4399

STATE OF ALABAMA

SHELBY COUNTY

Before me, J.W. Moore, Justice of Peace in and for Shelby County, Alabama, personally appeared Willie Gardner Messer who is known to me and who being by me first duly sworn deposes and says that she is a daughter and one of the heirs of J.W. Gardner, deceased, who formerly owned a large tract of land near Westover in Shelby County, Alabama.

Affiant further says that she and all of the other heirs of said J.W. Gardner, deceased, sold and conveyed 104 acres of the J.W. Gardner lands to W. C. Messerby deed dated December 29th, 1928 and recorded in Vol. 94, on page 432 in the office of the Judge of Probate of Shelby County, Alabama, which land is described as follows:

"Southeast quarter of southwest quarter and south half of northeast quarter of southwest quarter less 4 acres to Empire Lumber Company and two acres to the A.B. and A. Railroad Company, in Section 28, Township 19, Range 1 East, containing 54 acres more or less and Northeast quarter of Northwest quarter and 10 acres being of equal width extending across the East side of the Northwest quarter of Northwest quarter of Section 33, township 19, Range 1 East, containing 50 acres more or less, all situated in Shelby County, Alabama.

Affiant further says that said 104 acres of land was owned and occupied by said J.W. Gardner for over20 years before his death and after his death his heirs held possession of the same until they sold it in 1928 to said W.C. Messer.

Affiant further says that the heirs of said J.W. Hardner, deceased, delivered possession of said land to W.C. Messer, who later sold it to William F. Hodges and wife, Nora Hodges, who sold it to J.A. Spearman (otherwise known as Berry Spearman) and wife Sallie Spearman, who sold it to L.J. Tennyson, who is now the present owner.

Affiant further says that said land has been in the open, notorious and exclusive possession of J.W. Gardner and those claiming under him, as above stated for over forty years, and no one else has ever asserted any claim to said land to affiant's knowledge, best information and belief.

Affiant further sayd that said J.W. Garner was a widower at the time of his death and his heirs were all over the age of 21 years when they sold the land to W.C. Messer.

Affiant further says that Arlington Gardner never owned any part of the East 10 acres of Northwest quarter of northwest quarter, section 33, township 19, Range 1 east, neither did Susie Emma Hester, Mattie J. Hester, and Ida C. Hester.

Affiant further says that she was well acquainted with Mary E. Carter and husband, James H. Carter who executed a deed to J.W. Gardner for part of above described land, which deed is dated September 30, 1904 and is recorded in Deed Book 31, page 238 in the office of the Judge of Probate of Shelby County, Alabama, and states that said Mary E. Carter and James H. Carter have both been dead for several years.

Affiant further says that Berry Spearman who bought said land from William F. Hodges and wife, Nora Hodges, is one and the same person as J.A. Spearman, who conveyed the land to L.J. Tennyson, said Spearman's real name being James A. Spearman but most people in the neighborhood called him "Berry" Spearman.

Affiant further says that she has lived on or near the above land for over forty years and makes this affidavit from her own personal knowledge.

Willie Gardner Messer

Sworn to and subscribed before me this 13 day of August, 1938.

J.W. Moore

Shelby County, Alabama Justice of Peace

Filed in the office of the Probate Judge the 23rd day of August, 1948 at 8 o'clock A.M. and recorded in the Deed Record 134 on page 447 on this the 25th day of August, 1948.

L.C. Walker,

(SEAL)