

1236

SUMMONS AND COMPLAINT

THE STATE OF ALABAMA, { No. 1 256
BALDWIN COUNTY

CIRCUIT COURT BALDWIN COUNTY
DECEMBER TERM, 1944

TO ANY SHERIFF OF THE STATE OF ALABAMA:

XISM

You are hereby commanded to summon MISS EMILY M. SWIFT, 1578 Dauphin St.,
Mrs. Eleanor S. Stevens, 21 Macy St. Mobile., Mrs. R.T. Marshall, 157
Williams St., Mobile; Mrs. Charles H. Wakeford, Bon Secour, Ala.; Mrs. P.S.
Williams, Toulminville, Ala.; George R. Swift, Montgomery, Ala.; John Byard
Swift, Atmore, Ala.; William H. Swift; & Ira P. Swift;

to appear and plead, answer or demur, within thirty days from the service hereof, to the Complaint filed in

the Circuit Court of Baldwin County, State of Alabama, at Bay Minette, against Miss Emily M. Swift,
Mrs. Eleanor S. Stevens, Mrs. R.T. Marshall, Mrs. Charles H. Wakeford, Mrs.
P.S. Williams, George R. Swift, John Byard Swift, William H. Swift, Ira P.
Respondents Swift

by MRS. Meriam Swift Martyn

Complainant

Witness my hand this 7th day of December 1944

[Signature]

Register

No. _____ Page _____

THE STATE OF ALABAMA
BALDWIN COUNTY
CIRCUIT COURT

Plaintiffs

vs.

Defendants

SUMMONS AND COMPLAINT

Filed _____ 194_____

Clerk

Plaintiff's Attorney

Defendant's Attorney

Defendant lives at

RECEIVED IN OFFICE

194_____

Sheriff

I have executed this summons

194_____

this _____
by leaving a copy with

Sheriff

Deputy Sheriff

MRS. MERIAM SWIFT MARTYN,
COMPLAINANT,

VS.

MISS EMILY M. SWIFT, MRS.
ELEANOR S. STEVENS, MRS.
R. T. MARSHALL, MRS. P. S.
WILLIAMS, MRS. CHARLES H.
WAKEFORD, GEORGE R. SWIFT,
JOHN BYARD SWIFT and IRA
P. SWIFT, and WILLIAM H.
SWIFT,
DEFENDANTS.

IN THE CIRCUIT COURT OF BALDWIN

COUNTY, ALABAMA.

IN EQUITY.

NO _____.

TO HONORABLE F. W. HARE, JUDGE OF THE TWENTY FIRST
JUDICIAL CIRCUIT OF ALABAMA.

Your Oratrix Mrs. Meriam Swift Martyn, humbly complaining
of the Defendants in the matter of partition as will hereinafter
appear:

FIRST: Your Oratrix shows unto your Honor that all of the part-
ies to this suit are over the age of twenty-one years. That she
is a resident of Miami, Florida. That Miss Emily M. Swift resides
at 1572 Dauphin Street, Mobile, Alabama. That Mrs. Eleanor S.
Stevens resides at 21 Macy Street, Mobile, Alabama. That Mrs.
R. T. Marshall resides at 157 Williams Street, Mobile, Alabama.
That Mrs. Charles H. Wakeford resides at Bon Secour, Alabama.
That Mrs. P. S. Williams resides at Toulimville, Alabama. That
George R. Swift resides at Montgomery, Alabama. That John Byard
Swift resides at Atmore, Alabama. That William H. Swift is now
in the Merchant Marine of the United States and that Ira P. Swift
is in the armed forces of the United States of America.

SECOND: Your Oratrix further shows unto your Honor that she and
the Defendants are the joint owners of the following described
real estate situated in Baldwin County, Alabama.

NW $\frac{1}{4}$ of SE $\frac{1}{4}$; N $\frac{1}{2}$ of SW $\frac{1}{4}$ and SW $\frac{1}{4}$ of NW $\frac{1}{4}$ -Sec. 14 Tp. 9S R
3E.

Also, that piece of land beginning on the South bank of
Bon Secour River at the intersection of the E. Lamy Grant West
boundry line with said River, running thence South 40 degrees East
8.51 chains to a post on said Lamy line; thence South 20 degrees
West to a post on Bon Secour River, being a part of the John Cook
claim, thence down said River with the meanderings to a post 15
ft. South of Chas, Sass Wharf; thence North 74 degrees East 4.74
chains to a post on the line of the Lamy tract; thence South 40
degrees East to the SW corner of the said Lamy tract; thence North
50 degrees East 52.35 chains to a post; thence North 75 degrees
West to Bon Secour River, thence down said River with all its

meanderings to the place of beginning. All of the above described land is in the SW part of Section or Grant 38 and 40, Tp. 8 South, Range 3 East, and T. 8 S. R. 4 E., and Lots 4 and 5 Fractional Section 31-8S-4E and NW $\frac{1}{4}$ of Sec. 6-9S-4E, less nine acres more or less in Sections 35 and 40, Tp. 8 S R 3 E., assessed to R. B. Alexander, Deed Book 65, pp.244.

Begin at the SW corner of Section 25, Tp. 8 South, Range 3 E, run East along South boundary line of said Section 31, 33 chains to a point, thence South 38 degrees East 7.17 chains more or less, to a stake driven at the root of a live oak tree, now fallen, for the place of beginning, the said stake and live oak tree being on the North bank of the Bon Secour River; beginning at the said stake, run North 38 degrees West 14.18 chains to a point, being the SW corner of Mary Green's lot; thence North 52 degrees East 3.17 chains to a point being the SE corner of the said lot; thence run North 38 degrees West 3.17 chains to a point being the NE corner of said lot; thence run South 52 degrees West 3.17 chains to a point at the NW corner of said Mary Green's lot, run thence North 38 degrees West 8.27 chains to a point thence North 46 degrees East 7.02 chains to a point, thence North 46 degrees West 9.30 chains to a point thence due East 8.33 chains to a point, thence North 17 degrees 15' West 9.93 chains to a point on the half section line of Section 25; thence West along said half section line 5.53 chains to a point; thence North and parrallel with the West section line of said section 40.47 chains to a point on the North boundary of said section; thence East along the said North boundary line of said section 40 chains to a point; thence South 20 chains to a point; being the center point of the NE $\frac{1}{4}$ of Section 35, thence West 20 chains to the half section line of said Section 25, thence South along the said half Section line 20 chains to a point, being the center of the said Section 25; thence East along the half section line of section 25 6.74 chains to a point; thence South 9.78 chains to a point thence South 61 degrees 30' East 37.75 chains to a stake on the North bank of Bon Secour River on the upper East side of the mouth of the Bayour emptying in said River; thence in a Sw'erly direction across the mouth of the said Bayour and down the Bank of the Said Bon Secour River, following its meanderings _____ chains to a point located where the East boundary line of the Nicholas Cook Grant intersects the North bank of Bon Secour River; thence North 83 degrees West 7.86 chains to the NE corner of Virginia Dubrocas lot; thence South 52 degrees East 5.06 chains to a point being where the West boundary line of Virginia Dubrocas lot intersects the North Bank of Bon Secour River; thence in a Sw'erly direction along the meanderings of the River 5.93 chains to the point of beginning, omitting lot 2 (NW $\frac{1}{4}$ of NE $\frac{1}{4}$) Sec. 25 sold in March, 1927 to W. V. Taylor.

Also, the Jesse Darling Tracts, Lots b, c, d, and e, Section 13-8S-2E-Lot 13 Section 18, Lots 3, 4, 6 and 7 Section 19, Lot 13 Section 20, Lots 2, 3 and 4 Section 29, Lots 1, 5, 6, 7, and 8 in Section 25, all in T. 8 South, Range 3 East, and all of the said land known as the Jesse Darling lands in Tp. 8 South, Range 3 East and 4 East.

Also, the following described tract, commencing at the SW corner of the SE $\frac{1}{2}$ of SE $\frac{1}{4}$ of Section 1-8S-4E, running thence North 8 chains 48 links to a post, thence West 4 chains 19 links to a post; thence North 4 chains 75 links to a post; thence North 51 degrees West 10 chains 67 links to a post; thence West 7 chains 19 links to a post, thence North 18 chains West 20 chains thence South 38 chains to the section line; thence East down said line to place of beginning, containing 108.36 acres, more or less, excepting therefrom the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 1-8S-4E.

Your Oratrix further shows unto your Honor that each of the parties to this suit own a one-tenth (1/10th) interest in the same.

THIRD: Your Oratrix further shows unto your Honor that on account of the many interest held in and to said property, of its different kind and nature, some being improved and some not, some of the lands being located on the water front, it will be an impossibility for said lands to be divided by metes and bounds so as to make an equitable division of the same and therefore it will be necessary that said lands be sold under the decree of this Court at public outcry to the highest bidder for cash and the proceedings of said sale to be divided among the joint owners thereof after deducting the costs of this proceeding.

FOURTH: Your Oratrix further shows unto your Honor that to bring about the partition and division of said land herein mentioned it has become necessary for your Oratrix to employ Solicitors for this purpose and she has employed Hybart & Chason of Bay Minette as such Solicitors for prosecute this proceeding. That in sale of said property it will be proper and suitable that an abstract be made for the proposed purchasers of said property or any prospective bidder on the same.

FIFTH: That your Honor by an appropriate decree will appoint some suitable attorney practicing at the Bay Minette Bar as the attorney for William A. Swift and Ira P. Swift to represent them on a hearing in this cause as provided for by the Soldiers' and Sailors' Civil Relief Act of 1940 as amended.

PRAYER FOR PROCESS.

To the end that equity may be had in the premises, your Oratrix prays that the usual Writ of Process be issued to Miss Emily M. Swift, Mrs. Eleanor S. Stevens, Mrs. R. T. Marshall, Mrs. P. S. Williams, Mrs. Charles H. Wakeford, George R. Swift, John Byard Swift, Ira P. Swift and William A. Swift making them parties Defendant to this Bill of Complaint and requiring them to plead, answer or demur to the same within the time as required by law and

the rules of this Honorable Court.

PRAYER FOR RELIEF.

The premises considered, your Oratrix prays that on a final hearing of this cause your Honor will Decree that the aforesaid lands be sold for Partition and Division among the joint owners thereof by this Honorable Court. Your Oratrix prays that your Honor will order Reference to ascertain a reasonable Solicitors fee, to be taxed as a part of the costs, said fee to be paid over to the said Hybart & Chason, Solicitors for Complainant. That your Honor will also order the Register to secure the service of some reputable abstractor to prepare an abstract of said property for the use and benefit of the purchaser at the sale of said lands and that the Register on the aforesaid reference will fix a fee for the making of said abstract, the costs of the same to be taxed as a part of the costs of this proceeding. Your Oratrix prays for such other, further and different relief as in equity may seem mete and just and your Oratrix will ever pray, etc..


Solicitors for Complainant.

MRS. MERIAM SWIFT MARTYN,
COMPLAINANT,

VS.

MISS EMILY M. SWIFT, MRS.
ELEANOR S. STEVENS, MRS.
R. T. MARSHALL, MRS. P. S.
WILLIAMS, MRS. CHARLES H.
WAKEFORD, GEORGE R. SWIFT,
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meanderings to the place of beginning. All of the above described land is in the SW part of Section or Grant 38 and 40, Tp. 8 South, Range 3 East, and T. 8 S., R. 4 E., and Lots 4 and 5 Fractional Section 31-89-4E and NW $\frac{1}{4}$ of Sec. 6-99-4E, less nine acres more or less in Sections 35 and 40, T 8 S R 3 E., assessed to R. R. Alexander, Deed Book 65, pp.244.

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DEC 1

the rules of this Honorable Court.

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Hybart & Chason
Solicitors for Complainant.