## DECREE

J. F. Harless, Complainant

IN THE CIRCUIT COURT OF SHELBY COUNTY, IN EQUITY

VS

The northwest quarter of southwest quarter of section 6, 20, Tange 2 west and the northeast quarter of the southeast quarter of section 1, Township 20, Tange 3 west) except all of that part of the said NE of SE of Section) 1, Township 20, lange 3 west which lies south of an old fence row running in an easterly and westerly direction across said forty, and said exception containing 8 and 2 acres more or less; and also excepting from the said NW1 of  $SV_{4}$  and said  $NE_{4}$  of  $SE_{4}$ , the right of way of the Birmingham and Montgomery Highway; said right of way having been conveyed to Shelby County by the Complainant and his wife, on December 1, 1922, and said conveyance being recorded in the Probate Office of Shelby County, Alabame, in Peed Book 72, page 409, and also excepting from the said NW1 of the SW1 the lease right of the Postal Telegraph Cable, which said lease the complainant executed to said Postal Telegraph Cable on July 21, which said lease is recorded in the Probate Office of Shelby County, Alabama in deed Book 80, on page 40, all situated in Shelby County, Alabama; and against any and all persons claiming any title to, interest in, lien or encumbrance on said lands, or any part there of. Respondents

## DECREE

This cause coming on to be heard on this the 28th day of May 1927, was submitted for final decree on the pleadings and the proof, testimony and evidence, as noted by the Register, and being duly considered by the court, the court finds that the averments of the bill of complaint as amended are true; that J. F. Harless, the Complainant in the cause, is the owner and in peaceable possession of the following described real estate situated in Shelby County, State of Alabama, to-wit:

The NW½ of SW½ of Section 6, Township 20, Range 2 west and the NE½ of the SE¼ of Section 1, Township 20, Range 3 west except all of that part of the said NE¼ of SE¼ of Section 1, Township 20, Range 3 west which lies south of an old fence row running in an easterly and westerly direction, across said forty, and said exception containing 8 and ½ acres more or less; and also excepting from the said NW½ of SW½ and said NE½ of SE½, the right of way of the Birmingham and Montgomery Highway, said right of way having been conveyed to Shelby County by the Complainant and his wife, on December 1, 1922, and said conveyance being recorded in the Probate Office of Shelby County, Alabama, in Deed Book 72, page 409; and also excepting from the said NW½ of the SW½ the lease right of the Postal Telegraph Cable, which said lease the complainant executed to said Postal Telegraph Cable on July 21, which said lease is recorded in the Probate Office of Shelby County, Alabama in Deed Book 80, on page 40; all situated in Shelby County, Alabama,

That the said J.F. Harless has been in the open, notorious, actual, continuous uninterrupted, peaceable, exclusive and adverse possession of said lands and has paid taxes on the said above described lands during the whole of a period of more than ten consecutive years next preceding the filing of the bill of complaint in this cause, claiming to own same, and that he hasheld color of title to the mid NW of SW of for more than ten consecutive years next preceding the filing of this bill of complaint; that no suit was pending at the time of filing said bill of complaint, nor is any suit now pending, to test the said J.F. Harless' title to, interest in, or right of possession of the hereinabove described lands, that the complainant J.F. Harless is the owner in fee simple of said above described lands, and that the said J.F. Harless obtained title to said hereinabove described lands as follows;

Henry Harless, the father of said J. F. Harless was in the sole, actual, notorious open, continuous, peaceable and adverse possession of said lands, claiming to own the

same, for several years prior to 1836, living on same and died on said lands in the year 1886; that his son, the said J. F. Harless and his daughter J. L. Patton were living with him on said lands at the time of his death, and were his only heirs; that the said J. F. Harless and J. L. Patton continued living on said lands, and were in the joint, open, notorious, continuous, exclusive, actual, peaceable and adverse possession at which time they agreed to devide the lands lait to them by their of said lands until the 2nd day of January 1896, father, and in carrying out said agreement J. L. Patton and her husband, S. J. Patton executed and delivered a deed to the said J. F. Harless which said deed appears of record in the Probate Office of Shelby County, Alabama, dated January 2, 1896, and recorded in Deed Book 18 page 545, and which said deed described the property as follows:

The  $NW_{\frac{1}{4}}$  of  $SW_{\frac{1}{4}}$  of Section 6, Township 29, Range 2 west and the  $NE_{\frac{1}{4}}$  of  $SW_{\frac{1}{4}}$  of Section 1, Township 20, Range 3 west, except 3 and  $\frac{1}{2}$  acres more or less off of the south side of said last named subdivision.

The Court further finds that it was the intention of the said J. L. Patton and the said J. F. Harless to embrace in said deed the NE $\frac{1}{4}$  of SE $\frac{1}{5}$  of Section 1, Township 20, Range 3 west, except 3 and  $\frac{1}{2}$  acres more or less, but by mutual mistake it was described as the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of ection 1, Township 20, Range 3 west, except 3 and  $\frac{1}{2}$  acres more or less off of the south side. That the said Henry Harless, the father of complainant, was never in possession or claimed the said  $NE_4$  of  $SW_4$ , and the said J. F. Harless and J. L. Patton have never been in the possession of, or made any claim, to any part of the said NE of SW , but the description of that subdivision in the deed was simply a mistake. That since the execution and delivery of said deed by the said J. L. Patton and husband to the said J. F. Harless on said January 2, 1896, to, and including the present time, the said J. F. Harless has been in the sole, actual, open, notorious, uninterrupted exclusive, continuous, peaceable and adverse possession of said hereinabove described lands involved in this suit, claiming to own same, and that no other person, or persons other than complainant, have ever been in possession of any of said lands, nor have any other person or persons asserted any claim, right or title thereto, during all of said time.

The Court finds that the title to the said NW of SW of Section 6, Township 20, Range 3 west stands upon the records of the Probate Court of Shelby County, Alabama the County where said lands are situated, in the name of Joel Cross, as it appears from the Alabama Tract Book on page 281, that the United States of America did on the 20th day of March 1837, by certificate No. 23004 and by patent introduced in evidence deed said land to the said Joel Cross, and there is no record of any conveyance on the records of the Probate Court of Shelby County, Alabama, conveying said land out of the said Joel Cross; that the title to the NE to of the SE of Section 1, Township 20, Range 3 west stands on the records of the Probate Court of Shelby County, Alabama, in the name of John Oldham, as it appears from the Alabama Tract Book on page 321 that the United States of America did on the 20th day of September 1921, by Certificate No. 618, and by patent deed said land to John Oldham, and there is no record of any conveyance on the records of the Probate Court of Shelby County, Alabama, conveying said lands out of said John Oldham; and there are no records of any other deeds of said lands, or any part of same, or any proceedings involving said lands, or any part of same, other than said deed from J. L. Patton and husband to the said J. F. Harless, on the records of the Probate ourt, or on the records in the Probate Office, of Shelby County, Alabama; and that Joel Cross, and the unknown heirs of Joel Cross, and John Oldham, and the unknown heirs of

John Oldham, and J. L. Patton have been served according to law; and that thesaid Joel Cross, and the unknown heirs of Joel Cross, and John Oldham, and the unknown heirs of John Oldham, and the said J. L. Patton, though reputed to claim some right, title or interest in or encumbrance on said hereinabove described lands, involved in this suit, and though called on in the bill of complaint, heretofore filed by J.F. Harless in this cause, to set forth and specify their claim, title or interest in or encumbrance upon said hereinabove described lands, involved in this suit, have wholly failed or refused to set forth or specify their title, claim, interest or encumbrance in or upon the said hereinabove described lands involved in this suit.

The Court further finds that J. F. Harless has, and has had, made diligent inquiries to locate and find Toel Cross, or his heirs, one or both, John Oldham, or his heirs, one or both, and has been unable to locate any of said parties, or if said parties are dead, any of their said heirs; and that the said J. F. Harless has exercised due diligence to ascertain the names and addresses of any person, or persons, claiming title to said lands, or any interest therein, but has been unable to ascertain the names and addresses of any such person, or persons and that neither the said Joel Cross, nor any of the heirs of the said Joel Cross, and neither the said John Oldham nor any of the heirs of the said John Oldham, nor any other person or persons, other than the said complainant, J. F. Harless, have paid any taxes on or had any possession of the above described lands for a period of over ten years next preceding the filing of the bill of complaint in this cause, nor have any such person had any possession of said above described lands, involved in this suit, for a period of over thirty years next preceding the filing of the bill of complaint in this cause, and that J. F. Harless the complainant in this cause, has shown his interest or title on or to said lands by legal evidence.

And it further appearing to the court that a notice of the pendency of the said bill of complaint filed in this cause was duly drawn and signed by the Register and published once as week for four consecutive weeks in the Shelby County Reporter a newspaper having general circulation and published in Shelby County, Alabama, wherein the hereinabove described lands lie, and that further a copy of said notice duly certified by the register, as being correct, was duly recorded as a lis pendens in the office of the Judge of Probate of Shelby County, Alabama.

And it further appearing to the court that more than sixty days have elapsed since the first publication of said notice and the filing of the certified copy of said notice in the office of the Probate Judge of Shelby County, Alabama;

Now therefore, it is ordered, adjudged and decreed by the court that the title to that certain real estate or land situated in Shelby County Alabama, described as follows: The northwest quarter of southwest quarter of Section 6, Township 20, Range 2 west and the northeast quarter of the southeast quarter of Section 1, Township 20, Range 3 west except all of that part of the said NE+ of SE+ of Section 1, Township 20, Range 3 west which lies south of an old fence row running in an easterly and westerly direction across said forty, and said exception containing 8 and ½ acres more or less; and also excepting from the said NW+ of SW+ and said NE+ of SE+, the right of way of the Birmingham and Montgomery Highway, said right of way having been conveyed to Shelby County by the Complainant, and

his wife, on December 1, 1922, and said conveyance being recorded in the Probate Office of Shelby County, Alabama, in Deed Book 72, page 409, and also excepting from the said NW1 of the SW1 the lease right of the Postal Telegraph Cable, which said lease the complainant executed to said Postal Telegraph Cable on July 21, which said lease is recorded in the Probate Office of Shelby County, Alabama, in Deed Book 80 on page 40; all situated in Shelby County, Alabama, isdin J. F. Harless, the Complainant in this cause.

It is further ordered, adjudged and decreed by the Court that Joel Cross and the unknown heirs of Joel Cross, John Oldham and the unknown heirs of John Oldham, and J. L. Patton, have no estate or interest in, right or title to, or encumbrance on said lands hereinabove described, or any part thereof.

It is further ordered, adjudged and decreed by the Court that the right or title of the said J. F. Harless to the said hereinabove described lands be and it hereby is, established and forever quieted against any and all persons claiming any title to, interest in or encumbrance on said lands, or any part thereof; and that no person other than the said J. F. Harless has any title to, interest in, lien or encumbrance on said lands, or any part thereof.

It is further ordered, adjudged and decreed by the Court that a certified copy of this decree be recorded in the office of the Judge of Probate of Shelby County Alabama, and that the Court hereby directs that the certified copy of this decree so recorded in the office of the Judge of Probate be indexed on the Direct Index in the name of Joel Cross and the unknown heirs of Joel Cross, John Oldham and the unknown heirs of John Oldham, and J. L. Patton; and on the Indirect Index in the name of J. F. Harless, and that the cost of such recordation be taxed as part of the cost of this proceeding.

It is further ordezed, adjudged and decreed by the Court that the cost of this proceeding be taxed against J. F. Harless, the complainant in this cause, and that he pay such costs, for which let execution issue.

Ordered, adjudged and decreed by the court this 28th day of May 1927.

E. S. Lyman-Judge

I, J. M. Leonard Jr. Register of the Circuit Court of Shelby County, Alabama, hereby ratify that the above and foregoing is a true and correct copy of the decree rendered by the Court in the above stated cause, on the 28th day of May 1927, and filed in said above stated cause.

"itness my hand this 28th day of May 1927.

J. M. Leonard Jr.

Register of the Circuit Court of Shelby County, Alabama

THE STATE OF ALABAMA
SHELBY COUNTY

I, L. B. Riddle Judge of Probate hereby certify that the within Decree was fuled in this office for record June 1st. 1927 at 9 oclock A.M. and recorded in Deed record 82 page 17 and examined.

L. B. Riddle--Judge of Probate