

THE BALDWIN TIMES

JIMMY FAULKNER
PUBLISHER

Legal Notice

IN THE CIRCUIT COURT FOR
THE TWENTY-EIGHTH
JUDICIAL CIRCUIT OF
ALABAMA
IN EQUITY NO. 3194
NOTICE OF SALE
MARCUS COX,
Plaintiff,

vs.

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,
Defendants.

Notice is hereby given that under and pursuant to the decree rendered by the Honorable Hubert M. Hall, Judge of the Circuit Court of Baldwin County, Alabama, in the above entitled cause, I will sell, to the highest bidder, for cash, at 12:00 noon, on November 22, 1954, in front of the court house of Baldwin County, Alabama, the following described property, viz:

PARCEL NUMBER ONE

All of fraction Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by a line between Sections Thirteen (13) and Twenty-four (24), and Fish

River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4, 1890, and recorded in Deed Book 2, N. S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama.

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-Four (24); thence West to the place of beginning; being the same property conveyed by Sarah A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, N. S., pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama.

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a Northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the Point of beginning hereof; thence West to the point of Beginning.
The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of

Fish River which was not covered by the description of Parcel Two, above.

ALICE J. DUCK
Commissioner
Vickers and Thornton
Solicitors for Plaintiff

COUNTY
Best Newspaper

ALABAMA

41-3tc

AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,
BALDWIN COUNTY.

E. R. Moussette, Jr., being duly sworn, deposes and says that he is the PUBLISHER of THE BALDWIN TIMES, a Weekly Newspaper published at Bay Minette, Baldwin County, Alabama; that the notice hereto attached of

Marcus Cox vs. A. Y. Lowry
Lawyer

COST STATEMENT

443 WORDS @ 5 cents — — — \$ 22.15
I hereby certify this is correct, due and unpaid (paid).

E. R. Moussette Jr.
Editor Publisher.

was published in said newspaper for 3 consecutive weeks in the following issues:

Date of 1st publication Oct 28, 1954 Vol. 65 No. 41

Date of 2nd publication Nov. 4, 1954 Vol. 65 No. 42

Date of 3rd publication Nov - 11, 1954 Vol. 65 No. 43

Date of 4th publication _____, 195___ Vol. _____ No. _____

Subscribed and sworn before the undersigned this 12 day of Nov, 1954

Dorothy Martin
Notary Public, Baldwin County.

E. R. Moussette Jr.
Editor Publisher.

FILED
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ALICE A. DUCK, Registrar

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THE BYRDWIN LIVES

VALLEY HILL OF BAYVIEW

ALABAMA

CLARK COUNTY

INVESTIGATION

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS, COX,)
)
Plaintiff,)
)
vs.) IN EQUITY NO. _____
)
A. Y. LOWRY, C. E. VACALIS,)
and CLAUDE M. WARREN, JR.,)
)
Defendants.)

TO THE HONORABLE HUBERT HALL, JUDGE OF THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

Comes now, MARCUS COX, plaintiff in the above
styled cause, and respectfully represents and shows unto the
Court and to Your Honor as follows:

ONE

That he is over the age of twenty-one (21) years
and is a resident of Mobile County, Alabama; that the defend-
ants, A. Y. LOWRY, C. E. VACALIS and CLAUDE M. WARREN, JR.,
are each over the age of twenty-one (21) years and are
each residents of Mobile County, Alabama.

TWO

That plaintiff, together with the defendants, own
as tenants in common, in fee simple, the following described
real estate, all of which is situated in Baldwin County,
Alabama, to-wit:

PARCEL NUMBER ONE

All of fractional Section Thirteen (13) lying South
of a stream known as Water Hole Branch, situated in
Township Seven (7) South, Range Two (2) East, in
Baldwin County, Alabama, said fractional section
containing Three Hundred (300) acres, more or less,
and said land in the district subject to entry at St.
Stephens, Alabama; said land is bounded on the South
by a line between Sections Thirteen (13) and Twenty-

BOOK 016 PAGE 210

four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4, 1890, and recorded in Deed Book 2, N. S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama.

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PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-four (24); thence West to the place of beginning; being the same property conveyed by Sarah A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, N. S., pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama.

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a Northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the point of beginning hereof; thence West to the point of Beginning.

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two, above.

THREE

That the above described property is owned by Plaintiff, MARCUS COX, and defendants, A. Y. LOWRY, C. E. VACALIS and CLAUDE M. WARREN, JR., as tenants in common, and each of the above named parties is seized and possessed of an undivided one-fourth (1/4) interest in the said property.

FOUR

That the above described property cannot be equita-

bly divided or partitioned among the said parties without a sale of all of the said property.

FIVE

That on the 19th day of April, 1952, Plaintiff, MARCUS COX, executed a note to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS; that the said note is secured by a mortgage on the undivided one-fourth (1/4) interest of Marcus Cox in the above described property, dated the same day as said note;

That on the 2nd day of May, 1952, A. Y. LOWRY, executed a note to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS; that the said note is secured by a mortgage on the undivided one-fourth (1/4) interest of A. Y. Lowry in the above described property, dated the same day as said note; and

That on the 12th day of May, 1952, C. E. VACALIS executed a note to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS; that the said note is secured by a mortgage on the undivided one-fourth (1/4) interest of C. E. Vacalis in the above described property, dated the same day as said note;

all of which said mortgages remain unsatisfied.

SIX

That plaintiff has employed the law firm of VICKERS AND THORNTON, a partnership composed of Marion R. Vickers and J. Edward Thornton, practicing attorneys in the City of Mobile, Alabama, to represent plaintiff in the filing of

this Bill of Complaint and in all matters appertaining to the sale or other disposition of the matters alleged herein.

PRAYER FOR PROCESS

Plaintiff prays that A. Y. LOWRY, C. E. VACALIS and CLAUDE M. WARREN, JR., be made parties defendant to this Bill of Complaint, and that the usual process of this Honorable Court be forthwith issued, commanding them, and each of them, to demur, plead to, or answer within the time required by law and by the rules of this Honorable Court.

PRAYER FOR RELIEF

Plaintiff respectfully prays of the Court the following relief:

1. That this Honorable Court will determine the rights and interests of each of the parties named herein in the above described property;

2. That this Honorable Court will enter a decree ordering the above described property sold for division;

3. That this Honorable Court will ascertain, determine and fix a reasonable attorney's fee to be paid to the firm of VICKERS AND THORNTON for services rendered by it with respect to the filing of this Bill of Complaint and in all matters appertaining to the sale or other disposition of the above described real property and that said fee be ordered paid by the parties hereto in proportion to their respective interests as determined by this Court, and that a lien be impressed upon the portion of each of the said parties for their proportionate share of said fee in order to secure the payment of the same; and

EX-107 MAR 21 1933

4. That this Honorable Court will grant the plaintiff such further, additional and different relief to which he may, in equity and good conscience, be entitled and plaintiff prays for general relief.

FILED

2-5-54

ALICE J. DUCK, Register

Vickers & Thornton
VICKERS AND THORNTON

By *Ernest K. S. J.*
ATTORNEYS FOR PLAINTIFF

RECORDED
016 MAR 21 1954

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IN EQUITY NO. 3194

ANSWER AND CROSS-BILL

Comes CLAUDE M. WARREN, JR., defendant in the above styled cause, and files this his answer and cross-bill to the bill of complaint heretofore filed herein and, for answer to said bill of complaint, and seperately and severally to each paragraph thereof, says as follows:

ONE

That he admits each and every allegation contained in the said bill of complaint.

TWO

That the property described in the said bill of complaint cannot be equitably divided or partitioned.

CROSS-BILL

A

That on, to-wit, the 2nd day of May, 1952, A. Y. LOWRY executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the

bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by A. Y. LOWRY and MARGUERITE M. LOWRY, his wife; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS, plus interest.

B

That on, to-wit, the 19th day of April, 1952, MARCUS COX executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by MARCUS COX and PAULINE L. COX, his wife; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS, plus interest.

C

That on, to-wit, the 12th day of May, 1952, C. E. VACALIS executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by C. E. VACALIS, unmarried; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of

SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS,
plus interest.

PRAYER FOR PROCESS

CLAUDE M. WARREN, JR., respectfully prays that
MARCUS COX, A. Y. LOWRY and C. E. VACALIS be made parties
defendant to this cross-bill and that the usual process of
this Honorable Court be forthwith issued commanding them
and each of them to demur, plead to or answer within the time
required by law and by the rules of this Honorable Court.

PRAYER FOR RELIEF

CLAUDE M. WARREN, JR., respectfully prays of this
Honorable Court the following relief:

1. That this Honorable Court will enter a decree
ordering the property described in the bill of complaint
sold for division;

2. That this Honorable Court will determine and
fix the balance remaining due under each of the notes secured
by the mortgages hereinabove referred to and that each of
the said notes be ordered paid from the proceeds of the
sale;

3. That this Honorable Court will order the re-
maining proceeds of said sale be divided and paid to the
parties hereto in proportion to their respective interests
as determined by this Court; and

4. That this Honorable Court will grant CLAUDE M.
WARREN, JR., such further, additional and different relief
to which he may be entitled in equity and good conscience,
and CLAUDE M. WARREN, JR., prays for general relief.


CLAUDE M. WARREN, JR.

I, OTTO SIMON, attorney of record for A. Y. LOWRY and C. E. VACALIS, hereby accept service of the foregoing ANSWER AND CROSS-BILL heretofore filed herein by CLAUDE M. WARREN, JR., and waive any further or additional notice of same.

Otto Simon

I, ERLING RIIS, JR., attorney of record for MARCUS COX, hereby accept service of the foregoing ANSWER AND CROSS-BILL heretofore filed herein by CLAUDE M. WARREN, JR., and waive any further or additional notice of same.

FILED

10-21-54

ALICE J. DUCK, Register

Erling Riis, Jr.

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IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,)	
)	
Plaintiff,)	
)	
vs.)	IN EQUITY NO. 3194
)	
A. Y. LOWRY, C. E. VACALIS)	
and CLAUDE M. WARREN, JR.)	
)	
Defendants.)	

DECREE

This cause, coming on for hearing on the pleading and proof as noted by the Register, and it appearing to the Court that the following described real property situate in Baldwin County, Alabama, viz:

PARCEL NUMBER ONE

All of fractional Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by a line between Sections Thirteen (13) and Twenty-four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4, 1890, and recorded in Deed Book 2, N. S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama;

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-four (24); thence West to the place of beginning; being the same property conveyed

by Sarah A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, N. S. pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama;

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the point of beginning hereof; thence West to the point of beginning;

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two above;

is held and owned by MARCUS COX, A. Y. LOWRY, C. E. VACALIS and CLAUDE M. WARREN, JR., as tenants in common, each being seized and possessed of an undivided one-fourth (1/4th) interest therein; and

It further appearing to the Court that on, to-wit the 2nd day of May, 1952, A. Y. LOWRY executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by A. Y. LOWRY and MARGUERITE M. LOWRY, his wife; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS, plus interest; and

It further appearing to the Court that on, to-wit, the 19th day of April, 1952, MARCUS COX executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE

THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by MARCUS COX and PAULINE L. COX, his wife; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS, plus interest; and

It further appearing to the Court that on, to-wit, the 12th day of May, 1952, C. E. VACALIS executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND AND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by C. E. VACALIS, unmarried; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS, plus interest; and

It further appearing to the Court that the said property cannot be equitably divided or partitioned among the parties and that a sale therefor is necessary for the purpose of making an equitable division and distribution:

It is therefore ORDERED, ADJUDGED and DECREED by the Court that said real property be sold for division and that, for the purpose of effecting such sale, Mrs
Alice J. Ducey be and she hereby is appointed Commissioner to make the sale, and he is hereby ordered to sell

the above described property at 12:00 Noon on the 22nd day of November, 1954, at public auction to the highest bidder for cash, after first having given notice of the place, day and terms of sale and a description of the property by publication for three successive weeks in a newspaper published in Baldwin County, Alabama, and that said Commissioner make report of said sale to this Court within thirty days after the same is made.

DONE this the 21 day of October, 1954.

Hubert M. Hall
Circuit Judge

MARCUS COX,

Plaintiff,

vs.

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

) IN THE CIRCUIT COURT FOR

) THE TWENTY-EIGHTH JUDICIAL

) CIRCUIT OF ALABAMA

) IN EQUITY NO. 3194

ORDER OVERRULING DEMURRER TO BILL OF COMPLAINT

This cause is submitted for decree upon the demurrer of the defendant, C. E. VACALIS, and upon the demurrer of the defendant, A. Y. LOWRY, to the bill of complaint, and, being duly considered by the Court, the Court is of the opinion that said demurrers should be overruled; it is, therefore, ORDERED, ADJUDGED and DECREED by the Court that said demurrers be, and are hereby, overruled.

7-20-54

Dated July 20, 1954.

7 Hubert M. Zee
Presiding Judge

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,
Plaintiff,
vs.
A. Y. LOWRY, C. E. VACALIS,
and CLAUDE M. WARREN, JR.,
Defendants.

IN EQUITY NO. 3194

TO THE HONORABLE HUBERT HALL, JUDGE OF THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

REPORT OF COMMISSIONER

Comes now MRS. ALICE J. DUCK, the commissioner appointed by this Honorable Court in the above styled cause by its decree dated the 21st day of October, 1954, ordering the sale of the hereinafter described property for division and, in compliance with said decree, does hereby report as follows:

That acting pursuant to the said decree she, as commissioner, did set said sale for 12:00 noon, on the 22nd day of November, 1954, and did give notice of the place, day and terms of sale and a description of the property by publication for three (3) successive weeks in the Baldwin Times, a newspaper of general circulation published in Baldwin County, Alabama, said property being located in the County of Baldwin, State of Alabama, and being described as follows, to-wit:

PARCEL NUMBER ONE

All of fractional Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by

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a line between Sections Thirteen (13) and Twenty-four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4, 1890, and recorded in Deed Book 2, N. S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama;

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-four (24); thence West to the place of beginning; being the same property conveyed by Sarah A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, N. S. pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama;

PARCEL NUMBER THREE

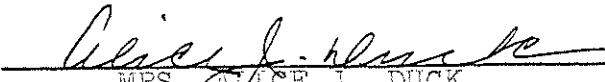
Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the point of beginning hereof; thence West to the point of beginning;

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two above;

That at the time and place set out in said notice, she offered said property for sale, at public auction to the highest and best bidder, for cash, pursuant to said decree

of this court, first offering each individual parcel as described above, and second, all of the hereinabove described parcels as one unit; that the highest and best bid for the said property at the said sale was the sum of Twenty Thousand, Five Hundred (\$20,500) Dollars cash, which said bid was made by A. Y. Lowry and C. E. Vacalis; that she has no personal, pecuniary interest in said sale and that she was not directly or indirectly a purchaser at said sale.

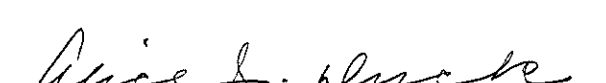
WHEREFORE, the premises considered, your commissioner prays that this court will accept this as her report of said sale and enter an order confirming said sale, and instruct your commissioner in the premises.


MRS. ALICE J. DUCK
As Commissioner

STATE OF ALABAMA,
COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for said County in said State, Mrs. Alice J. Duck, who, being by me first duly sworn, deposes and says:

That she is the commissioner duly appointed in the foregoing cause, and that she has personal knowledge of the recitals of fact made in the foregoing report, and that the same are true and correct.


Mrs. Alice J. Duck

Sworn to and subscribed before me
this the 24th day of November, 1954.


Notary Public, Baldwin County, Alabama

A copy of the foregoing was mailed to Dr. Claude M. Warren, Jr., and Otto Simon, Esq., attorney for A. Y. Lowry and C. E. Vacalis, on this the _____ day of November, 1954.

Commissioner

Filed on this the 24
day of November, 1954.

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS,
and CLAUDE M. WARREN, JR.,

Defendants.

REPORT OF COMMISSIONER

TO THE HONORABLE HUBERT HALL, JUDGE OF THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

Comes now MRS. ALICE J. DUCK, the commissioner appointed by this Honorable Court in the above styled cause by its decree dated the 21st day of October, 1954, and shows unto the Court that heretofore, on the 24th day of November, 1954, she did make her report to this Court that pursuant to said decree, she did offer the property involved in this suit for sale and that at said sale the highest and best bid for said property was the sum of Twenty-Thousand, Five Hundred And No/100 (\$20,500.00) Dollars made by A. Y. LOWRY and C. E. VACALIS, a copy of which report was furnished the parties hereto. Said report has now been on file for more than ten (10) days and no exceptions have been filed thereto.

WHEREFORE, PREMISES CONSIDERED, your commissioner prays that this Court will enter an order confirming said sale and instruct your commissioner as to the execution of any deeds and the distribution of the funds in her hands including the fixing of the amount of the commissions, attorneys' fees and costs and instruct your commissioner as to the distribution of the balance in her hands.

Alice J. Duck

MRS. ALICE J. DUCK
As Commissioner

STATE OF ALABAMA,
COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for said County in said State, Mrs. Alice J. Duck, who, being by me first duly sworn, deposes and says:

That she is the commissioner duly appointed in the foregoing cause, and that she has personal knowledge of the recitals of fact made in the foregoing report, and that the same are true and correct.

MRS. ALICE J. DUCK

Subscribed and sworn to before me
this the _____ day of December, 1954.

Notary Public, Baldwin County, Alabama

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

ORDER ON REPORT OF COMMISSIONER

This cause coming on for further hearing upon the reports filed by Mrs. Alice J. Duck, the commissioner duly appointed in this cause setting forth, among other things, that pursuant to the decree of this Court dated the 21st day of October, 1954, she, as commissioner, did sell on the 22nd day of November, 1954 the property described in the pleadings and reports at public auction, to the highest and best bidder, for cash, the highest and best bid at said sale being the sum of Twenty Thousand, Five Hundred (\$20,500) Dollars made by A. Y. LOWRY and C. E. VACALIS and that said report of said sale was filed in this proceeding on the 24th day of November, 1954, and that no exceptions or objections have been made to the sale, the amount of the bid or the report thereof and that said commissioner seeks further instructions from this Court as to the execution of a deed, the fixing of commissions, attorneys' fees and costs;

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that said report be accepted and that the matter of the confirmation of said sale and the fixing of the commission, attorneys' fees and costs be set down for hearing on the 20 day of Dec., 1954. *9 am*

DONE this the 8 day of December, 1954.

Hubert M. Hall
CIRCUIT JUDGE

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

BOOK 016 PAGE 229

MARCUS COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

ANSWER

Come A. Y. LOWRY and C. E. VACALIS, defendants in
the above styled cause, jointly and severally, and for
answer to the bill of complaint heretofore filed herein,
and seperately and severally to each paragraph thereof, say
as follows:

ONE

~~That they admit each and every allegation of said~~
bill of complaint.

TWO

That the property described in the bill of com-
plaint cannot be equitably divided or partitioned.

A. Y. Lowry
A. Y. LOWRY

C. E. Vacalis
C. E. VACALIS

Attorney for A. Y. Lowry and C. E. Vacalis

FILED

10-21-54

WIDE A. COCK, Register

IN THE CIRCUIT COURT FOR TWENTY-EIGHTE JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,)	
)	
Plaintiff,)	
)	
vs.)	IN EQUITY NO. 3194
)	
A. Y. LOWRY, C. E. VACALIS)	
and CLAUDE M. WARREN, JR.,)	
)	
Defendants.)	

ANSWER TO CROSS-BILL

Comes now MARCUS COX and, for answer to the cross-bill heretofore filed herein, and seperately and severally to each paragraph thereof, says as follows:

ONE

That he admits each and every allegation contained in the said cross-bill.

TWO

That each and every allegation contained in the said cross-bill is true.

VICKERS AND THORNTON, as
Attorneys for Marcus Cox

By Erling R. Vickers

I, CLAUDE M. WARREN, JR., hereby accept service of the foregoing ANSWER TO CROSS-BILL heretofore filed herein by MARCUS COX, and waive any further or additional notice of same.

Claude M. Warren Jr.

BOOK 016 PAGE 226

I, OTTO SIMON, attorney of record for A. Y. LOWRY and C. E. VACALIS, hereby accept service of the foregoing ANSWER TO CROSS-BILL heretofore filed herein by MARCUS COX, and waive any further or additional notice of same.

FILED

10-21-54

ELICE J. DUCK, Register

Otto Simon

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

ANSWER TO CROSS-BILL

Come now C. E. VACALIS and A. Y. LOWRY, seperately
and severally, and, for answer to the cross-bill heretofore
filed herein, and seperately and severally to each paragraph
thereof, say as follows:

ONE

They admit each and every allegation contained in
the said cross-bill.

TWO

That each and every allegation contained in said
cross-bill is true .

C. E. Vacalis
C. E. VACALIS

A. Y. Lowry
A. Y. LOWRY

Ed E. Simon
Attorney for C. E. Vacalis and A. Y. Lowry

I, CLAUDE M. WARREN, JR., hereby accept service of the foregoing ANSWER TO CROSS-BILL heretofore filed herein by C.E. VACALIS and A. Y. LOWRY, and waive any further or additional notice of same.

Claude M. Warren

RECORDED
016
FEB 22 1955

I, ERLING RIIS, JR., attorney of record for MARCUS COX, hereby accept service of the foregoing ANSWER TO CROSS-BILL heretofore filed herein by C. E. VACALIS and A. Y. LOWRY, and waive any further or additional notice of same.

Erling Riis, Jr.

FILED

10-21-54

ALICE J. DUCK, Register

MARCUS COX,)	IN THE CIRCUIT COURT FOR
Plaintiff,)	
No. 3194)	THE TWENTY-EIGHTH JUDICIAL
vs.)	
A. Y. LOWRY, C. E. VACALIS)	CIRCUIT OF ALABAMA.
and CLAUDE M. WARREN, JR.,)	
Defendants.)	

ORDER OF SUBMISSION

This cause coming on to be heard, is submitted
for decree on the pleadings and on the proof as noted.

Dated, October 21, 1954.

NOTE OF EVIDENCE

At the hearing of this cause the following note of
evidence was taken, to-wit:

FOR PLAINTIFF

His original bill of complaint, his answer to the
cross-bill of Claude M. Warren, Jr., and the acceptance of
service of the following:

(a) Answer and cross-bill filed by Claude M. Warren,
Jr.

(b) Answer to said cross-bill filed by C. E. Vacalis
and A. Y. Lowry.

FILED, October 21, 1954

Aerie L. H. H. H.
Register

Ernest R. H. H.
Solicitors for Plaintiff

FOR DEFENDANTS, A. Y. LOWRY and C. E. VACALIS

Their answer to the original bill of complaint, their
answer to the cross-bill of Claude M. Warren, Jr., and acceptance
of the following:

(a) Answer and cross-bill filed by Claude M. Warren,
Jr.

(b) Answer to said cross-bill filed by Marcus Cox.


Ernest R. H. H.
Solicitor for defendants, A.Y. Lowry
and C. E. Vacalis

FOR DEFENDANT, CLAUDE M. WARREN, JR.

His Answer and cross-bill to the original bill of complaint,
acceptance of service of the following:

(a) Answer to said cross-bill filed by A. Y. Lowry
and C. E. Vacalis.

(b) Answer to said cross-bill filed by Marcus Cox.


Claude M. Warren, Jr.

FILED

10-21-54

ALICE J. BUCK, Register

MARCUS COX,)	IN THE CIRCUIT COURT FOR
Plaintiff,)	
vs.)	THE TWENTY-EIGHTH JUDICIAL
A. Y. LOWRY, C. E. VACALIS)	
and CLAUDE M. WARREN, JR.,)	CIRCUIT OF ALABAMA.
Defendants.)	IN EQUITY NO. 3194

NOTICE OF SALE

Notice is hereby given that under and pursuant to the decree rendered by the Honorable Hubert M. Hall, Judge of the Circuit Court of Baldwin County, Alabama, in the above entitled cause, I will sell, to the highest bidder, for cash, at 12:00 noon, on November 22, 1954, in front of the court house of Baldwin County, Alabama, the following described property, viz:

PARCEL NUMBER ONE

All of fractional Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by a line between Sections Thirteen (13) and Twenty-four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4, 1890, and recorded in Deed Book 2, N. S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama.

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-Four (24); thence West to the place of beginning; being the same property conveyed by Sarah A. Forbes to Frank L. Allen by deed dated

August 2, 1897, and recorded in Deed Book 3, N. S., pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama.

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a Northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the Point of beginning hereof; thence West to the point of Beginning.

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two, above.


Alice J. Duck, Commissioner

Vickers and Thornton
Solicitors for Plaintiff

*Copy given
Baldwin Times
10-27-54*

6) From aught that appears from the Bill of Complaint,
any one of the several separate parcels of land described in
~~the complaint could be equitably partitioned between the~~
parties to this cause.

FILED

5-14-54

WILLIAM A. DICK, Register

Otto E. Simon

Otto E. Simon, Attorney for the Respondent,
A.Y. Lowry

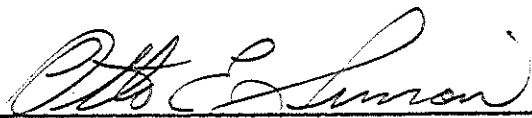
MARCUS COX,	Ø	
Complainant	Ø	IN THE CIRCUIT COURT FOR THE
vs.	Ø	TWENTY-EIGHTH JUDICIAL CIRCUIT
A.Y. LOWRY, C. E. VACALIS,	Ø	OF ALABAMA
and CLAUDE M. WARREN, JR.,	Ø	IN EQUITY NO. _____
Respondents	Ø	

DEMURRER

TO THE HONORABLE HUBERT HALL, JUDGE OF THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Comes the Respondent, C.E. Vacalis, individually and separately and demurs to the bill of complaint filed in this cause and to each and every aspect thereof, and assigns the following separate and several grounds:

1. There is no equity in the bill.
2. From aught that appears in the complaint, the land can be physically partitioned equitably between the parties.
3. The allegations contained in paragraph four (4) of the complaint that the property "cannot be equitably divided or partitioned among the said parties without a sale of all of the said property" is naught but a conclusinn of the pleader.
4. The bill fails to allege any facts showing that a physical partition of the property cannot be made equitably between the parties.
5. The complaint shows on its face that there are several separate parcels of land involved, but fails to allege that any of said separate parcels cannot be equitably partitioned without a sale thereof.
6. From aught that appears from the bill of complaint, any one of the several separate parcels of land described in the complaint could be equitably partitioned between the parties to this cause.



Otto E. Simon, Attorney for the Respondent, C. E. Vacalis.

FILED
MAY 4 1954
ALICE J. DICK, Clerk

[Handwritten signature]

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IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

IN EQUITY No. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

ORDER ON REPORT OF COMMISSIONER

This cause coming on for further hearing upon the reports filed by Mrs. Alice J. Buck, the commissioner duly appointed in this cause setting forth, among other things, that pursuant to the decree of this Court dated the 21st day of October, 1954, she, as commissioner, did sell on the 22nd day of November, 1954, the property described in the pleadings and reports at public auction, to the highest and best bidder, for cash, the highest and best bid at said sale being the sum of Twenty Thousand, Five Hundred (\$20,500) Dollars made by A. Y. LOWRY and C. E. VACALIS and that said report of said sale was filed in this proceeding on the 24th day of November, 1954, and that no exceptions or objections have been made to the sale, the amount of the bid or the report thereof and that said commissioner seeks further instructions from this Court as to the execution of a deed, the fixing of commissions, attorneys' fees and costs;

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that said report be accepted and that the matter of the confirmation of said sale and the fixing of the commission, attorneys' fees and costs be set down for hearing on the _____ day of _____, 195_____.

DOKE this the _____ day of December, 1954.

CIRCUIT JUDGE

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCOB COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAYTON M. WARREN, JR.,

Defendants.

ORDER ON REPORT OF COMMISSIONER

This cause coming on for further hearing upon the reports filed by Mrs. Alice J. Duck, the commissioner duly appointed in this cause setting forth, among other things, that pursuant to the decree of this Court dated the 31st day of October, 1954, she, as commissioner, did sell on the 22nd day of November, 1954, the property described in the pleadings and reports at public auction, to the highest and best bidder, for cash, the highest and best bid at said sale being the sum of Twenty Thousand, Five Hundred (\$20,500) Dollars made by A. Y. LOWRY and C. E. VACALIS and that said report of said sale was filed in this proceeding on the 24th day of November, 1954, and that no exceptions or objections have been made to the sale, the amount of the bid or the report thereof and that said commissioner seeks further instructions from this Court as to the execution of a deed, the fixing of commissions, attorneys' fees and costs;

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that said report be accepted and that the matter of the confirmation of said sale and the fixing of the commission, attorneys' fees and costs be set down for hearing on the _____ day of _____, 195____.

DONE this the _____ day of December, 1954.

CIRCUIT JUDGE

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARION SWA,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

ORDER ON REPORT OF COMMISSIONER

This cause coming on for further hearing upon the reports filed by Mrs. Alice J. Duck, the commissioner duly appointed in this cause setting forth, among other things, that pursuant to the decree of this Court dated the 21st day of October, 1954, she, as commissioner, did sell on the 22nd day of November, 1954 the property described in the pleadings and reports at public auction, to the highest and best bidder, for cash, the highest and best bid at said sale being the sum of Twenty Thousand, Five Hundred (\$20,500) Dollars made by A. Y. LOWRY and C. E. VACALIS and that said report of said sale was filed in this proceeding on the 24th day of November, 1954, and that no exceptions or objections have been made to the sale, the amount of the bid or the report thereof and that said commissioner seeks further instructions from this Court as to the execution of a deed, the fixing of commissions, attorneys' fees and costs;

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that said report be accepted and that the matter of the confirmation of said sale and the fixing of the commission, attorneys' fees and costs be set down for hearing on the _____ day of _____, 195__.

DONE this the _____ day of December, 1954.

CIRCUIT JUDGE

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARGUS ONI,

Plaintiff,

vs.

IN EQUITY No. 3194

A. Y. LOWMY, C. E. VACALIS
and CLAUDE W. WARREN, JR.,

Defendants.

ORDER ON REPORT OF COMMISSIONER

This cause coming on for further hearing upon the reports filed by Mrs. Alice J. Duck, the commissioner duly appointed in this cause setting forth, among other things, that pursuant to the decree of this Court dated the 21st day of October, 1954, she, as commissioner, did sell on the 22nd day of November, 1954, the property described in the pleadings and reports at public auction, to the highest and best bidder, for cash, the highest and best bid at said sale being the sum of Twenty Thousand, Five Hundred (\$20,500) Dollars made by A. Y. LOWMY and C. E. VACALIS and that said report of said sale was filed in this proceeding on the 24th day of November, 1954, and that no exceptions or objections have been made to the sale, the amount of the bid or the report thereof and that said commissioner seeks further instructions from this Court as to the execution of a deed, the fixing of commissions, attorneys' fees and costs;

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that said report be accepted and that the matter of the confirmation of said sale and the fixing of the commission, attorneys' fees and costs be set down for hearing on the _____ day of _____, 195____.

DOONE this the _____ day of December, 1954.

CIRCUIT JUDGE

MARCUS COX,

Complainant,

VS.

A. J. LOWREY, ET AL.,

RESPONDENTS.

IN THE

CIRCUIT COURT OF BALDWIN COUNTY,

ALABAMA. IN EQUITY.

TESTIMONY TAKEN IN OPEN COURT, ON DECEMBER 20, 1954.

DOCTOR WARREN, BEING FIRST DULY SWORN, TESTIFIED:

Direct examination by Mr. Thornton.

Q. Doctor Warren, what is the amount of the two notes
which you hold?

A. \$528.80, plus \$2.64 interest.

Q. That is the interest figured up to today?

A. Up to yesterday - Yes, sir, up to today.

Q. \$528.80, plus \$2.64 interest?

A. Yes, sir.

THE COURT: Let the record show that that is correct.

Q. The two notes - one of those is from Lowrey and one from
Vacalis?

A. Yes, sir.

Q. What is the status of the Cox note?

A. Cox has paid his note in full.

Q. Was it for the same amount as the other two notes?

A. No, he paid his note off some three months ago.

THE COURT: The principal amount was for the same?

A. Yes, sir.

(page 1)

ON THE ISSUE OF ATTORNEYS' FEES.

MR. ERLING RIIS, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

Examination by Mr. Thornton?

Q. Is this Erling Riis?

A. Yes, sir.

Q. You are an Attorney?

A. Yes, sir.

Q. Associated with the firm of Vickers & Thornton?

A. Yes, sir.

Q. You are familiar with the case of Lowrey, Vacalis and Warren?

A. Yes, sir.

Q. Cox vs. Lowrey, Vacalis and Warren?

A. Yes, sir.

Q. When did you first become acquainted with it?

A. The latter part of January of this year -- I would say about January 30, 1954.

Q. Have - After you became familiar with it, did you handle the matter?

A. Yes, sir.

Q. Will you tell us what you did with reference to this case?

A. Well when Mr. Vickers turned this matter over to me I first had to get into the research and then I drafted the bill of complaint, which I filed on February 5th and in filing it I made a trip to Bay Minette, and then right after that I

went to Mr. Simon's office and Mr. Simon and I had a talk, and then a demurrer was filed by Vacalis and one by Lowrey and I did a little research on that.

Q. When was that?

A. I don't have my notes on that.

Q. Was it in May of 1954?

A. Yes, sir.

Q. Demurrers were filed?

A. Yes, sir.

Q. And research was made?

A. Yes, sir.

Q. What next?

A. Mr. Simon and I came to Baldwin County on July 20th, I think it was, and we submitted the demurrer to the Judge without argument and the demurrers were over-ruled. I then drafted the order over-ruling the demurrers and then Mr. Simon and I discussed the matter and agreed on an answer that the lands could not be equitably divided; that was the issue raised by the demurrer and then pleadings were filed stating that the lands could not be equitably divided. I drafted the answer and cross bill for Doctor Warren - the cross bill set out his original mortgage on the property, then the answer to the cross bill - I was doing that for Mr. Simon; we agreed on that and I went ahead and wrote all of these pleadings, and then of course I wrote the

- the pleading for Mr. Cox and also the answer to the bill of complaint and cross bill for Lowrey and Vacalis.
- Q. You prepared the answer and cross bill for Doctor Warren?
- A. Yes, sir.
- Q. It was signed by him and filed?
- A. Yes, sir.
- Q. And then you prepared an answer to the bill of complaint and an answer to the cross bill for Mr. Vacalis and the same thing for Mr. Lowrey?
- A. Yes, sir.
- Q. And then you prepared an answer by Mr. Cox to the cross bill of Doctor Warren?
- A. Yes, sir.
- Q. All right, when were those papers filed?
- A. I didn't make a note of that. If you will give me the file I can tell you.
- Q. Were they filed on October 20, 1954?
- A. Yes, sir.
- Q. Then what happened?
- A. We delivered the pleading into Court and had a conference in Judge Hall's office and at the same time I drafted the pleading, I drafted a decree ordering the sale of the property and in that order appointed a Commissioner; the Court appointed Mrs. Duck as Commissioner to sell the lands, and the Judge signed the order.

Q. You had a submission on that?

A. Yes, sir and I wrote an order.

Q. Was any notice of sale drafted?

A. Oh yes.

Q. Who did that?

A. I drafted that myself and mailed it to Mrs. Duck.

Q. What was done next?

A. Then we came to Bay Minette on the date of the sale.

Q. The date that the sale was conducted?

A. Yes, sir; that was November 22, 1954, and then I wrote the Commissioner's report and on November 24th I brought that report over here to Mrs. Duck.

Q. And that was filed?

A. Yes, sir.

Q. Did you write any more reports?

A. On December 8th we filed the second report confirming the sale--

Q. Reciting that more than 10 days had elapsed since the filing of the report and that no objections had been filed to the sale and asking for further instructions from the Court?

A. Yes, sir.

Q. Then did the Judge set that down for hearing?

A. Yes, sir.

Q. That order was prepared by you?

A. Yes, sir, for our firm.

Q. How much was the property sold for at the sale?

A. \$20,500.

Q. Now have you kept, or has a record been kept of the time consumed in the handling of this matter?

A. Yes, sir.

Q. Will you give us the time consumed?

A. Approximately 60 hours.

Q. Approximately 60 hours?

A. Yes, sir.

Q. Do you know how many trips were made to Bay Minette in connection with this matter?

A. Nine.

Q. By you and three by me?

A. Yes, sir.

ON CROSS EXAMINATION OF THIS WITNESS BY MR. SIMON, HE TESTIFIED:

MR. Simon.

Q. Mr. Riis, through all of these negotiations were you not advised by Mr. Vacalis and Mr. Lowrey that they would buy out the interest of Mr. Cox--

MR. THORNTON: (Interrupting) I'm not sure that an offer of compromise would be competent.

MR. SIMON: We wanted to buy Mr. Cox's interest in the property from the very beginning.

THE COURT: Even at that, there was a sale - You can go ahead

- Q. From the very beginning we offered Mr. Cox more for his one-fourth interest in the property that he could get at a sale and we couldn't get any cooperation.
- Mr. Riis, were you made an offer by Mr. Lowrey and Mr. Vacalis to buy out the interest of Mr. Cox?
- A. Yes, sir.
- Q. How much was that offer?
- A. \$6,000.00 was his highest offer.
- YQ. In preparing these pleadings, say for Mr. Lowrey and Mr. Vacalis, was that not done in agreement between you and I?
- A. Yes, sir.
- Q. Not as any particular service to Mr. Vacalis and Mr. Lowrey?
- A. No, sir.
- Q. This case was not a contested action between you and myself?
- A. I will qualify that by saying after the demurrers were overruled, we quit having any contest.
- Q. Isn't it true that we offered to buy out Mr. Cox's interest before the demurrers were filed?
- A. Yes, you had offered to buy it out, but you had not come out with your firm offer until after the demurrers were overruled; it is my recollection that after the demurrers were overruled we really got down to brass tax trying to settle it.

Q. Through this whole procedure, Mr. Riis, did not Mr. Lowrey and Mr. Vacalis, through me, ask you to find out what Mr. Cox wanted for his interest in this property and to let us know?

A. Yes, sir.

Q. From the very beginning?

A. Yes, sir.

Q. He refused to discuss it with us?

A. Yes, sir.

ON RE-DIRECT EXAMINATION OF THIS WITNESS HE TESTIFIED:

Examination by Mr. Thornton.

Q. This offer of compromise was made in August?

YA. Yes, sir.

Q. The demurrers were overruled in July?

A. Yes, sir.

Q. With reference to preparing the documents, that consumed "Lawyer time" didn't not?

A. Yes, sir.

ON RE-CROSS EXAMINATION OF THIS WITNESS BY MR. SIMON, HE TESTIFIED:

Q. I would like to show you this letter, Mr. Riis, did you not receive that letter in June before the demurrers were ruled on?

A. Yes, sir, I think we did.

Q. Would you mind stating / what that letters says?

A. It is addressed to me and is signed by Mr. Simon, and it says:

"I am enclosing a letter from C. E. Vacalis advising that he has a buyer for Marcus Cox's interest in the Sherwood Forest. I would appreciate your advising what Mr. Cox wants for his one-fourth interest and I will forthwith advise Mr. Vacalis "

Q. Did you ever answer this letter, Mr. Riis?

A. I think we discussed it by telephone, Mr. Simon.

Q. Did Mr. Eox ever tell you what he would sell for?

A. No he did not.

MR. JOHN CHASON, A WITNESS FOR THE COMPLAINANT, BEING FIRST
DULY SWORN, TESTIFIED:

Direct examination by Mr. Thornton.

Q. Is this Mr. John Chason?

A. Yes, sir.

Q. You are a practicing Attorney?

A. Yes, sir.

Q. Over 21 years of age?

A. Yes, sir.

Q. Been practicing law how long?

A. About 26 years.

Q. Mr. Chason, you are familing with handling cases involving sales of real estate for division in Baldwin County?

A. Yes, sir.

Q. And have been for several years?

A. Yes, sir.

Q. Have you represented plaintiffs on various occasions?

A. Yes, sir.

Q. And you have also represented the defendant on other occasions?

A. Yes, sir.

Q. You are familiar with fees allowed in Baldwin County?

A. Yes, sir.

Q. Rather than carrying you over the testimony - you have heard the testimony of Mr. Riis, will you tell us what, in your judgment, would be a fair attorney's fee for the Plaintiff's Attorneys for handling such case as you have heard the testimony about?

A. You spoke of the cases that we have had - I think are fixed by the Bar schedule of fees and by the work involved; we had one sale where the lands sold for \$11,000 and I was allowed 10% on the \$11,000 as my fee, or \$1100.00; this sale was six or eight years ago. Generally speaking, I don't think our Bar schedule provides a minimum; it says the amount fixed by court. I would say, based upon what you brought out here by Mr. Riis as to the work that had been done that from \$1,000 to \$1200 would be a reasonable fee.

NO CROSS EXAMINATION:

MR. J. B. BLACKBURN, BEING FIRST DULY SWORN, TESTIFIED:

Direct examination by Mr. Thornton.

Q. This is Mr. J. B. Blackburn?

A. Yes, sir.

Q. You are a practicing Attorney at Bay Minette?

A. Yes, sir.

Q. And have been for several years?

YA. Yes, sir.

Q. Mr. Blackburn, you have heard the testimony of Mr.

Riis concerning the services rendered in this case and the amount involved in the sale. Based upon your experience, as a practicing Attorney at this Bar, will you tell us what, in your opinion would be a fair Attorney's fee in such cases?

A. I understand from him that he has devoted 60 hours and made nine trips to Bay Minette. If he kept a chart on it, in view of the fact that a good part of the time was spent outside of his office, I think \$20.00 an hour would be reasonable, which would amount to \$1200.00.

Q. In your judgment, \$1200.00 would be a fair fee?

A. Yes, sir.

NO CROSS EXAMINATION:

THE COMPLAINANT REST:

MR. GARET VAN ANTWERP, A WITNESS FOR THE RESPONDENTS, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

Direct examination by Mr. Simon.

Q. You are Garett Van Antwerp?

A. Yes, sir.

Q. You are a practicing Lawyer are you not?

A. That is correct.

Q. How long have you been practicing?

A. 15 years.

Q. You are a member of the Mobile Bar?

A. Yes, sir.

Q. Have you practiced in Baldwin County?

A. Some in Baldwin County but mostly in Mobile and about one fourth of my time in Washington County.

Q. Have you handled suits for division?

A. Yes, sir, on both sides.

Q. You heard the testimony of Mr. Riis?

YA. Yes, sir.

Q. Based on that testimony, and based on your experience, what would you consider a reasonable fee for the Attorneys for the Complainant?

A. I think a reasonable fee would be from \$500.00 to \$700.00.

NO CROSS EXAMINATION.

I hereby certify that the foregoing, consisting of pages 1 to 12, both inclusive, correctly sets forth a true and correct transcript of the testimony in the above styled cause, as taken by me in open court on this day.

This 20th day of December, 1954.

Louise Dusenbury
Court Reporter

FILED

12-20-54

ALICE A. BUCK, Register

VICKERS AND THORNTON

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
J. EDWARD THORNTON
ERLING RIIS, JR.

December 15, 1954

Mrs. Alice J. Duck
Clerk
Court House
Bay Minette, Alabama

Dear Mrs. Duck:

Marcus Cox v. A. Y. Lowry, et al No. 3194

We are herewith enclosing copies of proposed decrees, report and deed to be used in the above noted case. We anticipate that you will testify as to the sale, the bidding (including the fact that there was an outside bid) and the amount of the court costs. I assume you will have computed the court costs prior to the hearing on Monday so that this figure can be filled in on Monday.

It will be necessary for you to attach revenue stamps to this deed. I failed to set this out separately in the decree and report. It is my opinion, however, that the amount for the revenue stamps can be added to the amount of court costs. Will you, therefore, add to the court costs the sum of \$22.55 representing the revenue stamps to be placed on the deed. We will bring over the revenue stamps in this amount for which you can repay us.

If there are any questions, please call us. With kind personal regards, I am

Yours very truly,


J. Edward Thornton

JET:mb

Encls.

VICKERS AND THORNTON

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
J. EDWARD THORNTON
ERLING RIIS, JR.

October 27, 1954

Mrs. Alice J. Duck
Register in Equity
Court House
Bay Minette, Alabama

In re: Marcus Cox v. A.Y. Lowry, et al

Dear Mrs. Duck:

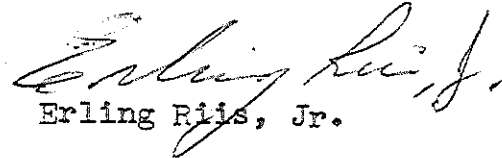
Last week Judge Hall requested us to write the order overruling the demurrers to the complaint in the above styled cause and we are enclosing said order.

Will you please check the Court file and find what date this order should be dated and insert it on the order for us and then have Judge Hall sign it.

Thanking you for your assistance, we are

Yours very truly,

VICKERS AND THORNTON


Erling Riis, Jr.

er/msa
encl.

OTTO E. SIMON
ATTORNEY AT LAW
608-609 VAN ANTWERP BUILDING
MOBILE 12, ALABAMA
TELEPHONE 3-9526

November 26, 1954

Mrs. Alice J. Duck, Clerk
Circuit Court, Baldwin County
Bay Minette, Alabama

Re: Marcus Cox v. A.Y. Lowry, et al

Dear Mrs. Duck:

I am enclosing two checks, one for \$10,250.00, which is one-half of the \$20,500.00 bid on the property involved in the above styled case; and the other for the sum of \$1500.00 for Mr. A.Y. Lowry and Mr. C.E. Vacalis to bear their proportionate share of the expenses of this sale. I feel that this \$1500.00 check should be divided approximately in the following manner:

Court Costs and Commissioner's Fees amount to \$277.15, one-half of which will be borne by Messrs. Lowry and Vacalis or \$138.57.

Messrs. Lowry and Vacalis also owe \$531.00 each on a mortgage of this property to Dr. Calude Warren.

Under the Fee Bill of Mobile County the minimum fee for a sale of this type which is uncontested, as this was, is 5% up to \$5,000.00; 2½% on the next \$5,000.00 and 1% of the excess above this; on this basis, it would be my contention that the fee should not exceed \$470.00. I also personally doubt that the fee should be this large since from the beginning of this suit Messrs. Lowry and Vacalis repeatedly made efforts to buy out Mr. Cox's interest at \$6,000.00 which was in excess of the amount which he will receive under the sale. These offers were made in writing to the attorneys for Mr. Cox.

Based on the above conditions, the \$1500.00 check in my opinion would cover, as stated, half the court costs, half the lawyers' fees and also completely pay off Dr. Warren's \$1,061.00 mortgage that he holds for Mr. Lowry and Mr. Vacalis' half interest.

Mrs. Alice J. Duck

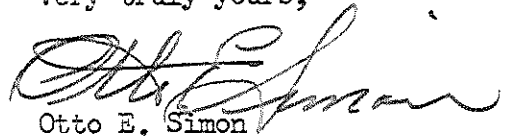
- 2 -

November 26, 1954

I hope to be in Baldwin County next Tuesday or
Wednesday so that I may discuss this matter with you.

Thanking you for your kind consideration, I remain

Very truly yours,

A handwritten signature in dark ink, appearing to read "Otto E. Simon". The signature is fluid and cursive, with the first name "Otto" being more prominent and stylized than the last name "Simon".

Otto E. Simon

OES/eg
encl.

VICKERS AND THORNTON

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
J. EDWARD THORNTON
ERLING RIIS, JR.

January 24, 1955

Mrs. Alice J. Duck
Circuit Clerk
Court House
Bay Minette, Alabama

Dear Mrs. Duck:

Cox v. Lowry, et al No. 3194

We are herewith enclosing receipts from Marcus Cox and from us. We have previously sent you the receipts from Dr. Warren. If you will add these to the other receipts this case should now be ready to close and you should be discharged as commissioner.

With kind personal regards, I am

Yours very truly,


J. Edward Thornton

JET:mb

Encls.

CC: Otto Simon, Esq.

VICKERS AND THORNTON

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
J. EDWARD THORNTON
ERLING RIIS, JR.

January 4, 1955

Mrs. Alice J. Duck
Court House
Bay Minette, Alabama

In re: Cox vs. Lowry, et al, No. 3194.

Dear Mrs. Duck:

We are herewith enclosing receipts signed by Dr. Warren to be attached to your final report when it is complete. You will want to get similar receipts from Messrs. Lowry and Vacalis with the balance due by them before you execute the deed and deliver it to them. As soon as that occurs, we assume you will forward to us our checks and we will return our receipts immediately so that this matter can be closed.

With kind personal regards, I am

Yours very truly,

VICKERS AND THORNTON


J. Edward Thornton

jet/msa
encl.

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

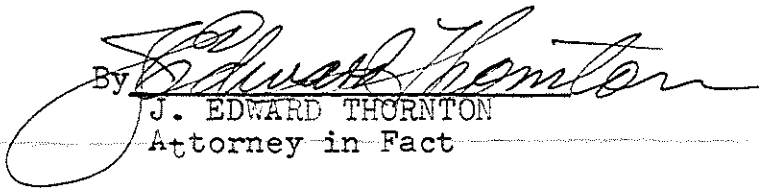
MARCUS COX,	I	
Plaintiff,	I	
vs.	I	IN EQUITY NO. 3194
A. Y. LOWRY, ET AL,	I	
Defendants.	I	

RECEIPT

Received of ALICE J. DUCK, Commissioner, the sum of
Four Thousand, Seven Hundred Ninety-Four And 40/100(\$4,794.40)
Dollars, being the distributive share due me in the above noted
case.

MARCUS COX

By


J. EDWARD THORNTON
Attorney in Fact

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,	I	
Plaintiff,	I	
vs.	I	IN EQUITY NO. 3194
A. Y. LOWRY, ET AL,	I	
Defendants.	I	

RECEIPT

Received of ALICE J. DUCK, Commissioner, the sum
of One Thousand And No/100 (\$1,000.00) Dollars, being the
attorneys' fee in the above noted case.

VICKERS AND THORNTON

By


Partner

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

A. Y. LOWRY, ET AL,

Defendants.

I

I

I

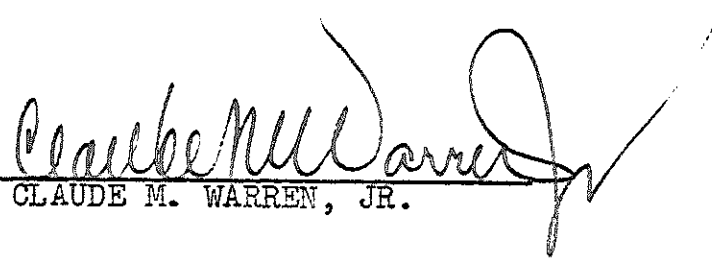
I

I

IN EQUITY NO. 3194

RECEIPT

Received of ALICE J. DUCK, Commissioner, the sum of
Four Thousand, Seven Hundred Ninety-Four And 40/100 (\$4,794.40)
Dollars, being the distributive share due me in the above
noted case.


CLAUDE M. WARREN, JR.

Received of Mrs. Alice J. Duck, as Commissioner,
the sum of Four Thousand, two hundred sixty-two and 96/100
(\$4,262.96) Dollars, being my net distributive share in the
proceeds from the sale of the real property ordered sold by a
Decree of the Circuit Court of Baldwin County, Alabama, dated
the 21st day of October, 1954, in that certain cause styled
Marcus Cox vs. A.Y. Lowry, C.E. Vacalis, and Claude M. Warren,
Jr., being case No. 3194 on the Equity Docket of said Court.

DATED, this 10th day of January, 1955.

A. Y. Lowry
A.Y. Lowry

3191

FILED

JAN 23 1955

ALICE J. DUCK, Register

Received of Mrs. Alice J. Duck, as Commissioner,
the sum of Four Thousand, two hundred sixty-two and 96/100
(\$4,262.96) Dollars, being my net distributive share in the
proceeds from the sale of the real property ordered sold by a
Decree of the Circuit Court of Baldwin County, Alabama, dated
the 21st day of October, 1954, in that certain cause styled
Marcus Cox vs. A.Y. Lowry, C.E. Vacalis, and Claude M. Warren,
Jr., being case No. 3194 on the Equity Docket of said Court.

DATED, this 10th day of January, 1955.

C.E. Vacalis
C.E. Vacalis

Receipts

FILED

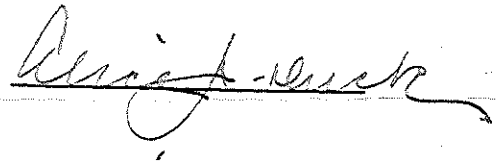
JAN 23 1955

ALICE J. DUCK, Register

MARCUS COX
V S.
A. Y. LOWERY ET ALS

IN EQUITY NO. 3194

Received of Alice J. Duck \$94.65 , being the court cost in the above
styled cause

A handwritten signature in cursive script, reading "Alice J. Duck", written over a horizontal line.

VICKERS AND THORNTON

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
J. EDWARD THORNTON
ERLING RIIS, JR.

December 21, 1954

Mrs. Alice J. Duck
Court House
Bay Minette, Alabama

Dear Mrs. Duck:

Marcus Cox v. A. Y. Lowry, C. E. Vacalis
and Dr. Claude M. Warren, Jr.

You will recall that Mr. Simon deposited with you the sum of \$11,750 on the bid of his client of \$20,500. The costs in the case amount to \$1322.40. Then from the distributive shares going to Messrs. Lowry and Vacalis there is to be deducted the sum of \$1062.88. This calls for a distribution of \$11,874.08. Since Mr. Simon only furnished you with \$11,750 he now owes you \$124.08, to complete the bid that was made at the sale of this property.

No doubt, Mr. Simon will let you have this amount in the very near future. After this amount has been received by you, you will then be prepared to execute the deed which we are herewith enclosing. Mr. Simon will notify you what date he wants on the deed. You will note that revenue stamps have been affixed to the deed.

We are also enclosing the report to be made by you when you have received the sum of \$124.08 together with receipts signed by Messrs. Lowry and Vacalis. You will then execute the report and attach a copy of the deed together with the receipts to the report. The report should then be marked filed and presented to the Judge. Thereupon, we anticipate that the Judge will enter the decree which we are also enclosing. When this decree is dated and signed, then this entire matter will be closed.

If there are any further questions concerning this case, please let us hear from you.

With kind personal regards, I am

Yours very truly,


J. Edward Thornton

JET:mb

Encls.

CC: Otto Simon, Esq.

MARCUS COX
V S.
A. Y. LOWERY ET ALS

IN EQUITY NO. 3194

Commissioners fee
Received of Alice J. Duck \$212.75, being the ~~cost~~ ~~cost~~ in the above
styled cause

Alice J. Duck

3194

VICKERS AND THORNTON

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
J. EDWARD THORNTON
ERLING RIIS, JR.

April 23, 1954

Mrs. Alice J. Duck
Circuit Court Baldwin County
Bay Minette, Alabama

In re: Marcus Cox vs. A. Y. Lowry, et al

Dear Mrs. Duck:

Thank you for your reply cards to our recent letter of inquiry concerning service in the above styled cause.

The sheriff's office here has informed us that they returned the papers to you without having obtained service on Lowry. Please send these papers back to the sheriff of this county and we will supply him with information which will enable him to obtain service.

Yours very truly,

VICKERS AND THORNTON

Erling Riis, Jr.
Erling Riis, Jr.

er/msa

cc: Mrs. Monica Albert
Sheriff's Office
Mobile, Alabama

VICKERS AND THORNTON

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS
J. EDWARD THORNTON
ERLING RIIS, JR.

March 1, 1954

Mrs. Alice J. Duck
Circuit Court Baldwin County
Bay Minette, Alabama

In re: Marcus Cox vs. A. Y. Lowry, C. E.
Vacalis and Claude M. Warren, Jr.,
In Equity No. 3194

Dear Mrs. Duck:

On February 5, 1954, we filed in your office the above styled cause, at which time we requested that you refrain from having process issued until you received notice from us.

We are now giving you such notice and request that process be issued in this cause.

Yours very truly,

VICKERS AND THORNTON

Erling Riis, Jr.
Erling Riis, Jr.

er/msa

*done
2-2-54*

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.

Defendants.

FINAL DECREE

This cause coming on for further hearing upon the final report of the commissioner and it appearing to the Court that the commissioner has filed her written report together with proper vouchers, alleged that she has complied with the order of this Court made and entered on the 31 day of January, 1954 and that she has paid the costs and fees due the officers of this Court and it appearing to the Court from said report and the evidence submitted in connection therewith that said commissioner has fully complied with the aforementioned decree;

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that Mrs. ALICE J. DUCK, as Commissioner, be and she hereby is discharged and relieved from all further liability in this proceeding and that this proceeding be and the same hereby is finally disposed of.

DONE this the 31st day of January, 1955.

Hubert M. Hall
CIRCUIT JUDGE

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.

Defendants.

DECREE

This cause coming on for further hearing on the reports of the commissioner, notice of which was given the parties and upon testimony being taken in open court and the same being considered by the Court, it appears to the Court as follows:

Pursuant to decree of this Court dated October 21, 1954, Mrs. Alice J. Duck, the commissioner appointed herein, did set a sale of the property hereinafter described for 12:00 o'clock noon on the 22nd day of November, 1954 and did give notice of the time, place and terms of sale and the description of the property by publication for three successive weeks in the Baldwin Times, a newspaper of general circulation published in Baldwin County, Alabama, said property being located in Baldwin County and being described as follows, to-wit:

PARCEL NUMBER ONE

All of fractional Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by a line between Sections Thirteen (13) and Twenty-four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4,

1890, and recorded in Deed Book 2, N.S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama;

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-four (24); thence West to the place of beginning; being the same property conveyed by Sarah A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, N.S. pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama;

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the point of beginning hereof; thence West to the point of beginning;

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two above;

At the time and place set out in said notice, said property was offered for sale at public auction to the highest and best bidder for cash, first offering each parcel separately, and second, all of the above described parcels as one unit; that the highest and best bid for said property was Twenty Thousand, Five Hundred (\$20,500) Dollars; that

said bid was fair and reasonable and should be confirmed; that said commissioner reported said sale on the 24th day of November, 1954, notice of which was given to the parties herein; that no objections or exceptions were filed to the said report within ten (10) days thereafter, and that no cause was shown as to why said sale should not be confirmed and it appears to this Court from the testimony taken on this hearing that said sale should be confirmed and a deed executed by the Commissioner to A.Y. LOWERY and C.E. VACALIS.

It further appears to the Court that the note executed by MARCUS COX payable to CLAUDE M. WARREN, JR., dated April 19, 1952, secured by a mortgage on said property has been paid in full; that the note executed by A. Y. LOWRY payable to CLAUDE M. WARREN, JR., dated May 2, 1952 secured by a mortgage on said property has a balance due thereon of \$ 531⁴⁴; that the note executed by C. E. VACALIS payable to CLAUDE M. WARREN, JR., dated May 12, 1952, secured by a mortgage on said property has a balance due thereon of \$ 531⁴⁴.

It further appearing to the Court that said bill of complaint was filed by the firm of VICKERS AND THORNTON, Attorneys, and that a reasonable attorneys' fee should be allowed them for services rendered in said cause in the sum of \$ 1000⁰⁰.

It further appearing to the Court that Mrs. ALICE J. DUCK, as Commissioner, sold said property and is entitled to a fee of \$ 212⁷⁵.

It further appearing to the Court that the court costs incurred in this proceeding amount to \$ 109⁶⁵.

It is, therefore, ORDERED, ADJUDGED and DECREED that Mrs. Alice J. Duck, as Commissioner, be and she hereby is ordered to execute a deed for said property to A.Y. LOWERY and C.E. VACALIS.

It is further ORDERED, ADJUDGED and DECREED that from the proceeds of said sale in the hands of said Commissioner, she hereby is ordered to pay CLAUDE M. WARREN, JR. the sum of \$ 1062.88, the firm of VICKERS AND THORNTON, Attorneys the sum of \$ 1,000.00, Mrs. ALICE J. DUCK, as Commissioner, the sum of \$ 212.75 and Mrs. ALICE J. DUCK, Register, the sum of \$ 109.65 as court costs in this proceeding and the balance of said proceeds be distributed as follows:

CLAUDE M. WARREN, JR.	\$ <u>4794.40</u>
MARCUS COX	\$ <u>4794.40</u>
A. Y. LOWRY	\$ <u>4262.96</u>
C. E. VACALIS	\$ <u>4262.96</u>

It is further ORDERED, ADJUDGED and DECREED that Mrs. Alice J. Duck, as Commissioner, report to this Court within 30 days her actions hereunder.

DONE this the 20 day of December, 1954.

Hubert M. Zelle
CIRCUIT JUDGE

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX, I
Plaintiff, I
vs. I IN EQUITY NO. 3194
A. Y. LOWRY, C. E. VACALIS I
and CLAUDE M. WARREN, JR., I
Defendants. I

REPORT OF COMMISSIONER

Comes now Mrs. ALICE J. DUCK, Commissioner in the above entitled cause and pursuant to the decree of this Court dated the 20th day of December, 1954, reports unto the Court her acts thereunder and does say:


1. That she has executed a deed of the property involved in this proceeding to A. Y. LOWRY and C. E. VACALIS, a copy of which is hereto attached marked Exhibit 1.

2. That she has distributed the proceeds in her hands as follows:

CLAUDE M. WARREN, JR.	\$ <u>1062.88</u>
CLAUDE M. WARREN, JR.	\$ <u>4794.40</u>
MARCUS COX	\$ <u>4794.40</u>
A. Y. LOWRY	\$ <u>4262.96</u>
C. E. VACALIS	\$ <u>4262.96</u>
VICKERS AND THORNTON	\$ <u>1000.00</u>
MRS. ALICE J. DUCK, as Commissioner	\$ <u>212.75</u>
MRS. ALICE J. DUCK, as Register	\$ <u>109.65</u>

receipts for which are attached hereto.


WHEREFORE, PREMISES CONSIDERED, Mrs. Alice J. Duck, as Commissioner moves the Court to discharge her from any further duties hereunder.


MRS. ALICE J. DUCK

STATE OF ALABAMA,
COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for said County in said State, Mrs. Alice J. Duck, who, being by me first duly sworn, deposes and says:

That she is the commissioner duly appointed in the foregoing cause, and that she has personal knowledge of the recitals of fact made in the foregoing report, and that the same are true and correct.


MRS. ALICE J. DUCK

Subscribed and sworn to before me
this the 31 day of ^{Jan}~~December~~, 1954.


Notary Public, Baldwin County, Alabama

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

A. Y. LOWRY, O. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

IN EQUITY NO. 3194

ANSWER AND CROSS-BILL

Comes CLAUDE M. WARREN, JR., defendant in the above styled cause, and files this his answer and cross-bill to the bill of complaint heretofore filed herein and, for answer to said bill of complaint, and seperately and severally to each paragraph thereof, says as follows:

ONE

That he admits each and every allegation contained in the said bill of complaint.

TWO

That the property described in the said bill of complaint cannot be equitably divided or partitioned.

CROSS-BILL

A

That on, to-wit, the 2nd day of May, 1952, A. Y. LOWRY executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the

bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by A. Y. LOWRY and MARGUERITE M. LOWRY, his wife; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS, plus interest.

B

That on, to-wit, the 19th day of April, 1952, MARCUS COX executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by MARCUS COX and PAULINE L. COX, his wife; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS, plus interest.

C

That on, to-wit, the 12th day of May, 1952, C. E. VACALIS executed a note payable to CLAUDE M. WARREN, JR., in the sum of THREE THOUSAND THREE HUNDRED TWENTY-EIGHT AND 80/100 (\$3,328.80) DOLLARS, plus interest at the rate of six (6%) percent per annum, which said note was secured by a mortgage of even date therewith conveying an undivided one-fourth (1/4) interest in the property described in the bill of complaint to CLAUDE M. WARREN, JR., and which was duly executed by C. E. VACALIS, unmarried; that the balance remaining due under said note, secured by said mortgage, on the 22nd day of September, 1954, amounts to the sum of

SEVEN HUNDRED TWENTY-EIGHT AND 80/100 (\$728.80) DOLLARS,
plus interest.

PRAYER FOR PROCESS

CLAUDE M. WARREN, JR., respectfully prays that MARCUS COX, A. Y. LOWRY and C. E. VACALIS be made parties defendant to this cross-bill and that the usual process of this Honorable Court be forthwith issued commanding them and each of them to demur, plead to or answer within the time required by law and by the rules of this Honorable Court.

PRAYER FOR RELIEF

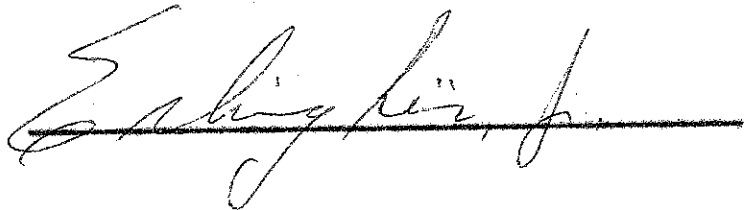
CLAUDE M. WARREN, JR., respectfully prays of this Honorable Court the following relief:

1. That this Honorable Court will enter a decree ordering the property described in the bill of complaint sold for division;
2. That this Honorable Court will determine and fix the balance remaining due under each of the notes secured by the mortgages hereinabove referred to and that each of the said notes be ordered paid from the proceeds of the sale;
3. That this Honorable Court will order the remaining proceeds of said sale be divided and paid to the parties hereto in proportion to their respective interests as determined by this Court; and
4. That this Honorable Court will grant CLAUDE M. WARREN, JR., such further, additional and different relief to which he may be entitled in equity and good conscience, and CLAUDE M. WARREN, JR., prays for general relief.

CLAUDE M. WARREN, JR.

I, OTTO SIMON, attorney of record for A. Y. LOWRY and C. E. VACALIS, hereby accept service of the foregoing ANSWER AND CROSS-BILL heretofore filed herein by CLAUDE M. WARREN, JR., and waive any further or additional notice of same.

I, ERLING RIIS, JR., attorney of record for MARCUS COX, hereby accept service of the foregoing ANSWER AND CROSS-BILL heretofore filed herein by CLAUDE M. WARREN, JR., and waive any further or additional notice of same.

A handwritten signature in cursive script, reading "Erling Riis, Jr.", is written over a horizontal line.

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff;

vs.

IN EQUITY NO. 3194

A. Y. LOWMY, C. E. VACALIS
and CLAUDE M. WARREN, JR.

Defendants.

FINAL DECREE

This cause coming on for further hearing upon the final report of the commissioner and it appearing to the Court that the commissioner has filed her written report together with proper vouchers, alleged that she has complied with the order of this Court made and entered on the _____ day of December, 1954 and that she has paid the costs and fees due the officers of this Court and it appearing to the Court from said report and the evidence submitted in connection therewith that said commissioner has fully complied with the aforementioned decree;

It is, therefore, ORDERED, ADJUDGED and DECREED by the Court that Mrs. ALICE J. DUCK, as Commissioner, be and she hereby is discharged and relieved from all further liability in this proceeding and that this proceeding be and the same hereby is finally disposed of.

DONE this the _____ day of _____, 195_____.

CIRCUIT JUDGE

VICKERS AND THORNTON

ATTORNEYS AT LAW

MERCHANTS NATIONAL BANK BUILDING

MOBILE, ALABAMA

MARION R. VICKERS

J. EDWARD THORNTON

ERLING RIIS, JR.

December 21, 1954

Otto Simon, Esq.
Van Antwerp Building
Mobile, Alabama

Dear Otto:

Marcus Cox v. A. Y. Lowry, C. E. Vacalis
and Claude M. Warren, Jr.

We are herewith enclosing a conformed copy of the decree in the above noted case. You will recall that you deposited with Mrs. Duck the sum of \$10,250 plus \$1500 totaling \$11,750. As you will see from the decree, the amount due to Dr. Warren and Mr. Cox amounts to \$9,588.80, court costs amount to \$1322.40 and the indebtedness due from A. Y. Lowry and C. E. Vacalis to Dr. Warren amounts to \$1062.88. This totals \$11,874.08. Therefore, Messrs. Lowry and Vacalis owe \$124.08. I am sure you will want to have them forward this amount to Mrs. Duck at once.

Mrs. Duck now has the deed which she is prepared to execute and deliver to you as soon as you call for it. Will you please advise her of the date you want it executed.

While we were in Bay Minette yesterday, Dr. Warren marked the mortgages satisfied. We are enclosing the abstract which we still have covering the property involved in this suit.

We believe that the proceedings in this case should be regular in all respects. Obviously, your clients will want not only a good title to the property, they will want a title that is merchantable. Any and every irregularity in the proceeding will create questions in the minds of some lawyers for some purchasers somewhere sometime. It is for this reason that we have had the commissioner report a full and complete distribution of all the amounts set out in the report. Furthermore, we think that Messrs. Lowry and Vacalis should file with Mrs. Duck

C

O

P

Y

Otto Simon, Esq.
Page 2
December 21, 1954

receipts referred to in the report. Will you, therefore, please have Messrs. Lowry and Vacalis furnish Mrs. Duck such a receipt so that it can be included with her report, a copy of which is enclosed with the copy of the letter to Mrs. Duck which is enclosed herewith.

Yours very truly,

VICKERS AND THORNTON


J. Edward Thornton

JET:mb

Encls.

✓ CC: Mrs. Alice Duck

MARCUS COX,

Plaintiff,

vs.

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

) IN THE CIRCUIT COURT FOR
)
) THE TWENTY-EIGHTH JUDICIAL

) CIRCUIT OF ALABAMA

) IN EQUITY NO. 3194

ORDER OVERRULING DEMURRER TO BILL OF COMPLAINT

This cause is submitted for decree upon the demurrer of the defendant, C. E. VACALIS, and upon the demurrer of the defendant, A. Y. LOWRY, to the bill of complaint, and, being duly considered by the Court, the Court is of the opinion that said demurrers should be overruled; it is, therefore, ORDERED, ADJUDGED and DECREED by the Court that said demurrers be, and are hereby, overruled.

Dated August , 1954.

Presiding Judge

Note:

Held service
until notified
by Attorney.

Marcus Corp

v s.

Lavery et als.

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MA-COS COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.

Defendants.

DECREE

This cause coming on for further hearing on the reports of the commissioner, notice of which was given the parties and upon testimony being taken in open court and the same being considered by the Court, it appears to the Court as follows:

Pursuant to decree of this Court dated October 21, 1954, Mrs. Alice J. Duck, the commissioner appointed herein, did set a sale of the property hereinafter described for 12:00 o'clock noon on the 22nd day of November, 1954 and did give notice of the time, place and terms of sale and the description of the property by publication for three successive weeks in the Baldwin Times, a newspaper of general circulation published in Baldwin County, Alabama, said property being located in Baldwin County and being described as follows, to-wit:

PARCEL NUMBER ONE

All of fractional Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by a line between Sections Thirteen (13) and Twenty-four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4,

1890, and recorded in Deed Book 2, U.S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama;

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-four (24); thence West to the place of beginning; being the same property conveyed by Sarah A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, U.S. pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama;

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the point of beginning hereof; thence West to the point of beginning;

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two above;

At the time and place set out in said notice, said property was offered for sale at public auction to the highest and best bidder for cash, first offering each parcel separately, and second, all of the above described parcels as one unit; that the highest and best bid for said property was Twenty Thousand, Five Hundred (\$20,500) Dollars; that

said bid was fair and reasonable and should be confirmed; that said commissioner reported said sale on the 24th day of November, 1954, notice of which was given to the parties herein; that no objections or exceptions were filed to the said report within ten (10) days thereafter, and that no cause was shown as to why said sale should not be confirmed and it appears to this Court from the testimony taken on this hearing that said sale should be confirmed and a deed executed by the Commissioner to _____.

It further appears to the Court that the note executed by MARCUS COX payable to CLAUDE M. WARREN, JR., dated April 19, 1952, secured by a mortgage on said property has been paid in full; that the note executed by A. Y. LOWRY payable to CLAUDE M. WARREN, JR., dated May 2, 1952 secured by a mortgage on said property has a balance due thereon of \$ _____; that the note executed by C. E. VACALIS payable to CLAUDE M. WARREN, JR., dated May 12, 1952, secured by a mortgage on said property has a balance due thereon of \$ _____.

It further appearing to the Court that said bill of complaint was filed by the firm of VICKERS AND THORNTON, Attorneys, and that a reasonable attorneys' fee should be allowed them for services rendered in said cause in the sum of \$ _____.

It further appearing to the Court that Mrs. ALICE J. DUCK, as Commissioner, sold said property and is entitled to a fee of \$ _____.

It further appearing to the Court that the court costs incurred in this proceeding amount to \$ _____.

It is, therefore, ORDERED, ADJUDGED and DECREED that Mrs. Alice J. Duck, as Commissioner, be and she hereby is ordered to execute a deed for said property to _____.

It is further ORDERED, ADJUDGED and DECREED that from the proceeds of said sale in the hands of said Commissioner, she hereby is ordered to pay CLAUDE M. WARREN, JR. the sum of \$ _____, the firm of VIGERS AND THORNTON, Attorneys, the sum of \$ _____, Mrs. ALICE J. DUCK, as Commissioner, the sum of \$ _____ and Mrs. ALICE J. DUCK, Register, the sum of \$ _____ as court costs in this proceeding and the balance of said proceeds be distributed as follows:

CLAUDE M. WARREN, JR.	\$ _____
MARCUS COX	\$ _____
A. Y. LOWRY	\$ _____
C. E. VACALIS	\$ _____

It is further ORDERED, ADJUDGED and DECREED that Mrs. Alice J. Duck, as Commissioner, report to this Court within _____ days her actions hereunder.

DONE this the _____ day of December, 1954.

CIRCUIT JUDGE

Bay Minette, Ala., April 26, 1954

To the Sheriff of Baldwin County,
Mobile, Alabama.

I enclose herewith Letter for J. J. Gentry

Please serve and return as early as possible.

Myron W. Williams
Sheriff Baldwin County Alabama.

(If not found in your county please advise promptly giving information as to present location if possible)

December 20, 1954

Received of Alice J. Duck, Register, The sum _____

\$ 1062.88 _____ DOLLARS

Distributive share by order of Decree in the Case of

MARCUS COX VS. A. Y. LOWERY et al Case No 3194.

Clarke McWarrin

December 20, 1954

Received of Alice J. Duck, Register, The sum of - - -

~~4,286.40~~ 4,794.40 _____ DOLLARS

Distributive share by order of Decree in the Case of

MARCUS COX Vs. A. Y. LOWERY et al Case No. 3194.

Marcus Cox
By Vickerson Thornton
Edward Thornton Partner
attorney in fact

December 20, 1954

Received of Alice J. Duck, Register, The sum of - - -

1000.00 _____ DOLLARS

Attorneys Fee

Distributive share by order of Decree in the Case of

MARCUS COX Vs. A. Y. LOWERY et al Case No. 3194.

Vickerson Thornton

STATE OF ALABAMA,

COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for said County in said State, Mrs. Alice J. Duck, who, being by me first duly sworn, deposes and says:

That she is the commissioner duly appointed in the foregoing cause, and that she has personal knowledge of the recitals of fact made in the foregoing report, and that the same are true and correct.

MRS. ALICE J. DUCK

Subscribed and sworn to before me
this the _____ day of December, 1954.

Notary Public, Baldwin County, Alabama

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

IN EQUITY NO. 3194

REPORT OF COMMISSIONER

Comes now Mrs. ALICE J. DUCK, Commissioner in the above entitled cause and pursuant to the decree of this Court dated the 20th day of December, 1954, reports unto the Court her acts thereunder and does say:

1. That she has executed a deed of the property involved in this proceeding to A. Y. LOWRY and C. E. VACALIS, a copy of which is hereto attached marked Exhibit 1.

2. That she has distributed the proceeds in her hands as follows:

CLAUDE M. WARREN, JR.	\$ <u>1062.88</u>
CLAUDE M. WARREN, JR.	\$ <u>4794.40</u>
MARCUS COX	\$ <u>4794.40</u>
A. Y. LOWRY	\$ <u>4262.96</u>
C. E. VACALIS	\$ <u>4262.96</u>
VICKERS AND THORNTON	\$ <u>1000.00</u>
MRS. ALICE J. DUCK, as Commissioner	\$ <u>212.75</u>
MRS. ALICE J. DUCK, as Register	\$ <u>109.65</u>

receipts for which are attached hereto.

WHEREFORE, PREMISES CONSIDERED, Mrs. Alice J. Duck, as Commissioner moves the Court to discharge her from any further duties hereunder.

MRS. ALICE J. DUCK

MARCUS COX,

Plaintiff,

No. 3194

vs.

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

) IN THE CIRCUIT COURT FOR

) THE TWENTY-EIGHTH JUDICIAL

) CIRCUIT OF ALABAMA.

ORDER OF SUBMISSION

This cause coming on to be heard, is submitted
for decree on the pleadings and on the proof as noted.

Dated, October 21, 1954.

NOTE OF EVIDENCE

At the hearing of this cause the following note of
evidence was taken, to-wit:

FOR PLAINTIFF

His original bill of complaint, his answer to the
cross-bill of Claude M. Warren, Jr., and the acceptance of
service of the following:

(a) Answer and cross-bill filed by Claude M. Warren,
Jr.

(b) Answer to said cross-bill filed by C. E. Vacalis
and A. Y. Lowry.

FILED, October 21, 1954

Register

Solicitors for Plaintiff

FOR DEFENDANTS, A. Y. LOWRY and C. E. VACALIS

Their answer to the original bill of complaint, their
answer to the cross-bill of Claude M. Warren, Jr., and acceptance
of the following:

(a) Answer and cross-bill filed by Claude M. Warren,
Jr.

(b) Answer to said cross-bill filed by Marcus Cox.

Solicitor for defendants, A.Y. Lowry
and C. E. Vacalis

FOR DEFENDANT, CLAUDE M. WARREN, JR.

His Answer and cross-bill to the original bill of complaint,
acceptance of service of the following:

(a) Answer to said cross-bill filed by A. Y. Lowry
and C. E. Vacalis.

(b) Answer to said cross-bill filed by Marcus Cox.

Claude M. Warren, Jr.

STATE OF ALABAMA,
COUNTY OF BALDWIN.

WHEREAS, suit was instituted in the Circuit Court for the Twenty-eighth Judicial Circuit, in Equity, for the sale for division of the real estate hereinafter described in a proceeding styled "Marcus Cox, Plaintiff, vs. A. Y. Lowry, C. E. Vacalis and Claude M. Warren, Jr., Defendants"; and

WHEREAS, a decree was entered in said cause on the 21st day of October, 1954, appointing undersigned as commissioner and ordering her to conduct the sale of said property in accordance with the provisions thereof; and

WHEREAS, pursuant to the provisions of said decree undersigned, as commissioner, did set said sale for 12:00 noon on the 22nd day of November, 1954, and did give notice of the place, day and terms of said sale and a description of the property by publication for three (3) weeks in the Baldwin Times, a newspaper of general circulation published in Baldwin County, Alabama; and

WHEREAS, on the 22nd day of November, 1954, at the time and place set out in said notice, undersigned offered said property for sale at public auction to the highest and best bidder, for cash, first offering each individual parcel and second all of the described parcels as one unit; and

WHEREAS, the highest and best bid for said property at said sale was the sum of TWENTY THOUSAND FIVE HUNDRED AND NO/100 (\$20,500.00) DOLLARS made by A. Y. LOWRY and C. E. VACALIS; and

WHEREAS, undersigned made a report of her acts and doings in conducting said sale to the Circuit Court in said proceeding pending therein; and

WHEREAS, said report remained on file for more than ten (10) days and no exceptions or objections were filed thereto; and

WHEREAS, after giving notice to the interested parties thereto, the Circuit Court entered an order in said proceeding confirming said sale and ordering the undersigned to execute a deed to the purchasers of said property:

NOW, THEREFORE, in consideration of the premises and of the payment of TWENTY THOUSAND FIVE HUNDRED AND NO/100 (\$20,500.00) DOLLARS, the receipt of which is hereby acknowledged, ALICE J. DUCK, AS COMMISSIONER, does hereby grant, bargain, sell and convey unto A. V. LOWRY and C. E. VACALIS, hereinafter called the GRANTEES, the following described real property in the County of Baldwin, State of Alabama, to-wit:

PARCEL NUMBER ONE

All of fractional Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by a line between Sections Thirteen (13) and Twenty-four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4, 1890, and recorded in Deed Book 2, N. S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama;

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-four (24); thence West to the place of beginning; being the same property conveyed by Sarah

A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, N. S. pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama;

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the point of beginning hereof; thence West to the point of beginning;

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two above.

TOGETHER WITH all and singular the rights, tenements, hereditaments, members, privileges and appurtenances thereunto belonging or in anywise appertaining;

TO HAVE AND TO HOLD the above described property unto the said grantees, their heirs and assigns forever.

IN WITNESS WHEREOF, the said ALICE J. DUCK, AS COMMISSIONER, has hereunto set her hand and seal this the _____ day of _____, 19____.

ALICE J. DUCK, AS COMMISSIONER (SEAL)

STATE OF ALABAMA,
COUNTY OF BALDWIN.

I, the undersigned Notary Public in and for said County in said State, hereby certify that ALICE J. DUCK, whose name as COMMISSIONER is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such commissioner, and with full authority, executed the same voluntarily, acting in her capacity as commissioner as aforesaid.

Given under my hand this the _____ day of _____, 19____.

Notary Public, Baldwin County, Alabama.

IN THE CIRCUIT COURT FOR THE TWENTY-EIGHTH JUDICIAL CIRCUIT
OF ALABAMA

MARCUS COX,

Plaintiff,

vs.

IN EQUITY NO. 3194

A. Y. LOWRY, C. E. VACALIS
and CLAUDE M. WARREN, JR.,

Defendants.

REPORT OF COMMISSIONER

Comes now Mrs. ALICE J. DUCK, Commissioner in the above
entitled cause and pursuant to the decree of this Court dated
the _____ day of December, 1954, reports unto the Court her
acts thereunder and does say:

1. That she has executed a deed of the property involved
in this proceeding to _____, a copy of
which is hereto attached marked Exhibit 1.

2. That she has distributed the proceeds in her hands
as follows:

CLAUDE M. WARREN, JR. \$ _____

CLAUDE M. WARREN, JR. \$ _____

MARCUS COX \$ _____

A. Y. LOWRY \$ _____

C. E. VACALIS \$ _____

VICKERS AND THORNTON \$ _____

MRS. ALICE J. DUCK,
as Commissioner \$ _____

MRS. ALICE J. DUCK,
as Clerk \$ _____

receipts for which are attached hereto.

WHEREFORE, PREMISES CONSIDERED, Mrs. Alice J. Duck,
as Commissioner moves the Court to discharge her from any
further duties hereunder.

MRS. ALICE J. DUCK

STATE OF ALABAMA,

COUNTY OF BALDWIN.

Personally appeared before me, the undersigned Notary Public in and for said County in said State, Mrs. Alice J. Duck, who, being by me first duly sworn, deposes and says:

That she is the commissioner duly appointed in the foregoing cause, and that she has personal knowledge of the recitals of fact made in the foregoing report, and that the same are true and correct.

MRS. ALICE J. DUCK

Subscribed and sworn to before me
this the _____ day of December, 1954.

Notary Public, Baldwin County, Alabama

STATE OF ALABAMA,
COUNTY OF BALDWIN.

WHEREAS, suit was instituted in the Circuit Court for the Twenty-eighth Judicial Circuit, in Equity, for the sale for division of the real estate hereinafter described in a proceeding styled "Marcus Cox, Plaintiff, vs. A. Y. Lowry, C. E. Vacalis and Claude M. Warren, Jr., Defendants"; and

WHEREAS, a decree was entered in said cause on the ^{Dec. 1954} (21st) day of October, 1954, appointing undersigned as commissioner and ordering her to conduct the sale of said property in accordance with the provisions thereof; and

WHEREAS, pursuant to the provisions of said decree undersigned, as commissioner, did set said sale for 12:00 noon on the ^{26 Jan. 1955} 22nd day of November, 1954, and did give notice of the place, day and terms of said sale and a description of the property by publication for three (3) weeks in the Baldwin Times, a newspaper of general circulation published in Baldwin County, Alabama; and

WHEREAS, on the 22nd day of November, 1954, at the time and place set out in said notice, undersigned offered said property for sale at public auction to the highest and best bidder, for cash, first offering each individual parcel and second all of the described parcels as one unit; and

WHEREAS, the highest and best bid for said property at said sale was the sum of TWENTY THOUSAND FIVE HUNDRED AND NO/100 (\$20,500.00) DOLLARS made by A. Y. LOWRY and C. E. VACALIS; and

WHEREAS, undersigned made a report of her acts and doings in conducting said sale to the Circuit Court in said proceeding pending therein; and

WHEREAS, said report remained on file for more than ten (10) days and no exceptions or objections were filed thereto; and

WHEREAS, after giving notice to the interested parties thereto, the Circuit Court entered an order in said proceeding confirming said sale and ordering the undersigned to execute a deed to the purchasers of said property:

NOW, THEREFORE, in consideration of the premises and of the payment of TWENTY THOUSAND FIVE HUNDRED AND NO/100 (\$20,500.00) DOLLARS, the receipt of which is hereby acknowledged, ALICE J. DUCK, AS COMMISSIONER, does hereby grant, bargain, sell and convey unto *Adolphus Jones* A. Y. LOWMY and C. E. VACALIS, hereinafter called the GRANTEES, the following described real property in the County of Baldwin, State of Alabama, to-wit:

PARCEL NUMBER ONE

2
All of fractional Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by a line between Sections Thirteen (13) and Twenty-four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4, 1890, and recorded in Deed Book 2, N. S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama;

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-four (24); thence West to the place of beginning; being the same property conveyed by Sarah

A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, N. S. pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama;

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the point of beginning hereof; thence West to the point of beginning;

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two above.

TOGETHER WITH all and singular the rights, tenements, hereditaments, members, privileges and appurtenances thereunto belonging or in anywise appertaining;

TO HAVE AND TO HOLD the above described property unto the said grantees, their heirs and assigns forever.

IN WITNESS WHEREOF, the said ALICE J. DUCK, AS COMMISSIONER, has hereunto set her hand and seal this the _____ day of _____, 19____.

ALICE J. DUCK, AS COMMISSIONER (SEAL)

STATE OF ALABAMA,
COUNTY OF BALDWIN.

I, the undersigned Notary Public in and for said County in said State, hereby certify that ALICE J. DUCK, whose name as COMMISSIONER is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such commissioner, and with full authority, executed the same voluntarily, acting in her capacity as commissioner as aforesaid.

Given under my hand this the _____ day of _____, 19____.

Notary Public, Baldwin County, Alabama.

STATE OF ALABAMA,
COUNTY OF BALDWIN.

WHEREAS, suit was instituted in the Circuit Court for the Twenty-eighth Judicial Circuit, in Equity, for the sale for division of the real estate hereinafter described in a proceeding styled "Marcus Cox, Plaintiff, vs. A. Y. Lowry, C. E. Vacalis and Claude M. Warren, Jr., Defendants"; and

WHEREAS, a decree was entered in said cause on the 21st day of October, 1954, appointing undersigned as commissioner and ordering her to conduct the sale of said property in accordance with the provisions thereof; and

WHEREAS, pursuant to the provisions of said decree undersigned, as commissioner, did set said sale for 12:00 noon on the 22nd day of November, 1954, and did give notice of the place, day and terms of said sale and a description of the property by publication for three (3) weeks in the Baldwin Times, a newspaper of general circulation published in Baldwin County, Alabama; and

WHEREAS, on the 22nd day of November, 1954, at the time and place set out in said notice, undersigned offered said property for sale at public auction to the highest and best bidder, for cash, first offering each individual parcel and second all of the described parcels as one unit; and

WHEREAS, the highest and best bid for said property at said sale was the sum of TWENTY THOUSAND FIVE HUNDRED AND NO/100 (\$20,500.00) DOLLARS made by A. Y. LOWRY and C. E. VACALIS; and

WHEREAS, undersigned made a report of her acts and doings in conducting said sale to the Circuit Court in said proceeding pending therein; and

WHEREAS, said report remained on file for more than ten (10) days and no exceptions or objections were filed thereto; and

WHEREAS, after giving notice to the interested parties thereto, the Circuit Court entered an order in said proceeding confirming said sale and ordering the undersigned to execute a deed to the purchasers of said property:

NOW, THEREFORE, in consideration of the premises and of the payment of TWENTY THOUSAND FIVE HUNDRED AND NO/100 (\$20,500.00) DOLLARS, the receipt of which is hereby acknowledged, ALICE J. DUCK, AS COMMISSIONER, does hereby grant, bargain, sell and convey unto A. Y. LOWRY and C. E. VACALIS, hereinafter called the GRANTEES, the following described real property in the County of Baldwin, State of Alabama, to-wit:

PARCEL NUMBER ONE

All of fractional Section Thirteen (13) lying South of a stream known as Water Hole Branch, situated in Township Seven (7) South, Range Two (2) East, in Baldwin County, Alabama, said fractional section containing Three Hundred (300) acres, more or less, and said land in the district subject to entry at St. Stephens, Alabama; said land is bounded on the South by a line between Sections Thirteen (13) and Twenty-four (24), and Fish River, on the East and North by Water Hole Branch, on the West by Section Fourteen (14), being the same property conveyed by John W. Burkholder to Frank L. Allen by deed dated August 4, 1890, and recorded in Deed Book 2, N. S., on pages 246-7 in the office of the Probate Judge of Baldwin County, Alabama; EXCEPT that portion of the above described property known as Lot 22 and Lot 24 of Sherwood Forest, according to map recorded in Map Book 4, page 43, of the records in the office of the Judge of Probate of Baldwin County, Alabama;

PARCEL NUMBER TWO

Also all that part or parcel of land lying and being in Baldwin County, State of Alabama, to-wit: Beginning at the Northwest (NW) corner of Section Twenty-four (24), Township Seven (7) South, Range Two (2) East, running South Thirty (30) rods; thence East parallel with the North line of Section Twenty-four (24) to Turkey Branch; thence along said Branch East to the West bank of Fish River; thence Northerly along said bank to the North line of Section Twenty-four (24); thence West to the place of beginning; being the same property conveyed by Sarah

A. Forbes to Frank L. Allen by deed dated August 2, 1897, and recorded in Deed Book 3, N. S. pages 437-8, in the office of the Probate Judge of Baldwin County, Alabama;

PARCEL NUMBER THREE

Beginning at a point that is thirty (30) rods South of the Northwest corner of Section 24, Township 7 South, Range 2 East; thence South along the West line of said Section 24 to the North bank of Turkey Branch; thence along said branch by its meanderings in a northeasterly direction and along the West bank of Fish River in a Northerly direction to a point which is due East of the point of beginning hereof; thence West to the point of beginning;

The description of this parcel is intended to describe all that portion of said Section 24 lying North of Turkey Branch and West of Fish River which was not covered by the description of Parcel Two above.

TOGETHER WITH all and singular the rights, tenements, hereditaments, members, privileges and appurtenances thereunto belonging or in anywise appertaining;

TO HAVE AND TO HOLD the above described property unto the said grantees, their heirs and assigns forever.

IN WITNESS WHEREOF, the said ALICE J. DUCK, AS COMMISSIONER, has hereunto set her hand and seal this the _____ day of _____, 19____.

ALICE J. DUCK, AS COMMISSIONER (SEAL)

STATE OF ALABAMA,
COUNTY OF BALDWIN.

I, the undersigned Notary Public in and for said County in said State, hereby certify that ALICE J. DUCK, whose name as COMMISSIONER is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, she, as such commissioner, and with full authority, executed the same voluntarily, acting in her capacity as commissioner as aforesaid.

Given under my hand this the _____ day of _____, 19____.

Notary Public, Baldwin County, Alabama.

Exhibit 1

SUMMONS

Form 1531-3

McQuiddy Printing Co., Nashville, Tenn.

The State of Alabama, Baldwin County

IN CIRCUIT COURT, IN EQUITY

To any Sheriff of the State of Alabama—Greeting:

You are hereby commanded to summon A. Y. Lowery, C. E. Vacalis, and
 Claude M. Warren, Jr.

to appear and answer, plead, or demur, within thirty days from the service hereof, to a Bill of Com-
 plaint filed in said Circuit Court, in equity, for said County of said State by

Marcus Cox

against A. Y. Lowery, C. E. Vacalis, and Claude M. Warren

Herein fail not. Due return make of this writ as the law directs.

Witness this 5th day of February, 1954

Register.

(Defendant is entitled to a copy of the bill on application to the Register.)

Code 1923-6528-6529