

1925-005
Nansemond Co (Suffolk) Chancery Causes: American Fertilizing Co. vs Frank M. Warrington et al

Wilkinson, Hollend, Ames, Bethel, Poyner

Folder 1 of 2

4th: For errors apparent on the face of the bill, and for its vagueness and uncertainty, and because, if sustained, it would require the defendants, C. E. Warrington, Mrs. D. W. Wilkinson, and Mrs. C. E. Warrington to participate in litigation, in which they have no concern.

Virginia,
In the Circuit Court of
Nansemond County.

American Fertilizer Company
a Corporation,

v. *1*

Frank H. Warrington, C. E.
Warrington, W. B. Warrington,
et als.

Demurrer.

Justiciary
To be ^{*filed*} ~~entered~~.

J. L. M.
Judge,

Oct 7
1934.

SMITH & SMITH,
ATTORNEYS AT LAW,
515 NATIONAL BANK OF COMMERCE BUILDING
NORFOLK, VIRGINIA

Virginia,

In the Circuit Court of the County of Hansemond.

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American Fertilizing Company,-----Complainants
a Corporation,

v.

Frank M. Warrington; C. E.-----Defendants
Warrington and W. B. Warrington.

)
) In
) Chancery
)
)
)
)
)
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Without waiving any objections to the bill filed herein for its insufficiency, but insisting upon the same, in answer thereto, or to so much thereof as they deem that it is necessary for them to answer, answering say:-

1st: Your respondent, Frank M. Warrington admits owing to American Fertilizing Company, a Corporation, the several amounts mentioned in the bill, but is advised, and therefore believes and charges, that this is not a proper Court in which to proceed against him for the collection of same, and the said C. E. Warrington and W. B. Warrington are not advised as to said amounts.

2nd: As to the second paragraph of the said bill, your respondents admit the substantial correctness of the same:

3rd: As to the third paragraph, your respondents, C. E. Warrington and W. B. Warrington, admit that a deed of trust to L. P. Holland, Trustee, for \$7,000.00 was made by Frank M. Warrington, to secure to the said W. B. Warrington and C. E. Warrington, the payment of \$7,000.00, as therein mentioned;

4th: As to the fourth paragraph of the said bill, your respondents deny the allegations thereof, and on the contrary, thereof, they allege that the deed mentioned was made for valuable considerations:

5th: As to the fifth paragraph of the said bill, they admit that the conveyance mentioned from Frank M. Warrington to W. B. Warrington was made:

6th: And as to the sixth paragraph of the said bill, the said Frank M. Warrington and W. B. Warrington deny the allegations that the conveyance was without consideration of any kind, or that it was made to hinder, delay and defraud creditors, especially the complainant herein, or that the said W. B. Warrington had notice of the same, but on the contrary thereof, the said conveyance was made for a valuable consideration.

They farther allege that in so far as the said Frank M. Warrington has been cultivating any of the land referred to in the bill, that such has been done under a rental agreement with the other co-owners of the said property, and that in so far as he has had any control, it has been as a renter of the said several interests in the said property:

7th: As to the seventh paragraph of the said bill, your respondents admit the execution of the deed of trust referred to therein to L. P. Holland Trustee, in trust to secure \$1500.00 to W. B. Warrington.

8th: That as to the eighth paragraph of the said bill, the said Frank M. Warrington and W. B. Warrington deny that the same was without consideration of any kind, but allege that it was for valuable consideration, and that the same was not made by Frank M. Warrington with intent to hinder, delay or defraud his creditors, especially the complainant herein as alleged:

Your respondents are further advised, and therefore believe and charge, that the only claim in which any legal proceedings have been started against the said Frank M. Warrington is the present case, and they are further advised, that no judg-

-ment has been obtained against the said Frank M. Warrington, by any one holding any claim against him. And they are further advised that such creditors as he may have are willing to give him reasonable time in which to meet his obligations to them.

Your respondents are further advised, and therefore believe and charge, that there has been entered in the U. S. District Court for the Eastern District of Virginia, a judgment in favor of the United States of America against the complainant herein for \$2,873,534.00 plus an additional penalty for non payment of \$143,676.70, with interest on the aggregate from September 25th, 1924, the date the lien on the property is to become effective, and your respondents pray that they be protected against the said claim, and the proceedings hereunder be stayed;

And now having fully answered, the defendants pray that this suit be dismissed as to them, and that they recover their costs against the plaintiff herein expended.

And they will ever pray.

Frank M. Warrington

C. E. Warrington

W. B. Warrington

Virginia,
In the Circuit Court of the
County of Nansemond.

American Fertilizing Com-
pany, a Corporation,

v. *1*

Frank M. Warrington, C. E.
Warrington and W. B. War-
rington.

Answer.

Filed Nov. 8, 1924
H. G. Smith
Plaintiff

SMITH & SMITH,
ATTORNEYS AT LAW,
515 NATIONAL BANK OF COMMERCE BUILDING
NORFOLK, VIRGINIA

Due July 1, 1924. **AMERICAN FERTILIZING CO.** \$ 1,203.03

NORFOLK, VIRGINIA.



Drivers, Va. Dec. 1, 1923 192

On July 1st, 1924 after date I promise to

Pay to the order of American Fertilizing Company

the sum of Twelve Hundred three and ----- 03/100 Dollars

at their offices, Norfolk, Va. without offset Value received.

The maker and endorser each hereby waives the benefit of the homestead exemption as to this debt.

Each and all of the parties to this note hereby agree to continue and remain bound for the payment thereof and all the interest thereon, notwithstanding any extension of time granted to the maker and notwithstanding any failure or omission to protest this note for non-payment or to give notice of non-payment or dishonor or protest or to make presentment of demand for payment, hereby expressly waiving any protest and all notices of extension of time or of non-payment or dishonor or protest in any form or any presentment of demand for payment or any other notice thereof. If not paid at maturity 10% upon the amount of this note for attorney's fees to become due as soon as this note is placed in the hands of an attorney for collection.

"Exhibit A"

(Signed) Frank M. Warrington

Due July 1, 1924 **AMERICAN FERTILIZING CO.** \$ 307.55
 NORFOLK, VIRGINIA.



Drivers, Va. Dec. 1, 1923 192

On July 1st, 1924 after date I promise to

Pay to the order of American Fertilizing Company

the sum of Three hundred seven and-----55/100 Dollars

at their offices, Norfolk, Va. without offset Value received.

The maker and endorser each hereby waives the benefit of the homestead exemption as to this debt.

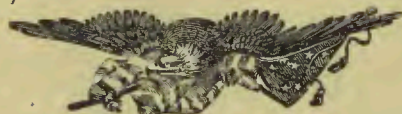
Each and all of the parties to this note hereby agree to continue and remain bound for the payment thereof and all the interest thereon, notwithstanding any extension of time granted to the maker and notwithstanding any failure or omission to protest this note for non-payment or to give notice of non-payment or dishonor or protest or to make presentment of demand for payment, hereby expressly waiving any protest and all notices of extension of time or of non-payment or dishonor or protest in any form or any presentment of demand for payment or any other notice thereof. If not paid at maturity 10% upon the amount of this note for attorney's fees to become due as soon as this note is placed in the hands of an attorney for collection.

(Signed) Frank M. Warrington

"Exhibit B"

GEO. H. SARGEANT, PRESIDENT
W. W. PERKINS, SECRETARY
E. R. POYNER, TREASURER

NORFOLK, VA., April 30 1924



OFFICE:
SIXTH FLOOR
SOUTHERN PRODUCE BUILDING
COMMERCIAL PLACE

TO THE AMERICAN FERTILIZING COMPANY, DR.
FERTILIZERS

FACTORY:
SOUTH PORTSMOUTH, VIRGINIA

Mr. F. M. Warrington

Suffolk, Va. R.F.D. #5

Spring 1144

Jan 28 Order 421
35.0 Tons - 7-7-5 @ 38.70
Plus freight.

1354 50
46 60 1381 10

Feb. 17 Order 715
10.0 Tons - 9 1/2-7 1/2-0 @ 38.65
Plus freight

386 50
9 10 395 60

Mar 14 Order 1054
12.0 Tons - 7-7-5 @ 38.70
5.0 " 9 1/2-7 1/2-0 @ 38.65
Plus freight.

464 40
193 25
15 00 672 65

Apr. 2 Order 1279
6.0 Tons - 9 1/2-7 1/2-0 @ 38.65
Plus freight.

231 90
5 46 237 36

Apr. 24 Order 1313
4.0 Tons 8-4-4 @ 30.00
Plus freight.

120 00
3 64 123 64
2810 35

Recapitulation

47.0 Tons - 7-7-5 @ 38.70
21.0 " 9 1/2-7 1/2-0 @ 38.65
4.0 " 8-4-4 @ 30.00
Plus freight.

1818 90
811 65
120 00
59 80
2810 35

"Exhibit C"

THIS DEED, Made this 19th day of July, in the year one thousand and nine hundred and twenty-four between Frank M. Warrington (single) of the County of Nansemond, State of Virginia, party of the first part, and L. P. Holland chosen as trustee of the City of Suffolk, Virginia, party of the second part.

WITNESSETH: That the said party of the first part doth grant unto the said party of the second part, with general warranty, the following property, to-wit:

All that certain chattel property now located upon that farm in Nansemond County known as the "Pasture Farm", formerly belonging to S. F. Warrington, deceased, and further described as follows; All that certain tract of land, together with the buildings and improvements now thereon, located bounded and described as follows; Commencing at Bennett's Creek at a corner with Annie J. Everett's land, thence along said creek to the lands of L. D. Ames; thence along the lands of L. D. Ames, John G. Peake and others to the Nansemond River; also at a corner with Annie J. Everett's land to the point of beginning; containing one hundred and eleven (111) acres of high land and one hundred and seven (107) acres of swamp land; it being the same piece of property that was conveyed to E. E. Holland, Trustee, by L. D. Ames prior to a certain partition suit instituted, in which R. L. Ames was plaintiff and M. G. Ames defendant; the above described property being that which was allotted to L. D. Ames as the result of said suit. For a more particular description of the above property, see the papers in the suit above mentioned and refer to deed of trust given E. E. Holland by L. D. Ames, duly of record in the Clerk's Office of Nansemond County State of Virginia, it being the same property conveyed to Severn F. Warrington by E. E. Holland, Trustee, by deed dated February 9th, 1891, and duly recorded in the Clerk's Office of Nansemond County in D. B. 24, page 457. The said chattel estate on the above

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mentioned farm being described in detail as follows; One (1) gray mule named "Jack"; one (1) bay mule named "Edna"; one (1) bay mule named "Lucy"; one (1) bay mule named "Kate"; one bay mules named "George"; together with the harness for all of the said mules; one (1) sorrel horse named "Prince"; five (5) dump carts; one (1) barrell cart; two (2) double drags; five (5) single plows; three (3) double plows; two (2) guano drills; one (1) lot of forks and shovels together with all other farming implements in and upon the above mentioned tract of land.

IN TRUST, to secure to W. B. Warrington the payment of the sum of Fifteen Hundred (\$1500) Dollars evidenced by a negotiable note of even date with this deed for that sum, made by Frank M. Warrington and payable ninety days after date to the said W. B. Warrington at the Farmers Bank of Hansemond, Suffolk, Virginia, with interest from date until paid, and waiving the benefit of the homestead exemption, and also to secure any note or notes given in renewal, curtail or continuation of said note.

In the event that default shall be made in the payment of the said debt, principal or any installment of interest, when due and payable, then the Trustee, on being required so to do by the beneficiary his executors, administrators or assigns, shall sell the property hereby conveyed.

And it is covenanted and agreed between the parties aforesaid, that in case of a sale the same shall be made after first advertising the time, place and terms thereof for fifteen (15) days in the manner deemed best by the trustee and upon the following terms, to-wit: for cash as to so much of the proceeds as may be necessary to defray the expenses of executing this trust, including a trustee's commission of 5 per centum, the fees for drawing and recording this deed, if then unpaid, and to discharge the amount of money then payable upon the said debt, and if there be any residue of said purchase money the same shall be made payable at such time and secured in such manner, as the said party of the first part his executors, ad-

ministrators or assigns shall prescribe and direct, or in case of his failure to give such directions, at such time and in such manner as the said Trustee shall see fit.

The said party of the first part covenants to pay all taxes, assessments, dues and charges upon the said property hereby conveyed so long as he or his heirs or assigns shall hold the same; and further covenants and agrees to keep the buildings on the property hereby conveyed insured for the full amount of \$_____ for the further protection of the said beneficiary or assigns; and in the event of his failure to do so, then the Trustee, or the beneficiary under this deed, may effect or renew such insurance from time to time, so long as the said debt or any part thereof remains unpaid; and the insurance premiums shall constitute a part of the lien created by this deed, to be paid out of the proceeds of the property, if sold, or to be recoverable by all the remedies in law or equity by which the debt aforesaid may be recoverable.

If no default shall be made in the payment of the said debt or insurance premium, then upon request of the party of the first part, a good and sufficient deed of release shall be executed to him at his own proper cost and charges.

Witness the following signature and seal.

(Signed) Frank M. Warrington (Seal)

State of Virginia,

City of Suffolk, to-wit:

I, Telza S. Miller a notary Public in and for the City aforesaid,, in the state of Virginia, do certify that Frank M. Warrington whose name is signed to the writing hereunto annexed, bearing date the 19th day of July, 1924, has acknowledged the same before me in my city aforesaid.

Given under my hand this 10th day of July, 1924.

My term of office expires on the 12th day of January, 1928.

A true copy:

Teste:

Clerk

(Signed) Telza S. Miller,
Notary Public.

"EXHIBIT E"

-1-

THIS DEED, Made this 4th day of August, in the year one thousand nine hundred and twenty-four between Frank M. Warrington, (single, of the County of Nansemond in the State of Virginia, of the first part, and W. B. Warrington, of the said County, and state of Virginia, of the second part.

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WITNESSETH: That in consideration of the sum of ten dollars (\$10.00) and other valuable considerations the said party of the first part doth grant unto the said party of the second part, and to his heirs, and assigns, forever, the following property, to-wit:

All his one-fourth ($\frac{1}{4}$) fee simple interest, subject to the life interest of his mother in and to both of the following described tracts of land.

TRACT 1

All that certain tract, piece or parcel of land, situate, lying and being in Sleepy Hole Magisterial District, Nansemond County, Virginia, containing sixty-four (64) acres, more or less, bounded on the North by the lands of the estate of James A. Phelps, deceased; on the East by the lands of the estate of Virginia Jones, deceased, (formerly Jeremiah Jones); on the South by the land of Dr. William T. Jordan, and on the West by the land of John G. Peake, (formerly the lands of Mrs. Sallie J. Wright); and being part of the lands which by deeds were duly conveyed to James M. Keeling by W. W. Wright, Commissioner, and a part of the land formerly owned by William R. Gary, deceased; and being the same tract of land a one-fourth ($\frac{1}{4}$) interest in which was inherited by Frank M. Warrington on the death of his father, Severn F. Warrington, subject to the life interest of Catherine M. Warrington, the widow of Severn F. Warrington.

Tract 2.

All that certain tract of land, together with the buildings and improvements now thereon, located, bounded and described as follows:- Commencing at Bennett's Creek at a corner with Annie J. Everett's

land; thence along said creek to the land of L. D. Ames; thence along the lands of L. D. Ames, John G. Peake and others to the Nansemond River, also at a corner with the said Annie J. Everett's land to the point of beginning, containing one hundred and eleven (111) acres of high land and one hundred and seven (107) acres of swamp land, it being the same pice of property that was conveyed to E. E. Holland, trustee, by L. D. Ames prior to a certain partition suit instituted, in which R. L. Ames was plaintiff and M.G. Ames defendant; the above described property being that which was allotted to L. D. Ames as the result of the said suit. For a more particular description of the above described property see the papers in the suit above mentioned and refer to deed of trust given E. E. Holland by L. D. Ames duly of record in the Clerk's Office of Nansemond County, Virginia, it being the same property conveyed to Severn F. Warrington by E. E. Holland, Trustee, by deed dated February 9th, 1891, and duly recorded in the Clerk's Office of Nansemond County, Virginia, in D. B. 24, page 457.

My interest in the growing crops is also hereby conveyed.

The said party of the first part covenants that he has the right to convey the said land to the grantee; that he has done no act to encumber the said land, that the grantee shall have quiet possession of the said land, free from all encumbrances, and that he the said party of the first part, will execute such further assurances of the said land as may be requisite.

Witness the following signature and seal.

(Signed) Frank M. Warrington (SEAL)

State of Virginia

Corporation of the City of Norfolk, to-wit:

I, J. Sydney Smith, a Notary Public for the Corporation aforesaid, in the state of Virginia, do certify that Frank M. Warrington (single) whose name is signed to the writing hereunto annexed bearing date the 4th day of August, 1924, has acknowledged the

same before me in my Corporation foresaid.

Given under my hand this 4th day of August, 1924.
My term of office expires on the 24th day of August, 1924.

(Signed) J. Sydney Smith
Notary Public.

Virginia:

In the Clerk's Office of the Circuit Court of Nansemond County
the 4th day of August, 1924. This deed was presented, and, with
the certificate annexed and with the requisite amount of \$5.00 in
Revenue stamps having been annexed thereto and cancelled, admitted
to record.

TESTE: (SIGNED) G. E. Bunting, Clerk
By (SIGNED) M. K. Gardner D. C.

A true copy:

Teste: G. E. Bunting Clerk.

"EXHIBIT D"

THIS DEED, Made this 19th day of July, in the year one thousand nine hundred and twenty-four between Frank M. Warrington (Single) of the County of Nansemond, State of Virginia, party of the first part, and L. P. Holland, chosen as trustee, of the City of Suffolk, Virginia, party of the second part.

WITNESSETH: That the said party of the first part doth grant unto the said party of the second part, with general warranty, the following property, to-wit:

All his one-fourth ($\frac{1}{4}$) fee simple interest, subject to the life interest of his mother in and to both of the following described tracts of land:

Tract 1

All that certain tract, piece or parcel of land, situate, lying and being in Sleepy Hole Magisterial District, Nansemond County, Virginia, containing sixty-four (64) acres, more or less, bounded on the North by the lands of the estate of James A. Phelps, deceased, on the East by the lands of the estate of Virginia Jones, deceased, (formerly Jeremiah Jones); on the South by the lands of Dr. William T. Jordan, and on the West by the lands of John G. Peake, (formerly the lands of Mrs. Sallie J. Wright); and being part of the lands which by deeds were duly conveyed to James M. Keeling by W. W. Wright, Commissioner, and a part of the land formerly owned by William R. Gary, deceased; and being the same tract of land a one-fourth ($\frac{1}{4}$) interest in which was inherited by Frank M. Warrington on the death of his father, Severn F. Warrington subject to the life interest of Catherine M. Warrington, the widow of Severn F. Warrington.

Tract 2.

All that certain tract of land, together with the buildings and improvements now thereon located, bounded and described as follows; Commencing at Bennett's Creek at a corner with Annie J. Everett's land, thence along said creek to the lands of L. D. Ames, thence along the lands of L. D. Ames, John G. Peake and others to the

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Nansemond River, also at a corner with the said Annie J. Everett's land to the point of beginning, containing one hundred and eleven (111) acres of high land and one hundred and seven (107) acres of swamp land; it being the same piece of property that was conveyed to E. E. Holland, Trustee, by L. D. Ames prior to a certain partition suit instituted, in which R. L. Ames was plaintiff and M. G. Ames defendant; the above described property being that which was allotted to L. D. Ames as the result of the said suit. For a more particular description of the above described property, see the papers in the suit above mentioned and refer to deed of trust given E. E. Holland by L. D. Ames, duly of record in the Clerk's Office of Nansemond County, Virginia, it being the same property conveyed to Severn F. Warrington by E. E. Holland, Trustee, by deed dated February 9th, 1891, and duly recorded in the Clerk's Office of Nansemond County, Virginia, in D. B. 24, page 457.

IN TRUST, to secure to W. B. Warrington and C. E. Warrington jointly the payment of the sum of Seven Thousand (\$7000.00) Dollars, evidenced by a negotiable note of even date with this deed, for that sum, made by Frank M. Warrington and payable to W. B. Warrington and C. E. Warrington ninety days after date at the Farmers Bank of Nansemond Suffolk, Virginia, with interest from date until paid, and waiving the benefit of the homestead exemption and also to secure any note or notes given in renewal, curtail or continuation of said note.

In the event that default shall be made in the payment of the said debt, principal or any installment of interest, when due and payable, then the Trustee, on being required so to do by the beneficiary his executors, administrators or assigns, shall sell the property hereby conveyed.

And it is covenanted and agreed between the parties aforesaid, that in case of a sale the same shall be made after first advertising the time, place and terms thereof for fifteen (15) days in the manner deemed best by the trustee and upon the following terms,

to-wit: For cash as to so much of the proceeds as may be necessary to defray the expenses of executing this trust, including a trustee's commission of 5 per centum, the fees for drawing and recording this deed, if then unpaid, and to discharge the amount of money then payable upon the said debt, and if there be any residue of said purchase money the same shall be made payable at such time and secured in such manner, as the said party of the first part his executors, administrators or assigns shall prescribe and direct, or in case of his failure to give such directions, at such time and in such manner as the said Trustee shall see fit.

The said party of the first part covenants to pay all taxes, assessments, dues and charges upon the said property hereby conveyed so long as he or his heirs or assigns shall hold the same; and further covenants and agreed to keep the buildings on the property hereby conveyed insured for the full amount of \$_____ for the further protection of the said beneficiary or assigns; and in the event of his failure to do so, then the Trustee, or the beneficiary under this deed, may effect or renew such insurance from time to time, so long as the said debt or any part thereof remains unpaid; and the insurance premiums shall constitute a part of the lien created by this deed, to be paid out of the proceeds of the property, if sold, or to be recoverable by all the remedies in law or equity by which the debt aforesaid may be recoverable.

If no default shall be made in the payment of the said debt or insurance premium, then upon request of the party of the first part, a good and sufficient deed of release shall be executed to him at his own proper cost and charges.

Witness the following signature and seal.

(Signed) Frank M. Harrington (SEAL)

STATE OF VIRGINIA

CITY OF SUFFOLK, TO-WIT:

I, Telva S. Miller a Notary Public in and for the City afore-

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said, in the state of Virginia, do certify that Frank M. Warrington whose name is signed to the writing hereunto annexed, bearing date the 19th day of July, 1924, has acknowledged the same before me in my city aforesaid.

Given under my hand this 19th day of July, 1924.

My term of office expires on the 12th day of January, 1928.

(SIGNED) Telza S. Miller
Notary Public.

A true copy:

Teste: *H. C. Smith* Clerk.

VIRGINIA: IN THE CIRCUIT COURT OF NANSEMOND COUNTY
AMERICAN FERTILIZING COMPANY, A CORPORATION,
vs.

FRANK M. WARRINGTON, W. B. WARRINGTON, C. E. WARRINGTON AND
L. P. HOLLAND, TRUSTEE.

This cause came on this day to be heard on the papers formerly read and on motion of counsel to dismiss this suit at the cost of the plaintiff, the matters in controversy having been compromised and settled by the American Fertilizing Company assigning its claim as described in this suit against Frank M. Warrington to the said W. B. Warrington without recourse.

On consideration whereof, it is adjudged, ordered and decreed that this suit be dismissed at the cost of the plaintiff. Leave is hereby granted the American Fertilizing Company and W. B. Warrington to withdraw from the papers in this cause the notes signed by Frank M. Warrington.

AMERICAN FERTILIZING COMPANY

VS.

FRANK M. WARRINGTON ET ALS

Enter Feb 3, 1925

J. L. M. Moore

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WILLIAM S. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND,
AMERICAN FERTILIZING COMPANY, A CORPORATION,
vs. BILL

FRANK M. WARRINGTON, C. E. WARRINGTON, W. B. WARRINGTON, MRS. D. W.
WILKINSON, MRS. C. M. WARRINGTON AND L. P. HOLLAND, TRUSTEE

Humbly complaining shows unto your Honor your complain-
ant, the American Fertilizing Company, a corporation, as follows:

FIRST: Your complainant alleges and says that prior to
and on the 19th day of July, 1924, the said Frank M. Warrington
was indebted to your complainant in the sum of Forty-three Hundred
and Twenty Dollars and Ninety-three Cents (\$4320.93), with interest
thereon from the 1st day of July, 1924, as evidenced by a note
dated December 1, 1923, executed by Frank M. Warrington, for the
sum of Twelve Hundred and Three Dollars and Three Cents (\$1203.03),
payable to the American Fertilizing Company on the 1st day of July,
1924, a copy of which note marked "Exhibit A" is herewith filed
and made a part of this bill, another note dated December 1, 1923,
executed by Frank M. Warrington, for the sum of Three Hundred and
Seven Dollars and fifty-five Cents (\$307.55), payable to the said
American Fertilizing Company on July 1, 1924, a copy of which note
is hereto attached, marked "Exhibit B", and made a part of this
bill, and an open account for the sum of Twenty-eight Hundred and
Ten Dollars and Thirty-five Cents (\$2810.35) for goods sold and
delivered to the said Frank M. Warrington, a copy of which account
marked "Exhibit C" is hereto attached, and made a part of this bill;
that the said Frank M. Warrington also promised and obligated to
pay ten per cent of the principal amount of each said note for at-
torney's fee, as will more fully appear from "Exhibit A" and "Ex-
hibit B", the said ten per cent on the said note for Twelve Hundred
and Three Dollars and Three Cents (\$1203.03) amounts to One Hun-
dred and Twenty Dollars and Thirty Cents (\$120.30), and ten per
cent on the said note for Three Hundred and Seven Dollars and Fifty

five Cents (\$307.55) amounts to Thirty Dollars and Seventy-five Cents (\$30.75); that no part of the said debts have been paid or in any manner discharged; therefore, the total sum of Forty-four Hundred and Seventy-one Dollars and Ninety-eight Cents (\$4471.98), with interest on Forty-three Hundred and Twenty Dollars and Ninety-three Cents (\$4320.93) from the 1st day of July, 1924, until paid, is due the said American Fertilizing Company from the said Frank M. Warrington; and that the said notes and that the said account constituted a part of the capital employed in the business of the said American Fertilizing Company, and were taxed as a part of such capital as required by law.

SECOND: Your complainant further alleges and says that on the 19th day of July, 1924, the said Frank M. Warrington, C. E. Warrington, W. B. Warrington and Mrs. D. W. Wilkinson, were owners in fee simple as coparceners, subject to the dower rights of their mother, Mrs. C. M. Warrington, of the following described tracts of land;

TRACT I.

All that certain tract, piece or parcel of land, situate, lying and being in Sleepy Hole Magisterial District, Hansemond County, Virginia, containing sixty-four (64) acres, more or less, bounded on the North by the lands of the estate of James A. Phelps, deceased; on the East by the lands of the estate of Virginia Jones, deceased, (formerly Jeremiah Jones); on the South by the land of Dr. William T. Jordan, and on the West by the land of John G. Peake, (formerly the lands of Mrs. Sal-lie J. Wright); and being part of the lands which by deeds were duly conveyed to James M. Keeling by W. W. Wright, Commissioner, and a part of the land formerly owned by William R. Gay, deceased; and being the same tract of land a one-fourth (1/4th) interest in which was inherited by Frank M. Warrington on the death of his father, Severn F. Warrington, subject to the life interest of Catherine M. Warrington, the widow of Severn F. Warrington.

TRACT II.

All that certain tract of land, together with the buildings and improvements now thereon, located, bounded and described as follows:- Commencing at Bennett's Creek at a corner with Annie J. Everett's land; thence along said creek to the land of L. D. Ames; thence along the lands of L. D. Ames, John G. Peake and others to the Hansemond River, also at a corner with the said Annie J. Everett's land to the point of beginning, containing one hundred and eleven (111) acres of high land and one hundred and seven (107) acres of swamp land, it being the same piece of property that was conveyed to E. E. Holland, trustee, by L. D. Ames prior to a cer-

tain partition suit instituted, in which R. L. Ames was plaintiff and M. G. Ames defendant; the above described property being that which was allotted to L. D. Ames as the result of the said suit. For a more particular description of the above described property see the papers in the suit above mentioned and refer to deed of trust given E. E. Holland by L. D. Ames duly of record in the Clerk's Office of Nansemond County, Virginia, it being the same property conveyed to Severn F. Warrington by E. E. Holland, trustee, by deed dated February 9th, 1891, and duly recorded in the Clerk's Office of Nansemond County, Virginia, in Deed Book 24, page 457,

~~My interest in the growing crops is also hereby conveyed~~

THIRD: Your complainant further alleges and says that on the 19th day of July, 1924, and after the said notes and account had become due and payable, the said Frank M. Warrington by a certain deed of trust of that date, now duly of record in Deed Book 103, page 151, in the Clerk's Office of the Circuit Court of Nansemond County, conveyed all of his one-fourth fee simple interest, subject to the life interest of his mother, in and to all of the said tracts of land, to L. P. Holland, Trustee, in trust to secure payment of an ostensible debt of Seven Thousand (\$7000.00) Dollars to W. B. and C. E. Warrington jointly, all of which will more fully and at large appear from said deed of trust, an attested copy of which is herewith filed, marked "Exhibit D", and made a part of this bill.

FOURTH: Your complainant alleges and says that the said deed of trust from Frank M. Warrington to L. P. Holland, Trustee, on the above two tracts of land is voluntary and without consideration of any kind; that the same was made by the said Frank M. Warrington with the intent to hinder, delay and defraud his creditors, and especially your complainant, of which intent the said W. B. Warrington had notice; and that when the said deed was executed, the said Frank M. Warrington was, and now is, insolvent.

FIFTH: Your complainant alleges and says that on the 4th day of August, 1924, and after the said notes and account had become due and payable, the said Frank M. Warrington, by deed of

that date, now duly of record in Deed Book ¹⁰⁴ 104, page 517, in the Clerk's Office of the Circuit Court of Nansemond County, conveyed all of his one-fourth fee simple interest, subject to the life interest of his mother, in and to the said tracts of land, which are fully described in the aforesaid deed, and his interest in the growing crops thereon, to the said W. B. Warrington, for ostensible considerations, all of which will more fully and at large appear from the said deed, an attested copy of which is herewith filed, marked "Exhibit E" and made a part of this bill, (the two tracts of land described in this deed marked "Exhibit E" are the same tracts described in the said deed of trust from Frank M. Warrington to L. P. Holland, Trustee, and again described in paragraph "Second" above).

SIXTH: Your complainant further complains and says that the said deed of conveyance from Frank M. Warrington to W. B. Warrington, "Exhibit E", is voluntary and without consideration of any kind; that the same was made by the said Frank M. Warrington with intent to hinder, delay and defraud his creditors, and especially your complainant, of which intent the said W. B. Warrington had notice; that when the said deed was executed the said Frank M. Warrington was, and now is, insolvent; the said Frank M. Warrington had, and has now, no other property of material value except the property mentioned in the said deeds of trust and deed; that for some time next preceeding the 4th day of August, 1924, (the date on which Frank M. Warrington executed the aforesaid deed to W. B. Warrington) the said Frank M. Warrington lived on the said land with his mother and a brother, C. E. Warrington, and that he, the said Frank M. Warrington, while living on the said land, cultivated a large portion thereof for his personal use and benefit; that notwithstanding the foregoing deed from Frank M. Warrington to the said W. B. Warrington the said Frank M. Warrington has had continuous possession of that part of the land cultivated by him and the crops on the land so cultivated by him, and has continuously cultivated the same and has exercised continuous control and ownership just as he did prior to the time of the aforesaid conveyance to W. B. Warrington, who is a brother of the said Frank M. Warrington.

SEVENTH: Your complainant further alleges and says that on the 19th day of July, 1924, and after the said notes and account had become due and payable, the said Frank M. Warrington, by deed of trust of that date, now duly of record in Deed of Trust Book 103, page 143, in the Clerk's Office of the Circuit Court of Nansemond County, conveyed all his goods and chattel, which are fully described in the said deed of trust, to the said L. P. Holland, Trustee, in trust to secure the payment of an ostensible debt of Fifteen Hundred (\$1500.00) Dollars to W. B. Warrington, all of which will more fully and at large appear from the said deed of trust, an attested copy of which is herewith filed, marked "exhibit F", and made a part of this bill.

EIGHTH: Your complainant further alleges and says that the said deed of trust from the said Frank M. Warrington to L. P. Holland, Trustee, on the aforesaid goods and chattels, "Exhibit F", is voluntary and without consideration of any kind; that the same was made by the said Frank M. Warrington with the intent to hinder, delay and defraud his creditors, and especially your complainant, of which intent the said W. B. Warrington had notice; and that when the said deed of trust was executed Frank M. Warrington was, and now is, insolvent.

IN TENDER CONSIDERATION WHEREOF and in as much as your complainant is without remedy save in a court of equity where such matters are peculiarly cognizable, your complainant prays as follows:

(1) That Frank M. Warrington, C. E. Warrington, W. B. Warrington, Mrs. D. W. Wilkinson, Mrs. C. M. Warrington and L. P. Holland, Trustee, be made parties defendants to this suit and require to answer the same, though answer under oath is hereby expressly waived, and that proper process issue, and,

(2) That a judgment may be entered in favor of your complainant against the said Frank M. Warrington for the sum of Forty-four Hundred and Seventy-one Dollars and Ninety-eight Cents (\$4471.98)

with interest on Forty-three Hundred and Twenty Dollars and Ninety-three Cents (\$4320.93) from the 1st day of July, 1924, until paid, and its cost incurred in this suit.

(3) That the said deed of trust from Frank M. Warrington to L. P. Holland, Trustee, dated July 19, 1924, and recorded in Deed Book 103, page 151, in the Clerk's Office of Nansemond County, on the above described real estate, be set aside and declared void as voluntary and fraudulent so far as your complainant's rights and interests are concerned, and,

(4) That the said deed from Frank M. Warrington to W. B. Warrington, dated August 4, 1924, and recorded in Deed Book 104, page 517, in the aforesaid Clerk's Office, be set aside and declared void as voluntary and fraudulent so far as your complainant's rights and interests are concerned; and,

(5) That the said deed of trust from Frank M. Warrington to L. P. Holland, dated July 19, 1924, on certain chattel property, and recorded in Deed Book 103, page 149, in the aforesaid Clerk's Office, be set aside and declared void as voluntary and fraudulent so far as your complainant's rights and interests are concerned; and,

(6) That the said goods and chattel mentioned in the said deed of trust from Frank M. Warrington to L. P. Holland, Trustee, be sold to satisfy the claims of your complainant as asserted in this suit; and,

That the one-fourth undivided interest of Frank M.

(7) ~~That the said real estate described in the said deed from Frank M. Warrington to W. B. Warrington, dated August 4, 1924, graph "Second" and also in the said deed from Frank M. Warrington to W. B. Warrington, dated August 4, 1924, be sold, subject to the dower rights of Mrs. D. W. Wilkinson, subject to the dower rights of Mrs. C. M. Warrington, to satisfy the claims of C. M. Warrington, and that the part of the land so allotted to Frank M. Warrington, be sold to satisfy the claims of your complainant and allowed by the court in this suit. against the said Frank M. Warrington as asserted in this suit, or else that the said tracts of land be sold and the proceeds divided, in case it be indivisible in kind, and that such proceeds as may~~

~~be due the said Frank M. Warrington for his interest in the said claim
and be applied to the payment of your complainant against the
said Frank M. Warrington as asserted in this suit; and,~~

(8) That all proper orders and decrees may be made, accounts taken and inquiry directed and that all such other, further and general relief may be afforded your complainant as the nature of its case may require, or to equity shall seem meet. And your complainant will ever pray, etc.

*American Fertilizing Company
a Corporation, By its Attorney,
W. S. Holland -*

AMERICAN FERTILIZING COMPANY, INC.

vs.

BILL

FRANK M. WARRINGTON AND OTHERS

Filed Sept. 3, 1914

W. S. Holland
Recd

WILLIAM S. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

VIRGINIA: IN THE CIRCUIT COURT OF NAISEMOND COUNTY,
AMERICAN FERTILIZER COMPANY, A CORPORATION,

vs.

MEMORANDUM

FRANK M. WARRINGTON, C. E. WARRINGTON, W. B. WARRINGTON, MRS. D. W.
WILKINSON, MRS. C. M. WARRINGTON and L. P. HOLLAND, TRUSTEE

To G. E. Bunting, Clerk:

Issue process returnable to rules to be holden for the said
Court on the first Monday in September, 1924, against the above
defendants to answer the bill of the complainant, the American
Fertilizing Company, a corporation.

William S Holland p.q.

August 22, 1924.

Rule Notes:

*Aug. 23, 1924 - Process issued, returnable to
Sept. Rules, 1st Monday, 1924.*

American Fertilizing Co.
vs Incy

Frank M Warrington
and others

Memo.

CHANCERY SUMMONS

The Commonwealth of Virginia. ~~Sheriff~~ ^{Segeant} of the City of Newport News
TO THE ~~SHERIFF~~ OF NANSEMOND COUNTY--GREETING:

You are Hereby Commanded to Summon W.B.Warrington, Frank M.
Warrington, C.E.Warrington, Mrs.D.W.Wilkerson, Mrs.C.M.Warrington and
L.P.Holland, Trustee

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 September, ¹⁹²⁴ to answer a
Bill in Chancery, exhibited against them
in the said Court by American Fertilizer Company, a corporation

And have then and there this summons.

Witness. G. E. Bunting, Clerk of our said Court, at his office, this 22nd day of
August, 1924, in the 1949th year of the Commonwealth.

A Copy--Teste:

Clerk

Teste:

Clerk

Executed this the 25th day of August 1924, in the city of Newport News
Virginia, by delivering a true copy of the within summons to Mrs.
D. W. Wilkinson, in person.

D. C. Curtis

City Sergeant, for the city of Newport News
Virginia.

W. H. Hall

By Deputy Sergeant

Original

Wm S. Holland p. q.

American Reutilizer Co. Inc.

vs. } In Chancery

W. B. Huntington & Co.

1924

Sept

Rules

Past

Monday.

NANSEMOND COUNTY COURT,

Process Book, No. 3

Page

296 per 50 of 22

in person, in the County of Nansemond, State of Virginia.

Executed this _____ day of _____, 191 _____ by delivering a true copy of the with-
in process to _____

Sheriff

CHANCERY SUMMONS

The Commonwealth of Virginia.

TO THE SHERIFF OF NANSEMOND COUNTY--GREETING:

You are Hereby Comanded to Summon W.B. Warrington, Frank M. Warrington,

C.E. Warrington, Mrs. D.W. Wilkerson, Mrs. C.M. Warrington and L.P. Holland,
Trustee

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 September, 1924, to answer a

Bill in Chancery, exhibited against them

in the said Court by American Fertilizer Company, a corporation

And have then and there this summons.

Witness. G. E. Bunting, Clerk of our said Court, at his office, this 22nd day of

August, 1924, in the 149th year of the Commonwealth.

A Copy Teste:

Clerk

Teste:

Clerk

Frank M Warrington
Could not

27 day of Aug
1924

was executed on the said

27 day of Aug 1924

within the county of Nansemond

by delivering a true copy

of the writ in writing, and

giving information to the par-

ty to

Mrs C.M. Warrington

who was found at

Frank M Warrington

used place of abode and who

is a member of

his

family, and above the age of

sixteen years.

E.B. Rawles

Sheriff of Nansemond County.

X X X

Executed on the 27 day of
Aug 1924 within the county of

Nansemond, by delivering a

true copy of the within process,

in writing, to Mrs C.M.

Warrington in person

E.B. Rawles

Sheriff of Nansemond County.

C & Warrington

used place of abode and who

is a member of

27 day of Aug

1924, on the within process

was executed on the said

27 day of Aug 1924

within the county of Nansemond

by delivering a true copy

of the writ in writing, and

giving information to the par-

ty to

Mrs C.M. Warrington

who was found at

C & Warrington

used place of abode and who

is a member of

his

family, and above the age of

sixteen years.

E.B. Rawles

Sheriff of Nansemond County.

Executed on the 28 day of
Aug 1924 within the county of

Nansemond, by delivering a

true copy of the within process,

in writing, to L.P. Helland

Lustie in person

E.B. Rawles

Sheriff of Nansemond County.

Original

Wm.S.Holland, p. q.

American Fertilizer Co. Inc.

vs. } In Chancery

W.B.Warrington et als

19 24

September Rules

First Monday.

NANSEMOND COUNTY COURT,

Process Book, No.

Page

in person, in the County of Nansemond, State of Virginia.

in process to

Executed this

day of

27

day of

Executed on the 27 day of
Aug 1924 within the county of
Nansemond, by delivering a
true copy of the within process,

in writing, to W.B. Warrington

in person

E.B. Rawles

Sheriff of Nansemond County.

by delivering a true copy of the with-

Sheriff

Virginia,

In the Circuit Court of the County of Nansemond.

-----ooOOoo-----

American Fertilizing Company-----Complainants)
a Corporation,)

v.)

Frank M. Warrington; C. E.-----Defendants)
Warrington and W. B. Warrington.)

This day came Frank M. Warrington; C. E. Warrington and W. B. Warrington, and asked leave to file their answer herein, which leave being granted by the Court, the same is accordingly filed.

Virginia,
In the Circuit Court of the
County of Nansemond.

American Fertilizing Company,
a Corporation,

v. *0*

Frank M. Warrington; C. E.
Warrington and W. B. Warring-
ton.

Decree.

Enter:

Judge.

November *24*,
1924.

5-73 502

SMITH & SMITH,
ATTORNEYS AT LAW,
515 NATIONAL BANK OF COMMERCE BUILDING
NORFOLK, VIRGINIA

Virginia,

In the Circuit Court of the County of Nansemond.

-----oo00oo-----

American Fertilizer Com-----Complainant
pany, a Corporation,

v.

Frank M. Warrington, et als-----Defendants

This day came the plaintiff and asked leave to amend its bill at the bar of the Court, which leave being granted, the same was amended. And by the said amendment, with the leave of the Court, the following names were stricken from the list of defendants:- Mrs. D. W. Wilkinson, and Mrs. C. M. Warrington.

And thereupon, the remaining defendants filed their demurrer to the said amended bill, which demurrer is hereby over-ruled by the Court.

And this cause is continued.

Virginia,
In the Circuit Court of the
County of Nansemond.

American Fertilizer Com-
pany,

v. *0*

Frank M. Warrington, et als

Decree.

5-72 494

Entered,

Judge

October *7*, 1924.

J. L. Williams

SMITH & SMITH,
ATTORNEYS AT LAW,
515 NATIONAL BANK OF COMMERCE BUILDING
NORFOLK, VIRGINIA

Exhibit 4

Certificate of Incorporation
of

F. M. Warrington, Incorporated.

This is to certify that we do hereby associate ourselves to establish a corporation under and by virtue of the provisions of the laws of the State of Virginia, entitled, "An act concerning corporations", for the purpose and under the corporate name, hereinafter mentioned, and to that end we do, by this our certificate, set forth as follows:

(a): Name:

The name of the Corporation is to be F. M. Warrington, Incorporated:

(b): Principal Office:

Its principal office in this State is to be located at Driver, Nansemond County, in the State of Virginia.

(c): Purposes:

The purposes for which it is formed are to deal in real estate and the farming and trucking business in all of its branches.

(d): Capital Stock:

The maximum amount of the capital stock of the corporation is to be five thousand dollars (\$5,000.00), the minimum amount is to be five hundred dollars (\$500.00); and the capital stock is to be divided into shares of ten dollars (\$10.00) each.

(e): Duration:

The period for the duration of the corporation is unlimited.

(f): Officers and Directors.

The names and residences of the officers and directors who, unless sooner changed by the stock-holders, are for the first year to manage the affairs of the corporation, are as follows:-

<u>Name.</u>	<u>Office.</u>	<u>Residence.</u>
F. M. Warrington	President	Nansemond County, Va.
W. B. Warrington	Vice President, and Treasurer	Nansemond County, Va.
C. E. Warrington	Secretary	Nansemond County, Va.

Directors.

Residence.

F. M. Warrington	Driver, Nansemond County, Va.
W. B. Warrington	Driver, Nansemond County, Va.
C. E. Warrington	Driver, Nansemond County, Va.

(g): Real Estate:

The amount of real estate to which the holdings of the corporation at any time are to be limited, is one hundred (100) acres.

Given under our hands this 7th day of August, 1924.

F. M. Warrington

W. B. Warrington

C. E. Warrington

State of Virginia,

City of Norfolk, To-Wit:-

I, Richard M. Smith, a Notary Public in and for the City and State aforesaid, do certify that F. M. Warrington, W. B. Warrington and C. E. Warrington, whose names are signed to the foregoing writing bearing date on the 7th day of August, 1924, have acknowledged the same before me in my City aforesaid. My Commission expires on the 24th day of May, 1926.

Given under my hand this the 7th day of August, 1924.

Richard M. Smith
Notary Public.

Virginia;

In the Circuit Court of Nansemond County.

The foregoing certificate of Incorporation of F. M. Warrington, Incorporated, was presented to me, James E. McLeMore, Judge of the Circuit Court of the County of Nansemond, in vacation time, and having been examined by me, I now certify that the said certificate for Incorporation is, in my opinion, signed and acknowledged in accordance with the requirements of law in such cases made and provided.

Given under my hand this 11th day of August, 1924.

James E. McLeMore
Judge.

Commonwealth of Virginia
Department of the
State Corporation Commission

City of Richmond, 18th day of August, 1924.

The accompanying certificate for incorporation, together with a receipt showing payment of the charter fee required by law, having been presented to the State Corporation Commission by F. M. Warrington, W. B. Warrington and C. E. Warrington, and the Hon. James L. McLemore, Judge of the Circuit Court of Hansemond County, having certified that the said certificate has been signed and acknowledged by said applicants in accordance with law, the State Corporation Commission having examined said certificate now declares that the said applicants have complied with the requirements of law, and have entitled themselves to a charter, and it is therefore ordered that they and their associates and successors be, and they are, hereby made and created a body politic and corporate under and by the name of F. M. Warrington, Incorporated, upon the terms and conditions, and for the purposes set forth in said certificate, to the same extent as if the same were now herein transcribed in full and with all the powers and privileges conferred and subject to all the conditions and restrictions imposed by law.

And said certificate, with this order, is hereby certified to the Secretary of the Commonwealth for record.

Wm. F. Rhea
Chairman.



N. W. Atkinson

Clerk of the Commission.

First Assistant

Commonwealth of Virginia,

Office of the Secretary of the Commonwealth.

In the City of Richmond, the 18th day of August 1924.

The foregoing charter of F. M. Warrington, Incorporated was this day received and duly recorded in this office and is hereby certified to the Clerk of the Circuit Court of Nansemond County according to law.

M. A. Hutchinson.

Acting Secretary of the Commonwealth.

VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County the 29th day of August 1924.

The foregoing charter and certificate of the Secretary of the Commonwealth thereon was this day received, duly recorded, and certified to the Clerk of the State Corporation Commission.

Teste:

G. E. Bunting, Clerk.

A true copy made this 11th day of December 1924.

Teste: G. E. Bunting, Clerk.

By, M. K. Gardner, D. C.

Charter

J. M. Worthington
Incorporated

Fee \$ 2.00

Exhibit 3

1921				
Mar	check	✓	1 00	51
Aug	10 Louis Lure	✓	1 30	51
"	5 Louis guano	✓	2 50	51
Oct -	200 Empty bbls	✓	1 80	51
1922				
Aug	50 bbls Corn	✓	3 00	51
"	use of tractor	✓	1 00	51
"	1 Paris green hill	✓	75-	51
"	check	✓	2 10	51
"	check	✓	30	51
1923				
Aug	Rent -	✓	1 00 0	51
Dec	Cabbages & Potatoes		1 50	51
	Cash Paid on life insurance		40	51
	2 Shaker Hay		70	51
	2 1/2 bags Parish G		50	51
	1 Bag Sprinkler		30-	51
	Cash		1 50	51
1924				
Apr	check		25-	51
May	check		1 50	51
June	check		1 00	00

$$\begin{array}{r}
 2112 \\
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 \times 12 \\
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 1212 \\
 2112 \\
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 20
 \end{array}$$

1924	2 Corn Machine	398.50
any	rent-	100.00
any	21 White Pot-	139.50
"	2 1/2 hair Guano	140.00
"	8 hair Guano	84.00
"	5 hair Guano	247.50
"	Cork by sheet	70.00
Oct-	sheet 2	25.00

GEO. H. SARGEANT, PRESIDENT
W. W. PERKINS, SECRETARY
E. R. POYNER, TREASURER



OFFICE:
SIXTH FLOOR
SOUTHERN PRODUCE BUILDING
COMMERCIAL PLACE

NORFOLK, VA.

Mr. J. M. Harrington

Taylor P. R. R. # 5

TO THE AMERICAN FERTILIZING COMPANY, DR.
FERTILIZERS

FACTORY:
SOUTH PORTSMOUTH, VIRGINIA

1924
Apr 30

Spring 1924

To Stature Rend.

281035

Jan. 1923

To Note due July 1-1924

190303

" " " July 1-1924

30755
432093

Saw Mr. Harrington at Drums of
He has no money now, but will
grow a fair crop of Potatoes, and soon
as gets returns will be in to see you

7/17

Will call at office Saturday

7/21 Taylor will see and get him to come in
Come Saturday as promised but no one here

7/24 Called away from home. Mother says gone to
office today

This Deed, Made this 19th day of July in the year
one thousand nine hundred and twenty-four between

Frank M. Warrington (Single)

of the County of Nansemond, State of Virginia,

party of the first part, and L. P. Holland chosen as trustee,

of the City of Suffolk, Virginia part V of the second part—

WITNESSETH: That the said party of the first part do th grant unto the said
part y of the second part, with general warranty, the following property, to wit:

All his one-fourth ($\frac{1}{4}$) fee simple interest, subject to the life interest of his
mother in and to both of the following described tracts of land;

Tract 1.

All that certain tract, piece or parcel of land, situate, lying and being in
Sleepy Hole Magisterial District, Nansemond County, Virginia, containing sixty
four (64) acres, more or less, bounded on the north by the lands of the estate
of James A. Phelps, deceased on the east by the lands of the estate of Virginia
Jones, deceased, (Formerly Jeremiah Jones); on the south by the lands of Dr.
William T. Jordan, and on the west by the lands of John G. Peake, (formerly the
lands of Mrs Sallie J. Wright); and being part of the lands which by deeds were
duly conveyed to James M. Keeling by W. W. Wright, Commissioner, and a part of
the land formerly owned by William R. Gary, deceased; and being the same tract
of land a one fourth ($\frac{1}{4}$) interest in which was inherited by Frank M. Warrington
on the death of his father, Severn F. Warrington subject to the life interest of
Catherine M. Warrington, the widow of Severn F. Warrington.

Tract 2.

All that certain tract of land, together with the buildings and improvements now
thereon located, bounded and described as follows; Commencing at Bennett's Creek
at a corner with Annie J. Everett's land, thence along said creek to the lands of
L. D. Ames, thence along the lands of L. D. Ames, John G. peake and others to the
Nansemond River, also at a corner with the said Annie J. Everett's land to the
point of beginning, containing one hundred and eleven (111) acres of high land
and one hundred and seven (107) acres of swamp land; it being the same piece of
property that was conveyed to E. E. Holland trustee by L. D. Ames prior to a
certain partition suit instituted, in which R. L. Ames was plaintiff and M. G.
Ames defendant; the above described property being that which was allotted to
L. D. Ames as the result of the said suit. For a more particular description of
the above described property, see the papers in the suit above mentioned and
refer to deed of trust given E. E. Holland by L. D. Ames, duly of record in the

Clerk's Office of Nansemond County, Virginia, it being the same property conveyed to Severn F. Warrington by E. E. Holland trustee, by deed dated February 9th, 1891, and duly recorded in the Clerk's Office of Nansemond County, Virginia, in Deed Book 24 page 457.

IN TRUST, to secure to ~~W. B. Warrington and~~

~~C. E. Warrington jointly~~ the payment of the sum of SEVEN THOUSAND (\$7,000.00) DOLLARS, evidenced by a negotiable note of even date with this deed, for that sum, made by Frank M. Warrington and payable to W. B. Warrington and C. E. Warrington ninety days after date at the Farmers Bank of Nansemond Suffolk, Virginia with interest from date until paid, and waiving the benefit of the homestead exemption and also to secure any note or notes given in renewal, curtail or continuation of said note.

In the event that default shall be made in the payment of the said debt, principal or any installment of interest, when due and payable, then the Trustee, on being required so to do by

~~the beneficiary his~~ executors, administrators or assigns, shall sell the property hereby conveyed.

And it is covenanted and agreed between the parties aforesaid, that in case of a sale the same shall be made after first advertising the time, place and terms thereof for ~~fifteen (15) days in the manner deemed best by the trustee~~

and upon the following terms, to wit: for cash as to so much of the proceeds as may be necessary to defray the expenses of executing this trust, including a trustee's commission of 5 per centum, the fees for drawing and recording this deed, if then unpaid, and to discharge the amount of money then payable upon the said debt, and if there be any residue of said purchase money the same shall be made payable at such time and secured in such manner, as the said party ~~his~~ of the first part ~~his~~ executors, administrators or assigns shall prescribe and direct, or in case of ~~his~~ failure to give such directions, at such time and in such manner as the said Trustee shall see fit.

The said party ~~of the first part~~ covenants ~~to pay all taxes, assessments, dues and charges upon the said property hereby conveyed so long as~~ ~~he~~ or ~~his~~ heirs or assigns shall hold the same; and further covenant ~~and agree~~ ~~d~~ to keep the buildings on the property hereby conveyed insured for the full amount of \$ ~~for the further protection of the said~~ ~~beneficiary~~

or assigns; and in the event of ~~his~~ failure to do so, then the Trustee, or the beneficiary under this deed, may effect or renew such insurance from time to time, so long as the said debt or any part thereof remains unpaid; and the insurance premiums shall constitute a part of the lien created by this deed, to be paid out of the proceeds of the property, if sold, or to be recoverable by all the remedies in law or equity by which the debt aforesaid may be recoverable.

If no default shall be made in the payment of the said debt or insurance premium, then upon request of the party ~~of the first part~~, a good and sufficient deed of release shall be executed to ~~him~~ at ~~his~~ own proper cost and charges.

Witness the following signature and seal

~~Frank M. Warrington~~ (SEAL)
(SEAL)
(SEAL)
(SEAL)

STATE OF VIRGINIA

~~CITY~~ of ~~SUFFOLK~~, } to-wit:

I, ~~Telza S. Miller~~ a ~~Notary Public in and~~ for the ~~City~~ aforesaid, in the state of Virginia, do certify that ~~Frank M. Warrington~~

Whose name ~~signed to the writing hereunto annexed, bearing date the~~ ~~19th~~ day of ~~July~~, 19~~24~~, has ~~acknowledged the same before me in my~~ ~~City~~ aforesaid.

Given under my hand this ~~19th~~ day of ~~July~~, 19~~24~~.

~~Telza S. Miller~~
Notary Public.
19~~28~~.

My term of office expires on the ~~12th~~ day of ~~January~~
MEMO—To be acknowledged before any officer authorized to take acknowledgments.

A true copy: Test: L. E. Smith, Clerk

DEED OF TRUST

To

Trustee for

Admitted to record this 23 day of

July, 1924

Recorded D. B. 103 Page 157

Examined and verified.

_____, Clerk

By _____, D. C.

\$ _____

Tax \$ _____

Fee \$ _____

\$ _____

PILAND PRINTING CO., SUFFOLK, VA.

VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County

the 23th day of July 1924

This deed was presented, and, with the certificate annexed, admitted to record.

Teste,

G. E. Bunting, Clerk

By M. K. Gardner D. C.

Exhibits in case of

American Fertilizing Company

v

W. B. Warrington, Frank M.
Warrington, etc.

This Deed,

Made this 4th day of August, in the year one thousand nine hundred and twenty-four between Frank M. Warrington, (single), of the County of Nansemond in the State of Virginia

of the first part, and W. B. Warrington, of the said County, and State of Virginia,

of the second part—

WITNESSETH: That in consideration of the sum of ten dollars (\$10.00) and other valuable considerations the said party of the first part

do th grant unto the said party of the second part, and to his heirs, and assigns, forever, the following property, to-wit:

All his one-fourth (1/4th) fee simple interest, subject to the life interest of his mother in and to both of the following described tracts of land.

Tract 1.

All that certain tract, piece or parcel of land, situate, lying and being in Sleepy Hole Magisterial District, Nansemond County, Virginia, containing sixty-four (64) acres, more or less, bounded on the north by the lands of the estate of James A. Phelps, deceased; on the east by the lands of the estate of Virginia Jones, deceased, (formerly Jeremiah Jones); on the South by the land of Dr. William T. Jordan, and on the West by the land of John G. Peake, (formerly the lands of Mrs. Sallie J. Wright); and being part of the lands which by deeds were duly conveyed to James M. Keeling by W. W. Wright, Commissioner, and a part of the land formerly owned by William R. Gary, deceased; and being the same tract of land a one-fourth (1/4th) interest in which was inherited by Frank M. Warrington on the death of his father, Severn F. Warrington, subject to the life interest of Catherine M. Warrington, the widow of Severn F. Warrington.

Tract 2.

All that certain tract of land, together with the buildings and improvements now thereon, located, bounded and described as follows:- Commencing at Bennett's Creek at a corner with Annie J. Everett's land; thence along said creek to the land of L. D. Ames; thence along the lands of L. D. Ames, John G. Peake and others to the Nansemond River, also at a corner with the said Annie J. Everett's land to the point of beginning, containing one hundred and eleven (111) acres of high land and one hundred and seven (107) acres of swamp land, it being the same piece of property that was conveyed to E. E. Holland, trustee, by L. D. Ames prior to a certain partition suit instituted, in which R. L. Ames was plaintiff and M. G. Ames defendant; the above described property being that which was allotted to L. D. Ames as the result of the said suit. For a more particular description of the above described property see the papers in the suit above mentioned and refer to deed of trust given E. E. Holland by L. D. Ames duly of record in the Clerk's Office of Nansemond County, Virginia, it being the same property conveyed to Severn F. Warrington by E. E. Holland, trustee, by deed dated February 9th, 1891, and duly recorded in the Clerk's Office of Nansemond County, Virginia, in Deed Book 24, page 457.

My interest in the growing crops is also hereby conveyed.

The said party of the first part
covenant s that he has the right to convey the said land to the grantee ; that he has
done no act to encumber the said land, that the grantee shall have quiet possession of the said land, free
from all encumbrances, and that he the said part y of the first part, will execute such further assurances
of the said land as may be requisite.

Witness the following signature and seal

Frank M. Warrington (SEAL)
(SEAL)
(SEAL)

STATE OF VIRGINIA

Corporation of the City of Norfolk } to-wit:

I, J. Sydney Smith, a Notary Public
for the Corporation aforesaid, in the state of Virginia, do certify that
Frank M. Warrington, (single)

Whose name is signed to the writing hereunto annexed, bearing date the 4th day
of August, 19 24, has acknowledged the same before me in my Corporation
aforesaid.

Given under my hand this 4th day of August 19 24

J. Sydney Smith
Notary Public.

My term of office expires on the 24th day of August, 19 24.
MEMO—To be acknowledged before any officer authorized to take acknowledgments.

VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County
the 4th day of August, 19 24

This deed was presented, and, with the certificate annexed and with the requisite amount of \$5.00 in
stamps having been annexed thereto and cancelled, admitted to record.

TESTE:

G. E. Bunting Clerk
By M. K. Gardner D. C.

A true copy; Test: G. E. Bunting

Deed of Bargain and Sale

To

Admitted to record this 24th day of

Oct, 1924

Recorded D. B. 104 Page 517

Examined and verified.

_____, Clerk

By _____, D. C

\$ _____

Tax \$ _____

Fee \$ _____

\$ _____

"Exhibit L"

This Deed, Made this 19th day of July in the year
one thousand nine hundred and twenty four between

Frank M. Warrington (Single)

of the County of Nansemond State of Virginia,

part y of the first part, and

L. P. Holland chosen as trustee

of the City of Suffolk, Virginia part V of the second part—

WITNESSETH: That the said part y of the first part doth grant unto the said
part y of the second part, with general warranty, the following property, to wit:

All that certain chattel property now located upon that farm in Nansemond County known as the "Pasture Farm", formerly belonging to S. F. Warrington, deceased, and further described as follows; All that certain tract of land, together with the buildings and improvements now thereon, located bounded and described as follows; Commencing at Bennett's Creek at a corner with Annie J. Everett's land, thence along said creek to the lands of L. D. Ames; thence along the lands of L. D. Ames, John G. Peake and others to the Nansemond River; also at a corner with Annie J. Everett's land to the point of beginning; containing one hundred and eleven (111) acres of high land and one hundred and seven (107) acres of swamp land; it being the same piece of property that was conveyed to E. E. Holland, Trustee, by L. D. Ames prior to a certain partition suit instituted, in which R. L. Ames was plaintiff and M. G. Ames defendant; the above described property being that which was allotted to L. D. Ames as the result of said suit. For a more particular description of the above property, see the papers in the suit above mentioned and refer to deed of trust given E. E. Holland by L. D. Ames, duly of record in the Clerk's Office of Nansemond County, State of Virginia, it being the same property conveyed to Severn F. Warrington by E. E. Holland Trustee by deed dated February 9th 1891, and duly recorded in the Clerk's Office of Nansemond County in Deed Book 24, page 457. The said chattel estate on the above mentioned farm being described in detail as follows; One (1) gray mule named "Jack"; one (1) bay mule named "Edna"; one (1) bay mule named "Lucy"; one (1) bay mule named "Kate"; one bay mule named "George"; together with the harness for all of the said mules; one (1) sorrel horse named "Prince"; five (5) dump carts; one (1) barrell cart; two (2) double drags; five (5) single plows; three (3) double plows; two (2) guano drills; one (1) lot of forks and shovels together with all other farming implements in and

IN TRUST, to secure to W. B. Warrington the payment of the sum of FIFTEEN HUNDRED (\$1500) DOLLARS evidenced by a negotiable note of even date with this deed for that sum, made by Frank M. Warrington and payable ninety days after date to the said W. B. Warrington at the Farmers Bank of Nansemond, Suffolk, Virginia, with interest from date until paid, and waiving the benefit of the homestead exemption, and also to secure any note or notes given in renewal, curtail or continuation of said note.

And it is covenanted and agreed between the parties aforesaid, that in case of a sale the same shall be made after first advertising the time, place and terms thereof for -----
----- fifteen (15) days in the manner deemed best by the trustee -----

The said part y----- of the first part covenant s----- to pay all taxes, assessments, dues and charges upon the said property hereby conveyed so long as he----- or his----- heirs or assigns shall hold the same; and further covenant s----- and agree s----- to keep the buildings on the property hereby conveyed insured for the full amount of \$----- for the further protection of the said-----

----- beneficiary -----

If no default shall be made in the payment of the said debt or insurance premium, then upon request of the party of the first part, a good and sufficient deed of release shall be executed to him at his own proper cost and charges.

Frank M. Warrington (SEAL)

City of Suffolk. } to-wit:

I, Telza S. Miller a Notary Public in and
for the City aforesaid, in the state of Virginia, do certify that
Frank M. Warrington

Given under my hand this 19th day of July 1924

Telza S. Miller
Notary Public.

My term of office expires on the 12th day of January 1928. Not

MEMO—To be acknowledged before any officer authorized to take acknowledgments.

A true copy: Test: H. E. Penning, P. Clerk

DEED OF TRUST

To

Trustee for

Admitted to record this 23 day of

Aug, 1927

Recorded D. B. 103 Page 187

Examined and verified.

_____, Clerk

By _____, D. C.

\$ _____

Tax \$ _____

Fee \$ _____

\$ _____

VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County

the 23rd day of July, 1924.

This deed was presented, and, with the certificate, annexed, admitted to record.

Teste,

G. E. Bunting, Clerk

By M. K. Gardner, D. C.

Commonwealth of Virginia,
County of Nansemond, to-wit:

To the Sergeant of the City of Newport News, Virginia:

We command that you summon Mrs. D. W. Wilkinson to appear before me at the office of William S. Holland in the City of Suffolk, Virginia, between the hours of 10 A.M. and 6 P.M. on the 18th. day of December 1924 to testify and the truth to say on behalf of the American Fertilizing Co., a corporation, in a certain suit in equity depending in the Circuit Court of Nansemond County, Virginia, wherein the said American Fertilizing Co. is plaintiff and ~~you and the said~~ Frank M. Warrington and others are defendants and that you have then and there this writ and make return how you have executed the same.

Witness my hand this 10th. day of December 1924.

Bradford Tieby
Commissioner in Chancery for the Circuit Court
of Nansemond County, Virginia.

Executed this the 15th day of December 1934, in the city of Newport News, Virginia, by delivering a true copy of the within summons to Mrs. D. W. Wilkinson, in person.

C. C. Curtis

City Sergeant, for the city of Newport News, Virginia.

By *P. M. Hall*
Deputy Sergeant.,

ORIGINAL

AMERICAN FERTILIZING COMPANY

VS.

FRANK M. WARRINGTON AND OTHERS

To W. B. Warrington, Frank M. Warrington, C. E. Warrington and
L. P. Holland, Trustee.

Take notice that on the 18th day of December, 1924, at the
office of William S. Holland in the City of Suffolk, State of Vir-
ginia, between the hours of 10 A.M. and 6 P.M. of that day, the
American Fertilizing Company, a corporation, shall proceed to take
the depositions of E. R. Poyner and others in a certain suit in
equity, depending in the Circuit Court of Nansemond County, wherein
the aforesaid company is plaintiff and you are defendants; and if
from any cause the taking of the said depositions be not commenced,
or, if commenced, be not concluded, on that day, the taking thereof
will be adjourned from day to day, at the same place, and between
the same hours, until the same shall be completed.

Dated this 1st day of December, 1924.

*American Fertilizing Company,
a corporation, by its attorney, W.
S. Holland.*

AMERICAN FERTILIZING COMPANY

vs.

FRANK M. WARRINGTON ET ALS

NOTICE TO TAKE DEPOSITIONS

We accept service of this notice.

W. S. Holland
Trustee
Smith & Smith atty in
W. B. Warrington, Frank M
Warrington & C. E. Warrington
WILLIAM S. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

Commonwealth of Virginia,
County of Nansemond, to-wit:

To the Sheriff of said County:

We command you to summon Frank M. Warrington, W. B. Warrington, Mrs. C. M. Warrington and C. E. Warrington to appear before me at the office of William S. Holland in the City of Suffolk, Virginia, between the hours of 10 A.M. and 6 P.M. on the 18th day of December 1924 to testify and the truth to say on behalf of the American Fertilizing Co. a corporation, in a certain suit in equity depending in the Circuit Court of Nansemond County, Virginia, wherein the said American Fertilizing Co. is plaintiff and said Frank M. Warrington and others are defendants and that you have then and there this writ and make return how you have executed the same.

Witness my hand this 10th day of December 1924.

Bradford Kilby

Commissioner in Chancery of the Circuit Court
for the County of Nansemond, Virginia.

ORIGINAL

AMERICAN FERTILIZING COMPANY

vs.

FRANK M. WARRINGTON AND OTHERS

Executed this 17th day of December, 1924, in the County of Nansemond, Virginia, by delivering true copies of the within notice to W. B. Warrington, C. E. Warrington, and Mrs. C. M. Warrington, each, in person. Frank M. Warrington could not be found at his usual place of abode on the 17th day of December, 1924, so the within notice was further executed on the said 17th day of December, 1924, within the County of Nansemond, Virginia, by delivering a true copy of the within notice, in writing, and giving information to Mrs. C. M. Warrington, ^{whose place of abode,} who was found at Frank M. Warrington's, and who is a member of Frank M. Warrington's family, and above the age of sixteen. years.

E. B. Rawles
Sheriff of Nansemond Co.

By A. C. Lyster
Deputy Sheriff

REPORTER'S TRANSCRIPT

IN THE CIRCUIT COURT OF THE COUNTY OF HAMPSHIRE, VIRGINIA.

AMERICAN FERTILIZING COMPANY,
a Corporation,

v

W. B. WARRINGTON, FRANK M. WARRINGTON, C. E. WARRINGTON, and
L. F. Holland, Trustee.

DEPOSITIONS.

Before BRADFORD KILBY, Commissioner,
Suffolk, Virginia, Dec. 18, 1924.

Filed January 1, 1925
H. B. Warrington

PHLEGAR & TILGHMAN
SHORTHAND REPORTERS
532-536 LAW BUILDING
NORFOLK, VA.

State of Virginia,

County of Nansemond, to-wit:

I, Bradford Kilby, a Commissioner in Chancery for the Circuit Court of Nansemond County in the State of Virginia, do hereby certify that the foregoing depositions of F. M. Warrington, G. M. Bethel and C. R. Poyner were duly taken and sworn to and the signature thereto waived at the time and place and for the purpose in the caption hereto mentioned.

Given under my hand this 18th. day of December 1924.

Bradford Kilby
Commissioner in Chancery.



I N D E X.

	DIRECT	CROSS	RE DIRECT	RE CROSS
Warrington, F.M.	2	----	----	----
Bethel, G.M.	69	70	71	----
Poyner, C.R.	72	----	----	----

-----oOo-----

1 IN THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND, VIRGINIA.

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5 AMERICAN FERTILIZING COMPANY,
a Corporation,

6 v

7 W. B. WARRINGTON, FRANK M.
8 WARRINGTON, C. E. WARRINGTON,
and L. P. HOLLAND, Trustee.

DEPOSITIONS.

9
10
11 The depositions of E. R. Poyner and others, taken
12 before Bradford Kilby, Commissioner, at the office of
13 William S. Holland, in the City of Suffolk, State of
14 Virginia, on the 18th day of December, 1924, between the
15 hours of ten A. M. and six P. M. of that day, to be read
16 as evidence in behalf of the plaintiff, in the above
17 entitled cause pending in the Circuit Court of the County
18 of Nansemond, Virginia.

19
20 -----oOo-----
21 PRESENT: Mr. William S. Holland, for the plaintiff.
22 Mr. J. Sidney Smith, for the defendant.
23

24 -----oOo-----
25 Phlegar & Tilghman,
26 Shorthand Reporters,
Norfolk, Virginia.

1
2 MR. HOLLAND: We move to segregate the wit-
3 nesses.

4 THE COMMISSIONER: All witnesses will please
5 stay in the next room until called.

6 -----oOo-----

7
8 FRANK M. WARRINGTON, one of the defendants, being
9 called as an adverse witness by the plaintiff, being first
10 duly sworn, testified as follows:

11 Examined as an adverse witness by Mr. Holland:

12 Q. Please state your name, age, residence and occupation?

13 A. Frank M. Warrington; 30; Drivers, Virginia; farmer.

14 Q. You admit the debts due the American Fertilizing
15 Company from you as described in the bill - I hand you
16 the two original notes?

17 A. Yes, sir.

18 MR. HOLLAND: I ask that these notes be filed
19 as Exhibit 1 and Exhibit 2..

20 NOTE: The said notes are accordingly marked
21 Exhibit 1 and Exhibit 2 and are in the words
22 and figures following:

23 EXHIBIT 1.

24 "AMERICAN FERTILIZING CO., Norfolk, Virginia.
25 "Due July 1, 1924 \$307.55

26 Drivers, Va. Dec.1, 1923.

On July 1st, 1924 after date I promise to

1 Pay to the order of AMERICAN FERTILIZING COMPANY
2 the sum of Three Hundred Seven and -----55/100 Dollars
3 at Their Offices, Norfolk, Va. without offset value received.

4 The maker and endorser each hereby waives the benefit
5 of the homestead exemption as to this debt.

6 Each and all of the parties to this note hereby agree
7 to continue and remain bound for the payment thereof and
8 all the interest thereon, notwithstanding any extension
9 of time granted to the maker and notwithstanding any failure
10 or omission to protest this note for non-payment or to give
11 notice of non-payment or dishonor or protest or to make
12 presentment of demand for payment, hereby expressly waiving
13 any protest and all notices of extension of time or of
14 non-payment or dishonor or protest in any form or any
15 presentment of demand for payment or any other notice
16 thereof. If not paid at maturity 10% upon the amount of this
17 note for attorney's fees to become due as soon as this note
18 is placed in the hands of an attorney for collection.

19 Frank M. Warrington. "

20 17-R 22-23

21 EXHIBIT 2

22 "AMERICAN FERTILIZING CO.
23 Norfolk, Virginia.

24 Due July 1, 1924

\$1,203.03.

25 Drivers, Va. Dec. 1, 1923.

26 On July 1st, 1924. after date I promise to

1 Pay to the order of AMERICAN FERTILIZING COMPANY
2 the sum of Twelve Hundred Three and -----03/100 Dollars
3 at Their Offices, Norfolk, Va. without offset value received.

4 The maker and endorser each hereby waives the benefit of
5 the homestead exemption as to this debt.

6 Each and all of the parties to this note hereby agree
7 to continue and remain bound for the payment thereof and
8 all the interest thereon, notwithstanding any extension of
9 time granted to the maker and notwithstanding any failure
10 or omission to protest this note for non-payment or to
11 give notice of non-payment or dishonor or protest or
12 to make presentment of demand for payment, hereby ex-
13 pressly waiving any protest and all notices of extension
14 of time or of non-payment or dishonor or protest in any
15 form or any presentment of demand for payment or any other
16 notice thereof. If not paid at maturity 10% upon the amount
17 of this note for attorney's fees to become due as soon as
18 this note is placed in the hands of an attorney for collection.

19 #87 23-24 Fall Frank M. Warrington. "

20
21 By Mr. Holland:

22 Q. You are a brother of W. B. Warrington and C. E. War-
23 rington, and a brother of Mrs. Wilkinson and a son of Mrs.
24 C. M. Warrington?

25 A. Yes, sir.
26

1 Q. You and C. E. Warrington and Mrs. C. M. Warrington
2 reside together at the old home place?

3 A. Yes, sir.

4 Q. You owe about \$17,000.00 worth of debts?

5 A. About, yes, sir.

6 Q. Will you please give the names of your creditors?

7 MR. SMITH: We object to that question. We
8 don't think that is relevant to the issues
9 joined, and I don't think counsel has the right
10 to require the party to state matters that have
11 no bearing on the issues involved. The issue
12 is that he has fraudulently conveyed certain
13 property to his brother with intent to defraud
14 this company. Now, counsel is endeavoring to
15 find out by this question who he owes money to,
16 the names of the persons he owes, and we submit
17 that question is entirely irrelevant and has
18 nothing to do with the issues involved here.

19 MR. HOLLAND: I claim it is pertinent on the
20 ground that it is necessary to show his debts
21 and show whether he is solvent or insolvent, and,
22 of course, we could not show the debts unless we
23 could show whether they are bona fide debts or
24 not; the simple amount does not mean anything.
25 THE COMMISSIONER: If he admits he owes \$17,000,
26 I don't see any objection to his admitting who

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he owes it to.

MR. SMITH: We think, Mr. Commissioner, that is a matter that the plaintiff in this case has no right to require the defendant to answer. He has not got to tell all his inside affairs, as I see it, on this issue which involves simply whether he has fraudulently conveyed property to his brother.

THE COMMISSIONER: Your idea is Mr. Holland, you want him to specify each creditor of the \$17,000.00 total?

MR. HOLLAND: Yes, sir, and the amount. That is the only question on that subject.

THE COMMISSIONER: I think he had better answer the question and the court can ignore it if he decides it is not relevant.

MR. SMITH: We wish to except to the ruling of the Commissioner and ask the Commissioner to refer it to the court for decision before the witness is required to answer. That is the usual course, if I understand it. After he has answered the question, if it is improper, it is before the court, and we claim if it is an improper question the witness cannot be forced to answer it. It is easy enough to get the ruling

1 on it from the court.

2 MR. HOLLAND: The judge of the court is in
3 Richmond today.

4 MR. SMITH: He will be here before long. I
5 had an identical matter up in the United States
6 Court, in the case of Sawyer against Scott Butter
7 & Provision Company, and the Commissioner ruled
8 if they wanted to require the witness to answer
9 that they would have to get an order from the
10 court.

11 MR. HOLLAND: Well, it would make my position
12 absolutely embarrassing to show fraudulent
13 conveyance if I have got to be restricted to
14 questions along the line that Mr. Smith indicates.
15 I would almost be forced to stop right now if
16 I am going to be limited in that way. The court
17 certainly could ignore the bearing on the case
18 of the question and the answer if the court was
19 of the opinion that it was improper.

20 THE COMMISSIONER: Do you know these creditors
21 already?

22 MR. HOLLAND: No, sir.

23 THE COMMISSIONER: How did you know they totaled
24 \$17,000?

25 MR. HOLLAND: I just understood it in a general
26 way, and the point I wanted to get out is the

1 actual fact .

2 MR. SMITH: Mr. Commissioner, we submit when he
3 said he owed about \$17,000 he has his sworn
4 statement to that effect, and now, if he follows
5 it up and gives the individuals that he owes that
6 money to, in what way does that strengthen the
7 situation so far as this complainant is concerned?

8 THE COMMISSIONER: Do you want to question the
9 validity of any particular debt listed?

10 MR. HOLLAND: I wish your Honor would not make it
11 embarrassing to come out with my sole purpose.
12 I would not hesitate to go into the other room
13 and tell you and Mr. Smith, but it would be
14 embarrassing to my case to come out right now
15 with that explanation.

16 THE COMMISSIONER: If he admits owing \$17,000
17 and the allegation is that some of those debts
18 are fraudulent debts.

19 MR. SMITH: No, there is nothing of the sort in
20 the bill. It simply alleges that this convey-
21 ance to W. B. Warrington is a fraudulent con-
22 veyance.

23 THE COMMISSIONER: Do you make any other alle-
24 gations of fraud besides that particular con-
25 veyance in the bill?
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MR. HOLLAND: No more than the conveyance was fraudulent as to his creditors and particularly the complainant in this suit.

MR. SMITH: The complainant here is the only party before the court. If there is anybody else interested, they can take their own steps.

THE COMMISSIONER: I don't see how we can get anywhere if counsel advises his client not to answer. I cannot make him answer unless he gets an order from court and we might as well go on if he advises him not to answer on advice of counsel.

MR. SMITH: I advise him not to answer that question.

THE COMMISSIONER: We will let it go that the witness declines to answer on advice of counsel. That is as far as I can go with it.

MR. HOLLAND: Would not your Honor consider it contempt to say I can't answer on advice of counsel?

THE COMMISSIONER: I don't know if it is. If it is, let the judge pass on it.

By Mr. Holland:

Q. Your father, Mr. S. F. Warrington died about two years ago, leaving two tracts of land, one generally known

1 as the pasture farm and the other as the homestead as de-
2 scribed in the bills (handing witness the bill)?

3 A. I know of the two tracts that he left. Will it
4 be necessary for me to read this over to know if it is
5 exactly right?

6 Q. Just to the extent of finding out in a general way
7 whether that corresponds with the description?

8 A. Yes.

9 Q. Are you now in possession of the pasture farm?

10 A. Am I now in possession of the pasture farm?

11 Q. Do you cultivate the pasture farm now?

12 A. F. M. Warrington?

13 Q. Yes?

14 A. No.

15 Q. Have you cultivated the pasture farm since your
16 father's death?

17 A. Yes.

18 Q. For how long?

19 A. Well, I don't remember the exact number of months,
20 but it was this fall. I forget the date. It is operated
21 now by F. M. Warrington, Incorporated.

22 Q. When did the possession and cultivation of the pasture
23 farm change from F. M. Warrington to F. M. Warrington,
24 Incorporated?

25 A. I believe it was in August, the latter part, sometime
26 in August. I don't remember the exact date.

1 Q. About the middle or latter part?

2 A. I judge it was the latter part of August.

3 Q. Did you rent the interest of the other heirs, the
4 land, by the year, prior to last August?

5 A. Yes.

6 Q. When did your lease expire as F. M. Warrington personal-
7 ly, individually?

8 A. It expires January 1st.

9 Q. What year?

10 A. 1924. January 1, 1925 it is now.

11 Q. Did you as F. M. Warrington, individually, have a
12 lease on the pasture farm in 1924?

13 A. I rented it personally for 1924.

14 Q. When did you assign your lease to F. M. Warrington,
15 Incorporated?

16 A. I am still responsible for that, personally.

17 Q. Still responsible for the rent?

18 A. Yes.

19 Q. I understood you to say just now that the place was
20 cultivated and operated by F. M. Warrington, Incorporated,
21 and that F. M. Warrington, Incorporated came into poss-
22 session last August?

23 A. F. M. Warrington, Incorporated, is operating the
24 farm now. F. M. Warrington is responsible for the rent
25 of the farm until January 1, 1925.

26 Q. But, F. M. Warrington, Incorporated, has assumed and

1 promised to pay the rent and in the event the corporation
2 fails to pay it, then you are liable personally?

3 A. F. M. Warrington personally is responsible for the
4 rent until January 1, 1925.

5 Q. Will you please explain how F. M. Warrington, Incor-
6 porated, secured possession of the pasture farm in last
7 August for the purpose of cultivating the same and yet
8 you are only personally liable for the rent?

9 A. I am one of the stockholders. That is why.

10 Q. If F. M. Warrington, Incorporated cultivates the
11 farm from sometime in August, 1924, for and during the
12 remaining part of 1924, as a matter of fact F. M. Warring-
13 ton, Incorporated expects to pay rent for that part of
14 the year. Is that true or not?

15 A. F. M. Warrington expects to pay the rent until January
16 1st.

17 Q. And collect it from F. M. Warrington, Incorporated?

18 A. That is what he was supposed to do.

19 Q. And collect the rent from F. M. Warrington, Incorpo-
20 rated?

21 A. Not supposed to collect it from F. M. Warrington,
22 Incorporated. He rented it until that time and he was
23 not able to operate it after that time.

24 Q. After August 1924?

25 A. No, sir.
26

- 1 Q. I am trying to get the answer clear, and not have
2 any misunderstanding. I am not trying to be tedious at
3 all. Do you mean that F. M. Warrington could not operate
4 it after August 1924 and therefore F. M. Warrington , Incor-
5 porated secured possession to cultivate the farm?
- 6 A. Well, F. M. Warrington could not operate the farm.
- 7 Q. And stopped in August, 1924?
- 8 A. Sometime in August.
- 9 Q. And since that time it has been cultivated and operated
10 by F. M. Warrington, Incorporated?
- 11 A. Yes.
- 12 Q. What is the value of your interest in the two tracts
13 of land described in the bill?
- 14 A. I haven't any interest.
- 15 Q. Well, I mean your interest at the time you conveyed
16 it to your brother?
- 17 A. I judge it was worth what I sold it to him for.
- 18 Q. What was that?
- 19 A. I judge that was \$5,000 and other considerations.
- 20 Q. \$5,000?
- 21 A. Yes.
- 22 Q. Have you sold the teams, cattle and chattel property
23 described in a certain deed of trust dated July 19, 1924,
24 from you to L. P. Holland, Trustee?
- 25 A. Have I sold them to him?
- 26 Q. No, have you sold them to anybody?

1 A. Well, the teams, W. B. Warrington has a chattel
2 mortgage on those teams for \$1500.00.

3 Q. And with that exception you own the teams or does
4 F. M. Warrington, Incorporated own them?

5 MR. HOLLAND: Mr. Stenographer please note that
6 the witness pauses.

7 A. Yes, with that exception.

8 By Mr. Holland:

9 Q. You mean you own the chattel property and the teams
10 subject to the \$1500.00 deed of trust?

11 A. With the exception of the \$1500.00, yes.

12 Q. Are they in your possession now, or in the possession
13 of F. M. Warrington, Incorporated?

14 MR. HOLLAND: Mr. Stenographer please note the
15 witness pauses.

16 A. They are in the possession of F. M. Warrington, In-
17 corporated.

18 By Mr. Holland:

19 Q. And F. M. Warrington, Incorporated, is now cultivating
20 the pasture farm with the teams and chattel property?

21 A. Yes.

22 Q. And F. M. Warrington, Incorporated owns the crop
23 on the pasture farm now?

24 A. Yes.

25 Q. When did F. M. Warrington, Incorporated, purchase
26

1 the crop on the pasture farm?

2 A. They did not purchase any crop on the pasture farm.

3 Q. Then, all the crops on the pasture farm were seeded
4 by F. M. Warrington, Incorporated after F. M. Warrington,
5 Incorporated came in possession of the place?

6 A. No. F. M. Warrington, Incorporated did not get the
7 crops that were there. It was practically nothing there
8 at the time F. M. Warrington, Incorporated started to
9 farm it.

10 Q. Then, the crops there now are the crops planted by
11 F. M. Warrington, Incorporated?

12 A. Yes, with the exception of a cotton patch which
13 belongs to anybody because it was nothing to it at all,
14 it was a failure. That was F. M. Warrington's failure.

15 Q. Then, the cotton on the pasture farm belongs to
16 you personally?

17 A. It did at one time, yes.

18 Q. Well, to whom did you sell the cotton crop?

19 A. I sold the growing crops to my brother; at that
20 time I sold him all the crops there was.

21 Q. At the time you conveyed your interest in the land
22 to W. B. Warrington?

23 A. At the time I sold it to him, yes, sir.

24 Q. How much rent did you agree to pay for the pasture farm
25 during 1924?
26

1 A. \$1,000.00:

2 Q. When was that leased to you?

3 A. The lease was made at the end of the last season. I
4 rented it again for this past season, you see? Season
5 before last and then I rented it again for this past
6 season.

7 Q. Then, you agreed about the 1st of January, 1924,
8 to pay the other heirs \$1,000.00 for their interest
9 in the pasture farm?

10 A. I rented it from January to January for \$1,000.00.

11 Q. To whom did you agree to pay the rent?

12 A. W. B. Warrington.

13 Q. Does he receive all the rent?

14 A. He expects to receive it. Yes, sir, he receives all
15 the rent.

16 Q. Was the lease in writing?

17 A. No.

18 Q. Did W. B. Warrington charge you any additional rents
19 after receiving your interest in the land last August?

20 A. No.

21 Q. How many acres are in cultivation on the pasture farm?

22 A. About 75, I guess, more or less.

23 Q. Does C. E. Warrington pay you any rent for your
24 interest in the home place?

25 A. No.

26 Q. How many acres are in cultivation at the home

1 place?

2 A. I guess there is about 45, I reckon, or 50, about
3 45.

4 Q. Does he pay any rent at all?

5 A. Does he pay any rent at all?

6 Q. Yes.

7 A. I guess he does.

8 Q. How much?

9 A. I don't know just what he is paying now.

10 Q. You live on the old home place yourself?

11 A. I know nothing about his business affairs, though.

12 Q. Do you know what he paid last year for the rent of
13 the old home place?

14 A. I think he paid \$350.00 last year.

15 Q. How, and in what way did W. B. Warrington pay you
16 \$5,000.00 for your interest in the two tracts of land?

17 A. How, and in what way?

18 Q. Yes?

19 A. Why, what I owed him from time to time.

20 Q. Amounted to \$5,000.00?

21 A. Yes, sir.

22 Q. What did you owe him for?

23 A. Why, different things.

24 Q. Name some of them.

25 A. Well, it is for different things, such as the fertilizer
26 I had gotten from him, stuff that I had used on the farm and

1 things that I am responsible for, and for which I have never
2 been able to pay.

3 Q. Did you owe him that money in an open account?

4 A. I owed him that money, yes, sir.

5 Q. Did you ever give him a note for it?

6 A. Did I ever give him a note for it?

7 Q. Yes.

8 A. No, I never gave him a note for it.

9 Q. How long had that account been standing?

10 A. I have been owing him money since 1920.

11 Q. Since 1920?

12 A. Yes, sir, it has been accumulating since 1920.

13 Q. Did he have any evidence of the debt prior to the
14 time you executed the deed of trust?

15 A. Did he have any evidence of it?

16 Q. Yes?

17 A. He had the account of all the indebtedness, of course.

18 Q. And he had no evidence from you, such as a note?

19 A. Well, that was just between him and I. He knew what
20 it was and so did I.

21 Q. Did he keep any books of that account?

22 A. Well, just whether he kept books of them I don't know.
23 We had an account of it.

24 Q. Was any of the account carried over from 1919?

25 A. Well, I couldn't say right now, unless I would look at
26

NW

F M Warrington

19

1 a bill I have here. I don't know whether it was in 1919
2 on it or not. It has been - I think 1921 was the first
3 as I can remember. I think 1921 was the first.

4 Q. Will you please let me see the paper you have in your
5 hand?

6 A. I guess it is all right to let you see that. (handing
7 counsel a paper).

8 Q. It was necessary for you to receive the consent of
9 your counsel, Mr. Smith, before you handed me this paper?

10 A. Was it necessary?

11 Q. Yes?

12 A. No.

13 Q. Well, you did in fact, by a nod?

14 A. I did not ask his consent.

15 Q. When did you receive this paper?

16 A. When did I receive this paper? It was sometime this
17 week when that was copied off.

18 MR. HOLLAND: I file this paper as Exhibit 3.

19 NOTE: Said Exhibit 3 is in the words and figures
20 following:

21 EXHIBIT #3.

22	"1921		
23	Mar	Check	100.00
24	Aug	10 tons Lime	130.00
25	"	5 tons guano	250.00
26	Oct	300 Empty bbls	180.00

NW

F M Warrington

20

1	1922		
2	Aug	50 bbls Corn	300.00
3	"	Use of tractor	100.00
4	"	1 Paris Green Drill	75.00
5	"	Check	210.00
6	"	Check	30.00
7	1923		
8	Aug	Rent	1000.00
9	Dec	Cabbage Plants	100.00
10		Cash Paid on Life Insurance	40.54
11		2 Stacks Hay	70.00
12		2 Kegs Parish G	50.00
13		1 Bag Spinach Seed	30.00
14		Cash	150.00
15	1924		
16	Apr	Check	25.00
17	May	Check	150.00
18	July	Check	100.00
19	Aug	2 Cars Manure	398.00
20	Aug	Rent	1000.00
21	Aug	31 bbls Pot	139.50
22	"	3-1/2 tons Guano	140.00
23	"	8 tons Lime	84.00
24	"	5 tons Guano	247.50
25	"	Cash by check	70.00
26	Oct	Check	25.00 "

1 By Mr. Holland:

2 Q. What was this copied from?

3 A. Copied from the way he kept the account.

4 Q. Were you present when it was copied?

5 A. Was I present when it was copied?

6 Q. Yes?

7 A. No, I was not present when it was copied.

8 Q. Where did you receive the account?

9 A. I practically knew the amount of it at all times. I
10 received on the farm, down on the farm.

11 Q. Who handed the account to you?

12 A. What do you mean, this particular copy?

13 Q. Yes, this particular copy?

14 A. W. B. Warrington.

15 Q. On the farm?

16 A. He handed me that particular copy, yes.

17 Q. Where were you on the farm?

18 A. I don't know just what particular spot, I believe I
19 was at the shelter, the barn.

20 Q. Who else was present?

21 A. No one.

22 Q. Has W. B. Warrington ever given you any other itemized
23 statement of the account?

24 A. Oh, yes.

25 Q. When?

26 A. Why, I have been getting them every year, every

1 six months.

2 Q. What time during the year?

3 A. Well, I would generally get it in August, and then
4 again the first of the year. Twice a year, anyhow.

5 Q. Did you pay anything on this account during 1921?

6 A. On that account?

7 Q. Yes?

8 A. No, sir.

9 Q. Did you pay Mr. W. B. Warrington any money during 1921?

10 A. 1921?

11 Q. Yes?

12 A. No.

13 Q. Did you pay Mr. W. B. Warrington any money in 1922?

14 A. No, I didn't have any to pay him with.

15 Q. One item on this account is, "August 23, rent \$1000."
16 Is that item due and owing to Mr. W. B. Warrington?

17 A. Yes, sir.

18 Q. Personally?

19 A. Yes, sir.

20 Q. Have the other heirs any interest in that \$1000?

21 A. Have the other heirs any interest in that \$1000?

22 Q. Yes?

23 A. Yes.

24 Q. Why is this rent charged in August 1923 when the rent
25 was due January 1, 1923?
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A. Why was it charged then?

Q. Yes?

A. I had had the farm over a year at that time.

Q. When did you first rent the farm?

A. I rented it after my father died. I started to work there on the farm just after my father died.

Q. When did he die?

A. I think that was in June, 1922.

Q. Then, the rent was due in August or July of 1923?

A. That rent was, yes, sir.

Q. When was the next rent due?

A. The next rent due was at twelve months from that date.

Q. Then, the next rent was due in August, 1924?

A. Yes, sir.

Q. Then, you rented the farm from August 1923 to August 1924, instead of from January 1, 1923 to December 31, 1924?

A. I rented it with the intention of doing business, and I was not able.

Q. Do you mean you rented it from August, 1923, to August 1924?

A. I am still responsible for the rent today.

Q. You said the other heirs of your father had an interest in the rent of \$1000. Then, as a matter of fact, Mr. W. B. Warrington only received the rent for the other heirs with the exception of that part that might be due him for his

1 interest in the farm?

2 A. He is wholly responsible for all the rent. I rented it
3 from him.

4 Q. Did he rent it from the other heirs?

5 A. He did not rent it from the other heirs. I rented
6 it from him. He had charge of the renting of the farm.

7 Q. He paid the other heirs their respective parts as he
8 collected the rent from you?

9 A. Just what he did as to them, I don't know. I guess so.

10 Q. Did you receive any of the \$350.00 paid last year paid
11 by C. E. Warrington for the home place?

12 A. No.

13 Q. Did I understand you to say that he paid \$350.00 last
14 year for the home place?

15 A. I think so.

16 Q. Are you entitled to receive your respective part of that
17 rent of \$350.00?

18 A. I don't think so.

19 Q. Why?

20 A. I have no part. My mother gets that.

21 Q. What part does your mother get in the rent from the
22 pasture farm?

23 A. Why, that is just up - I don't know what my brother
24 gives her for that now.

25 Q. You live with your mother?

26 A. Yes, that is I stay there most nights, not every night.

1 Q. How many statements did I understand you to say that
2 you received from W. B. Warrington for this account from
3 1921 to October 1924?

4 A. Well, I could not say just how many statements. He
5 would send them from time to time but he never had any
6 stated time to send a statement to me. They were sent from
7 time to time.

8 Q. Did he mail those statements to you or did he bring those
9 statements to you in person?

10 A. He generally brought them to me in person.

11 Q. Were the items on the account or accounts separately?

12 A. He generally itemized it.

13 Q. With the month and day and year of each item?

14 A. Well, at all times it was not dated. It just stated
15 so much, and I knew what I had and he knew what it was also,
16 and it was not always dated.

17 Q. And it was not always itemized?

18 A. It was itemized as to what I got, but just at the date
19 I got it it was not always put down, not on the list that
20 he gave me.

21 Q. Do you know from what paper or from what book this
22 account was copied, or do you know of your own knowledge
23 whether it was prepared from memory by Mr. W. B. Warrington?

24 A. I don't know what book it was copied from, but it was
25 not prepared from memory.

26 Q. How do you know that this account was not copied from

1 memory, if you don't know from what book it was copied?

2 A. Well, he would bring me the account from time to time,
3 as I previously told you, and he evidently had it down on
4 some book.

5 Q. But you don't know of your own knowledge?

6 A. No, not just what book.

7 Q. Did the \$5,000.00 which you say was the consideration
8 for your interest in the farm or farms left by S. F. Warring-
9 ton, pay all the debt or debts due from you to W. B. Warring-
10 ton?

11 A. Did we consider all the debts due by me to W. B.
12 Warrington for interest in the estate?

13 Q. Yes?

14 A. Yes.

15 Q. Were you under any other obligation to W. B. Warring-
16 ton?

17 A. Am I under any other obligation?

18 Q. Were you under any obligation to W. B. Warrington
19 after you conveyed him the land for \$5,000.00 to cancel
20 your debts?

21 A. I was still under obligation for the rent.

22 Q. Then, the debt of \$5,000.00 does not include the
23 rent due in August, 1924 of \$1,000?

24 A. It does not show that. It includes up to that date.

25 Q. Does it include the rent due in August, 1924 for
26 \$1,000?

1 A. Does it include that?

2 Q. Yes?

3 A. Sure, it includes that.

4 Q. Were you under any other obligations to W. B. Warrington?

5 A. Was I under any other obligations to W. B. Warrington?

6 Q. Had he endorsed any notes for you?

7 A. Yes.

8 Q. Or were you under any other obligation to him?

9 A. Yes, he has endorsed other notes for me.

10 Q. How many?

11 A. I know of one.

12 Q. How much was that?

13 A. For \$1500.

14 Q. Where was that discounted?

15 A. In the American National Bank of Portsmouth.

16 Q. When?

17 A. It had been there some little time. I don't remember
18 the exact date.

19 Q. Is that the only note that he has endorsed for you
20 that now exists?

21 A. I think so.

22 Q. Mr. Warrington, you conveyed your brother your interest
23 in the land on the 4th of August, 1924. Is that true?

24 A. I think so. I am not positive as to the date.

25 Q. Here is the conveyance showing that date, (handing
26 witness paper)?

1 A. That is correct, if that shows itself.

2 Q. Then, you settled this account with W. B. Warring-
3 ton on August 4, 1924 by conveying him your interest in the
4 property?

5 A. I settled that account, with an understanding as to
6 what I had, you understand? It was understood what I had
7 and what I was to receive.

8 Q. What?

9 A. What I was to receive for it.

10 Q. What were you to receive?

11 A. What was I to receive?

12 Q. Yes?

13 A. I don't remember just exactly what I have received from
14 it since, but some of it is down there (Indicating Exhibit 3).

15 Q. How much did you actually owe W. B. Warrington, then,
16 on the 4th day of August, 1924?

17 A. How much was it on the 4th day of August?

18 Q. Yes?

19 A. I don't remember the exact amount. We have it down.
20 I don't remember the exact amount. I think you might be
21 able to tell from that (indicating Exhibit 3).

22 Q. But, you did not owe him \$5,000.00 on August 4th.
23 You have received other items since then?

24 A. I have received other items from him since then,
25 yes.

26

1 Q. And the other items received since August 4th, are
2 parts of the \$5,000.00?

3 A. I received part of it after I sold to him, not all of
4 it before.

5 Q. You say you received part of it and not all of it
6 before August 4th. I just want to get it clear?

7 A. Yes.

8 Q. You mean then, you only owed him a part of the \$5,000.00
9 on August 4th?

10 A. I owed him the majority of it.

11 Q. But not all of it?

12 A. Not all.

13 Q. Can you say from your memory what part?

14 A. No.

15 Q. Can you say from your memory whether or not you owed him
16 as much as \$3,000?

17 A. I don't remember the amount. Before August 4th?

18 Q. Yes?

19 A. I could tell more about it by adding it up on paper.

20 Q. I am just asking your memory?

21 A. I don't remember the exact amount, and I would be just
22 guessing at it if I were to name any day or any amount.

23 Q. Then, you could not say from your memory that you
24 owed him more than \$3,000.00 on August 4, 1924, when the
25 deed was executed?

26 A. I could not say just what the amount was at any date.

1 I don't remember the amount at that date.

2 Q. Can you say from your memory any items that you have
3 received from W. B. Warrington since August 4th?

4 A. Since August 4, 1924?

5 Q. Yes?

6 A: I could name some of them. I had some fertilizer, some
7 manure. I think there was some lime in there, but I am not
8 positive. I know there was lime there, but at that particular
9 date I don't remember just about that. That is very hard
10 for me to tell from memory, you know, all that stuff on
11 those exact dates.

12 Q. Do you remember how many tons of fertilizer, from your
13 memory?

14 A. What, right now?

15 Q. Yes.

16 A. I would be more accurate if I looked at the paper. I
17 could tell you. I can look at it on the account.

18 Q. I am just asking you from your memory now?

19 A. I could not tell now, to be exact, just how many tons
20 it was.

21 Q This fertilizer and lime were to be used on the pasture
22 farm?

23 A. Yes.

24 Q. All of the items on this open account during August 1924
25 were, in fact, received by you after August 4th?
26

1 A. All what is that? All was received after August 4th?

2 Q. Yes, all the items on this account during August were
3 in fact received by you after August 4th?

4 A. If it is dated after August 4th, yes.

5 Q. And then, these items were received by you after August
6 4th?

7 A. If they are dated after August 4th, yes, sir.

8 Q. There are no dates on here other than August.

9 A. Is there any date in August, 1924 on there?

10 Q. No, sir (handing witness Exhibit 3).

11 A. Well, from here, (indicating) down, was.

12 Q. You put your hand on the first one, didn't you?

13 A. Well, these may not. I am not positive as to the date
14 of that manure. I better not say for sure, and these po-
15 tatoes, I am not positive whether that was after the 4th
16 of August or not, but we can find that out very easily
17 if you positively want to know it. I don't remember about
18 the manure, whether it was August 4th or not. We can very
19 easily prove when it was shipped but, I could not swear
20 it was after August 4th.

21 Q. Then, from the item in August for 31 barrels of potatoes
22 down through to the end of the account, you received after
23 August 4th?

24 A. The money was due for the potatoes then, but I don't
25 remember the exact date that I received the potatoes.
26

1 Q. When did you purchase the potatoes?

2 A. Sometime in the fall. It was for fall planting.

3 Q. Then, you cannot say whether you received the two cars
4 of manure before August 4th or after August 4th?

5 A. I don't remember the exact date as to when that was
6 received.

7 Q. The first item on this account for \$100.00 in March,
8 1921, was, in fact, out of date at the time you made the
9 settlement on August 4th, 1924?

10 MR. HOLLAND: Note that the witness pauses.

11 A. Are you asking me the question, you say it was out
12 of date?

13 By Mr. Holland:

14 Q. I am asking you whether that is true or not?

15 A. No account is out of date that I legally owe, and I
16 see fit to pay, even if it is ten years.

17 Q. As a matter of fact, though, you could plead the statute
18 of limitation if Mr. W. B. Warrington was to bring an
19 action on it?

20 A. I knew I owed him the money.

21 Q. Whether it is out of date or not?

22 A. Sure.

23 Q. Did he ever charge you any interest on the \$100.00
24 from March, 1921 until the date of settlement?

25 A. I don't think interest has been added. No.

26 Q. Did he charge you any interest on the other items

1 in the account at the time of settlement on August 4, 1924?

2 A. No.

3 Q. Now, the debt of \$5,000.00 and the note in the bank
4 at Portsmouth were the only two debts due from you in which
5 Mr. W. B. Warrington was interested at all, so far as being
6 liable?

7 A. That is the statement of account that I owed (referr-
8 ing to Exhibit 3).

9 Q. And that included all your liability to Mr. W. B.
10 Warrington, jointly or severally?

11 A. We are together on some other things. We are liable
12 together on some other debts.

13 Q. You are liable with Mr. W. B. Warrington to some other
14 third person on some other debts?

15 A. Yes.

16 Q. In other words, you are jointly liable with Mr.
17 W. B. Warrington for some other debts?

18 A. Yes, sir.

19 Q. Did Mr. W. B. Warrington agree to let you have your
20 interest in the old home place back if you should pay these
21 debts that were due him?

22 A. No.

23 Q. You have reason to believe, though, that if you could
24 pay your debts that Mr. W. B. Warrington would convey you
25 your interest in the property back to you, if your debts
26

1 are paid to him?

2 A. Nothing has been said to me about it. I hope, though,
3 it will all be settled.

4 Q. You are one of the officers in F. M. Warrington, In-
5 corporated?

6 A. Yes.

7 Q. You talked to your brothers a week or two before
8 you all signed a certificate of incorporation, about organiz-
9 ing the corporation, didn't you?

10 A. We had to agree upon the corporation, of course.

11 Q. That took some week or ten days, didn't it?

12 A. It took some time.

13 Q. About how much?

14 A. It took a few days.

15 Q. A few days?

16 A. Yes.

17 Q. You signed the certificate of incorporation on August
18 7, 1924, did you not?

19 A. I don't remember the exact date of that.

20 Q. Well, if you did sign before a notary on August 7,
21 1924, then probably you and your brothers, the other officers
22 in the corporation, had talked the details over at least
23 a week before hand?

24 A. I say sometime. I don't remember the exact time.

25 Q. Several days?

26 A. A few days.

1 Q. The purposes for which F. M. Warrington, Incorporated
2 was chartered were to deal in real estate and to do a farm-
3 ing and trucking business?

4 A. Yes, sir.

5 Q. Has the capital stock of the company been issued?

6 A. Enough of it has been issued to do business.

7 Q. How much?

8 A. The required amount, I think it was \$5,000.00.

9 Q. \$5,000.00?

10 A. I think so.

11 Q. Are you President of F. M. Warrington, Incorporated?

12 A. Yes.

13 Q. You know then how much capital stock has been actual-
14 ly been issued by the corporation?

15 A. Yes.

16 Q. And you say \$5,000.00 has been actually issued by the
17 corporation?

18 A. Yes.

19 Q. To whom was that stock issued?

20 A. To its members.

21 Q. What?

22 A. To the stockholders.

23 Q. How much of that stock did C. E. Warrington receive?

24 A. How much of that stock did C. E. Warrington receive?

25 Q. Yes?

26 A. I expect it would be best for me to get my papers on

1 that so I could be exactly right, before I give you a
2 statement. of just how it began and how much each of us
3 subscribed to.

4 Q. Just from your memory, if you will please, tell us
5 about how much stock C. E. Warrington received in the
6 corporation?

7 A. About \$2,000.00 worth.

8 Q. How much did W. B. Warrington receive?

9 A. He received about \$1,000.00 worth, I believe.

10 Q. And you received the other \$2,000.00?

11 A. Yes.

12 MR. SMITH: Counsel wishes to enter objection to
13 the witness being required to state from memory
14 facts which he says he is not in a position to
15 give. The records themselves are the best
16 evidence and this testimony is liable to be very
17 misleading and not accurate. The records would
18 be placed at the disposal of counsel if desired,
19 which records would show the exact facts.

20 By Mr. Holland:

21 Q. You are also Manager of F. M. Warrington, Incorporated?

22 A. I manage the farming interests.

23 Q. Has the company organized any other branch of business?

24 A. Not at present.

25 Q. Has the company undertaken to cultivate and operate
26

1 any other farm than the pasture farm?

2 A. Has it undertaken to - -

3 Q. Now?

4 A. Is it operating now?

5 Q. Yes?

6 A. At the present time it is operating the pasture farm.

7 Q. F. M. Warrington, Incorporated is now only operating
8 the pasture farm. That is true?

9 A. It is only operating the pasture farm now.

10 Q. Then, Mr. Warrington, F. M. Warrington, Incorporated
11 was organized for the purpose of providing a way for you
12 to continue farming without being interfered with by your
13 creditors?

14 A. No.

15 Q. Has Mr. W. B. Warrington a farm?

16 A. Has he a farm?

17 Q. Yes, which he cultivates?

18 A. Yes.

19 Q. F. M. Warrington, Incorporated has nothing to do with
20 cultivating the farm of W. B. Warrington?

21 A. Nothing to do with his personal business.

22 Q. Nothing to do with any of the farms he operates?

23 A. No, sir, not anything he personally does.

24 Q. Has F. M. Warrington, Incorporated any interest in
25 the farming of the place cultivated by Mr. C. E. Warrington?

26 A. No, sir.

1 Q. Then, Mr. Warrington, if I tell you that Mr. W. B.
2 Warrington expressly told me that the corporation was formed
3 for the purpose of allowing you to continue in the farming
4 business without being interfered with by your creditors,
5 would you deny the correctness of that statement?

6 A. F. M. Warrington, Incorporated was organized fo r the
7 purpose of operating a farm, nothing to do with F. M. War-
8 rington. That was no protection to F. M. Warrington.

9 Q. Then, you refuse to expressly deny the statement
10 of Mr. W. B. Warrington?

11 A. W. B. Warrington said that was organized for the
12 purpose of doing what?

13 Q. Of providing a way for you to continue in the farming
14 business without being interfered with by your creditors?

15 A. I don't remember ever saying anything of that kind. I
16 don't remember. I don't know anything about it.

17 Q. But you don't deny that that was your purpose?

18 A. That was not the purpose of F. M. Warrington, In-
19 corporated, no.

20 Q. Did C. E. Warrington actually pay cash for his stock?

21 A. Well, some of it.

22 Q. How much?

23 A. I don't know the exact amount.

24 Q. About how much?

25 A. The records will show.

26

1 Q. Just tell about how much he paid in actual cash, half
2 or about how much, from your memory?

3 A. I think it was less than half paid in.

4 Q. About how much?

5 A. About \$500.00. I don't know exactly. I can't remember
6 exactly the amount.

7 Q. Did W. B. Warrington pay cash for his stock?

8 A. Some.

9 Q. How much?

10 A. I don't remember exactly.

11 Q. About how much?

12 A. About the same, I guess, as C. E.

13 Q. Did you pay cash for your stock?

14 A. Some.

15 Q. How much?

16 A. About an equal amount.

17 Q. What do you call an equal part?

18 A. About the equal amount of W. B. and C. E. Warrington.

19 Q. Did you pay in as much as \$500.00?

20 A. About. I don't remember just exactly.

21 Q. Did you pay it in check or currency?

22 A. Some of it was in currency.

23 Q. How much?

24 A. What I paid was in currency. I don't remember the
25 exact amount. I will have to get the records to show.
26

1 MR. SMITH: Counsel for the witness wishes again
2 to enter an objection to forcing the witness to
3 try to state what the records are when we have
4 offered to introduce the records so as to show
5 the exact facts, whereas the witness is being
6 forced to guess at data that he has not
7 available, and we object to this line of question-
8 ing as having no bearing upon the matters in
9 issue.

10 By Mr. Holland:

11 Q. To whom did you pay the money for the stock?

12 A. Paid it in the treasury.

13 Q. Who is the treasurer of the corporation?

14 A. C. E. Warrington.

15 Q. Where were you when you paid the money?

16 A. We were in our office.

17 Q. On what date?

18 A. I don't remember the exact date. I will have to
19 get the records to show you. I could not swear to the date
20 to save my life.

21 Q. Do you remember the week that you paid for this stock?

22 A. I don't remember the week.

23 Q. Do you remember the month that you paid for this
24 stock?

25 A. It was in August, I think.
26

1 Q. Did you actually receive the stock at that time?

2 A. I think it was in August.

3 Q. Well, how did you receive \$2,000.00 in capital stock
4 of F. M. Warrington, Incorporated and only pay \$500.00?

5 A. I told you I didn't remember exactly how that is
6 now, but that the records can be shown to prove exactly
7 how that is, and that would be absolute facts, and I am
8 merely guessing. I don't remember the dates and the amounts.

9 Q. But, you do remember that you did not execute a note to
10 F. M. Warrington, Incorporated, for the balance of the
11 purchase price of the capital stock?

12 A. I remember that I did?

13 Q. But, you do remember that you did not execute a note
14 to F. M. Warrington, Incorporated, for the balance of the
15 purchase price of the capital stock?

16 A. No, I didn't say I didn't remember that.

17 Q. Did you execute a note for the balance due on your
18 stock in F. M. Warrington, Incorporated?

19 A. I issued a note for some of it.

20 Q. For how much of it?

21 A. I don't remember the amount.

22 Q. Did you execute a note for as much as \$500?

23 A. I don't know the amount. I would only be guessing
24 at it. I could not tell you.

25 MR. HOLLAND: I offer in evidence a certified
26 copy of charter of F. M. Warrington, Incorporated,

1 as Exhibit 4.

2 NOTE: Said Exhibit 4 is in the words and figures
3 following:

4 EXHIBIT 4.

5 "Certificate of Incorporation

6 of

7 F. M. Warrington, Incorporated.

8 This is to certify that we do hereby associate ourselves
9 to establish a corporation under and by virtue of the pro-
10 visions of the laws of the State of Virginia, entitled,
11 "An Act concerning corporations", for the purpose and
12 under the corporate name, hereinafter mentioned, and to that
13 end we do, by this our certificate, set forth as follows:

14 (a): Name:

15 The name of the Corporation is to be F. M. Warrington,
16 Incorporated:

17 (b): Principal Office:

18 Its principal office in this State is to be located at
19 Driver, Nansemond County, in the State of Virginia.

20 (c): Purposes:

21 The purposes for which it is formed are to deal in real
22 estate and the farming and trucking business in all of its
23 branches.

24 (d): Capital Stock:

25 The maximum amount of the capital stock of the cor-
26 poration is to be five thousand (5,000.00), the minimum

1 amount is to be five hundred dollars (\$500.00); and the
2 capital stock is to be divided into shares of ten dollars
3 (\$10.00) each.

4 (e) Duration:

5 The period for the duration of the corporation is
6 unlimited.

7 (f): Officers and Directors.

8 The names and residences of the officers and directors
9 who, unless sooner changed by the stockholders, are for
10 the first year to manage the affairs of the corporation,
11 are as follows:-

12 <u>NAME</u>	13 <u>OFFICE</u>	14 <u>RESIDENCE</u>
15 F. M. Warrington	16 President	17 Nansemond County, Va.
18 W. B. Warrington	19 Vice Presi- 20 dent and 21 Treasurer	22 Nansemond County, Va.
23 C. E. Warrington	24 Secretary	25 Nansemond County, Va.

18 <u>DIRECTORS.</u>	19 <u>RESIDENCE.</u>
20 F. M. Warrington	21 Driver, Nansemond County, Va.
22 W. B. Warrington	23 Driver, Nansemond County, Va.
24 C. E. Warrington	25 Driver, Nansemond County, Va.

26 (g): Real Estate:

The amount of real estate to which the holdings of the corporation at any time are to be limited, is one hundred (100) acres.

Given under our hands this 7th day of August, 1924.

F. M. Warrington C. E. Warrington W. B. Warrington

1 State of Virginia,
2 City of Norfolk, To-Wit:-
3

4 I, Richard M. Smith, a Notary Public in and for the
5 City and State aforesaid, do certify that F. M. Warrington,
6 W. B. Warrington and C. E. Warrington, whose names are
7 signed to the foregoing writing bearing date on the
8 7th day of August, 1924, have acknowledged the same before
9 me in my City aforesaid, My Commission expires on the 24th
10 day of May, 1926.

11 Given under my hand this the 7th day of August, 1924.

12 Richard M. Smith
13 Notary Public.

14 Virginia:

15 In the Circuit Court of Nansemond County.

16 The foregoing certificate of Incorporation of F. M.
17 Warrington, Incorporated, was presented to me, James L.
18 McLemore, Judge of the Circuit Court of the County of
19 Nansemond, in vacation time, and having been examined
20 by me, I now certify that the said certificate for In-
21 corporation is, in my opinion, signed and acknowledged
22 in accordance with the requirements of law in such cases
23 made and provided.

24 Given under my hand this 11th day of August, 1924.

25 James L. McLemore
26 Judge.

COMMONWEALTH OF VIRGINIA

Department of the

State Corporation Commission

City of Richmond, 18th day of August, 1924.

The accompanying certificate for incorporation, together with a receipt showing payment of the charter fee required by law, having been presented to the State Corporation Commission by F. M. Warrington, W. B. Warrington and C. E. Warrington, and the Hon. James L. McLemore, Judge of the Circuit Court of Nansemond County, having certified that the said certificate has been signed and acknowledged by said applicants in accordance with law, the State Corporation Commission having examined said certificate now declares that the said applicants have complied with the requirements of law, and have entitled themselves to a charter, and it is therefore ordered that they and their associates and successors be, and they are, hereby made and created a body politic and corporate under and by the name of F. M. Warrington, Incorporated, upon the terms and conditions, and for the purposes set forth in said certificate, to the same extent as if the same were now herein transcribed in full and with all the powers and privileges conferred and subject to all the conditions and restrictions imposed by law.

And said certificate, with this order, is hereby certified to the Secretary of the Commonwealth for record.

1 Wm. F. Rhea

2 Chairman.

3 (SEAL)
4 State Corporation
5 Commission

6 N. W. Atkinson

7 Clerk of the Commission.

8 First Assistant

9 Commonwealth of Virginia,

10 Office of the Secretary of the Commonwealth.

11 In the City of Richmond, the 18th day of August 1924.
12 The foregoing charter of F. M. Warrington, Incorporated was
13 this day received and duly recorded in this office and
14 is hereby certified to the Clerk of the Circuit Court of
15 Nansemond County according to law.

16 M. A. Hutchinson.

17 Acting Secretary of the Commonwealth.

18 VIRGINIA:

19 In the Clerk's Office of the Circuit Court of Nanse-
20 mond County on the 29th day of August 1924.

21 The foregoing charter and certificate of the Sec-
22 etary of the Commonwealth thereon was this day received,
23 duly recorded, and certified to the Clerk of the State
24 Corporation Commission.

25 Teste: G. E. Bunting, Clerk.

26

1 A true copy made this 11th day of December 1924.

2
3 Teste: G. E. Bunting, Clerk

4 By N. K. Gardner, D. C. "

5 MR. SMITH; We object to the admission of that
6 paper as having no bearing upon any matters
7 in controversy and move to exclude the evidence
8 relating to the incorporation of this corporation
9 on the ground that it is irrelevant, cumbering
10 the record, and not having any bearing upon the
11 issues involved in the proceeding.

12 MR. HOLLAND: We contend that a copy of the
13 charter in evidence is very material in the light
14 of other circumstances in this case and in view
15 of the fact that Frank M. Warrington executed
16 a deed for his interest in the property de-
17 scribed in the bill to W. B. Warrington on the
18 4th day of August, 1924, and the certificate of
19 incorporation of F. M. Warrington, Incorporated,
20 was signed and executed and acknowledged before
21 a Notary Public on the 7th day of August, 1924,
22 only three days after the date of the deed.

23 By Mr. Holland:

24 Q. Have you a stock book of F. M. Warrington, Incorporated,
25 from which you issued stock in F. M. Warrington, Incorporated?
26

1

A. Have I a stock book?

2

Q. Yes, you know, a regular stock book?

3

A. I am not sure. I have everything that is supposed to go with it.

4

5

Q. I mean have you a book with blank certificates of stock which you fill out and deliver to the one buying any stock in F. M. Warrington, Incorporated?

6

7

8

A. Have I got a book like that?

9

Q. Yes.

10

A. I don't think I have a book.

11

Q. Have you any blanks for issuing capital stock in F. M. Warrington, Incorporated?

12

13

A. Blanks?

14

Q. Yes?

15

A. Yes.

16

Q. Are they in book form?

17

A. I don't know just how that is. I haven't seen them since our last meeting and I could not tell you just exactly how that is. I could not tell you.

18

19

20

Q. Then, you don't know whether the blank certificates are in book form or not?

21

22

A. If they are in a book?

23

Q. Yes?

24

A. What do you mean, in a book?

25

Q. I mean that they are prepared so that when you fill out a certificate for a certain amount of stock, you

26

1 fill in a stub and keep an accurate account as to who and
2 how much stock may be issued from time to time?

3 A. That is kept accurately, yes, as to how much stock is
4 issued.

5 Q. Who keeps this record?

6 A. The Secretary.

7 Q. Where are your \$2,000.00 of shares in F. M. Warrington,
8 Incorporated, now?

9 A. Where are they now?

10 Q. Yes.

11 A. Where are the shares?

12 Q. Yes, that you received from F. M. Warrington, Incor-
13 porated?

14 A. Do you mean, where is the money?

15 Q. No, the actual stock that you received at the time
16 you paid the money?

17 A. We have that. That is with our records. We have that.

18 Q. Where is it now?

19 A. The Secretary has charge of that. He has that.

20 Q. Has he charge of your personal stock that you have
21 bought?

22 A. I have charge of my personal stock. What I have got
23 in it.

24 Q. Where is that stock?

25 A. I have it at home.

26 Q. Where at your home?

1 A. In my desk.

2 Q. Didn't you apply to Purdy & Company for fertilizer
3 to be used on the pasture farm in the name of F. M. War-
4 rington, Incorporated, with instructions to ship such
5 fertilizer to F. M. Warrington individually?

6 A. No, not since the organization of the company, no, sir.

7 Q. Is W. B. Warrington the only party or person in
8 your family with whom you keep an open account?

9 A. Well, to any amount.

10 Q. Say, over \$100.00 or \$200.00?

11 A. Why, I should say, I don't know the exact amount. That
12 is the only one of any amount. Of course I owe different
13 ones little things. They do not amount to much.

14 Q. Then, you don't owe C. E. Warrington any money?

15 A. Not of any amount. I owe him some.

16 Q. You never owed him any amount to amount to anything,
17 exceeding \$100.00 in amount?

18 A. At times I have. I don't remember exactly when. I
19 have owed him right much.

20 Q. When?

21 A. At the present time I only owe him a small amount. I
22 don't know exactly what it is.

23 Q. Did you owe him any debt of any consequence in July
24 of this year?

25 A. Did I owe him any?

26 Q. Yes?

1 A. I owed him some then.

2 Q. About how much, \$100.00, \$200.00, \$500.00?

3 A. Not \$500.00. I don't remember exactly what I owed
4 him.

5 Q. Just as near as possible, tell us from your memory,
6 of course you can't get it exactly to the penny, if you owed
7 him any amount of any consequence in the last six months?

8 A. I did owe him some. I don't owe him very much now. I
9 don't know the exact amount.

10 Q. You never have owed C. E. Warrington and W. B. Warrington
11 anything jointly, have you?

12 A. Owed them jointly?

13 Q. Yes, you never have owed them a debt jointly, have you?

14 A. I owed them jointly for something?

15 Q. Yes, together, did you owe them anything together, W. B.
16 and C. E. Warrington?

17 A. Anything they are interested in together? I don't know
18 what you mean by anything jointly. What I owed him, I owed
19 him.

20 Q. Personally, and what you owed W. B. you owed him
21 personally?

22 A. Yes, sir.

23 Q. That is the only way your accounts have existed for
24 the last six months, isn't it? In other words, whatever
25 you owe C. E. Warrington personally you owe him personally
26 and whatever you owe W. B. Warrington you owe W. B. Warrington

1 personally, for the last six months?

2 A. Yes.

3 Q. And you had never owed C. E. Warrington and W. B. Warring-
4 ton a debt to them, C. E. Warrington and W. B. Warrington
5 jointly, together? Have you ever given them a note payable
6 to themselves?

7 A. Have I given them a note?

8 Q. Yes, payable to themselves, C. E. & W. B. Warrington?
9 Have you ever owed them a debt?

10 A. I have given them a note, yes.

11 Q. Did you ever owe them a debt together?

12 A. I have given them a note together.

13 Q. Did you ever owe them a debt together?

14 A. That is what I gave them a note for, what I owed like
15 that.

16 Q. What note did you give them together?

17 A. What note?

18 Q. Yes?

19 A. What do you mean by what note?

20 Q. Have you ever given them a note together, payable to-
21 gether?

22 A. Do you mean where is the note? What do you mean?

23 Q. Have you ever given them a note together, payable to-
24 gether?

25 A. Payable to them?

26

1 Q. Yes?

2 A. Yes.

3 Q. When?

4 A. That has been some little time. I don't remember the
5 exact date when it was.

6 Q. About how long ago?

7 A. It has been several months.

8 Q. What was it for?

9 A. That was the note for?

10 Q. Yes?

11 A. It was for what I owed them.

12 Q. For what amount?

13 A. I don't remember those exact amounts. You would have
14 to get them to show that.

15 Q. Do you remember what the note was executed for?

16 A. Do I remember what the note was executed for?

17 Q. What was the consideration?

18 A. It was for what I owed them, and I gave them a note
19 for it, yes.

20 Q. What did you owe C. E. & W. B. Warrington for, jointly?

21 A. What do you mean, what in particular?

22 Q. Yes?

23 A. I don't know. That is something that happened way back
24 there. I don't know. I haven't got the exact records of
25 that with me. I could hunt them up, of course, if it had to
26

1 be known.

2 Q. Please state, as near as you can, the consideration
3 fot the note you executed to W. B. and C. E. Warrington?

4 A. I would have to look that up, because I could not
5 state. It has been several months and it is not clear in
6 my mind today.

7 Q. Then, you executed a note to C. E. and W. B. Warring-
8 ton in July and you cannot now tell me the consideration
9 for that note, and you cannot or do not remember the amount
10 of that note?

11 A. Not exactly.

12 Q. If you cannot tell the exact consideration for this
13 note, please tell the consideration as near as you prac-
14 tically can?

15 A. Do you mean what the note was for?

16 Q. Yes?

17 A. It was for some things that I had owed.

18 Q. What things?

19 A. Different things that I needed in my business they
20 have furnished me lots of cash.

21 Q. Did you ever give them a note for the cash that was
22 furnished from time to time?

23 A. This particular note that was given included some of
24 that.

25 Q. Did you ever execute a note to C. E. and W. B.
26

1 Warrington jointly before you executed the note to them in
2 July of 1924?

3 A. I don't think so.

4 Q. But, the cash and fertilizer were in fact purchased
5 by you from Mr. W. B. Warrington?

6 A. The cash and fertilizer from W. B. Warrington, when
7 was that?

8 Q. The consideration for that deed dated August 4, 1924?

9 A. I purchased some from him.

10 Q. What you purchased from him was purchased from him
11 individually?

12 A. What I got from him I owe him for.

13 Q. And what you purchased from Mr. C. E. Warrington
14 you owe him individually?

15 A. Yes.

16 Q. And you kept separate accounts, one account of what
17 you owed Mr. W. B. Warrington and another of the amount you
18 owed Mr. C. E. Warrington?

19 A. I have it, yes, sir.

20 Q. How much is the account that you had with Mr. C. E.
21 Warrington?

22 A. There is no way I could tell the exact amount of those
23 things, unless I had the book with me that I jotted it down
24 in.

25 Q. Have you a book at home with this amount in it?
26

1 A. Just how much I owe C. E. Warrington?

2 Q. Yes?

3 A. I don't think I have a book with that in it.

4 Q. But, you are absolutely positive that you only owe C. E.
5 Warrington individually for what you purchased from him
6 and only owe W. B. Warrington individually for what you
7 purchased from him?

8 A. Sure, I only owe them what I got from them.

9 Q. Now, Mr. Warrington, why did you execute a note on the
10 19th day of July, 1924, payable to C. E. Warrington and
11 W. B. Warrington for \$7,000.00?

12 A. Why did I issue a note?

13 Q. Yes?

14 A. That covered what I owed both of them.

15 Q. That covered what you owed both of them?

16 A. Yes.

17 Q. Did that cover this account marked Exhibit 3?

18 A. It covered some of that.

19 Q. How much did that \$7,000.00 note cover on this ac-
20 count?

21 A. I don't know exactly.

22 Q. Then, the items that you owe Mr. W. B. Warrington
23 individually were included in that \$7,000.00 note?

24 A. What I owed him was included in the \$7,000.00 note?

25 Q. Yes?

26 A. Yes.

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26

Q. How much did you owe Mr. C. E. Warrington on August 4th in addition to what you owed Mr. W. B. Warrington?

A. That would be hard for me to tell, what I owed him on August 4th.

Q. You have not paid Mr. C. E. Warrington anything since August 4, 1924 on your account with him, have you?

A. I practically owe C. E. Warrington nothing today.

Q. But, you have not paid him anything since August 4, 1924, have you?

A. Paid him what I owed him.

Q. You haven't had any account with him since August 4th, have you?

A. Since then?

Q. Yes?

A. Yes.

Q. Less than \$100.00?

A. Since August 4th?

Q. Yes?

A. A little since August 4th. I guess it is less than \$100.00. I think he has an account of that. They were small things.

Q. Then, the \$7,000.00 note includes only the items that you have purchased from Mr. W. B. Warrington, with the exception of less than \$100.00 that you owe Mr. C. E. Warrington now?

A. Except what I owe him now, yes.

1 Q. Then, you executed a note for \$7,000.00 and a deed of
2 trust on your interest in the two farms left by your
3 father, to W. B. and C. E. Warrington for a debt of less
4 than \$5,000.00 due you from W. B. Warrington?

5 A. I executed a deed of trust for \$7,000.00 for a debt
6 of less than \$5,000.00?

7 Q. Yes?

8 A. Well, the difference between what I had had and what
9 I was supposed to get.

10 Q. Why did you execute a deed of trust for \$7,000.00 on
11 your interest in the two farms left by your father and yet,
12 within 10 or 12 days, sell your interest outright to Mr.
13 W. B. Warrington for \$5,000.00?

14 A. Why did I sell it to him?

15 Q. For \$2,000.00 less than the deed of trust on the
16 place?

17 A. Because I thought it was all it was worth at that
18 time.

19 Q. And because that amount represented all you owed
20 W. B. Warrington and more too?

21 A. What, the \$5,000.00?

22 Q. Yes, because there are some items on here you had
23 not received at the time the deed was made?

24 A. That was what I had received and what I expected to
25 receive.

26 Q. The \$5,000.00 was?

1

A. Yes.

2

3

Q. Then, you did not owe the other \$2,000.00, the difference between the \$5,000.00 and the \$7,000.00 deed of trust?

4

5

A. No, I did not owe that. I expected to get that.

6

7

Q. Why did you then execute a deed of trust on your place for over \$2,000.00 more than what you actually owed W. B. Warrington?

8

9

A. Why did I do that?

10

Q. Yes.

11

A. To secure them.

12

Q. For what you owed W. B. Warrington?

13

A. And C. E. Warrington.

14

Q. It was less than \$100.00 as to C. E. Warrington?

15

A. I don't remember the actual amount I owed C. E. Warrington.

16

17

Q. Now, you have testified that you rented the pasture farm from January 1, 1924 to January 1, 1925, and at another time you testified that the rent was due from August 1923 to August 1924 as charged on the account Exhibit 3. Will you please tell me now, which position is correct?

21

22

A. I said that I was responsible for the rent until January 1, 1925, personally, from the time I first rented it until January 1, 1925, I am responsible personally for the rent.

23

24

25

26

Q. And you do not say you leased the farm for 1924 during

1 that year?

2 A. In 1924?

3 Q. Yes, for the entire year?

4 A. I had the whole year of 1924 personally. I am due
5 rent for it until January 1, 1925.

6 Q. And then, you didn't pay your rent and rent the farm
7 from August 1st or from August 1923 to August 1924?

8 A. I did at first, yes, I rented it that way.

9 Q. When did you rent it that way from August 1923 to
10 August 1924?

11 A. I think it was in 1922 I rented it until 1923 and I
12 rented it from then to 1924.

13 Q. What time in 1923 and what time in 1924?

14 A. Around the first of the month always, from the last
15 of July or the first of August.

16 Q. Then, in 1923 you rented it to August 1924?

17 A. Yes.

18 Q. And you did not rent the place for the entire year
19 of 1924?

20 A. For the entire year of 1924?

21 Q. Yes?

22 A. I did.

23 Q. When did you rent it that way?

24 A. In 1923?

25 Q. What time in 1923?

26 A. I just told you the first of August or the last of

1 July, or the first of August.

2 Q. For what time did you rent it at that time, for the
3 entire year of 1924?

4 A. I rented it in 1923 for 12 months.

5 Q. For 12 months?

6 A. Yes, sir.

7 Q. In August 1923 for 12 months?

8 A. Yes, sir.

9 Q. Now, when did you rent it for the entire year of
10 1924?

11 A. The entire year of 1924?

12 Q. Yes?

13 A. Well, from August 1923 to August 1924. You will
14 remember there is not but a few months there. That is
15 when I rented it, up until August 1924, and the balance of
16 the rent I rented at the last of July myself, and I rented
17 it this time until Christmas. I didn't know how I was
18 going to be fixed.

19 Q. Then, you rented it in July 1924 for the remaining part
20 of 1924?

21 A. I owe him that remainder rent. Yes, I owe that.

22 Q. Did you, in fact, rent the place for the remaining
23 part of 1924 or did F. M. Warrington, Incorporated?

24 A. I rented it for the remaining part, rented that some-
25 time the last of July,
26

1 Q. From W. B. Warrington?

2 A. Yes.

3 Q. And then you sold your lease to F. M. Warrington,
4 Incorporated?

5 A. Well, they have not become responsible for the rent yet,
6 because I had already rented it.

7 Q. But they are responsible to you?

8 A. They will be.

9 Q. At the end of the year?

10 A. After the end of the year.

11 Q. Who actually rents the pasture farm now?

12 A. I rented the farm, myself, personally. I am personal-
13 ly responsible for the rent of the farm.

14 Q. I understand that, but the point I am trying to get
15 at it I understood you to say F. M. Warrington, Incorporated,
16 are cultivating the farm?

17 A. They are.

18 Q. And that F. M. Warrington has nothing personally to do
19 with renting the pasture farm no more than being responsible
20 for the rent from August 1st to January 1st, 1925?

21 A. Responsible to W. B. Warrington.

22 NOTE: Thereupon at 1:15 o'clock an adjournment
23 was taken for lunch until 2:15 P. M.

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AFTERNOON SESSION

Met at the close of recess.

PRESENT: Same parties as heretofore noted.

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F. M. WARRINGTON, the witness on the stand at the beginning of recess, resumed the stand for further examination:

By Mr. Holland:

Q. Mr. Warrington, did you own or did you have any interest in any other real estate than that described in the bill of complaint in this suit?

A. Did I own any other real estate except these two farms?

Q. Yes, on July 19, 1924, and August 4, 1924?

A. No, only on those two farms.

Q. Did you have any other cattle or any other teams or any other chattel property than that described in the deed of trust from you to L. P. Holland, Trustee, dated July 19, 1924 (exhibiting to witness the deed of trust)?

A. No.

Q. Then, you had no other property except the property described in the two deeds of trust and in the deed to Mr. W. B. Warrington?

A. Yes, sir, I had no other property.

1 Q. Mr. Bethel, a representative of the plaintiff, is
2 going to testify that he called on you in person, in
3 the front of your home place, on the 17th day of July,
4 1924, and asked you for a payment or a curtail on your
5 indebtedness to the plaintiff in this suit, and you re-
6 plied that you were not able to make a payment at that
7 time, but that you would call at the office of the plaintiff
8 in Norfolk on the following Saturday to make some arrange-
9 ment about your indebtedness, or at least to see the company
10 with reference to arranging a settlement. Do you admit or
11 deny this statement?

12 A. I admit Mr. Bethel came to see me. I don't remember
13 the date.

14 Q. You do remember that you told him that you would call
15 at the office of the company on the following Saturday?

16 A. I admit telling him I would call at the office, yes,
17 sir. I don't remember the date I told him I would call.

18 Q. You do remember, though, that he called in the latter
19 part or the middle part of July, 1924?

20 A. I remember he called. I don't remember the time.

21 Q. Were there any changes in your account with W. B.
22 Warrington during the period since July 17, 1924 and
23 August 4, 1924?

24 A. Were there any changes in it?

25 Q. Yes?

26 A. There were no changes in the account.

1 Q. Then, you owed Mr. W. B. Warrington the same amount on
2 July 17th as you did on August 4th?

3 A. I don't say that, because I was steadily doing busi-
4 ness at that time.

5 Q. Well, all the changes would appear on the statement
6 marked Exhibit 3?

7 A. Sure, all the changes would appear on the statement,
8 yes, sir.

9 Q. Did you pay C. E. Warrington any money on your account
10 with him between July 17th and August 4th?

11 A. No.

12 Q. Then, the account with C. E. Warrington, that is the
13 amount you owed C. E. Warrington on July 17, 1924, is sub-
14 stantially the same that you owe him now?

15 A. Yes.

16 Q. And that account is practically small?

17 A. Yes.

18 Q. And there were no other changes in the account be-
19 tweel you as debtor and C. E. Warrington and W. B. Warring-
20 ton except the changes that might appear on the account of
21 W. B. Warrington, marked Exhibit 3 here?

22 A. Well, since that date, no.

23 Q. That date you refer to, July 17, 1924, except as appear
24 on the statement Exhibit 3?

25 A. Yes, except what appears on that statement.

26 Q. Mr. Warrington, will you agree to go with Mr. Kilby, the

1 Commissioner in Chancery here, to your home at Drivers this
2 evening and deliver to him, to be used in evidence in this
3 suit, your stock in F. M. Warrington, Incorporated?

4 NOTE: Witness pauses.

5 A. Would I agree to deliver my stock to him?

6 Q. So, that we can get a copy and put it in the evidence
7 in this suit.

8 MR. SMITH: Counsel in this case has already
9 offered to produce at any time that the Com-
10 missioner requests it, all the records of the
11 corporation, and it seems to me to be unusual
12 to send to this witness' home, quite a number
13 of miles out in the country, to get those papers,
14 and on behalf of the witness I repeat the tender
15 to bring to the court all of the records that
16 exist on behalf of that corporation.

17 MR. HOLLAND: I am only asking the witness if
18 he will agree to go with the Commissioner this
19 afternoon, at my expense, to his home (the home
20 of Frank M. Warrington), and allow the Commissioner
21 to see and get a copy of the stock issued to Frank
22 M. Warrington by Frank M. Warrington, Incorporated.

23 Witness: No.

24 By Mr. Holland:

25 Q. Will you please give your reason for refusing to show
26

1 your stock in F. M. Warrington, Incorporated, to the
2 Commissioner in Chancery in our presence, this evening?

3 A. I don't think it necessary.

4 Q. Will you go with the Commissioner in Chancery, Mr.
5 Kilby, to your home this evening, and show him or deliver
6 to him the book or other evidence of the fact that \$2,000.
7 of capital stock in the F. M. Warrington, Incorporated, has
8 actually been issued to you?

9 MR. SMITH: Counsel again objects to this question
10 and the effort on the part of counsel to force
11 witness to have the Commissioner to go to his
12 home at this time to obtain records belonging
13 to a corporation, which is not a party to this
14 suit. The proper procedure, we respectfully
15 submit, would be that if counsel desires any
16 of the records of this corporation, that then
17 he should proceed in the manner prescribed by law
18 to summon the company here and require it to
19 produce its records in the usual way; and in a
20 long experience, counsel has never known of the
21 method proposed to be used in this case and there-
22 fore he insists that that procedure is unusual
23 and unnecessary and not in accordance with any
24 provisions of the law.
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By Mr. Holland:

Q. Will you go with the Commissioner in Chancery, Mr. Kilby, to your home this evening and show him or deliver to him the book or other evidence of the fact that \$2,000.00 of capital stock in F. M. Warrington, Incorporated, has actually been issued to you?

A. No.

Q. You are the President and Manager of F. M. Warrington, Incorporated?

A. Yes.

Q. You have these books or evidence at your disposal or in your possession?

A. You say I have them in my possession?

Q. Yes?

A. Well, I could get them in my possession.

Q. Well, will you allow me to go with you to Drivers this evening and look at your stock or certificates of stock in F. M. Warrington, Incorporated?

A. No.

(NO CROSS EXAMINATION).

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1 GEORGE W. BETHEL, a witness on behalf of the plaintiff,
2 being duly sworn, testified as follows:

3 Examined by Mr. Holland:

4 Q. Please state your name, age, residence and occupation?

5 A. George W. Bethel; 56; residence, Norfolk, Virginia.

6 At the time you are going to use me I was in the employ
7 of the American Fertilizing Company, but now the Smith
8 Reduction Company; in other words, the fertilizer busi-
9 ness.

10 Q. Were you employed by the American Fertilizing Company
11 in July of this year?

12 A. Yes, sir.

13 Q. Did you call on Mr. Frank M. Warrington?

14 A. Yes, sir.

15 Q. Will you please repeat your conversation with him?

16 A. I cannot repeat the whole conversation. I can
17 give you the sum and substance of it all. In the first
18 place, I was sent to see not only Mr. Warrington, but all
19 people on our books in that vicinity with past due accounts,
20 with instructions to collect same if possible and if not
21 get them to come to the office to secure the account. I
22 understood they had either to be paid or secured. I saw
23 Mr. Warrington and he said he could not pay it, and I
24 said, "I am instructed to get you to go to the office to
25 satisfy Mr. Poyner with security as best you can", which
26

1 he said he would do. He said he could not pay it, you
2 understand, but he would come to the office.

3 Q. When?

4 A. Saturday of whatever week that was. I don't remember
5 what day in July that was.

6 Q. When did you report to Mr. Ryner?

7 A. The following morning.

8
9 CROSS EXAMINATION

10 By Mr. Smith:

11 Q. Mr. Bethel, you say that you called on several gentle-
12 men at that time in that vicinity?

13 A. Yes, sir.

14 Q. Did any of the others say that they would come down to
15 the office?

16 A. I believe all of them. All who did not pay, and by
17 the way, nobody paid in full. I got some partial pay-
18 ments.

19 Q. Have you any information as to whether these gentle-
20 men who said they would come, did come to the office?

21 A. Some of them did, Oh, yes.

22 Q. And some of them did not?

23 A. I don't know about that. Some may have not, but you
24 asked me if I knew any that did.

25 Q. I say do you know any that did not?

26 A. No, but I am prepared to accept the idea that some

1 of them probably did not.

2 Q. The probabilities are that Mr. Warrington was not the
3 only one who said he would come and then did not?

4 A. Yes, sir, that is entirely probable. I don't know
5 that they all did, nor do I know they all did not.

6 Q. It is not very unusual for a fellow that owes money
7 to say he will be up at a certain time and fail to do so?

8 A. Not at all.

9 Q. It is not unusual for them to say they will come to
10 the office on a certain date and not come?

11 A. No, sir, that is not unusual either.

12

13 RE DIRECT EXAMINATION

13

14 By Mr. Holland:

14

15 Q. Do you remember any person or persons making any
16 payments on the day you called on Mr. Frank M. Warrington?

17 A. I remember two. Do you want me to tell who it was?

18 Q. Yes?

18

19 A. One was Mr. J. W. Brinkley, Mr. Jesse Brinkley, who paid,
20 I remember, exactly \$200.00. And, there was another gentle-
21 man whose name I don't remember, but an old man down back of
22 Mr. Warrington's somewhere. Anyhow those were the only two
23 that did pay me any money that day.

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26

1 E. R. POYNER, a witness on behalf of the plaintiff,
2 being duly sworn, testified as follows:

3 Examined by Mr. Holland:

4 Q. Please state your name, age, occupation and residence?

5 A. E. R. Poyner; 30; Treasurer, American Fertilizing
6 Company, Norfolk. I reside at Norfolk.

7 Q. As Treasurer of the American Fertilizing Company, are
8 you familiar with the making of tax returns on behalf of
9 the American Fertilizing Company?

10 A. That is a part of my duty.

11 Q. Did the notes and the open account of Frank M.
12 Warrington described in the bill of complaint in this suit,
13 constitute a part of the capital employed in the business
14 of the American Fertilizing Company?

15 A. That part of the account which was existing at the
16 time that the returns had to be filed was included as
17 a part of our capital assets.

18 Q. And were such notes and open accounts duly taxed
19 as such?

20 A. Yes, sir, that part of it that was filed.

21 Q. Then, all the indebtedness of Frank M. Warrington to
22 the American Fertilizing Company has been listed for
23 taxation as required by law?

24 A. Yes, sir.

25 Q. You just heard Mr. Bethel testify in this suit. I
26

1 ask you to state when he reported to you the conversation
2 with Frank M. Warrington with reference to collecting
3 Frank M. Warrington's account?
4

5 MR. SMITH: Objected to as hearsay.

6 Q. Go ahead and answer the question?

7 A. Mr. Bethel reported to me on the morning of the 18th
8 that he had called to see Mr. F. M. Warrington on the 17th
9 and advised me of the conversation he had that day and my
10 records show these dates and this information.

11 Q. Did you make any record of this report at that time?

12 MR. SMITH: The question is objected to as hear-
13 say and incompetent.

14 A. Yes, sir.

15 By Mr. Holland:

16 Q. Where is it?

17 A. The statement which you have in your possession, sir,
18 shows it.

19 MR. HOLLAND: We offer this statement in evi-
20 dence as Exhibit 5.

21 NOTE: The Exhibit 5 is filed herewith and is
22 in the words and figures following:

23 EXHIBIT 5.

24 "Norfolk, Va., May 31st, 1924.
25 Mr. F. M. Warrington
26 Suffolk, Va., R.F.D. #5

THE AMERICAN FERTILIZING COMPANY, Dr., FERTILIZERS.

1	1924	Spring 1924	
2			
3	Apr 30	To Statement Rend.	2,810.35
4		Fall 1923	
5		To Note due July 1-1924	1,203.03
6	" "	July 1-1924	307.55
7			4,320.93

8 Saw Mr. Warrington at Drivers, Va. He has no money
9 now but will grow a fair crop of Potatoes, and soon
10 as gets returns will be in to see you.

11 7/17 Will call at office Saturday.

12 7-21 Taylor will see and get him to come in. Came Satur-
13 day as promised but no one here.

14 7-24 Called away from home. Mother says gone to office
15 today. "

16 MR. SMITH: We object to the exhibit and ask it be
17 excluded as hearsay.

18 By Mr. Holland:

19 Q. One statement on this paper, Exhibit 5, is "7-17
20 will call at office Saturday". Will you please state who
21 wrote that statement on there and whether or not it is
22 the record made in the usual course of your business?

23 MR. SMITH: Objected to for the same reasons.

24 A. Our Mr. Bethel who called on Mr. F. M. Warrington,
25 gave the information, wrote the information on the state-
26

1 ment regarding his call on Mr. Warrington, and I put the
2 dates thereon at the time which Mr. Bethel furnished me
3 with the information, which was the morning of the 18th.
4 By Mr. Holland:

5 Q. Did Mr. Frank M. Warrington call at your office on
6 the following Saturday, to your knowledge?

7 A. I understand he did, through our Mr. Taylor, Mr.
8 Taylor advising that Mr. Warrington called at the office
9 that day after we had closed the office for the day.

10 Q. Did you ever have any conversation with Mr. W. B.
11 Warrington on this subject, and if so, please repeat the
12 conversation?

13 A. On August 2nd, Mr. W. B. Warrington called at our
14 office, and at that time paid the balance due on his
15 pre 1924 fertilizer account, and I at that time discussed
16 with him his brother's account, Mr. F. M. Warrington; both,
17 from the standpoint of payment in cash and then from the
18 standpoint of carrying it over collateralized. We dis-
19 cussed the collateral question of Mr. F. M. Warrington's
20 indebtedness. At that time Mr. W. B. Warrington stated
21 that if Mr. F. M. Warrington was satisfied he estimated
22 that there was an equity in the property holdings of Mr.
23 F. M. Warrington to fully collateralize the indebtedness
24 of the American Fertilizing Company and Mr. W. B. Warrington.
25 He figured at that time that Mr. F. M. Warrington's property
26 was worth \$7,000.00 and these were the figures that were

1 the figures that were stated, and the account of F. M.
2 Warrington at that time amounted to approximately \$4300.00,
3 as shown on the statement Exhibit 5.
4

5 Q. Did Mr. W. B. Warrington state at that time the amount,
6 if any, due from Frank M. Warrington to himself (W. B.
7 Warrington)?

8 A. Not other than as stated above; that is, we estimated
9 the property worth \$7,000.00. Mr. W. B. Warrington knew
10 his brother's account with us amounted to \$4300.00 and he
11 stated the property holdings of F. M. Warrington were
12 sufficient to collateralize both of us and indemnify
13 both of us against loss.

14 (NO CROSS EXAMINATION)

15 MR. HOLLAND: We rest our case.
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