

No. 550. :
: In District Court of Dimmit County
H. M. Fore et al. :
: Texas.
vs. :
: S. C. Ward et al. :

Answers and depositions of the witness Ernst von Rosenberg, who resides in the County of Travis, State of Texas, to the accompanying direct and cross interrogatories, propounded to him in the above entitled and numbered cause, made, subscribed and sworn to by the said above named witness before me the undersigned authority in accordance with the accompanying agreement.

Ans. to (Int. No. 1.

Ernst von Rosenberg; age 59 years. I reside in the City of Austin, Travis County, Texas, and have so resided about 55 years.

Ans. to Int. No. 2.

I am employed as Compiling and Examining Draftsman in the General Land Office of the State of Texas, and have been so employed since the year 1876, except the time intervening between January 21, 1891 and June 2, 1893, during which time I was not employed in the General Land Office.

Ans. to Int. No. 3.

Yes. I was well acquainted with Major C. R. Johns and Judge Joseph Spence.

(1) They were land and claim agents and did a general land agency business, bought and sold certificates, paid taxes, adjusted titles, etc, and did business in all of the State Departments.

(a) Yes, they are both dead. Major C. R. Johns died sometime between July 29 and August 1, 1886 in Austin, Texas, and Judge Joseph Spence died May 14, 1894, at his home about two miles east of Austin.

(b) I first became acquainted with Major C. R. Johns

about the year 1860 or 1861, while he was State Comptroller. I first became acquainted with Judge Joseph Spence while he was Commissioner of the General Land Office of Texas, in the year 1867, and I knew both Major Johns and Judge Spence intimately until their deaths. From about 1877 until about September, 1883, they did a general land agency business under the firm name of Johns & Spence.

(c) Major C. R. Johns resided in Austin, Texas, and Judge Joseph Spence in the eastern out-skirts of Austin.

(d) Their reputations were both good.

(e) Yes, good.

(f) Their office was located on then West Pecan Street, (now West 6th St.), in the City of Austin, Texas, half block west of Congress Avenue, immediately east of the United States Post Office Building, in a building known as the Hancock Building, on the 2nd floor thereof, on the right side of the stair-way landing.

(g) It was burned.

(h) It caught fire on Saturday night, May 12, 1883, and continued to burn until Sunday morning, May 13, 1883. I was present at the fire in the capacity of an active member of Austin Hook & Ladder Fire Company, No. 1, and of which I am still a member. When I arrived at the fire I saw at once that the Hancock Building was doomed. With two other firemen we were ordered to extinguish a fire in an adjacent building on the third floor of the United States Post Office, immediately west of the burning Hancock Building. We extinguished the fire on the third floor of the U. S. building.

(i) The contents of the office of Johns & Spence in said building were burned with the exception of a few books and papers. This I know as a fact because, together with other firemen, I was ordered to raise a ladder through the side or east window in the alley near the

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front of the building, where Johns & Spence office was located, and we entered the office in time to save a few books and papers, as already stated, which were turned over by the firemen to Tom Johns, a son of C. R. Johns. The greater portion, in fact nearly all, of the records in their office were burned. It was one of the hottest fires the Austin Fire Department ever contended with. The entire first floor was occupied by a wholesale grocery house, conducted by Bertram, Müller, & Brueggerhoff, their stock consisting of all kinds of liquors, fancy groceries, oil, etc., thus rendering it impossible to save the building and contents.

Ans. to Int. No. 4.

Yes.

(a) About the year 1858, and knew him from that time until his death.

(b) He is dead. In Austin, Texas, in March, 1909.

(c) In the City of Austin, Texas.

Ans. to Int. No. 5.

Yes, good.

Ans. to Int. No. 6.

Yes.

(a) In Dimmit County, Texas, about the year 1882, on the south-west or back line of the Blas Reyes eleven league grant, owned by Dr. M. A. Taylor.

(b) By Joseph Spence, of Johns & Spence, for Dr. M. A. Taylor.

(c) Dr. M. A. Taylor.

(d) Dr. M. A. Taylor.

(e) Prior to the location of the A. M. Fore, 1280 acre land certificate, Judge Joseph Spence and Dr. M. A. Taylor, called at the General Land Office of Texas, where I was employed and examined the map of Dimmit County in my presence, which map disclosed a large vacancy between

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the S.W. boundary line of the Blas Reyes grant and surveys in Block No. 2, surveyed by Jacob Kuechler, Deputy Surveyor of Bexar Land District, and Judge Spence advised Dr. Taylor to purchase a land certificate and file on said land, as Dr. Taylor owned the Blas Reyes Grant and did not like the idea of any one locating or acquiring the land adjacent to said grant and did not know whether the fence was on the grant line or not. On June 27, 1883 Joseph Spence, of Johns & Spence, agents for Dr. M. A. Taylor, filed the A. M. Fore 1280 acre certificate, together with the application to the surveyor for the survey and field notes, calling for 1280 acres and paying the Land Office filing fee of \$1.00. On the following day, June 28, 1883, Judge Spence secured a certificate of facts from the Land Office, authorizing the survey of 1280 acres for the common school fund, under said Fore certificate. Judge Spence was requested, in my presence by I. V. Davis, the clerk in the Land Office at that time who issued these certificates of fact, to file the transfer of said certificate to Dr. Taylor. Judge Spence replied that the transfer was burned in the office of Johns & Spence, in the fire which destroyed all of their records, papers, etc., in the Bertram, Mueller, & Bruegerhoff building, known as the Hancock Building, and about which I have testified heretofore.

Ans. to Int. No. 7.

Yes.

(a) Yes. I had various conversations at different times with ~~Judge Spence~~ Dr. Taylor in regard to the matter.

(b) In the summer of 1883 Dr. Taylor and Judge Spence called at the Land Office to know if the field notes of his survey, made under the A. M. Fore certificate, had been examined. I replied that the field notes had been calculated and balanced, and contained 1280 acres, but that the Land Office required further connections as to

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the true position of the S W boundary line of the Blas Reyes grant. One line was known as the Hector and the other as the Kuechler line of said Blas Reyes grant.

I suggested to Dr. Taylor to consult with ~~Ex-Landa~~ Commissioner Kuechler, who had surveyed and located surveys Nos. 1 to 81 inclusive, in Block No. 2, just S W of the Blas Reyes grant, and who could give him all the information desired. He replied that he would. A short while after my conversation with Dr. Taylor he and Mr. Kuechler made a trip to Dimmit County and I know of my own knowledge that Mr. Kuechler made two or three trips down in that section of the country, and one time in company with Dr. Taylor.

(c) Judge Spence and Dr. Taylor called again at the Land Office and the attention of Dr. Taylor was called by Judge Spence and myself to the fact that a survey of 1280 acres should be surveyed and field notes returned for the State school fund, under said Fore certificate, before any further action could be had on his individual survey, and that according to the map of Dimmit County, there appeared ample space of vacant land upon which to place the school part adjoining his survey on the S.E. end, adjacent to the Blas Reyes and Block No. 2 on the west.

(d) About February, 1884, Dr. Taylor came in person to the General Land Office and filed the A. M. Fore certificate, together with the application to the surveyor and also the field notes for the school survey, as required by law, paying the Land Office \$1.00 filing fee. I asked Dr. Taylor what about the transfer from A. M. Fore to him. He replied and asked was it not filed by Judge Spence? I answered, "No, that when Judge Spence obtained the certificate of facts to locate 1280 acres for the school fund on said Fore certificate, he, Spence, stated to Mr. Davis, the clerk in the Land Office, who issued the

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certificate of fact, that said transfer was burned in the office of Johns & Spence in the Hancock Building. That they Johns & Spence would make an affidavit to that effect, try to procure another transfer."

(e) Dr. Taylor said that Johns & Spence had purchased the certificate for him to be located in Dimmit County; that they had the transfer, and kept it awaiting the return of the field notes and certificate from the County Surveyor of Dimmit County, and intended to file the transfer in the Land Office with said certificate and field notes when they were filed in the General Land Office.

Ans. to Int. No. 8.

I had no conversation whatever with Major C. R. Johns about the matter, but did have several conversations with Judge Spence in regard to the A. M. Fore certificate and transfer. I will here explain that about four months after the fire about which I have testified, occurred, Johns & Spence dissolved partnership,

(a) See my answer to direct Interrogatory No. 7 .

(b) C. W. Pressler and I. V. Davis, who at that time were employed in the General Land Office, but are both now dead.

(c) I have already stated in my answers to Direct Interrogatories Nos. 7 and 8, in detail, all that was said by each party in the conversations referred to.

Answers to Cross Interrogatories.

Ans. to Cross Int. No. 1.

In answer to this cross interrogatory I deem it necessary to explain that there was a firm composed of C. R. Johns , J. C. Kerbey, F. Everett, and Wm. von Rosenberg, (my father). These gentlemen did a general banking and

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land agency business in the City of Austin, Texas, from about 1868 to November 1876 under the firm name of C. R. Johns & Co. My father had charge of the land Department of said business and I was employed by them in that Department from about the year 1868 to November, 1876 when said firm made an assignment and the partnership was dissolved. A short time thereafter Major C. R. Johns and Judge Joseph Spence formed a partnership in the general land agency business in Austin, Texas under the firm name of Johns & Spence. I was never employed by them. Three or four months after the fire that burned the Hancock Building, and about which I have testified in my answers to the direct interrogatories, Johns & Spence dissolved partnership and soon thereafter Major C. R. Johns formed a partnership with his sons, under the firm name of C. R. Johns & Sons. After the death of Major Johns the name of the firm was C. R. Johns & Co., composed, as I understood, of C. R. Johns, Jr., and his mother. I was never employed by C. R. Johns & Sons, or C. R. Johns & Co.. Judge Spence continued business after he dissolved with Johns on his own account until his death.

Ans. to Cross Int. No. 2.

Yes.

Ans. to Cross Int. No. 3.

No. They were succeeded in their land business by C. R. Johns & Sons, composed of C. R. Johns and his two sons Tom and Jack Johns.

Ans. to Cross Int. No. 4.

No, C. R. Johns & Sons, as already stated, formed a partnership after the dissolution of Johns & Spence, and carried on a general agency business in Austin, Texas. Judge Joseph Spence also carried on a general agency business on his own account and independent of C. R. Johns & Sons.

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Their offices were in different parts of the city and in different buildings. I do not know that any division of the business was ever made or that Judge Spence took charge or had possession of any of the very few papers and records that were left by the fire. I have already stated who succeeded Johns & Spence.

Ans. to Cross Int. No. 5.

At the time of the fire, about which I have testified, the business was being conducted in the name of Johns & Spence. I have already stated the date of the fire and the result thereof.

Ans. to Cross Int. No. 6.

Judge Joseph Spence died May 14, 1894 and Major C. R. Johns died sometime between July 29, and August 1, 1886.

Ans. to Cross Int. No. 7.

As far as I know or ever heard, Dr. M. A. Taylor was not a speculator in land certificates, or speculator in lands or property of any kind. He was a practicing physician in Austin, Texas all the time I knew him, about 52 years, and until a few years before his death, he was in active practice of his profession. I never knew of any connection in a business way that Dr. Taylor had with C. R. Johns and Sons or C. R. Johns & Co., but I do know that Johns & Spence were his agents at the time of the location of the Fore certificate in Dimmit County. During the existence of the firm of Johns & Spence and of the firm of Johns & Sons, I never knew or heard of either of said firms carrying on or transacting business in a disreputable manner. There were rumors and talk in Austin, Texas, to the effect that the business of C. R. Johns & Co., who succeeded C. R. Johns & Sons, was conducted in a disreputable way, but I know nothing of my personal knowledge to that effect.

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Ans. to Cross Int. No. 8.

It was not a fact that in the City of Austin, where Johns & Spence formerly carried on their business, that it was a matter of talk and general notoriety that the business of said C. R. Johns & Spence was conducted in a crooked and disreputable and dishonorable way. I never heard of such imputation. As to C. R. Johns & Co., I have already stated that there were rumors and talk and criticism of their manner of doing business but in what way they conducted their business in a dishonorable manner, or in what instance or instances, I cannot say. There were rumors that they rented and leased land, collected the rental or revenues therefrom, and did not account for it to the owners. Neither Johns & Spence or Johns & Sons, as far as I know, or ever heard, made it a business to use their means of information obtainable at Austin, to locate or ascertain where was located large bodies of land in Texas that were not being looked after by the owners and to claim to have charge of said land, either for themselves or for the owners, and to rent or lease said land and collect the revenues therefrom and appropriate it for their own use.

Ans. to Cross Int. No. 9.

After the death of Major C. R. Johns and while the business was conducted by C. R. Johns & Co., under the actual management of C. R. Johns, Jr., there was some talk and rumors that said firm assumed to control bodies of land, collect rents and revenues, and appropriate the same without authority, but there was never any such charge or rumor that Major C. R. Johns, or Judge Joseph Spence were guilty of anything of the kind, as far as I know.

Ans. to Cross Int. No. 10.

They may have had such reputation with some people, but if so I never heard anything of it, so far as Major C. R. Johns and Judge Joseph Spence were concerned.

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Ans. to Cross Int. No. 11.

Never, during my acquaintance with the firm of Johns & Spence, or the firm of C. R. Johns & Sons, did they have the reputation in Austin, Texas, as far as I know or ever heard, of making it their business to assist land speculators in acquiring titles to lands in Texas that were not being looked after, or in the possession of the owners. As to C. R. Johns & Co., I have already stated fully all I know about them and their reputation.

Ans. to Cross Int. No. 12.

Never, during my acquaintance with Johns & Spence or C. R. Johns & Sons, did I ever hear or know, while they were engaged in business in Austin, Texas, of having the reputation of acquiring and of assisting to acquire, bogus land titles to lands in various counties in the State. After the death of Major C. R. Johns and the firm of C. R. Johns & Co., came into existence, I never heard of them acquiring and of assisting to acquire, bogus land titles to lands in various counties in the State, but as I have already stated, I have heard rumors and talk that they conducted business in a disreputable manner, without reference to any particular item or transaction.

Ans. to Cross Int. No. 13.

There was never any such talk about Johns & Spence, but as already stated, there was such talk about C. R. Johns & Co.

Ans. to Cross Int. No. 14.

I do not.

Ans. to Cross Int. No. 15.

I do not.

Ans. to Cross Int. No. 16.

I have never known Johns & Spence, or either Major Johns or Judge Spence, for themselves making any such

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claim. As to C. R. Johns & Co., as I have already stated, there was some talk after the death of Major Johns and Judge Spence.

Ans. to Cross Int. No. 17.

Yes. After the death of Major C. R. Johns, there was such talk, and threatened prosecution of C. R. Johns & Co., for transactions by that firm,

Ans. to Cross Int. No. 18.

There may have been persons during the time that Johns & Spence and C. R. Johns & Co., were in the land business in Austin, who made it a business of looking up lands that were not receiving the attention of the owners and getting up bogus titles to such lands, but I never heard of Johns & Spence being engaged in any such business or assisting any one, and the same may be said of Johns & Sons. As to C. R. Johns & Co., I have already stated as fully as possible as to their reputation in the transaction of business.

Ans. to Cross Int. No. 19.

Dr. Taylor had Johns & Spence and later Johns & sons to attend to his land business, at least they were known to be his agents for his outside property, especially the Dimmit County land, but I never heard of his having anything to do with C. R. Johns & Co. Dr. Taylor did not have the reputation of being a land ~~sharp~~^{sharp} in Austin or elsewhere.

Ans. to Cross Int. No. 20.

My relationship with M. A. Taylor and Johns & Spence in connection with Certificate No. 346, issued to Alfred M. Fore, was of an official character in the Land Office where I was employed as an examining draftsman. I am not related to either by blood. I made an examination of the

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records and maps for them just as I would for any other visitor calling at the General Land Office, and the public generally.

Ans. to Cross Int. No. 21.

None whatever.

Ans. to Cross Int. No. 22.

I am at present employed in the General Land Office of Texas as examining and compiling draftsman, and have been so employed since 1876 except the time mentioned in my answer to Direct Interrogatory No. 2, and to which I refer.

State of Texas,)
County of Travis.)

I, C. M. Callaway, a Notary Public, in and for Travis County, State of Texas, do hereby certify that the foregoing answers of Ernst von Rosenberg, the witness before named, were made before me, and were sworn to and subscribed before me by the said witness, on the 29th day of January, 1912.

Given under my hand and seal of office this the 29th day of January, 1912.

Notary Public Travis County, Texas.

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Carbon copy
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Sketch
 File No. 59
Dimmit County
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 Filed Dec 4 19 84
 GERRY MAURO, Com'r
 By Don Hill
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