AFFIDAVIT

#2856

STATE OF ALABAMA

SHELBY COUNTY

Before me, the undersigned authority in and for said County in said State, personally appeared B. S. Wheeler, who, after being by me first duly sworn to speak the truth, deposes and says:

My name is B. S. Wheeler, I am thirty years of age and have been familiar with the land described below and those in possession of it for the ppast twenty-five years or more. I lived in the community in which the land is situated.

Said land is described as follows:

瞪 of S睡 of Section 34, Township 19, Range 1 East, Shelby County, Alabama.

When I first remember said land, it was owned by Leila M. Carden. She and her husband, R. G. Carden, were in possession of it from that time until February 5, 1946, when they sold said land to James R. Fuqua, as shown by deed recorded in Deed Book 122, Page 397, in the Probate Office of Shelby County, Alabema. During the time Mrs Carden was in possession of the land, she and her husband, acting as her agent, cultivated parts of said land, used part of it as a pasture and obtained firewood and building timber from the rest of it, each and every year from as early as I can remember to February 5, 1946, being a period of twenty-five years or more. James R. Fuqua went into immediate possession of said land on February 5, 1946, and has been in possession of it continuously since that date. In the year 1921, Leila M. Carden and her husband, R. G. Carden, acting as her agent, erected a dwelling house on the land and they lived in that dwelling house continuously until February, 1946. Parts of said land have been fenced in for more than twenty years and all of it has been fenced in for more than ten years.

I am informed that on November 30, 1911, W. T. Fancher, being one and the same person as Willy Fancher, executed a deed to R. G. Carden covering a one-half interest in said land. I knew the wife of W. T. Fancher, She died sometime in 1934 and since I can remember, she never resided upon the above described land as a homestead.

I am informed that in 1927, there was a tax sale in the name of Mrs. J. W. Bolin and that among other property, the SE_{4}^{1} of SE_{4}^{1} of Section 34, Township 19, Range 1 East, was sold at said tax sale, This was an erroneous sale, as I have never heard of Mrs. J. W. Bolin's, or any other person by the name of Bolin, having any interest in or claiming any right to or having any possession of said forty acres of land.

I have been shown a Quit Claim Deed dated June 11, 1946, from Leila M. Carden and husband, R. G. Carden, to James R. Fuqua. This deed correctly describes the roadway as follows:

One strip or parcel of land for a roadway, being 20 feet wide, the center line of which begins 35 yards east of the southwest corner of the SE₄ of NE₄ of Section 34, Township 19, Range 1 East; thence run in a northwesterly direction to a point where the center line of said roadway crosses the west line of said 40 acres, said point being 18 yards north of the sothwest corner of said 40 acres; thence northerly approximately 20 degrees west 130 yards to Harpersville and Chelsea Public road, the center line of said road of ingress and egress intersecting with said public road 10 feet east of the west bank of a ditch, said strip or parcel of land for a roadway lying in the SE₄ of NE₄ and the SW₄ of NE₄ of said Section 34, situated in Shelby County, Alabama.

This roadway has been open and in continuous use during all the time that I have known the land described at the beginning of this affidavit and I know that it has been used openly, continuously, and notoriously by the occupants of the land described in the beginning of this affidavit and by the public generally and have never known of anyone's objecting to the use of it.

During all the years that I have known the land described above including the roadway, for ingress, and egress, it has been in open, continuous, exclusive, notorious and hostile possession of Leila M. Carden

and her successor intitled, James R. Fuqua, and I have never heard of anyone's disputing their title or contesting their possession.

B. S. WHIELER

STATE OF ALABAMA

SHELBY COUNTY

Sworn to and subscribed to before me this 14th day of June 1946.

MARIE COLLINS, NOTARY PUBLIC

Filed fore record in this office on the 22nd day of June 1946 at 11 a.m. and recorded in Deed Record 124, page 382 on the 5th day of July 1946.

L. C. WALKER, JUDGE OF PROBATE