

1964 FILED 13 FEBRUARY 1959

STATE OF ALABAMA)

SHELBY COUNTY)

A-F-F-I-D-A-V-I-T

Before me, the undersigned authority, in and for said County in said State,
 personally appeared Millie M. Frost who being by me first duly
 sworn deposes on oath and says:

My name is Millie M. Frost and I am over twenty-one
 years of age and a resident citizen of Shelby County, Alabama, I am familiar with the
 location of the farm known as the H. L. Smith farm and I live not too far from its
 location. I have been living in the general vicinity of this farm in Shelby County,
 Alabama for more than twenty years. This farm is located on what is known as the Calera-
 Spring Creek Road between the cities of Silura and Montevallo in Shelby County, Alabama
 and consist of approximately 181 acres of land. The legal description to this land is
 divided into three tracts as follows:

TRACT I

The NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and all of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ lying south of a line
 described as follows, to-wit: Beginning at a point on the West line of
 said SW $\frac{1}{4}$ of NW $\frac{1}{4}$ 4 chains and 29 links south of the NW corner of said
 SW $\frac{1}{4}$ of NW $\frac{1}{4}$ (being a point on the Calera and Spring Creek Road, on the
 north side thereof), running thence South 64 degrees east 7 chains and 28
 links, along said north side of said road, thence NE 105 yards to a point
 43 rods west of the east line and 90 yards south of the North line of said
 SW $\frac{1}{4}$ of NW $\frac{1}{4}$, and thence east to said east line of said SW $\frac{1}{4}$ of NW $\frac{1}{4}$, all
 above described land being in Section 18, Township 22, Range 2, West.
 Except 3 1/2 acres more or less described as follows: Begin at a point
 where the beat line between Beats 3 and 4 crosses the south right of way
 line of the Calera-Spring Creek Road and run South along said Beat line
 732 feet, thence in an easterly direction along a fence line 293 feet,
 thence north and parallel with said Beat line 491 feet to said road, thence
 along said road 350 feet in a Northwesterly direction to point of beginning,
 in SW $\frac{1}{4}$ of NW $\frac{1}{4}$ 18-22,2W.

TRACT II

8 acres off the west side of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, measuring 88 yards east and
 west and 440 yards north and south more or less, being in Section 18, Township
 22, Range 2 West. This being the same 8 acres conveyed by deed of C. T.
 Ingram, a single man, to Beatrice Ingram Allen under date of March 7th, 1935
 and recorded in Deed Book 94, Page 436 in the Probate Office of Shelby County,
 but a typographical error shows it in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Sec, 18, Tp 22,
 Range 2 West.

TRACT III

S $\frac{1}{2}$ of SW $\frac{1}{4}$ of Section 18, Township 22, Range 2 West, also 6 acres lying
 in the SW corner of the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ lying south of the Calera and Spring
 Creek public road and measuring 88 yards wide east and west.
 Also all that part of the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ lying South of the said Spring Creek
 and Calera Road except 14 acres on the west side conveyed by H. H. Killingsworth
 to W. R. Alexander.
 All in Section 18, Township 22, Range 2 West, Shelby County, Alabama and
 containing 27 acres, more or less.

Tract one was known as the W. R. Alexander place and according to my recollection was purchased by H. L. Smith and his son-in-law, W. O. Pardue from W. R. Alexander about September, 1949. Prior to the purchase in September, 1949 by Smith and Pardue this tract of land had been in the actual possession of W. R. Alexander and his family for more than twenty years, during which time W. R. Alexander cultivated the tract, used it and it was generally known in the community as being his farm. His possession was open notorious, exclusive, hostile and adverse and I do not know of any person ever disputing his ownership or right to possession of it during the time he owned it.

The tract described above as Tract II was owned by Beatrice Ingram Allen and consisted of approximately 8 acres of land and it was also purchased from Beatrice Ingram Allen and her husband, Max Allen by H. L. Smith and W. O. Pardue in September, 1949. I have also known this property and knew Beatrice Ingram Allen and I know that she has owned and been in possession of the 8 acres of land since about March, 1935. To my knowledge no one has ever disputed her ownership or right to possession of this property and her possession has been actual, open, notorious, exclusive, hostile and adverse throughout the time that she owned it and I have never heard of any person disputing her right to possession and title of this property.

Tract III above described was known as the H. E. Alexander tract and had been in the possession and ownership of H. E. Alexander for more than twenty years prior to the purchase by Mr. H. L. Smith and W. O. Pardue in September, 1949. This tract had been under cultivation either by H. E. Alexander or tenants holding under him and has been partly under fence for more than twenty years prior to the Smith and Pardue purchase. I knew H. E. Alexander and his wife, Johnnie Alexander and was personally acquainted with them and know that they had the actual, open, notorious, exclusive, hostile and adverse possession of said tract of land continuously for more than the said twenty year period of time and no one to my knowledge has ever disputed or questioned their right to the ownership or possession of any part of it.

When H. L. Smith and W. O. Pardue purchased this property in September, 1949 they went into the actual possession of all three tracts, which tracts adjoin each other. A large part of the property was placed in cultivation with corn and hay and the remaining part of it was used as a pasture for cattle. There also was located on part of the property, a house which was remodled by Mr. Smith and used by them during times they came down and stayed thereon. There is another dwelling house located on the acreage which is occupied by the different families who looked out after the place for Mr. Smith. The land that was not cultivated and used was cleaned off and used for pasture and that

part that was not actually under fence which was a very small amount of was left wooded but the lines clearly established and not disputed. I do not know the present state of the title of this property or who the actual owners are of record, however I know that it is known to be the Smith farm and that from the time of the purchase in September, 1949 to the present time Mr. Smith has been in the actual, open, notorious, exclusive, and continuous adverse possession of the entire part. His acts of possession and ownership have been such as to leave no one in doubt but what he owned same.

I am familiar with the agreement made between W. R. Alexander and J. D. Frost recorded in deed book Vol. 133 Page 85 in the Office of the Judge of Probate of Shelby County, Alabama and I know that the well described and mentioned in said agreement is not on any part of the H. L. Smith property hereinabove described. This agreement was never carried out and was abandoned by the parties in that the well never furnished sufficient water and therefore a pump was never installed and the well was never used.

I am a sister of H. E. Alexander and a daughter of W. R. Alexander and my knowledge of the facts stated in this affidavit are from my personal knowledge.

Mrs. Nellie M. Frost

Sworn to and subscribed before me on this

the 13 day of February, 1959.

[Signature]
Notary Public.

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STATE OF ALABAMA, SHELBY COUNTY

I, Conrad M. Fowler, Judge of Probate, hereby certify that the within [Signature] was filed for record the 13 day of Feb 1959 at 2 o'clock and recorded in [Signature] Record, Page 169 and the Mortgage Tax [Signature] Deed Tax [Signature] has been paid.

Conrad M. Fowler Judge of Probate