

4246

STATE OF ALABAMA

SHELBY COUNTY

Before me, Karl C. Harrison , the undersigned authority in and for said County in said State, personally appeared Ed Herron who, after being by me first duly sworn to speak the truth, deposes and says:

My name is Ed Herron. I am 79 years of age and have lived in Shelby County, Alabama, all of my life, except some 3 or 4 years. I first began working at a coal mine located at Maylene, Alabama, which was owned and operated by Thomas J. Peter in the year 1893 when I was 14 years of age. After the death of Thomas J. Peter, I continued to work for his son, George F. Peter, or for the companies in which he was interested. I continued to work for him and at said companies, the last of which was the Southern Coal and Coke Company until about the year 1943, when the said Company to Boothton Coal Mining Co. and I continued to work for Mr. Peter until 1948. sold out its mining interests. From the year 1912 on, my job was that of woodsman and in connection with my work, I was required owned by George F. Peter and said companies to see that the land was properly marked by lines, the corners remained in tact, that other persons did not trespass on the land or remove timber from it and to keep fires off the land and I did all these things and worked each day I was employed in connection with the woodlands and looking after them for my employers who, as I mentioned above, were Mr. George F. Peter personally or one of the companies in which he was the sole owner or one of the principal operators.

I am familiar with the Lease between George F. Peter and Little Gem Coal Company originally executed on April 1, 1933 and which was extended to expire on April 1, 1963, which said Lease was referred to in a deed from George F. Peter and wife to R. E. Whaley and E. B. Barnes dated April 1948 and which deed was recorded in Deed Book 134 Page 177 in the Probate Office of Shelby County, Alabama. I am also familiar with the forty acres of land which said Lease covered, it being the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 32, Township 21, Range 3 West, Shelby County, Alabama. That forty acres was known as the "odd forty" as it was one-fourth of a mile removed from

any other land owned by George F. Peter and said forty acres joined the land Little Gem Coal Company was then mining, but none of the rest of George F. Peter's land joined any land being mined by Little Gem Coal Company or on which they had a lease. I know of my own knowledge no other leases were entered into by George F. Peter with Little Gem Coal Company other than the one mentioned herein.

Affiant further says he has read that portion of an affidavit made by G. L. Chamberlin on the 7 day of August, 1956, and recorded in Deed Book 182 Page 357 in the Probate Office of Shelby County, Alabama, and affiant says that matters and things shown to by Mr. G. L. Chamberlin about Climax Coal Company are true and correct and the statements given by Mr. Chamberlin in said affidavit are the same as affiant recalls the facts to be.

Affiant further says that said NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 15, Township 22 South, Range 4 West, along with the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 10, Township 22, South, Range 4 West constituted the homeplace of Dave Linholm, who owned said 80 acres of land and was living on it and rearing his family on it as early as 1905 and I recall going by the home of said Dave Linholm. In addition to his dwelling house, there was a barn and other outhouses on the land and he had portions of it fenced in and portions of it under cultivation. He lived on the Aldridge & Garnsey public road and I recall there was a gate across the road in front of his home, as was the custom in those days. I recall that Dave Linholm lived on said 80 acres and continued to farm it each and every year until his death about the year 1920. After which, his wife and children continued to live on said land continuously thereafter and some of his children are still living on said 80 acres of land. Affiant further says he has never heard of Climax Coal Company, W. D. Sparks or any other person making any claim to said land or disputing the title or the possession of to surface rights or Southern Coal & Coke Company to mineral rights Dave Linholm and their heirs and assigns since the year 1905 and up until this present day. Affiant further says that he recalls that Southern Coal & Coke Company purchased the mineral rights to both of said forties about the year 1924 and that its successors and assigns still own said mineral rights and he has never heard of anyone disputing their title, possession or ownership to said mineral rights.

There has been called to affiant's attention a Tax Sale covering SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 14, Township 22, Range 4 West in the name Mrs. W. O. Vincent for non payment of taxes for the year 1928, under which the State of Alabama became the purchaser. This is shown by Tax Sale Record 9 Page 559 in the Probate Office of Shelby County, Alabama. Affiant further says that Mrs. W. O. Vincent was a daughter of W. R. Weaver and his wife, Kate Weaver, who sold the mineral rights to said forty acres of land, along with other land on September 9, 1898, as shown by deed recorded in Deed Book 21 Page 236 in said Probate Office. Affiant further says that at the time of said Tax Sale, Mrs. W. O. Weaver and the other heirs of W. R. Weaver only owned the surface rights to said land.

Affiant further says that when he was first acquainted with the E $\frac{1}{2}$ of NW $\frac{1}{4}$ and the W $\frac{1}{2}$ of NE $\frac{1}{4}$ of Section 14, Township 22, Range 4 West, said 160 acres constituted a part of the homestead of W. R. Weaver, being one and the same person as William Weaver. Affiant says he did not actually go upon said land until the year 1903, at which time there was a dwelling house situated on said land and a barn and other outhouses and they were owned ^{and} being lived in by W. R. Weaver and his family. There were fences about the lots and pastures and other portions of it and parts of it either were or had been in cultivation. The buildings on said land appeared to be old and well settled buildings. I would say the buildings appeared to be at least 30 years old or more when I first saw them in 1903. Affiant further says while he did not see said farm until 1903, he knew W. R. Weaver and his sons and daughters as early as 1893 and that two of Mr. Weaver's sons worked at the coal mine in Maylene at that time where affiant was working and two ~~of~~ Mr. Weaver's daughters would come to Maylene each week in a wagon and cook for their brothers during the week and would go home on each week-end to stay with their mother and father and the family ~~who~~ lived on the 160 acres of land. Affiant really knew the Weavers were occupying said land as early as 1893 and it was common knowledge that W. R. Weaver had been living on said land many years prior to the time he knew the Weaver sons and daughters in Maylene. It is affiant's information that Mrs. W. R. Weaver was a Petrasck before

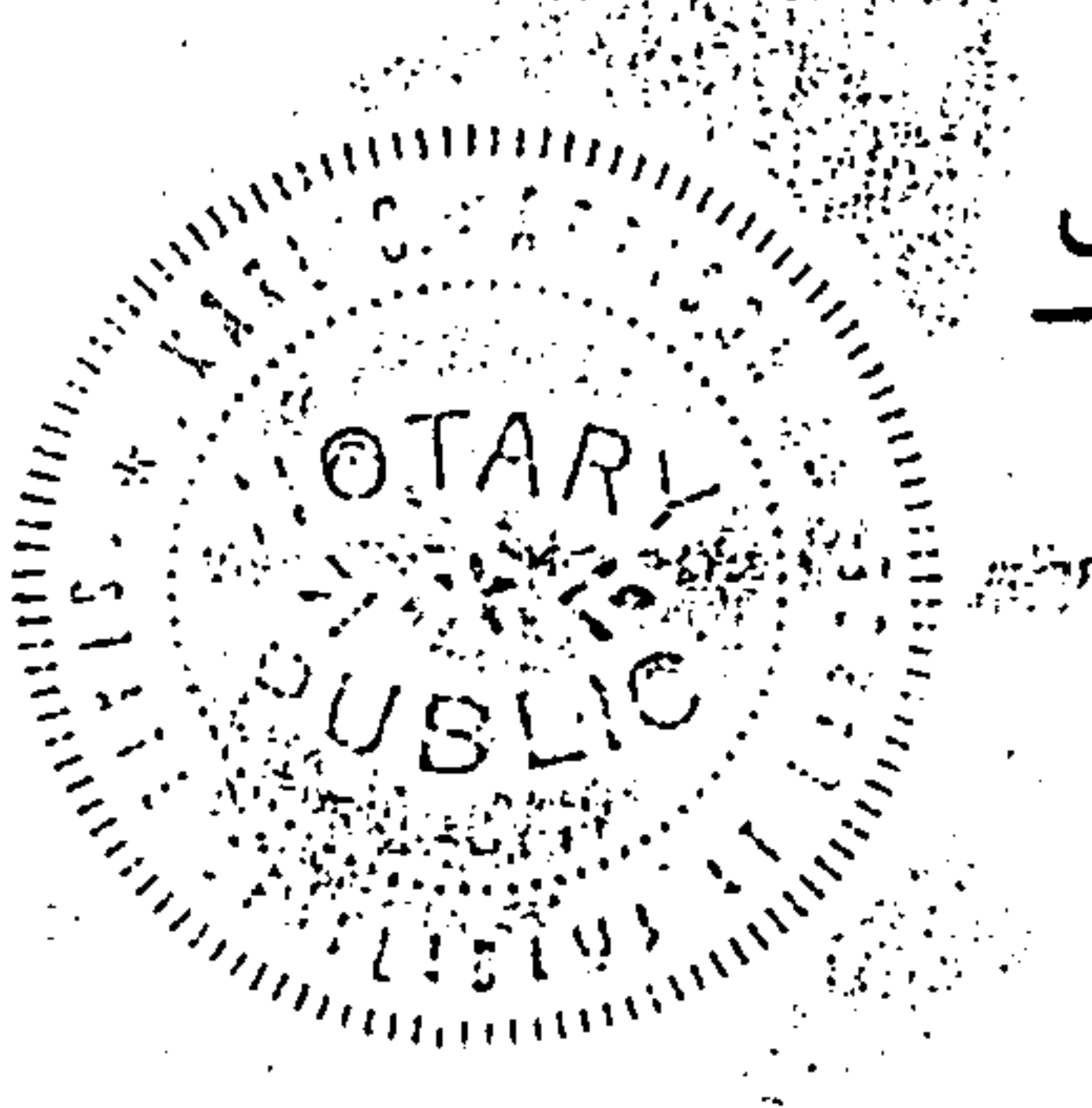
marriage and she was related to Frank Petrasck and John Petrasck. In reality it is affiant's belief and understanding that the Petrascks built the dwelling house on said land which Mr. W. R. Weaver and his family occupied, as mentioned above. From what affiant knows about the Weaver family and from common knowledge in the community in which affiant lived when he was a young man, he would say W. R. Weaver occupied said land continuously, openly and adversely as his homestead from 1884 when he is said to have purchased a portion of the above described land until 1898 when he is said to have sold the mineral rights on said 160 acres to George F. Peter, as shown by deed recorded in Deed Book 21 Page 236 in the said Probate Office. Affiant says he never actually knew the above mentioned Frank Petrasck or his wife, Josephine Petrasck nor did he know John Petrasck, but it was his understanding they were both older than William R. Weaver. Affiant further says he does not remember the specific dates, but it is his recollection that W. R. Weaver and his wife Kate Weaver have been dead for some 40 or 50 years.

Throughout all the years he has know said land, affiant says he has never heard of anyone disputing the title or contesting the possession of R. E. Whaley or E. B. Barnes or their predecessors in title to their interest in said land.

Ed Herron

Ed Herron

Sworn to and subscribed to before me
on this the 21 day of August, 1958.



Carl G. Harrison
Notary Public *for State*
of Alaska

STATE OF ALABAMA

SHELBY COUNTY

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

My name is George M. Harrison. I can well remember several years before 1900 and have all along been well acquainted with the property mentioned in the foregoing affidavit made by Ed Herron and the persons in possession of the same. I recall that Ed Herron worked at Maylene, but do not recall when he went to work. I also recall he was a woodsman and looked after the lands owned by George F. Peter and the companies for which he was interested for many years and last worked for Southern Coal and Coke Company until it sold its land interests a few years ago and I know the matters and things mentioned by Ed Herron as to his employment and as to his familiarity with the lands belonging to said companies are true and correct.

Affiant says he was not familiar with the lease from George F. Peter to Little Gem Coal Company.

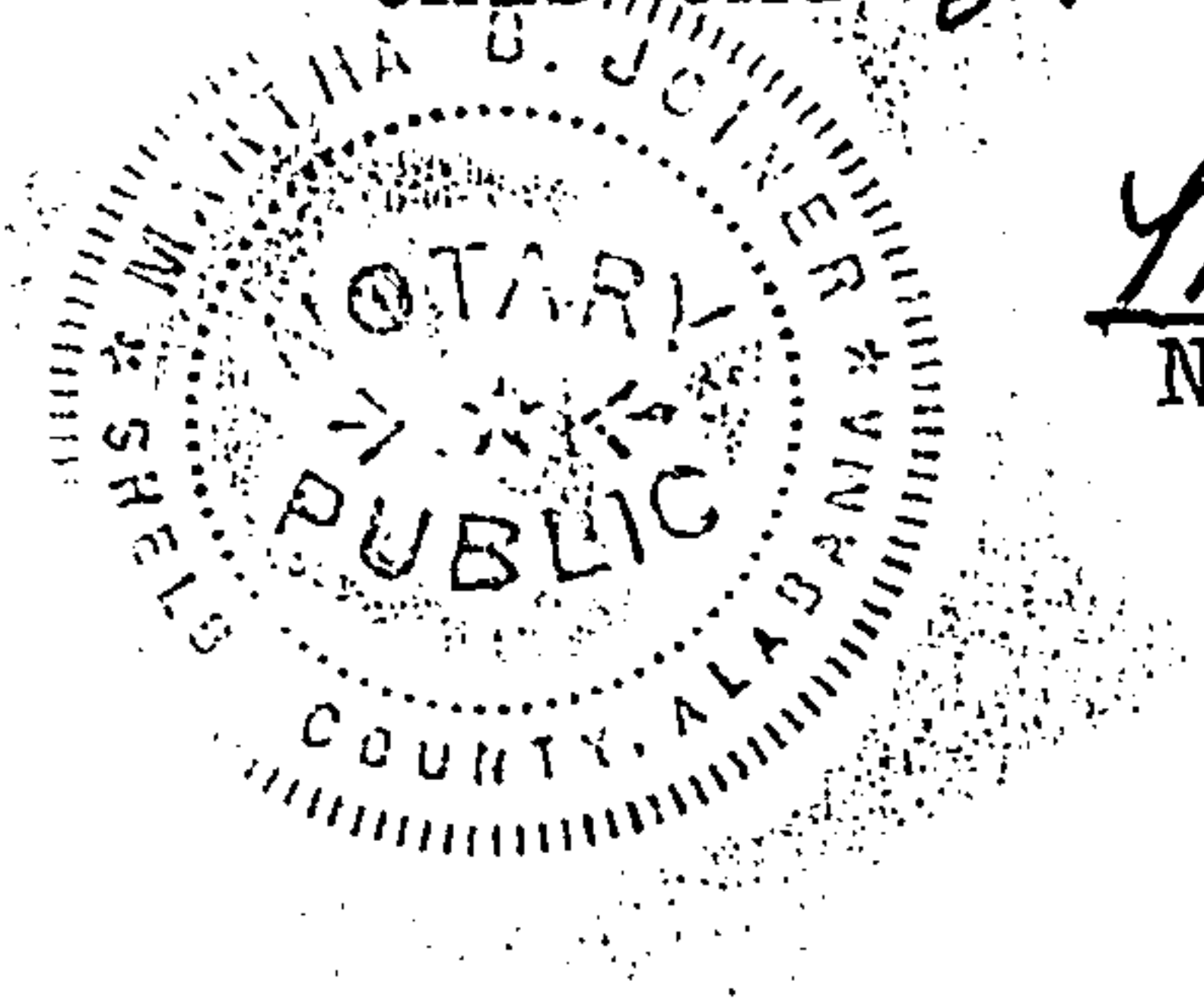
Affiant further says he has read the remainder of the affidavit made by Ed Herron and he knows the same is true and correct. Affiant was familiar with some of said property as early as 1900 or even earlier. Affiant well recalls the Dave Linholm homeplace and he remembers visiting said place in 1900 or earlier and knows the matters and things stated by Mr. Herron about regarding the Dave Linholm land are true and correct.

Affiant further says he has read the matters and things mentioned by Ed Herron regarding the Weaver property and he knows they are true and correct. Affiant knew Mrs. W. O. Vincent and knows she was a daughter of W. R. Weaver and affiant says he recalls seeing the Weaver homeplace described in said affidavit as early as 1900 or earlier and the dwelling and other buildings appeared to be very old at that time. I remember an old lady known as Mrs. Petrasck and she was kin to the Weavers and it is my recollection she was living with the Weavers at the time I knew her. I knew the Petrascks when I was a small child and^{they} lived on the Weaver property or adjoining property

and affiant says they were Bohemian-Dutch people.

George M. Harrison
George M. Harrison

Sworn to and subscribed to before me
this the 21st day of August, 1958.



Martha B. Jones
Notary Public

STATE OF ALABAMA

SHELBY COUNTY

Before me, *Harold Harrison*, the undersigned authority in and for said County, in said State, personally appeared Wiley A. Allen, who, after being first duly sworn to speak the truth, deposes and says:

My name is Wiley A. Allen. I am 71 years of age and have lived in Shelby County, Alabama, all of my life and have all along been well acquainted with the property described in the foregoing affidavit of Ed Herron and the persons in possession of said land. Affiant says he has read said affidavit made by Ed Herron with reference to his employment by George F. Peter and the companies in which he was interest^{ed} and affiant knows the matters and things mentioned in said affidavit regarding the employment of Ed Herron and his familiarity with said lands are true and correct.

Affiant says he is not familiar with the Lease between George F. Peter and Little Gem Coal Company dated April 1, 1933, mentioned in said affidavit.

Affiant says that he is ^{not} familiar with the date the Climax Coal Company's offices burned or when it discontinued its mining at Maylene or when said Company was dissolved, but has heard of the Company and knows it has not operated for many many years.

Affiant has read that portion of the affidavit of Ed Herron regarding the land known as the homeplace of Dave Linholm and affiant says the same is true and correct. Affiant recalls the Dave Linholm place a few years earlier than 1900, as affiant was reared in the neighborhood of said place and went there as a small boy and affiant well recalls when Southern Coal and Coke Company purchased the mineral rights in said land in the year 1924, as well as the other matters mentioned in said affidavit regarding the Linholm place

Affiant says he is not familiar with the matters and things mentioned in said affidavit regarding a Tax Sale in the name Mrs. W. O. Vincent in the year 1928.

Affiant has heard that George F. Peter purchased the mineral rights of said land owned by W. R. Weaver but he is not familiar

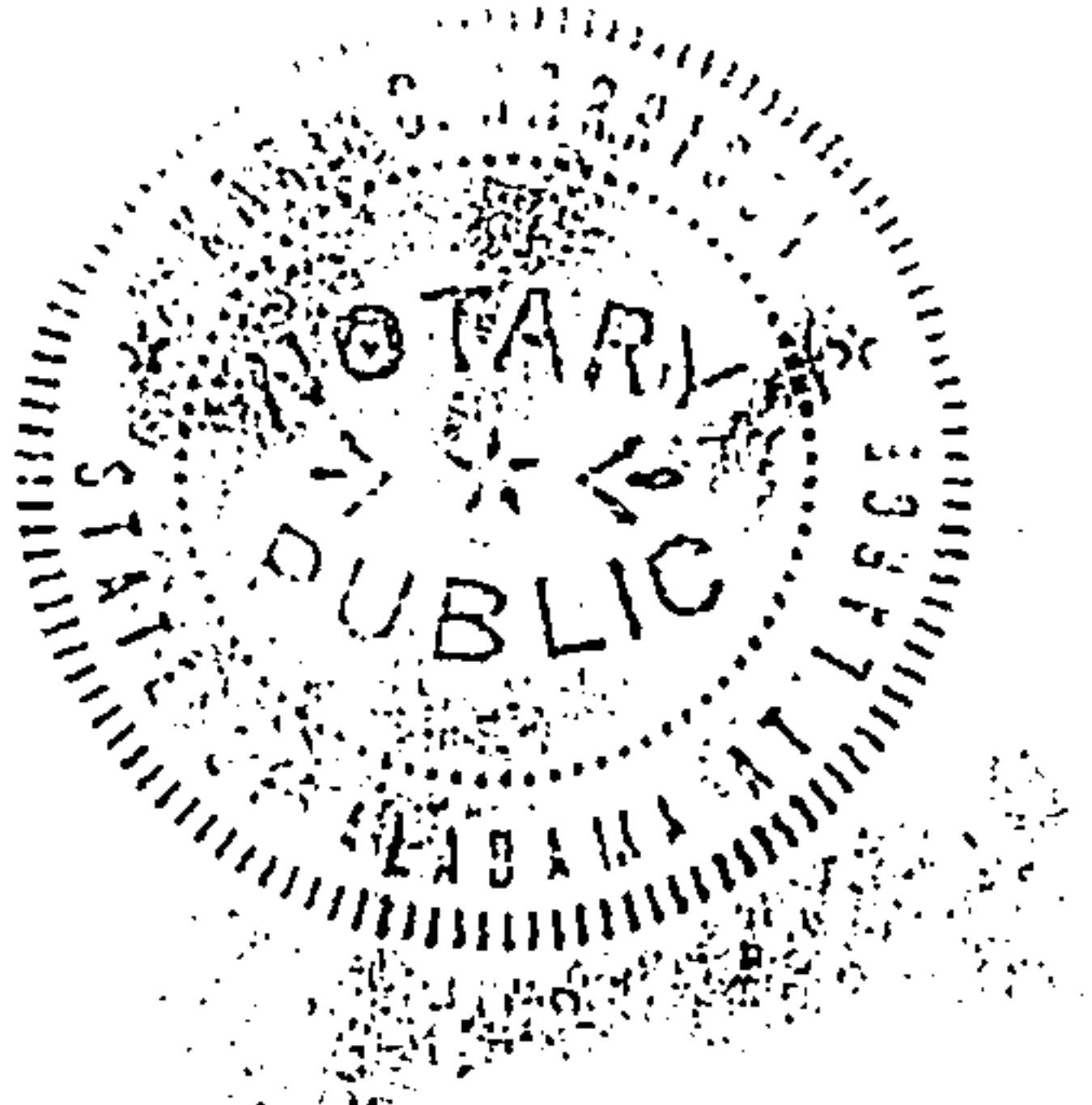
with the dates or details regarding it, but he does understand the same was purchased by Mr. Peter many years ago. Affiant says with reference to the matters and things mentioned by Ed Herron regarding the said 160 acres owned by the ^{said} W. R. Weaver are true and correct. Affiant first knew said land as early as 1895 and he knows the ownership of said land. It was common knowledge in the community that W. R. Weaver came to the neighborhood in which the above described land was situated when he was a young man and married one of the Petrasck daughters and lived on the land mentioned throughout his married life, reared his family there and died there.

Throughout all of the years he has known said land, affiant says he has never heard of anyone disputing the title or contesting the possession of R. E. Whaley or E. B. Barnes or their predecessors in title to their interest in said land.

Wiley A. Allen
Wiley A. Allen

Sworn to and subscribed to before me
on this the 21 day of August, 1958.

Carl C. Harrison
Notary Public *for State of Ala at Large*



State of Alabama, Shelby County
I, L. C. Walker, Judge of Probate hereby certify that the within affidavit was filed in this office for record the 17 day of September 1958 at 10 o'clock AM, and recorded in Book 195 Page 246 and has been paid.
and the Mortgage Tax of \$ and the Dead Tax of \$
Fee \$ 4.25 L. C. Walker Judge of Probate