

# 2468

## THE STATE OF ALABAMA

## Department of State

I, SIBYL POOL, Secretary of State of the State of Alabama, do hereby certify that the pages hereto attached, contain a true, accurate and literal copy of merger agreement between Tennessee Coal, Iron and Railroad Company, an Alabama corporation, and Tennessee Land Company, an Alabama corporation, which was filed in this office on December 31st, 1947 and duly recorded in corporation volume W, pages 135 et seq. on this same date, as the same appears on file and of record in this office.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, this 31st day of December One Thousand Nine Hundred and Forty-seven

Sibyle Pool

Secretary of State .

## MERGER AGREEMENT

THIS AGREEMENT made and entered into this 5th day of November, 1947, between Tennessee Coal, Iron and Railroad Company, a corporation, organized under the laws of the State of Alabama (hereinafter sometimes referred to as "TCI") and the Directors thereof, parties of the first part, and Tennessee Land Company, a corporation, organized under the laws of the State of Alabama (hereinafter sometimes referred to as "Land Company") and the Directors thereof, parties of the second part,

## W I T N E S S E T H " T H A T

WHEREAS, TCI is a corporation duly organized and existing under the laws of the State of Alabama with a principal place of business in Birmingham, Jefferson County, Alabama, and

WHEREAS, Tennessee Land Company is also a corporation duly organized and existing under the laws of the State of Alabama, having its principal place of business in the City of Birmingham, Jefferson County, Alabama, and

WHEREAS, TCI and the Land Company, the two merging corporations, are owned by the same interests, and in order to secure greater efficiency and economy of management, as well as for their general welfare and the welfare of their several and respective stockholders, it is deemed advisable to merge the Land Company into TCI under the pursuant to the provisions of general incorporation laws of the State of Alabama, and especially in accordance with Title 10, Section 95, of the Code of Alabama.

WHEREAS, TCI owns all the capital stock of Tennessee Land Company, and

WHEREAS, it is the desire of the parties hereto to effect a statutory merger of TCI and the Land Company under the laws of the State of Alabama in accordance with the plan adopted by the Boards of Directors and the stockholders of the said companies, being the plan embodied in this agreement, and

WHEREAS, TCI and the Land Company are authorized to merge each with the other.

NOW, THEREFORE, in consideration of the premises and the benefits to be derived therefrom, and in further consideration of the terms and conditions herein set forth, the parties hereto have mutually agreed, and hereby do mutually agree to make such statutory merger upon the following terms and conditions:

The Land Company does by these presents merge itself into TCI and TCI hereby merges into itself

the Land Company, and said corporations hereby agree and covenant to become a single merged corporation, possessing all and singular the rights, privileges, powers, franchises and immunities, as well of a public as of a private nature, and all property, real and personal, assets, debts and each and every other interest of each of said corporations pursuant to the laws of the State of Alabama.

And the parties hereto by these presents do agree upon and prescribe the terms and conditions of said merger and the mode of carrying the same into effect hereinafter set forth, which terms and conditions and mode of carrying into effect the parties mutually and severally agree and covenant to observe, keep and perform, - that is to say-

1. TCI, into which the Land Company is hereby merged, shall be the corporation continuing after the merger. The name of said continuing corporation shall be "Tennessee Coal, Iron and Railroad Company" (hereinafter sometimes called the "surviving corporation").

2. The effective date of the merger will be as of the end of business of the two corporations on December 31, 1947, and all business transacted after 12:00 midnight December 31, 1947, shall be the business of the surviving corporation, Tennessee Coal, Iron and Railroad Company.

3. The principal place of business of the surviving corporation will be in the City of Birmingham, Jefferson County, Alabama.

4. The number, names and postoffice addresses of the first directors and officers of the surviving corporation, who shall hold their offices until their successors shall be chosen or appointed, either according to law or according to the bylaws of the surviving corporation, are as follows:

The five (5) Directors are:

| <u>NAME</u>    | <u>POSTOFFICE ADDRESS</u> |
|----------------|---------------------------|
| Robert Gregg   | Birmingham, Alabama       |
| A. V. Wiebel   | Birmingham, Alabama       |
| M. H. Geisking | Birmingham, Alabama       |
| John Pugsley   | Birmingham, Alabama       |
| C. R. Sexton   | Birmingham, Alabama       |

The fourteen (14) principal officers are as follows:

| <u>NAME</u>       | <u>OFFICE</u>                               | <u>POSTOFFICE ADDRESS</u> |
|-------------------|---|---------------------------|
| Robert Gregg      | President                                   | Birmingham, Alabama       |
| A. V. Wiebel      | Vice-President                              | Birmingham, Alabama       |
| M. H. Geisking    | Vice-President                              | Birmingham, Alabama       |
| A. B. Haswell     | Vice-President                              | Birmingham, Alabama       |
| W. A. Brown       | Vice-President                              | New York, New York        |
| John Pugsley      | Comptroller                                 | Birmingham, Alabama       |
| Derward Smith     | Assistant Comptroller                       | Birmingham, Alabama       |
| C. R. Culverhouse | Assistant Comptroller                       | Birmingham, Alabama       |
| J. B. Copper      | Assistant Comptroller                       | Birmingham, Alabama       |
| C. R. Sexton      | Secretary and Treasurer                     | Birmingham, Alabama       |
| David Adams       | Assistant Secretary and Assistant Treasurer | Birmingham, Alabama       |
| A. H. Knight      | Assistant Secretary                         | Birmingham, Alabama       |
| G. L. Edwards     | Assistant Treasurer                         | New York, New York        |
| A. T. Oyston      | Assistant Secretary                         | New York, New York        |

5. The directors and officers of the surviving corporation shall be chosen in the manner and at the time or times hereinafter set out, viz:

Directors shall be elected at the annual meeting of the stockholders to be held at the time and place provided in the bylaws of the surviving corporation, and unless his office is sooner terminated by death or any other cause each director shall hold office until the next annual meeting of the stockholders following his election, or until his successor shall have been elected and shall qualify as provided by the bylaws of said corporation.

As soon as it conveniently may be possible after their election at the annual meeting of the stockholders, the directors shall elect the officers of the surviving corporation in accordance with the bylaws thereof.

6. The amount of the total authorized capital stock of TCI is four hundred ninety-seven thousand five hundred seventeen (497,517) shares of common stock of the par value of One Hundred dollars (\$100.00) each, with an aggregate par value of \$49,751,700.00, of which three hundred twenty-five thousand two hundred eighty and one hundred seventy-five one thousandths (325,280.175) are issued and outstanding, with an aggregate par value of \$32,528,017.50, and the amount of the total authorized capital stock of the Land Company is one hundred (100) shares of common stock of par value of One hundred dollars (\$100.00) each, with an aggregate par value of \$10,000.00, all of which has been issued and is outstanding. The manner and basis for converting the shares of the constituent corporations, parties hereto, into the capital stock of the surviving corporation is as follows:

TCI being the owner of all of the issued and outstanding stock of the Land Company, except qualifying shares of directors, and TCI, being the beneficial owner of such qualifying shares, the outstanding shares of stock of the Land Company shall forthwith be surrendered and cancelled and, upon this agreement becoming effective, the certificates for stock of the Land Company shall be void, and no shares of the surviving corporation shall be issued therefor. The outstanding shares of stock of TCI shall not be surrendered or cancelled but shall continue unchanged and shall constitute the issued and outstanding shares of capital stock of the surviving corporation. The total amount of authorized capital stock of TCI shall continue unchanged and shall constitute the total authorized capital stock of the surviving corporation.

7. It is understood and agreed that the plan set out in this agreement shall constitute a statutory merger of TCI and the Land Company in accordance with the laws of the State of Alabama, more particularly as follows:

A. Title to all of the rights, privileges, powers, franchises, and all property real, personal or mixed and all debts due on any account and all other things in action belonging to the Land Company shall be vested in the surviving corporation.

B. Upon said statutory merger becoming effective, all the properties, real, personal and mixed, including all rights, privileges, and franchises whatsoever and all debts due on whatever account belonging to the Land Company shall be taken and be deemed to have been transferred to the surviving corporation by operation of law, and all properties, rights, privileges, powers, franchises, and immunities and all and every other interest shall be as effectually the property of the surviving corporation as they were of both TCI and the Land Company on the date of the merger.

C. It is understood and agreed, nevertheless, that the surviving corporation shall assume all the liabilities and obligations of the Land Company, including any accrued taxes or taxes hereafter determined, to be due from the Land Company with respect to property owned, or operations carried on by the Land Company prior to such merger; also all interest accruing or payable on any such taxes before and after the date of the merger until paid, and that it shall become

and be responsible for said liabilities and obligations in the same manner as if the surviving corporation itself had incurred such liabilities and obligations; but the rights of creditors and all liens upon the property of each or both of the merging corporations shall be preserved unimpaired and all debts, liabilities, and duties of the said merging corporations shall thenceforth attach to the surviving corporation and may be enforced against it to the same extent as if said debts, duties and liabilities had been incurred by it, provided, however, that any lien created by a written instrument on property of TCI which may be in existence or effect on the effective date hereof, shall attach only to the properties of TCI now subject to such lien and shall not attach to those properties of the Land Company which shall become vested in the surviving corporation by virtue of this merger.

8. The objects, purposes and powers of the surviving corporation shall be to the fullest extent allowed by law those heretofore in any wise belonging to TCI and the Land Company, and shall include:

A. Charter powers of TCI as set out in that certain consolidation agreement between Tennessee Coal, Iron and Railroad Company and Fairfield Steel Company dated November 13, 1944, and filed in the office of the Secretary of State of Alabama on the 30th day of December, 1944, and recorded in Corporation Record U, Page 442, et seq., in the office of the Secretary of State of the State of Alabama.

B. Charter powers of Tennessee Land Company under the laws of the State of Alabama.

The objects, purposes and powers (all of which shall be construed as powers) referred to in subdivision A. and B. of this paragraph 8, shall be the objects, purposes, and powers of the surviving corporation as fully as if they were written out in full and in the same language as that set out in the instruments or documents referred to in said subdivisions.

9. The surviving corporation shall have perpetual existence.

10. The bylaws of the surviving corporation shall be the present bylaws of TCI until changed or amended as therein provided.

11. The surviving corporation shall pay all expenses of the merger.

12. This agreement shall be submitted to the stockholders of each of the merging corporations and shall take effect and shall be deemed and taken to be the agreement and act of merger of said two merging corporations, effective, as aforesaid, as of the end of business of the two merging corporations on December 31, 1947, but only after adoption thereof by the votes of the holders of not less than two-thirds of all of the issued and outstanding shares of the capital stock of each of said two merging corporations and after the doing of such other acts and things as shall be required by the laws of the State of Alabama hereinabove recited.

IN WITNESS WHEREOF, The Directors of said two corporations, being all of the members of the Board of Directors of each of the above named corporations, have hereunto set their hands and seals under the corporate seals of the respective merging corporations and each of the said two merging corporations has executed said agreement by causing its president to sign and its Secretary to attest the same and affix its corporate seal, they being thereunto duly authorized thereto, on the day and year first above written.

DIRECTORS OF  
TENNESSEE COAL, IRON AND  
RAILROAD COMPANY  
(Corporate Seal)

|                |       |
|----------------|-------|
| Robert Gregg   | (L.S) |
| A. V. Wiebel   | (LS)  |
| M. H. Geisking | (LS)  |
| John Pugsley   | (LS)  |
| C. R. Sexton   | (LS)  |

TENNESSEE COAL, IRON AND RAILROAD COMPANY  
By Robert Gregg  
President

(Corporate Seal)

ATTEST:

C. R. Sexton  
Secretary

DIRECTORS OF  
TENNESSEE LAND COMPANY  
(Corporate Seal)

Robt. Gregg (LS)  
John Pugsley (LS)  
C. R. Sexton (LS)  
J. M. Glasgow (LS)

TENNESSEE LAND COMPANY

By Robt Gregg  
President

ATTEST:

C. R. Sexton  
Secretary

(Corporate Seal)

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a notary public in and for said County in said State, hereby certify that Robt. Gregg, A. V. Wiebel, M. H. Geisking, John Pugsley, and C. R. Sexton, whose names as Directors of the Tennessee Coal, Iron and Railroad Company are signed to the foregoing agreement and who are known to me, acknowledged before me on this day that, being informed of the contents of the agreement, they, in their capacity as such Directors, executed the same voluntarily on the day the same bears date.

Given under my hand this 5th day of November, 1947.

Mable C. Edens  
Notary Public (Seal)

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a notary public in and for said County in said State, hereby certify that Robt. Gregg and C. R. Sexton, whose names as President and Secretary, respectively, of the Tennessee Coal, Iron and Railroad Company, a corporation, are signed to the foregoing agreement and who are known to me, acknowledged before me on this day that, being informed of the contents of the agreement, they as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 5th day of November, 1947.

Mable C. Edens  
Notary Public (Seal)

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a Notary public in and for said County in said State, hereby certify that Robt. Gregg, J. M. Glasgow, John Pugsley, and C. R. Sexton, whose names as Directors of Tennessee Land Company are signed to the foregoing agreement and who are known to me, acknowledged before me on this day that, being informed of the contents of the agreement, they, in their capacity as such Directors, executed the same voluntarily on the day the same bears date.

Given under my hand this 5th day of November, 1947.

Mable C. Edens  
Notary Public (Seal)

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned a notary public in and for said County in said State, hereby certify that Robt. Gregg and C. R. Sexton, whose names as President and Secretary, respectively, of Tennessee Land Company, a corporation, are signed to the foregoing agreement, and who are known to me, acknowledged before me on this day that, being informed of the contents of the agreement, they as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 5th day of November, 1947.

Mable C. Edens  
Notary Public

(Seal)

#### CERTIFICATE

TENNESSEE COAL, IRON AND RAILROAD COMPANY

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, C. R. Sexton, Secretary of Tennessee Coal, Iron and Railroad Company, do hereby certify that the foregoing merger agreement between Tennessee Coal, Iron and Railroad Company and Tennessee Land Company was adopted and agreed upon by the stockholders of Tennessee Coal, Iron and Railroad Company at a meeting of the stockholders duly and legally called for the purpose of voting upon said agreement, held at the office of the company at Birmingham in said County and State on the 5th day of November, 1947, at which meeting the voest of the holders of more than two-thirds in value of the stock of said corporation, voting in person or by proxy, were cast in favor of the adoption of the agreement.

IN TESTIMONY OF ALL OF WHICH and to the end that the foregoing agreement may be filed and recorded in the office of the Secretary of the State of Alabama as required by law, the said C. R. Sexton, as Secretary of Tennessee Coal, Iron and Railroad Company, executed and has hereunto set his hand as such Secretary under the corporate seal of the said corporation on this the 5th day of November, 1947.

(CORPORATE SEAL)

C. R. Sexton  
As Secretary Aforesaid

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a notary public in and for said County in said State, do hereby certify that C. R. Sexton, whose name is signed to the foregoing certificate as Secretary of Tennessee Coal, Iron and Railroad Company, and who is known to me, acknowledged before me on this day that, being informed of the contents of the certificate, he in his capacity as such Secretary executed the same voluntarily on the day the same bears date.

Given under my hand this 5th day of November, 1947.

Mable C. Edens  
Notary Public

(Seal)

#### CERTIFICATE

TENNESSEE LAND COMPANY

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, C. R. Sexton, Secretary of Tennessee Land Company, do hereby certify that the foregoing merger agreement between Tennessee Coal, Iron and Railroad Company and Tennessee Land Company was adopted and agreed upon by the stockholders of Tennessee Land Company at a meeting of the stockholders duly and legally called for the purpose of voting upon said agreement, held at the office of the company at Birmingham in said County and State on the 5th day of November, 1947, at which meeting the votes

of the holders of more than two-thirds in value of the stock of said corporation, voting in person or by proxy, were cast in favor of the adoption of the agreement.

IN TESTIMONY OF ALL OF WHICH and to the end that the foregoing agreement may be filed and recorded in the office of the Secretary of State of the State of Alabama as required by law, the said C. R. Sexton, as Secretary of Tennessee Land Company, executed this certificate and has hereunto set his hand as such Secretary under the corporate seal of the said corporation on this the 5th day of November, 1947.

(CORPORATE SEAL)

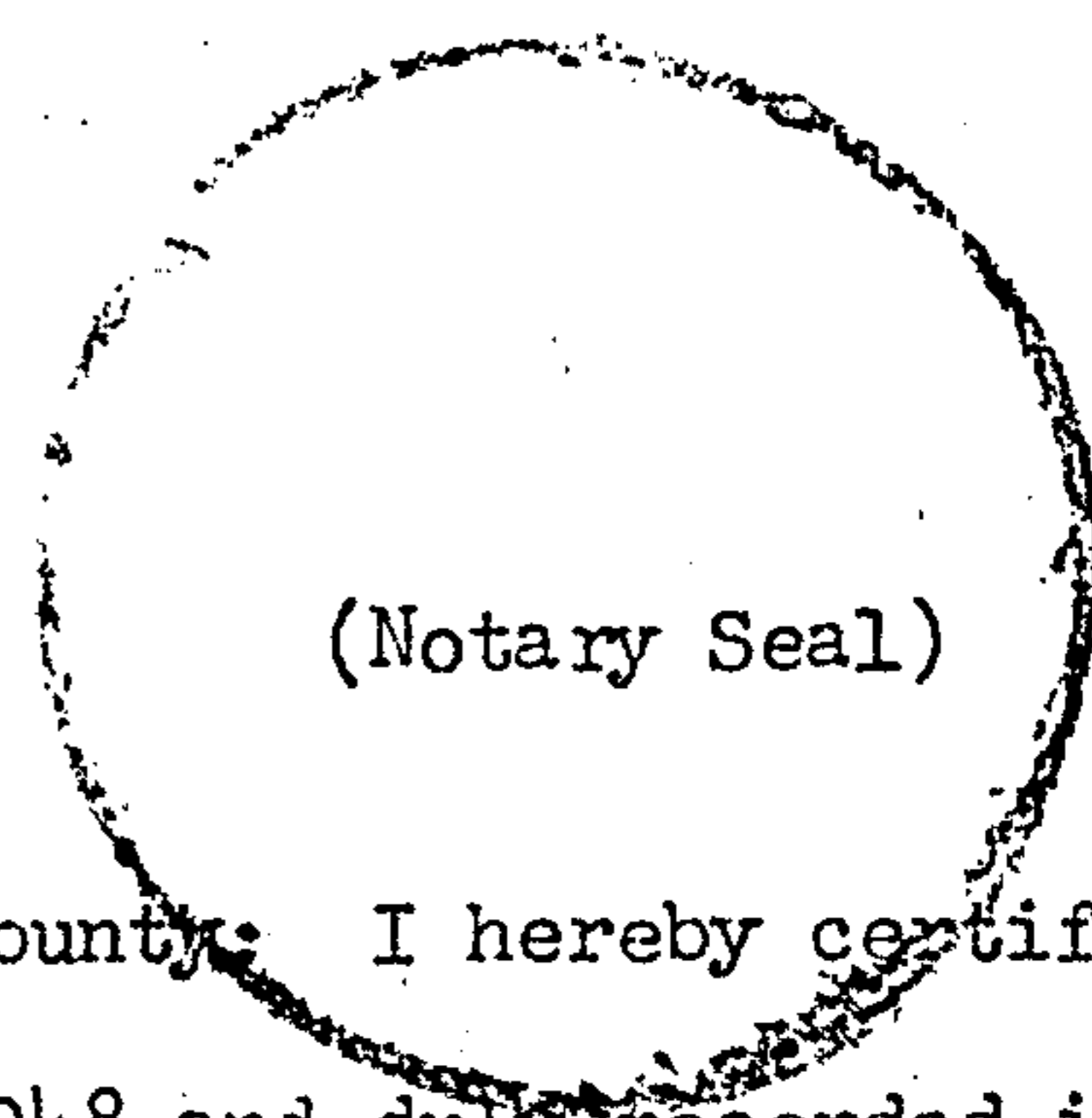
C. R. Sexton  
As Secretary Aforesaid

STATE OF ALABAMA )  
JEFFERSON COUNTY )

I, the undersigned, a notary public in and for said County in said State, do hereby certify that C. R. Sexton, whose name is signed to the foregoing certificate as Secretary of Tennessee Land Company, and who is known to me, acknowledged before me on this date that, being informed of the contents of the certificate, he in his capacity as such Secretary executed the same voluntarily on the day the same bears date.

Given under my hand this 5th. day of November, 1947.

Mable C. Edens  
Notary Public



BESSEMER DIVISION, PROBATE OFFICE, The State of Alabama, Jefferson County: I hereby certify that the within Instrument was filed in my office for Record at Jan. 13, 1948 and duly recorded in Vol. 232 of Deeds Page 306. Tom C. Garner, Judge of Probate.

STATE OF ALABAMA, BALDWIN COUNTY, Filed 2/12/48 11 A.M. Recorded Deed Book 128 page 117. W. R. Stuart, Judge of Probate.

STATE OF ALABAMA, MOBILE COUNTY, PROBATE COURT, FEB. 16, 1948. Filed in office this day and duly recorded in Deed Book No. 448 Page 385. Norville R. Leigh, Jr. Judge of Probate, by J. D. Nall, Jr., Chief Clerk.

STATE OF TENNESSEE GRUNDY COUNTY. Register's Office, Feb. 2, 1948. I, Lewis F. Fults, Register of said County do hereby certify that foregoing deed and certificate are registered in said office in Deed Book No. 20 pages 445; that they were received Feb. 2, 1948 at 4 o'clock P.M. and entered in Note Book 3, page 37. Lewis F. Fults, Register.

STATE OF TENNESSEE, SEQUATCHIE COUNTY. Received for record the 21st. day of Jan. 1948 at 3:00 o'clock P.M. Noted in Note Book C page 232 and Recorded in Book 7 page 12. Fee \$ 7.00 Paid, Riley Snyder, Register.

STATE OF TENNESSEE, MARION COUNTY, REGISTER'S OFFICE, I Sam Rogers, Registrar of said County, do hereby Certify that the foregoing deed and certificate are registered in said office in Deed Book No. 4-S pages 276-83 that they were received 1/21/48 at 1:00 o'clock P.M. and entered in Note Book 4 page 77. Sam Rogers, Registrar, by V.J.P. Deputy Registrar.

THE STATE OF ALABAMA, JEFFERSON COUNTY, I hereby certify that the within instrument was filed in my office for record Jan. 9, 1948 and duly recorded in Book 4069 at page 57. Tom C. Garner, Judge of Probate.

Filed in the office of the Probate Judge the 18th. day of March, 1948 at 1:00 P.M. and recorded in Deed Book 133 at pages 139-145 on this the 25th. day of March, 1948.

STATE OF ALABAMA  
SHELBY COUNTY  
I hereby certify that  
L. C. Walker, Jr. Judge of Probate  
has been paid on the within  
instrument as required  
by law.  
L. C. WALKER, JR.  
JUDGE OF PROBATE