September, I think.

Q. Did you come to Mr. Stevens before you went to Mr. Buxton?

A. No, I didn't.

Q. When did you go to Mr. Buxton ?

A. Last August, I think, but I won't say for sure.

Q. How old is your daughter?

A. Sixteen, this fall.

Q. How long after the sale was it before you first found out the sale had been made?

A. I told you around a month.

Q. That was sometime just after Christmas, 1931?

A. I guess it was I don't know when it was sold, but I found out about a month after it was sold.

Q. Then you went to see Mr. Buxton in August?

A. I think it was along there, I don't know for sure.

Q. And you went to see Mr. Stevens in September?

A. We came by to see Mr. Johnson, but Mr. Johnson was not there. Mr. Stevens was there. So we mentioned it to him because he knew all about it and they were together.

Q. And you hadn't seen anybody about it before you saw Mr. Buxton and Mr. Stevens?

A. I didn't come to see Mr. Stevens about it.

Q. I know, but at that time--you hadn't seen Mr. Johnson about it?

A. No.

Q. In fact, you haven't seen him since then. Have you?

A. No.

Q. When did you go to see Mr. Jones? How long after you had been to see Mr. Johnson?

A. I came over and saw Mr. Jones and talked with him before I saw anyone else.

Q. When was it you saw Mr. Jones?

A. I can't recall the day and month, but it was right after the place was sold.

Q. Didn't Mr. Jones tell you that if you paid what money he had in it you could have the place?

A. I did not want it.

Q. No further questions.

Re-Direct Examination by Mr. Buxton:

Q. Mrs. Baber, I hand you a check, dated December 15, 1930, drawn on the Bank of Smithfield, payable to Mrs. A. J. Cofer and Mrs. A. S. Barrett, for Four Hundred Eighty-Four Dollars ($484.00), signed by Ethel May Jordan, guardian of Martha Frances Jordan. Is that the check you gave to Mr. Barrett at the time that you have mentioned and at the time of the assignment of the Four Hundred Dollars ($400.00) bond to you?

A. Yes, Sir.

By Mr. Buxton: I here offer this check in evidence and ask that it be marked Exhibit 4 with the testimony of the witness.

Q. And this Four Hundred Eighty-Four Dollars ($484.00) re-

presents the amount you paid?

A. Yes, Sir.

Q. No further questions.

SIGNATURE WAIVED.

MR. A. S. JOHNSON, a witness of lawful age, being first duly sworn, deposes and says, as follows:

Examination by Mr. Buxton:

Q. You are Mr. A. S. Johnson?

A. Yes, Sir:

Q. Mr. Johnson, you were named as Trustee in a certain deed of trust, dated December 13, 1919, from L. L. Jordan and Ethel May Jordan, his wife, conveying certain property located in the Town of Smithfield. I hand you a certified copy of the deed of trust for your information.

A. It so appears from the record.

Q. Did you, as Trustee, make foreclosure of this property conveyed by this deed of trust?

A. Mr. Buxton, I don't think that I had anything to do with the sale, except to appear on the day of sale. I think that all of Mr. Jones' transactions were with Mr. Stevens; that Mr. Stevens drew the notice of sale and let me know the time of the sale and I appeared, and all subsequent proceedings were taken by him as counsel for the trustee, and I had no specific knowledge except that no money was paid into my hands.

Q. It is alleged in the bill of complaint filed in this suit that under date of December 10, 1930, you did, as trustee under the said deed of trust, make sale of the said property. Is that correct?

A. I think it is substantially so.

Q. It is admitted in the answer filed by J. B. Jones, that you did as Trustee, make sale of the said property and that at the same the defendant J. B. Jones became the purchaser at the price of Seven Hundred Thirty Dollars ($730.00).

At whose request did you make sale Mr. Johnson?

A. As I stated just now, all of the transactions leading up to the sale were between Mr. Jones and Mr. Stevens acting as counsel for the trustee and I can't tell you specifically about those transactions, but I assume everything was done all right and in accordance with what Mr. Jones says in his answer.

By Mr. Williams: There isn't any dispute about that. That Mr. Johnson sold the property and that Mr. Jones was given a deed for it. How this transaction was carried out is shown on the face of it.

By Mr. Buxton:

Q. Has Mr. Jones, the purchaser, made payment to you as Trustee of the purchase price of this property at the sale held by you?

A. No.

Q. Will you please state why payment was not made by him to you as Trustee?

A. I can only say what was represented to me by Mr. Stevens acting as counsel for the trustee, and that was that Mr. Jones made the statement to Mr. Stevens that he owned the entire equity in the property under the deed of trust and acting upon that pepresentation the sale was had.

Q. Acting upon that representation you executed the deed to Mr. Jones for the property without pay by him of the amount of his bid, is that correct?

A. That correct.

Cross-Examination by Mr. Williams:

Q/ In other words, you accepted as consideration for the

deed a credit on the bond of Seven Hundred Thirty Dollars ($730.00) less the costs of sale.

A. No, I accepted the statement made to me as the truth and made my conveyance upon that.

Q. Well, this is your deed, isn't it. You read it over before you signed it?

A. Yes, I read it over before I signed it. I mean to tell the court that not a cent of money was paid into my hands.

Q. Outside of the expenses?

A. That was never paid to me.

Q. Then who was that paid to?

A. Mr. Steven, I presume.

Q. In what capacity was Mr. Stevens acting--as attorney for you or as attorney for Mr. Jones?

A. In both. He even sent the deed to the Clerk's Office and paid the recording fee for Mr. Jones.

Q. Did you read over the deed of trust under which the sale was made?

A. I don't think so, Mr. Williams.

Q. You didn't read it over?

A. I think that I had read it quite a long time before the sale was made.

Q. Mr. Jones only knew of the two bonds for Five Hundred Dollars each?

A. I couldn't tell you specifically because Mr. Jones had no conversation with me.

Q. As a matter of fact, you and Mr. Jones don't have many conversations together. Do you?

A. I don't think that is a matter to bring up here. Mr. Jones and Mr. Stevens are more congenial than Mr. Jones and I. Mr. Steven and I have been partners for about ten years. Mr.

Stevens acts for me when I am away from the office. I'm away a great deal and what he does is satisfactory to me.

Q. You don't know then whether any inquiry was made upon the part of Mr. Stevens acting for you or Mr. Jones, as to what had become of the Four Hundred Dollars ($400.00) bond?

A. It seems to me that that was an inquiry for Mr. Jones to make?

Q. I'm simply asking you a question?

A. I didn't make any inquiry.

Q. You knew that Ethel May Baber, who was Jordan, had possession of the Four Hundred Dollars ($400.00) bond?

A. No, I can't say that I did.

Q. Do you remember advising her anything about that bond?

A. No, I can't say that I advised her particularly about it.

Q. Do you remember advising her anything about it when she got possession of it?

A. I don't remember any thing specifically about it. I has been a long time. I think that I assisted Mr. Baber, who was then Mrs. Jordan, If I remember correctly, I made up an account for Mr. Jordan's administrator, but further than that I cannot say specifically. I have some recollection about this deed of trust, but not exactly what it was.

Q. You have no recollection about the bond or deed of trust?

A. No sufficient to make any specific statement about it.

Q. No further questions.

By Mr. Buxton:

Q. Mr. Johnson, Mrs. Baber has testified that just prior to her coming to Smithfield, maybe on her way to Smithfield, that she and Mr. C. L. Jordan stopped by your office to ask you concerning the nature of the endorsement that should be made on this

note, which she was on her way to Smithfield then to attend to. Do you recall having any conversation with them at that time with reference to the investment which she was making?

A. I have no distinct recollection about it. Its probably true. I think that if she told me she wanted to invest her money or any money on any bond, I would have told her to have the bond assigned without recourse. That's my habit generally.

Q. You have no specific recollection?

A. No, I have not. I may have told her and I may have gone so far as to take my pencil and show her how the endorsement should be made. I really don't remember.

No further question.

And further this deponent saith not.

SIGNATURE WAIVED.

MR. J. B. JONES, the defendant in this case being first duly sworn, deposes and says:

Examination by Mr. Williams:

Q. State your name, residence and occupation?

A. I am resident of Smithfield, Post Master at the present time and my name if J. B. Jones. In the year 1930, in the early fall, I was in the market to buy a home for my son-in-law. Mr. A. S. Barrett and myself are very good friends. I have been doing business with him for thirty odd years and I was telling him about my idea.

Q. You idea about what?

A. My idea about buying a place for my son-in-law. He informed me that he had a place on Grace Street that he would like to sell.

Q. Is that this place in question?

A. Yes, Sir.

A. I asked him a few questions about it and the price on it, and he said I could get it for Nine Hundred Dollars ($900.00).

By Mr. Buxton: The statement thus far made by witness is certainly not proper evidence, in relating conversations between Mr. Barrett and himself with reference to the purchase of a home for his son-in-law.

By Mr. Williams: Go on.

Witness: Then I went down and looked at the property.

Q. By Mr. Williams: What property is this?

A. The property in question

Q. The Jordan property?

A. The Jordan property. At the same time I made some inquiry about the property as to the taxes. I was informed that there was about Two Hundred Dollars ($200.00) or about Two Hundred Dollars ($200.00) worth of taxes against the property. Then I informed Mr. Barrett of the fact that there was Two Hundred Dollars ($200.00) in taxes against the property. Then he agreed to still sell me the piece of property less the taxes.

Q. That would make the price of the property you paid Mr. Barrett as what?

A. Seven Hundred Dollars ($700.00), and the Two Hundred Dollars ($200.00) in taxes, would make the property at Nine Hundred Dollars ($900.00). And then he said that there was a deed of trust against the property, and that he would assign the deed of trust to me; that his health was bad and that he didn't care to be getting out after it. In fact he had just lost his wife and didn't care much about doing any business. Before I would buy, I called on Captain Alfred Sidney Johnson. He was Trustee and told him what I was contemplating doing.

Q. What were you contemplating doing?

A. Buying the Jordan House.

A. He was the trustee, and I asked him what would he charge me to sell the property and execute a deed to me in the event that I made purchase of the trust deed from Mr. Barrett. Mr. Johnson told me that he would do it just for a normal fee. I didn't pay him the commission. I asked him what the normal fee would be. He said around Twenty Dollars ($20.00). That was for services as trustee, providing I would make some arrangements for advertising. I don't know whether I went to Mr. Steven. When he came to me he had the matter in hand, however, and he gave me the deed of trust. Mr. Stevens then drew the bill of announcement of the sale that would take place in front of the United States Post Office in Smithfield on the 10th day of December, 1930. On that day Mr. Johnson appeared, the property was put up at auction, Mr W. E. Whitehead was the auctioneer and there were several bids, and the property was finally knocked down to me at Seven Hundred Thirty Dollars ($730.00). Nothing else was said about it, however, and about eighteen or twenty days after then I called on them to get a deed. I hadn't got my deed. Then he said he would take the matter up and would prepare the deed, and as, Mr. Johnson stated, Mr. Stevens had it put on record in Isle of Wight Court House, and in rendering the bill to me he charged me a sum of Thirty Dollars ($30.00), for his services as trustee and preparing the deed, the recording fee added to his bill as Mr. Johnson said and I gave Johnson and Stevens a check, which I have in my office for Fifty-Three Dollars and Seventy One Cents ($53.71), or thereabouts. Anyhow it was to pay for the recording of the deed.

Q. When you told Mr. Barrett that you would take the property at SevenHundred Dollars ($700.00) plus the taxes, why was it he didn't give you a deed himself?

A. He said it would have to be sold at auction to clear it.

He said to see Mr. Johnson as he had found out that Johnson was the trustee.

Q. Was anything said about the Four Hundred Dollars ($400.00) bond at that time?

A. No, except that he said the mortgage was for Fourteen Hundred Dollars ($1400.00), and that one of the notes had been paid. The four hundred dollars ($400.00) had been paid.

Q. How well off was Mr. Barrett, and his wife, and Mrs. Cofer, his mother-in-law, at the time this property was sold.?

A. I don't know, but they were pretty-well off as far as finances went. The only thing that bothered them was old age and ill-health. Mr. Barrett is well fixed.

Q. How about Mrs. Barrett and Mrs. Cofer?

A. They were both dead at that time.

Q. So it was all his?

A. Yes, All his.

Q. He had no children?

A. No children.

Q. And he told you the Four Hundred Dollars ($400.00) had been paid?

A. Yes, Sir. I'd never thought of purchasing it if it had been outstanding against the property. I'm as innocent as a man who don't know Smithfield of that. I'm just a victim of circumstances.

Q. What was the condition of the property when you bought it?

A. All run down and hadn't been a nail drove there for ten years. It was delapidated.

Q. How much have you spent on it since you bought it?

A. Outside of the taxes about Six Hundred Dollars ($600.)

I could furnish bills, if necessary.

Q. Any representation then which you may have made with reference to the claims against the estate was based on the statement made to you by Mr. Barrett that the first bond had been paid in full?

A. Yes, Sir, that that was all the paper against the property.

Q. Did Mr. Barrett say that he held all the paper against the property?

A. No, I didn't question him about that. He is a man of a few words.

Q. How about Mr. Barrett's integrity?

A. Not to be questioned.

Q. Never has been questioned in this town has it?

A. Never to my knowledge.

Q. What position did Mr. Barrett hold in the town for a long time?

A. He was Cashier of the Bank of Smithfield.

Q. At the time of this assignment he was a retired capitalist?

A. Yes, regarded so. He was doing a little insurance business as a side line.

Q. Any other statement that we ought to make in reference to this matter, that I haven't asked you?

A. No, except that Mr. Barrett is a man in whom I have the utmost confidence.

No further questions.

Cross-Examination by Mr. Buxton:

Q. You haven't paid anything on the purchase price of

the property except the thirty-three dollars and seventy-one cents ($33.71).

A. No, Sir. I paid the whole price. Seven Hundred Thirty Dollars and some cents.

Q. Mr. Johnson has testified that you did not pay to him the amount of the purchase price?

A. I did not.

Q. You did not what?

A. I did not pay him.

By Mr. Williams: The deed will certify to the fact that Mr. Johnson said that the bond had been duly credited with the amount.

By Mr. Buxton: I asked you if you had paid Mr. Johnson, the Trustee,anything of the purchase price except Thirty-Three Dollars and Seventy-One Cents ($33.71).

Witness: That's all.

By Mr. Williams: The deed asserts that it was conveyed to you; that the purchase price was accepted and credited on the amount of the bond.

Mr. Buxton: The deed speaks for itself.

Mr. Williams: Yes, That's what I know. The recital in the deed is correct.

Mr. Buxton: I hand you the two bonds of Five Hundred Dollars ($500.00), each, and ask if you will kindly advise whether any credit appears on those bonds.

Witness: None other than made by Mr. Barrett----

Mr. Williams: But the bonds are subject to that credit.

Witness: The bonds were subject to that credit. After this dispute came up, I turned the bonds over to my attorney.

Mr. Buxton: That's all.

THE FOLLOWING QUESTIONS AND ANSWERS WERE SUBMITTED TO AND GIVEN BY MR. A. S. BARRETT, WHO, AT THE TIME WAS CONFINED TO HIS HOME BY SICKNESS, AND IT IS AGREED BY COUNSEL FOR COMPLAINANT AND COUNSEL FOR THE DEFENDANT J. B. JONES THAT THE SAID ANSWERS MAY BE REGARDED AS EVIDENCE IN THIS MATTER.

By Mr. Williams:

Q. Mr. Barrett, do you remember Mr. Jones, a year or two ago, wanted to buy a house from you, known as the Jordan house?

A. Not esactly from me, but from my wife, at that time it wasn't mine.

Q. Did you negotiate the deal for the house?

A. I did.

Q. Do you remember what the purchase price was to be?

A. He was to pay me Seven Hundred Dollars ($700.00) for all my right, title and interest and I hadn't had any interest or rent for several years. I assumed the Seven Hundred Dollars was about as much as it was worth. Seven Hundred Dollars ($700.00) was the price as well as I remember.

Q. And he was to pay the taxes?

A. Yes.

Q. No Mr. Barrett, did anybody else at the time you let Mr. Jones have these two Five Hundred Dollars ($500.00) bonds have any liens against the house?

A. No, the lots belonged to us and we took first mort-

gage.

Q. Well, that first mortgage, or deed of trust also secured a Four Hundred Dollars ($400.00) bond, what happened to that bond?

A. The Four Hundred Dollars ($400.00) bond. A lady, who said she was Mrs. Jordan, I had never seen her before, came down here and paid the Four Hundred Dollars ($400.00)and took the bond, that left One Thousand Dollars due on the place.

Q. So that when you transferred the Five Hundred Dollars ($500.00) bonds to Mr. Jones that was all outstanding.

A. That's how we secured all the right, title and interest in the place--in the bonds.

Q. And the Four Hundred Dollars ($400.00).

A. I didn't know anything about it.

Q. You didn't consider it a lien on the property?

A. No.

Q. Neither you, nor your wife, nor Mrs. Cofer needed to secure any funds?

Witness laughs.

A. It wasn't anything like that. Simply a business deal. He wanted the property and we wanted to get rid of it.

Q. It was just due when she paid for it?

A. It was just due when she paid for it.

Q. What was paid for the property?

A. Three notes given for it. A Four Hundred Dollars note and 2 five hundred dollars ($500.00) bonds. He died and when the next year rolled around she came down and paid the Four Hundred Dollars ($400.00). That was the last we ever got.

Q. So that you felt safe when you turned the other two

bonds over to Mr. Jones,

A. I didn't feel safe. I just turned the whole thing over to him as I had it.

Q. I know, but there was no deed of trust. You thought that the two Five Hundred Dollars ($500.00) bonds were all that was against the land?

A. I don't see how I could have had such a thought. She was a part to the contract. Her husband bought the property. She paid Four Hundred Dollars ($400.00). Her husband paid Six Hundred Dollars ($600.00) It wasn't anything to suggest such a thought to me.

Q. What kind of thought are you speaking of?

A. Just the payment of the debt that's all it was to it.

Q. Mr Barrett, I don't want to ask you any more questions, because I examine you in your bed and you have been sick for sometime.

Cross Examination by Mr. Buxton:

Q. Mr. Barrett, I have here one of the bonds that was secured by the deed of trust. This bond being for Four Hundred Dollars ($400.00). On the back of that bond there appears the following endorsement:

> "December 15, 1920. For value received we hereby assign all our right, title and interest in the within bond to Ethel M. Jordan, Guardian of Martha Frances Jordan, without recourse to us.
>
> "Mrs. A. J. Cofer,
> "Mrs. Julia D. Barrett,
> "By A. S. Barrett, Agent."

A. That is in accordance with my recollection. Endorsements were placed according to instructions. They were using money belonging to an estate, or insurance money, or something. When the endorsement was made it was made to them.

By Mr. Williams: That would simply be a voucher

used to show that the Four Hundred Dollars ($400.00) were being paid?

Witness: Yes.

Mr. Williams: You were not selling the bond?

Witness: No, she was paying me the bond.

Mr. Buxton: And for the amount of money she paid you at that time you made the assignment on the back of the note?

Witness: I cannot say exactly. Anyway I surrender the note to her for the money she paid me. Endorsements were put on there because they were using estate money and didn't want to get themselves involved in anyway.

No further questions.

And further this deponent saith not.

SIGNATURE WAIVED.

Mr. C. L. Jordan, a witness of lawful age, being first duly sworn, deposes and says, as follows:

Examination by Mr. Buxton:

Q. You are Mr. C. L. Jordan?

A. Yes.

Q. And the father of L. L. Jordan?

A. Yes.

Q. Were you present in the office of Mr. A. S. Barrett, in December, 1920, when Mrs. Ethel M. Jordan had some transaction with him with reference to a bond that was secured by a deed of trust on what is known as the Jordan property located in Smithfield?

A. I was with her.

Q. Will you please state what was said at that time with reference to this bond?

A. Well, a few days before that I came down here to call

one of those bonds. The first one was due. I told him, Mr. Barrett, that I didn't have any money, but that my daughter-in-law had some money belonging to her own daughter in the bank and if it could be put in that note so she could get her money again she would put it in. It was insurance money her father left her. She came down here. I brought her down here so she invested that in there for an investment.

By Mr. Williams: You said that Mr. Barrett saw you a few days before that time and mentioned it to you.

Witness: Yes. I knew it was due, but I had nothing to pay for it with.

By Mr. Williams: He told you he wanted the Four Hundred Dollars paid?

Witness: Yes, Sir.

No further question.

And further this deponent saith not.

SIGNATURE WAIVED.

Mr. A. S. JOHNSON, having been recalled, testified as follows:

By Mr. Buxton:

Q. Mr. Johnson, have you at any time prior to December 10, 1930, that being the time when this property was finally sold by you as trustee, offered this property for sale as trustee?

A. Mr. Buxton, I think so. There was a sale attempted a good many years ago, I know and maybe other sales attempted from time to time, but it seems to me we attempted to sell it at one time, but there was some hitch about it and it didn't go through.

By Mr. Buxton: I hand you herewith what is purported to be a copy of a letter, dated November 27, 1923, addressed to Mr. A. S. Barrett, Smithfield, Virginia, and asking that you kindly read same and state whether or not, the contents of this letter represent the facts as to the attempted sale of the property.made at that time?

(Witness reads the letter)

A. That sounds like I wrote the letter. May I ask you again for the record. You say that Mr. Jordan gave you this copy.

Q. Yes.

A. Evidently the letter was written to Mr. Barret to acquaint him of the fact that then appeared. You will note that in the letter I stated to Mr. Barrett that I had not seen the deed of trust, nor the papers secured thereby. I have no reason to doubt that I wrote the letter to Mr. Barret for Mr. Jordan at the time and gave Mr. Jordan a copy of the letter.

The letter referred to is here introduced in evidence and marked Exhibit 5.

No further questions.

And further this deponent saith not.

SIGNATURE WAIVED.

(By consent of counsel for the complainant and counsel for the defendant, the signatures to these depositions are waived)

STATE OF VIRGINIA,
County of Isle of Wight,

I, Virginia Wilson, a Notary Public, in and for the County and State aforesaid, do hereby certify that the foregoing depositions of Mrs. Ethel May Baber, and others, were duly taken before me in my said county, this the 9th day of July, 1932.

Given under my hand this the _____day of J_____ 1932.

_____
Notary Public.

6

In the Circuit Court of Isle of Wight County, Virginia.

Ethel May Baber, formerly Ethel May Jordan, Guardian of Martha Frances Jordan.

vs.

A. S. Johnson, Trustee, and J. B. Jones.

DEPOSITIONS

Filed July 20-32

S. R. BUXTON
ATTORNEY AND COUNSELOR AT LAW
NEWPORT NEWS
VIRGINIA

Commonwealth of Virginia,

To the Sheriff of Isle of Wight County—Greeting:

We Command You, That you summon A. S. Johnson, Trustee, and J. B. Jones,

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules to be holden for the said Court on the Third Monday in May, 1932, to answer a bill in chancery, exhibited against them in our said Court by

Ethel May Baber, (formerly Jordan), Guardian of Martha Frances Jordan,

And have then and there this writ.

Witness, R. A. Edwards, Clerk of our said Court, at the Courthouse, this 6th day of May, 1932, and in the 156th year of the Commonwealth.

R. A. Edwards Clerk.

#610 2

Ethel M. Baber-Guardian,
formerly Jordan,

Vs. } CHANCERY NO. 610

A. S. Johnson, Trustee, et als,

ORIGINAL SUBPOENA

Virginia, Clerk's Office of the Circuit Court of the County of Isle of Wight.

....., 193....

Returned, entered and filed.

Teste:

.....Clerk

To Second May Rules

1932

Samuel R. Buxton, p. q.

Executed the within subpoena in the County of Isle of Wight on the 7th day of May 1932 by serving a true copy of same on A. S. Johnson, Trustee in person

Within the County of Isle of Wight.

W. C. Whitehead Sheriff

I executed the within subpoena in the County of Isle of Wight on the 7th day of May 1932 by serving a true copy of same on A. S. Johnson Trustee in person

W. C. Whitehead Sheriff

This respondent believes and so charges that during the period between December 15, 1920 and November 25, 1930, the administrator of L. L. Jordan, deceased, one of the makers of the aforesaid bond, collected, in rents from the aforesaid property, more than enough to have paid the aforesaid bond of Four Hundred ($400.00) Dollars and the accrued interest, and therefore, this respondent, in the event that the Court should decide that the said bond was properly assigned and still unpaid, that then and in that event, that the Court will make the administrator of L. L. Jordan, deceased, a party to these proceedings and that the said administrator may be required to make an accounting of the rents collected, if any, from the aforesaid property since the death of L. L. Jordan, deceased.

And now, having fully answered the complainant's bill, this respondent prays to be hence dismissed with his reasonable costs by him in this behalf expended.

_____
Respondent.

_____ p.d.
for J. B. Jones.

IN THE CIRCUIT COURT OF ISIE OF WIGHT COUNTY, VIRGINIA.

Ethel May Baber (Formerly Ethel May Jordan, Guardian of Martha Frances Jordan, — Complainant

Vs. — IN CHANCERY.

A. S. Johnson, Trustee, and J. B. Jones — Defendants.

The answer of J. B. Jones to a bill of complaint filed against A. S. Johnson, Trustee, and himself in the Circuit Court of the County of Isle of Wight, Virginia, by Ethel May Baber, guardian of Martha Frances Jordan, Complainant.

This respondent, reserving to himself the benefit of all just exceptions to the said bill of complaint, and calling for strict proof of all material allegations contained in the said bill of complaint, especially the allegation alleging the assignment of a Four Hundred ($400.00) Dollar bond and the non-payment thereof, for answer thereto, or to so much thereof as he is advised that it is material he should answer, answers and says:

First. That he admits that on December 19, 1919, L. L. Jordan and Ethel May Jordan conveyed to A. S. Johnson, Trustee, a certain tract or parcel of land in the Town of Smithfield, to secure the sum of Fourteen Hundred ($1400.00) Dollars as set forth in the said bill of complaint;

Second. That he admits that on November 25, 1930, he became the purchaser for value of two bonds of Five Hundred ($500.00) Dollars each, executed by L. L. Jordan and Ethel May Jordan and secured by the aforesaid deed of trust;

This respondent also admits that, at his request, A. S. Johnson, Trustee, after due and legal advertisement, did, on the 10th day of December, 1930, in order to carry out the trust contained in the aforesaid deed of trust, make sale of the land

mentioned in the said deed and in the said bill of complaint, at which sale this respondent, being the highest bidder, became the purchaser thereof, for the sum of Seven Hundred Thirty ($730.00) Dollars, and that the said Trustee conveyed the said property to the said J. B. Jones, in consideration of a credit for the amount of the purchase price less expenses on the two bonds held by this respondent and secured by the aforesaid deed of trust, and that the said deed has been duly delivered to this respondent and properly recorded;

This respondent denies that on the 15th day of December, 1920, Mrs. A. J. Cofer and Mrs. A. S. Barrett assigned the bond of Four Hundred ($400.00) Dollars, mentioned in the said deed of trust and the said bill of complaint, or that such an assignment was made at a prior or subsequent date to December the 15th, 1920.

This respondent hereby specifically denies that the purported assignment appearing on the back of the said bond as set forth in the said bill of complaint represents the true intention of Mrs. A. J. Cofer and Mrs. A. S. Barrett and Ethel May Baber, who was Ethel May Jordan, in reference to the passing of the possession of the aforesaid bond, and that at the time that the aforesaid bond passed from the payees to Ethel May Jordan, now Baber, one of the makers of the said bond, and representing L. L. Jordan, deceased, her husband, the other maker of the said bond, it was fully understood that the amount of money then passing was to be treated as payment in full of the aforesaid bond.

This respondent, even though it be proved that the aforesaid bond of Four Hundred ($400.00) Dollars was regularly and validly assigned to Ethel May Baber, who was Jordan, guardian of Martha Frances Jordan, denies that the said bond has not been paid in full and calls for the strictest proof of any allegation denying such payment.

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

Ethel May Baber (Formerly Ethel May Jordan, Guardian of Martha Frances Jordan, — Complainant

Vs. — IN CHANCERY.

A. S. Johnson, Trustee, and J. B. Jones — Defendants.

The answer of J. B. Jones to a bill of complaint filed against A. S. Johnson, Trustee, and himself in the Circuit Court of the County of Isle of Wight, Virginia, by Ethel May Baber, guardian of Martha Frances Jordan, Complainant.

This respondent, reserving to himself the benefit of all just exceptions to the said bill of complaint, and calling for strict proof of all material allegations contained in the said bill of complaint, especially the allegation alleging the assignment of a Four Hundred ($400.00) Dollar bond and the non-payment thereof, for answer thereto, or to so much thereof as he is advised that it is material he should answer, answers and says:

First. That he admits that on December 19, 1919, L. L. Jordan and Ethel May Jordan conveyed to A. S. Johnson, Trustee, a certain tract or parcel of land in the Town of Smithfield, to secure the sum of Fourteen Hundred ($1400.00) Dollars as set forth in the said bill of complaint;

Second. That he admits that on November 25, 1930, he became the purchaser for value of two bonds of Five Hundred ($500.00) Dollars each, executed by L. L. Jordan and Ethel May Jordan and secured by the aforesaid deed of trust;

This respondent also admits that, at his request, A. S. Johnson, Trustee, after due and legal advertisement, did, on the 10th day of December, 1930, in order to carry out the trust contained in the aforesaid deed of trust, make sale of the land

mentioned in the said deed and in the said bill of complaint, at which sale this respondent, being the highest bidder, became the purchaser thereof, for the sum of Seven Hundred Thirty ($730.00) Dollars, and that the said Trustee conveyed the said property to the said J. B. Jones, in consideration of a credit for the amount of the purchase price less expenses on the two bonds held by this respondent and secured by the aforesaid deed of trust, and that the said deed has been duly delivered to this respondent and properly recorded;

This respondent denies that on the 15th day of December, 1920, Mrs. A. J. Cofer and Mrs. A. S. Barrett assigned the bond of Four Hundred ($400.00) Dollars, mentioned in the said deed of trust and the said bill of complaint, or that such an assignment was made at a prior or subsequent date to December the 15th, 1920.

This respondent hereby specifically denies that the purported assignment appearing on the back of the said bond as set forth in the said bill of complaint represents the true intention of Mrs. A. J. Cofer and Mrs. A. S. Barrett and Ethel May Baber, who was Ethel May Jordan, in reference to the passing of the possession of the aforesaid bond, and that at the time that the aforesaid bond passed from the payees to Ethel May Jordan, now Baber, one of the makers of the said bond, and representing L. L. Jordan, deceased, her husband, the other maker of the said bond, it was fully understood that the amount of money then passing was to be treated as payment in full of the aforesaid bond.

This respondent, even though it be proved that the aforesaid bond of Four Hundred ($400.00) Dollars was regularly and validly assigned to Ethel May Baber, who was Jordan, guardian of Martha Frances Jordan, denies that the said bond has not been paid in full and calls for the strictest proof of any allegation denying such payment.

This respondent believes and so charges that during the period between December 15, 1920 and November 25, 1930, the administrator of L. L. Jordan, deceased, one of the makers of the aforesaid bond, collected, in rents from the aforesaid property, more than enough to have paid the aforesaid bond of Four Hundred ($400.00) Dollars and the accrued interest, and therefore, this respondent, in the event that the Court should decide that the said bond was properly assigned and still unpaid, that then and in that event, that the Court will make the administrator of L. L. Jordan, deceased, a party to these proceedings and that the said administrator may be required to make an accounting of the rents collected, if any, from the aforesaid property since the death of L. L. Jordan, deceased.

And now, having fully answered the complainant's bill, this respondent prays to be hence dismissed with his reasonable costs by him in this behalf expended.

J. B. Jones
Respondent,
By Counsel

E. N. Williams p.d.
for J. B. Jones.

Ethel May Baber,
Complainant

VS) IN CHANCERY

A. S. Johnson, Trustee,
&
J. B. Jones,
Defendants.

ANSWER

7/20/22
Filed
[illegible]

E. H. WILLIAMS
ATTORNEY AT LAW
SMITHFIELD, VIRGINIA

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

Ethel May Baber, (formerly Ethel May Jordan)
guardian of Martha Frances Jordan.

v) Chancery. No._____

A. S. Johnson, trustee, and J. B. Jones.

The answer of A. S. Johnson, trustee, to a bill in chancery, filed in the Circuit Court of the County of Isle of Wight, State of Virginia, against him and another, by Ethel May Baber, etc., guardian of Martha Frances Jordan.

This respondent, reserving to himself the benefit of all just exceptions to the said bill of complaint, for answer thereto, or to so much as he is advised that it is material for him to answer, answers and says:

That he neither affirms nor denies the first allegation of said bill.

That he believes the second allegation of the said bill to be substantially correct.

That he believes the third allegation of said bill to be substantially correct.

That he neither affirms nor denies the fourth allegation of said bill.

That he neither affirms nor denies the fifth allegation of said bill.

That he believes the sixth allegation of said bill to be substantially correct.

That he believes the seventh allegation of said bill to be substantially correct.

That the eighth allegation of said bill is substantially correct.

That he neither affirms nor denies the ninth allegation of said bill, except that that part of same which refers to the representations of the said J. B. Jones, to-wit: that he was the owner of all the outstanding obligations covered by the said deed of trust, is substantially correct; and, that acting upon such representation, your respondent, as trustee, advertised and sold the said property, at which sale the said J. B. Jones was the purchaser, and that a deed of conveyance was made, and delivered to the said J. B. Jones, without, however, the said J. B. Jones having paid to your respondent any part of the purchase money, because of said representations.

That the tenth, eleventh and twelfth allegations of said bill are substantially correct.

That the allegation made, thirteenth, in said bill, your respondent neither affirms nor denies, and relies upon the court with reference thereto, and the question therein raised seems to be one purly of law.

That your respondent has no interest in the subject matter of this suit, further than to carry out any order of this court, which may be entered directing him, as trustee under the deed of trust, first herein mentioned,if the court shall deem it necessary for him to do so.

And now having fully answered the said bill your respondent prays hence to be dismissed with his reasonable costs, etc.

A. S. Johnson. Trustee.

A. S. Stephens J. D.

VIRGINIA:
In the Circuit Court of the
County of Isle of Wight.

Ethel May Baber

To) Chancery. No. _____

A.S.Johnson, Trustee, Et al

ANSWER

6/23/62 Filed

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

Ethel May Baber (formerly Ethel May Jordan, Guardian of Martha Frances Jordan, Complainant,

vs. IN CHANCERY.

A. S. Johnson, Trustee, and J. B. Jones. Defendants.

To the Honorable B. D. White,
Judge of said Court:

Your complainant, Ethel May Baber, (Formerly Ethel May Jordan), guardian of Martha Frances Jordan, respectfully represents:

That she is the duly appointed and qualified guardian of Martha Frances Jordan, as will appear from certificate of Clerk of the Circuit Court of Isle of Wight County, Virginia, herewith filed;

That by deed, dated December 19th, 1919, L. L. Jordan and Ethel M. Jordan, his wife, conveyed to A. S. Johnson, Trustee, a certain tract or parcel of land located in the town of Smithfield, known as the "Harvey Lot", and more particularly described in said deed of trust, a certified copy of which is herewith filed, in trust to secure to Mrs. A. J. Cofer and Mrs. A. S. Barrett, the payment of the sum of Fourteen Hundred Dollars ($1400.00), evidenced by three bonds, bearing even date with said deed, as follows: One bond for Four Hundred Dollars ($400.00), payable one year after date; one bond in the sum of Five Hundred Dollars ($500.00), payable two years after date, and one bond in the sum of Five Hundred Dollars ($500.00), payable three years after date: All of which bonds bear interest at the rate of six per centum per annum, payable annually;

That the above mentioned deed of trust was duly re-

corded in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia, on December 17th,1919, in Deed Book 90, at page 13;

That your complainant is now, and has been since the 15th day of December, 1920, the holder for value of the first of the above mentioned bonds, namely, the bond in the sum of Four Hundred Dollars ($400.00), payable one year after date; that on the 15th day of December, 1920, the said bond was for value assigned to your complainant, by endorsement on the back thereof, in the following words and figures, to-wit:

> "Dec. 15th, 1920, For value recd. We hereby assign our right, title and interest in the within bond to Ethel M. Jordan, Guardian of Martha Frances Jordan, without recourse to us."

That no part of the principal of said bond has been paid, and that no interest thereon has been paid since December 13, 1920;

That sometime in the year 1930, the defendant J. B. Jones, acquired by purchase and assignment from the said Mrs. A. J. Cofer and Mrs. A. S. Barrett, the other two bonds above mentioned, secured by the said deed of trust;

That thereafter, default having been made in the payment of the debt secured by said deed, the said J. B. Jones, as such assignee, without the knowledge or consent of your complainant, requested the said A. S. Johnson, Trustee, to make sale of the property conveyed by said deed of trust;

That the said Trustee, accordingly, on the 10th day of December, 1930, without the knowledge of your complainant, made sale of the said property, at which sale the said J. B. Jones became the purchaser thereof, at the price of Seven Hundred Thirty Dollars ($730.00);

That, notwithstanding the fact that at the time of said sale your complainant was the owner and holder of the bond

assigned to her as above stated, the said Trustee, acting upon the representation of the said J. B. Jones that the two bonds then held by him were the only outstanding bonds secured by said Trust Deed, and without requiring the payment by the said Jones of the purchase price of said property, executed and delivered to the said Jones, a deed for the property conveyed by said Deed of Trust, a certified copy of which deed is herewith filed;

That so soon thereafter as your complainant was apprised of the said sale and the execution of the deed to the said J. B. Jones by the said Trustee, your complainant advised the trustee and also the said Jones that she was the holder for value of the bond above mentioned; that as such prior assignee, she was entitled to be paid first out of the proceeds of said sale, after the payment of the costs of such sale and the taxes, if any, due and unpaid, and made demand of the said trustee and the said Jones of the amount so due your complainant on account of the bond held by her as aforesaid;

That, as your complainant is advised, the said trustee, upon being advised of the facts, made demand of the said Jones, that he pay the amount of his bid for the said property, either to the said trustee or into the court, with the understanding, upon such payment, the direction of the court, as to the disposition of such proceeds, would be obtained;

Your complainant further alleges that the said Jones has failed and refused to pay to your complainant the amount due her and to which she was entitled out of the proceeds of said sale, and, as she is advised, has also failed and refused to pay to the said trustee or into court the amount of his bid for said property;

Your complainant is advised and alleges that by virtue of prior assignment as above stated, the bond held by her and secured by said deed of trust has preferable right to satisfaction out of the proceeds of sale of the said property over the two re-

maining bonds held by the defendant Jones;

In consideration whereof, and forasmuch as your complainant is remediless save in a court of equity, she prays that the said J. B. Jones and A. S. Johnson, Trustee, may be made parties defendant to this bill and be required to answer same, but not under oath, answer under oath being hereby expressly waived; that the said trustee may be required to come into this court with an account of his proceedings and transactions as such trustee, in connection with the sale of the property above referred to to the said J. B. Jones, and to disclose fully the amount of all moneys received by him on account of such sale, as well as the distribution by him of the funds so received; that the said defendant, J. B. Jones,may be required to pay into this court the sum of Seven Hundred Thirty Dollars ($730.00), to be distributed under the direction of this court; that after the payment of the costs of the said sale and the unpaid taxes, if any, against the said property at the time of such sale, your complainant may have a decree directing the payment to her from said fund the sum of Four Hundred Dollars ($400.00), with interest from December 13th, 1920, as a prior claim to that represented by the two bonds held by the said J. B. Jones; that, if necessary for the protection of the interest of your complainant, the said sale be set aside and a resale of the said property ordered, and that your complainant may have such other, further and general relief in the premises as the nature of her case may require or to equity shall seem meet.

And your complainant will ever pray.

Ethel May Babes
Guardian of
Martha Frances Jordan
By Counsel

S R Barton Counsel

3 #610

IN THE CIRCUIT COURT FOR THE
COUNTY OF ISLE OF WIGHT, VIRGINIA.

- - - - - - - - - - - - - - - - - -

Ethel May Baber (formerly Ethel May Jordan, Guardian of Martha Frances Jordan. Complainant.

vs.

A. S. Johnson, Trustee, and J. B. Jones. Defendants.

BILL IN CHANCERY.

Filed 5/19/32 N.A.E.

S. R. BUXTON
ATTORNEY AND COUNSELOR AT LAW
NEWPORT NEWS
VIRGINIA