

1899-014

Nansemond Co (Suffolk)

Chancery Causes: William L. Royster vs Ames & Burk] et al

Formers Bank of Nansemond, Jones, Metzger, Shands, Smith, Helstead, Burk

W L Royster vs Ames & Burk

Plaintiffs Costs

A. P. Somer clerk pa 526

A. H. Baker Shff 100

Writ Tax pd 150

Atty 1500

\$ 22.76

Defendants Costs

Filing Ex A 15 Ex B 15 30

" Dep 15 Ames & Burk Ans, 154 30

1/2 Decree by Consent 18

Tax Costs Copy 20 filing papers 25 65

\$ 14.30

Leasts

No

My bank of Wapreand
Harvard ~~Harvard~~ Dec 2 and 1898
Duff & Co. EVU

THE CLEMENS BANK

OF NORFOLK, VA.



Pay to the order of *James & Duck*

One hundred & 25 Gen

100 Dollars

No. 50

W. C. Register

SAM. W. BOWMAN-NORFOLK, VA

Amie Burke

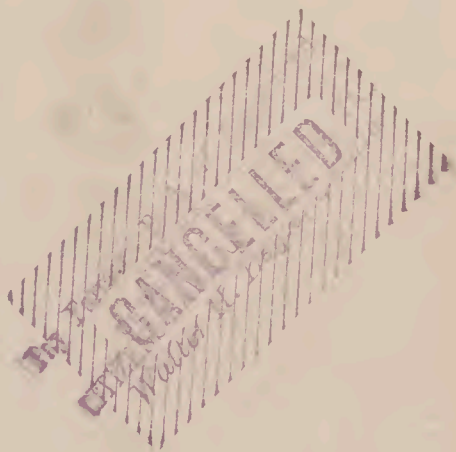


Exhibit A
Deposition of Amie Burke
Jury No. 1

Mr. Gomer :-

In this case make out

Summons for

- 1 = The Farmers Bank of Naamans
- 2 = W. H. Jones Jr. Corbett F. Bank of N.
- 3 = W. H. Burke member of the firm
of Ames & Burke.

Write this last one just I have
written it here: Send two of these
to me = one original + one copy
for W. H. Burke member firm of
Ames & Burke.

Very Truly

R. H. Rawles.

W L Royster

Pay \$1,50 Paid

JOHN B. JENKINS,
ATTORNEY AT LAW,
ROOM 28,
LOWENBERG BLOCK,
NORFOLK, VA.

Norfolk, Va., January 12th., 1899.

Mr. A. P. Gomer,

Clerk Circ. Ct. Nansemond County.

Suffolk, Va.,

Dear Sir:-

Please send me a certified copy of the bill in chancery
filed in the suit of W. L. Royster against the Farmers Bank of Nansemond,
& W. H. Burk & others in December of last year.

Please let me know the cost of the copy and I will remit the same.

Very truly yours,

John B. Jenkins

*Copy Sent - Jan'y 14th 99
\$3.00. Fee, paid
Jan'y 17th 1899*

THE COMMONWEALTH OF VIRGINIA

TO THE SHERIFF OF SOUTHAMPTON COUNTY-- Greeting:

We command you that you summon William Shands to appear before the undersigned, a Notary Public, in and for the Corporation of the City of Norfolk at the office of John B. Jenkins, Room 28 Lovernberg Building, Main Street, Norfolk, Virginia, at Eleven o'clock on Friday the 22nd day of September, 1899, to testify and the truth to say on behalf of the defendants, Ames & Burk in a certain matter of controversy in our said Court depending and undetermined between W. L. Royster Plaintiff and the Farmers Bank of Nansemond and Ames & Burk Defendants and this he shall in no wise omit under penalty of \$20. and have then and there this writ.

WITNESS, D. S. Phlegar, Notary Public at Norfolk,

Virginia, this 19th day of September 1899.

L. B. Thayer.

NOTARY PUBLIC

W. H. H. H.

Executed Sept 20th 1838
by delivering a copy of this
'Sum' to William Shand
and paying him \$1.50 ^{amount}
for mileage sent by Henry

W. H. H. H.
Sept.

The Commonwealth of Virginia ;

To the Sergeant of the City of Norfolk, Virginia;

You are hereby commanded in the name of the Commonwealth of Virginia to forthwith summon Nathan Metzger if to be found in your bailiwick to appear before me, J. Walter Hosier a Notary Public, for the county of Nansemond, in the State of Virginia, at the office of R. H. Rawles, in the Boothe Building on Washington Square in Suffolk, Virginia, on Monday the 3rd day of April 1899 at eleven O'clock A. M. to testify and the truth to say in behalf of W. L. Royster in a certain suit in equity depending in the Circuit Court of Nansemond County, Virginia, wherein said W. L. Royster is plaintiff, and Ames & Burk are defendants; and this the said witness will in no wise omit in the penalty of twenty (\$20) dollars; and have then and there this summons together with how you have executed the same. Given under my hand this 29th day of March 1899.

J. Walter Hosier
Notary Public

To the Honorable Robert R. Pientis Judge of the Circuit Court of Nansemond:

The undersigned respectfully begs leave to report to your Honor that the above named witness Nathan Metzger failed and refused to obey the said summons and failed to attend and give his testimony. I am informed that the reason he gave for not attending, was that he had private business of his own to attend to.

Respectfully submitted

J. Walter Hosier
Notary Public

Original.

Return to
R. H. Rawles
Suffolk Va

Execution in the
city of Norfolk on
the 30th day of March
1899. by serving a copy
here of on William
Metzger

J. H. Rawles Surg
City of Norfolk
by C. L. Zimmerman
Surg

Sergts for pair
C. L. Zimmerman
S

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

The Farmers Bank of
W H Jones Jr Cashier & Bank of W
W H Burk member of the firm of Ames
& Burk.

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held
for the said Court, on the *first* Monday in *December 1898* answer
a Bill in Chancery, exhibited against *them*
in the said Court by *W L. Register*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *3rd* day of
December, 189*8*, in the 12*th* year of the Commonwealth.

A copy—Teste:

Teste:

, CLERK.

, CLERK.

on the motion of the Complainant H. L. Royster an injunction is awarded him to enjoin and restrain the said Ames & Bank their agents or attorneys from taking any legal steps to collect the check of \$110 mentioned in the bill in this case until the merits of the case can be inquired into by this Court: and to enjoin and restrain Wm Jones Jr Cashier of the Farmers Bank of Nausemond from paying the said check and to enjoin and restrain the said Farmers Bank of Nausemond from paying the said check until the facts stated in ^{the} bill can be inquired into by this Court but the said H. L. Royster is not to have the benefit of this injunction until he or some one for him enters into bond in the penalty of \$500 before the Clerk of this Court with security deemed sufficient by the said Clerk of this Court with covenanted to pay to the said Ames & Bank all such costs as may be awarded against him and all such damages as may be incurred in case the injunction shall be dissolved

Robert R. Prentiss

to the Clerk of the Circuit Court of Nausemond County
a copy

Teste: A. D. Gomer Clerk

R. H. Rawles

p. q.

W. L. Royster

vs. } In Chancery.

The Farmers Bank of Nausemond
Ames & Bank

18

Rules.

Monday.

Nausemond Circuit Court.

Process Book No. -----

Page -----

I A. D. Gomer Clerk of the Circuit Court of Nausemond County do hereby Certify that the bond required in the above injunction has been given with security deemed sufficiently me.

1898 Decr 3rd.

A. D. Gomer Clerk

Executed by delivering a true copy of the within to Wm Jones Jr Cashier of the Farmers Bank of Nausemond and Edward E. Hollaway President of said The Farmers Bank of Nausemond each in person.
Decr 3rd 1898.

R. E. Voflick Deft
For A. D. Gomer Stff

CHANCERY SUMMONS.

The Commonwealth of Virginia,

Sergeant the City of Norfolk
TO THE ~~SHERIFF~~ OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

The Farmers Bank of Nansmond
Wm. Jones & Cashier & Bank of W
Wm. Burk member of the firm of
Ames & Burk

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held
for the said Court, on the *first* Monday in *December 1898*, to answer
a Bill in Chancery, exhibited against *them*
in the said Court by *W. L. Royster*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *3rd* day of
December, 189*8*, in the 12*3rd* year of the Commonwealth.

A copy—Teste:

Teste:

CLERK. }

CLERK.

On motion of the Complainant W L Royster an injunction is awarded him to enjoin and restrain the said Ames & Bank their agents or attorneys from taking any legal steps to collect the check of \$110. mentioned in the bill in this case until the merits of the case can be inquired into by this Court; and to enjoin and restrain W H Jones Jr Cashier of The Farmers Bank of Nausemond Bank of Nausemond from paying the said check until the facts stated in the bill can be inquired into by this Court; but the said W L Royster is not to have the benefit of this injunction until he or some one for him enters into a bond in the penalty of \$50 $\frac{1}{2}$ before the Clerk of this Court with security deemed sufficient by the said Clerk of this Court conditioned to pay to the said Ames & Bank all such costs as may be awarded against him and all such damages as may be incurred in case the injunction shall be dissolved.

To the Clerk of the
Circuit Court of
Nausemond County A Copy Test:

Robert R Prentiss

A. P. Gomer Clerk

I A. P. Gomer Clerk of the Circuit Court of Nausemond County do hereby Certify that the bond required in the above injunction has been given with security deemed sufficient by me.

1898 Decr 3rd

A. P. Gomer Clerk

R. N. Rawles p. q.

W L Royster

v.s. } In Chancery.

The Farmers Bank &

Ames & Bank

18----

Rules.

Monday.

Nausemond Circuit Court.

Process Book No.-----

Page-----

Executed in the City of
Norfolk on the 5th day
of December 1898 by
deposing a copy here of
with all other papers
in connection therewith
endorsed to W H. Bank
the said W. H. Bank
being a member of
the firm of Jones &
Ames and W H Bank
partners during business
under the firm name
of Ames & Bank

J. T. Lawler Deputy
Clerk of Norfolk Co
by C. L. Greene Deputy

Sent to for 5000 fines
C. L. Greene

Know All Men by These Presents, That *we, I William L Royster*

am
~~are~~ held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of *Fifty* DOLLARS, to the payment whereof, well and truly to be made to the said Commonwealth, we bind ourselves, and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

And we waive the benefit of our exemption as to this obligation, and also waive any claim or right to discharge any liability to the said Commonwealth arising under this bond, or by virtue of the office, post or trust herein mentioned, with coupons detached from bonds of said Commonwealth.

Sealed with our seals, and dated this *3rd* day of *December* in the year of our Lord one thousand eight hundred and *ninety eight*, and in the *123rd* year of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas *an* *injunction is this day awarded against the defendants The Farmers Bank of Nansemond* *W L Jones Jr Cashier of S Bank of W L R Bank member of the firm of Ames & Burke on a bill in chancery filed in vacation in the Circuit Court of Nansemond County in the case in chancery between W L Royster Complainant and said The Farmers Bank and others defendants to enjoin and restrain the said Ames & Burke their agents or attorneys from taking any legal steps to collect the check of \$110 mentioned in the bill in this case until the merits of the case can be enquired into by this Court, and to enjoin and restrain W L Jones Jr Cashier of The Farmers Bank of Nansemond from paying the said check and to enjoin and restrain the said The Farmers Bank of Nansemond from paying the said check until the facts stated in the bill can be enquired into by this Court, but the said W L Royster is not to have the benefit of this injunction until he or some one for him enters into a bond in the penalty of \$50 before the Clerk of this Court with security deemed sufficient by the said Clerk of this Court, conditioned to pay to the said Ames & Burke all such costs as may be awarded against him and all such damages as may be incurred in case the injunction shall be dissolved,*

W L Royster
Certified Check of \$50.
Deposited in Farmers
Bank and Certificate
taken by A D Gomer Clerk
Deposited as Security in this cause

SEAL

SEAL

SEAL

SEAL

SEAL

In the office of the Clerk of the *Circuit* Court of Nansemond County, on the

3rd day of *December* 189*8*

The above bond was executed and acknowledged by the obligor ~~(the sum)~~ justifying ~~on oath as to~~ sufficiency and recorded.

Teste:

A Copy
Teste: *A D Gomer Clerk*

A D Gomer

CLERK.

W L Royster
To } Injunction
Bond
The Commonwealth.

1898
Decr 3rd

Recorded in Official
Bond Book No 1
Page 174

A Copy
Royster vs James RR &c

Certificate of Deposition taken and Book filed
in place See Original Bond.

W. L. Royster

v

Ames & Bank

{ In chancery.

By consent of all parties to
this suit both plaintiff and
defendants it is ordered that the
papers in this cause may be
^{submitted}
~~presented~~ to the judge of this
~~for such decisions and~~
~~court in vacation~~ for such
decision or ^{decreed} ~~order~~ ^{in vacation,} ~~therein~~ or
might ~~be~~ ^{be} made in
term, and that a final decree
may be entered in vacation.

We consent to this
deed.

R. H. Rawles
att. for plaintiff

John Deukins

att. for

Defendants

Ames & Burr

E. E. Stace and

att. for

Former Bank of Hanscom

Enter Apr. 11, 1899

Robert M. Mearns

Entered in Chancery

OB 3 Page 200

BRIGGS HOTEL,
NUNN & PAYLOR, PROP'RS.

WILSON, N. C., April 4 1899.

Mr. R. H. Rawls
Dear Sir:

Your letter to Norfolk
address was forwarded to me here.
Your suggestions in reference to my
arrival etc on 8th inst. are very satis-
factory to me. You may expect me at time named.
Yours truly
Nathan Metzger

N. & B. F. Metzger,
 Wholesale Dealers in
 Tobacco, Cigars and Snuff,
 208 Water St. and 68 Roanoke Ave.

Norfolk, Va. April 2nd 1899

Mr. R. H. Rawls;

Dear Sir:

I find that a business matter of financial importance compels me to leave for North Carolina Monday morning, and failure to do so will be seriously embarrassing to my business interests. You will confer a favor by postponing my Examination until Saturday morning April 8th. I did not know until I received my mail, that I would be prevented from attending on April 3rd. I tried to reach you by phone today but ^{could not} ~~cannot~~ do so. I hope you will give this your attention and accommodate me in this matter. Thanking you in advance
 Yours truly Nathan Metzger

Mr. Jenkins; - I rec'd this
after you left. I have
written Mr. Metzger to
come Saturday the 8th by
all means, so I will
have to ask you to
be here again on that
day. If you will come
up on the early Norfolk &
Western Train that morning
we will finish in time
for you to return on the
10:52 A.M. train on
some road.

Reacher here 8:24 a.m.
Leave " 10:52 a.m.
Will be ready to go right to
work.

Very Truly
R.H. Rawles

STENOGRAPHER'S TRANSCRIPT.

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STENOGRAPHER'S MINUTES.

CIRCUIT COURT NANSEMOND COUNTY, VA.

W. L. Royster

Before

vs.

D. S. Phlegar, Notary Public,

Farmers Bank of Nansemond, and
Ames & Burk.

Depositions.

Norfolk, Va., September 22, 1899.

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WITNESSES.	DIRECT.	CROSS.	RE-DIRECT.	RE-CROSS.
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MONTROSS, CLARKE & EMMONS, 51 NASSAU ST., N. Y.

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

Q. Give y ur name, age, residence and occupation? A. Name, William Shands; age, 37; residence, Courtland, Virginia; pro-
fession, lawyer and also farmer. I know Mr. Royster and Mr. Burk, parties to this suit.

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

Q. Did you have any interview or conversation with Mr. W. L. Royster early in the month of November, 1898, relative to the purchase of a piano, and if so, please state the substance of the interview? A. On election day, November, 1898, I came from Belfield, where I had been attending to some business, on the Atlantic & Danville morning train, getting to Suffolk somewhere about nine or ten o'clock in the morning, and went back to the market to purchase some oysters for my father, and coming back I saw Mr. Royster standing in front of the City Hall talking with some gentlemen, and I approached him and engaged in conversation with him myself and asked him in regard to a piano, he having formerly approached me in regard to selling me a piano, an Everett piano. We got to talking over it, and I was speaking about the prices of pianos, and what were the prices, and Mr. Royster informed me that the Everett piano, which I had taken a fancy to, and which he had been repeatedly trying to sell me, had either gone up in price or prices soon would be raised, and that he doubted if Mr. Burk would handle it any longer, and also, if I mistake not, that the mandolin attachment, which I wished, would be or had been discontinued from the piano; that after a while he would be with some house in Richmond, if I mistake not Moses & Co., which was a larger house than Mr. Burk's or as large, and if I would wait that he might be able to offer me better inducements in regard to the purchase of a piano or the exchange of my old one for a new one. I think I replied to him that I would be glad to hear from him

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

in regard to it, or something to that effect.

Q. Did I understand you to say that this conversation took place in the early part of November 1898? A. It took place on election day. I am certain of that because I came from Belfield that day; on that morning Mr. Royster was standing in front of the City Hall.

Q. What election? A. In which Mr. Holland and Mr. Wise and Mr. Young ran for Congress.

Q. That was early in November? A. It was election day. The date of it I don't know; it was the Tuesday after the first Monday, about the sixth or seventh..

Q. I think that is all. A. I would like to make another statement. I should state that the reason of my approaching Mr. Royster in regard to the piano was that he had sold one in the place to Mr. Hart, the Everett piano with which I was very much pleased, and so was my wife, and having been trying to sell me a piano of that make before was the reason of my approaching him at this time.

Q. At the time of this interview on the 6th or 7th of November, 1898, did Mr. Royster suggest to you any other make or style of piano as he would recommend you to purchase?

A. My recollection is that Mr. Royster stated to me that the Hardiman piano was equally as good a make and contained the same attachment that I desired as the Everett, and he thought it could be sold to me at a less price than the Everett could be.

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

CROSS EXAMINATION

By Mr. Holland:

Q. At the time of the conversation on election day I understand that Mr. Royster had repeatedly tried to sell you an Everett piano for Messrs. Ames & Burk. Is that correct?

A. That is correct.

Q. Had you not declined to buy the Everett piano? A. Yes sir, I stated to him that I was not then in a position to pay the price which he demanded for the piano, and hence did not care about buying at that time, but would consider it, and if I decided to buy it would talk to him further about it later.

Q. Is it not a fact that Mr. Royster had faithfully tried to sell you an Everett piano repeatedly, and that you had declined to buy for reasons given, and would you consider it unfaithfulness on his part to talk with you about another piano under those circumstances? A. It is a fact that Mr. Royster had repeatedly approached me on the subject of buying a piano, and tried to sell me one, and I declined, as above stated, and so far as I know he used such inducements as he could to make me buy, and when this conversation took place in Suffolk I regarded Mr. Royster as trying to give me an inducement that would be to my benefit in buying a piano - or giving me information that would be to my benefit in buying a piano.

Q. I understand that this conversation at or near the City Hall, in Suffolk, on election day, was begun by your approaching Royster and making inquiry about pianos, and not by his com-

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

ing to you? A. That is correct, because when I first spoke to Mr. Royster I did not think he knew who I was as he was near-sighted.

Q. Did you in the year 1898 buy from Messrs. Ames & Burk a piano? A. I did, sir, some time in December, 1898, the exact date I don't recollect. I don't think I paid for it until later. I received the piano some time in December, 1898, and paid for it later.

Q. Did any other person or agent except Royster seek to sell you that piano before it was shipped? A. Yes sir.

Q. Do you remember who it was and when he saw you? A. Miss Ferguson, representing Ames & Burk, came up to my house, I think, after she had written to me stating that she had directed an Everett piano to be shipped to me on trial, and asking me had I received it. I told her I had not. Then she said it must have been a mistake about shipping it or a delay, and she would return to Norfolk and see about it, and if it had not been shipped would I consent to having it shipped and placed in my house on trial. I told her I preferred if it had not been shipped that she would wait until I could go down to Norfolk with my wife, whom I was buying the piano for, and let her examine not only that piano but other pianos before we made any selection if we made any at all. She remarked to me that if it had already been shipped before she got there would not I examine it, and I said I would but would not assume any responsibility at all in regard to it.

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

Q. You have bought a piano from Ames & Burk, and you were induced to do so as you have stated. Is it not a fact that W.L. Royster contributed mainly or largely to that inducement?

A. The sale of the Everett piano which Mr. Royster made to Mr. Hart, in Courtland, was the first thing that called my attention to the piano, and Mr. Hart being greatly pleased with it, and my wife who examined it likewise, was the result of having my attention called to it, and from that the sale really resulted.

Q. Can you state, Mr. Shands, when Messrs. Ames & Burk first learned any thing about the conversation had in Suffolk between you and Royster?

A. I don't know exactly how Mr. Ames heard that Mr. Royster had had any conversation with me or had been trying to make any sale for another house with me, but he asked me something in regard to it, and I told him frankly what it was, as near as I could recollect.

Q. Well, do you remember the time that was, or any thing about it?

A. After Mr. Royster and him had had a disagreement in regard to the check.

Q. It was after Mr. Royster and Burk & Ames had had a disagreement about a check?

A. If I mistake not. I think it was afterwards.

RE DIRECT EXAMINATION

By Mr. Jenkins:

Q. Mr. Shands, you were induced to purchase the piano from Ames & Burk by the intrinsic merits of an instrument of the same

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

make which you saw at Mr. Hart's house in Courtland?

A. That is right; and by Mr. Royster, the agent who sold it, had called my attention to it. I did not mean that Mr. Royster himself was the sole cause of my buying it for I had not considered the instrument only that it pleased me.

By Mr. Holland: And Mr. Royster calling your attention to its intrinsic merits? A. He told me.

By Mr. Jenkins: But on November 6th or 7th, Mr. Royster, as I understand, told you if you would wait until after his employment by Ames & Burk was over that he could sell you a Hardiman piano at a lower figure? A. The answer I gave in my examination in chief stated my recollection of my conversation with Mr. Royster and his with me in regard to the instrument, and I would state further that although I liked the Everett piano neither Mr. Royster nor Miss Ferguson could have made the sale to me unless the price had been one that I would deem satisfactory and that I could meet.

-----O-----

W. H. BURK, one of the defendants, sworn,

Examined by Mr. Jenkins:

Q. Give your name, age, residence and occupation?

A. W.H.Burk; 303 Lovitt Avenue; I am a member of the firm of Ames & Burk, defendants in this case; and I am in my 40th year.

Q. Mr. Burk, was Mr. W.L.Royster, the plaintiff in this suit, in your employment in the year 1898? A. Yes sir.

Q. When did his employment terminate? A. The first day

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

of December 1898.

Q. When did you have a final settlement with Mr. Royster, that is pay him for the balance of his salary due according to contract? A. That I did not do. Miss Wall attended to that.

Q. Your book-keeper? A. Yes sir, the book-keeper.

Q. What date was that? A. That I could not tell without referring to the stub of the check and referring to his salary account.

Q. In your answer filed in this case you state that that was on the 28th of November. (Here the answer of Ames & Burk is shown the witness). Would you have signed that answer unless the dates in there had been correct? A. No sir.

Q. What is the date? A. The 28th day of November.

Q. After you had paid him his wages which would be due for the month of November did you learn the facts which made you think Mr. Royster had not faithfully performed his duties to you, and if so, what were those facts? A. Well, after I had paid him it was in this way. Miss Wall - I was in hopes when I came back that Royster would be there, but he made a settlement with Miss Wall.

Q. Just go ahead and tell what facts - - A. And when I came back he had gone, but I had told Miss Wall that I was going to have a settlement with him that afternoon, and had he not gone I was going to get after him about this business.

Q. The settlement was made then by your book-keeper?

A. Yes sir.

Q. Before you knew of it? A. Yes sir.

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

Q. What facts made you think Mr. Royster had not been - -

Witness: I want to tell you one thing: I don't want you to snicker (addressing remarks to plaintiff).

Q. What facts did you learn? A. Well, I learned through Miss Ferguson, after sending her up to see Mr. Shands, that - Miss Ferguson, rather, saw a letter addressed to Mr. Royster and in the course of the conversation, from what I can learn from Miss Sallie, in the course of the conversation she said Why it is queer that Mr. Royster should be trying to sell you a piano for another house when he is in our employ.

Q. You have not stated with whom that conversation occurred?

A. The conversation occurred between Miss Ferguson and me.

Q. I want the deposition to show how you came to find out that Mr. Royster had been unfaithful? A. Well, I learned that through Miss Ferguson. Then I telegraphed Mr. Royster to come down here.

Q. What did you learn through Miss Ferguson? A. I learned through her that Mr. Royster was trying to sell them a piano for a competitive house in Richmond whilst in our employ.

Q. Who was he trying to sell the piano for - the competitive house? A. Walter D. Moses & Co.

Q. What did you do after you learned that? A. Well, I got hot.

Q. What steps? A. I came over here and asked you if there wasn't something, some redress for a man who had been treated in that way. You told me that unfortunately the only thing I could do would be to sue him. Then I asked you if I could not

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STENOGRAPHER
NORFOLK, - - VIRGINIA.

take matters in my own hands.

(Counsel for the complainant excepts to so much of the answer as relates to hearsay and the conversation with his counsel).

Q. Then what did you do next? A. I telegraphed to Mr. Royster to come down to Norfolk, I had some business with him.

Q. Did he come in response to a telegram? A. Yes sir, to my astonishment.

Q. On what date did Mr. Royster come to see you in response to the telegram? A. Sometime in December, I don't just remember the date.

Q. Where did he see you? A. In the office or rather in the store.

Q. Was your conversation as pleasant and amicable - -

Counsel for the complainant excepts to the question as leading.

Q. What was the character of your conversation at the beginning? A. Do you mean as soon as he came into the store?

Q. Yes? A. Well, I told him it was my dinner hour, and he could go out and get his dinner and let the firm pay for it, and that I would talk to him as soon as I returned from my dinner.

Q. Did Mr. Royster come back after dinner? A. Yes sir.

Q. And did you have an interview with him? A. Yes sir.

Q. What proposition did Mr. Royster make to you in the course of that interview? A. Well, I accused Mr. Royster of trying to sell a piano to Mr. Shands, and he denied it.

Q. Had he made any proposition to you before you made that

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accusation? A. Yes sir.

Q. Please state what that proposition was? A. He was very anxious to still remain in our employ at a reduced salary.

Q. Did he make any proposition? A. Yes sir, that he would work for ten dollars a week.

Q. Did he make any proposition or suggestion that he might be able to do some work for you while in the employment of some one else? A. Yes sir, yes sir.

Q. Please state what that proposition was? A. The proposition was that in a certain part of North Carolina - the territory of right belonged to us for the Knabe piano - that he might be able to place some Knabe pianos for us on the outside on a commission basis. I said "Royster" - - Do you want the vigorous language left out?

Q. Leave out any profanity. State the substance of the interview? A. "No body but a scoundrel would make any such proposition as that".

Q. What else did you say to him? A. Well, then I told him about this Shands business.

Q. Please explain what that was? A. That he was trying to sell Mr. Shands a piano for a rival house whilst receiving his pay and traveling expenses from us and while in our employ.

Q. Did he admit this accusation? A. Yes sir, afterwards.

Q. Did he admit it at first? A. No sir; no sir. He lied to me at first.

Q. Did he admit it afterwards? A. Yes sir.

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Q. What demand did you then make upon him in view of this fact?

A. That I wanted my money back for the month of November, that it was the only month that he had ever been with us that he had not made a sale.

Q. What did you estimate to be the amount of his service and traveling expenses? A. \$110.00.

Q. Well, did he accede to that demand? A. Yes sir.

Q. Did he write a check for the \$110.00? A. Yes sir.

Q. I hand you a check marked Exhibit A with the deposition of W.H.Burk. Is that the check? A. Yes sir, that is the check he wrote. I recognize the hand writing.

Q. Mr. Royster has stated that you threatened to arrest him and have him put in jail, and that this was the only inducement which made him sign this check. A. He dreamed that.

Q. Please state whether any such threats were made? A. The only thing in that connection was that I said to Mr. Royster, I said, "For a man who is active like you have been, and who was as good and kind to you as I have been, ought to be put in jail!" His reply was, he says, "Mr. Burk, you would not have me arrested would you?" I said "I should like to very much, but I have consulted very good legal advice and find that I can not".

Q. Mr. Royster has said in his testimony that you stationed one man in one place and another man in another place, and seemed to have a guard around him. Did you give any such orders as that? A. (Laughter) Great balls of snow! No. No sir.

Q. Who was in the store at the time of this interview?

A. Henry Halstead and William Smith.

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Q. Did you leave the store at any time during the interview?

A. No sir; no sir.

Q. Did any one else happen to be in the store at any time?

Objected to as leading.

Q. Did any one else come into the store? A. During the time he was there?

Q. During the interview? A. Mr. Bilisoly came in.

Q. Who is he? A. He is a friend of mine.

Q. Where does he live? A. He lives in Portsmouth.

Q. What is his business? A. He is in the milk business.

Q. How did he happen to drop in? A. Just casually.

Q. Had you sent for him? A. No sir; no sir.

Q. Was he there by request? A. No sir; no sir.

Q. What was the consideration for the \$110 check which Mr. Royster signed and gave to you? A. The consideration? I think that Mr. Royster, according to his own statement, had signed a contract with Walter D. Moses & Co., of Richmond, which was to go into effect in a very few days after my interview with him. I told Mr. Royster that if I did not get the money that was honestly due me that Mr. Walter Moses was a very dear friend of mine and that I should acquaint him with the facts.

Q. Do you think that was the principal inducement that made Mr. -- A. I would not be much surprised if that had a great deal to do with it.

Counsel for the complainant excepts to the question and answer for reasons apparent of the face.

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Q. Did Mr. Bilisoly remain in the store? A. A very short while.

Q. A very short while? A. Yes sir, I suppose ten or fifteen minutes he was in there. He was waiting for me to get through. I told him when he came in that I would be done in a few minutes.

Q. After the check was signed and given to you where did you and Mr. Royster go? A. Went to the Citizens Bank in company with Mr. Bilisoly.

Q. Did Mr. Royster acknowledge his signature there?

A. Yes sir.

Q. Before whom? A. Before Mr. Tilghman, the paying teller.

Q. What did you ask Mr. Tilghman to have done with the check?

A. To have it certified. He asked Mr. Royster if that was his signature; Mr. Royster acknowledged it, and then Mr. Tilghman went to the phone, called up the Bank of Nansemond, and they said all right.

Q. Mr. Burk, how long have you handled the Everett piano? with mandolin attachment? A. Ever since it has been made.

Q. Did you ever contemplate ceasing handling that piano?

A. No sir. I would have been very foolish to have done anything like that. I have advertised it ever since it - - -

Q. Did you ever handle the Hardiman piano? A. No sir.

Q. Mr. Royster says that you told him that you had a man stationed at the Norfolk & Western depot ready to arrest him. Please state if you made any such - - A. No sir.

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Q. Did you, after Mr. Royster left your employment, sell an Everett piano with mandolin attachment to Mr. Shands of Courtland?
A. Yes sir.

CROSS EXAMINATION

By Mr. Holland:

Q. Mr. Burk? can you explain why it was that in the beginning of your examination, and before you were asked a question, you did with great gusto proceed to tell W.L. Royster not to snicker while you were giving in your testimony, and that during your examination when your counsel would read or state ~~xxx~~ statements made by W.L. Royster on oath you would yourself proceed to snicker quite vigorously?

Question objected to as immaterial.

A. Well, the only way that I can answer that is that I just did not like his snickering.

Q. Do you suppose he liked your snickering?

Objected to for the same reason.

A. Probably not.

Q. Is it a fact, Mr. Burk, that if you had been present when the book-keeper settled with Mr. Royster that you would have raised the questions which you raised in December, as stated by you in your answer - December 2, 1898?
A. The only thing I can say about that is when I came back and found that Miss Wall had settled with Mr. Royster I was very sorry because I had a little score to settle with him.

Q. Was that score the same one you had with him four days

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afterwards? A. Yes sir.

Q. Are you not mistaken about that, Mr. Burk? A. No sir.

Q. Then when the settlement was made, as you state in your answer to be on the 28th day of November, 1898, you knew all the facts that you knew on the second day of December, 1898?

A. I was waiting to hear from Mr. Shands in regard to it.

Q. Then you did not know when you settled what you knew on the second day of December, 1898, as you have just stated?

A. Only know this, what Miss Ferguson had told me in regard to a letter being addressed to Mr. Royster in Suffolk, and what Mrs. Shands had told her.

Q. Do you not know that Miss Ferguson had never seen Mrs. Shands on the second day of December, 1898? A. That I don't know, sir.

Q. Do you not know that the conversation which Miss Ferguson related to you took place long after the second day of December 1898? A. No sir.

Q. Was it not after December 2nd, 1898, that Miss Ferguson went to Mr. Shands' house? A. Miss Ferguson was at Mr. Shands' house some time in November.

Q. Do you mean in reference to the sale of a piano?

A. Yes sir.

Q. Why did you have two canvassing agents in that vicinity at the same time? A. Because I was suspicious of Mr. Royster.

Q. Then your suspicions had been aroused before you settled on the 28th day of November, 1898? A. No sir, not to that

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extent. Shall I tell you why my suspicions were aroused?

Q. I would like to get you to answer these questions.

What information did you get between the 28th day of November, 1898, and the 2nd day of December, 1898? I am not asking for information received at any other time? A. The only information I got was through Miss Ferguson, and a personal interview with Mr. Shands.

Q. Mr. Shands says that your interview with him was after the difficulty about the check. Now will you please state when you got some information from Miss Ferguson? A. No sir. I will tell you where I got it from Mr. Shands: at the Business Mens Association in an interview before Mr. Royster left our employ.

Q. Then you had it straight from Mr. Shands himself before Mr. Royster left your employ? A. How is that, sir?

Q. Then you had it straight from Mr. Shands himself before W.L.Royster left your employment. Will you please state how long before he left you, as nearly as you can? A. That I can't tell you with any degree of accuracy. I do not just remember the date of the interview I had with Mr. Shands, only I told him it was disgusting to me.

Q. You said awhile ago that you told your book-keeper - - -

A. - That I was sorry she settled with Mr. Royster.

Q. That you were sorry she settled with Mr. Royster for you had a score to settle with him or to bring up before him?

A. Yes sir.

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Q. Did you allude to the information which you had received from Shands and others? A. No sir. Must I give you the nature of the score?

Q. Yes sir, please do so, fully? A. All right. We have a postal card system that our traveling men are requested to mail us every day. They are addressed postal cards. Not having gotten any of these during November from Mr. Royster and not hearing from him with any sales my suspicion was aroused to the extent of sending Mr. John B. Everton, one of our employees or rather canvassers to Suffolk to ~~have~~ find out whether Mr. Royster was in Suffolk or on the road traveling, where he ought to have been. This was about the middle of the week. He found Mr. Royster at home. That is what I desired to see Royster about before making a settlement with him.

Q. What month was that? A. That was in November, sir.

Q. The first part of November, or the latter part? A. That I can't just tell you. If I mistake not about the first or second week in November - somewhere near the middle as far as I am able to remember.

Q. Then you had not heard any thing of the Shands affair up to the time your book-keeper settled with Royster? A. Yes sir.

Q. What had you heard and how as to the Shands affair?

A. Heard it through Miss Ferguson.

Q. Before the day she settled with him? A. Yes sir.

Q. But you had not heard it from Shands himself at that time?

A. I do not think I had at that time. I am not just correct

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on the date.

Q. You say in an answer filed in this case which you admit signing that "before December 1st, 1898, to-wit, on November 28th, 1898, the said respondents not knowing that said complainants (meaning W.L.Royster) had been unfaithful to them had paid to said complainant all that was due him under his contract of employment". Can you reconcile that quotation from your answer with the different statements you have made today, and if so, please do so? Remember at the same time that the oath you have taken here is to tell the truth the whole truth and nothing but the truth, and that it does not require or ask for hearsay statements on your part? A. I think all I can say is that had I been there when a settlement was made with Mr. Royster he would have heard from me in regard to what I did afterwards.

Q. Were you not at your store or office during a part of the same day on which day the settlement was made with Royster by your book-keeper? A. Yes sir, in the morning, the morning part of it.

Q. You knew that a settlement would be made that day and had something to say to the book-keeper in reference to the settlement? A. Yes sir.

Q. When did Mr. Royster leave your employment? when you settled with him or sometime later? A. His contract expired with us on the first day of December, 1898. We had a yearly contract with him.

Q. Did you not consider that he had left you when you settled

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with him? A. No sir; no sir.

Q. Then his contract expired, to be perfectly accurate, at midnight on the 30th day of November, did it not? A. Yes sir.

Q. And after the settlement was made there were only two more days in which he was in your employ? A. Yes sir.

Q. During those two days did you see Mr. Shands? A. I saw Mr. Shadds shortly after that. I don't remember just the date.

Q. You said just now in speaking about the inducements for making the check that Mr. W.L. Royster was anxious to work for you at a reduced salary? A. Yes sir.

Q. Offered to work as low as ten dollars per week? A. Yes sir.

Q. And that he told you in the same conversation that he had signed a contract with Walter D. Moses & Co - - A. No sir, he didn't tell me that. He told my employees that he had signed a contract with Moses & Co.

Q. Don't you remember in your statement in your direct examination in reply to questions asked by Mr. Jenkins that you did say that Royster informed you that he had signed a contract with Walter D. Moses & Co? A. Mr. Royster did not inform me. My employees informed me about it, and I asked him about it.

Q. What did he say on that occasion? A. He told me on that occasion when he made the proposition to sell Knabe Pianos on a commission in our territory - I then asked him if it were true that he was going to work for Walter D. Moses & Co, and he told me yes, that his contract had been signed. Then I asked him why it was that if he had signed a contract with Walter B.

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Moses & Co., at a very much better salary, why it was that he desired to work for us at a reduced one. His reply was that he did not think it looked well to be changing. Then he asked me why it was that I would not keep him. I told him he need not ask me any such question, that his services for the last year were entirely unsatisfactory.

Q. Then, Mr. Burk, if his services for a whole year had been entirely unsatisfactory, how is it possible that you could say in writing, under your own signature, that on the 28th day of November, 1898, you did not know that W.L. Royster had been unfaithful to you? A. Have I got that down there?

Q. I want to show it to you.

A. (Witness examines the answer) I don't know how that ever cropt in there, else I did not read it, because I could not have said that truthfully.

Q. When and where did you sign that answer? A. I think it was up herein this office.

Q. Were you then excited? A. Well, I have been hot over the thing ever since.

Q. Were you specially hot when you signed this answer?

A. I suspect I was.

Q. Did you not read it? A. I don't think I read the whole of it, not to place any valuation upon the expressions in it.

Q. You knew that Mr. Royster had filed a bill against you?

A. Yes sir; yes sir.

Q. You had read it or a copy of it? A. Yes sir.

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Q. You knew it contained serious charges against you?

A. Yes sir.

Q. And you were willing to sign an answer to it without understanding the expressions or facts therein stated. Is that true?

A. I reiterate what I said just a moment ago. I read that document and had I known that the word unfaithful was in there I think I should have objected to it. I know that I should have objected to it.

Q. Did you not threaten to have W.L.Royster arrested?

A. No sir.

Q. You did not say any thing about having him arrested at any depot? A. No sir.

Q. You told him that he could not be arrested? A. Yes sir.

Q. That you had sought legal advice, and that your legal advice was that he could not be arrested? A. Yes sir; yes sir.

Q. What did you mean awhile ago, Mr. Burk, when you said you asked Mr. Jenkins if you could not take the matter in your own hands? A. I meant by that that I was going to thump him.

Q. Did you thump him? A. No sir.

Q. Did you say any thing about thumping him? A. Yes sir.

OBJECTED to on the ground that it tends to contradict the testimony of the plaintiff who has stated in his deposition that there were no threats of violence, and that the only inducements which led him to sign the check for \$110.00 were threats of arrest and imprisonment.

Q. Did you threaten to thump him? A. Yes sir.

OBJECTED to for the same reason.

Q. Was he badly frightened? A. Well, I don't know when he is ever frightened. He is always in a nervous condition.

Q. Did you not go to Suffolk on the occasion when Mr. Metzger testified in this case? A. No sir.

Q. Were you in Suffolk at the time that W.L.Royster deposed in this case? A. Yes sir.

Q. Did you not on that occasion tell Judge R.H.Rawles that W.L.Royster was very badly frightened when he signed the check? A. No sir.

Q. And that you did not believe he knew whether he was in Suffolk or Norfolk? A. No sir.

Q. Here the witness is put on his guard and asked to be careful in answering. A. Yes sir, I will. I told Judge Rawles that he was the most nervous man that I had ever seen. Judge Rawles remarked that when he came to Suffolk that he looked like a frightened man.

Q. You then deny stating to Judge Rawles on that occasion that W.L.Royster was very badly frightened when he signed the check?

A. I think Judge Rawles has not quoted me correctly.

Q. You then further deny that you stated to Judge Rawles on that occasion that W.L.Royster was so very badly frightened that he didn't know in your opinion whether he was in Norfolk or in Suffolk? A. I said to Judge Rawles after the deposition had been taken that Mr. Royster was a very nervous man. Judge Rawles remarked that when he came to Suffolk he looked like a

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frightened man. I remarked to the Judge that I guess he did not know whether he was in Suffolk or Norfolk.

Q. Is it not a fact that you instructed Miss Wall to give Mr. W.L.Royster a check? A. Mr. Royster approached me and said if he could get a settlement, and I told him yes he could get a settlement, and I would tell Miss Wall about it, but before I got back Mr. Royster had left, and he had gotten his settlement.

Q. Was he paid in money or by check? A. That I could not tell you, sir. I don't just remember how she did pay him. Sometimes I guess he got money and sometimes he got a check. As a rule when he came to town he would get it in money, or if we sent it to him up to Suffolk, which we did as a rule, we did by check.

Q. If he was paid on that occasion by check did you not sign the check? A. No sir. If I did I don't remember. I may have signed it, and I may not. As a rule she did that part of it. She had a power of attorney.

Q. If she signed under a power of attorney did not the check show on its face that she so signed it? A. Just ask that over again, Mr. Holland.

Q. (Question is read). A. That is always; that is a rule, I think. Is it not a law that they have to sign their name, M.B.Wall?

Q. Have you not that check in your possession? A. That I could not tell you. I may have it and I may not. I could look it up, but as a rule checks that are paid like that, when

they are cashed off, of course some of them are kept, and after a certain time you throw them away.

Q. Did not Miss Wall deliver that check to W.L.Royster in your presence? A. Not that I know of, sir.

Q. Do you not remember that before Miss Wall handed the check on November 28th, 1898, to W.L.Royster that she asked you if she must pay him? A. No sir.

RE DIRECT EXAMINATION

By Mr. Jenkins:

Q. Mr. Burk, counsel for the plaintiff has referred to your answer and to the statements made therein, that you did not know that the complainant had been unfaithful to the firm of Ames & Burk when a settlement was had with him on November 28th, 1898, and further down in your answer you state that "the respondents had decided not longer to employ the plaintiff because his services had not proved profitable or satisfactory to them?"

A. Yes sir.

Q. When you signed that answer was there any distinction in your mind between unfaithfulness and unsatisfactory service?

A. Had I known that unfaithfulness was in there I should not have signed it, because I do not consider that he has been faithful to us.

Q. Might it not have been possible for his services to have been unsatisfactory, and yet for you to have been ignorant of the fact that he had been unfaithful to you?

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Question is excepted to because it is leading and because the witness testified in this regard during his direct examination, and that he should not be cross examined in this regard.

A. Yes sir.

Q. What was the principal fact which made you determine to try to make Mr. Royster repay to you the salary and traveling expenses for the month of November 1898? A. When I discovered that he had been trying to sell instruments for a competitive house whilst in our employ.

Answer excepted to because there is no testimony tending to show that he ever attempted to sell any instrument except to Mr. Shands, and to him only one.

Q. When were you convinced that he had been trying to sell instruments? A. When I saw Mr. Shands.

Q. And when was that? A. I don't just - I just can't figure the date at all, but I saw Mr. Shands after Royster had left our employ. I don't just remember when it was.

Q. What was the act of unfaithfulness that you had reference to in your answer?

Question is excepted to because the witness has repeatedly and distinctly stated that if he had known the word "unfaithfulness" was in the answer he would not have signed it, and has further stated that he could not have signed it truthfully.

(Here the witness is handed the answer).

A. Unfaithful to us by remaining in Suffolk when he ought to have been on the road, and my attention was drawn to this by Mr.

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Nathan Metzger telling me that in an interview with him regarding Royster not having done any business in November.

Q. Was that on a certain occasion he met Mr. Royster?

A. If I mistake not in Kinston, N.C. Mr. Royster complained very bitterly of not doing any business. Mr. Metzger, who is a friend of Mr. Royster, replied, How do you expect to get business and sit in a hotel all day long?

Q. Was not the act of unfaithfulness you had reference to when you signed your answer referred to in a latter part of your answer on the second page? (Answer is shown witness).

Excepted to because it does not relate to new matter brought out on cross examination, and because it is a leading question which puts the answer in the mouth of the witness, and that, too, after having been asked since he has been on the stand as many as three times to read his answer.

A. Yes sir.

Q. Please state what the word "faithfulness" or "unfaithfulness" had reference to in your answer?

Question is objected to because the witness has repeatedly stated that when he signed the answer he did not know the word "unfaithfulness" was in the answer, and if he had known that the word "unfaithfulness" was in the answer he would not have signed it and could not have truthfully signed it, and if these statements be true he can not now explain.

A. Well "unfaithfulness" relates to selling goods for another house whilst receiving his salary and traveling expenses from us

from Ames & Burk.

Q. You have testified on cross examination that Mr. Royster was very nervous when he signed the check? A. He always is nervous.

Q. Was any nervousness or fright that he may have experienced occasioned by threats of arrest or imprisonment? A. No sir.

RE CROSS EXAMINATION

By Mr. Holland.

Q. You said in reply to a question a moment ago "Well, "unfaithfulness" relates to selling goods for another house whilst receiving his salary from us, from Ames & Burk." Do you not know from the sworn testimony of Mr. Shands that W.L.Royster never sold him any goods for any other house? A. That was not Mr. Royster's fault if he did not succeed.

Q. Is it not your fault in once stating in writing that he did sell goods, and then stating upon oath that he did sell goods when you know that you are mistaken? A. I am not mistaken.

Q. You mean that you know that he did sell goods for other houses while in the employment of Ames & Burk? A. That he tried.

Q. You said in your re-direct examination substantially that while you were aware of the fact that his services had not been satisfactory or profitable, still you did not know of any unfaithfulness on the 28th of November, 1898, as stated in your answer; and you stated on cross examination that you did not know the word "unfaithfulness" was in the answer or else you would not have signed it? Is it a fact now that you do remember the word "unfaithfulness" was in the answer when you signed it or not?

A. That I can't tell you.

Q. You can not tell me? A. No, simply from the fact that I see on the opposite page (referring to answer) that in discovering that he was trying to sell pianos for another house, and besides the Hardiman piano, that furthermore that the Hardiman piano has never had a mandolin attachment.

Q. Your answer is not responsive to the question at all. I will repeat it in another form. Will you explain how it is that you can tell what you meant by the word "unfaithfulness" when you signed the answer when you now say you did not remember whether the word unfaithfulness was in the answer or not?

A. No sir, I can not.

Q. Did not you make as much profit on the piano sold to Shands in December, 1898, as if Royster had sold it in November, 1898? A. No sir, but one minute: that was owing - -

Q. Hold on. And if not, what is the difference in profits?

A. Have I got to give any trade secrets away?

By Mr. Jenkins: Yes sir, you must answer Mr. Holland's question.

A. We had to make a reduction on the piano shipped to Mr. Shands on account of its being damaged in transportation.

By Mr. Holland: Is that the fault of W.L. Royster? A. No sir. It is the fault of the A. & D.

Q. And you have or will recover those damages from some transportation company? A. No sir, I had to settle on a third basis. I did not even get a third.

Q. Can you state on oath that you lost as much as ten dollars

by Royster's failure to sell Shands piano which was due to Royster's fault or unfaithfulness? A. Yes sir. Quote me a great big "yes" there, too.

Q. Please explain how much was the difference? A. I am not able to explain the difference from the fact that Mr. Royster had told Mr. Shands that he was going with a larger house and that he could sell him a Hardiman piano which was a better piano than the Everett for less money. In order to combat Mr. Royster's proposition we were forced in order to make the sale to reduce the price of our piano.

Q. Did Royster have the power to compel you to make reductions in the price of your own goods after he had left your employment? A. Yes sir.

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WILLIAM SMITH, Col., on behalf of the defendants, sworn.
Examined by Mr. Jenkins:

Q. What is your name, age, residence and occupation?

A. My name is William Smith; age 27, and I am porter for Ames & Burk.

Q. Were you in their employ in December last? A. Yes sir.

Q. Were you in the store of Ames & Burk on December 2, 1898, when Mr. Royster was there? A. Yes sir, I was there.

Q. How far were you from Mr. Burk and Mr. Royster while they were having an interview? A. Not more than ten feet.

Q. What were you doing? A. I was polishing a piano.

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Q. Had Mr. Burk given you instructions to stand at any particular place or to do any particular thing? A. No sir, he did not give me any instructions to do any thing like that.

Q. You were attending to your usual business? A. Yes sir, I had a piano to polish up near the front there.

Q. Did you hear Mr. Burk accuse Mr. Royster of any thing, and if so, what? A. I heard Mr. Burk trying to get Mr. Royster to sign a check about - there was some trouble about Mr. Shands piano - he lived some ways up the road here - and Mr. Burk was trying to get Mr. Royster to sign a check and I think it was Mr. Burk accused Mr. Royster of trying to sell Mr. Shands or held him off until he could get another position to sell Mr. Shands a piano at the time he was working for Mr. Burk.

Q. Did Mr. Royster deny or admit that accusation? A. Well, he reluctantly admitted it after a bit, and agreed to do what Mr. Burk wanted him to do.

Q. What was that? A. To sign his check.

Q. Did you hear Mr. Burk make any threat to arrest or imprison Mr. Royster? A. No sir, I did not.

Q. Was any thing said about arresting or imprisoning?

A. No sir, I didn't hear any such thing.

Q. Who else was in the store during this interview?

A. Henry Halstead was in there behind the office working on an organ.

Q. Did Mr. Burk send you out to bring Henry in? A. No sir.

Q.

CROSS EXAMINATION

By Mr. Holland:

Q. Mr. Jenkins just asked you if Mr. Burk made any threats to have Poyster arrested, and you said you did not hear any?

A. No sir.

Q. Do you mean to say that you heard and remember all that was said? A. No sir, I don't; I didn't hear every thing.

Some things were said, you know, in a tone I couldn't hear; I couldn't understand, possibly.

Q. Do you remember that part of the conversation you could hear? A. Some parts of it, yes sir. The better part of it at least.

Q. Don't you remember that two days before that there was a lady in the store from Matthews County in a conversation with Mr. Burk? A. No sir, I couldn't be positive of that.

Q. Do you remember what she said? A. No sir, I could not be positive of the circumstances that a lady came in there.

Q. You can't tell whether there was a lady from Matthews County in the store or not? A. No sir, I am not sure.

Q. And if there was a lady in there you can't tell what was said? A. No sir, I can't tell about that.

Q. Why is it you remember particularly the conversation between Burk and Royster? A. Well, the argument was such that just arrested my curiosity, and I was near, and I just paid attention to some things that were said.

Q. Was the argument pretty stiff and rough? A. Well, after

a bit Mr. Burk seemed to insist pretty strenuously on Mr. Royster signing his check, and that is the part that attracted my attention.

Q. Did Mr. Burk talk any thing about damn lies and damn scoundrel? A. No sir, I didn'y hear any cursing or 'busing.

Q. No cursing and no abusing? A. Not that I can remember.

Q. He said nothing about scoundrel? A. I didn't hear him.

Q. Nothing about he ought to be in the penitentiary?

A. No sir, I didn't hear him say he ought to be in the penitentiary.

Q. Nothing about he ought to be arrested? A. Mr. Burk said this to him that I remember: Mr. Burk said, As good as I have been to you you ought to be in jail, and he said, Mr. Burk you wouldn't put me in jail, and he said, I wish I could, I consulted legal authority but am sorry to find I can't.

Q. Have you ever heard that remark made since that day?

A. No sir; I don't believe I have heard it made since that day.

Q. You have not heard Mr. Burk say any thing about it since that day? A. No sir.

Q. You have not heard any one repeat that conversation since that day? A. No sir.

Q. Ain't it a fact that today you have been asked to go over and talk about this very conversation, that today you have been talked to about what happened that day? A. All I was told - they asked me if I remembered any thing about that, so I told them this, and they said they would need me as a witness.

Q. That is all that was said? A. Yes sir, that is all that was said except - let me see: that is all I remember. Sometime ago Mr. Jenkins told me he would need me as a witness. I came up to his office, and he told me he would need me in the future as a witness.

Q. You did not tell Mr. Jenkins and Mr. Burk today, and you have not told any body else as to what you were going to testify to? A. Today?

Q. You did not tell what you would tell when you did testify?

A. No sir; they said I would have to tell what I remembered of it.

Q. But you did not tell any body what you remembered at all?

A. Did not tell any body what I remembered about it?

Q. Yes? A. No sir, I haven't had any thing to say about it at all except when I came over to Mr. Jenkins' office and told Mr. Jenkins what I remembered, and he asked if that was all I remembered, and I said yes, and he said he would need me in the future.

Q. You remember distinctly that Mr. Burk said that he had gotten legal advice, and that he could not have him arrested?

A. Yes sir.

Q. You remember the very words, don't you? A. Yes sir, I remember it.

Q. You swear that those were the very words uttered on that occasion? A. Yes sir.

Q. Did not you say just now that you were not sent out of the

room while Royster was there? A. No sir, I was not sent out of the room.

Q. You were not? A. No sir.

Q. You did not go out of the room? A. No sir.

Q. Did not Mr. Burk, during that argument and conversation or dispute, of which you have been talking, tell you to come over to Mr. Jenkins office and ask him to come there, and didn't you come to Mr. Jenkins' office and go back and tell Mr. Burk that Mr. Jenkins wasn't in? A. Not during the conversation of Mr. Burk and Mr. Royster, no sir. I was not sent out of the room.

Q. Were you sent out while Royster was in town? A. I could not tell about that. I am the porter there, and I am liable to be sent out fifty times a day. I don't remember being sent out about the conversation between Mr. Burk and Mr. Royster. I was not sent out in the conversation.

Q. Did you come to Mr. Jenkins office while Mr. Royster was in the store or office? A. No sir, I didn't.

Q. Have you seen Mr. Royster on the street since that day and talked with him? A. No sir. I saw Mr. Royster one day. I did not talk to him; I just spoke to him, and I don't think he heard me. Miss Wall was going up the street, and I saw Mr. Royster making haste to catch Miss Wall, and I said "How-do-ye do, Mr. Royster" and I don't think he heard me, and I kept on across the street towards the store.

Q. Did not you meet Mr. W.L. Royster on the street after that conversation in the store and tell him that you were sorry that

Mr. Burk forced him to give a check, and that you did not think that Mr. Burk would have gotten the check if Mr. Royster had not been frightened, or words to that effect? A. No sir, I didn't. I haven't seen Mr. Royster to say any thing to him. I simply spoke to him that day when I overtaken him on the street.

RE DIRECT EXAMINATION

By Mr. Jenkins:

Q. Mr. Holland has asked you whether or not the subject of your testifying in the case has been a matter of conversation between you and myself. Do you recollect that I have asked you what your recollection of the matter was? A. Yes sir.

Q. And told you that I would have to call you to testify in the case? A. Yes sir.

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THOMAS HENRY HALSTEAD, Col., on behalf of the defendants,
sworn,

Examined by Mr. Jenkins,

Q. What is your name, age, residence and occupation?

A. Residence 82 Willoughby Street; occupation is driving now; have been porter for Mr. Ames & Burks for quite a number of years until late; I stopped working regular in the store, but am there a part of the time.

Q. Were you employed by Ames & Burk on the 2nd day of December last? A. Yes sir.

Q. Were you present in the store when Mr. Royster came in and had a conversation with Mr. Burk? A. Yes sir.

Q. How far were you from those gentlemen during that interview?

A. I suppose about fifteen feet.

Q. What were you doing? A. Repairing an organ.

Q. Had you been given any instructions to take any particular stand or to be on watch or guard? A. No sir, I had not.

Q. Did you hear the conversation between Mr. Royster and Mr. Burk? A. I heard some of it, sir.

Q. Did you hear Mr. Burk accuse Mr. Royster of any improper conduct while in his employ? A. Yes sir.

Q. What was the subject? A. Relative to a piano sale.

Q. Tell what you recollect about it? A. I recollect Mr. Burk asked Mr. Royster about a sale of a piano to a gentleman by the name of Mr. Shands, and stated to Mr. Royster - he asked him how was it he was trying to sell him another piano or a piano of another house while in his employ. That was the title of the argument that attracted my attention.

Q. What did Mr. Royster say about that? A. Mr. Royster did not acknowledge that he was trying to sell Mr. Shands a piano from another house just then.

Q. Did he at any time during the conversation admit that he had done so? A. Yes sir, later on he admitted that he had spoke to him about another piano.

Q. What did Mr. Burk demand of him? A. He demanded of him to refund his money back, I don't know just how much.

Q. Did you hear Mr. Burk threaten to have Mr. Royster arrested or put in jail? A. No sir, I didn't hear him threaten to do that. I heard him say, Mr. Royster, as good as I have been to you, he says, to treat he that way, you ought to be sent to jail, or ought to be put in jail.

Q. Did he say he was going to have him put in jail? A.

A. No sir.

Q. Do you recollect what he did say about it? A. Yes sir, I recollect he demanded of him to refund the money back. He spoke as though he would thump him if he didn't do it.

Q. Who was in the store during this interview? A. There was no one in the store then but Mr. Burk, William, myself and Mr. Royster at that time when the argument first commenced.

Q. Did Mr. Burk send you out for any body during that interview?

A. No sir, he did not stop me from what I was doing.

CROSS EXAMINATION

By Mr. Holland.

Q. You say Mr. Burk told Royster "As good as I have been to you, you ought to be put in jail"?

A. That is what I said, yes sir.

Q. Didn't he say something else at the same time? A. I did not understand him to say any thing else.

Q. Were you listening at that time, right then?

A. I were.

Q. Didn't he say - now think well - didn't he say he had been to see a lawyer and found out he couldn't put him in jail, and

wished he could? Didn't he say that? A. He didn't say that until after Mr. Royster says "You didn't say you want to put me in jail, did you", and then Mr. Burk said "I am sorry I can't", and he spoke as though he had consulted some one who advised or informed him he couldn't do that.

Q. Why didn't you tell that just now? A. I didn't forget it. Mr. Jenkins didn't ask me specially about it.

Q. He asked you what was said. You say that Mr. Burk demanded that he refund the money? A. Yes sir, I said that. I didn't know how much, I said.

Q. What money? A. I suppose it must be money that was paid to him being in his employ and working for him.

Q. Wasn't it the money that he had lost on the Shands piano?

A. I don't know, sir. That I can't say.

Q. Was any thing said about Mr. Burk losing money by the Shands piano? A. I couldn't tell whether there was any thing said plainly of that or not.

Q. Didn't Mr. Burk complain that he had lost money on account of Royster not selling a piano to Shands? A. I couldn't tell whether he mentioned that during that argument or not.

Q. Did not you understand from the conversation that Mr. Burk was complaining because he had lost money on account of Royster trying to sell Shands a piano from another house? A. No sir, I didn't understand that.

Q. If Mr. Burk had not lost money, or if you did not understand him to say he had lost money, what was the trouble about any way?

A. You ask me that question?

Q. Yes? A. What was the trouble if it wasn't on account of losing money and on account of the sale of a piano? You say what could the trouble have been?

Q. Yes? A. I stated that as far as I knew it must have been money he expended during his employ by Mr. Burk. That is all I assigned it to be.

Q. Did Mr. Burk make any complaint about Roysters doing any other wrong except trying to sell Shands a piano from another house? A. If he did I did not understand it.

Q. You did not understand then that he made any complaint at all except that he tried to sell Shands a piano from another house? A. That is what the argument started about, and I can't just cite all that was mentioned and the particulars, but I informed you of the part I noticed.

Q. Well, you do not undertake to say or repeat every word that was said, but according to your recollection all that Mr. Burk complained of was that Royster had tried to sell a piano from another house while in the employment of Ames & Burk.

Is that true or not? A. I say that is what the argument commenced about, but as for other matters I am not able to state.

Q. Why can't you state other matters as well as you can the matters about which the argument commenced? A. It is impossible for me to state that I am not aware of.

Q. Can you remember the commencement of an argument better than you can any other part of it? A. Some times you can,

D. S. PHLEGAR,
STENOGRAPHER
NORFOLK, - - VIRGINIA.

yes sir.

Q. Have you had any talk with any body about this thing since that day? A. Have I?

Q. Yes? A. With any body, in what way, do you mean?

Q. Have you told people what you heard that day or what you remember of hearing that day? A. No sir, I haven't had no argument with no one - no consultation with no one.

Q. You say you have had no argument or consultation with any one about what you knew? A. Do I understand you that I have been arguing of the affair from time to time? Is that what you mean?

Q. I mean to ask you a plain question, which is, Have you told, related or stated to any body since that day what you heard or what you recollected? A. No sir, I haven't had no cause to do that.

Q. Ain't you mistaken about that? A. No sir, I am not mistaken.

Q. Will you state positively that you have not told any body what you heard that day or what you remember of hearing that day? A. I would not have had any cause to unless I had been summoned to make any statement.

Q. I understand that very well, but people frequently do things when they have no cause to do it, and I want to ask you again, and ask you to be particular, do you not remember stating to Mr. Burk and to Mr. Jenkins, or to one of them, or to both of them, what you heard that day? A. I stated it here, in the presence

here today, I stated it. I have been informed that I was to be here at this room here during some time to day with reference to the affair.

Q. But you were not informed what you would be expected to say? A. No sir, I was not informed what I was expected to say. I have not been instructed what to say.

Q. You have not? A. No sir.

Q. And you have not told any body what you were going to say? A. No sir, I have not told any body what I was going to say.

Q. And no portion of what you were going to say? A. No sir.

Q. And so far as Mr. Jenkins knew or so far as Mr. Burk knew when you came up here this morning they did not know whether you would be for Royster or for Burk? A. No sir, I don't guess they knew.

Q. They certainly did not know from any thing you had told them? A. No sir, they did not know, as you say, whether I was for or against them.

Q. That is it; they did not know where you stood. You said something just now about thumping. I live in the country. Will you please state what you mean by thumping? A. I simply stated as I heard it stated. Some people term thumping as hitting a man; they use that phrase thumping, and some say clubbing and some say knock, and a man I suppose has the privilege to term his meaning by words as he sees fit, and I know that is a word that some people often use. While thumping is some kind of

disease, still they use it as they please.

Q. Then when Mr. Burk spoke of thumping Royster you understood that he meant to club him, didn't you?

OBJECTED to because Mr. Royster has testified that no threats of violence had been offered to him.

Counsel for the plaintiff replies that this witness on his direct examination related this incident in reply to questions of counsel for defendants.

A. As I would term it he was going to hit him. I don't know that he was going to club him. As I said, persons use the word sometimes as they see fit.

Q. Did not Mr. Burk swear at him pretty loud? A. I don't know. I give you the information as I know, and I couldn't add on any thing I didn't know.

Q. Was any swearing down by Burk or Royster? A. I don't know sir; I couldn't tell you that.

Q. Did any body call another a son of a bitch? A. Not that I know of.

Q. Did any body call another a scoundrell? A. I couldn't tell you.

Q. You don't know any thing about that? A. No sir.

Q. Did Mr. Royster say any thing about fighting Burk? A. Not as I know of.

Q. Did Royster give him a check? A. Did he give him a check?

Q. Yes? A. Yes sir.

Q. What did he give him a check for? A. I suppose it must

have been for the money he requested of him to give to him.

As I stated I don't know how much it was, or what amount one way or the other. I don't know whether it was for five, ten, twenty or thirty dollars.

Q. When the check was given were they talking in a friendly manner? A. I don't suppose they were at random at all.

Q. Random. Which do you mean when you say you don't suppose?

A. They were not quarreling.

Q. They were not quarreling? A. No sir.

Q. Mr. Burk wasn't excited or angry, was he?

A. I couldn't tell you. Where I was at I couldn't see whether he looked as if he was mad or not.

Q. Could you see Mr. Royster? A. No sir. The distance I told you I was, about fifteen feet, and I didn't see him. I was not in the office.

Q. You did not see Mr. Royster during the argument, as you call it? A. No sir.

RE DIRECT n EXAMINATION

By Mr. Jenkins:

Q. William, Mr. Holland asked you if I had not talked with you or if Mr. Burk had not talked with you about this transaction, and asked you what you recollected about it. Don't you recollect that on one or two occasions I asked you what you recollected about the matter? A. I says what I told him. I had never been summoned to a place of this kind to be asked any questions relative to the affair, and I stated to him that I hadn't, but

of course what you are asking me now, that I didn't pay any attention to it, I didn't pay any attention to it as in future hearing at all. It was simply like any one passing along and any thing that occurred.

Q. Did not I on one or two occasions ask you what you recollected about the matter? A. Yes sir, you asked me about it, and I stated then what I did just now.

Q. Why was it you stated, when Mr. Holland asked you, that this matter had not been the subject of conversation?

A. Sir?

Q. Why did you state that what occurred in the store had not been talked over by you and Mr. Burk and myself?

A. I thought he was asking as if I had been into something like this, was the reason I said that. I thought that is what -

Q. What you thought was - - Did I understand you to say that you thought you had not been summoned to testify in the case?

A. Yes sir.

Q. What you thought Mr. Holland referred to was that you had not testified in the matter? A. Yes sir.

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State of Virginia,
City of Norfolk, to-wit:-

I, D.S.Phlegar, a Notary Public for the City of Norfolk,
in the State of Virginia, do hereby certify that the forego-
ing depositions of William Shands, W.H.Burk, William Smith and
Thomas Henry Halstead were duly taken and sworn to before me
(signatures being waived by consent of counsel) at the time
and place and for the purpose in the caption hereto mentioned.

Given under my hand this 26th day of September, 1899.

D.S. Phlegar
Notary Public.

*Notary's fee
\$18.00
Paid by defendants
Ames, Burk, Smith
Phlegar.*

THE WESTERN UNION TELEGRAPH COMPANY.

21,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

This Company TRANSMITS and DELIVERS messages only on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message back to the sending station for comparison, and the Company will not hold itself liable for errors or delays in transmission or delivery of Unrepeated Messages, beyond the amount of tolls paid thereon, nor in any case where the claim is not presented in writing within sixty days after the message is filed with the Company for transmission.

This is an UNREPEATED MESSAGE, and is delivered by request of the sender, under the conditions named above.

THOS. T. ECKERT, General Manager.

NORVIN GREEN, President.

NUMBER	SENT BY	REC'D BY	CHECK
47	Da	X	9 Paid

RECEIVED at 8:53 Am Reg 1 at 1898

Dated

To W. L. Royster

Suffern Va

Report at Store today wish
to close all business.

Ames & Burk

Ex. B. fine with testimony
of A. L. Rogers.

Ames & Burk

...DEALERS IN...

PIANOS AND ORGANS

Cor. Main and Granby Streets

SECOND FLOOR

WATT, RETTEW & CLAY'S NEW BUILDING.
COR. MAIN AND GRANBY STS.

Norfolk, Va., Dec 1st/97:

We hereby agree to employ Mr. W. L. Royster for the next twelve months) Terminating December 1st 98) upon the following conditions:
Salary Fifteen dollars a week and all travelling expenses connected with our business, outside of Norfolk to be paid by Ames & Burk.
Ames & Burk reserve the right to cancel this contract for sickness if it is for any length of time (say from one to two months duration.

Ames & Burk

M. B. Hall

Ex A. filed with deposition of
W.L. Royster.

it is for any length of time (say from one to two months).
Arson & Burk reserve the right to cancel this contract for sickness
with out business, outside of Norfolk to be paid by Arson & Burk.
Salary fifteen dollars a week and all traveling expenses connected
month) Terminating December 1st 1903) upon the following conditions:
We hereby agree to employ Mr. W. L. Royster for the next twelve

Dec 1st 1903.

The depositions of W. L. Royster and others taken by consent of all parties plaintiff and defendants at the office of R. H. Rawles in Suffolk Virginia on the 3rd day of April 1899 to be read as evidence in behalf of W. L. Royster in a certain suit in equity now pending in the Circuit Court of Nansemond county wherein said W. L. Royster is plaintiff and Ames & Burk are defendants.

Present ;

R. H. Rawles Attorney for W. L. Royster;

John B. Jenkins Attorney for Ames & Burk .

Taken by Miss Bessie Sutton, Stenographer .

Mr. W.L. Royster being duly sworn deposes and says as follows:

- Q.1. State your name, age, residence, occupation and do you know the parties to this suit?
- Ans. W.L. Royster, my age is thirty-one years, residence Suffolk Va. occupation Piano Salesman. I know Mr. Burke, I do not know Mr. Ames.
- Q.2. How long have you been conducting the business of selling Pianos and Organs?
- Ans. Thirteen years.
- Q.3. State with what measure of success you have met in said business?
- Ans. Very good sir.
- Q. 4. In whose employment were you during the year 1898?
- Ans. Ames & Burke.
- Q.5. Did you have a written contract with said firm?
- Ans. I did sir.
- Q.6. Will you produce and file said contract with the papers in this cause?
- Ans. I will sir. (the witness here files the certain paper marked Exhibit "A".)
- Q.7. State how you executed or performed your duties under this contract?
- Ans. I did everything in my power, and put forth all the efforts I had to make the business a success.
- Q.8. Do you know whether your services were satisfactory to the defendants during the year 1898 or not?
- Ans. Not until he told me.
- Q.9. Were there any complaints made?
- Ans. None whatever.
- Q.10. What was the standing of the accounts between you and the defendants on the second day of December 1898?
- Ans. I owed them nothing, they owed me nothing on that day.

Q.11. Then you owed them nothing on account on that day?

Ans. No sir.

Q.12. Will you state whether you received a telegram from the defendants on December 1st. 1898?

Ans. I did.

Q.13. Will you produce and file said telegram with the papers in this cause?

Ans. Yes. (Witness here files paper marked Exhibit "B" with his testimony)

Q.14. What did you do in response to said telegram?

Ans. I went down to Norfolk.

Q. 15. Will you state whether or not you gave to Mr. Burke a member of the firm of Ames & Burke on the 2nd day of December 1898 any check, and if so for what amount was it, and on what Bank was it given?

Ans. I gave a check for \$110. on the Farmers Bank of Nansemond.

Q.16. State why and under what circumstances you gave them said check?

Ans. Well I went down to Norfolk on receipt of telegram from Mr. Burke. After getting into the store everything passed off pleasantly for the morning part of the day, and he remarked to his book-keeper, Miss Wallis that "in as much as Mr. Royster has come to Norfolk in his own time, give him a half dollar for which to pay for his dinner". He says to me "Mr. Royster, I will not be able to see you on any business until after dinner". I returned to the store after dinner, and he took his seat as though he was going to talk to me about some accounts, and he says "Royster you tried to sell Shands of Courtland a Piano," which I denied. I said to Mr. Burke that I told Mr. Shands when my contract had expired with him, if he had not bought I would be glad to sell him a Piano, however, I tried to sell Mr. Shands three times a Piano for Ames & Burke. I even offered to ship him a Piano on approval, which he objected to, knowing my contract was to close in a day or so. Mr. Shands addressing me on that subject he told me that after I had gone with Moses at Richmond to come to see him about a Piano, which I did, in the meantime Ames & Burke had placed a Piano in his house and they sold him. Then Mr. Burke closed the book after looking over his accounts and says "Royster you have got yourself in the damnest rut that you were ever in before in your life, now the only way in the world that you can compromise this thing is to give me a check for \$110." He says "I forbid

you leaving this store until you do that". He says to the boy William, "go over and tell Mr. Jenkins I say come here". William returned and said that Mr. Jenkins was not in his office. Then Mr. Burke said, "you can just take your choice, be arrested and committed to jail, or give me that check". He says "your train leaves here in about half an hour, and even if you leave this store, I have a man at the Norfolk & Western depot waiting for you, who will bring you back". There I was in the store friendless and forbidden to leave the store, and rather than be disgraced, I gave him a check for \$110. I said to him, "Mr. Burke I won't give you a check for \$110. ~~for \$110.~~ until I have a chance to go out and consult an Attorney". He says "you are not going to leave this store to go anywhere". There was a white man came in, and he says to the white man, "now you stand right here", and he says to the negro William "you stand right here", and he went across the street very hurriedly and came back. Now I was not any more afraid of Mr. Burke, so far as beating me was concerned than anybody else, but I was so intimidated by him, firmly believing that he could have me committed to jail, and I gave him the check, under no other circumstances on earth would I have given it, as I owed him not a dollar in the world, and rather than having the terror of being committed to jail, I said "well sir I will give you the check". After giving him the check this white man that was in the store with Mr. Burke and myself went to the bank, where the Cashier of the bank phoned to Mr. Jones here to know if it would be honored, which Mr. Jones said of course, yes. This white man never left me alone with Mr. Burke until the check was satisfactorily acknowledged, then when I came out of the bank I said nothing to Mr. Burke, I said nothing to the white man, I did not know, and after having an opportunity to realize fully what I had done, and upon reaching Suffolk I had the payment of the check stopped. At the time I was in the store I would have given the check as willingly for \$300. as I did for \$110., being so much intimidated.

Q.17. Did I understand you to say that Mr. Burke gave you the choice of making the check for \$110. or going to jail?

Ans. He did sir.

Q. 18. Did I understand you to say that you owed them nothing on account at the time you gave the check?

Ans. Yes sir.

Q.19. Will you state whether the check was given voluntarily and of your own free will and accord?

Ans. Not at all sir; it was given through threats.

Q. 20. What really caused you to give said check?

Ans. Upon the fear of being arrested and committed to jail.

Q.21. What was your mental condition, or what was the state of your mind when you gave the said check?

Ans. I just felt so intimidated that I was almost in a state of terror.

Q.22. If left to your own free will and accord would you have given the said check?

Ans. Under no circumstances on earth.

Q.23. When told that you must give the check or go to jail, why did you not go out and consult counsel or friends before giving it?

Ans. I was refused that privilege, Mr. Burke said that I should not leave the store.

Q.24. Was there anything said about your leaving and coming home to Suffolk that day?

Ans. Yes sir. Mr. Burke said "your train leaves here in about half an hour, give me that check or else not see Suffolk to-night".

Q.25. Did I understand you to say that if Mr. Burke had demanded of you a check for \$300. instead of \$110. that you would just as willingly have given the one as the other?

Ans. Yes.

Q.26. What has been your physical condition for the past few years?

Ans. I have always been of a nervous temperament. It does not take but very little to excite me.

Q.27. In looking over the contract dated December 1st, 1897 he says that you are to be employed for twelve months; according to this contract your term had about expired had it not?

Ans. Yes sir.

Q.28. Had you used all the efforts in your power during these twelve months to sell to Shands of Courtland one of Ames & Burke's Pianos?

Ans. I had made three or four efforts.

Q.29. Why had you not sold him?

Ans. He objected to my ~~xxxxx~~ placing a Piano in his house even on approval, he said that the prices we charged for the Everett Piano was entirely too steep.

Q.30. At the time you spoke to Mr. Shanas about selling him another Piano, did you have any contract price, or any contract in fact with any other house to sell Pianos?

Ans. I had no contract with any house to take effect until the 5th. of December. I had received no prices from Walter D. Moses on any goods he had, I had no catalogues from him and I had no price list, and I had nothing at all in the way of catalogues to show Mr. Shanas from any other house.

Q.31. How long have you been working for Ames & Burke?

Ans. Three years and three months.

Q.32. Did they seem to be satisfied with your services during that time?

Ans. So far as I know, so much so that in the first years employment they increased my salary \$12. on the month.

Q.33. Did Ames & Burke really discharge you or not?

Ans. I will explain that to you. I was in Norfolk, and Mr. Burke said to me that Mr. Ames, who was his partner wrote him that we must cut down expenses and insinuated to me that he might not want me, but says to me "don't you apply for any other position until I write Mr. Ames and get a definite answer from him." In the meantime I went out on the road for Ames & Burke, and sent Ames & Burke my resignation, and on my return home a letter was awaiting me from Ames & Burke, stating that they would not need my services the ensuing year.

Q.34. You stated that you had three or four times repeatedly tried during these twelve months to sell Mr. Shanas a Piano on account of Ames & Burke, but had failed to do so, about

Ans. what time was it that you spoke to him again in reference to probably being able to offer him inducements on a Piano That was about a couple of weeks before my time went out. Mr Shandas spoke to me about the matter at the market house, at first I did not recognize him, but he says to me, "I am going to buy a Piano after a while", well I said I will be very glad indeed to sell you one, "but, he says "I cannot buy from your people", meaning Ames & Burke, "you charge too much for your goods". Well, I said in a day or two, I said just now it was a week or two, but I can't swear it was a week or two, my time was just about to a close. I remarked to Mr. Shandas that my time being out shortly with Ames & Burke, that if he had not bought from any other concern, I would be able after my contract had been canceled with Ames & Burke, to sell him a Piano. He asked me who I was going with, I said I was going with Walter D. Moses & Co. of Richmond, he says "that is a very nice house, and when you get in position to do business with them, write me a few lines and it is more than probable that I may buy from you".

Q.35. Is this the only time you ever alluded to selling goods for another firm during your employment by Ames & Burke?

Ans. It is.

Q.36. And you say this took place when your contract with them was nearly out?

Ans. Yes sir.

Q.37 and after you had already endeavored to the best of your ability to sell Shandas one of your Pianos?

Ans. Yes sir.

Q.38. And you only remarked to him that if he had not bought before your contract with Ames & Burke expired that you would then like to talk with him again on the subject?

Ans. Yes.

Q.39 How much did you charge him for these Pianos of Ames & Burke's that you were trying to sell him?

Ans. \$350.00

Q.40. Was that your lowest price?

Ans. That was the price that I was authorized to sell them at on instalment.

Q.41. Was that the lowest offer you made him?

Ans. Yes sir.

Q.42. Was that called the Everette Piano?

Ans. It was.

Q. 43. Then did I understand you to say that after having given the check for \$110. under the circumstances here before mentioned that you repudiated your action in the matter as soon as you were left to your own free will.

Ans. I did.

CROSS EXAMINATION.

By J.B.Jenkins, counsel for defendants, Ames & Burke.

Q.1. You stated that you were in the employ of Ames & Burke for three years and three months; what were your relations with the firm during that time?

Ans. Traveling salesman.

Q.2. Were your relations with them agreeably pleasant?

Ans. Yes.

Q.3. Had they always fully complied with all of their engagements with you?

Ans. They had.

Q.4. And your relations had always been pleasant?

Ans. Up to the close of the last years contract.

- Q.5. At the time of the interview on December 2nd. with Mr. Burke which you alluded to in your direct examination did you suggest to him that you might be of some use to him in selling some of his wares thereafter?
- Ans. The Eastern part of North Carolina Mr. Burke controls on the Knabe Piano, the Western part of North Carolina Walter D. Moses & Co. controls. I said to Mr. Burke that in traveling through the Eastern part of North Carolina, with Mr. Moses' consent, that is through the Western part, no I am mistaken in it, in the Eastern part, I might be able to do some business for him on the Knabe Piano.
- Q.6. You then had their consent to sell for Ames & Burke?
- Ans. I did not.
- Q.7. did you afterwards have their consent?
- Ans. I did not sir.
- Q.8. Have you their consent to ~~work~~ for anyone else ?
- Ans. I have not.
- Q.9. Did you ever have consent of one employer to work for another while being paid by the first?
- Ans. I never worked for any other employer except for Ames & Burke, that is while in their employ.
- Q.10. Do you know whether it is usual for employers to give such consent?
- Ans. It is sir, where one territory is controlled by another house, it is nothing unusual at all sir.
- Q.11. Was this statement, that you might be able to do something for Ames & Burke, made before or after their demand upon you for \$110.
- Ans. It was before I gave the check for \$110.
- Q.12. Did Mr. Burke agree to this proposition?
- Ans. There was nothing said about it only that Mr. Burke remarked to me, "that depends on Mr. Moses".

Q..13. Did Mr.Burke then accuse you of having been trying to do something for some one else while in the employ of Ames & Burke?

Ans. He accused me of trying to sell Mr.Shands a Piano, the only accusation he brought.

Q.14. Then that followed your proposition to do something for him?

Ans. I don't remember whether itwfollowed or not, I could not swear to it.

Q.15. Had you ever had any written communication with Mr.Shands about selling him a Piano while in the employ of Ames & Burke?

Ans. One letter only.

Q.16. What was the purport of that letter?

Ans. Just going to say that I would be to see him in a few days, that is after my contract had expired.

Q.17. What was the difficulty of your effecting sale with Mr. Shands?

Ans. The only difficulty was that he claimed that I charged him too much for it, that he could get one cheaper than that.

Q.18. What kind of Piano did he want?

Ans. I had been trying to sell him an Everett repeatedly, he was pleased with Everett, because I was the only salesman from Ames & Burke that had tried to sell him an Everett and that was the reason why he had spoken about it more than any other make. In the meantime I had sold an Everett to Mr.Hart of Courtland, and he and his wife both saw it and admired it as well as the attachment to it which was a mandolin, he knew more about that than any other make.

Q .19. Did Mr. Shands then want to purchase an Everett with a mandolin attachment?

Ans. He did not say whether he did or not. He said he was not in a position to buy then.

Q.20. If he had desired to purchase one with a mandolin attachment, and the price was satisfactory, you could have sold him one?

Ans. I would have been glad to have sold him one, because I was with no other house, I had nothing else to show him.

Q.21. What kind of Piano did Ames & Burke finally sell Mr. Shands ?

Ans. An Everett.

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Ans. That I could not say.

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Ans. I saw it in a broken condition, I suppose from transportation. I never had my hands on it.

Q.24. What were your wages?

Ans. Last year sir, \$15.00 per week and expenses.

Q.25. What did those expenses usually amount to?

Ans. I could not tell you to save my life, they varied different weeks.

Q.26. Do you recollect whether the sum of \$110. was the amount of your monthly salary for November 1898 in addition to traveling expenses?

Ans. That I could not say sir.

Q.27. Why then do you think that Mr. Burke ^mdemanded the amount of \$110.?

Ans. He demanded it on the grounds that in the month of November I tried to sell Shands a piano, that in as much as I tried to do that, he demanded my salary and a portion of my traveling expenses.

Q.28. How much did you sell for Ames & Burke during the month of November 1898?

Ans. I sold nothing. One week of the time I never received any check on which to travel.

Q.29. Mr. Royster during the period of your employment by Ames & Burke you have stated that you ~~were~~ always diligent, how much of your time was spent out of the town of Suffolk?

Ans. It was frequently the case here that I never received my expense check until Monday or Tuesday, and as soon as I received my check I always started out on the road, and did all I could for the interest of the house.

Q.30. What portion of your time was spent on the road and what time was spent in Suffolk?

Ans. That I could not say, it is impossible.

Q.31. Did you not spend a considerable portion of your time in the town of Suffolk, when you might have been on the road?

Ans. Never sir.

Q.32. Your custom was to leave as soon as you got your check?

Ans. Yes sir.

Q.33. What time did you get back to Suffolk?

Ans. I generally came on Saturday

Q.34. I understand you to say that the only inducement that led you to sign this check for \$110. was the threat by Mr. Burke to have you arrested and put in jail?

Ans. Yes, and by others coming in.

Q.35. Did he offer any personal violence to you?

Ans. No sir.

Q.36. And the only thing which induced you to sign this check was the threat of arrestment and imprisonment?

Ans. Yes, by the others coming in.

Q.37. You were then not afraid of Mr. Burke, but only of arrestment and imprisonment?

Ans. that is right.

Q.38. You are a larger man than Mr.Burke are you not?

Ans. I don't know that I am sir. Physically speaking I have never done any laborious work in my life.

Q.39. When you went to the Bank with Mr.Burke did you acknowledge your signature before the teller.

Ans. No sir, I did not.

Q.40. Did he understand that you were the gentlemen who made the check which he was asked to have certified?

Ans. I was standing away from Mr.Burke toward the rear end of the Bank and Mr.Burke said "Mr.Royster come here". This same man was listening however, and I stayed with him until he got the check straight, and there was one word in the check which was Virginia.

Q.41. You state that the reason given you by Ames & Burke for not wishing your services after November 30th 1898 was that they were going to reduce expenses, and intimated that they would have to reduce your salary?

Ans. Yes. He asked me not to apply for a position.

Q.42. Did you offer to work for them after your contract for the year 1898 should expire at a less salary?

Ans. I did after the contract had expired.

Q.43. Please explain your meaning?

Ans. I mean this; that I said after my contract expired, I think I was mistaken, I think it was before my contract expired, as I had secured a position with Walter D.Moses & Co. for \$18.50, it being more than Ames & Burke was paying me and taking effect on December 5th.

Q.44. Then you offered to work for them during the period after December 1st.1898 at a less salary than you had been paid?

Ans. Before December 1st. before my contract expired.

Q.45. Then before December 1st. you offered Ames & Burke to serve them for the year beginning Dec.1st,1898 at a less

salary than you had been getting before?

Ans. I did because at that time I had secured no other position.

Q.46. I understood that in your direct examination you said that Ames & Burke did not dismiss you, but that on the other hand you left them, and left them for the reason that they intimated that they were going to reduce expenses, and you thought they were going to reduce yours, and now you say that you offered to work for them at a smaller salary after your then contract had expired and that they refused to accept your offer; how do you reconcile this statement?

Ans. Well I think I explained it to you fully, for the reason I did that was because I had no other position, and I thought it better to accept that, that is, rather work for them at a less salary than to have nothing to do.

Q.47 Did they then in a sense decline to employ you further rather than your leaving their employment when they might want you at a reduced salary?

Ans. As I have before said, I sent in my resignation upon my arrival home on the receipt of a letter from Ames & Burke stating that my services for the ensuing year would not be wanted. I went down to Norfolk and then did agree to work for Mr. Burke at a smaller salary.

Further this deponent saith not.

Mr. W.L.Royster being duly sworn deposes and says as follows:

Q.1. State your name, age, residence, occupation and do you know the parties to this suit?

Ans. W.L.Royster, my age is thirty-one years, residence Suffolk Va. occupation Piano Salesman. I know Mr.Burke, I do not know Mr.Ames.

Q.2. How long have you been conducting the business of selling Pianos and Organs?

Ans. Thirteen years.

Q.3. State with what measure of success you have met in said business?

Ans. Very good sir.

Q. 4. In whose employment were you during the year 1898?

Ans. Ames & Burke.

Q.5. Did you have a written contract with said firm?

Ans. I did sir.

Q.6. Will you produce and file said contract with the papers in this cause?

Ans. I will sir. (the witness here files the certain paper marked Exhibit "A".)

Q.7. State how you executed or performed your duties under this contract?

Ans. I did everything in my power, and put forth all the efforts I had to make the business a success.

Q.8. Do you know whether your services were satisfactory to the defendants during the year 1898 or not?

Ans. Not until he told me.

Q.9. Were there any complaints made?

Ans. None whatever.

Q.10. What was the standing of the accounts between you and the defendants on the second day of December 1898?

Ans. I owed them nothing, they owed me nothing on that day.

Q.11. Then you owed them nothing on account on that day?

Ans. No sir.

Q.12. Will you state whether you received a telegram from the defendants on December 1st. 1898?

Ans. I did.

Q.13. Will you produce and file said telegram with the papers in this cause?

Ans. Yes. (Witness here files paper marked Exhibit "D" with his testimony)

Q.14. What did you do in response to said telegram?

Ans. I went down to Norfolk.

Q. 15. Will you state whether or not you gave to Mr. Burke a member of the firm of Ames & Burke on the 2nd. day of December 1898 any check, and if so for what amount was it, and on which Bank was it given?

Ans. I gave a check for \$110. on the Farmers Bank of Nansemond.

Q.16. State why and under what circumstances you gave them said check?

Ans. Well I went down to Norfolk on receipt of telegram from Mr. Burke. After getting into the store everything passed off pleasantly for the morning part of the day, and he remarked to his book-keeper, Miss Wallis that "in as much as Mr. Royster has come to Norfolk in his own time, give him a half dollar for which to pay for his dinner". He says to me "Mr. Royster, I will not be able to see you on any business until after dinner". I returned to the store after dinner, and he took his seat as though he was going to talk to me about some accounts, and he says "Royster you tried to sell Shands of Courtland a Piano," which I denied. I said to Mr. Burke that I told Mr. Shands when my contract had expired with him, if he had not bought I would be glad to sell him a Piano, however, I tried to sell Mr. Shands three times a Piano for Ames & Burke. I even offered to ship him a Piano on approval, which he objected to, knowing my contract was to close in a day or so, Mr. Shands addressing me on that subject he told me that after I had gone with Moses at Richmond to come to see him about a Piano, which I did, in the meantime Ames & Burke had placed a Piano in his house and they sold him. Then Mr. Burke closed the book after looking over his accounts and says "Royster you have got yourself in the damnest rut that you were ever in before in your life, now the only way in the world that you can compromise this thing is to give me a check for \$110." He says "I forbid

you leaving this store until you do that". He says to the boy William, "go over and tell Mr. Jenkins I say come here". William returned and said that Mr. Jenkins was not in his office. Then Mr. Burke said, "you can just take your choice, be arrested and committed to jail, or give me that check". He says "your train leaves here in about half an hour, and even if you leave this store, I have a man at the Norfolk & Western depot waiting for you, who will bring you back". There I was in the store friendless and forbidden to leave the store, and rather than be disgraced, I gave him a check for \$110. I said to him, "Mr. Burke I won't give you a check for \$110. until I have a chance to go out and consult an Attorney". He says "you are not going to leave this store to go anywhere". There was a white man came in, and he says to the white man, "now you stand right here", and he says to the negro William "you stand right here", and he went across the street very hurriedly and came back. Now I was not any more afraid of Mr. Burke, so far as beating me was concerned than anybody else, but I was so intimidated by him, firmly believing that he could have me committed to jail, and I gave him the check, under no other circumstances on earth would I have given it, as I owed him not a dollar in the world, and rather than having the terror of being committed to jail, I said "well sir I will give you the check". After giving him the check this white man that was in the store with Mr. Burke and myself went to the Bank, where the Cashier of the Bank phoned to Mr. Jones here to know if it would be honored, which Mr. Jones said of course, yes. This white man never left me alone with Mr. Burke until the check was satisfactorily acknowledged, then when I came out of the Bank I said nothing to Mr. Burke, I said nothing to the white man, I did not know, and after having an opportunity to realize fully what I had done, and upon reaching Suffolk I had the payment of the check stopped. At the time I was in the store I would have given the check as willingly for \$500. as I did for \$110., being so much intimidated.

Q.17. Did I understand you to say that Mr. Burke gave you the choice of making the check for \$110. or going to jail?

Ans. He did sir.

Q. 18. Did I understand you to say that you owed them nothing on account at the time you gave the check?

Ans. Yes sir.

Q.19/ Will you state whether the check was given voluntarily and of your own free will and accord?

Ans. Not at all sir; it was given through threats.

Q. 20. What really caused you to give said check?

Ans. Upon the fear of being arrested and committed to jail.

Q.21. What was your mental condition, or what was the state of your mind when you gave the said check?

Ans. I just felt so intimidated that I was almost in a state of terror.

Q.22. If left to your own free will and accord would you have given the said check?

Ans. Under no circumstances on earth.

Q.23. When told that you must give the check or go to jail, why did you not go out and consult counsel or friends before giving it?

Ans. I was refused that privilege, Mr. Burke said that I should not leave the store.

Q.24. Was there anything said about your leaving and coming home to Suffolk that day?

Ans. Yes sir. Mr. Burke said "your train leaves here in about half an hour, give me that check or else not see Suffolk to-night".

Q.25. Did I understand you to say that if Mr. Burke had demanded of you a check for \$300. instead of \$110. that you would just as willingly have given the one as the other?

Ans. Yes.

Q.26. What has been your physical condition for the past few years?

Ans. I have always been of a nervous temperament. It does not take but very little to excite me.

Q.27. In looking over the contract dated December 1st, 1897 he says that you are to be employed for twelve months; according to this contract your term had about expired had it not?

Ans. Yes sir.

Q.28. Had you used all the efforts in your power during these twelve months to sell to Shanas of Courtland one of Ames & Burke's Pianos?

Ans. I had made three or four efforts.

Q.29. Why had you not sold him?

Ans. He objected to my ~~xxxxx~~ placing a Piano in his house even on approval, he said that the ~~prices~~ we charged for the Everett Piano was entirely too steep.

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Ans. I will explain that to you. I was in Norfolk, and Mr. Burke said to me that Mr. Ames, who was his partner wrote him that we must cut down expenses and insinuated to me that he might not want me, but says to me "don't you apply for any other position until I write Mr. Ames and get a definite answer from him." In the meantime I went out on the road for Ames & Burke, and sent Ames & Burke my resignation, and on my return home a letter was awaiting me from Ames & Burke, stating that they would not need my services the ensuing year.

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Ans. I don't remember whether it followed or not, I could not swear to it.

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Q.29. Mr. Royster during the period of your employment by Ames & Burke you have stated that you ~~were~~ always diligent, how much of your time was spent out of the town of Suffolk?

Ans. It was frequently the case here that I never received my expense check until Monday or Tuesday, and as soon as I received my check I always started out on the road, and did all I could for the interest of the house.

Q.30. What portion of your time was spent on the road and what time was spent in Suffolk?

Ans. That I could not say, it is impossible.

Q.31. Did you not spend a considerable portion of your time in the town of Suffolk, when you might have been on the road?

Ans. Never sir.

Q.32. Your custom was to leave as soon as you got your check?

Ans. Yes sir.

Q.33. What time did you get back to Suffolk?

Ans. I generally came on Saturday

Q.34. I understand you to say that the only inducement that led you to sign this check for \$110. was the threat by Mr. Burke to have you arrested and put in jail?

Ans. Yes, and by others coming in.

Q.35. Did he offer any personal violence to you?

Ans. No sir.

Q.36. And the only thing, which induced you to sign this check was the threat of arrestment and imprisonment?

Ans. Yes, by the others coming in.

Q.37. You were then not afraid of Mr. Burke, but only of arrestment and imprisonment?

Ans. that is right.

Q.38. You are a larger man than Mr. Burke are you not?

Ans. I don't know that I am sir. Physically speaking I have never done any laborious work in my life.

Q.39. When you went to the bank with Mr. Burke did you acknowledge your signature before the teller.

Ans. No sir, I did not.

Q.40. Did he understand that you were the gentlemen who made the check which he was asked to have certified?

Ans. I was standing away from Mr. Burke toward the rear end of the bank and Mr. Burke said "Mr. Royster come here". This same man was listening however, and I stayed with him until he got the check straight, and there was one word in the check which was Virginia.

Q.41. You state that the reason given you by Ames & Burke for not wishing your services after November 30th 1898 was that they were going to reduce expenses, and intimated that they would have to reduce your salary?

Ans. Yes. He asked me not to apply for a position.

Q.42. Did you offer to work for them after your contract for the year 1898 should expire at a less salary?

Ans. I did after the contract had expired.

Q.43. Please explain your meaning?

Ans. I mean this; that I said after my contract expired, I think I was mistaken, I think it was before my contract expired, as I had secured a position with Walter D. Moses & Co. for \$18.50, it being more than Ames & Burke was paying me and taking effect on December 31st.

Q.44. Then you offered to work for them during the period after December 1st. 1898 at a less salary than you had been paid?

Ans. Before December 1st. before my contract expired.

Q.45. Then before December 1st. you offered Ames & Burke to serve them for the year beginning Dec. 1st, 1898 at a less

salary than you had been getting before?

Ans.

I did because at that time I had secured no other position.

Q.46.

I understood that in your direct examination you said that Ames & Burke did not dismiss you, but that on the other hand you left them, and left them for the reason that they intimated that they were going to reduce expenses, and you thought they were going to reduce yours, and now you say that you offered to work for them at a smaller salary after your then contract had expired and that they refused to accept your offer; how do you reconcile this statement?

Ans.

Well I think I explained it to you fully, for the reason I did that was because I had no other position, and I thought it better to accept that, that is, rather work for them at a less salary than to have nothing to do.

Q.47

Did they then in a sense decline to employ you further rather than your leaving their employment when they might want you at a reduced salary?

Ans.

As I have before said, I sent in my resignation upon my arrival home on the receipt of a letter from Ames & Burke stating that my services for the ensuing year would not be wanted. I went down to Norfolk and then did agree to work for Mr. Burke at a smaller salary.

Further this deponent saith not.

See \$2⁵⁰. Send to Judge Rawles

In the case of W. L. Royster vs. Ames & Burk and others, it is agreed that Judge R. H. Rawles may write out in his office, in the absence² of parties and counsel, his answer to the following questions, and it may be read in the evidence as if regularly taken.

Judge Rawles,- in the case of Royster vs. Ames & Burk and others, Mr. W. H. Burk was questioned and answered as follows:

Q. " Were you in Suffolk at the time that W. L. Royster deposed in this case?

A. Yes sir.

Q. Did you not on that occasion tell Judge R. H. Rawles that W. L. Royster was very badly frightened when he signed the check?

A. No sir.

Q. And that you did not believe that he knew whether he ~~knows that~~ was in Suffolk or Norfolk?

A. No sir.

Q. Here the witness is put on his guard and asked to be careful in answering.

A. Yes sir, I will. I told Judge Rawles that he was the most nervous man that I had ever seen. Judge Rawles remarked that when he came to Suffolk that he looked like a frightened man.

Q. You then deny stating to Judge Rawles on that occasion that W. L. Royster was very badly frightened when he signed the check?

A. I think Judge Rawles has not quoted me correctly.

Q. You then further deny that you stated to Judge Rawles on that occasion that W. L. Royster was so badly frightened that he didn't know in your opinion whether he was in Norfolk or Suffolk?

A. I said to Judge Rawles after the deposition had been taken that Mr. Royster was a very nervous man. Judge Rawles remarked that when he came to Suffolk he looked like a frightened man. I remarked to the judge that I guess he did not know whether he was in Suffolk or Norfolk."

Now please state as fully as you please what Mr. Burk did say to you on the occasion alluded to in reference to W. L. Royster's being intimidated, frightened, or not knowing whether he was in Suffolk or Norfolk, or any statement bearing directly on these questions and answers.

In answer to the question stated on the annexed sheet, I will say that Mr. Burk was in Suffolk on the day that Mr. Royster testified, and after Royster's deposition had been concluded Mr. Burk approached me on the street and made some remarks in reference to the case. It is difficult to quote exact language, but I think I can give the following as the substance of what he said to me; he said, that Mr. Royster was a very nervous man, that he was very badly frightened at the time ~~that he signed the check in Norfolk~~, so much so that he hardly believed that he knew whether he (Royster) was in Suffolk or Norfolk. I think this is substantially what he said. Mr. Burk ^{new} knew that I was counsel for Royster in the case at that time. He did not say that he was making this remark to me in confidence, but I was rather inclined to treat it that way, and while I told Royster what Burk had said to me, I also told him that as I was counsel in the case I would not testify. I am no longer counsel in the case, and yet I feel a hesitancy in testifying and would not do so, but for the fact that if I do not voluntarily make this statement, ^{it has been intimated that} I will be summoned regularly as a witness and examined on oath. ~~These circumstances~~ I repeat, ~~is~~ Mr. Burk's statement to me, as near as I can remember it.

I understood him to say and to mean that Royster was frightened while he was in Norfolk and that it was then he did not know whether he was in Norfolk or in Suffolk. Mr. Burk seems to say in his deposition that he (Burk) meant that after Royster had reached Suffolk he did not know whether he was in Norfolk or in Suffolk. I certainly understood him to mean that the fright took place in Norfolk; but Mr. Burk might have meant it the other way.

R. H. Rawles.

In the case of W. L. Royster vs. Ames & Burk and others it is agreed that W. H. Burk may write his answer to the following questions, in reply to the testimony of Judge R. H. Rawles and that it might be read in evidence as if regularly taken.

Q. Have you read the statement of evidence given by Judge Rawles in this case?

A. I have.

Q. Did you tell Judge Rawles that Mr. W. L. Royster was frightened when he signed the check for \$110., and that he, Royster did not know at the time he signed the check whether he was in Norfolk or Suffolk.

A. No Sir. Judge Rawles mis-understood me. I remarked to Judge Rawles that Mr. Royster was a very nervous man. Judge Rawles then said that when Mr. Royster saw him in Suffolk he looked like a frightened man. I then replied that I guess he did not know whether he was in Suffolk or Norfolk and by this I meant to refer to the time that Judge Rawles had referred to that is when Mr. Royster saw Judge Rawles in Suffolk.

W. H. Burk

The testimony of Nathan Matzger taken at the office of R.H.Rawles, in Suffolk, Nansemond County, Virginia, on the 29th day of April 1899 between the hours of 8 A.M. and 6 P.M. by consent of all parties plaintiffs and defendants to be read as evidence on behalf of W.L. Royster in a certain suit in equity depending in the Circuit Court of Nansemond County, wherein said W.L.Royster is plaintiff and Ames & Burke and others are defendants.

Present.

RH.Rawles, Atty. for plaintiff,

Jno.B.Jenkins Atty. for Ames & Burke.

By agreement of the respective Attorneys this deposition was taken by a stenographer, Florence Parr.

Nathan Riddick being duly sworn, deposes and says as follows;

Q.1. State your name, age, residence, occupation and do you know the parties of this suit?

Ans. Age 35, residence, Norfolk Va., occupation, merchant. I know the plaintiff and I know one of the defendants, Mr.Burke.

Q.2. The defendants, Ames & Burke, are in possession of a certain check drawn by plaintiff, W.L.Royster, for the sum of \$110, will you please state whether you have ever had any conversation with Mr. Burke in regard to this check, and if so, state all he said to you in regard to how he obtained it from Mr.Royster. 2

Ans. The conversation that Mr.Burke had with me took place after the payment of the check had been stopped and I knew nothing at all why it had been stopped at the time. Probably three or four weeks afterwards I met Mr.Burke, and as he had frequently done before, he stated that Mr. Royster (at Burke's store) and he accused Mr.Royster of neglecting his business by staying at home and not seeking business and also by traveling around to different places in his own interest and that he thought that he should refund to him this amount as he had given him no value in return. (I do not know that this is his exact language but think it is about the purport of it). Burke said that it was but just that he should return it as he had spent it for his (Royster's) own

No.2.

benefit. He also stated in the course of the conversation, that if he would not return it he would thump him.

Q.3. Did Mr.Burke then tell you that after having had this conversation with Royster whether or not Royster handed him the check?

Ans. He said that he gave him the check. I don't know when the check was given.

Questions and answers accepted to on the ground that it tends to contradict the evidence of the plaintiff who has testified that there was no threat of violence or assault but only of arrest and imprisonment.

Q.4. Is this all that you have ever heard Mr.Burke say in regard to this affair?

Ans. He has told me since that Royster has had the payment of the check stopped.

Q.5. Did he ever make any further statement to you in regard to it?

Ans. Not to my knowledge.

Cross examined by Attorney for Ames & Burke.

Q.1. Mr.Metzger, in the course of your conversation with Mr.Burke when he was saying that Mr.Royster had not been devoting all of time to Ames & Burke's business, but was attending to his (Royster's) own business, did you make any statement to Mr. Burke as to whether or not Mr.Royster had to your knowledge not been diligent in attending to Ames ' Burkes business?

Ans. I don't think so at that time, but as I said in the previous question had talked on several occasions. I would meet Mr. Royster on the road, tell him I had seen his boss the other day and then again I would meet Mr.Burke and casually say I had met his man on the road. He asked me casually once or twice what he seemed to be doing, I think I replied on one or two occasions that when I saw him he was sitting in the hotel office.

Q/2. Do you recollect whether or not on any occasion you suggested to Mr.Royster that if he would get out and work instead of sitting around the hotel that he might do more business?

Ans. I might have said so.

Q.3. Is it not true that you did say so?

Ans. I think I did.

Q. 4. This remark then was called forth by the fact that you didn't think that Mr.Royster was diligent as he might be?

Ans. I can explain this a little more fully. On several occasions I met Mr.Royster, he seemed to be blue about dull trade and I ~~xxxx~~ think I remarked to him that if he was satisfied that he had done his duty or tried to do it, that there was no use having any blues. I told him that was my own method of doing.

Further this deponent saith not. Signature waived by consent.

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In the Circuit Court of Nansemond County, Virginia, in vacation, this
15th. day of November, 1899.

W. L. Royster

vs.

The Farmer's Bank of Nansemond, W. H. Jones, Jr., Cashier, and Ames &
Burk.

This cause came on this day to be heard on the bill of complaint
taken for confessed as to the defendants, the Farmers Bank of Nansemond,
W. H. Jones, Jr., Cashier, who have~~d~~, been duly summoned to answer, they
still failing to appear, plead, answer or demur; on the answer of the
defendants, Ames & Burk, with general replication thereto, and on the
depositions of witnesses, and was argued by counsel:

On consideration where-
of, the court, being of opinion from the pleadings and evidence filed that
the method and manner of procuring the check from the plaintiff, W. L.
Royster, cannot be properly sustained by a court of equity, doth adjudge,
order and decree that the injunction heretofore awarded restraining the
Farmer's Bank of Nansemond, ^{and} W. H. Jones, Jr. its cashier, their agents,
attorneys and employees, from paying the check in the bill and proceedings
mentioned, be, and the same is hereby made perpetual and forever binding
between the parties to this suit; and that the complainant pay his own
cost in this suit, and the defendants do likewise.

And nothing further appearing to be done in this cause it is
ordered that the same be removed from the docket.

Robert H. Hunt

To the Clerk of the Circuit Court on Nansemond County.

W. L. Royster

vs.

The Farmer's Bank of Nanse-
mond, W. H. Jones, Jr.,
Cashier, and Ames & Burk.

DECREE.

Nov. 15, 1899.
Enter this decree

Robert H. Smith

Entered in Chancery
Order Book No 3
Page 256,

Have seen this decree
and find no objection
to its force -
The Bankers, For Amos & Burk

In the Circuit Court of Nansemond County.

William L. Royster,

vs.

Ames & Burk and the Farmers Bank
of Nansemond.

The joint answer of Jerome S. Ames and W. H. Burk partners trading as Ames & Burk, to the bill of complaint of W. L. Royster filed against them and another in this cause.

These respondents, reserving to themselves the benefit of all just exceptions to the said bill, to so much thereof as they are advised it is material that they should answer, answering say:--

It is true that these respondents are partners under the firm name of Ames & Burk and engaged in the piano and organ business, and that the complainant, W. L. Royster had been employed by these respondents during the year commencing December 1st., 1897, and ending December 1st., 1898, as a traveling salesman and that before December 1st., 1898, to-wit on November 28th., 1898, the said respondents not knowing that said complainant had been unfaithful to them, had paid to said complainant all that was due him under his contract of employment.

It is also true that these respondents had given said complainant notice that they would not employ him after December 1st., 1898, but it is not true that these respondents offered to continue his employment at a reduced salary. On the contrary the said respondents refused to employ him though he offered to serve them at a reduced salary. These respondents had so decided not to longer employ said complainant because his services had not proved profitable or satisfactory to them.

It is true that on December 2nd., 1898, these respondents telegraphed said complainant to come to Norfolk, and the reason of this was that these respondents had learned that said complainant had not been diligent or faithful in his services under their em-

ployment, and especially during the month of November 1898, and they desired to speak with him on the subject and to demand the return of his salary and traveling expenses paid him by them for said month of November 1898, amounting to about the sum of One hundred and ten Dollars, which amount at least they considered they were entitled to receive and recover from said complainant as damages for his failure to faithfully comply with his duties to them.

These respondents aver that the said complainant had been acting in the interest of another firm who sold like wares, while he was in the employ of these respondents and that on said 2nd., day of December 1898, though he at first denied having done so, he at length confessed to said W. H. Burk one of these respondents, that he had so done, and that thereupon the said W. H. Burk indignantly and emphatically demanded that said complainant return to these respondents the said sum of One hundred and ten Dollars, and to the demand the complainant assented and wrote out his check on the Farmers Bank of Nansemond for that sum and went with said W. H. Burk to the Citizens Bank of Norfolk, Virginia, where the teller of said last named Bank telephoned to the first named Bank which in reply assured the said Citizens Bank teller that the said check was good and would be honored and paid when presented, thereby certifying said check.

These respondents deny that they used to said complainant any duress or threats of imprisonment in jail in order to cause him to make and sign the said check, but that the said complainant when confronted with the charges and evidences of his unfaithfulness to these respondents voluntarily acceded to their demand for payment of the amount of One hundred and ten dollars in settlement of their said claims against him.

These respondents are abundantly solvent and deny the truth of the suggestion made by the complainant that they are not solvent.

These respondents aver that said check was given to them by

said complainant for a good and valuable consideration, to-wit,
his failure to faithfully discharge his contract of employment, and
they pray that the said Farmers Bank of Nansemond may be directed
to honor said check and pay to these respondents the said sum of
One hundred and ten dollars.

And having fully answered they pray to be dismissed with their
costs.

Amos Buck
By W.H. Buck

W L Rogers

no

Ames & Bush

Answer of
Ames & Bush

Ames & Bush
1850

To the Honorable Robert R. Prentiss, Judge of the Circuit Court of Nansemond County ;

Humbly complaining, sheweth unto the court, your orator William L. Royster of Nansemond county, Virginia, the following case ;

Your orator was in the employment, during the year commencing December 1st 1897, and ending December 1st 1898, of Ames & Burk, dealers in pianos and organs, in the city of Norfolk Virginia, said firm being composed of Jerome Ames, and W. H. Burk, as the individual partners .; the duty of your orator being that of a salesman for said firm . And your orator says that during the year aforesaid, he discharged all his duties incident to his position to the best of his ability and judgment, and did all he could to advance and promote the interest of the said firm ; that he has promptly and properly accounted to the said firm for all moneys which at any time had come into his hands as their agent, and that on the 2nd day December 1898, all accounts between him and the said firm had been duly and satisfactorily settled, so that on that date neither owed the other anything whatever . That on the 1st day of December 1898, your orator proposed to quit working for the said firm and to seek for work elsewhere, his reason for so doing being that the said firm had notified him that for the coming year they proposed to reduce expenses and would therefore have to reduce his salary ; on this being told your orator, he quit working for the said firm ; but he says that they parted friends, so far as he had reason to believe. Yet your orator says that notwithstanding these notorious facts, that the said firm by and through its member W. H. Burk well knowing the premises, and well knowing that your orator owed them absolutely nothing, compelled him, your orator, under duress, to make and sign a check payable to the said firm for the sum of \$110, on December 2nd 1898 ; and your orator says that on the said 2nd day of December 1898 he ~~receiv~~ received a telegram from the said firm, requesting him to come down to Norfolk, to see them on important business . In obedience to this telegram, and not knowing what the said firm wanted with him, your orator left his home in Suffolk, and went down to the city of Norfolk on the said 2nd day of December 1898, and went in the store of the said Ames & Burk, when the said W. H. Burk approached him and told him in threatening tones, that he forbade him leaving the store .

that he, the said member of the said firm, then demanded that your orator should immediately make a check on the Farmers Bank of Nansemond in Suffolk, for the sum of \$110, payable to the said Ames & Burk, and threatened at the same time that if your orator refused, that the said firm would at once have your orator arrested and committed to jail; that the said firm even refused to allow your orator to see² and consult an attorney or a friend, or any one else, saying that he must immediately make and sign the said check or go to jail.

Now your orator says, that being without friends, or counsel, and having no one to advise with, and fearing that he would be committed to jail, and not wishing to go to jail, or to spend the night in jail, he under said duress, and threats of imprisonment, made and signed a check payable to the said Ames & Burk for the said sum of \$110, said check being drawn on the Farmers Bank of Nansemond in Suffolk, though he well knew that he owed the said firm absolutely nothing; that he made the said check because he feared the threats of the said firm, and feared he would be deprived of his liberty, and committed to jail, he having no one to whom he could even go to, for bail; that under this state of affairs, he gave them the said check, which they at once questioned the said Farmers Bank concerning, and which they were assured, as this complainant is informed and believes, by the said Farmers Bank, that said check was good and would be honored. That your orator is ignorant of the reason why the said firm thus compelled him to give the said check unless they believed that he had been acting in the interest of another firm, who sold like wares while he was under the employment of this firm; in fact the said Ames & Burk intimated as much to your orator, but he, ~~then~~ ^{then} stoutly denied, and still denies, that he had done anything against the interest of the said Ames & Burk, while he was in their employment; or that he had ever tried to sell the goods of any other firm, while he was in said employment; in fact he says that he positively never did anything to injure said firm, or to give rise to a claim to them for damages against him. He further says that as soon as he gave the said check he at once came home to Suffolk, and went to see W. H. Jones to have the payment of the said check stopped, but was informed by the said W. H. Jones, ^{Mr. Corbin} cashier of the said Farmers Bank of Nansemond, that he could not ~~then~~ ^{then} stop the payment, and that the said Bank would have to pay the said check when presented for the reason that the said cashier, had already

assured the said Ames & Burk, that the said check was good and would be honored on presentation ; that he, the said W. H. Jones, cashier, expressed his sympathy for your orator, but said he could do nothing to relieve him, unless he was prevented by legal means, from cashing the said check. And your orator says that he believes that if the said firm succeed in getting his said check cashed, and get the money for the same, in their pockets, he would be without remedy against them, or in the premises, for the reason that he does not know that the said firm is solvent.

In tender consideration whereof and forasmuch as your orator is remediless in the premises, save by the aid of a court of equity, where such matters are alone and properly cognizable, your orator prays that the said Ames & Burk ; (the said Jerome Ames and the said W. H. Burk) the said Farmers Bank of Nansemond, and its cashier W. H. Jones Jr, may be made parties defendant to this bill, and required to answer the same, though an answer under oath is expressly waived; that the payment of the said check for the said sum of \$110, may be stopped ; that the said check may be declared without consideration and null and void; that the said Ames & Burk, and their attorneys and agents, may be restrained and prohibited from taking any steps whatever by law to collect the said check until the said matters set up in this bill may be inquired into by this court ; that the said Farmers Bank of Nansemond may be restrained and enjoined from paying the said check ; until such matters can also be inquired into by this court; and for all such other, further, and general relief as this case may require, or which to equity may seem meet, and he will ever pray &

W. L. Royster

Virginia ; Nansemond County to-wit ;

I, R. H. Rawles, a notary public for the county aforesaid, in the State of Virginia, do certify that W. L. Royster whose name is signed to the writing and bill above written, has this day personally appeared before me in my said county, and made oath that all the facts stated in the said bill as coming of his own knowledge are true ; and all other facts stated as coming from knowledge or information derived from others, he believes to be true . Given under my hand this 2nd day of December 1898

R. H. Rawles. R. H.

Circuit Court of Nansemond County, in
vacation, on the 3rd day of December 1898.

On the motion of the complainant, W. L. Royster, an injunction is awarded him, to enjoin and restrain the said Ames & Burk, their agents or attorneys from ^{or} taking any legal steps, to collect the check of \$110 mentioned in the bill in this case, until the merits of the case can be inquired into by this court; and to enjoin and restrain W. H. Jones ^{or} cashier of The Farmers Bank of Nansemond, from paying the said check, and to enjoin and restrain the said Farmers Bank of Nansemond from paying the said check, until the facts stated in the bill can be inquired into by this court; but the said W. L. Royster is not to have the benefit of this injunction until, he, or some ~~one~~ for him, enters into a bond in the penalty of \$50. $\frac{x}{x}$ before the clerk of this court, with security deemed sufficient by the said clerk of this court, conditioned to carry out and comply with ~~any order which this court may hereafter make in this case, to pay to the~~ all such costs as may be awarded against him, and all such damages ~~said Ames & Burk any damages which they may sustain by reason of the~~ as may be incurred in case the injunction shall be dissolved ~~suing out of this injunction.~~

To the Clerk of the
Circuit Court of
Nansemond County.

Robert R. Prentiss.

Copy of Bill for \$1000.00
Atty for Concord, N.H.

Bill.

W L Royster
W J Ingham

Barren Bank &c

Royster
vs In Chancery
Gar Bank & Ames & Burke

1898. Decr. 3rd Process issued returnable
to December rules first Monday

" " 5th Process returned executed
on the defendants
Bill filed and decree nisi
against them.

" " 19th Decree nisi confirmed
and Cause set for hearing

Royster
W. Chauncy Notes
James Bank
& Ames & Burke

Royster vs Farmers Bank
& Ames & Buck

R. H. Rawles h. g.
vs L Royster
vs In Chancery
The Farmers Bank
and Ames & Buck

1899
Nov 15th
Final Decree

Costs
Clerk \$526
Shff 100
Tax \$150
Atty 1500
2276

Defts Costs
Clerk \$1.43