

BOOK 152 PAGE 70

STATE OF ALABAMA

SHELBY COUNTY

Before me the undersigned authority in and for said State and County, personally appeared D. A. Thomas, who, being known to me and being first duly sworn, deposes and says as follows:

That he is 65 years of age and resides at Boothton, Shelby County, Alabama; that he is and will be at all times willing and available to testify to the following facts in the event the title to the hereinafter described real property shall at any time become involved in litigation.

That the affiant has been familiar and acquainted with the hereinafter described property since about the year 1905, at which time he was living in Shelby County, Alabama, near said property.

That on March 3, 1925, the Montevallo Coal Mining Company, an Alabama Corporation, was organized by the affiant, together with V. J. Nesbitt and W. H. Sadler.

That on August 11, 1925, David Roberts, Jr., as trustee in Bankruptcy for the Montevallo Mining Company, a bankrupt, conveyed to the newly formed Montevallo Coal Mining Company, a corporation, "all the assets and estate of the Montevallo Mining Company, a bankrupt and of the estate of said bankrupt and of the trustee in bankruptcy, real, personal and mixed, excepting cash on hand and amounts receivable from the Thomas & Weller Mining Company, including good will, tradename, trade-mark, corporate name, patents and patent rights and all other personal and real property of the bankrupt and of the estate of said bankrupt and of the trustee in bankruptcy, the real property being situated in Shelby County, Alabama," by deed which is recorded in the office of the Judge of Probate of Shelby County, Alabama, in Deed Book 78 at page 369. In the particular description in said deed one of the parcels of land is described as follows:

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W $\frac{1}{2}$ and W $\frac{1}{2}$ of E $\frac{1}{2}$, except that part of Lot 48 in the Town of Aldrich lying therein, on Fractional Section 30, Township 22, Range 4 West, Shelby County, Alabama.

That the affiant was a director, vice-president, secretary and manager of the said Montevallo Mining Company, the corporation for which David Roberts, Jr., was trustee as aforesaid. That the affiant knows that that company did not own or claim any lands in fractional section 30, township 22 South, range 4 West.

That the said land as described in the said deed executed by David Roberts, Jr., on August 11, 1925, refers to the town of Aldrich, whereas the land as described in said deed as being in Range 4 West is actually 6 miles or more from the town of Aldrich.

That the affiant knows that the said Montevallo Mining Company did own as of August 11, 1925, the W $\frac{1}{2}$ and the W $\frac{1}{2}$ of the E $\frac{1}{2}$, except that part of lot 48 in the town of Aldrich lying therein, of fractional section 30, Township 22 South, Range 3 West, Shelby County, Alabama.

That said corporation had owned said land continually since about the year 1916 when said corporation purchased this land from the Montevallo Coal Mining Company, which has owned the said land, to his knowledge since 1905.

That in the year 1905, the affiant commenced to reside in the town of Aldrich, Alabama, and has continuously resided in close proximity thereto until this date.

That the affiant knows beyond a doubt that the said deed executed on August 11, 1925, by David Roberts, Jr. as Trustee was erroneously prepared or typed to this extent: that the land as is above described as being "Range 4 West" is actually located in "Range 3 West" and that such, he believes, was the intention of said Trustee in so executing said deed; that the said Montevallo Coal Mining Company upon the execution and delivery of

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said deed, as aforesaid, went into possession of the $W\frac{1}{2}$ and $W\frac{1}{2}$ of $E\frac{1}{2}$ of fractional Section 30, Township 22 South, Range 3 West, except that part in Lot 48 in the Town of Aldrich, Shelby County, Alabama. That said Montevallo Coal Mining Co., as of said conveyance, assumed payment of the ad valorem taxes on said property and as of that date was in actual, open, continuous, exclusive, notorious, adverse possession of said property. That said company did extensive coal prospecting on this land in 1926. That this prospecting included a diamond drill hole $2\frac{1}{2}$ inches in diameter and 1092 feet deep, drilled by the Sullivan Machinery Company, of Birmingham, Alabama, and Chicago, Illinois, during the latter part of 1926 and early 1927.

That the said Montevallo Coal Mining Company continued to own and possess said property until August 31, 1943, when said Company was dissolved, at which time the said property was sold and transferred by the said company to the affiant and W. C. Scott, as trustees for the former stockholders of the Montevallo Coal Mining Company. That on June 30, 1944, the said trustees for said former stockholders sold and transferred said property to the affiant. That the affiant, on the same date, sold and transferred said property to the Boothton Coal Mining Company, a corporation, of which the affiant was president and a principal stockholder. That on November 9, 1950, following the dissolution of the Boothton Coal Mining Company, said property was transferred to the affiant, Ella Mae Thomas, Dorothy Thomas Morrow, Gardner Morrow Schneider, Hugh Morrow, Jr., Mary Elizabeth Stokes and H. W. Stokes, as joint owners.

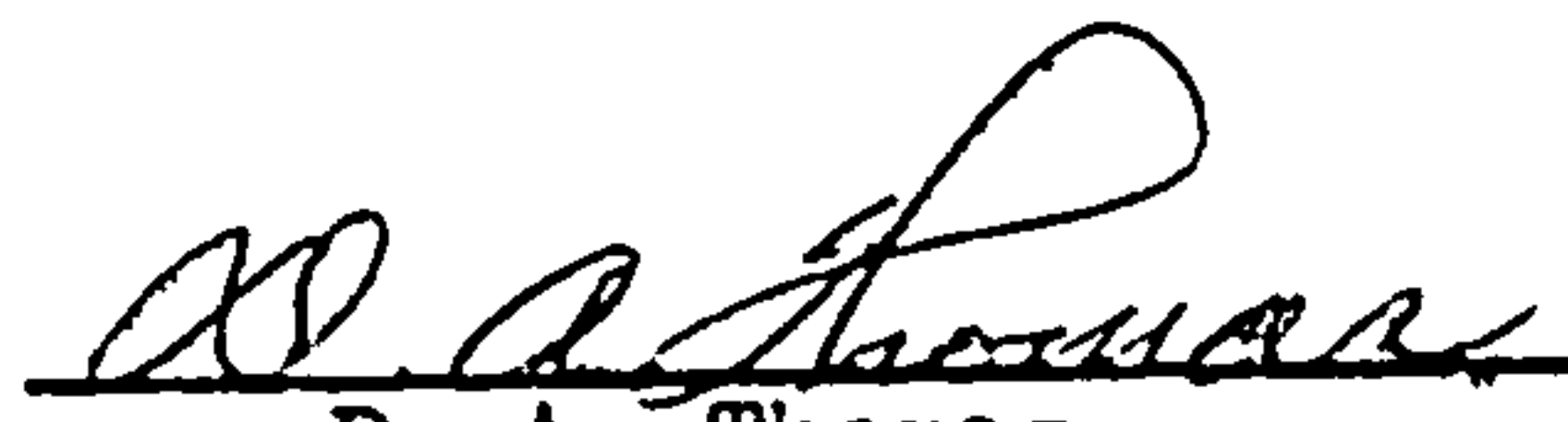
That the ad valorem taxes on the said property have been assessed and paid in the names of the above named successive owners, in turn. That each named successive owner, in turn, claimed title and ownership to said property and each, in turn,

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was in actual, open, continuous, exclusive, notorious, adverse possession of said property.

That affiant has knowledge of the fact that mine timbers for use in the Aldrich mines and in the Boothton mines, were frequently cut from the said property since before the year 1925; that the Aldrich mines and Boothton mines were owned and operated in turn by each of the above named successive owners to the said property; that the surface of said property is not suitable for any purpose other than plant life and that it has no value for agricultural or other purposes.

This affidavit is executed in lieu of that affidavit heretofore executed by the affiant, which is now on record in Book 101 Page 414 in the Probate Office of Shelby County, Alabama, inasmuch as the foregoing affidavit contains additional information and facts which are not contained in the prior affidavit.


D. A. Thomas

Sworn to and subscribed
before me this 20th day
of March, 1952.


Notary Public

Filed in the office of the Probate Judge on the 22 day of Mar 1952 at Shelby County, Ala.
and recorded in Deed Book 152 Page 70 this 25 day of Mar 1952
Deed Tax Mortgage Tax has been paid. L.C. Walker, Judge