

STATE OF ALABAMA)
BALDWIN COUNTY)

Before me, H M Stair a Notary Public in and
for said County, in said State, personally appeared B. L. Randall
who is known to me and who having been by me first duly sworn deposes
and says that he is personally acquainted with Ella Crane; that he
has known her for the past 10 years and knows that she is over the
age of eighteen years; that she resides with her mother; that she
possesses a good moral character and has a good education and is
entirely capable of managing her own affairs and that it would be to
her best interests that she be allowed to manage same in any way she
sees fit.

B. L. Randall

Sworn to and subscribed before me this the 21 day of Sept

1925.

H M Stair
Notary Public,
Baldwin County, Alabama.

STATE OF ALABAMA)
BALDWIN COUNTY)

Before me, Stinson a Notary Public in and
for said County, in said State, personally appeared J. R. Lea
who is known to me and who having been by me first duly sworn deposes
and says that he is personally acquainted with Ella Crane; that he
has known her for the past 10 years and knows that she is over the
age of eighteen years; that she resides with her mother; that she
possesses a good moral character and has a good education and is
entirely capable of managing her own affairs and that it would be to
her best interests that she be allowed to manage same in any way she
sees fit.

J. R. Lea

Sworn to and subscribed before me this the 24 day of Sept
1925.

Stinson
Notary Public,
Baldwin County, Alabama.

Filed Sept 25th/926
T W Reiman
Register

JAMES C. PHILLIPS, et al.,)
Complainants,)

-vs-

J. W. CREAMER,)
Respondent.)

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY

NO. 533

Motion having been heretofore filed by the
Respondent for a new trial, and the cause being submitted
on said motion;

It is ordered, adjudged and decreed that said
motion be overruled.

Dated this 8th day of December, 1927.

Jease F. Hagan
Special Judge.

RECEIVED

Filed Dec 8/92 at
Wilmington
N.C.

252-1111

7-26

The State of Alabama,
Baldwin County.

Circuit Court In Equity.

I.T.W.Richerson, Register of said Circuit Court of said
County, Alabama, do hereby certify that the above is a full,
true and correct copy of the decree rendered by said Court
on the 14th, day of January, in the cause of James C. Phillips,
Frank Heidelberg, D.P. Durden, Bertha Mae Lowery, Vertie Mae
Lowery, Sissie Inez Lowery, Walter Lowery, Jasper Lowery,
Charle Dffibaugh, J.H. Gideons, Jeff Gullledge, Complainant's
vs. J.W. Creamer, Defendant, as appears of record in Court.

Witness my hand and the seal of said Court, this the
16th, day of January, 1928.

T.W. Richerson Register.

Certified Copy

J. C. Phillips
vs et-al

J. W. Coxman

Filed Jan 16/1928

T. W. Richardson
Register

Final Deed

T. W. Richardson
Atty

1/30/28

1:50 Pm

THE STATE OF ALABAMA } Office of the Judge of
BALDWIN COUNTY } the Probate Court

I, G. W. HUMPHRIES, Judge of said Court in and for
said County, do hereby certify that the within instrument
was filed in this office for record on the 30th
day of Jan, 1928, at 1
o'clock P.M., and I further certify that the
same is duly recorded in Record Book No. 447.5
Page 324, and duly examined.

Witness my hand this 2nd day of Feb, 1928.
G. W. Humphries Judge of Probate Court
By G. W. Humphries

8581 NOTE OF TESTIMONY

J. C. Phillip et al

vs.

J. H. Greaves

THE STATE OF ALABAMA,
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

This cause is submitted in behalf of Complainant upon the original Bill of Complaint.

and in behalf of Defendant upon

answer, and the testimony of
witnesses before a jury asked for by defendant

J. H. Greaves

Register.

No. 533

THE STATE OF ALABAMA
BALDWIN COUNTY

IN EQUITY,
CIRCUIT COURT OF BALDWIN COUNTY.

J. C. Phillips
et al.

VS

J. W. Crain

RECORDED

NOTE OF TESTIMONY

Filed in Open Court this

13th

day of

Dec

1927

M. R. Rieunier

L.

Register

JAMES C. PHILLIPS, et al.,
Complainants,

-vs-

J. W. CREAMER,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY.

NO. _____

This cause coming on to be heard is submitted
for final decree on the pleadings, proof ^{as noted by the reporter} and verdict of the
jury.

Dated this 30th day of November, 1927.

Jesse F. Hogan
Special Judge

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT
OF BALDWIN COUNTY, ALABAMA.. IN EQUITY SITTING.

Come the Complainants in the above styled cause and by leave
of court having been first obtained, amend their bill of complaint hereto-
fore filed in this cause, so that the same shall read as follows:

Come James C. Phillips, Frank Heidelberg, D. P. Durden, Bertha
Mae Lowery, Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery, Jasper Lowery,
Charles Defibaugh, J. H. Gideons and Jeff Gullledge and humbly complainant
against J. W. Creamer, respectfully show unto your Honor as follows:

FIRST:

That your Complainants the said James C. Phillips, Frank
Heidelberg, D. P. Durden, Bertha Mae Lowery, J. H. Gideons and Jeff Gullledge
are each over the age of twenty-one years and reside in Baldwin County, Alabama,
that the said Complainant Charles Defibaugh is over the age of twenty-one years
and resides at Indianapolis, Indiana; that the said Complainants Vertie Mae
Lowery, Sissie Inez Lowery, Walter Lowery and Jasper Lowery are minors whose
ages are eight, six, four and two years, respectively, and who bring this
suit by Bertha Mae Lowery, their next friend, who is their mother; that each
of said minors resides in Baldwin County, Alabama, in the custody of the said
Bertha Mae Lowery; that the said J. W. Creamer is over the age of twenty-one
years and resides in Baldwin County, Alabama.

SECOND:

That the said James C. Phillips is the owner of and is in
the peaceable possession of the following described lands, to-wit: The East
half of the East half of the Northwest quarter of the Southeast quarter of
Section 31, Township 5 South of Range 4 East of St. Stephens Meridian, Baldwin
County, Alabama; that the said Frank Heidelberg is the owner of and is in the
peaceable possession of the West half of the East half of the Northwest quarter
of the Southeast quarter of Section 31, Township 5 South of Range 4 East,
Baldwin County, Alabama; that the said D. P. Durden is the owner of and is in
the quiet, peaceable possession of the West half of the Northwest quarter of

the Southeast quarter of Section 31, Township 5 South of Range 4 East, Baldwin County, Alabama; that the said Bertha Mae Lowery, Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery and Jasper Lowery are the owners of and are in the quiet and peaceable possession of the Northwest quarter of the Northeast quarter of the Southwest quarter of Section 32, Township 5 South of Range 4 East; that the said Bertha Mae Lowery is the widow of Ed Lowery; that the said minors are the children and all of the children of the said Ed Lowery, who died intestate on to-wit, August 2, 1924 and that said lands descended to them as heirs and next of kin of the said Ed Lowery; that the said Charles Defibaugh is the owner of and is in the peaceable possession of the ^{5/8 of the Sec 8 East and the} Northeast quarter of the Southwest quarter of Section 32, Township 5 South of Range 4 East, containing thirty acres; that the said J. H. Gideons is the owner of and is in the peaceable possession of the East half of the West half of the Southeast quarter of the Southwest quarter of Section 32, Township 5 South of Range 4 East; that the said Jeff Gullede is the owner of and is in the peaceable possession of the following described lands, to-wit: The East half of the East half of the Southwest quarter of the Southwest quarter of Section 32, Township 5 South of Range 4 East of St. Stephens Meridian, Baldwin County, Alabama; The Complainants further allege that they hold the aforesaid lands under a common title.

THIRD:

That the Defendant, the said J. W. Creamer, claims, or is reputed to claim, some right, title or interest in or incumbrance upon the aforesaid lands and your Complainants and each of them call upon the said J. W. Creamer to set forth and specify what right, title or interest in or incumbrance upon said lands he owns or claims to own and how and by what instrument or instruments the same is created or derived.

FOURTH:

Complainants further allege that there is no suit pending to enforce or test the validity of their title, claim or incumbrance or to enforce or test the validity of the title, claim or incumbrance of the Defendant.

Wherefore your Complainants pray that the said J. W. Creamer shall be made party defendant to this bill of complaint and be required to plead, answer or demur within the time and under the usual penalties prescribed by law and the practice of this Honorable court.

Complainants further pray that upon the final hearing of this bill of complaint your Honor will decree that the said J. W. Creamer has no right, title, interest, claim or incumbrance upon, in or to the lands herein described and that the title of said Complainants as to the respective lands owned by them be quieted and established in them as against the said J. W. Creamer and your Complainants further pray that upon the rendition of said decree the said J. W. Creamer be forever enjoined from making any claim to any right, title, interest or incumbrance upon said lands or any part thereof and that he be enjoined and restrained from disturbing or attempting to disturb the possession of the Complainants as to the lands herein alleged to be owned by them.

Richard Beebe Hall
Solicitors for Complainants.

The Defendant is required to answer the foregoing bill of complaint and the allegations therein contained, paragraphs one to four, both inclusive, but not under oath. Oath being hereby waived.

Richard Beebe Hall
Solicitors for Complainants.

We, the jury find as follows —

That James C. Phillips, plaintiff ^{on Oct 1, 1925} was in the peaceable possession of the $E\frac{1}{2}$, $E\frac{1}{2}$, $SW\frac{1}{4}$, $SE\frac{1}{4}$ Sec 31 - T55R4E - Baldwin Co., Ala.

That Frank Heidelberg was ^{on Oct 1, 1925} in the peaceable possession of the $W\frac{1}{2}$ of $E\frac{1}{2}$, $SW\frac{1}{4}$, $SE\frac{1}{4}$ - Sec 31 T55R4E Baldwin County Ala.

That O. P. Darden was ^{on Oct 1, 1925} in the peaceable possession of the $SW\frac{1}{4}$, $SE\frac{1}{4}$ - Sec 31 - T55R4E - Baldwin Co. Ala.

That Bertha Mae Lowrey, Vertie Mae Lowrey, Sissie Lowrey, Walter Lowrey and Jasper Lowrey were ^{on Oct 1, 1925} in the peaceable possession of the $SW\frac{1}{4}$, $SE\frac{1}{4}$ - Sec 31 - T55R4E - Baldwin Co. Ala.

RECORDED

the peaceable possession of the $NE\frac{1}{4}$, $SE\frac{1}{4}$, $SW\frac{1}{4}$ Sec 32 - T55R4E - Baldwin Co. Ala.

That Charles Climbrough was ^{on Oct 1, 1925} in the peaceable possession of the $SW\frac{1}{4}$ of $SE\frac{1}{4}$, $SW\frac{1}{4}$ Sec 32 - T55R4E - Baldwin Co. Ala.

That J. H. Giddens was ^{on Oct 1, 1925} in the peaceable possession of the $E\frac{1}{2}$, $W\frac{1}{2}$, $SE\frac{1}{4}$, $SW\frac{1}{4}$ Sec 33 - T55R4E Baldwin Co. Ala.

That J. P. Halliday was ^{on Oct 1, 1925} in the peaceable possession of the $E\frac{1}{2}$, $E\frac{1}{2}$, $SW\frac{1}{4}$, $SW\frac{1}{4}$ Sec 32 - T55R4E Baldwin Co. Ala.

We, the jury find that the defendant, J. W. Cremer had no adverse possession to any of the lands described in the Bill of Complaint.

J. C. Burns - Foreman

JAMES C. PHILLIPS, et al.,

Complainants,

-vs-

J. W. CREAMER,

Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY

NO. _____

A jury trial having been requested by the Respondent in said cause, it is ordered and directed that the issues of fact in said cause shall be submitted to a jury as follows, viz:

FIRST. Whether or not James C. Phillips was at the time of the filing of the suit, towit, October 1, 1925, in the peaceable possession of the E $\frac{1}{2}$ of E $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama;

Whether or not Frank Heidelberg was at the time of the filing of the suit, towit, October 1, 1925, in the peaceable possession of the W $\frac{1}{2}$ of E $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama;

Whether or not D. P. Durden was at the time of the filing of this suit, towit, October 1, 1925, in the peaceable possession of the W $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama;

Whether or not Bertha Mae Lowery, Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery and Jasper Lowery were, at the time of the filing of the suit, towit, October 1, 1925, in the peaceable possession of the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama;

Whether or not Charles Defibaugh was at the time of the filing of the suit, towit, October 1, 1925, in the peaceable possession of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 32, and South half of northeast quarter of southwest quarter, Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama;

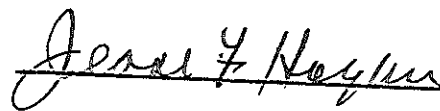
Whether or not J. H. Gideons was at the time of the filing of the suit, towit, October 1, 1925, in the peaceable possession of the E $\frac{1}{2}$ of W $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama;

Whether or not Jeff Gullledge was at the time of the filing of the suit, towit, October 1, 1925, in the peaceable possession of the $E\frac{1}{2}$ of $E\frac{1}{2}$ of $SW\frac{1}{4}$ of $SW\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama.

SECOND. It was also submitted to the jury to determine whether or not J. W. Creamer had adverse possession of all or any part of the lands described in the Bill of Complaint, viz: The $E\frac{1}{2}$ of the $E\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama; the $W\frac{1}{2}$ of the $E\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama; the $W\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama, the $NW\frac{1}{4}$ of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; the $NE\frac{1}{4}$ of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; The $E\frac{1}{2}$ of the $W\frac{1}{2}$ of the $SE\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; ~~the East $\frac{1}{2}$ of the East $\frac{1}{2}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama,~~ for a period of ten years, continuously, prior to October 1, 1925.

It is further ordered that these issues be submitted to the regular empaneled jury in said Court for the November Term, 1927, beginning upon towit, November 27th.

Dated this 30th day of November, 1927.


Special Judge

James C. Phillips et. al. Complainants.

vs.

J. W. Greener, Defendant.

Comes the defendant in the above entitled cause and for answer to said complaint alleges and states.

1st.

Defendant denies that any of the complainants are now, or ever have been in peaceable possession of the land described in the Amended complaint.

2nd.

That the defendant, J. W. Greener, has been in peaceable possession of the land described in the amended complaint for twenty four years, and that he has a deed to this land, and that under said deed he went into possession of said land, and has been in possession of said land for about 25 years, claiming to own the same.

Third.

That the defendant, J. W. Greener, that he has a fee simple title to the land described in the amended complaint, and that he derived his title by a deed from Southern States Lumber Company, and that said deed is of record in the Probate Office of Baldwin County, Alabama.

Fourth.

Defendant admits that there is no suit pending to test the validity of their title, but he avers that complainants have no title to be tested.

Defendant ask for a trial by jury in this cause.

J. W. Greener
Defendant.

J. C. Phillips ^{4/}
vs
J. W. Cramer

419

Filed for filing
4th 1926
J. W. Cramer
Register

RECORDED

James C. Phillips Et. als.

Complainants.

Circuit Court, Baldwin County.

Vs.

In Equity.

J. W. Creamer, Defendant.

Comes the defendant, J. W. Creamer, and for answer to the amended bill of complaint filed in this cause on to-wit:- March 22, 1927, alleges and states as follows.

First.

Defendant denies that any of the complainants are now or ever have been in peaceable possession of the lands described in the amended complaint.

Second.

That the defendant has been in peaceable possession of the land described in the ~~xxx~~ complaint last amended for twenty six years, and that he has a deed to this land, and that under said deed he went into possession of said land, and has been in possession of said land under said deed for more than twenty six years, claiming to own the same.

Third.

That defendant has a fee simple title to the land described in the complaint last amended, and that he derived his title by a deed from Southern States Lumber Company, and that said deed is of record in the Probate office of Baldwin County, Alabama.

Fourth.

That complainants took possession of said lands by force and against the will of defendant and forcibly ejected him from said land.

Fifth.

Defendant admits that there is no suit pending to test the validity of complainants' title, but he avers that complainants have no title to be tested.

Defendant asks for a trial by jury in this cause.

J. W. Creamer

... ..

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

...

421
Filed April 12/927
T. W. Reardon
Register.

RECORDED

6

...

...

...

...

...

...

...

...

JAMES C. PHILLIPS, et al.,
Complainants,

-vs-

J. W. CREAMER,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,

IN EQUITY

NO. 533

The Respondent having filed demurrers to the Bill of Complaint as last amended, and the Complainants having made a motion to strike said demurrers, and the cause being submitted on said motion;

It is ordered, adjudged and decreed that said motion be granted and that said demurrer be stricken from the file.

Dated this 30th day of November, 1927.

Joseph F. Hogan
Special Judge

STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT IN EQUITY.

JAMES C. PHILLIPS, ET. ALS.,
Complainants,

- VS. -

J. W. CREAMER,
Respondent.

...
*
...
*
...
*
...
*
...

Comes the Respondent and leave of the Court having been first had and obtained files this his Demurrer and Amended Answer to the Bill of Complaint as amended in this cause.

FIRST- This respondent demurs to said bill as amended and for grounds of demurrer assigns the following upon each one of which grounds separately this respondent insists, -

(a) The bill of complaint as amended has a misjoinder of parties in that it has a number of complainants and each complainant alleges that he or she owns a separate and distinct tract of land and none of the complainants show that they are interested as tenants in common or jointly in any part of the lands described in the bill.

(b) The various complainants show that they have no common interest in any one of the pieces of land described in the bill of complaint but separate interests in separate tracts are owned by each separate defendant.

(c) In this suit a number of complainants showing no joint or common interest in any one piece of property have joined as complainants and are praying that this respondent be decreed not to own any interest in any one of a number of pieces of property described in the bill claimed separately by the respective complainants.

SECOND.- The respondent not waiving the above stated demurrer, files this amended answer to the bill as amended in this cause:

Answers

2

(a) On to-wit: The 27th day of June, 1898, this respondent made a contract with the Southern States Lumber Company, a corporation, the said corporation acting in making said contract through and by its President, P. K. Yonge, and its other officer or agent, Dick Tyce, by which contract this respondent purchased from the said Southern States Lumber Company, a corporation, the following described lands situated in Baldwin County, Alabama: The South Half of Section Thirty-two (32) in Township Five (5) South of Range Four (4) West; also Southeast Quarter of Section Thirty-One (31), in Township Five (5) South of Range Four (4) East; containing four hundred and eighty (480) acres, more or less, the timber being reserved with ten (10) years to cut and remove same. That the purchase price agreed to be paid by this respondent for said lands was five hundred and fifty (\$550.00) dollars.

(b) That the draftsman of the deed was one Thomas J. Norwood, a person not learned in the law, nor versed in the drafting of deeds, and the said Norwood by mistake or for want of knowledge of how to fix the conveyance from the said corporation to this respondent, drafted the deed so as to make the said P. K. Yonge and Dick Tyce convey to this respondent the said lands, not showing that they in making the conveyance were acting as officers of said corporation.

The said deed as drafted with the mistake in it as above stated was duly executed by signatures and acknowledgment of the said P. K. Yonge and Dick Tyce, fully and correctly describing said land purchased by the respondent from said corporation and this respondent paid over to them as officers of said corporation from whom he was buying the land, as was agreed and understood between the said parties, the full amount of Five hundred and fifty (\$550.00) Dollars, the agreed purchase money, and the said deed thus executed was duly delivered to this respondent and the said lands were all turned over to and

delivered to this respondent and he thereupon, on the authority of his purchase of said lands from said corporation, entered into the possession of the said lands and has continued in the adverse possession of said lands from the date of his said purchase to the present time, except forty (40) acres thereof which he has sold to one Crenshaw and who occupies and is claiming same at this time.

(c) This respondent alleges further that at the time that he purchased the said land from the said Southern States Lumber Company, a corporation, and paid for the same and received possession of same as aforesaid, that the said Southern States Lumber Company was the owner in fee simple of the said lands, under ~~deed~~ to same ~~same~~

and was in possession of said lands under said deed, claiming to own same, and that the deed to the said Southern States Lumber

and the deeds of its predecessors in title
Company aforesaid ~~was~~ recorded in the Probate Office of Baldwin County, Alabama, *and had been so recorded for* in Deed Book ~~page~~ *more than ten years prior to the filing of this* ~~on the~~ *suit,* ~~day of~~ *18*

(d) This respondent says further that he continued his adverse possession of said lands and was not disturbed or interrupted in such adverse possession until some time in the latter part of the year of 1923 when the complainant, _____

came to his home on said property and by force and with great violence assaulted this respondent with an axe, knocking him down and rendering him, for a period, unconscious; that in various ways, the complainants, or some of them, have by force and violence sought to eject this respondent from his said lands, but this respondent has peraciously retained the possession of his said lands in spite of all threats and force and while some of the complainants, over the vigorous and determined opposition of this respondent and in spite of his warnings to keep off of said lands, have now the possession of some of same, in fact but not by right they have such possession by force

delivered to this respondent and he thereupon, on the authority of his purchase of said lands from said corporation, entered into the possession of the said lands and has continued in the adverse possession of said lands from the date of his said purchase to the present time, except forty (40) acres thereof which he has sold to one Crenshaw and who occupies and is claiming same at this time.

(c) This respondent alleges further that at the time that he purchased the said land from the said Southern States Lumber Company, a corporation, and paid for the same and received possession of same as aforesaid, that the said Southern States Lumber Company was the owner in fee simple of the said lands, under Deeds to same, and was in possession of said lands under said Deeds, claiming to own same, and that the Deeds to the said Southern States Lumber Company aforesaid, and the Deeds of its predecessors in title were recorded in the Probate Office of Baldwin County, Alabama, more than ten (10) years prior to the filing of this suit.

(d) This respondent says further that he continued his adverse possession of said lands and was not disturbed or interrupted in such adverse possession until some time in the latter part of the year of 1923, when Sylvester Pierce came to his home on said property and by force and with great violence assaulted this respondent with an axe, knocking him down and rendering him, for a period, unconscious; that in various ways, the complainants, or someone seeking unlawfully to oust this respondent from the possession of said land; have by force and violence sought to eject this respondent from his said lands, but this agreement has tenaciously retained the possession of his said lands in spite of all threats and force, and while some of the complainants, over the vigorous and determined opposition of this respondent, and in spite of his warnings to keep off of said lands, have now the possession of some part of same, but they have such possession by force

and not by law or right.

(e) This respondent says further that his long continued adverse possession of said lands for more than twenty-seven (27) years prior to the filing of the bill in this cause, together with his deed fully described above, is the owner of said property in fee simple. Respondent alleges further that he for many years has paid the taxes on said lands, that his deed to same which is above fully described was recorded on April 1st, 1921, in the office of the Probate Judge of Baldwin County, Alabama, in Deed Book 31, N.S., page 38, and that this respondent claims to own the said lands under and by virtue of his muniments of title aforesaid and his long continued adverse possession of said lands. Respondent also claims that notwithstanding the mistake in the deed whereby the officers of said corporation signed same, omitting to show that they were acting for said corporation; yet this respondent having purchased the said lands and having paid the purchase money in full and having been, as above alleged, put in possession of said lands by the seller, claims to own said lands under said contract and asserts his title to same by reason of said purchase, notwithstanding he received a deed in which an error was made. This respondent's possession of said lands was open, notorious, hostile, continuous, ^{exclusive} and under claim of right. He alleges that he fenced up about one hundred and sixty acres of said lands soon after he purchased it, that he cultivated portions of it continuously and maintained the said fence for more than twenty years, that he built houses on said lands and maintained them thereon for more than twenty years, and otherwise used said lands for all purposes for which same were susceptible of use and that he has never been disturbed in his possession of said lands until some time in the latter part of the year 1923 when his possession was invaded by some of the complainants as aforesaid.

This Respondent reiterates his demand for a Jury trial on all the issues in this case presented by the pleadings.

R. P. Roach

-----Solicitors for Respondent.-----

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT,
BALDWIN COUNTY, ALABAMA. IN EQUITY SITTING.

Come the Complainants in the above styled cause and by leave of court having been obtained, amend their bill of complaint heretofore filed in this cause so that the same shall read as follows:

Comes James C. Phillips, Frank Heidelberg, D. P. Durden and Bertha Mae Lowery, Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery, Jasper Lowery, Charles Defibaugh and J. H. Gideons and humbly complaining against J. W. Creamer, respectfully show unto your Honor as follows:

FIRST: That your Complainants the said James C. Phillips, Frank Heidelberg, D. P. Durden, Bertha Mae Lowery and J. H. Gideons are each over the age of twenty-one years and reside in Baldwin County, Alabama; that the said Complainant Charles Defibaugh is over the age of twenty-one years and resides at Indianapolis, Indiana; that the said Complainants Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery and Jasper Lowery are minors, whose ages are eight, six, four and two years respectively, and who bring this suit by Bertha Mae Lowery, their next friend, who is their mother; that each of said minors resides in Baldwin County, Alabama, in the custody of the said Bertha Mae Lowery; that the said J. W. Creamer is over the age of twenty-one years and resides in Baldwin County, Alabama.

SECOND: That the said James C. Phillips is the owner of and is in the peaceable possession of the following described lands, to-wit: The East half of the East half of the Northwest quarter of the Southeast quarter of Section 31, Township 5 South of Range 4 East of St. Stephens Meridian, Baldwin County, Alabama; that the said Frank Heidelberg is the owner of and is in the peaceable possession of the West half of the East half of the Northwest quarter of the Southeast quarter of Section 31, Township 5 South of Range 4 East, Baldwin County, Alabama; that the said D. P. Durden is the owner of and is in the quiet, peaceable possession of the West half of the Northwest quarter of the Southeast quarter of Section 31, Township 5 South of Range 4 East, Baldwin County, Alabama; that the said

Bertha Mae Lowery, Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery and Jasper Lowery are the owners of and are in the quiet and peaceable possession of the Northwest quarter of the Northeast quarter of the Southwest quarter of Section 32, Township 5 South of Range 4 East; that the said Bertha Mae Lowery is the widow of Ed Lowery; that the said minors are the children and all of the children of the said Ed Lowery, who died intestate on to-wit, August 2, 1924 and that said lands descended to them as heirs and next of kin of the said Ed Lowery; that the said Charles Defibaugh is the owner of and is in the peaceable possession of the Northeast quarter of the Northeast quarter of the Southwest quarter and the South half of the Northeast quarter of the Southwest quarter of Section 32, Township 5 South of Range 4 East, containing thirty acres; that the said J. H. Gideons is the owner of and is in the peaceable possession of the ~~East~~ half of the ~~West~~ half of the Southeast quarter of the Southwest quarter of Section 32, Township 5 South of Range 4 East. The Complainants further allege that they hold the aforesaid lands under a common title.

THIRD: That the Defendant, the said J. W. Creamer, claims, or is reputed to claim, some right, title or interest in or incumbrance upon the aforesaid lands and your Complainants and each of them call upon the said J. W. Creamer to set forth and specify what right, title or interest in or incumbrance upon said lands he owns or claims to own and how and by what instrument or instruments the same is created or derived.

FOURTH: Complainants further allege that there is no suit pending to enforce or test the validity of their title, claim of incumbrance or to enforce or test the validity of the title, claim or incumbrance of the Defendant.

Wherefore your Complainants pray that the said J. W. Creamer shall be made party defendant to this bill of complaint and be required to plead, answer or demur within the time and under the usual penalties prescribed by law and the practice of this honorable court.

Complainants further pray that upon the final hearing of this bill of complaint your Honor will decree that the said J. W. Creamer has

no right, title, interest, claim or incumbrance upon, in or to the lands herein described and that the title of said Complainants as to the respective lands owned by them be quieted and established in them as against the said J. W. Creamer and your Complainants further pray that upon the rendition of said decree the said J. W. Creamer be forever enjoined from making any claim to any right, title, interest or incumbrance upon said lands or any part thereof and that he be enjoined and restrained from disturbing or attempting to disturb the possession of the Complainants as to the lands herein alleged to be owned by them.

Rickarby Beebe & Hall
Solicitors for Complainants.

The defendant is required to answer the foregoing bill of complaint and the allegations therein contained, paragraphs one to four, both inclusive, but not under oath. Oath being hereby waived.

Rickarby Beebe & Hall
Solicitors for Complainants.

2
Amended Bill

#1

47-18

Filed Dec 8th 1925
J. W. McClunnon
Register

RECORDED

18
728/11

James C Phillips, et al } Circuit Court
complainants } Madison Co
vs } Ala in Equity
Jm Creamer & Co }

It is agreed between
the parties to this cause that
the Hon-Jesse F Hodgan shall
be paid the sum of \$50.00
for his services as Special
Judge in the trial
of this case - and that
the same be taxed and
paid as required by law -

Respectfully Submitted
for Complainants
S. C. Jenkins
or Respondent

JAMES C. PHILLIPS, et al.,
Complainants,

-vs-

J. W. CREAMER,
Respondent.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.


IN EQUITY

NO. _____

The Respondent having filed an answer to the Bill of Complaint, as last amended, and the Complainants having filed exceptions thereto;

It is ordered, adjudged and decreed that said exceptions be overruled.

Dated this 30th day of November, 1927.


Special Judge

The State of Alabama,
Baldwin County.

Circuit Court. ** In Equity.

James C. Phillips et als,
Complainants,

vs

J.W. Creamer,
Respondent.

Comes R.P. Roach, who has heretofore appeared conditionally as Solicitor for the Respondent in this cause, and filed a Demurrer to the Bill of Complaint and an answer to same, and shows the court that his conditional employment was never consummated, and that he therefore moves the Court to permit him to withdraw his appearance and to withdraw from further representation of the Respondent in this cause.

R.P. Roach

JAMES C. PHILLIPS,
Frank Heidelberg,
D. P. Durden,
Bertha Mae Lowery,
Vertie Mae Lowery,
Sissie Inez Lowery,
Walter Lowery,
Jasper Lowery,
Charles Difibaugh,
J. H. Gideons,
Jeff Gullledge,

Complainants,)

-vs-

J. W. CREAMER,

Respondent.)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY

NO. _____

FINAL DECREE

This cause regularly coming on to be heard on the 30th day of November, 1927, on the Bill of Complaint as last amended in this cause filed, and the Answer of the Respondent, also upon the testimony as noted by the Register, and upon the verdict of the jury rendered this day in this cause, said verdict being as follows, viz:

We the Jury find as follows -

That James C. Phillips, Plaintiff, was on October 1, 1925, in the peaceable possession of the E $\frac{1}{2}$ of E $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 31-T.5 S.R.4 E - St. Stephens Meridian, Baldwin County, Ala.

That Frank Heidelberg was on October 1, 1925, in the peaceable possession of the W $\frac{1}{2}$ of E $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 31, T.5 S. R.4 E. Baldwin County, Ala.

That D. P. Durden was on October 1, 1925, in the peaceable possession of the W $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 31 - T.5 S.R.4 E.-Baldwin County, Alabama;

That Bertha Mae Lowery, Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery, and Jasper Lowery were on October 1, 1925, in the peaceable possession of the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 32, T.5 S.R.4 E. Baldwin County, Ala.

That Charles Defibaugh was on October 1, 1925, in the peaceable possession of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 32 - T. 5 S. R.4 E and South haf of Northeast quarter of Southwest quarter Sec 32-T5,S

R. 4 E.- Baldwin County, Ala.

That J. H. Gideons was on October 1, 1925, in the peaceable possession of the $E\frac{1}{2}$ of $E\frac{1}{2}$ of $SE\frac{1}{4}$ of $SW\frac{1}{4}$ Sec. 32 T. 5 S. R. 4 E. Baldwin County, Ala.

That Jeff Gullledge was on October 1, 1925, in the peaceable possession of the $E\frac{1}{2}$ of $E\frac{1}{2}$ of $SW\frac{1}{4}$ of $SW\frac{1}{4}$ Sec. 32 - T. 5 S. R. 4 E. Baldwin County, Ala.

J. C. BURNS, FOREMAN.

We, the jury find that the Defendant, J. W. Creamer, had no adverse possession to any of the lands described in the Bill of Complaint.

J. C. BURNS, FOREMAN.

And all of the parties thereto being present in court in person or represented by counsel; and the Court having heard the arguments of counsel upon matters at issue, and the Court being of the opinion that the Complainants are entitled to relief, and that the Respondent has no right, title or interest in or encumbrance upon the lands hereinafter described, or any part thereof;

It is therefore ordered, adjudged and decreed that the Respondent has no right, title or interest in or encumbrance upon the lands described in the Bill of Complaint, viz: The $E\frac{1}{2}$ of the $E\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Sec. 31, Township 5 South, Range 4 East of St. Stephens Meridian, Baldwin County, Alabama; The $W\frac{1}{2}$ of the $E\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama; the $W\frac{1}{2}$ of the $NW\frac{1}{4}$ of the $SE\frac{1}{4}$ of Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama; the $NW\frac{1}{4}$ of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; ^{$S\frac{1}{2}$ of $NE\frac{1}{4}$ of $SW\frac{1}{4}$ and} the $NE\frac{1}{4}$ of the $NE\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; the $E\frac{1}{2}$ of the $E\frac{1}{2}$ of the $SE\frac{1}{4}$ of the $SW\frac{1}{4}$ of Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; The $E\frac{1}{2}$ of the $E\frac{1}{2}$ of the $SW\frac{1}{4}$ of the $SW\frac{1}{4}$, Section 32, Township 5 South, Range 4 East, Baldwin County, Alabama, or any part thereof;

It is also ordered, adjudged and decreed that the Register of this Court shall within thirty days from the rendition of this decree file the same, or a certified transcript thereof,

for record in the Probate Court of Baldwin County, Alabama,
and tax the expense thereof in the costs of this cause;

It is further ordered, adjudged and decreed that the
costs of this cause be taxed against the Respondent, for which
let execution issue.

Dated this 14th day of January, 1928.

Jesse F. Hogan
Special Judge

TO THE HONORABLE JOHN D. LEIGH, JUDGE OF THE CIRCUIT COURT,
BALDWIN COUNTY, ALABAMA. IN EQUITY SITTING.

Comes James C. Phillips, Frank Heidelberg, D. P. Durden and Bertha Mae Lowery, Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery and Jasper Lowery and humbly complaining against J. W. Creamer, respectfully shows unto your Honor as follows:

FIRST: That your Complainants the said James C. Phillips, Frank Heidelberg, D. P. Durden and Bertha Mae Lowery are each over the age of twenty-one years and reside in Baldwin County, Alabama; that the said Complainants Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery and Jasper Lowery are minors, whose ages are eight, six, four and two years respectively, and who bring this suit by Bertha Mae Lowery, their next friend, who is their mother; that each of said minors resides in Baldwin County, Alabama, in the custody of the said Bertha Mae Lowery; that the said J. W. Creamer is over the age of twentyone years and resides in Baldwin County, Alabama.

SECOND: That the said James C. Phillips is the owner of and is in the peaceable possession of the following described lands, to-wit: The East half of the East half of the Northwest quarter of the Southeast quarter of Section 31, Township 5 South of Range 4 East of St. Stephens Meridian, Baldwin County, Alabama; that the said Frank Heidelberg is the owner of and is in the peaceable possession of the West half of the East half of the Northwest quarter of the Southeast quarter of Section 31, Township 5 South of Range 4 East, Baldwin County, Alabama; (that the said D. P. Durden is the owner of and is in the quiet, peaceable possession of the West half of the Northwest quarter of the Southeast quarter of Section 31, Township 5 South of Range 4 East, Baldwin County, Alabama;) that the said Bertha Mae Lowery, Vertie Mae Lowery, Sissie Inez Lowery, Walter Lowery and Jasper Lowery are the owners of and are in the quiet and peaceable possession of the Northwest quarter of the Northeast quarter of the Southwest quarter of Section 32, Township 5 South of Range 4 East; that the

said Bertha Mae Lowery is the widow of Ed Lowery; that the said minors are the children and all of the children of the said Ed Lowery, who died intestate on to-wit; August 2, 1924 and that said lands descended to them as heirs and next of kin of the said Ed Lowery. The Complainants further allege that they hold the aforesaid lands under a common title.

THIRD: That the Defendant, the said J. W. Creamer, claims, or is reputed to claim, some right, title or interest in or incumbrance upon the aforesaid lands and your Complainants and each of them call upon the said J. W. Creamer to set forth and specify what right, title or interest in or incumbrance upon said lands he owns or claims to own and how and by what instrument or instruments the same is created or derived.

FOURTH: Complainants further allege that there is no suit pending to enforce or test the validity of their title, claim or incumbrance or to enforce or test the validity of the title, claim or incumbrance of the Defendant.

Wherefore your Complainants pray that the said J. W. Creamer shall be made party defendant to this bill of complaint and be required to plead, answer or demur within the time and under the usual penalties prescribed by law and the practice of this honorable court.

Complainants further pray that upon the final hearing of this bill of complaint your Honor will decree that the said J. W. Creamer has no right, title, interest, claim or incumbrance upon, in or to the lands herein described and that the title of said Complainants as to the respective lands owned by them be quieted and established in them as against the said J. W. Creamer and your Complainants further pray that upon the rendition of said decree the said J. W. Creamer be forever enjoined from making any claim to any right, title, interest, or incumbrance upon said lands or any part thereof and that he be enjoined and restrained from disturbing or attempting to disturb the possession of the Complainants as to the lands herein alleged to be owned by them.

Pickens, Beebe & Hall
Solicitors for Complainants.

The defendant is required to answer the foregoing bill of complaint and the allegations therein contained, paragraphs one to four, both inclusive, but not under oath. Oath being hereby waived.

Rickard Beebe Hall
Solicitors for Complainants.

✓
JAMES C. PHILLIPS,
Frank Heidelberg,
D. F. Burden,
Bertha Mae Lowery,
Vertie Mae Lowery,
Sissie Inez Lowery,
Walter Lowery,
Jasper Lowery,
Charles Defibaugh,
J. E. Gideons,
Jeff Gilledge,

Complainants,)
in the Circuit Court of
BALDWIN COUNTY, ALABAMA.

J. A. CRAMER,

Respondent.

IN EQUITY

No. _____

FINAL DECREE

This cause regularly coming on to be heard on the
50th day of November, 1927, on the Bill of Complaint as last
amended in this cause filed, and the answer of the Respondent,
also upon the testimony as noted by the Register, and upon
the verdict of the jury rendered this day in this cause, said
verdict being as follows, viz:

Be the jury find as follows -

That James C. Phillips, Plaintiff, was on October 1,
1925, in the peaceable possession of the $\frac{1}{2}$ of $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ sec.
21-T.5 S.R.4 E - St. Stephens Meridian, Baldwin County, Ala.

That Frank Heidelberg was on October 1, 1925, in the
peaceable possession of the $\frac{1}{2}$ of $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ sec. 21, T.5 S.
R.4 E. Baldwin County, Ala.

That D. F. Burden was on October 1, 1925, in the peaceable
possession of the $\frac{1}{2}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ sec. 21 - T.5 S.R.4 E.-Baldwin
County, Alabama;

That Bertha Mae Lowery, Vertie Mae Lowery, Sissie Inez
Lowery, Walter Lowery, and Jasper Lowery were on October 1, 1925,
in the peaceable possession of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of sec. 22,
T.5 S.R.4 E. Baldwin County, Ala.

That Charles Defibaugh was on October 1, 1925, in the
peaceable possession of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$ of SE $\frac{1}{4}$ sec. 22 - T. 5 S.R.4E
and south half of northeast quarter of southwest quarter Section 22, T 5 S

R. 4 E.- Baldwin County, Ala.

That J. H. Gideons was on October 1, 1925, in the peaceable possession of the E $\frac{1}{2}$ of W $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 32 T. 5 S. R. 4 E. Baldwin County, Ala.

That Jeff Gullledge was on October 1, 1925, in the peaceable possession of the E $\frac{1}{2}$ of E $\frac{1}{2}$ of SE $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 32 - T. 5 S. R. 4 E. Baldwin County, Ala.

J. C. BURNS, FOREMAN.

We, the jury find that the Defendant, J. W. Creamer, had no adverse possession to any of the lands described in the Bill of Complaint.

J. C. BURNS, FOREMAN.

And all of the parties thereto being present in court in person or represented by counsel; and the Court having heard the arguments of counsel upon matters at issue, and the Court being of the opinion that the Complainants were entitled to relief, and that the Respondent has no right, title or interest in or encumbrance upon the lands hereinafter described, or any part thereof;

It is therefore ordered, adjudged and decreed that the Respondent has no right, title or interest in or encumbrance upon the lands described in the Bill of Complaint, viz: The E $\frac{1}{2}$ of the E $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 31, Township 5 South, Range 4 East of St. Stephens Meridian, Baldwin County, Alabama; the W $\frac{1}{2}$ of the E $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 31, Township 5 South, Range 4 East, Baldwin County, Alabama; the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of section 31, Township 5 South, Range 4 East, Baldwin County, Alabama; the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; ^{5/2 of NE 1/4 of SW 1/4} the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; the E $\frac{1}{2}$ of the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 32, Township 5 South, Range 4 East, Baldwin County, Alabama; The E $\frac{1}{2}$ of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, section 32, Township 5 South, Range 4 East, Baldwin County, Alabama, or any part thereof;

It is also ordered, adjudged and decreed that the Register of this Court shall within thirty days from the rendition of this decree file the same, or a certified transcript thereof,

for record in the Probate Court of Baldwin County, Alabama,
and tax the expense thereof in the costs of this cause;

It is further ordered, adjudged and decreed that the
costs of this cause be taxed against the Respondent, for which
let execution issue.

Dated this 14th day of January, 1928.

James F. Hogan
Special Judge