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Merrill Papers, Documents

1978.32.0036-1978.32-0041

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Georgia
Thomas County

To the Hon. A. H.

Hansell Judge of the Superior
Court of the Southern Circuit
and exercising jurisdiction in
Chancery -

- Humbly complain-
ing sheweth unto yr Honor yr
orator Milton C. Smith Executor
of the last will & Testament of
Abel Johnson late deceased,
that his Testator departed this
life on or about the day
of 187, leaving a will
which duly proven before the
Ordinary of said County at the
Term 187, a Copy of
which is hereto appended as
an exhibit, with leave of ref-
erence as often as may be
necessary - It will appear by
the third item of said will that
the Testator at the time of making
the same intended that his plan-
tation negroes & stock should be
kept together as a home for his
wife and children - But after-

men during his lifetime, his
negroes were emancipated, and
the Testator sold the land. - So
that the Testamentary scheme
indicated thereby cannot be
carried out by his Executor, by
reason of the changes in the
property so made, and which
is not provided for by any part
of the Will, nor by any Codicil
afterwards added thereto. - It will
also appear ~~that~~ by the 5th item
of the Will that the Testator at
the time owned a large stock of
Cattle, which his Executors were
directed to keep up & increase except
so far as the beef Cattle were con-
cerned, which direction the Executors
cannot carry out for the same
reason that controls the third item
of the Will. - the Testator having
disposed of them or the greater
part thereof before his death &
having made no provision by
Will or Codicil to meet such a
contingency - Yr Orator further
sheweth that the said Testator

at the time of his death was largely indebted, by reason of speculations into which he had entered for the purpose of improving his pecuniary condition - that he bought & sold a great deal of property warranting the titles, giving security, and otherwise involving himself in pecuniary liabilities, some of which were direct & some contingent, and that your Orator has been notified as Executor by divers creditors who have and controvert executions, judgments and liens, of their existence and amount and character, and also by other persons that they have warranty titles to land sold by the said Testator, which warranties are about to be, and have been broken, because of executions and judgments in existence and now in force against his vendors, some of which are already levied and others about to be levied on property sold to them by the Testator & the titles to which he warranted to be good -

Your Orator further sheweth that the said Testator before his death sold a body of land in Thomas County to Leroy Fleetwood for five or six thousand dollars, upon which there is yet due some eighteen hundred or two thousand dollars - That suit has been brought for the same, but the purchaser is resisting the payment thereof on the ground that the land has been levied on by direct execution against said Testator obtained in his lifetime and before the sale made to him, and refuses to pay said note, because he cannot successfully resist the lien of ^{or} judgments and fifas so levied as aforesaid, and claims not only that he will not pay the purchase money yet due, but threatens to sue yr Orator as Executor, on the bond for title which he holds against the said Johnson, for the amount he has already paid on the purchase - Yr Orator further sheweth that during his lifetime the

said Testator sold a settlement of land upon which are valuable Mills, known as the Ganey Mills, to one Joseph Single Tany and gave his Bond for title, upon payment of the purchase money, upon which there is yet due

dollars, not payable till the first of Jan'y 1875, and that recently a Mortgage fi fa in favor of the Estate of Joseph Meely vs Hilroy B. Humphreys a former owner of said land and Mills, has been levied thereon, which involves that claim in the same difficulty as the Fleetwood case -

also that the heirs of John Donaldson late of said County died, have filed a Bill in Equity against yr. Orator as Executor in which they allege that the said Abel Johnson was their Guardian, and died, having in his hands several hundred dollars belonging to them, which they claim is a preferred debt and to be paid before all others - Also that E. J. Young has commenced suit against yr. Orator as Executor for eight hundred or a thousand dollars on

an old contract which seems to have
been entered into between them
many years ago, concerning a
Sieny stable business which is
still unsettled — Yr. Orator

further shews that many years
ago J. Perry bought a valuable
House and lot in the Town of
Thomasville in said County and
was sued by one John Hix for the
purchase money and judgt obtain-
ed against him for

dollars of the
purchase money — That afterwards
the said Perry sold & conveyed
said Town property to the said
Shel Johnson, who sold and
conveyed the same by warranty
title, and that said fifa
amounting now principal &
interest to hundred
dollars, has been levied on
said House and lot so war-
ranted as aforesaid, and the
present owner is proposing to
make the Estate responsible
for the original purchase money
& interest thereon from the date

of said warranty - It also appears
by the 4th Item in said Will that
the Testator owned at the date
thereof some Town lots in the
Town of Intman Brooks County
the purchase money for which
according to the Statement in
said Will had been paid, but
recently the Judge of the County
Court of Brooks has forwarded
to and had levied the Sheriff
of Thomas County executions of
an old date, but ~~properly~~ kept
alive by entries, amounting
principal and interest to between
hundred dollars
and had the same levied upon
certain real estate in said County
which the Testator had sold in
his lifetime -

Yr Orator further
sheweth that recently an execu-
tion amounting to about a
thousand dollars obtained
many years ago in favor of
one Jackson a resident
of against H. B.
Numphries as principal and the

said Johnson & John Hurst as security, has been levied on property sold by the said Johnson just before his death - for all of which property so levied upon as aforesaid the said Johnson has, out either warranty deeds, or Bonds, Conditioned to make deeds - That in all the aforesaid cases, as well as various others too tedious to be particularized, your Orator has used such legal means as were at his command to stay sales and postpone the final action until he could file this Bill for direction & the marshalling the assets of the Estate - There may be still other fifas, warrants or Bonds of which he has not yet been informed in which the estate of his Testator may be involved, which he prays leave to incorporate herein as soon as he shall obtain the necessary information relating thereto -

Your Orator respectfully suggests to the Court that if the various

Creditors were enjoined until a final
Creditors and others, aforementioned
who hold executions against the
said Johnson and property which
has passed through his hands &
the title warranted by him were
enjoined until the matter could
be brought into a Court of Equity &
examined and passed upon that
many of the difficulties might be
avoided and all or most be fully
paid off - Thus if the creditors who
have liens upon the Fleetwood
lands and the Ganey Mill lands
were enjoined until the purchase
money yet due upon said lands
was paid over - The money so paid
would extinguish many of the
liens, thereby get them out of the
way, successfully get rid of the
objections made to the payment
of the balance of purchase money
still due and also release the
estate from liability upon out-
standing bonds & warranties -
This is alleged as one of the benefits
which might result - There are
many others of like character, which

might be mentioned — The following is a list as near as can be ascertained of the credits by note & account yet outstanding amounting in the aggregate to about three thousand dollars, which amount may be increased somewhat by the calculation of interests

E. Remington & Son	Note	66.35
W. H. McNeill Neal	"	235.34
M Barnett	"	419.96
E. G. Ponder	"	396.25
— — —	"	50.00
Anderson Hunter	Acct	7.00
J. J. Shiffuld		8.00
Ed Remington		32.30
L. Goldberg —		121.50
Ino Martin		214.50
Lixon Carrol		225.00
R. B. F. Gregory		125.25
Schiff & Herschler		38.90
Lixon Carrol —		31.75
Schiff & Herschler		24.55
Claims in hands of Mitchell & Mitchell —		665.00
Bryant & Chastain		20.00
P. L. Craigmiles		15.00

Ainsworth & Firm	33.24
S. R. Robinson Adm	16.00
J. R. Reid	51.00
Clark Latimer	75.00
H. C. Mcendon	10.00
Bennett Goldberg	61.15
A. J. M. Antype (2 notes)	
R. G. Mitchell	
Mitchell & Mitchell	
W. J. Young	
A. R. Smith note	

Your Orator further sheweth into
 yr Honor that by the 6th item of sd^d
 Will the Testator directed his Executors
 "to see to it that his aged mother be
 taken care of and all her necessa-
 ry wants supplied", and ignorant
 at the times of these outstanding
 liabilities, and supposing also
 that if any such existed they
 were dormant & inoperative by
 reason of the then prevailing con-
 struction of the laws of this State
 as to old debts, he contracted with
 and paid to Warren Johnson a
 brother of the Testator, and with
 whom the old Lady preferred to
 live five hundred dollars to
 take care of and support and
 supply the old Lady during her
 lifetime — And about the same
 time, acting under the same
 conviction and belief as to the
 dormancy of old claims, he
 with a view to meet as far as
 he could the design apparent
 from the 2^d & 3^d items of the Will
 purchased a small house & lot
 in the Town of Thomasville

for which he paid fifteen hundred
dollar as a home and dwelling
place for the widow & minor children
of his Testator - And he further
states that, he has made pay-
ments upon claims due by the
said deceased, which were
not strictly legal or regular
as things now stand, and
that such payments were
made at a time and under
circumstances which would
have authorized any prudent
and careful man to do as
he did in the premises,
without being properly charge-
able with negligence or omission
of duty, as he will be able
fully and properly to explain
by reference to his returns and
the approval thereof by the
then Ordinary of said County,
all of which are duly filed
and recorded in the proper
office, but are too bulky &
voluminous to attach hereto
as exhibits unless in the
opinion of yr Honor it

shall become absolutely
necessary so to do -

Your Orator
further sheweth unto yr
Honor that he believeth he
can so manage the affairs
and business of the Estate,
that all the debts can be
paid, and all the liabilities
direct and contingent met
if the fifes now pending & the
other incidental & contingent
claims arising by reason thereof
can be stayed for awhile
until he can convert the
appts into money, or use them
in extinguishing and satisfying
the liabilities incurred by his
testator in his lifetime - And
to this end he asks the interpo-
sition of your Honor by applica-
tion to stay such legal proceedings
as are now pending, or which
may be commenced against
him as such Executor touching
the affairs in which the Estate is
involved until he can bring
the whole matter before the

Court, and have such directions
instruction touching the same
as will enable him to so ad-
minister the estate that all may
be paid, and saved harmless
from loss and injury - And
that your Orator may be protec-
ted and saved harmless from
any individual loss consequent
upon a state of affairs and a
set of circumstances over which
he had no control, and under
the pressure of which he has
acted according to his best
judgment, though perhaps not
strictly legal ~~under~~ in every
particular -

Your Orator
had no trouble or dispute
would have arisen about
the same, but creditors acting
under the common idea that
to save themselves it was neces-
sary to proceed promptly even
though the interests of the estate
might suffer thereby, were not
willing to await the necessary
length of time to enable him

to arrange matters, nor were they
willing to debtors to the Estate willing
to pay their notes under the circum-
stances hereinbefore stated, lest
something might turn up to their
disadvantage, and hazard the
title to their property purchased
from the Testator in his lifetime
— In tender consideration
whereof, & forasmuch as your
Orator is remediless at by the
strict rules of the Common Law
and can have adequate relief only
in a Court of Equity, where matters
of this sort are properly cogniz-
able & relivable —

To the end
Therefore that the said Defen-
dants hereinbefore named
may upon their several oaths
true answers make to the matters
and things herein set forth
to the best of their knowledge &
belief, and that the said Will
of the Testator may be construed
and the assets properly man-
shalled and apportioned to
such directions be given to
matters as will secure the pay-
ment of all the liabilities of the
Estate, and save the Executor harm-
less, and do justice to all concerned

and that upon examination into the
whole case such decree may be
made as will be in accordance
with law - Yr Orator hereby offering
on his part to do whatever shall
be properly ordered & decreed to be
done by him, and that your
Orator shall have such other &
further relief in the premises
as shall be agreeable to Equity &
good Conscience

May it please yr Honor to grant
into your Honor the writ of In-
junction directed to said defen-
dants, restraining them from
any further action or proceedings
in the premises until the further
order of the Court, and also the
writ of subpoena requiring them
to appear at the next Superior
Court for said County then & there
to answer the premises & to stand to
abide by & perform the order of
the Court in the premises -
and yr Orator will ever pray &c

J. L. Seward
J. P. Alexander
suff. attys.

Georgia

Thomas County

Before me personally
came Mr. C. Smith ex^r of the last
will & Testament of Abel Johnson
decd and being duly sworn deposes
& says the matters & things contained
in the foregoing Bill so far as they
concern his own act & deed are true
of his own knowledge & that what
relates to the acts & deeds of others he
believes to be true

William C. Smith

Sworn to this 18th Sep 1874.

J. S. Merrill N.P. & C. J.P.

Service acknowledged
18th Sep 1874
Leroy H. Wood
James Stewart
in propria persona

Copy made & preserved
A. T. Macfarlane
James
B. B. C. C.
A. R. Wright
Att. for & Colliers
James O. Davis
att. for L. Hooker
& for P. S. Bower
Mitchell + Mitchell
W. Young, Recd.
C. P. Hansell, atty for
A. & R. Smith - ^{for} Lerchert
P. S. Bower
J. R. Hopkins
att. for L. Golding
Hopkins + Hopkins
att. for L. Golding
D. O. C. C. C.

At Chambers.

Sept. 18th 1874

Upon hearing this bill it is ordered that the
defendant do show cause at the next Term of
Thompson Superior Court why injunction should
not issue as prayed, and in the meantime
all further proceedings in behalf of said
Court be restrained.

Angus H. Hansell
Judge S. C. S. C.

No 13

Thomas Supr. Ct.

Oct. Jr. 1874.

M. C. Smith

Ex^r &c

my

Seroy Fleetwood

Brooks County

et al

Filed in office

Sept 18th 1874

John Jew

Clk S

Seward. Alexander

1978.32 .0036

Georgia

Thomas County

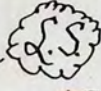
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3

I know all men by their
parents that I, Malissa
A. Johnson Guardian of the Estate
of Adna Johnson, and William A.
Johnson, minors, of Thomas County
Georgia, having obtained from the
Clerk of the Superior Court of
Thomas County, Ga.,
at his Court holden in June last
an order empowering me as
Guardian as aforesaid to sell and
dispose of certain reversionary
interests in the real Estate of the
said minors did give public
notice of the time and place of said
sale for thirty (30) days in the
"Southern Enterprise", a gazette pub-
lished in Thomas County and
having complied with all the re-
quisitions of the law did, on the
first Tuesday in August 1884,
expose the said reversionary in-
terests hereinafter described for sale
at the Court House in Thomasville
within the legal hours of sale and
whereas J. F. Pittman was the highest
and best bidder at said sale, said
bid being Five Hundred Dollars

Now therefore I Malissa A. Johnson
Guardian as aforesaid for and in
consideration of Five Hundred
Dollars to me in hand paid, the
receipt of which is hereby acknowl-
edged, do grant bargain sell
and convey unto the said J. J.
Pittman his heirs and assigns,
all the reversionary interests of
Edna Johnson, and William
A. Johnson minor children of
Abel Johnson late of said County
deced, in all of Town lots nos.
(85) Eighty Five, and all of Eighty four
(84) except that portion of said lot
upon which the house and lot
is situated, in block Four (4) Col-
umn Four (4) in the town of Thom-
asville and containing one and
one half (1 1/2) acres more or less
To have and to hold the said bar-
gained premises to the said J. J.
Pittman his heirs and assigns
Forever in as ample a manner as
was held by my said words, Edna
and W^m A. Johnson -

In testimony whereof I Ma-
lissa A. Johnson Guardian as

aforesaid have hereto set my
hand and seal this the 5th day
of August 1874.

Signed sealed and } Melissa Johnson 
delivered in presence of }
J. H. Merrill }
}

State of Georgia,)

Thomas County.)

This indenture made and entered into this the 31st day of December 1859 between Robert Ivey of the one part and John J. Ivey both of the same County and state above said of the other part:

WITNESSETH:

For and in consideration of the natural love and affection, which he the said Robert Ivey has and bears to his daughter Charlotte M. Brinson of said State and County above stated, wife of A. C. Brinson, and for and in consideration of the sum of \$5.00, in hand paid by the said John J. Ivey at and before the sealing and delivery of these presents the receipt whereby is hereby acknowledged, as bargained, sold granted and conveyed, and by these presents does grant, bargain sell and convey unto the said John J.

Ivey for the use benefit and advantage in trust for the said Charlotte M. Brinson the child she now has by her present husband and those she may have by her present husband, free from the control and disposition of the present or any future husband, all that tract or parcel of land situate, lying and being in said County in the 15th District or originally Irwin now Thomas County known and distinguished in said District by the No. 218, containing 245 acres, more or less, being the east half of said lot, according to the original survey that all the rights, members, privileges and appurtenances to said parcel of land in any wise belonging.

TO HAVE AND TO HOLD: the above described property unto him the said John Ivey in trust for Charlotte M. Brinson,

wife of A. C. Brinson and her child or children as aforesaid by the present husband for ever in fee simple over and from all the debts and liabilities and control of the present or any future husband to their own benefit and behoof.

In witness whereof the said Robert Ivey hath hereunto set his hand and affixed his seal the day and year above written.

Robert Ivey.

Signed sealed and delivered in presence of

J. R. Maddox

James H. Daniel,

A. V. McCardel J. P. Georgia Thomas County.

Clerk's office Superior Court, June 8, 1861. Recorded in book I. of deeds page 349.

Leb Dekle, D. C. S. C.

Copy of
 deed from
 Peter Sney
 John Sney

Record in book L
Page 349 June 8
1861
Lib. deker D.C.S.C.

This Indenture made this the twenty sixth day
of October anno Domini eighteen hundred and seventy
three between James S. Washington, and Emily
Washington his wife, of the County of Madison
and State of Florida, parties of the first part,
and Archibald S. MacDutyr of the County of
Thomas and State of Georgia, party of the
second part witneseth: That the said parties of the
first part, for and in consideration of the sum of two
hundred (200) dollars, to them in hand paid by the
said party of the second part, at and before the sealing
of these presents, the receipt whereof is hereby acknowledged
have remised, released and quit-claimed, and by these
presents have remised, released and forever quit-
claimed, unto the said party of the second part
and to his heirs and assigns forever, all that cer-
tain tract, piece, or parcel of land lying, being,
and situate in the said County of Madison and
State of Florida, and more particularly known
and described in the plats of public survey in the
United States Land Office, as fractional section
Twenty Six (26), in Township Three (3), North, of
Range Nine (9), East, containing eighty eight (88)
acres more or less, together with all and singular the
tenements, hereditaments and appurtenances there-
unto belonging, or in anywise appertaining, and all
the estate, right, title, interest, dower and right of
flowen, property, possession, claim and demand
whosoever as well in law, as in equity, of the
said parties of the first part, of, in, or to, the above
described land, and every part, and parcel thereof
with the appurtenances. To Have and To Hold all

and singular the same with the appurtenances, unto
the said party of the second part his heirs and
assigns, to his and their own proper use, benefit
and behoof forever -

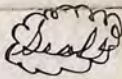
In witness whereof the said parties of the
first part have hereunto set their hands and
affixed their seals the day and year first
above written.

Signed, sealed and delivered James S. Washington Seal
in the presence of }
F. M. Scott } Emily ^{her} Washington Seal
J. P. } mark
Daniel Lawson

State of Florida }
Madison County } Know all men by these presents,
That I, Emily Washington, wife
of James S. Washington Grantor in the foregoing deed
for and in consideration of the premises in said
deed mentioned, and of the sum of five dollars to
me in hand paid by Archibald J. Chae Dulyre the
grantee in said deed mentioned, the receipt whereof
is hereby acknowledged, have remised, released, re-
linquished, renounced, and by these presents do remise
release, relinquish, renounce, and forever quit-claim
unto the said A. J. Chae Dulyre, all my dower, and
right of dower in and to the lands in the said deed
mentioned and conveyed. To Have and To Hold the same
unto the said A. J. Chae Dulyre his heirs and assigns
forever - And I do hereby acknowledge that I
make this remission, and relinquishment of dower
freely and voluntarily, and without any compulsion

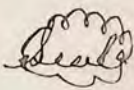
constraint, apprehension, or fear, of, or from, my said
husband.

In witness whereof, I have hereunto set my
hand and seal this the twenty ninth day of
October A. D. eighteen hundred and seventy three.

Signed, sealed and delivered }
in the presence of } Emily ^{her} Washington 
F. M. Scott }
J. P. }
Daniel Lawson }

State of Florida }
Madison County } Be it remembered, that on this
the twenty ninth day of October A. D. eighteen hun-
dred and seventy three, personally came before me
Emily Washington, wife of James S. Washington,
who upon an examination made separately and
apart from her said husband; did, separately and
apart from her said husband, make, sign, and
seal the foregoing renunciation and relinquishment of
dower, and the accompanying acknowledgment.

Witness my hand and seal.

F. M. Scott 
Justice of the Peace
Madison County Florida.

Suit Claim Deed
from
James S. Washington
& wife
to
A. J. Mac Intyre

Fractional Section 26
T. 1. R. 9. N. 18
88 acres

1978.32.0039

STATE OF GEORGIA,
THOMAS COUNTY.

THIS INDENTURE, Made and entered into on the 21st day of March, 1908, between A. H. S. Cooke of the County of Thomas and State of Georgia, of the one part, and Mrs. Mary W. McPherson, of the County of Thomas and State of Georgia, of the other part,

-----W I T N E S S E T H-----

That, for and in consideration of the sum of Four Hundred and Sixteen & 60/100 (\$416.60) Dollars, paid by the party of the second part to the party of the first part, the receipt whereof is hereby acknowledged, the said party of the first part does hereby give, grant, remise, release, and forever quitclaim unto the said Mrs. Mary W. McPherson, party of the second part, her heirs, executors, administrators and assigns, the following described lands situate in the 17th District of Thomas County, in the State of Georgia, to-wit:

All that tract or parcel of land lying and being in the 17th District of aforesaid county and state, being a part of lot of land Number Three Hundred and Twenty (320) lying and being in the (13) and (17) th dis line and running along said dis line to the branch and along said branch to the head of said branch thence across the old hack road to the head of a branch on the west side of said road and down said branch to the corner of said lot number 320, thence along line of (320) to the starting point on district line, the same containing seventy-five acres of said lot, more or less, and more particularly described in given deed from John Hurst to John A. Hurst, recorded in Book L, folio 475, Sept. 30th, 1870; together with all the rights, members, and appurtenances thereto in any manner belonging in fee simple.

The paid party of the first part does not war-

No. 2

rent the title to said premises herein conveyed, except against himself, and against those claiming under him.

IN TESTIMONY WHEREOF, The said party of the first part has hereunto set his hand and affixed his seal, the day and year above written.

Signed, Sealed and
Delivered in Presence of:

A. H. Cook (L.S.)

W. A. Pringle

M. C. Hodgson
Noty Pub Thos Colson

W. S. Burr, State of

GEORGIA—THOMAS CO.

CLERK'S OFFICE

FILED FOR RECORD AT 4 P

21 DAY OF Mch 8

178 23

Mch 8

J. W. Groover

1978.32.0040

STATE OF GEORGIA, THOMAS COUNTY.

This Indenture, Made and entered into on the 7th day of February, 1907, between D. W. Chason of the County of GRADY and State of GEORGIA of the one part, and A. H. S. Cook of the County of THOMAS and State of GEORGIA of the other part, Witnesseth: That for and in consideration of the sum of Two Hundred Two 23/100

Dollars, paid by the party of the second part to the party of the first part, the receipt whereof is hereby acknowledged, the said party of the first part does hereby give, grant, remise, release, and forever quitclaim unto the said A. H. S. Cook party of the second part, his heirs, executors, administrators, and assigns, the following described lands situate in the 17th District of THOMAS County, in the State of GEORGIA, to-wit:

All that tract or parcel of land lying and being in the 17th district of aforesaid county and state, being a part of lot of land No three hundred and twenty (320) lying and being in the (13) and (17) th dis line and running along said dis line to the branch and along said branch to the head of said branch thence across the old back road to the head of a branch on the west side of said road and down said branch to the corner of said lot No 320 thence along line of (320) to the starting point on district line, the same containing seventy-five acres of said lot more or less, and more particularly described in given deed from John Hurst to John A Hurst, recorded in book L folio 475 Sept 30th 1870.

together with all the rights, members, and appurtenances thereto in any manner belonging, in fee simple.

The said party of the first part does not warrant the title to said premises herein conveyed, except against himself, and against those claiming under him.

In Testimony Whereof, the said party of the first part has hereunto set his hand and affixed his seal, the day and year about written.

Signed, Sealed, and delivered in presence of

L. E. Stausland, J. W. Grover, C. O. S. C. B. U.

(D. W. Chason) (L. S.) (L. S.) (L. S.)

STATE OF GEORGIA

COUNTY

IN SENATE

1892

Resolved, That the sum of \$10,000.00 be and it is hereby ordered that the sum of \$10,000.00 be paid to the Georgia State Board of Education for the purpose of purchasing books for the schools of the State of Georgia.

Approved: _____

GEORGIA-THOMAS CO
CLEAR'S OFFICE

21 Mch 8 4 P
D.P.

179 23
Mch 8
J. M. Hoover
P.M.

This bill is for the State of Georgia and it is hereby ordered that the sum of \$10,000.00 be paid to the Georgia State Board of Education for the purpose of purchasing books for the schools of the State of Georgia.

1978.32.0041