

ceiver was authorized and empowered to sell them at not less than par, less a reasonable amount to be paid for the negotiation of the same, and the proceeds to be applied to the purposes named in the decree. On October 13, 1889, Chamberlain, the receiver, sent a telegram from Atlanta, Ga., to Woodson, at Fifth Avenue Hotel, New York, in the following language: "Do not place receiver's certificates, under any circumstances, as I have given option for their sale. Also, return acceptance of ten thousand dollars to me, at Sheffield, at once. Answer here. J. G. Chamberlain." On the same day, Woodson replied to this telegram as follows: "Telegram received. Will return you the papers as requested. C. D. Woodson." In violation of the instructions contained in this telegram to him, Woodson, on October 14, 1889, sold in New York these five certificates to H. E. Garth, for D. T. Parker,—said Garth, in his testimony, says,—“either for \$17,000, or seventy cents on the dollar.” And D. T. Parker, on the 21st and 22d of October, 1889, sold them to O. H. Parker, president of the Anniston Loan & Trust Company, for said company, for \$22,500; being ninety cents on the dollar. That D. T. Parker purchased from Woodson, and paid him for, the certificates, after the receipt by Woodson of the telegram from the receiver to Woodson, directing him not to dispose of the certificates, and, in effect, countermanding any authority which might previously have been given to him to sell the certificates, but that Parker purchased and paid for the certificates in perfect good faith, relying upon Woodson's reputation for probity and honor. D. T. Parker, it appears, is dead, and also Woodson. The testimony of Garth as to the sale by Woodson to Parker is: "I have been engaged in the banking business for many years, and am now president of the Mechanics' National Bank of this city. I knew C. D. Woodson and D. T. Parker. I purchased of Mr. Woodson three certificates of the Sheffield & Birmingham Coal, Iron & Railway Company, of \$5,000 each,—Nos. 1, 2, and 3,—and shortly afterwards bought for Mr. D. T. Parker five certificates, of \$5,000 each, from Mr. Woodson. As well as I can remember, they were numbers 8, 9, 10, 11, and 12. Mr. Woodson called at my office with Nos. 1, 2, and 3, and I bought them, paying him 80 cents on the dollar for them; and in about two or three weeks afterwards he called to see me again, and I bought the five for Mr. D. T. Parker, at his (Parker's) request. I believe their numbers were 8, 9, 10, 11, and 12. I paid Mr. Woodson either 70 cents on the dollar, or \$17,000, for the five certificates of \$5,000 each. Mr. Woodson told me that the receiver of the Sheffield & Birmingham Coal, Iron & Railway Company owed his bank, and gave the certificates to him to sell. I do not know what capacity he was acting in, further than that I knew he was president of the First National Bank of Sheffield, and that he had stated that the receiver was indebted to his bank. I sold the certificates Nos. 1, 2, and 3, that I bought. Those bought for Mr. Parker were handed to him. So far as I know, the legality of the purchase of certificates Nos. 1, 2, and 3 has never been doubted or questioned. I have already stated the price, and about the time when the certificates were purchased. As nearly as I can remember, the first were bought the last of September, and the others the middle of October, 1889. So far as I know, the interest on Nos. 1, 2, and 3 has been paid regularly. I never heard to the contrary. I cannot say how long I knew Mr. Woodson before the purchase of the certificates; probably a year. He was engaged in the banking business. I heard that he had been in the banking business a number of years in Atlanta, Ga., and Sheffield, Ala. I cannot say what his standing was in banking and financial circles in the city of New York. He informed me that his bank was hard up, but was perfectly good. So far as I know, everybody regarded him as thoroughly honest and reliable." The evidence shows that the certificates were regularly sold to the Anniston Loan & Trust Company at 90 cents, and that they still own them. The first notice they had of any question as to them was when they were presented at the bank where interest was payable. It is thus shown that the intervener is a bona fide holder for value, and that the first purchase was, in like good faith, for value.

Upon the question as to whether the receiver ratified the sale by receiving the purchase price, the intervener offered the testimony of the witnesses T. L. Benham, J. R. Jones, and R. W. Austin, and the documentary evidence of

a mortgage from Charles D. Woodson to Jacob G. Chamberlain, receiver, executed October 28, 1889, on real estate in Birmingham, to secure indebtedness of \$33,335, due by two notes,—one for \$23,500, proceeds of receiver's certificates, and \$9,835, proceeds of two acceptances,—both these notes signed, "First National Bank of Sheffield," and "C. D. Woodson;" mortgage from Charles D. Woodson to Jacob G. Chamberlain, receiver, executed November 9, 1889, on real estate in Sheffield and Colbert county, to secure same indebtedness; assignment by said bank to Chamberlain, as receiver, as further security for said indebtedness, of seven notes, aggregating \$10,000, given by Henry B. Tompkins and J. M. White to said bank. The testimony of Benham, cashier, and Jones, bookkeeper, of the First National Bank of Sheffield, showed that Woodson made a deposit of money in the bank to the credit of Chamberlain, as receiver, of \$17,000, on October 22, 1889; another, of \$6,500, November 5, 1889,—and that Woodson said at the time that these deposits were the proceeds of the receiver's certificates. That the bank book shows these entries to the credit of Chamberlain, receiver. That Chamberlain, as receiver, had an account on the books of the bank, and had a pass book, and that these two items,—one for \$17,000, and the other for \$6,500,—were credited on his pass book. That Chamberlain, as receiver, had to his credit on the books of the bank, November 5, 1889, \$25,278.83. That this included the item of \$17,000, but not the item of \$6,500. That this last item was placed on the pass book by the instance of Woodson, and that Woodson did not exactly explain the debit entry to it. That there were other deposits that Chamberlain, receiver, had made, in addition to these, between the 10th of October and the 5th of November. That he deposited \$4,060.28, October 28th, and, same date, \$844.45. That these were all the deposits between those dates, and no deposit afterwards. That, after the 9th of November, checks by Chamberlain, receiver, on the following dates, and for the following amounts, were honored, viz.: November 13th, \$150.08; November 14th, \$235.26; November 15th, \$38.43; November 22d, \$123.37; November 25th, \$20.40; and November 26th, \$31. That the receiver was overdrawn in the bank, September 19th, \$7,972.50. That the receiver checked out, between October 22d and the time of the suspension of the bank, \$2,859.18, and that his check out October 22d, for \$576.46, was paid that day. That the deposit of \$17,000 was made up of several items. The items were \$6,000 and \$4,000 charged to W. L. Moody & Co., of New York; \$3,000 in the National Bank of Republic, transferred by him to the Burney National Bank of Birmingham, and that bank sent to the First National Bank of Sheffield \$3,000 in gold, which was received, and \$1,500 and \$2,000 charged to the Central National Bank of New York. The total of these amounts aggregates \$16,500, which, with the \$500 individual check of Woodson, makes \$17,000. That these several amounts were recognized and reported by the banks upon which they were drawn, and that their monthly accounts and settlements with his bank showed that these amounts were actually deposited to its credit in said banks, respectively, and that his bank got the benefit of them. That Woodson did deposit October 22, 1889, to the credit of Chamberlain, as receiver, that which was equivalent to \$6,500, according to commercial usage under ordinary circumstances. That Chamberlain, as receiver, reported to the court the proceeds of these certificates as on deposit in the bank to his credit, and on December 3, 1889, the court rendered a decree of foreclosure and sale of the property for which the original bill was filed, and by that decree charged the property and its proceeds with the payment of these certificates. That at the same time the bank was insolvent. That Woodson was its president, and that, although the credit was given, part on October 22d, (\$17,000,) and balance, (\$6,500,) November 9th, yet at no time after the date of either credit was the bank in a condition to have paid any considerable portion of either.

These were the findings of fact by the master, but, as matters of law, he found that the receiver was, by his conduct, so far as he was concerned, estopped from denying the validity of the disposition of these certificates by Woodson, but that the entries and deposits in the bank were not equivalent to a payment by Woodson to the receiver, and that the intervenor's claim was, therefore, not a valid claim, and should be disallowed.