

The State of Alabama. - - - - - Baldwin County.

Sarah E. Spear et al.
Complainants,

vs

Prentis I. Clemmons et. at.
Defendants.

#

In Circuit Court, Baldwin Co.

IN EQUITY.

No.

The Deposition of George H. Hoyle and Sarah E. Spear, witnesses examined on behalf of Complainants, in the above entitled cause, which is pending in the Circuit Court of Baldwin County, Alabama.

The said Witnesses appeared before me at the time and place hereinafter named, and after having first been duly sworn by me to speak the truth, the whole truth and nothing but the truth, did testify as say as follows: That is to say, George H. Hoyle and Sarah E. Spear being duly sworn, testified as follows:

Sarah E. Spear et al., Complainants,

vs. In Circuit Court of Baldwin County, in equity .

Prentiss I. Clemmons , et als., Defendants .

Mr. Hoyle being here for the second time, and the examination having been continued from last Monday, and it being inconvenient for him to be kept waiting longer, the commissioner rules and solicitor for complainant agree that opposing counsel may cross-examine Mr. Hoyle under the law, and that they shall have the right to interpose motions to exclude on objections to his testimony the same as if present, and that the examination proceed .

George H. Hoyle, being duly sworn deposes as follows :-

My name is Gorge H. Hoyle I reside at Battle's Wharf, Baldwin County, Alabama. I am 55 years of age .

I know the land described as those parts of the north half of the south-east quarter of section nineteen, and the north half of the south-west quarter of section twenty, and the north half of the south-east quarter of section twenty, which lie outside of the Baron De Feriet Grant, all in township six south of range two east, in Baldwin County, Alabama . It is commonly known as the Reynolds or Spear tract, being known as the Reynolds tract formerly and later as the Spear tract. It is the land that was described in a deed of record from George F. Reynolds to Issaac D. Spear, Senior, and the same described in a deed from Isaac D. Spear, sr., to I. D. Spear, Jr., and J. I. Clemmons That is, they are included in those descriptions, which were for more land, for instance, the north-east quarter of south-west quarter of section 19 in the same township and range . I live in less than a half mile from the tract, and have known the land nearly fifty years, as long as I can remember it . It is south of the incorporated limits of Fairhope and south-east of the settled part of Fairhope. It comes to nearly a half mile of Mobile Bay. On account of the broken nature of the ground, I would say it cannot be equitably divided amongst part owners without a sale-- a large gully known as Big Head gully runs diagonally through the tract, and the gully has breaks in it running out like branches to a creek, or from a creek, though water does not run through it now, except after rains . It could only be divided by agreement, not by commissioners, in my opinion, because of these breaks and gulleys. The north-east quarter of south-west quarter of section 19 is not concerned in this suit, but it came down just like the other forties above named did, that is from Reynolds to Spear, and from Spear to Clemmons and Spear, Jr., I knew Spear, Jr., and Clemmons both, pretty well in a business way and personally. Clemmons and Spear, Jr., claimed to own the seven forties above referred to .

In 1905, while they were claiming it, or rather Clemmons was claiming his part, and I. D. Spear, Jr., had died, and Spear's heirs were claiming the part of I. D. Spear, Jr., I had negotiations to get a deed from J. I. Clemmons and the heirs of I. D. Spear, Jr., or some of the latter heirs, for the forty described as north-east quarter of south-west quarter of section 19, in that township and range. I did not prepare the deed I got, but it was prepared by J. I. Clemmons, to be executed by him and others named as follows in it, to me, that is, Lucy M. Spear, Kate L. Spear, and Alexander Spear, I understanding then that Mr. Clemmons knew who the heirs of I. D. Spear, Jr., were, and that he was to deliver me a deed signed by them all for the forty. Finally the deed was executed to me only by J. I. Clemmons and his wife, the others not signing, and thus I understood I got a half interest which had belonged to Mr. Clemmons in that forty. This deed was made to me in 1905, and it is recorded in record book No. 9 N.S., of the Baldwin County records of conveyances, at page 628. I. D. Spear, Jr., was then dead to my knowledge, and I did not know of my own knowledge at the time who were all of the heirs of I. D. Spear Jr. He was commonly called " June " Spear. I met Richard Lee

Fearn over at or near Battle's Wharf in the summer of 1906, and in talking with me he told me he was interested in the other half interest in that forty, that I had a half and that he represented the parties who owned the other half, and said he was trustee for these other parties, and said they were the heirs of I.D. Spear, Jr., but did not then state their names. He did distinctly tell me in that summer that he was trustee for the heirs of I.D. Spear, Jr., of that forty and the other forties above described. These forties, seven in number, are known also as lots five, six, seven and eight of section 20, and 1, 2 and 3 of section 19, those numbers running from east to west, and that that I got my interest in was number 3 of section 19. The Baron De Feriet tract or grant was an old grant and is known to this day as section 18, and it runs across parts of sections 19 and 20 above described, as surveyed by the Government, so that lots or parts numbered 1, in section 19, and 7 and 8 in section 20, are fractional forties, or parts of forties. The lot 5 in section 20 is given as 40 acres, lot 6 is given as 39 1/2 acres, lot 7 is given as 9 acres, lot 8 is given as 15.92 acres, lot 1 in section 19 is given as 36.82 acres, the other two numbered 2 and 3 in section 19 are given as 40.10 acres each. I have been a number of times over the part known as the Baron De Feriet grant, have twice surveyed it with a surveyor, I used to own the Baron de Feriet grant myself, and sold it off in years ago to Moog who sold to Boudousque, the part of it the latter claims now. I am fairly well acquainted with the lines of the numbered lots and of the Baron de Feriet grant, which runs diagonally from Mobile Bay out across parts of lots numbers 1, 8 and 7, and with the lines of these seven forties.

In 1906 Richard Lee Fearn was aware that these seven forties or fractional forties, whatever they were, had come down to I.D. Spear, Jr. and J.I. Clemmons, from I.D. Spear, Sr., because he so stated. He also stated that he represented the heirs of I.D. Spear, Jr., as their trustee, and he frequently, then and subsequently spoke to me of his being trustee for the heirs of I.D. Spear, Jr., and I began negotiations with him in the summer of 1906 to divide between myself and him the forty in which I got my interest from Mr. Clemmons. He as such trustee and I agreed upon a division of that forty, I to have the north twenty acres of it and he the south twenty, and in that year, 1906, I drew up deeds accordingly, and I sent the one to him that he was to sign to me. I signed and acknowledged mine to him in that year, but did not deliver it to him till in 1908, when he delivered his to me. Meantime I, and he, calling himself trustee, filed a bill in the Mobile chancery court in 1907, as joint complainants, against Wm. DeForest Holly, Jacob Baptiste, David Stephenson, &c., No. 8574, to quiet the title to that forty, and we got a decree in that year, 1907, quieting our title to that forty against the defendants in that suit. After that decree was had, we then in the next year, 1908, passed our deeds between us - in both he was called, as per his own statements to me, and his representations to me, trustee, &c., mine to him being made to him "as trustee for the heirs of I.D. Spear, Jr.", and his to me being made to me by him as an individual and "as trustee for the heirs at law of I.D. Spear, Jr." both were filed for record March 14th, 1908, and recorded in record book 12 N.S. pages 666 and 667. In 1912 I testified as a witness in a bill in chancery filed at Mobile by Richard Lee Fearn, Alexander N. Spear and J.I. Clemmons as joint complainants against Paul C. and Mary R. Boudousque to quiet the title to all of the above seven forties except the one that I was interested in. This was cause No. 9995, and Alexander N. Spear died, and the remaining complainants had the cause revived in the names of Sarah E., Marguerite, Chester, and Charles Spear as his heirs. In that suit the decree resulted in quieting the title of complainants to all the said fractional forties sued about except the parts lying in the Baron De Feriet grant. I wrote Richard Lee Fearn a letter telling him of having made that deed to him, and when I made it I understood from him that he did represent all the heirs of I.D. Spear, Jr., as their trustee of the land, and I attach a copy of this letter to my deposition. He replied to it, and I attach hereto a copy of his reply, as exhibits. They are on one sheet of paper. I also attach a diagram showing how

the Baron de Feriet grant crosses the forties, as an exhibit to my deposition, roughly drawn. His reply shows that he did not at its date recognize any obligation to straighten the matter out for me, and he had told me in 1908, but only after he and I had exchanged deeds as above stated, that he did not represent the heirs of Alexander N. Spear, or the interest of Alex. N. Spear, who was then living. But he stated to me that Alex. N. Spear would sign a deed to me to straighten it out. I had not known Alex. Spear at all in the transaction, had not had any negotiations with Spear, but only with Mr. Fearn, and I looked to Mr. Fearn to get it straightened out and tried to get him to do so by getting a deed to me from Alex. N. Spear while he was living. But Mr. Fearn said that Alex. Spear was a sick man, cross, and suspicious, and that he was even then accusing Mr. Fearn of trying to beat him-- this occurred in Werneth's saloon, shortly before the death of Alex. N. Spear, in Mobile, and he said it was not a good time to approach Mr. Spear on account of his illness. It then rocked along, and after the death of Alex. N. Spear I again tried to get Mr. Fearn to straighten up the matter by getting me a deed from Alex. Spear's heirs, but he said one of them was away and he could not hear from him-- he did not tell me which one it was, and I did not know. Not long afterwards I met one of them, Chester Spear, and supposing he was the one who had come back, I took it up again with Mr. Fearn in a letter dated July 1st, 1914, attached to my deposition-- this was really written on July 21st instead of the 1st, and his immediate reply to it is attached also as an exhibit. But I never heard anything from him about his not representing Alex. N. Spear as trustee of these lands until after I had exchanged the deed with Mr. Fearn as above stated, when he told me I would need a deed from Alex. N. Spear but that he would sign it, that is, that Spear would sign it. The first time he ever told me that, he mentioned something about Spear's wife being contrary and not wanting to sign deeds, but afterwards when she had died, and old man Spear was sick he mentioned the latter fact as an obstacle, and the other time he mentioned that one of the heirs was away, &c. All these excuses he gave at three different times I asked him to straighten the matter out for me. Up to after when we exchanged those deeds he always told me he was trustee of the heirs of I. D. Spear, Jr., for all those lands, without naming them till he wrote me July 23rd, 1914, as per my exhibit. He certainly recognized and treated himself, as trustee of all these lands, for the heirs of I. D. Spear, Jr., in all his dealings and talks and papers with me, until after we had exchanged the deeds, when he told me he does not represent Alex. N. Spear, and when we had finished our bill in chancery against De Holley and others as above stated, I paid half, and he paid half the expenses of that suit, \$ 37.50 apiece.

George A. Hoyle

Copy of letter to Richard Lee Fearn
and his reply to same.

July 1st., 1914.

Mr. Richard Lee Fearn,
Battles Wharf, Ala.

Dear Mr. Fearn:

In March, 1908, I traded to you the undivided half interest in the $S\frac{1}{2}$ of $NE\frac{1}{4}$ of $SW\frac{1}{4}$ of Sec. 19, Tp. 6. S., R. 2. E., Baldwin County, Ala., for the undivided half ~~interest~~ of the $N\frac{1}{2}$ of $SE\frac{1}{4}$ of $SW\frac{1}{4}$ of said section.

As I have not received the full consideration for the interest I sold you by reason of the failure to have conveyed to me the interest of the late Alexander Spear, I write to ask if you will get this interest for me and close up the matter. If you can do this, and will give me the names of the heirs at law, I will draw the deed for you to get executed.

If you cannot do this, I hope you will see the justice in the suggestion that you reconvey to me the proportionate interest in the south twenty acres which I have failed to receive in the north twenty acres.

Yours, very truly,
George H. Hoyle.

Battles Wharf, Ala., July 23, 14

Mr. George H. Hoyle,
Battles Wharf.

Dear Mr. Hoyle:

Your letter dated July 1st, but postmarked July 22d, is the first intimation I have had that I was under obligation to have conveyed to you the interests of the late Alex Spear. His heirs are Sarah E., Chas. A., Chester H., and Marguerite; and if you will give me the desired deed so clearly worded as to require no extended explanation, I will ask them to execute it, except Charles who is not of communication with the others.

Yours, very truly,
Richard Lee Fearn.

Sarah E. Spear, being duly sworn, deposes and says :-

On direct examination by Mr. Cobbs .

My name is Sarah E. Spear, commonly called Sadie Spear. I knew Isaac D. Spear, Sr. He was my grandfather on my father's side . I did not know my grandmother his wife. They were the parents of I. D. Spear, Jr., who was commonly called June Spear . I do not know in what year either my grandfather or grandmother died . They died before " June " Spear died . My father is dead. June died before my father died .

My grandfather I. D. Spear, Sr.'s, children and heirs at law were the following persons : Kate Spear, Lucy Spear, Alex. N. Spear, June Spear, and Sarah E. Spear Fearn the mother of Richard Lee Fearn, Thomas S. Fearn, and Sally B. Manly. Mrs. Fearn their said mother was dead before this suit was brought .

My father Alex. N. Spear died in 1913 . His children and heirs at law would have been Frank, Ida, myself, by his first wife, and Chas. A. Spear, Chester Spear, and Marguerite Spear, Harry, and Irma. Those of us who were living at my father's death were Marguerite, Chester, Chas., and I. The others died while children, never married, in infancy, the oldest being about six years old at death. Both of my father's wives were dead when he died .

Kate Spear is living, in Mobile. Lucy Spear is dead, she died in 1914.

Chas. Spear lives in the State of New York. Complainants live in Mobile. Richard Lee Fearn lives in Mobile. Thos. S. Fearn lives in White Plains, New York. Mrs. Sally Barry Manly lives in New Jersey .

I knew J. I. Clemmons, he is dead. He left three heirs, his children, named Prentiss, Miss Loomis Clemmons, and Joseph . He also left his widow, Emma . They all live in Mobile, except Joseph who I think lives in New Orleans.

When " June " Spear died his father and mother were dead. Mildred Field wife of Lieutenant R. S. Field of the U. S. Navy, and Richard Lee Fearn, Jr., the children of Richard Lee Fearn, do not live in Alabama .

All the parties to this suit are over 21 years of age, and all of sound mind but Thos. S. Fearn. I have given the names of the parties to this suit . Richard Lee Fearn's mother was dead when he was a child of tender years, Thos. S. comes next and Mrs. Manly is younger than Thos. S. Lucy Spear (Lucy N) left a will- all others dying died intestate .

Cross-examination by Mr. Nell Frazer, representing Richard Lee Fearn, Mrs. Sallie B. Manly, and the guardian ad litem of Thos. S. Fearn. June Spear was never married . Lucy Spear was never married .

Sarah E. Spear

CERTIFICATE:


I G. H. Kruempel, the Commissioner named in the foregoing Commission, issued out of the Honorable, The Circuit Court of Baldwin County, Alabama, do hereby certify that in a certain cause pending in said Court, wherein Sadie Spear and others are Complainants and Prentis I. Clemmons and others are Defendants, under and by virtue of the power conferred upon me by said Commission, I caused the said George H. Hoyle and the said Sarah . E. Spear who are known to me, and who are known to me to be the indentical witnesses named in the Commission to come before me at the times and places hereinafter named, that is to say I caused the said George H. Hoyle to come before me at 213 City Bank Building, Mobile Alabama on the 8th. day of July, 1918 at 2 o'clock P.M. and the said Sarah E. Spear at 213 City Bank Building, Mobile Alabama, on the 12th. day of September, 1918 at 8 o'clock P. M.

That the said George H. Hoyle, after first being duly sworn by me, was then examined by Hon. D. B. Cobbs, Solicitor For Complainant, ~~XXXXXX~~ being the only Solicitor present, although, the Solicitors of interst, namely: Thornton & Frazer, and also Gaillard, Mahorner & Arnold, and also Hon. H. D. Moorer as Guardian at Litem had been duly notified, but failed to appear

The said Sarah E. Spear appeared before me, as stated, and after first by me being duly sworn, was examined by Hon. D. B. Cobbs, and cross-examined by Hon. Mell Frazer, testified in response thereto as it is herein above written; Their testimoney was caused by me reduced to writing as given by each, and as near as might be in the identical language of the said witnesses and after their testimony had been so reduced to writing, it was read over to the said witnesses, who assented to and signed the same in my presence and in the presence of the solicitors.

I further certify that I am not of Counsel or of kin to any of the parties to the cause and I am not in anywise interested in the result thereof.

Witness my hand this the 14th. day of September 1918


Commissioner.

My fee is \$750
Not paid.

THE STATE OF ALABAMA,
Baldwin County.

CIRCUIT COURT, IN EQUITY.

RECORDED

To G. H. Kruempel, Esq.,
Mobile, Ala.

KNOW YE, That we, having full faith in your prudence and competency, have appointed you Commissioners, and by these presents do authorize you, or any one or more of you, at such time and place as you may appoint, to call before you and examine

Sadie Spear, Marguerite Spear, Chester Spear, P. I. Clemmons, D. B. Cobbs, and George H. Hoyle

as witnesses in behalf of Complainants in a cause pending in our Circuit Court of Baldwin County, of said State, wherein Sadie Spear and others

are Complainant and Prentiss I. Clemmons and others

are Respondent, on oath to be by you administered, upon interrogatories orally to be put to witnesses

to take and certify the depositions of the witnesses and return the same to our Court, with all convenient speed, under your hand.

Witness 5/2 day of May 1918

D. Micum
Register.

No 863 STATE OF ALABAMA Baldwin COUNTY.

Office of the Judge of Probate, Baldwin County.

Sale Docket 5 P. 162

WHEREAS, on the 1st day of June 1923, the real property hereinafter described was sold, in substantial conformity with all the requisitions of the statutes in such cases made and provided, by G. W. Humphries Tax Collector of said County, to Mel. A. Freyer for the taxes, interests, penalties and costs, then due and remaining unpaid on said property; and whereas, J. W. Richardson Reg. in Equity for Sarah E. Spens et al. has made application to redeem said land:

NOW, THEREFORE, I, G. L. Lambert, Judge of the Probate Court of the said County of Baldwin, being satisfied that the said J. W. Richardson Reg. in Equity for Sarah E. Spens et al. is the owner of said property, and has a right to redeem the same, do hereby certify that the said J. W. Richardson Reg. in Equity for Sarah E. Spens et al. has deposited with me, on this 10 day of September, 1924, Fifty One & 67/100 Dollars, for the redemption of the following real estate:

Lots 1 & 2 Sec. 19 Tp. 6 S. R. 2 E.
Lots 7 & 8 " 20 " 6 S. R. 2 E.

situated in Baldwin County, Alabama.

Assessed to Sarah E. Spens and Christen L. Clement
Amount of Purchase Money \$ 42.45
Interest at 10% \$ 8.22
Cost of Certificate of Redemption \$ 1.00
Subsequent Taxes and Interest \$ _____
Total \$ 51.67

WITNESS, G. L. Lambert,
Judge Probate Court of said County, this
10 day of Sept,
1924.
G. L. Lambert
Judge Probate.

Countersigned by:
G. L. Lambert
County Treasurer.

Code 1907-2318.
Act approved Sept. 14, 1915.
BROWN PRINTING CO. MONTGOMERY.

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T. W. RICHESON
CLERK AND REGISTER CIRCUIT COURT
BALDWIN COUNTY, ALA.

BAY MINETTE, ALA. February 6th, 1924.

Hon. John D. Leigh,

Brewton Alabama

Dear Judge:-

Mr. Cobb called me over the Phone this
A.M. wanting to know what papers I had mailed you as he seems
specially anxious that his Fee is not overlooked and I dont blame
him therefore I am sending a few more papers along thinking that you
might need them and should you need any more kindly write me and I
will send the whole file . Hoping you health and happiness I
beg to remain yours truly.

T. W. Richeson

TWENTY-FIRST JUDICIAL CIRCUIT
OF ALABAMA
JOHN D. LEIGH, JUDGE
BREWTON, ALA.

Sept 9, 1924.

Hon. T. W. Richerson,
Bay Minette, Ala.

Dear Mr. Richerson:-

RE: Sara E. Spear vs. Prentiss I. Clemmons.

Enclosed herewith you will find Decree of Distribution of the funds derived from the sale of the property in the above stated matter.

In your letter of June 21st., at the time you submitted this matter to me, you asked me to advise you whether or not you should pay Mr. H. H. Parker three percent of the purchase price for selling the land as agreed in the contract or agreement entered into between the attorneys representing the parties in interest on the respective sides of the case. If you will read the agreement you will find that it is one entered into between Messrs. D. D. Cobbs and Gaillard, Mahorner and Arnold on the one side and Harry H. Parker on the other side, and you will note from this agreement that Messrs. Cobb and Gaillard, Mahorner and Arnold representing certain of the parties and Henry D. Moorer, Guardian Ad Litem, representing the minor entered into this agreement with Mr. Parker. I am of the opinion that all of the parties represented by Colonel Cobbs and Gaillard, Mahorner and Arnold would be bound to pay the three percent for the sale of the property, as stated in the agreement, but I do not believe that this agreement would be binding on the other parties. I think it would be well if you would have some kind of agreement between all of these parties with reference to the commissions to be paid Mr. Parker.

I am in receipt of a letter from Mr. Prentiss I. Clemmons bitterly complaining at the delay in this matter. This matter was submitted to me on June 21st. and a few days after that I was taken with neuritis in the back of my neck and for more than two months on account of this trouble I have been unable to do but little work on my Chancery cases, and the matter has been delayed by me on account of the fact that I was not physically able to work, as you already know. As I have heretofore stated, I had to undergo an operation, and while Mr. Clemmons may feel keenly the delay in this matter, still I do not feel in any way chargable with it, and I am sending him a copy of this letter so that he may understand the matter.

Sarah W. Spear et al., Complainants,

vs.

Prentiss I. Clemmons et als., Defendants .

No. 46 In Baldwin Circuit Court,

In Equity .

Now come the complainants and respectfully move the Court to take a submission of the above cause for a decree confirming the sale reported by the Register in the month of January, there being no exceptions filed to said report, and solicitors of the parties having by agreement on file consented that the sale be confirmed .

Complainants move that the Court take the said cause also under submission for a decree of distribution.
All the undersigned consent to said motions being granted .

N. B. Gibbs

Sol'r for Complainants.

Harvard Mahon & Arnold

Solrs. for Clemmons parties .

Howerton & Frayer

Sol'rs for Rich'd Lee Fearn, Mrs. Manley, and Mell Fraser.

~~Arthur & ...~~
Amey Durwin

Sol'r for Gdn. ad litem of Thomas S. Fearn, of unsound mind .

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TWENTY-FIRST JUDICIAL CIRCUIT
OF ALABAMA
JOHN D. LEIGH, JUDGE
BREWTON, ALA.

- 2 -

I would be glad for you to make the distribution at the very earliest opportunity. The Decree states specifically what amounts shall be deducted except as to the three percent commission, and this I have not included in the Decree for the reason that I do not know whether Messrs. Cobbs and Gaillard, Mahorner and Arnold were authorized to bind all of the parties in agreeing to this commission.

With regards and best wishes, I am,

Yours sincerely,

John D. Leigh

JDL/s

ESTABLISHED 1870

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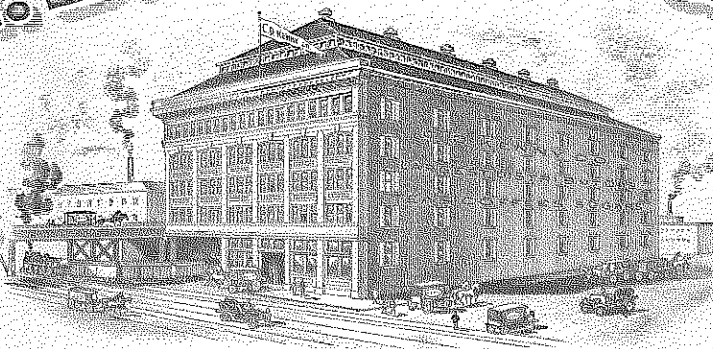
Trade Mark

C. D. KENNY CO.



Trade Mark

Teas, Coffees



and Sugars

MAIN OFFICES & WAREHOUSE 520 TO 532 S. EUTAW ST. BALTIMORE, MD.

BOTH PHONES, 860

210 DAUPHIN ST.-BRANCH

MOBILE, ALA. October 16 1924

Mr Richardson,
Bay Minette, Ala.

Dear Sir;

Some time back there was some property belonging to the Spear- Clemmons heirs sold in Bay Minette Ala.

The money from the sale seems to have been distributed amongst the Clemmons heirs but the Spear heirs have not received theirs. Kindly send our checks to the following;

Miss S.E. Spear--- 208 N. Joachim St
" M.M. Spear----208 N. Joachim "
Mr. C.H. Spear---208 N. Joachim "

Thanking you for your attention in this matter and hoping to be favored with an early reply I remain,

Very truly yours,

Marguerite Spear
11-1924 copy of this

Ck for Sarah E. Spear and Margurite Spear was given their Atty, Hon. D. B. Cobbs, Sept 13th, 1924 for the amounts due them

Am sending ck to Charles H. Spear by mail to day in letter addressed to Margureite Spear, 208 Joachim St Mobile Ala.

Marguerite Spear

ESTABLISHED 1870

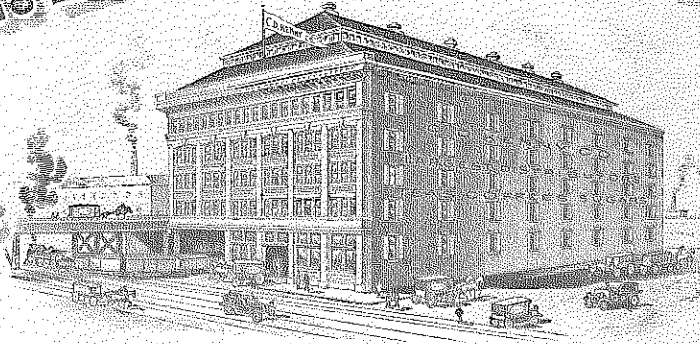
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C. D. KENNY CO.



Teas, Coffees



and Sugars

MAIN OFFICES & WAREHOUSE 520 TO 532 S. EUTAW ST. BALTIMORE, MD.

BOTH PHONES, 860

210 DAUPHIN ST.-BRANCH

MOBILE, ALA. Oct 20 1924 192

Mr T.W. Richardson,
Bay Minette Ala

Dear Sir;

Will you please let me know at once by what authority Mr. D.B. Cobbe collected our shares in the sale of property made in Bay Minette? The checks to us should have been mailed to us personally and had that been done ad the letters addressed just Mobile Ala. we would have received same. As it is Mr. Cobb sends us checks for \$8.59 each.

Kindly let us know at once so that we may get the matter straightened out. Mr Cobb had no authority in this particular case to collect any money for us.

Thanking you I remain,

Very truly yours,
Marguerite Sperr.
208 N. Joachim St
Mobile Ala

hereunder such as may be requisite or proper.

TENTH. The Pythian Castle Hall Association, grantor herein, covenants that it is lawfully seized in fee of the real estate hereinabove described, but subject to the bonds outstanding and interest coupons thereon, which are intended to be taken up and retired by means of the new issue of bonds herein provided for, and that it has good and lawful right to convey the same as is herein done; otherwise, it is free of incumbrances.

ELEVENTH. The First National Bank of Mobile, Alabama, by its officer below signing who is thereunto duly ^{authorized} ~~acknowledged~~, hereby accepts the trusts aforesaid and assumes the duties hereinabove imposed upon it as such trustee.

TWELFTH. In testimony of all which, said Pythian Castle Hall Association has caused these presents to be executed in its name by its President, B. E. Andrews, and its Secretary, M. M. Marsh, each thereunto duly authorized and its corporate seal to be hereto affixed and impressed, and the First National Bank aforesaid has caused this instrument to be signed in its name by its thereunto duly authorized, and caused its corporate seal to be hereto affixed and impressed; on this the day of July, Nineteen Hundred and Twenty-four.

THE PYTHIAN CASTLE HALL ASSOCIATION

By _____ President.
_____ Secretary.

THE FIRST NATIONAL BANK OF MOBILE ALABAMA.

By _____

Sarah E. Spear et al., Complainants,

vs. In the circuit court of Baldwin County, in equity.

Clemmons et als., Defendants .

A reference having been ordered in this cause to ascertain and report what is a reasonable fee to be allowed the guardian ad litem and the solicitor for complainants, for their services as such respectively, it is agreed by the undersigned that a reasonable fee for such solicitor is one hundred dollars and a reasonable fee for such guardian ad litem is twenty-five dollars, and these amounts may be decreed respectively as above stated .

A. B. Cobbs, Solicitor for Complainants,

Gaiwan Mahomet Solicitors for the Clemmons parties.

Hunter Foye Solicitors for Richard Lee Fearn
et als.

Henry D. Moore Solicitor for Guardian ad litem.

This February 25th, 1919.

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon [†]Prentiss I Clemmons, Miss Loomis B [†]Clemmons, Joseph B Clemmons, Mrs. [†]Emme B Clemmons and [†]Richard Lee Fearn

of Mobile, County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

Sarah & Spear et--al.

against said

Prentiss I Clemmons et als.

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 12th day of July.

1917.

T. W. Richerson
Register.

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

Sarah E. Spear et al., Complainants,

vs. In Baldwin Circuit Court, in Equity ..

Prentiss I. Clemmons, et als., Defendants .

In this cause all parties, by solicitors, agree that the time for getting in evidence fixed by the former agreement on that subject, dated May 18th, 1918, and for the other things called for by it, be extended so that another period of 45 days shall be taken from the expiration of said former fixed time, for getting in evidence, and other five and ten days respectively for the other things, but on the same terms as the former agreement except as to the time, which alone is extended -- in other words, that agreement holds good, except that the time that began on its date shall now begin upon the expiration of the 45 days first fixed ; in other respects the agreement remains of force. As witness our hands this June 29th, 1918.

Morton & Fitzgerald
D. B. Cobble
Sauwal Mahomed Choudry
(S. D. ...)
Solicitors .

The State of Alabama, ^{Baldwin} ~~Mobile~~ County

Sarah E. (Sadie) Spear et al.,

Complainants

No.

vs.

P.I. Clemmons et als.,

Defendants

^{Baldwin} Circuit Court of ~~Mobile~~ County

IN EQUITY

The Complainants

requests the oral examination of the following named witnesses
on ~~their~~ ^{their} behalf, viz:

Sadie Spear, Marguerite Spear, Chester Spear, P.I. Clem-
mons, D.B. Cobbs, and George H. Hoyle.

Said witnesses reside in the County of Mobile

State of Alabama, except Geo. H. Hoyle who resides in Baldwin County,
Alabama.

G.H. Kruempel, whose resides in Mobile County, Ala., at Mobile,

~~who reside at~~

is suggested as a suitable person to be appointed Commissioner to take the deposition of
said witness on such oral examination.

D. B. Cobbs

Solicitor for Complainants

SARAH E. SPEAR ET AL
COMPLAINANTS.
VS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY IN EQUITY.

PRETISS I. CLEMMONS ET AL
RESPONDENTS.

Now come the respondents Richard Lee Fearn and Sally B. Manly and demand the oral examination of the following witnesses in their behalf:-

Richard Lee Fearn, 59 St. Joseph St. Mobile, Ala.

We suggest that suitable persons be appointed the commissioners to take the testimony of Richard Lee Fearn.
Mrs. Natalie C. Torbert, 354 Congress St. and Miss Julia Allen, 354 Congress St. Mobile, Alabama.

Thompson & Ferguson

Attorneys for Sally B. Manly and
Richard Lee Fearn.

THE BALDWIN TIMES

ABNER J. SMITH, PROPRIETOR

DEVOTED TO THE INTEREST OF BALDWIN COUNTY AND HER PEOPLE

PUBLISHED EVERY THURSDAY

SUBSCRIPTION: \$1.00 PER YEAR IN ADVANCE

ADVERTISING RATES ON APPLICATION

TELEPHONE NO. 7, LOCAL AND LONG DISTANCE

BAY MINETTE, ALA.,

AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,
BALDWIN COUNTY.

ABNER J. SMITH, 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

Non Resident Notice, In Equity, #37

Sarah E. Spear, et als, Complainant

vs

Prentiss I. Clemmons, et als, Defendants

Was published in said Newspaper for 4 consecutive weeks in the following issues:

Date of first publication	<u>August 23rd, 1917</u>	Vol. <u>28</u>	No. <u>27</u>
“ “ second “	<u>August 30th, 1917</u>	Vol. <u>28</u>	No. <u>28</u>
“ “ third “	<u>September 6th, 1917</u>	Vol. <u>28</u>	No. <u>29</u>
“ “ fourth “	<u>September 13th, 1917</u>	Vol. <u>28</u>	No. <u>30</u>

Subscribed and sworn to before the undersigned

this 25th day of Sept 1917.

T. W. Richerson
Clerk Circuit Court.

Abner J. Smith
Publisher.

Notice to Non-Residents and Order of Publication.

Sarah E. Spear, et als, Complainant vs. Prentiss I. Clemmons, et als, Defendants. No. 37. The State of Alabama, Baldwin County. In Equity. Circuit Court of Baldwin County.

In this cause it being made to appear to the Register of this Court, in vacation time, by the affidavit of Sarah E. Spear, Complainant, that the Defendants Charles A. Spear, Mrs. Sallie B. Manley, Thomas S. Fearn, Mrs. Mildred Field and Richard Lee Fearn, Jr., are non-residents of the State of Alabama, and further that in the belief of said affiant the Defendants are over the age of 21 years; it is therefore ordered that publication be made in the Baldwin Times, a newspaper published at Bay Minette, Alabama, once a week for four consecutive weeks, requiring the said Charles A. Spear, Mrs. Sallie B. Manley, Thomas S. Fearn, Mrs. Mildred Field and Richard Lee Fearn, Jr., to answer or demur to the Bill of Complaint in this cause by the 14th day of September, 1917, or after thirty days therefrom a decree Pro Confesso may be taken against them.

This 21st day of August, 1917.
T. W. Richerson,
Register of the Circuit Court of Baldwin County, Ala.
27-4t

Sarah E. Spear, et al., Complainants,

No. 37

vs.

In the Circuit Court

Prentiss I. Clemmons, et als., Defendants.

of Baldwin County,

In Equity .

Affidavit for Publication.

The State of Alabama,

Mobile County .

Before me

Maria B. Gittite a

Notary Public in and for said County in said State, this day personally came Sarah E. Spear who being by me duly sworn deposes and says :- That the defendants Charles A. Spear, Mrs. Sallie B. Manley, Thomas S. Fearn, Mrs. Mildred Field, and Richard Lee Fearn, Jr., are each nonresidents of Alabama; said Charles A. Spear residing in Brooklyn or New York, in the State of New York, Mrs. Sallie B. Manley at Maplewood, New Jersey, Thomas S. Fearn at White Plains, New York, in the Bloomingdale Hospital, Richard Lee Fearn, Jr., at Baltimore, Maryland, and Mrs. Mildred Field, formerly at Washington, D.C., her last known place of residence, but being the wife of R.S. Field, an officer in the United States Navy moving from one to another place so that otherwise her present residence place is unknown to affiant; and could not be ascertained on diligent enquiry otherwise than as above ; and that each of said defendants is of the age of twenty-one years and upwards.

Sarah E. Spear

Subscribed and sworn to before me this August 17th 1917.

Maria B. Gittite

Notary Public, Mobile County, Alabama.

(Order of Register upon application for oral examination)

-----X)	
SARAH E. SPEAR, et al.,)	
Complainants.)	
-vs-)	IN THE CIRCUIT COURT-EQUITY
)	STATE OF ALABAMA
PRENTISS I. CLEMENS, et al.,)	BALDWIN COUNTY
Respondents.)	
-----X)	

The respondents, Sally B. Manly and Richard Lee Fearn, by their Solicitors of Record, Thornton & Frazier, having this day filed their application in writing to have the testimony taken orally of Richard Lee Fearn, 59 St. Joseph Street, Mobile, Alabama, who resides within One hundred miles of Bay Minette, Baldwin County, Alabama, and said respondents in their said application having nominated Mrs. Natalie C. Torbert, 354 Congress St., and Miss Julia Allen, 354 Congress St. Mobile, Alabama, to take such testimony, as provided by law, it is ordered by the Register that the said witnesses be examined orally before them at the office of the Register in Chancery of Mobile County, Alabama, after three days notice of the time and place of the taking of the same has been given the adverse parties.

Witness my hand this 5th day of August, 1918.

T. W. Rice
Register in Chancery.

It is agreed between Messrs. D.B.Cobbs, Solicitor, and Messrs.Gail-
lard, Mahorner & Arnold, Solicitors, that Mr.Harry H.Parker, surveyor, &c,
of Fairhope, Ala., is engaged for the purpose of working to obtain bid-
ders at the public sale of lands for division in the case of Spear et
al. v. Clemmons, et als., to be had at Fairhope on Monday, July 30th, 1923.
It is expected that the property will be offered as a whole, and if it
does not sell satisfactorily as a whole, then in smaller portions so as
to have bidding on different parts of the tract, for the benefit of all
the tenants in common together. Mr.Parker is requested to obtain bidde-
ders for each kind of sale, as a whole, and in parts, and it is a-
greed that his compensation is conditional upon the payment of the bids
at which any of the property or the whole is knocked down to the bidder,
and on the confirmation or sale by the Court in which the above suit for
division is pending, the circuit court at Bay Minette. His commission
so contingent shall be three per cent upon the amount of sales thus
confirmed and made by the court, and may come out of the proceeds that
are appropriate to the clients represented by the undersigned solicitors,
just like so much court costs, before a division of the money is made to
clients. This to be communicated to Mr.Parker and he to accept or re-
ject it by letter. As witness our hands this July 17th, 1923.

D. B. Cobbs, Solicitor

Gailard Mahorner Arnold
Solicitors.

Henry J. Monier
Guardian Ad Litem

SARAH E. SPEAR, ET AL.,

COMPLAINANTS,

VS.

PRENTISS I. CLEMMONS, ET AL.,

RESPONDENTS.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY.
IN EQUITY
NO. 35.

Now comes Richard Lee Fearn and Sally B. Manly, two of the respondents in the above entitled cause, by their attorneys, Thornton & Frazer, and demur to the original bill of complaint, and for causes of demurrer assign the following:

1.

There is no equity in the bill.

2.

The bill does not show that the complainants have any title whatsoever to the property sought to be partitioned.

3.

The bill shows that the complainants have no legal title to the property sought to be partitioned in that their interest in said property has been previously conveyed to the respondent, Richard Lee Fearn.

4.

The bill does not show any equitable title in the complainants entitling them to maintain this bill.

5.

The bill of complaint does not show that the complainants are the owners or tenants in common with the respondents to the property sought to be partitioned.

6.

The bill does not show that the complainants are co-owners with the respondents and as such co-owners are entitled to the possession of the property sought to be partitioned.

7.

The bill does not show that the complainants are in possession of the property sought to be partitioned.

8.

The allegation in the bill that the respondent, Richard Lee Fearn, holds a one-eighth interest of the complainants as trustee for them is merely the conclusion of the pleader, and no facts are alleged substantiating said allegation.

9.

The bill does not allege with accuracy the ownership of the respondents, Richard Lee Fearn, Sally B. Manly, and Thomas S. Fearn.

10.

The bill does not contain an accurate legal description of the property sought to be partitioned.

11.

The bill does not allege the value of the lands sought to be partitioned.

12.

The bill shows that the respondents, Richard Lee Fearn, Sallie B. Manly, and Thomas S. Fearn, together with the respondents, Emma B. Clemmens, Prentiss I. Clemmens, Loomis B. Clemmens, and Joseph B. Clemmens are the owners of the property sought to be partitioned and that the complainants have no title, whether legal or equitable.

Thompson & Boyer
Attorneys for Richard Lee Fearn and
Sally B. Manly.

Sarah E. Spear et al., Complainants,

vs. In Baldwin Circuit Court, In Equity .

Prentiss I. Clemmons, et als., Respondents .

Now come complainants and move the Court to order a reference to ascertain suitable compensation to be allowed the guardian ad litem and the complainants' solicitor for their services in this cause respectively .

And in open court this November 18th, 1918, complainants give notice that the above motion will be presented to the Court on November 20th instant, for its action thereon.

D. B. Cobble
Solicitor for Complainants .

THE STATE OF ALABAMA,
Balowin County.

No. 37

CIRCUIT COURT, IN EQUITY.

Sarah E. Spear et al Complainant

vs.

Prentiss I. Clemens et al Defendant

In this cause it is made to appear to the Register by the allegations of the complaint filed in this cause that the Defendant Thomas S. Fearn, one of the defendants in this cause is of unsound mind, residing at White Plains in the state of New York and is in the Bloomingdale Hospital there

~~in the hands of said defendant~~ the age of ~~years~~ and that a summons on the Bill of Complaint in this cause was served upon the said defendant by publication

~~said infant xxxxxx~~ ~~the age of~~ ~~years~~ and that ~~the~~ ~~same~~ ~~has~~ ~~been~~ ~~deceased~~ ~~by~~ ~~the~~ ~~said~~ H. D. Moorer is hereby appointed lunatic or person of unsound mind to act as Guardian ad Litem for said ~~infant~~; and it further appearing that

the said H. D. Moorer is in all respects a suitable person to act as Guardian ad Litem for said ~~infant~~ lunatic or person of unsound mind; and having filed his consent in writing to act as such, it is now ordered

Court lunatic by the Register that he is hereby appointed Guardian ad Litem in this cause for the said ~~infant~~ Defendant

Witness my hand, this 26th day of November 1917

H. D. Moorer
Register

ACCEPTANCE.

I, *Henry D. Moore* hereby accept the above appointment as Guardian ad Litem, and consent to act as such in the above cause.

Witness my hand, this 26th day of November 1917

Henry D. Moore
Guardian ad Litem.

Bay Minette, Ala.,

September 24th, 1917

M

Sarah E. Spear, et als Complainant

vs

Prentiss I. Clemmons, et als, Defendants

NOTICE TO NON RESIDENT

THE BALDWIN TIMES

ABNER J. SMITH, PROPR.

FINE JOB PRINTING. BEST ADVERTISING MEDIUM

PROMPT SERVICE. LOWEST PRICES.

LOCAL AND LONG DISTANCE TELEPHONE

To publishing above Non Resident Notice in The Baldwin Times
in 4 consecutive issues, as follows:

August 23rd and 30th and Sept 6th and 13th, 1917

185 words @ 4½ cents per word..... \$8.25

Bay Minette, Ala.,

September 24th, 1917

M

Sarah E. Spear, et als Complainant
vs
Prentiss I. Clemmons, et als, Defendants

NOTICE TO NON RESIDENT

THE BALDWIN TIMES

ABNER J. SMITH, PROPR.

FINE JOB PRINTING. BEST ADVERTISING MEDIUM

PROMPT SERVICE. LOWEST PRICES.

LOCAL AND LONG DISTANCE TELEPHONE

To publishing above Non Resident Notice in The Baldwin Times
in 4 consecutive issues, as follows:
August 23rd and 30th and Sept 6th and 13th, 1917
185 words @ 4½ cents per word..... \$8.25

Assessment Book No. ✓ Page 165 37
 No. 7698 Beat 57 192
 Received of James P. Clements et al
 the sum of Eighty Dollars 80 Dollars,
 in full amount of Taxes due the State of Alabama and County of Baldwin, 1923.
 Total Value of Real Estate, \$ 1714 Total Value of Personal Property, \$ _____
 Tax Due October 1, 1923 Tax Rate, \$1.80 per \$100 Valuation Delinquent Jan. 1, 1924

Total State and County Tax	30 87
Special District School Tax	
District No. <u>51</u>	5 26
Fees	1 17
Total State and County Tax	37 04
Interest	78
Printer _____ Judge _____ Notice _____	
Aggregate Amount	37 80

Wm. H. Lewis
 Tax Collector, Baldwin County, Ala.

25578 MARSHALL & BRUCE CO., NASHVILLE

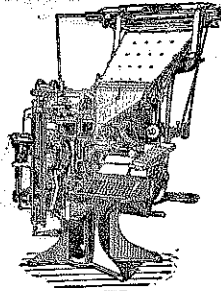
Assessment Book No. ✓ Page 37
 No. 19 Beat 002 121 1924
 Received of M. A. Morgan
 the sum of Forty Two Dollars 42 Dollars,
 in full amount of Taxes due the State of Alabama and County of Baldwin, 1924.
 Total Value of Real Estate, \$ 1020 Total Value of Personal Property, \$ _____
 Tax Due October 1, 1924 Tax Rate, \$1.80 per \$100 Valuation Delinquent Jan. 1, 1925

Total State and County Tax	18 36
Special District School Tax	
District No. <u>51</u>	3 06
Fees	
Total State and County Tax	21 42
Interest	
Printer _____ Judge _____ Notice _____	
Aggregate Amount	

Wm. H. Lewis
 Tax Collector, Baldwin County, Ala.

GIL FLETCHER CO., MOBILE

Original 19-6-27
 Date 7-8 Dec 20-6-27
 Paid by W. H. Lewis
Wm. H. Lewis



"The Linotype Way"

The Fairhope Courier

ERNEST B. GASTON, ED. & PUB.

FAIRHOPE, ALA.

Nov. 19, 1923.

State of Alabama
Baldwin County, A

NOTICE OF SALE

Sarah E. Spear et al
vs
Prentiss I. Clemmons et al

{ Baldwin Circuit Court
{ in Equity..

Under and by virtue of the decree of sale as amended and the order of resale made in this cause the undersigned will on the 19th day of November 1923, in front of the Fairhope Courier Building in Fairhope, Alabama, between the legal hours of sale to wit: at 12 o'clock noon sell to the highest bidder for cash, the following described lands for division amongst the tenants thereof Viz: Those parts of the north half of the Southeast quarter of Section Nineteen (19), and of the North half of the Southwest quarter and of the north half of the Southeast quarter of Section Twenty (20), which lie outside of the Barron de Feriet Grant all being in Township Six (6) South of Range 2 East in Baldwin County, Alabama.

The land will be sold as a whole body together or else in separate parts as may appear best at the time. For any further information apply

E.B. Gaston, publisher of the Fairhope Courier a newspaper published at Fairhope, Baldwin County, Alabama, being first duly sworn, do hereby certify, that the attached notice of sale, in case of Sarah E. Spear, et al, vs. Prentiss I. Clemmons, et al, in the Baldwin Circuit Court, in Equity, was published in three consecutive issues of the Fairhope Courier, to wit, on the 26th day of October, second day of November and ninth day of November, 1923.

E.B. Gaston

Subscribed and sworn to before me this 19th day of Nov. 1923.

Gladys Lowell
Notary Public

BAY MINETTE, ALA.

April 2

1924

No.

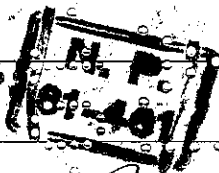
37

BALDWIN COUNTY BANK

61-258

PAY TO THE
ORDER OF

Fairhope Courier



\$ 20.52

Twenty and 52/100

DOLLARS

Advertising Fees
Cause of Spear
vs Clemmons.

W. P. Robinson

SOUTHEASTERN BANK CO. MOBILE, ALA.

Received

Dec, 19, 37 1923,

FROM

J. W. Walker

Twenty Three & ⁷⁵/₁₀₀ DOLLARS

3% of Sale price of Spear-Clements, Land,

\$23⁷⁵/₁₀₀

Harry A. Parker, Surgeon

Report that

As per decree of distribution
 have paid the parties in
 interest. Their respective shares
 receipt ~~at Spear~~
~~nonresident~~ ~~where~~ ~~are~~ ~~to~~ ~~be~~ ~~paid~~
 his relatives are to furn
 ish - and except
 Geo. P. Kearney, limited =
 + have receipt from
 others. or receipts
 from all +

A. E. GAMBLE
JUDGE SECOND JUDICIAL CIRCUIT
GREENVILLE, ALABAMA

37

March 14th 1919.

Hon. T. W. Richerson, Register,
Bay Minette, Alabama.

Dear Tom

I herewith enclose two files. In the Spear case I see no reason to make an order fixing the fees until there is a sale of the property and a report of the same. If the sale is confirmed the final decree confirming same may include a direction of the payment of the fees in accordance with the agreements of the various Solicitors on file. I return the papers so that the sale may proceed.

With regards I remain,

Your friend,

A. E. Gamble

37

Sarah E. Spear et al., Complainants,

vs. No. 46 in Baldwin Circuit Court, in equity .

Prentiss J. Clemmons, et als., Defendants .

*Amended Order of Sale .

This cause comes on to be heard, and is submitted on a motion by complainants filed May 30th, 1923, for an amended order of sale.

It is made to appear to the satisfaction of the Court that since the rendition of the former decree of sale of the land concerned and described in the Bill, Mrs. Emma B. Clemmons, (who was the widow of Joseph I. Clemmons, deceased, and as such widow had her dower interest in that part of said land, namely, an undivided half interest therein, which the decree ascertained to be in the heirs at law of said Joseph I. Clemmons,) has departed this life, and thereby her dower in said half interest of said heirs, her children, is lapsed and gone .

It further appears satisfactorily that since said former decree of sale, that is to say, in the present year of 1923, the seventy-fourths interest of Richard Lee Fearn, one of the tenants in common of the land described in the Bill, has been conveyed pending the cause, to Mell A. Frazer, by deed of record .

Upon consideration, therefore, the Court now orders and decrees, as before, that the Register in Equity of the Court sell the whole of the land described in the Bill and in said former decree, between the legal hours of sale, at public outcry, for cash, to the highest bidder, after advertising notice of the time, place and terms of sale and description of the land, (unincumbered, however, by such former dower and without mentioning the same) once a week for at least three consecutive weeks in a newspaper of general circulation published in Baldwin County, Alabama, for division of the proceeds amongst those who may be entitled thereto . He will advertise the sale to be had and will conduct the sale at the courthouse door of Baldwin County, Alabama; or, instead of selling at the courthouse door he may advertise the sale to be had and may conduct the sale at some public place nearer the vicinity of or on the land itself, if the parties in interest shall file with him an agreement and request so to do .

The Register will make due report of his action taken hereun-

der, and shall notify the solicitors of record of the filing thereof, in vacation or term time,, and on being filed in vacation it shall lie over for ten days for exceptions; at the expiration of such period of 10 days after filing the report, the Register will turn over the papers in the cause, including his report of sale and exceptions thereto if any be filed, to the Judge for further consideration and decree in vacation thereon.

Done in term time this May 31 1928 .

John D. Leigh
Judge .

Sarah E. Spear et. als.,)

vs.)

Prestiss I. Clemmons et. als.)

In the Circuit Court of Baldwin County

In Equity.

This Cause is submitted for decree on the demurrers of Respondents Richard Lee Bern and Sally B. Manly to the Original Bill of Complaint and, on consideration,

It is ordered, adjudged and decreed that the said demurrers be, and the same are, hereby, overruled.

It is further ordered that said Respondents have twenty days in which to answer the said Original Bill of Complaint.

This December 29th 1917.

W. G. Gamble
Judge.

REGISTERS SALE OF LAND FOR DIVISION.

Under and by virtue of the amended order of sale of the Circuit Court of Baldwin County, Alabama, rendered May 31st, 1923, in the cause pending in said Court of Sarah E Spear et al Complainants, vs Prentiss I Clemmons et al Defendants, directing the undersigned to sell the lands herein described for division of the proceeds between the parties thereto entitled, the undersigned Register of said Court will on Monday July 30th 1923, at the Office of the Fairhope Courier at Fairhope Baldwin County, Alabama, between the legal hours of sale, to wit at twelve O'clock noon at public outcry for cash to the highest bidder, sell said lands described as follows, namely:

Those parts of the north half of the southeast quarter of section nineteen (19) and of the north half of the southwest quarter of section twenty (20) and of the north half of the southeast quarter of section twenty (20) which lie outside of the tract of land known as the Barron de Ferriet Grant, in the neighborhood of Fairhope, all being in the Township number six (6) south of Range 2 East in Baldwin County, Alabama.

Witness my hand this 20th day of June, 1923.

D. W. Pierson
-----Register

D. B. Cobbs, Att. for Complainant.

Changed to July 30

Sarah E. Spear et al., Complainants,

vs.

Prentiss I. Clemmons, et als., Defendants .

No. -----

In the Circuit Court
of Baldwin County,
In Equity .

To the Honorable A. E. Gamble,

Judge of the second judicial circuit of Alabama:-

1st. Complainants Sarah E. Spear, Marguerite Spear, and Chester Spear, show that they and their brother the defendant Charles A. Spear; and the defendants Prentiss I. Clemmons Miss Loomis B. Clemmons, Joseph B. Clemmons, and Mrs. Emma B. Clemmons; and the defendants Richard Lee Fearn, Mrs. Sally B. Manley, Thomas S. Fearn, Mrs. Mildred Field, the wife of R.S. Field, and Richard Lee Fearn, Jr., are all and each of the full age of twenty-one years and upwards; said Charles A. Spear is a nonresident of Alabama, residing in the city of Brooklyn or New York, in the State of New York, but his street address is not known to complainants; said Sallie B. Manly is a nonresident of Alabama, residing at Maplewood, in the State of New Jersey; said Thomas S. Fearn is a nonresident of Alabama ~~is a nonresident of Alabama~~ residing at White Plains, in the State of New York, and is of unsound mind, in the Bloomigdale Hospital, at White Plains, New York; said Richard Lee Fearn, Jr., is a nonresident of Alabama, residing at Baltimore, in the State of Maryland, but his street address is not known to complainants; and Mrs. Mildred Field is a nonresident of Alabama, and the wife of R.S. Field, an officer, towit, lieutenant, in the United States navy, whose postoffice address when last known to complainants was Washington, D.C., but her street address is not known to complainants, and being the wife of a navy officer who is continually moving from one to another place, her place of residence is otherwise unknown to complainants .

Complainants, and the defendants Prentiss I. Clemmons, Miss Loomis B. Clemmons, Joseph B. Clemmons, Mrs. Emma E. Clemmons, Richard Lee Fearn, reside each in Mobile County, Alabama.

2nd . Joseph I. Clemmons died intestate in Mobile County, Alabama, leaving at his death his widow the said Emma E. Clemmons, and his children and heirs at law Prentiss I. Clemmons, Miss Loomis B. Clemmons and Joseph B. Clemmons; and at his death he owned an undivided one-half interest in the lands concerned and sought to be partitioned or sold in this cause.

Your complainants and said Charles A. Spear who are the children and heirs at law of Alexander N. Spear, deceased, own together an undivided one-eighth interest in said lands;

The defendants Richard Lee Fearn, Sallie B. Manley, and Thomas S. Fearn formerly owned an undivided one-eighth interest together in said lands, but complainants do not know whether by any transactions between them that ownership has been in any way changed as to said eighth interest;

Lucy M. Spear formerly owned another undivided one-eighth interest in said lands; ^{but died in July, 1914,} she entered with others into the execution of a deed of trust dated November 5th, 1900, to said Richard Lee Fearn as an active trustee, which stated that she conveyed her interest in said lands so that after the death of herself and her sister Kate L. Spear the same should go, or what was left of it, to said Richard Lee Fearn or his children, who are the said Mildred Field and Richard Lee Fearn, Jr.; and prior to said deed of trust she executed her will, which has been probated in the probate court of Mobile County, Alabama, which purported to give her interest in said lands, or what was left of it, to said Richard Lee Fearn, Thomas S. Fearn, and Sallie B. Manly; said deed of trust is of record in Baldwin County, Alabama.

Said Kate L. Spear formerly owned the other undivided one-eighth interest in said lands, but she entered as a grantor into the execution of said deed of trust, and executed also a deed dated November 20th, 1914, purporting to convey her interest in said lands to the said Richard Lee Fearn.

The aforesaid trust has terminated, and complainants do not know just how the entire interests in said lands are situated as to title between said Richard Lee Fearn and his children and said Thomas S. Fearn and Sallie B. Manley .

But such as above stated was the former ownership, and such now is the ownership in said lands of complainants, and said Clemmons defendants, and said Chas. A. Spear.

- 3rd. The lands concerned are described as follows :- Those parts of the North half of the South-East quarter of section nineteen (19) and the North half of the South-west quarter and the North half of the South-East quarter of section twenty (20), which lie outside of the tract of land known as the Baron De Ferriet Grant , all in Township Six South, of Range Two West, in Baldwin County, Alabama .
- 4th. Notwithstanding any deeds of record, complainants and said Charles A. Spear, who are the four heirs at law of said Alexander N. Spear, deceased, own the undivided one-eighth interest in the lands above described ; there is one such deed of record from complainant Sarah E. Spear . to said Richard Lee Fearn dated October 1st, 1906, and recorded April 26th, 1916, in deed book 25 N.S., page 105, of the records of conveyances of Baldwin County, Alabama, but whatever title or right in said lands the said Richard Lee Fearn acquired by virtue of said deed he holds as trustee for these complainants and said Charles A. Spear, and since the making of said deed he has recog-

nized and still recognizes said trust .

Said Emma E. Clemmons is made a party hereto in order that if she see fit to permit her dower, if any she has, in said undivided half interest of her deceased husband Joseph I. Clemmons in said lands, to be sold in event of a sale herein, it may be done the better price to bring for the whole lands, &c.

Said Mildred Field and Richard Lee Fearn, Jr., are made defendants in view of said provisions of said deed of trust of November 5th, 1900, &c., and said Salie B. Manley and Thomas S. Fearn are brought in that their rights if any may also be determined .

5th. Complainants are informed and believe and thereon state that said lands are unimproved, and are capable of an equitable division between the common owners thereof ; but if mistaken in regard to their divisibility, then they allege that said lands are not capable of an equitable division amongst the common owners thereof.

Wherefore complainants pray that on the hearing the Court will cause said lands to be properly divided amongst the common owners thereof according to their rights, and that if it appear that they cannot be thus equitably divided, then the Court will cause the lands to be sold for division of the proceeds and that the said proceeds be divided between the common owners of the land according to their respective titles therein ; or, if it appear under the provisions of code section 5212 from facts developing that a just and equal division of the land cannot be made, or that a sale will better promote the interest of all the co-tenants, that the Court will cause part to be sold or all of it and

any unsold part to be divided, according to law.

And complainants pray for such other and further or different relief in the premises as in equity they ought to have .

To the end, therefore, of establishing the rights of all the parties upon ascertaining the same, and of separating their interests as tenants in common of said land, complainants pray for subpoens to said Prentiss I. Clemmons, Miss Loomis B. Clemmons, Joseph B. Clemmons, Mrs. Emma B. Clemmons, Richard Lee Fearn, and that notice by publication be served upon said Thomas S. Fearn, Sallie B. Manley, Mildred Field, Richard Lee Fearn, Jr., and Charles A. Spear; and that all but complainants be duly made parties defendants hereto and notified duly of this suit ; and that a guardian ad litem be appointed to represent said Thomas S. Fearn .

A. B. Bobbs,

Solicitor for Complainants .

Foot-Note .

The defendants are required to answer the foregoing averments contained in paragraphs 1 to 5 of the foregoing bill, but not under oath ; their oaths to their answers are waived .

A. B. Bobbs.

Solicitor for Complainants .

Sarah E. Spear et al., Complainants,

vs. In Baldwin Circuit Court, In Equity .

Prentiss I. Clemmons et als., Respondents .

Decree of Sale .

This cause coming on to be heard was submitted for final decree on the pleadings and proof as noted by the Register . Upon due consideration, the Court orders, adjudges and decrees that the following parties to this cause own the land herein concerned in the following proportions, that is to say :- Sarah E. Spear owns an undivided $1/32$ nd interest, Marguerite Spear owns an undivided $1/32$ nd interest, Chester Spear owns an undivided $1/32$ nd interest, and Chas. A. Spear owns an undivided $1/32$ nd interest ; Prentiss I. Clemmons owns an undivided $1/6$ th interest, Loomis B. Clemmons owns an undivided $1/6$ th interest, and Joseph B. Clemmons owns an undivided $1/6$ th interest; Richard Lee Fearn owns an undivided $7/24$ ths interest, Mrs. Sallie B. Manly owns an undivided $1/24$ th interest, and Thomas S. Fearn owns an undivided $1/24$ th interest; all as tenants in common in said land, described as follows, namely :- Those parts of the North Half of the South-East quarter of section nineteen (19), and of the North Half of the South-West quarter and of the North Half of the South-East quarter of section twenty (20), which lie outside of the tract of land known as the Baron de Feriet Grant, all being in Township Six South, of Range Two West, in Baldwin County, Alabama . It is further found and decreed that Mrs. Emma B. Clemmons, widow of Jos. I. Clemmons, deceased, and mother of the above named Clemmons parties, owns as such widow her dower interest in their undivided half interest in said land, and that said dower be sold to the purchaser of the land at the sale below ordered.

It is further ordered, adjudged and decreed that the Register of this Court sell the land and dower aforesaid, for division of the proceeds amongst said parties according to their respective interests, at public outcry to the highest bidder for cash at the front door of the courthouse of said county between the legal hours of sale, after advertising notice of the time, place and terms of sale and a description of the property to be sold, once a week for three consecutive weeks, in a newspaper of general circulation published in said county.

The Register is directed to make due report of his action

hereunder, and the report so filed shall lie over *ten* days for any exceptions. When all exceptions are in or said time has expired, he will forward his report and any exceptions thereto and any motions concerning said report, to the Judge for the Court's action thereupon.

January 8th - 1919.

W. G. Gable Judge .

[Faint handwritten notes and signatures]

RECORDED

Sarah E. Spear et al., Complainants,

vs. No. 46 in Baldwin Circuit Court, in equity.

Prentiss J. Clemmons, et als., Defendants .

Motion for amended decree or order of sale

Come now the complainants in the above stated cause by their solicitor, and respectfully show the Court as follows :-

The former decree of sale of the land concerned in this cause, rendered, to wit, in the year 1918, established and decreed a half interest in the property described in the bill of complaint, and in said decree, to be in the heirs at law of Joseph I. Clemmons, deceased, and Mrs. Emma B. Clemmons, the widow of said Joseph I. Clemmons, deceased, to have her dower in the said half interest of said heirs at law .

The suit was for a separation of interests in the real estate so described of various parties to the cause, and complainants were in and by said former decree ascertained and decreed to be tenants in common of the whole land along with said Clemmons heirs and other parties, and said former decree ordered the whole land and the dower of said widow in said half interest therein, with the widow's consent, to be sold together.

The Register in equity of this Court accordingly, as directed by said former decree, advertised a sale of the land and dower together, but at the sale thereafter attempted there was no bidder and the matter of effectuating a sale under said decree was thereupon postponed to a better and more auspicious time. Since which some efforts were made towards obtaining prospective bidders to appear at some sale to be advertised in the future under said decree, but no sale has ever been had, and said decree of sale has never been amended or changed, but remains in full effect and force as formerly rendered .

Complainants further show, however, that since the rendition of said decree of sale, said widow has departed this life; and Richard Lee Fearn, who was one of the tenants in common ascertained and decreed by this Court to be entitled to an undivided seven twenty-fourths interest in said land, has conveyed his interest therein by a deed recorded in record book number 33 n.s., page 202, of the records of conveyances of said county of Baldwin, to Mell A. Frazer, one of the solicitors of record in this cause.

And complainants therefore show that it is to the interests of all parties in interest in the land concerned that it be now ascertained and decreed of record in the cause, amongst other things, that the aforesaid dower of said widow is gone by reason of her death, to the end that a sale may be unembarrassed by such formerly ascertained and decreed dower, and that when a sale of the land is had a division may be had amongst the parties entitled thereto.

Complainants therefore pray that the Court will now ascertain and declare the death of said widow to have occurred, and that said Richard Lee Fearn has sold his interest pendente lite to said Mell A. Frazer, and that a new decretal order be rendered for a sale of the whole land unencumbered by any dower, for division of the proceeds of sale .

And as in duty bound, &c.

A. B. Cobbs,

Solicitor for Complainants .

The State of Alabama,
Mobile County .

Before me, *M. M. Mahorn* a Notary
Public in and for said county in said State this day personally came

SARAH E. SPEAR, et al,

Complainants,

vs.

PRENTISS I. CLEMMONS,
et al,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY. No. 46

To the Register in Chancery, Bay Minette, Alabama:

The undersigned approved the proposed
order of distribution hereto attached to be made by
Judge Leigh in the above cause.

June 16, 1924

A. B. Lewis, Soli

Geillard McKinnon Thomas Soli

Will A. Frazier Soli

Thomson & Frazier Soli

for Soli B. Moody &
Richard L. Frazier.

SARAH E. SPEAR ET AL

COMPLAINANTS

VS.

PRENTISS I. CLEMMONS ET AL

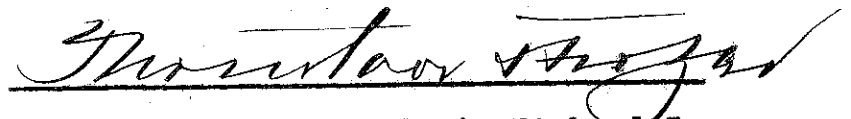
RESPONDENTS.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY IN EQUITY.

Now come the respondents Richard Lee Fearn and Sally B. Manly by their attorneys of record and move the court to suppress the deposition of George H. Hoyle and the deposition of D. B. Cobbs, if the deposition of the said D. B. Cobbs has been taken and for cause assigns the following:-

Neither Richard Lee Fearn or Sally B. Manly or the firm of Thornton & Frazer, attorneys, representing said respondents, were given notice either verbally or written according to rules prescribed for taking deposition in Chancery cases, that said depositions were to be taken at the time and place that they were taken, which facts are more fully stated in an affidavit of Mell A. Frazer, of the firm of Thornton & Frazer which is attached hereto and marked exhibit "A".



Attorneys for respondents Richard Lee
Fearn and Sally B. Manly.

Sarah E. Spear, et al., Complainants,

vs. In the Circuit Court of Baldwin County, in Equity .

Prentiss I. Clemmons, et als., Defendants .

Messrs.

Thornton & Fraser,

Gaillard, Mahornor & Arnold,

H. D. Moorer;

Dear Sirs :-

As commissioner to
take depositions, I will proceed to orally examine the Misses Sadie
and Marguerite, and Chester, Spear, and Geo. H. Hoyle, ^{and Mrs. C. Cobbs} as witnesses
for complainants, on Monday, July 1st coming-- the said Spear wit-
nesses at their residence S. E. Joachim and State streets, and Mr. ^{Cobbs & Mr.}
Hoyle at the office of D. B. Cobbs, room 213 City Bank Bldg., Mobile-- ^{Mr. Cobbs &}
Mr. Hoyle at 11 a.m., and the others at 8 p.m.

Yours truly,


Commissioner.

Mobile, June 26th, 1918.

STATE OF ALABAMA,

COUNTY OF MOBILE.

I, Wm. E. Schults, a Notary Public in and for said State and County hereby certify that Mell A. Frazer who is known to me and who having been first duly sworn and upon oath deposes and says as follows:- " I am a member of the Law firm of Thornton & Frazer who represents Richard Lee Fearn and Sally B. Manly, two of the respondents in the case of Sarah E. Spear et al vs. Prentiss I. Clemmons et al. On or about June 26, 1918, I received from G. H. Kruempel, the commissioner appointed to take the depositions of the complainants' witness, the notice which is attached hereto and marked exhibit "B". Said notice was to the effect that the depositions of Mr. Cobbs and Mr. Hoyle would be taken at the office of D. B. Cobbs, Room 213 City Bank Bldg., Mobile, at 11 o'clock A. M., July 1. On the morning of July 1, Mr. D. B. Cobbs called me over the telephone and stated that he would call me at 11 o'clock and tell me whether or not I should come to his office at the time appointed for the taking of the depositions of Mr. Cobbs and Mr. Hoyle. Mr. Cobbs had not phoned me at 11 o'clock. About 11.30 or a quarter to twelve of the day appointed to take the depositions of Cobbs and Hoyle, I met the commissioner, G. H. Kruempel, in the Court House in Mobile and asked Mr. Kruempel when he was going to take these depositions. He stated that he was not going to take the depositions of Mr. Cobbs and Mr. Hoyle on that day. I then ask him if he were going to take the other depositions that evening and he stated "No" that it was all off. About a quarter to two O'clock the same day while I was at home at dinner, Mr. D. B. Cobbs phoned me and stated that he was going to take Mr. Hoyle's deposition at 2 o'clock. I repeated the conversation I had had with Mr. Kruempel and Mr. Cobbs stated in that event he would call the matter off. Nothing whatsoever was said by Mr. Kruempel or by Mr. Cobbs of any other appointed time for taking any deposition in th this case.

No. 46

Spear et al.,

vs.

Clemmons et al.

Filed June 18th/1923
W. B. Richmond
Register

Motion for amended order
of Sale.

W. B. Richmond,
Attorney

On Monday, July 8, I came to my office, about 10.30 o'clock after having been out for some time and my stenographer gave me several messages, among which was that Mr. Cobbs wished to speak to me over the phone. I immediately left my office, as I had some engagements to fill, and did not return to the office until about a quarter to 3 o'clock. I found on my desk a written notice from my stenographer, who had gone to dinner, that Mr. Cobbs was anxious to get in touch with me as he wanted to take the deposition of Mr. Hoyle that day. I had received no notice in writing or verbally from Mr. Kruempel, the commissioner, or Mr. Cobbs that they intended to take the deposition of Mr. Hoyle or Mr. Cobbs on Monday, July 8. The first intimation that I had that any deposition was to be taken was the notice written by my stenographer that I found on my desk at a quarter to 3 o'clock, fifteen minutes before Mr. Hoyle's boat left. A week or ten days later Mr. Cobbs stopt me on the street and told me that he had taken Mr. Hoyle's deposition. I do not remember whether he stated that his deposition had been taken or not, but my recollection is that nothing was said about his, Cobbs', deposition in the conversation. As previously stated, Mr. Cobbs had advised me not to come to his office at 11 A. M. on July 1, the date set for taking the deposition, unless I heard from him, and I accordingly did not go. Neither Mr. Kruempel or Mr. Cobbs gave me, my firm or my clients, any notice of any postponed date for taking the said deposition, and I am informed and believe, and upon such information and belief state, that neither Mr. Kruempel, the commissioner, nor Mr. Cobbs, gave any notice either writing or verbally to Messrs. Gaillard, Mahorner & Arnold or their clients, or to Mr. Mocrer, the guardian ad litem for Thomas S. Fearn, that the said depositions were to be taken on Monday, July 8.

Walter A. Fryer
Subscribed and sworn to before me this
the 3 day of August, 1918.

Winnie E. Shultz
Notary Public, Mobile County, Alabama.

1200

Joseph E. Gurn
at at

P. J. Blumstein,
at at

Filed 8/3 - 1918.

M. Keimman
Register

RECORDED

THORNTON & FRAZER
Attorneys at Law
MOBILE, ALA.

37

Sarah E. Spear, et al., Complainants,

vs.

Prentiss E. Clemmons, et als., Defendants .

No. ³⁷ in Baldwin Circuit Court,
In Equity .

Order of Re-sale .

In the above stated cause the Register's report filed for the purpose of showing his proceedings in regard to the sale of the land in this case as ordered by the amended decree, shows that at the sale as advertised under said amended decree the property was knocked down ^{to} Mell Frazer as the best and highest bidder for the sum of four hundred and fifty five dollars, but it appears that said bidder and purchaser afterwards refused or failed to comply with his bid or to pay to the Register the said sum of \$ 455 or any part thereof . And it further appears that said report of the Register has laid over for more than Ten days after such refusal or failure, and that no part of said bid has ever been paid , although said report has been on file for ten days and more .

The Court is of opinion that under the circumstances the land should be resold at the risk of Mr. Frazer who failed or declined to comply with his bid by paying the same into court to abide the result .

It is now ordered, adjudged and decreed by the Court that the Register readvertise as before in the same newspaper if accessible or else in a newspaper in Baldwin as per the amended decree of sale, and sell the property at ^{a public} ~~the same~~ place as so advertised anew , and in the same way, and under the terms of said amended decree as stated therein , and in having such resale be governed by said amended decree .

But it appears from the description of the land that some of the forties are fractional, and it is ordered that the Register in conducting the sale may sell the land as a whole body together, or else in separate pieces of it, adopting whichever method shall appear to result in a sale to the best interests of all the parties concerned .

Sept 12th 1923.

John D. Leigh
Judge .

Sarah E. Spear et al., Complainants,

vs. No. 46 In Baldwin Circuit Court, In Equity .

Prentiss I. Clemmons, et als ., Defendants .

Report of sale to F.W.Walker .

To the Hon'ble Jno. D. Leigh,
Judge of said Circuit Court :-

The report of T.W. Richerson as Register respectfully shows as follows :-

After the decree of sale was rendered herein and while this cause was pending, the interests of Richard Lee Fearn and Mrs. Sallie B. Manly, aggregating one-third of the land, were by them transferred to Mell H. Frazer, in the year 1923, as appears by the records of conveyances of said county; the interest of said R. Lee Fearn had been decreed to be seven-twenty-fourths, and Mrs. Manley one twenty-fourth, making eight twenty-fourths for the two, and said seven twenty-fourths undivided interest of R. Lee Fearn was transferred by a deed which was recorded in record book 33 n.s., page 202, on the 25th day of April, 1923, and there is also an agreement of parties on file in this cause to that effect .

Thereafter on June 1st, 1923, one hundred and sixty acres of the land concerned in the cause which aggregated about one hundred and eighty-two acres, were sold by the State and County tax collector of said county for nonpayment of taxes of the tax year of 1922, and this is the only sale concerned for taxes; it appears by the records to have been thus sold for taxes, 160 acres of it, for the sum of forty-two and 45/100 dollars including all costs and expenses. ~~It~~ has not, so far as appears, been sold for taxes other than to Mr. Frazer, for said sum of \$ 42.45 on June 1st, 1923, for the taxes of 1922. The taxes for the tax year of 1923 which year began on October 1st, 1922, and ended September 30th, 1923, do not appear to have been paid by anyone, and the State and County tax collector of said county claims the same and informs your reportant that he does not find who paid for prior years but that he does not think any taxes are unpaid and due to the State and County for any years prior to 1922, that is, for 1921 or prior years. And so far as the Register can ascertain, from the office of the Tax Collector, no taxes are due for such prior years. The taxes for said tax year of 1923, which do not appear to have been paid by anyone, amount to the sum of thirty-seven and 02/100 dollars, and interest on that sum remains due and payable at the rate of eight per cent, per annum from the first day of January, 1924. On the 5th day of November, 1923, the 160 acres, above referred to as sold to Mr. Frazer on June 1st, 1923, were by him listed for valuation and taxation for the tax year of 1924, which began October 1st, 1923, and will end on the 30th day of September, 1924, and as yet the land has not been valued, and the rate of taxation, when it shall have been finally and completely valued by the officers, is not at all known for the State and County both, and it cannot be ascertained as yet what rate will be placed upon it for the county, and also, since the valuation has not been placed upon it, there is no way to ascertain at the time of the sale in this case, now now, what is or will be the amount of taxes to be paid by anyone to the State and County tax collector of said county on or after it falls due and payable on October 1st, 1924. The Register is informed that the other twenty-two acres are in the adverse possession possibly of others, and indeed that more than that much is so held, by others, who have been paying taxes upon their holdings in the past, but the only claim asserted to the Register by the State and County tax collector is as above stated, for 1923, as due and payable, there being no way to ascertain the amount that will fall due October 1st, 1924.

The Register is advised, informed and believes that under the

code section 2356 the Register is charged with a duty to "ascertain what taxes are a lien upon such property, and upon a sale thereof, to first apply the proceeds of such sale to the payment of such taxes". He is also clerk of said circuit court on its law side and shows that this land or any part of it has not been concerned in any action of ejectment, nor in any suit in equity, to determine upon any pleadings whether or not the aforesaid sale to Mell H. Frazer for the taxes of 1922 was a valid sale or not, and there has never been such a determination, one way or another.

The Register reports that in pursuance of the decrees of sale rendered in this cause he has had the property up for sale at four different times, after due advertisement, and at the first effort to sell it, at Bay Minette, there were no bidders, and the parties undertook to see if they could persuade bidders privately to agree to bid, with a view to advertising again if any promise appeared sufficient to justify doing so. Thus the case lay in abeyance for several years, and finally, under the amended decree of sale the Register made due advertisement to have a sale at Fairhope, that place being agreed upon by the parties, being near the land, and at the sale, as hitherto reported, Mell H. Frazer, on the 30th day of July, 1923, bid on the property and it was knocked down to him at his bid of four hundred and fifty-five dollars. But he failed or refused to pay in the amount of his bid, and the Court thereupon decreed that the property be re-sold at his risk.

Thereupon the Register readvertised the property for sale at Fairhope and inserted his advertisement for November 19th, 1923, but no one appearing to bid that day the sale was continued to December 10th, 1923, and the Register attaches to this report a copy of the advertisement first made for November 19th and a copy of the readvertisement for December 11th, 1923; he reports that the sale was duly and legally advertised in the Fairhope Courier, a newspaper published in said county of Baldwin, showing that the sale finally would be had at the office of said Courier in Fairhope at twelve o'clock December 11th, 1923, or between the legal hours of sale, and that that was a public place, which was agreed on by the parties as per agreement on file in the cause. The Register further shows that said Mell H. Frazer appeared at said sale on December 11th, 1923, and when the property was offered by me for sale he made a bid of four hundred and sixty dollars, which was five dollars above his bid formerly made at which it had been knocked down to him, and he made no other bid December 11th except that one for \$460. The sale was fairly conducted, and there were others present bidding, but the best and highest and last bid, for cash, was seven hundred and seventy-five dollars, which was made by one F.W. Walker, and at the sale, which was at public outcry at said time and place so advertised, the Register knocked down the property to said Walker at and for said price and sum of \$775. The register further reports that this price was not and is not greatly disproportionate and less than the fair and reasonable market value of the property, and that all the parties by their solicitors have filed in this cause an agreement to the effect that they know of no objections and will not file any exceptions, but agree that the Court confirm the sale at that price, and order deed to be made to said Walker accordingly. Petitioner therefore moves the Court to confirm the sale to said Walker and order the register to execute the usual deed in such cases.

The register further shows that he is informed and believes and so states that said Mell Frazer and said purchaser are claiming that out of the proceeds of this sale the said sum of \$42.45 which said Frazer paid to the State and county tax collector June 1st, 1923, and interest thereon at the rate of fifteen per cent. per annum, must be or should be paid to him or to the probate judge by way of redemption of said property from said tax sale. Your petitioner does not know what the law is as to this, and asks the court to instruct him in its decree what to do about it. The register is satisfied that he should pay the \$37.02 and interest thereon at eight per cent. to the Tax Collector from January 1st, 1924, but he also does not know the law as to this, and asks instructions. As to ascertaining about the amount of taxes for the tax year of 1924 which cannot be paid to the collector till October 1st, 1924, and which as yet the Register cannot ascertain in any manner, he asks the Court for a construction of the statute on this point also.

~~He further reports that the costs of court thus far accrued include some costs created by reason of resistance by some of the defendants.~~

~~ants against the claim of the complainants asserted in their Bill, but that since they were decreed the interests they thus asserted, the Register asks instructions concerning the costs of such resistance so far as it went.~~

Jan 18/924.

Respectfully submitted,

T. W. Rice

Register.

Lis Pendens Notice .

On July 12, 1917, Sarah E. Spear/ Marguerite Spear, and Chester Spear, filed their bill in equity in the Circuit Court of Baldwin County, Alabama, against Charles A. Spear, Prentiss F. Clemmons, Miss Loomis B. Clemmons, Joseph B. Clemmons, Mrs. Emma Clemmons, Richard Lee Fearn, Mrs. Sarah E. Manley, Thomas S. Fearn, Mrs. Mildred Field, and Richard Lee Fearn, Jr., for the purpose of having the Court partition by metes and bounds between the parties in interest owning, or else to sell for division of the proceeds amongst them, those parts of the North half of the South-East quarter of section nineteen, and the North half of the South West quarter and the North half of the South East quarter of section twenty, which lie outside of the tract of land known as the Baron De Ferriet Grant, all in Township Six South, of Range Two West, in Baldwin County, Alabama .

Sarah E. Spear,

Marguerite Spear,

Chester Spear, Complainants,

by *N. B. Cobbs,*

their Solicitor .

Sarah E. Spear et al., Complainants,

vs. No. ~~48~~ In Baldwin Circuit Court, In Equity .

Prentiss I. Clemmons, et als., Defendants .

Confirmation of Sale .

In this cause the Register's report of sale on file shows amongst other things that the price of seven hundred and seventy-five dollars at which he knocked down the land ordered resold in this cause, to one F.W.Walker, has been paid into the Register's hands. It further appears by agreements on file that there is no cause of objection to said sale at that price, it having brought a larger sum than on the sale at \$ 455 for which it was knocked down in the Summer of 1923 to Mell H. Frazer and afterwards ordered resold at his risk ; that no ground is known on which to file exceptions to the sale or report thereof, and that the parties thus agreeing have in writing on file waived all right to file exceptions or objections, and have therein agreed that the sale at the price of \$ 775.00 be confirmed , as being a sale for a price not greatly if at all disproportionate to or less than the fair value of the property on the market, and a confirmable price , under the circumstances existing, this cause having been in court for above five years since the first or original decree of sale was rendered .

It therefore is now ordered, adjudged and decreed by the Court that said sale to F.W.Walker at \$ 775.00 of the land so ordered to be resold at the risk of Mr. Frazer be and the same is hereby in all things ratified and confirmed by the Court, and it is further ordered that the Register execute the usual conveyance to the purchaser in such cases.

And the cause is held for further decree.

Done this ^{June} ~~January~~ 7 1924 .

John D. Light,
Judge 21st Judicial Circuit
Court,

Sarah E. Spear et al., Complainants,

vs. In Baldwin Circuit Court, In Equity .

Prentiss I. Clemmons, et als., Respondents .

Decree of Reference .

This cause is submitted upon a motion by complainants for a reference to ascertain suitable compensation to be allowed their solicitor and the guardian ad litem of Thos. S. Fearn, of unsound mind, for services in this cause .

Upon due consideration it is ordered, adjudged and decreed that the Register of this Court hold a reference, of which he will give *ten* days' notice to the solicitors of parties and the guardian ad litem, and one days' notice on the order book to parties in default. At the reference the Register will ascertain and report to the Court what is a proper fee to be allowed the said guardian ad litem and what is a proper fee to be allowed to and for the complainants' solicitor for their respective services in this cause. His report so filed shall lie over for *ten* days for any exceptions, unless it be made known that none will be filed thereto, and at the proper time the Register will forward his report of reference and any exceptions thereto and any motions concerning said report, to the Judge for the Court's action thereupon.

James G. H.
November 9th 1918.

A. C. Stanley
Judge .

Sarah E. Spear et al., Complainants,
vs. No. 46 in Baldwin Circuit Court, in equity .
Prentiss I. Clemmons, et als., Defendants .

Agreement .

As per the terms of the recent decree of sale , it is now agreed by
the parties in interest by their solicitors of record, that the Register
be and is requested to advertise the sale ordered in this cause in some
newspaper published in Baldwin County at or near the land, towit, at
Foley or Fairhope, and that he conduct the sale at or near the land, to-
wit, in Fairhope, at some public place therein. Witness our hands this
June 14th, 1923 .

W. B. Robbs , Solicitor for Complainants .
James W. Hambrick
Solicitors for the Clemmons defendants .

Mell Frazer
Solicitors for Richard Lee Fearn and Mrs.
Manley , and their successor Mell
Frazer .

James W. Hambrick *John D. ...*
Solicitor for Guardian ad Litem of Thos. S.
Fearn .

Sarah E. Spear et al
Complainants.
vs
Prattiss I. Clemons et al.
Defendants.

In Circuit Court, Baldwin County.

In Equity. Fall Term 1917.

Comes the complainants in the above styled cause and shows unto the court, that an order of publication was made on the 21 day of August 1917, and which was duly published and which was directed to the defendants, Milrea Field, Richard Lee Fearn, Jr. and Chas. A. Spear and which required the said defendants to answer or demur to the Bill of Complaint in this cause within 30 days after the 14th day of September 1917 and which the said defendants have to this date failed to do, wherefore the complainant moves the court to grant a decree pro confesso against the said defendants.

this 21st day of November, 1917.

J. B. Cobbs

Solicitor for Complainant.

Note of Evidence .

Sarah E. Spear et al., Complainants,
vs. In Baldwin County Court, in Equity .
Prentiss I. Clemmons, et al., Respondents .

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

For Complainants :-

Agreement of date August 30th, 1918, on file, signed by Messrs. D.E. Cobbs, Thornton & Frazer, and Gaillard, Mahorner & Arnold, solicitors for certain parties ;

Deceases pro confesso taken by complainants against other parties;
Depositions taken by complainants; of Hoyle & Miss Spear
Records of conveyances ~~and~~ of Baldwin County as to the following instruments:- Deed dated April 28th, 1862, from George F. Reynolds to Isaac D. Spear, Sr., in deed book H, page 331 ; Deed dated March 17th, 1883, from I.D. Spear, Sr., to J.I. Clemmons and I.D. Spear, Jr. in deed book N, page 48 ; deed of trust dated November 5th, 1900, from Lucy M. Spear et al. to Richard Lee Fearn, trustee, in deed book II N.S., page 108 et seq.; deed from J.I. Clemmons and wife to Geo.H. Hoyle dated in 1905, in deed book 9, page 628.; deed from Geo.H. Hoyle to Richard Lee Fearn, trustee, dated in 1906, in deed book 12 N.S., page 666 ; deed from Richard Lee Fearn, trustee, to George H. Hoyle, dated in 1908, in deed book 12 n.s., page 667 ; deed from A.N. Spear to Sarah E. Spear dated September 29th, 1906, in deed book 25 n.s., page 104 - 5 ; deed from Sarah E. Spear to Richard Lee Fearn dated October 1st, 1906, in deed book 25 n.s., page 105 ; deed from Kate L. Spear to Richard Lee Fearn dated November 20th, 1914, in deed book 24 n.s., page 5 ; will of Lucy M. Spear, in ^{Deed} ~~book~~ book 27, page 321 - 3 .

Attest :-

T. W. Reardon
Register .

Court

SARAH E. SPEAR, ET AL,
Complainants,
VS
PRENTISS I. CLEMMONS, ET AL,
Respondents.

IN THE CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

IN EQUITY

Now come the Complainants and all Respondents, by their respective Solicitors of record, and submit to the Court the following agreed facts:

That a decree of sale for the division of land described in the bill has heretofore been made, that said sale has not actually been had; that since said decree, Emma B. Clemmons, widow of Joseph I. Clemmons, deceased, has died; that the interest of Richard Lee Fearn has been transferred by deed to Mell A. Frazer, recorded April 25th, 1923, Record Book 33 N.S., page 202, Probate Court, Baldwin County, Alabama; that supplemental order or decree may be made amending former order or decree so as to show that the dower interest of Emma B. Clemmons has ceased; that Mell A. Frazer is now the owner of the interest of Richard Lee Fearn, and that the proceeds of the sale when had, may be divided, subject to the payment of costs, including reasonable attorney's fee to the Solicitor of Complainants, and to the guardian of Thomas S. Fearn, a lunatic, as follows:

Sarah E. Spear	1/32	or	3/96
Marguerite Spear	1/32	or	3/96
Chester Spear	1/32	or	3/96
Charles A. Spear	1/32	or	3/96
Prentiss I. Clemmons	1/6	or	16/96
Loomis B. Clemmons	1/6	or	16/96
Joseph B. Clemmons	1/6	or	16/96
Thos. S. Fearn	1/24	or	4/96
Sallie B. Manley	1/24	or	4/96
Mell A. Frazer	7/24	or	28/96

THE STATE OF ALABAMA, } CIRCUIT COURT, IN EQUITY.
Baldwin County. } No. 37 Fall Term, 1917

Sarah E. Spear et al Complainant

vs. Prentiss I. Clemmons Defendant

In this cause it appears to the ~~Register~~ Court that the order of publication heretofore made in this cause, was published for four consecutive weeks, commencing on the 23rd day of August 1917, in the Baldwin Times a newspaper published in Baldwin County Alabama, that a copy of said order was posted at the Court House door in Bay Minette, Baldwin County on the 23rd day of August 1917, and that another copy was sent by mail on the 23rd day of August 1917, to Milared Field, Richard Lee Fearn, Jr, and Chas. A. Spear

And it now further appearing to the ~~Register~~ Court that the said Milared Field, Richard Lee Fearn, Jr, and Chas. A. Spear

having to the date hereof failed to demur, plead to or answer the Bill of Complaint in this cause, it is now, therefore, on motion of Complainant's, ordered and decreed by the ~~Register~~ Court that the Bill of Complaint in this cause be, and it hereby is in all things taken as confessed against the said Milared Field, Richard Lee Fearn, Jr. and Chas. A. Spear

This 21st day of November 1917.

W. E. Gable
Register

Sarah E. Spear et al., Complainants,

vs. In Equity in Baldwin Circuit Court.

Prentiss I. Clemmons et als., Defendants.

It is agreed between solicitors of record herein that (inasmuch as it is understood the cause is now at issue so as to take testimony) all testimony and evidence shall be put in by or before the expiration of 45 days herefrom ; that by or before the expiration of 10 days after the expiration of said above 45 days period, all objections, motions to exclude evidence and all proceedings preparatory to hearing except as below stated, be in ; that the complainant's solicitor exchange with counsel for defendants and each of them with him all notes of their respective proposed evidence, such as may be desired to be offered in evidence, and note of evidence be made up and filed with 5 days at latest after the expiration of said above 10 days period ; that at any time after the expiration of said last named period of 5 days, the case may be submitted by complainant to the judge in vacation for final decree and this shall operate as consent for such submission to be made in vacation ; and the register shall place all papers on file in the cause at that time into the hands of the judge for and under such submission in vacation for final decree, and the judge may proceed to render the court's decree in vacation ; but it is further understood that complainant, before taking a submission in vacation and having the papers forwarded to the judge, shall notify the opposing solicitors of the time when he proposes to take submission in vacation, so that the parties may, if they wish, prepare briefs and argument if they wish.

Agreed to this May 18th, 1918.

A. B. Bobbs, solicitor for Complainants.

~~Solicitor for Mrs. Manley and Son (Rich. I.)~~

Solicitor for Gdn. ad litem.

Gawad Mahomet Omar
solicitor for Clemmons defendants.

Sarah E. Spear et al., complainants,

vs. In Baldwin circuit court, in equity.

Prentiss I. Clemons et al., defendants.

It is agreed between solicitors of record herein that (inasmuch as it is understood the cause is now at issue so as to take testimony) all testimony and evidence shall be put in by or before the expiration of 45 days herefrom ; that by or before the expiration of 10 days after the expiration of said above 45 days period, all objections, motions to exclude evidence and all proceedings preparatory to hearing except as below stated, be in ; that the complainant's solicitor exchange with counsel for defendants and each of them with him all notes of their respective proposed evidence, such as may be desired to be offered in evidence, and note of evidence be made up and filed within 5 days at latest after the expiration of said above 10 days period ; that at any time after the expiration of said last named period of 10 days, the case may be submitted by complainant to the judge in vacation for final decree and this shall operate as consent for such submission to be made in vacation; and the register shall place all papers on file in the cause at that time in the hands of the judge for and under such submission in vacation for final decree, and the judge may proceed to ~~render the decree of the court~~ render the court's decree in vacation; but it is further understood that complainant before taking a submission in vacation and having the papers forwarded to the judge, shall notify the opposing solicitors of the time when he proposes to take submission in vacation, so that the parties may if they wish prepare briefs and argument if they wish . Agreed to this
May 18th 1918.

~~Sol. for complainants~~

Thompson & Fisher
Sols. for Pearn and Mrs. Masly

~~Sol. for defendants~~

IN WITNESS WHEREOF, we have hereunto set our names
either as party or as Solicitor for a party or parties this
3rd day of May, 1923.

W. B. Cobbs
Solicitor for Complainants.

Samuel Abraham Aluef
Solicitor for Prentiss I. Clemmons,
Loomis B. Clemmons & Joseph B.
Clemmons.

Thompson & Frazer
Solicitor for Sallie B. Manley
and Richard Lee Fearn.

Wm. B. Frazer
Guardian Ad Litem for Thos. J.
Fearn, lunatic.

Wm. B. Frazer
Mell A. Frazer.

DANIEL B. COBBS
ATTORNEY AND COUNSELLOR AT LAW
CITY BANK BUILDING
MOBILE, ALABAMA

Spear et al.

vs.

No. 37.

Clemmons, et als .

Sept. 13/24

\$ 33.90

Received this day of T.W.Richerson, Register, thirty three and 90/100 dollars, being the parts of the fund coming to Sarah E., Marguerite, and Chester Spear, in the above case in Baldwin Circuit Court, at eleven dollars and thirty cents apiece. Register should hold Charles A.Spear's \$ 11.30 to get his address and remit him direct .

D. B. Cobbs,

Solicitor for Complainants above .

\$ 100.

I have received the fee of one hundred dollars agreed by the parties by their solicitors in the above case to be paid to solicitor for complainants .

D. B. Cobbs

SARAH E. SPEAR, et al
Complainants,

-vs-

PRENTISS I. CLEMMONS, et al
Defendants.

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

ANSWER OF PRENTISS I. CLEMMONS, LOOMIS B. CLEMMONS, JOSEPH B.
CLEMMONS and EMMA B. CLEMMONS.

FIRST.

Abol named
Come the defendants, and for answer to the
original bill filed in this cause, admit that they are all over
twenty-one years of age.

Defendants are not prepared to admit or deny the
other allegations of fact contained in the first paragraph of
the bill of complaint.

SECOND.

Defendants admit that the said Joseph I. Clemmons
died intestate at Mobile County, Alabama, and that the said Emma
B. Clemmons is his widow, and the said Prentiss I. Clemmons, Loomis
B. Clemmons and Joseph B. Clemmons, are the children and heirs at
law of the said Joseph I. Clemmons, and that at the death of said
Joseph I. Clemmons, he was the owner of an undivided one-half in-
terest in the lands described in the original bill of complaint.

Defendants are not prepared to admit or deny the
other allegations of fact contained in the second paragraph of the
bill of complaint, and demand strict proof of same.

THIRD.

In answer to the Third paragraph of the bill of
complaint, defendants admit that said lands are unimproved, and
defendants do not know whether said lands can be equitably divid-
ed or not, without a sale thereof, as apparently that would de-

(2)

pend greatly upon the market value of small tracts or subdivisions of land in that neighborhood.

The defendant, Emma B. Clemmons, is not prepared at this time to agree that her dower interest in said lands be sold, for, in the absence of an offer for said lands, the said Emma B. Clemmons is unable to determine at present whether it would be to her interest to have her dower in said lands sold at this time.

Guivard, Mahomes & Arnold
Solicitors for the defendants Emma B.
Clemmons, Prentiss I. Clemmons, Loomis
B. Clemmons and Joseph B. Clemmons.

ated . Which statement was in proper form for acquiring a lien under said statutes, and was recorded in said lien book 4, pages 388 - 9 . Thereafter, on March 1st, 1922, said James W. Doody by his solicitor filed in this court his Bill of complainant to establish and enforce said lien, being cause No. 3233, which was consolidated into this cause . On the pleadings and evidence the Register finds that said James W. Doody ^{became entitled to a} ~~acquired and owned~~ lien under said statutes upon said property to the extent of said principal sum and interest thereon and costs, which are personally due from and unpaid by said Clark and McDonald jointly and severally. Said lien as to the building has priority over said two deeds of trust and as to the land is in subordination to them. On May 26th, 1922, for value received, said James W. Doody transferred ^{set over and assigned} in writing his said claim of debt and interest thereon together with said lien to said Investment Banking Corporation, of Atlanta, Georgia. And the Register reports that said Investment Banking Corporation, of Atlanta, Georgia, owns and is entitled to be paid by said William F. Clark, Jr., and William McDonald, personally, and jointly and severally, said principal sum of \$ 119.70 together with interest thereon at eight per cent. per annum from September 16th, 1921, to the date of this report, which now amounts to One hundred and

(\$ ^{that}) , and ~~is entitled to~~ ^{is entitled to have a lien established} said Investment Banking Corporation, of Atlanta, Georgia, ~~has a further lien~~ ^{being that which} ~~was~~ ^{of} ~~costs of court~~ ^{secured by said principal sum, and interest from said date, and} ~~that was acquired by~~ ^{secured by} said James W. Doody) upon said six-story apartment building known as St. Charles Apartments in priority over said two deeds of trust and upon said land in subordination to said two deeds of trust, under said statutes ^{7 for said amount of}

and costs of court -

In the case of J.W. Null and W.W. Milling doing business as the Security Roofing Company, complainants, vs. William F. Clark, Jr., William McDonald, et als., defendants, being cause No. 3238 , the Register finds :- Said complainants had their Contract directly with the said owners Clark and McDonald to furnish them materials and do work and labor upon and for the construction of said St. Charles Apartments ,

SARAH E. SPEAR, ET AL,

COMPLAINANT.

VS

PRENTISS I. CLEMMONS, ET AL,

DEFENDANTS.

IN THE CIRCUIT COURT,

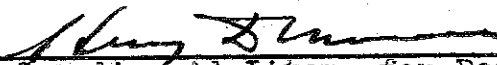
BALDWIN COUNTY, ALA.

IN EQUITY.

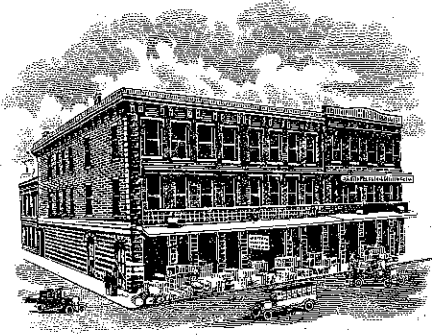
Comes Thomas S. Fearn, by his Guardian Ad Litem,
Henry D. Moorer, and, for answer to the bill of complaint
exhibited against him in the above entitled cause, says:

1st. Respondent denies the allegations contained
in each and every paragraph contained in said bill, and
requires strict proof thereof.

The premises considered, respondent prays to be
dismissed with his reasonable costs in this behalf ex-
pended.


Guardian Ad Litem, for Respondent.

37



James McDonnell Co.

WHOLESALE GROCERS

9-11-13 NORTH COMMERCE STREET

Mobile, Ala.

Sept 22, 1924.

Mr. Richardsen,
Register in Chancery
Bay Minette Ala.

Dear Sir:-

I have received in reply to letter to Judge Leigh, carbon copy of letter to you in reference to the division of sale Land Baldwin Co., Spear vs Clemmons.

Understanding that he has approved this disbursement, would request that you kindly advise me what would be holding same up, and about when we could expect this settlement.

Thanking you in advance, I am,

Very truly

PRENTISS I. CLEMMONS et als

By.

A handwritten signature in cursive script, appearing to read "P. I. Clemmons", written over a horizontal line.

SARAH E. SPEAR, et al,	{	IN THE CIRCUIT COURT OF				
Complainants,			}	BALDWIN COUNTY, ALABAMA.		
vs.					}	IN EQUITY. No. <u>46</u>
PREMTISS I. CLEMMONS, et al,						
Defendants.	}	}				

DECREE OF DISTRIBUTION.

The report of sale by the Register as having been made on December 11, 1923, to F. W. Walker for Seven Hundred, Seventy-five Dollars (\$775.00), having been confirmed by decree of this Court bearing date June 7th, 1924, the cause is further presented for final decree of distribution.

From the Register's said report it appears that certain questions have arisen as to what money should be paid out by the Register in payment of taxes that are a lien upon the property so sold and the Register has asked instructions of the Court upon these matters.

After fully considering the facts of the case the Court is of opinion that there is now outstanding as liens upon the property so sold the sum of \$42.45 due to Mell A. Frazer for the taxes of 1922, with interest thereon from the date of the sale of said property, at the rate of 15% per annum, he having become the purchaser of the property under the tax sale in June, 1923, and the same having not yet ripened into title. There is also due and claimed by the tax collector of Baldwin County the sum of \$37.02 for taxes due upon said property for the year 1923 with interest thereon at the rate of 8% per annum from January 1, 1923. The taxes for

1924 became a lien upon the property sold on October 1, 1923 under Section 2093 of the Code and should be paid by the Register.

It is therefore Ordered, Adjudged and Decreed that out of the proceeds of the sale of the lands in question the Register pay to Mell A. Frazer the sum of \$42.45, with interest at the rate of 15% per annum from the date of the sale of said property to said Mell A. Frazer for the taxes of 1922; also the sum of \$37.02 to the tax collector of Baldwin County with interest thereon at the rate of 8% per annum from January 1, 1924; and also the taxes for the year 1924; all costs of court accrued in this cause, including the Guardian ad litem's allowance, and solicitor's fee as agreed upon by the parties to this cause in writing, which writing is on file in this cause; and after paying the taxes and costs as above mentioned the Register will distribute the balance of said proceeds from the sale of said lands in accordance with the interest of the parties in the lands so sold as heretofore ascertained and decreed by the court.

And when he shall have thus distributed said proceeds the Register shall report his action in writing that the case may be dropped from the docket.

Done, this 8th day of September, 1924.

John D. Leigh
Judge

SARAH E. SPEAR ET AL.,

COMPLAINANTS,

VS.

PRENTISS I. CLEMMONS ET ALS.,

DEFENDANTS.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, IN EQUITY.

Now on this August 30th 1918, come the parties below represented and agree as follows in this cause:-

1st. Complainants may offer in evidence without accounting for original documents, the following:- either the records or certified copies of records of any of the following conveyance instruments, viz.:- Deed of date April 28th, 1862, from George F. Reynolds to Isaac D. Spear, sr., of record in deed book H, page 331; Deed from I. D. Spear, Sr., to J. I. Clemmons and I. D. Spear, Jr., dated March 17th, 1883, of record in deed book N, page 48; Deed of trust dated November 5th, 1900, from Lucy M. Spear et al., to Richard Lee Fearn, Trustee, of record in deed book 11 N. S., page 108 et seq.; Deed from J. I. Clemmons and wife to George H. Hoyle, dated in 1905, and of record in deed book 9, page 628, covering Clemmons' interest in N. E. 1/4 of S. W. 1/4 of section 19, T. 6 S., R. 2 E.; Deed from Geo. H. Hoyle to Richard Lee Fearn, trustee, dated in 1906, of record in deed book 12 N. S., page 666; Deed from Richard Lee Fearn, trustee, to George H. Hoyle, dated in 1908, of record in deed book 12 N. S., page 667; Deed from A. M. Spear to Sarah E. Spear dated September 29th, 1906, of record in deed book 25 N. S., pages 104-5; Deed from Sarah E. Spear to Richard Lee Fearn dated October 1st, 1906, of record in deed book 25 N. S., page 105; Deed from Kate L. Spear to Richard Lee Fearn dated November 20th, 1914, of record in deed book 24 N. S., page 5; all the above being of record in Baldwin County; and will of Lucy M. Spear of record in Baldwin County records of wills in will book 27 page 321-3.

2nd. That the three Clemmons heirs of J. I. Clemmons, defendants, together own an undivided one-half interest in the lands herein concerned; and his widow, defendant, her dower in that half which dower may be sold with the land in case it be sold by the Court.

That the complainants and Charles A. Spear own an undivided one-eight interest in the lands herein concerned; and Richard Lee Fearn owns seven-twentyfourths undivided interest and Sallie B. Manly one-twentyfourth undivided interest, and Thos. S. Fearn one-twentyfourth undivided interest, in the said lands.

3rd. That there are of record since said first deed above specified no other conveyances affecting the interests of the parties hereto.

4th. That the relationships of the parties may be proved by any one, without more, of the number of witnesses for whom commission has issued.

5th. That complainants are to get ready as early as practicable to do so, and as soon as ready, may make up notes of evidence, and defendants may also file such notes of evidence as they may want to offer, and all papers are to be turned over as rapidly as feasible to the Judge for final decree in the cause, settling the equities. Should he decree a sale of the land, he may, so far as we are concerned, direct the register of the court to make sale; and if he ~~decree partition by metes and bounds he may, so far as we are concerned, appoint Jesse L. Kettler (clerk in Probate Court). Otis B. Richerson, and Van Stapleton, as commissioners.~~

As witness our hands this August 30th, 1918.

D. B. Cobbs,

Solicitor for Complainants.

Thornton & Fearn

Solicitors for Richard Lee Fearn et al.

Grand M. ...

Solicitors for the Clemmons defendants.

Guardian ad litem for Thos. S. Fearn.

SARAH E. SPEAR, ET AL.,

COMPLAINANTS,

VS.

IN THE CIRCUIT COURT
OF BALDWIN COUNTY.

PRENTISS I. CLEMMONS, ET AL.,

RESPONDANTS.

TO THE HONORABLE A. E. GAMBLE, JUDGE OF THE SECOND
JUDICIAL CIRCUIT OF ALABAMA.

The separate and joint answers of the respondents, Richard Lee Fearn and Sallie B. Manley, to the bill of complaint filed against them in the above entitled cause.

Now come Richard Lee Fearn and Sallie B. Manley, respondents in the above entitled cause, and for answer to said bill say as follows:

1st. That they admit the truth of the allegations in the first paragraph of said bill.

2nd. That they admit that Joseph I. Clemmons died intestate and that at his death he owned an undivided one-half interest in the lands sought to be partitioned; that they deny that complainants and Charles A. Spear, the children and heirs at law of Alexander N. Spear, deceased, own together an undivided one-eighth interest in said lands; that they admit that Richard Lee Fearn, Sallie B. Manley, and Thomas S. Fearn formerly owned an undivided one-eighth interest in the lands sought to be partitioned; that they admit that Lucy M. Spear entered into a deed of trust with others in November, 1900, as set forth in the original bill, and they admit that the said Lucy M. Spear has since died leaving a will which has been duly probated in Mobile County; that Kate L. Spear formerly owned the other one-eighth interest in the said lands, but that she conveyed her interest in said lands to Richard Lee Fearn.

3rd. Respondants deny the allegations contained in paragraph four of the original bill.

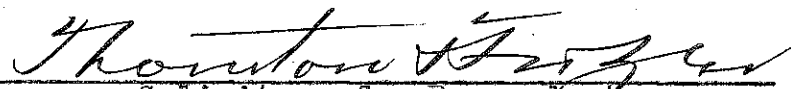
4th. Respondants admit the allegations contained in paragraph five of the original bill.

5th. For further answer to the bill of complaint these respondents show that the entire title to the land described in the bill of complaint, viz:- Those parts of the North Half of the Southeast Quarter of Section 19, and the North Half of the Southwest Quarter and the North Half of the Southeast Quarter of Section 20, which lie outside of the tract of land known as the Baron De Ferriet Grant, all in Township 6 South, Range 2 West, Baldwin County, was formerly in I. D. Spear, Sr., that the said I. D. Spear, Sr., conveyed said lands to I. D. Spear, Jr., and Joseph I. Clemmons; that the said Joseph I. Clemmons has recently died intestate and that his one-half interest is now in his three children, Prentiss I. Clemmons, Loomis B. Clemmons, and Joseph B. Clemmons, subject to a dower interest of his wife, Emma B. Clemmons, as alleged in the bill of complaint; That I. D. Spear, Jr., died intestate leaving as his heirs at law Lucy M. Spear, Kate L. Spear, A. N. Spear, and Sarah E. Spear Fearn; that Lucy M. Spear has since died and by her last will and testament devised her property to Richard Lee Fearn, Thomas S. Fearn, and Sallie B. Manley, subject to a life estate in Kate L. Spear; that Kate L. Spear has transferred all of her interest in said lands to Richard Lee Fearn; that A. N. Spear has since died but before his death conveyed his one-eighth interest in the property described in the bill of complaint to his daughter, Sarah E. Spear, the expressed purpose of the said conveyance being to eliminate his other three children, Marguerite, Chester, and Charles Spear; and that the said Sarah E. Spear has conveyed her interest in said property to Richard Lee Fearn. The effect of the above transfers has, therefore, been to vest a one-half interest in and to said lands in Richard Lee Fearn, Sallie B. Manley, and Thomas S. Fearn, the other undivided one-half

interest being in Prentiss I. Clemmons, Loomis B. Clemmons, and Joseph B. Clemmons, subject to the dower interest of Emma B. Clemmons. Respondants, therefore, deny that the complainants have any right, title, or interest whatsoever in said lands, and they deny that Richard Lee Fearn holds said lands in trust for the complainants and Charles A. Spear, and they further deny that, since making the said deed of trust, he has recognised said trust, and they deny that he does at this time recognise said trust.

PRAYER.

The said respondents, having fully answered said bill, pray that the original bill of complaint may be dismissed and said respondents discharged with their costs in this behalf expended.


Solicitors for Respondants.

Sarah E. Spear et al., Complainants,
vs. No. 46 in Baldwin Circuit Court, In Equity.
Prentiss E. Clemmons, et als., Defendants.

Agreement for Confirmation of Sale and
for distribution, &c.

Whereas, the final decree first rendered in this cause was rendered about five years ago, since which rendition the widow of Jos. I. Clemmons has died and her dower interest in the half of the land that he left at his death has merged in the fee of said half interest held by his heirs at law:

And whereas, for various reasons, a sale of the land, for division amongst the tenants in common of the land concerned, was never had for any price deemed by us as confirmable until the sale last made, but at the first sale attempted no bid was made, and at the second sale only four hundred and fifty-five dollars was bid, but the sale made at that price was set aside by the court and a resale ordered, and at the last sale, which was had in December, 1923, the property was knocked down at public outcry for cash at seven hundred and seventy-five dollars, and this latter named sum has, as we understand it, been paid into court by the purchaser, one Walker :-

And whereas the six forties comprising this land were cut through diagonally by the De Feriet Grant, so that some of the six forties are fractional, and the six forties therefore aggregate only about one hundred and eighty two acres, but some of those, as we understand have been held for years, and portions of it for many years, sometimes more than ten years, adversely, by negroes, living upon and using and occupying their claimed parts of it, sometimes by cultivation under fence, and sometimes by color of title of great age, for instance originating in tax sales made many years ago, and thus, as we are informed, there are only about one hundred and twenty acres of it that are free of such adverse claims, and some of those have been sold for taxes recently and are still unredeemed therefrom, so that several disadvantageous circumstances concur against obtaining a better price at another public sale :-

And whereas, we do not know of any grounds upon which to institute any contest of or exceptions to the sale last made, but believe that the sale, attended by counsel for complainants and Mr. Frazer of counsel for some of the defendants, was fairly and properly conducted and advertised and made to bring the best price probably obtainable.

Therefore the undersigned, having no cause to complain, of the sale at that price, under the circumstances, hereby agree that they will not attempt to file any exceptions, or objections to a confirmation, but hereby waive the right so to do, and agree and consent that the Judge or Court may confirm the sale at said price, and at the same time render a decree ordering distribution of the proper amount by the register, left over after paying all costs of court including the agreed compensation of the guardian ad litem and solicitor who filed the bill for complainants and all such taxes as the statute requires to be paid by the Register in such cases, observing such agreements as are made by the parties in interest and their solicitors on file in the cause, including such costs as may further be necessary to get the cause off the docket. The amount to be distributed by the Register to be distributed according to the interests of the tenants in common ascertained and established by former decrees in this cause, omitting any dower interest that formerly was of said widow now deceased, the Register taking proper receipts upon such distribution, and finally briefly reporting whether the cause is ready to be dropped from the docket.

As witness our hands this January 12th, 1924.

H. B. Cobbs Solicitor for Complainants.

Yusuf M. Mahomed Solicitors for the Clemmons heirs.

Thos. S. Fearn & J. H. Manley Solicitors for R. Lee Fearn, Mrs. Manley, and Mel H. Frazer, their transferee.

Wm. S. Fearn Solicitor for Guardian ad Litem of Thomas S. Fearn.

Sarah Spear et al., Complainants,

vs.

Frentiss I. Clemmons, et als., Defendants .

No. 46 In Baldwin County Circuit Court,
In Equity .

To the Hon(1 Jno. D. Leigh,
Judge of Said Circuit Court:

The report of the Register in equity
respectfully shows your Honor as follows :-

After the amended decree of sale was rendered in the above stated cause, filed *June 1st* 1923, an agreement was entered into between the solicitors of the parties in interest, requesting your petitioner the Register to advertise the sale ordered in this cause in some newspaper published in said county of Baldwin at or near the land, to-wit, at Foley or Fairhope, and that he conduct the sale at or near the land, to-wit, in Fairhope, at some public place therein.

Petitioner further shows that in accordance with said agreement and request of counsel, and the decree of sale as amended, he inserted in the Fairhope Courier, a newspaper published in said county at Fairhope, near to which town the land is located, and caused to be published therein, ~~said~~ notice of sale of said land under the terms of said decree, for three consecutive weeks, namely, in its editions of June 29th, July 6th, and July 13th, 1923, showing that he would proceed to sell said land as such Register under said decree on Monday, July 30th, 1923, at the office of the Fairhope Courier, at Fairhope, Baldwin County, Alabama, between the legal hours of said, to-wit, at twelve o'clock noon, at public outcry, for cash, to the highest bidder, and petitioner attaches hereto an affidavit by E. B. Gaston, publisher of said newspaper, and a copy of said notice of sale, and makes the same a part of this report .

Petitioner further reports that on the day of sale, namely, July 30th, 1923, as advertised, he was present in person at said time and place of sale, and shortly after the hour of twelve o'clock noon that day he offered for sale in accordance with the requirements and terms of said advertisement and decree the real estate therein described, at public outcry, for cash, to the highest bidder. The day was inclement before and at the time and not many attended the sale . The sale was in the Courier office, a public place in Fairhope .

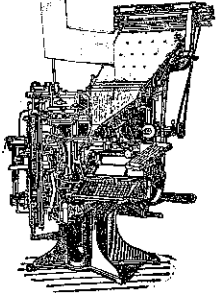
Petitioner further reports that of the two persons who made bids for the land, the highest bid was made by Mell H. Frazer, and finally, after crying the property for some time, your petitioner knocked it down to said Mell H. Frazer at the price bid of four hundred and fifty five dollars, and after the sale said Mell H. Frazer advised petitioner of his having bought said land at tax sale and desires petitioner to deduct the tax moneys thereon from said bid, under the statutes in such cases .

Petitioner further shows that said Mell H. Frazer has ^{not} paid into the hands of your petitioner the aforesaid sum bid by him of four hundred and fifty five dollars (\$ 455.00) in money, and thereupon petitioner reports the sale .

Petitioner prays that your Honor consider this report, and give such other and further directions in the cause, as to your Honor may seem proper, and as in duty bound, &c.,

Aug 5th 1923

T. W. Peterson
Register .



"The Linotype Way"

The Fairhope Courier

ERNEST B. GASTON, ED. & PUB.
FAIRHOPE, ALA.

July 30, 1923.

I, E.B. Gaston, publisher of the Fairhope Courier, a newspaper published at Fairhope, Baldwin County, Ala., hereby being first duly sworn depose and say that the attached advertisement of "Register's Sale of Land for Division" was published in the Fairhope Courier three times, to wit, in the issues of June 29, July 6 and July 13, 1923.

Subscribed and sworn to before me by E.B. Gaston, this 30th day of July, 1923.

REGISTER'S SALE OF LAND FOR DIVISION.

Under and by virtue of the amended order of sale of the Circuit Court of Baldwin County, Alabama, rendered May 31st, 1923, in the cause pending in said Court of Sarah Spear et al Complainants, vs Prentiss I. Clemmons et al Defendants, directing the undersigned to sell the lands herein described for division of the proceeds between the parties thereto entitled, the undersigned Register of said Court will on Monday July 30th, 1923, at the Office of the Fairhope, Alabama, at Fairhope Baldwin County, Alabama, between the legal hours of sale, to wit at twelve o'clock noon at public outcry for cash to the highest bidder, sell said lands described as follows, namely:

Those parts of the north half of the southeast quarter of section nineteen (19) and of the north half of the southwest quarter of section twenty (20) and of the north half of the southeast quarter of section twenty (20) which lie outside of the tract of land known as the Barron de Ferriet Grant, in the neighborhood of Fairhope, all being in the Township number six (6) south of range 2 East in Baldwin County, Alabama.
Witness my hand this 20th day of June, 1923.

T. W. RICHERSON, Register.
D. B. Cobbs, Atty for Complainant.
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Speer et al.

v.

Hemmons et al.

Report of Sale

Grand Jury, Jan 1923,
Northwestern
Registry

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