

STATE OF ALABAMA,

SHELBY COUNTY.

Before the undersigned authority personally appeared Fred Hayes, who is known to me and who being by me first duly sworn does depose and say as follows:

I am sixty-eight years of age and I have lived in Shelby County, Alabama, all of my life. My father was Burton Hayes. Our old farm home, the home in which I was raised, was situated in the NE 1/4 of SW 1/4, Section 33, Township 21, Range 1 West. The homeplace was north of the Columbiana - Shelby Springs road. My father had possession of all of the NE 1/4 of SW 1/4 of said Section at the time I was born and it is my understanding that he had lived there about six years when I was born because my oldest sister, Ella Davenport, is seven years older than I am and it is my understanding that she was about a year old when my father moved on to this property and that he lived on this property several years before he purchased same. This forty acre tract was deeded to him by J. L. Peters, Administrator of the estate of John T. Cromwell by deed dated December 1, 1887, record of which appears in Deed Book 9 at page 542 in the Probate Office of Shelby County, Alabama.

lying north of Shelby Springs-Columbiana Road  
B. L. Moore conveyed the SE 1/4 of SW 1/4 of said Section 33 to my father by deed dated December 24, 1900, which deed appears of record in the Probate Office of Shelby County, Alabama, in Deed Book 23 at page 345. My father is named in this deed as Burton Haze and the correct spelling of his name is Hayes and he is one and the same person as the grantee named in the Moore deed.

My father kept all of this land which he owned under rail fence. I recall that it was our job each winter to split rails to build and repair the fence around this property. The fences were on the forty lines and enclosed the land which was cultivated as well as the wood land.

That portion of the SE 1/4 of SW 1/4 of said Section 33 which lies south of the Columbiana - Shelby Springs road and the NE 1/4 of NW 1/4 of Section 4, Township 22, Range 1 West, was known at that time as the "Frost Forty." It was owned by Mr. B. L. Moore, the same person who conveyed the SE 1/4 of SW 1/4 of said Section 33 north of the Columbiana - Shelby Springs road to my father. He rented this land to Mr. Frost and it is my understanding Mr. Frost lived on this property for 25 or 30 years and raised his family there. My recollection as to the possession of Mr. Frost extends back to about 1890 when I was a small boy and I know that he and his family

were living there then and that he continued to live there until about 1897, when he moved away. Mr. Frost cultivated portions of this land each and every year from 1890 until the time he moved away and all of this property was enclosed by rail fence on the forty lines during this time and there is evidence of this fence line visible there today. Within three or four weeks after Mr. Frost and his family moved from this property a Mr. Echols moved into the house which Mr. Frost had occupied and he lived there until about 1902. About two weeks after Mr. Echols left this property the house in which he had lived was destroyed by fire and about two months after the fire my father, Burton Hayes, purchased the "Frost Forty" as described above from B. L. Moore and wife, Sally Moore. Immediately after this purchase my father went into possession of this property and he cultivated portions of it each and every year until 1918. I helped my father farm this property and I recall we raised cotton, corn and peas on it. I also helped him maintain the fence around the tract. My mother died in 1916. My father continued to live on the homeplace for two years after her death and then he became sick and he moved to my home near Columbiana and he lived with me until his death on November 27, 1920. When he left this property in 1918 he rented it to a man named Jerry Reynolds who lived thereon for two years. Mr. Reynolds worked for Mr. Nichols at the heading mill in Calera, Alabama. Mr. Reynolds occupied the old homeplace during his tenancy. Since his departure in 1920 the property has been unoccupied.

The possession of Burton Hayes of the NE 1/4 of SW 1/4 of said Section 33, as heretofore stated, and the possession of Burton Hayes of that portion of the SE 1/4 of SW 1/4 of said Section 33 north of the Columbiana - Shelby Springs road and the possession of B. L. Moore through his tenants and of my father, Burton Hayes, after the conveyance from B. L. Moore of that part of the SE 1/4 of SW 1/4 of said Section 33 south of the Columbiana - Shelby Springs road and the NE 1/4 of NW 1/4 of Section 4, Township 22, Range 1 West, was open, notorious, actual, visible, adverse, peaceable, hostile, exclusive and continuous, claiming to own same against all the world.

Since the death of my father in 1920, I have assessed and paid taxes on all three forties each and every year except in 1952 when my sister, Willie Leathers paid the taxes thereon. Since 1920 I have gone down and walked over this property two or three times each year and no one has been in



possession thereof adverse to the heirs of Burton Hayes since 1920 to the present date.

Burton Hayes left no Will. There was never any administration of his estate. In 1928 I signed a right-of-way deed as administrator of Burton Hayes but actually I was never duly appointed administrator of his estate but rather I served as agent for the heirs in caring for this property.

The heirs of Burton Hayes have joined in executing two sets of transmission line permits to the Alabama Power Company and there are two Alabama Power Company transmission lines across this property. In 1926 we executed instruments granting an easement across one portion of the land and in 1929 we gave permission by written instrument to the Alabama Power Company to erect another transmission line across this property. Since the execution of these instruments the Alabama Power Company has been in possession of the property described in the easements and they have erected transmission line towers and maintained them. They have also cut the timber and brush and kept their easements cleared since the execution of these instruments. Annie Mallory named as one of the grantors in several of these instruments is one and the same person as Annie M. Burks. She is my sister.

In the Spring of 1916, the year my mother died, my father purchased a horse from Lithenia Leach who lived at Shelby. I recall him telling me that he had given her a mortgage on the NE 1/4 of NW 1/4 of said Section 4 to secure the payment of the purchase price of this horse. I also recall that in the Fall of 1916 he had not paid for this horse and the horse was sold to my brother, Bernie Hayes, and my father gave a new mortgage to Lithenia Leach to secure payment for this horse by Bernie Hayes.

My father's possession of the land heretofore described as the "Frost Forty" was adverse <sup>to</sup> B. L. Moore after he had purchased same. I understand that the deed of conveyance was never recorded. After my father purchased this property from Mr. Moore, Mr. Moore nor any party claiming under him ever made any claim of ownership thereto nor exercised any possession or control thereover nor have any of Mr. Moore's heirs claimed any right, title or interest to this property down to the present date.

Neither Mr. A. B. Baxley, Jewel Baxley nor L. H. Joseph has ever had possession of any portion of the NE 1/4 of NW 1/4 of said Section 4.

My father had eleven children. Six of them are dead. Henry Hayes, Benny Hayes and Northern Hayes, all died without ever having married and without children.

Olivia Hayes McPherson, a daughter, died about 1928. She had two children, Lucile Carter and James McPherson and both are alive today. Her husband, William McPherson also survives her.

Nora Parker, a daughter, died about 1932. Her husband, Sam Parker is also dead. They left eight children, seven of whom are still living, viz: Annie Walker, Noah Parker, Dan Parker, Bulah Brewer, Bertha Parker, Ruby Byrd and Mahlie L. Snell.

The eighth child, a daughter, Essie Yancey departed this life about 1947. She is survived by her husband, Thomas Yancey and a son, Thomas Earl Yancey.

Bernie Hayes, a son, passed away about 1937. His widow, Ruth Hayes, survives him and they had no children. The remaining children of Burton Hayes are, viz: Ella Davenport, Willie Leathers, Fred Hayes, Bama McCoy, and Annie M. Burks.

All of the living descendants of Burton Hayes named above are of sound mind and all of them except Thomas Earl Yancey are over the age of twenty-one years.

Fred Hayes  
Fred Hayes

Sworn to and subscribed before me  
on this the 14 day of December,  
1952.

Conrad M. Linder  
Notary Public State at Large for Alabama

Filed in the office of the Probate Judge on the 27 day of Feb 1953 at 9 o'clock A M.  
and recorded in Deed Book 158 Page 256 this 6 day of Mar 1953.  
Deed Tax        Mortgage Tax        has been paid.  
L.C. Walker, Judge of Probate