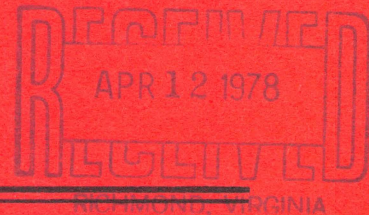


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CLERK
SUPREME COURT OF VIRGINIA



IN THE
Supreme Court of Virginia
AT RICHMOND

RECORD NO. 771257

VIRGINIA SUTTON SALLEY and GEORGE SALLEY,

Appellants

v.

CHARLES SUTTON BURNS and SARAH BELLE SUTTON,

Appellees

APPENDIX

GEORGE M. WARREN, JR.
Warren, Bowie & Bressler
Post Office Box 1078
Bristol, Virginia 24201

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ORIGINAL BILL OF COMPLAINT
(Filed October 16, 1972)

V I R G I N I A:

IN THE CIRCUIT COURT OF RUSSELL COUNTY

CHARLES SUTTON BURNS and
SARAH BELLE SUTTON

Complainants

V.

ORIGINAL BILL OF COMPLAINT

VIRGINIA SUTTON SALLY and
GEORGE SALLY

Defendants

To the Honorable R. J. Boyd, Judge of the Circuit Court
of Russell County, Virginia:

Your Complainants, Charles Sutton Burns and Sarah
Belle Sutton, respectfully represent as follows:

(1) That D. B. Sutton, a resident of the State of
Florida, died testate in the year 1955, seized and
possessed of a certain tract or parcel of land in Russell
County, Virginia, containing 140 acres, more or less,
situate, lying and being in the Lebanon Magisterial
District, and being the same lands that were conveyed to
the said D. B. Sutton by Clarence C. Burns, Special
Commissioner of the Circuit Court of Russell County,
Virginia, by deed dated the 11th day of January, 1937,
and of record in the Office of the Clerk of the Circuit

Court of Russell County, Virginia, in Deed Book No. 92, at page 277, a certified copy of which said deed is filed herewith and made a part hereof, marked Exhibit A;

(2) That the Will of the said D. B. Sutton was duly probated in the County Judges' Court in and for the County of Dade and State of Florida, on the 11th day of February, 1955, and a duly authenticated copy of same was recorded in the Office of the Clerk of the Circuit Court of Russell County, Virginia, on the 8th day of August, 1955, a certified copy of which said Will is attached hereto and made a part hereof, marked Exhibit B;

(3) That, by deed dated the 2nd day of October, 1967, and of record in the aforesaid Clerk's Office in Deed Book No. 206, at page 390, the said Sarah Belle Sutton conveyed to the Complainant, Charles Sutton Burns, a 135 acre portion, more or less, of said 140 acre tract of land and expressly reserved in said deed the remaining 5 acre portion, more or less, of said tract of land, a certified copy of which said deed is filed herewith and made a part hereof, marked Exhibit C;

(4) That the first clause of the said Will contains the following, to-wit:

"FIRST: The said D. B. Sutton does hereby will and direct that there first be paid out

of his estate his funeral expenses and the expenses of his last illness, with all his just debts and liabilities, and thereafter does hereby will, devise and bequeath to his wife, Sarah B. Sutton (should she survive me) all the rest and residue of his estate, of whatever nature and wherever situated.*****

that said clause devised the 140 acre tract of land in Russell County, Virginia, to your Complainant, Sarah Belle Sutton (who is the same person as Sarah B. Sutton), in fee simple, and that by virtue of said deed dated the 2nd day of October, 1967, your Complainant, Charles Sutton Burns, owns the 135 acre tract of said land, in fee simple, and your Complainant, Sarah Belle Sutton, owns the 5 acre tract of land, more or less, in fee simple;

(5) Your Complainant, Sarah Belle Sutton, further shows unto the Court that, when the said 140 acre tract of land was devised to her under the provisions of the said Will of the said D. B. Sutton, in the year 1955, she thereupon took actual, adverse, notorious, continuous and exclusive possession and control of the whole of said tract of land in Russell County, Virginia, that was devised to her, and that since that time she and the Complainant, Charles Sutton Burns, with respect to the 135 acre tract of land, more or less, have continued to exercise such possession and control of said lands up to

the present time and for more than a period of fifteen years;

(6) That the said D. B. Sutton and your Complain-
and, Sarah Belle Sutton, had two children, to-wit: Martha
Louise Sutton and Virginia Sutton, both of whom are now
over the age of twenty-one years and competent; that the
said Martha Louise Sutton (now Martha Louise Oswald),
Virginia Sutton (now Virginia Sutton Sally) and Sarah
Belle Sutton constitute all of the heirs at law of the
said D. B. Sutton, deceased, and that the "Virginia"
mentioned in the aforesaid Will of the said D. B. Sutton
is the same person as the Defendant, Virginia Sutton
Sally;

(7) That your Complainants are advised that the said
Defendant, Virginia Sutton Sally, claims and asserts an
interest in said tracts of land, adverse to your Complain-
ants, which constitutes a cloud on the title of your
Complainants to said tracts of land, which Complainants
are advised is based upon clause "THIRD" and clause
"FIFTH" in the said Will of the said D. B. Sutton, which
said clauses read as follows:

"THIRD: Both parties to this conjoint
last will and testament hereby jointly and
severally agree not to sell, encumber or
otherwise hypothecate or dispose of any

property or estate now held or owned by either, without the written consent of the other part, it being the mutual desire and will of both parties to this indenbture to hold all property now owned of hereafter acequired by either for the use and benefit of their natural offspring, Martha Louise and Virginia, their children born to the union of the parties hereto. ****

FIFTH: Should neither of the parties hereto survive the other, then we each do hereby give, will, devise and bequeath to our said children, share and share alike, all the residue of our estates, of whatever nature and wherever situated, after the payment of all our just debts, including the expenses during our last illness with funeral charges, as hereinabove provided for. It is the intent of this Last Will and Testament, that any and all property left by either of the parties to this instrument, at the time of their death, respectively, shall be and become the property of our said children, share and share alike."

and that your Complainants allege that the claim of the Defendant is without any right whatever, and that Defendants have not, nor has either of them, any estate, right, title or interest whatever in said lands or premises, or any part thereof;

(8) That the said children of the said D. B. Sutton, deceased, and your Complainant, Sarah Belle Sutton, Martha Louise Sutton, who is now Martha Louise Oswald, and her husband have recognized the ownership of Complainants of said lands and have never claimed and

asserted an interest in said land by virtue of said Will; that, in order to clear up any question concerning the title to the said lands, insofar as the said Martha Louise Sutton Oswald and her husband are concerned, the said Martha Louise Sutton Oswald and husband did by recent date grant and quit-claim to your Complainants all of their right, title and interest in said lands, if any, which said quit-claim deeds are now a matter of record in the Office of the Clerk of the Circuit Court of Russell County, Virginia.

Wherefore, your Complainants pray that the said cloud be removed from the title to said respective tracts of land owned by your Complainants; that the title of your Complainants to their said respective tracts of land be quieted and established; that the Court construe said Will of the said D. B. Sutton, deceased, insofar as it affects said lands; and that, by decree, it be declared and adjudged that said Complainants are the owners thereof, or of their said respective premises, and that said Defendants, or either of them, have no interest or estate whatever in or to said lands and premises by virtue of the provisions of the said Will of the said D. B. Sutton, deceased; and also that said Defendants and each of them

be forever barred from asserting any claim whatever in or to said lands and premises, adverse to the Complainants by reason of the provisions of the said Will; and that your Complainants may have all other, further and general relief as to equity may seem meet and the nature of their case may require.

CHARLES SUTTON BURNS and
SARAH BELLE SUTTON

BY COUNSEL

ANSWER AND CROSS-BILL
(Filed November 14, 1972)

Virginia Sutton Sally, for answer to the Bill of Complaint herein answers and says:

I

The allegations of paragraphs (1) and (2) of the Bill of Complaint are admitted.

II

It is admitted, as alleged in paragraph (3) of the Bill, that by deed dated October 2, 1967 and of record in the Clerk's Office of the Circuit Court of Russell County, Virginia in Deed Book 206 at Page 390, the complainant Sarah Belle Sutton undertook to convey to the complainant Charles Sutton Burns a 135 acre portion of

the 140 acre tract described in Exhibit A to the Bill of Complaint. It is denied that said deed conveyed a fee simple interest in the land therein described.

III

A portion of the "FIRST" clause of the joint will of D. B. Sutton and Sarah Belle Sutton is correctly quoted in paragraph (4) of the Bill of Complaint. The remaining allegations of said paragraph are denied.

IV

The allegations of paragraph (5) are denied.

V

The allegations of paragraph (6) are admitted.

VI

It is admitted that clauses "THIRD" and "FIFTH" of the will of D. B. Sutton are accurately set forth in paragraph (7) of the Bill of Complaint, and that the provisions thereof have at all times since the execution of the joint will of D. B. Sutton and Sarah Belle Sutton been binding upon the complainants, and that nothing done by either of them subsequent to the execution of said will has operated to divest this defendant of her rights thereunder.

VII

This defendant is without sufficient knowledge or information to either admit or deny the allegations of paragraph (8) of the Bill of Complaint and she accordingly demands strict proof thereof.

VIII

All other allegations of said Bill of Complaint not heretofore or hereafter admitted, explained or denied are now denied.

CROSS-COMPLAINT

This defendant for further answer to the original Bill, and asserting a claim for affirmative relief as cross-complainant, would respectfully show:

1. The said D. B. Sutton and Sarah Belle Sutton entered into a valid and binding joint will in Dade County, Florida on the 31st day of October, 1950, a copy of which will is attached to the original bill herein marked "Exhibit B", reference to which is hereby made. Said will was still in effect and unrevoked by said joint testators at the time of the death of D. B. Sutton in 1955 and, with the knowledge and consent of Sarah Belle Sutton, the same was accordingly probated in the County Judge's Court of Dade County, Florida on February 11, 1955,

and a duly authenticated copy thereof recorded in the Office of the Clerk of the Circuit Court of Russell County, Virginia on August 8, 1955.

2. Under the provisions of clauses "THIRD" and "FIFTH" of said will, the joint testators, D. B. Sutton and Sarah Belle Sutton, contracted and agreed "not to sell, encumber or otherwise hypothecate or dispose of any property or estate now held or owned by either, without the written consent of the other part(y), it being the mutual desire and will of both parties to this indenture to hold all property now owned or hereafter acquired by either for the use and benefit of their natural offspring, Martha Louise and Virginia, their children born to the union of the parties hereto." Martha Louise Oswald and cross-complainant, Virginia Sutton Sally, are the only two children of said testators, and are the persons so referred to in said clause. By their said joint will, D. B. Sutton and Sarah Belle Sutton further provided in the second sentence of clause "FIFTH" that "it is the intent of this Last Will and Testament that any and all property left by either of the parties to this instrument, at the time of their death, respectively, shall be and become the property of our children, share and share alike."

3. Your cross-complainant alleges that the provisions of the aforesaid joint will hereinabove quoted are so clear and unambiguous in their meaning and effect as to require no construction; that the effect thereof, and of said joint will as a whole, is to vest in your cross-complainant a fee simple remainder interest in the 140 acres of land described in this proceeding contingent only upon the death of the said Sarah Belle Sutton; that the reciprocal testamentary provisions contained in said joint will for the benefit of your cross-complainant constitutes sufficient consideration to make the same a valid and binding contractual agreement between the testators so as to entitle cross-complainant to enforce the same in equity and to prevent the said Sarah Belle Sutton from being able to convey to the complainant, Charles Sutton Burns, any interest in the aforesaid land, or, in any event, any greater interest in any part thereof than an estate for the life of the said Sarah Belle Sutton; that the deed of October 7, 1967 exhibited with the Bill of Complaint as "Exhibit C" had no greater effect than to convey to the complainant, Charles Sutton Burns, such a life estate in the land therein described, and in no event conveyed or affected the vested rights of this

cross-complainant under the aforesaid joint will.

4. The last mentioned deed of October 2, 1967 from Sarah Belle Sutton to Charles Sutton Burns is invalid, void and of no force and effect to the extent that it undertakes to convey to the grantee therein a fee simple interest, or any greater interest than an estate for the life of Sarah Belle Sutton, and to that extent at least, it should be set aside and adjudged null and void.

THE PREMISES CONSIDERED, complainant prays that the original Bill herein be dismissed; that upon the prayer of this Cross-bill, the deed of October 2, 1967 from Sarah Belle Sutton to Charles Sutton Burns be set aside and declared null and void in its entirety, or at least to the extent that it purports to convey to the grantee therein any greater interest than an estate for the life of the said Sarah Belle Sutton in the land therein described; and that cross-complainant be granted general relief.

VIRGINIA SUTTON SALLEY
by Counsel

MEMORANDUM OPINION
(Dated December 9, 1976)

After considering the evidence and the brief of counsel for each party the Court is of the opinion that

Sarah Belle Sutton acquired absolute fee simple title to the 140 acre Russell County tract in question under the joint will of D. B. Sutton and that the expressions and desires of the testator and testatrix in the fifth paragraph is nothing more than precatory language; that Charles Sutton Burns acquired from Sarah Belle Sutton title in fee simple to the 135 acre portion of this tract of land and Sarah Belle Sutton owns the 5 acre portion.

FINAL DECREE
(Entered June 2, 1977)

This cause, being duly matured and docketed for hearing, came on heretofore on the 24th day of November, 1975 so be heard ore tenus upon the Bill of Complaint, the Answer and Cross-Complaint of the defendant, Virginia Sutton Salley, and the complainants' Answer thereto; upon depositions subsequently taken and read on behalf of the respective parties, and was argued by counsel. The defendant, George H. Salley, although having filed no responsive pleadings, was present in person and represented by counsel.

Thereupon the Court requested briefs by counsel for the respective parties, which were accordingly submitted and filed in due course, and the Court took time to

consider.

And the Court having now maturely considered the evidence and the entire record herein, and being now advised of its judgment, is of the opinion that the allegations of the Bill of Complaint have been sustained by the evidence, that the relief therein sought should be granted, and that the Cross-Complaint should be dismissed, all in accordance with the Court's opinion set forth in its letter to counsel dated December 9, 1976, reference to which is hereby made;

It is accordingly ADJUDGED, ORDERED and DECREED that the Cross-Complaint of Virginia Sutton Salley be hereby dismissed, and that it be and is hereby DECLARED and ADJUDGED that under the joint will of Sarah Belle Sutton and D. B. Sutton the said Sarah Belle Sutton acquired fee simple title to the 140 acre farm in Russell County, Virginia described in these proceedings, and that by the deed dated October 2, 1967 and filed as an exhibit herein the said Sarah Belle Sutton conveyed to Charles Sutton Burns fee simple title to the tract of approximately 135 acres therein described, leaving in Sarah Belle Sutton fee simple ownership of the remaining tract of approximately 5 acres, to all of which action by the Court the

defendants object.

And said defendants having indicated their intention to apply to the Supreme Court of Virginia for an appeal and supersedeas, execution of this decree is hereby suspended for a period of ninety days from this date provided the defendants, or someone for them, shall within 15 days of this date execute bond in the penalty of \$750.00, with surety to be approved by the Clerk of this Court, conditioned as the law directs.

ASSIGNMENTS OF ERROR
(Filed September 2, 1977)

I

The Court erred in holding that the complainant, Sarah Belle Sutton, acquired absolute fee simple title to the Russell County farm in question under the joint will of Sarah Belle Sutton and D. B. Sutton, and in holding that the language of Paragraphs THIRD and FIFTH of said will was nothing more than precatory language.

II

The Court erred in refusing to recognize and enforce against the complainants the reciprocal testamentary provision made by D. B. Sutton and Sarah Belle Sutton in their joint will for the benefit of the defendant, Virginia

Sutton Salley, thereby permitting the surviving testator, Sarah Belle Sutton, to rescind the contractual obligations created thereby.

1 The following procedures were had, to wit:

2 The witnesses are duly sworn.

3 COURT: Mrs. Sutton, take the witness stand,
4 please.

5 MRS. SARAH BELLE SUTTON, the first witness for
6 the plaintiff, having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY BENJAMIN F. SUTHERLAND, ESQ.:

9 Q. Please state your name.

10 A. Sarah Burns Sutton.

11 Q. Are you the same person as Sarah Belle Sutton
12 who's one of the complainants in this case?

13 A. Yes. Correct.

14 Q. What was your relationship to Mr. D.B. Sutton?

15 A. He was my husband.

16 Q. What is your relationship to the defendants,
17 Virginia Sutton Sally and George Sally?

18 A. She is my daughter, and he is my son-in-law.

19 Q. Where do they live?

20 A. They live in Miami Beach, Florida.

21 Q. And are you related in any way to the
22 complainant, Charles Sutton Burns?

23 A. He's my nephew.

24 Q. Who wrote the will that is involved in this
25 case that you and your husband jointly executed?

1 A. Judge Uley O. Thompson in Miami, Florida.
2 Q. Was he your attorney, your family attorney?
3 A. No, he was one of our closest friends.
4 Q. Where were you living at the time of the
5 execution of this will?
6 A. I was living at 1633 Northwest Eighth Terrace
7 in Grove Park, Florida--Miami.
8 Q. And were you and your husband residents of the
9 State of Florida?
10 A. Had been for forty years, about forty.
11 Q. Was your home originally in Russell County,
12 Virginia?
13 A. Yes, I was born and reared here.
14 Q. Now, in the will there are mentioned Martha
15 Louise and Virginia. Who are they?
16 A. Martha Louise is my older daughter, and
17 Virginia Sally--Sutton Sally--is my youngest daughter.
18 Q. How many children did you and Mr. Sutton have?
19 A. We had three.
20 Q. And what was the name of the third child?
21 A. Durward B. Sutton, Jr.
22 Q. And is he living?
23 A. No, he died at birth.
24 Q. Are both Mrs.--both of your daughters now
25 living?

1 A. Yes, and in Florida.

2 Q. And what is Martha Louise's name now?

3 A. Martha Louise Oswald. O-s-w-a-l-d.

4 Q. Were both adults at the time of the execution
5 of this will?

6 A. Yes, they were.

7 Q. At the time of the execution of this will,
8 did either of you--that is either you or Mr. Sutton--own
9 land in Russell County, Virginia?

10 A. No, we did not. At the time that that will
11 was? Oh, yes, we did. We had the--we owned the farm.

12 Q. You owned the farm that's involved in this
13 case?

14 A. Yes, that's it. Uh-huh.

15 Q. In who's name was that deed?

16 A. Well, it was supposed to be in both of our
17 names, but there was a mistake made and it was put in just
18 my husband's name.

19 MR. WARREN: I object to that if your Honor please.
20 The deed is the best evidence and speaks for itself.

21 COURT: All right, objection's sustained, but she
22 may go into other phases of the transaction.

23 Q. Mrs. Sutton, at the time of the execution of
24 this will, did you or Mr. Sutton or both of you own any
25 real estate in Florida?

1 A. Yes, we did.

2 Q. Now, will you state briefly just what real
3 estate either of you owned at that time, and state who owned
4 it.

5 A. Well, we owned our home in Naranja, Florida.
6 That was our post office. It's in the Redlands section, and
7 that was in both of our names. That's our home. And I owned
8 my--we had our home up in Miami, but that--the one I gave
9 Mrs. Sally was in his name. It was homesteaded and in his
10 name. And I had some acreage up near Stuart, Florida.
11 And...

12 Q. How many acres?

13 A. I think there was sixty some acres, sixty-
14 three or four. I can't remember just which. And then we
15 owned property that was called Black Point. It was down
16 about fifteen miles south of Miami on the Bay.

17 Q. And what was the size of that tract?

18 A. Well, I think it was about something in the
19 twenty acres I believe, eighteen or twenty acres. The high
20 land was.

21 Q. Was there any other residential property?

22 A. No, it's not a residential area. It was--we
23 had a fishing camp down there. We rented that for a while.

24 Q. Well, now, was there any property other than
25 the property at 1633 Northwest Eighth Terrace in Miami?

1 A. Well, it was all considered Miami address
2 except Naranja. Naranja had their own little post office.
3 That's the property we had in the Redlands section, and...

4 Q. Was there another dwelling house owned?

5 A. Yes, we had one that my husband's brother
6 and his wife lived in. And that's where I live now.

7 Q. What was the address of that property?

8 A. It was 901 Northwest 34th Avenue.

9 Q. Also in Miami?

10 A. Yes.

11 Q. Now, you stated that the Redlands tract was
12 in both names. What was the acreage of the Redlands property?

13 A. I believe there was seventeen and a half acres.

14 Q. And that's the one that you sometimes refer
15 to as the Naranja property?

16 A. Yes, that was the post office there.

17 Q. Now...

18 MR. WARREN: If your Honor please--excuse me, Mr.
19 Sutherland. In order that I would not continue to interrupt,
20 this witness has gone on at such length about these various
21 alleged properties in Florida, I object to the testimony in
22 detail about any of these properties. I think the deeds
23 would be the best evidence to show the correct title and
24 if such there be of any property in Florida. And if I,
25 without interrupting, if she's going to continue, sir, may

1 this objection apply to all this line of questioning?

2 COURT: All right, it may be a continuing objection.

3 Q. Your Honor, we ask leave for permission to
4 file authenticated copies of these various conveyances. We
5 don't have them here today.

6 COURT: All right, you'll be given permission,
7 but let me ask you Mr. Sutherland; in talking with the
8 lawyers prior to coming into the Courtroom, the Court was of
9 the opinion that the Florida property would probably be
10 governed by the will--this same will which was originally
11 probated there. And actually--for what reason? I mean I'm
12 asking for information. For what reason are you showing the
13 Florida property? The only thing that's before this Court
14 for any decision is the disposition of the hundred and forty-
15 seven acre farm here in Russell County. I mean for what
16 purpose is the Florida being--evidence being given on the
17 Florida property?

18 MR. SUTHERLAND: The purpose of this evidence is
19 to show the nature and extent of the estate of each of the
20 testators as having some bearing on their intention.

21 COURT: All right, sir. Well, for that purpose
22 if it tends to show or if it should show the intent of the
23 testator, the Court will let it be admitted in evidence.

24 MR. WARREN: Well, we would further object to it
25 as being irrelevant and immaterial, if your Honor please,

1 because that is a matter for a Florida Court to decide if it
2 is ever adjudicated in Florida under Florida law and would
3 not have any effect upon the adjudication of this Court in
4 construing this will concerning Virginia property.

5 COURT: All right, you may go ahead then with that
6 objection noted.

7 Q. Did you have an estate or property of your own?
8 Did you have independent means of your own at the time of
9 the execution of this will?

10 A. No. No, I did not.

11 MR. WARREN: Object to that as being irrelevant
12 and immaterial.

13 COURT: All right, objection overruled. Go ahead.

14 Q. After the death of Mr. Sutton, who has
15 managed the Florida property? Who has had responsibility
16 and has actually looked after it?

17 A. I did.

18 Q. Who has paid the taxes?

19 A. I did.

20 MR. WARREN: Object to that as being irrelevant.

21 COURT: All right, objection overruled. Go ahead.

22 Q. Have you made any conveyances of any of this
23 property to Mrs. Sally?

24 A. Yes, uh-huh.

25 MR. WARREN: Object to that as being irrelevant,

1 your Honor.

2 A. I gave my home to her in Miami.

3 Q. Who signed the deed?

4 A. I did.

5 Q. Did anyone else sign the deed?

6 A. No, no one else signed it.

7 Q. Specifically, did Mrs. Oswald, your other
8 daughter, join in that deed?

9 A. No, she did not.

10 MR. WARREN: I'm going to object again, if your
11 Honor please. The deed would be the best evidence if it
12 were otherwise relevant.

13 COURT: Well, I understand he's going to furnish
14 the Court with authenticated copies at a later date to be
15 placed in the record. With that in mind, the Court will
16 overrule the objection and permit the deeds to be filed at
17 a later date.

18 Q. What use has been made of this Russell County
19 property that's involved in this case since your husband's
20 death?

21 A. My nephew has run it as a dairy farm
22 principally.

23 Q. Well, when did he begin the operation of a
24 dairy farm on this property?

25 A. I think it was about 1969 or 70.

1 Q. Was it at the time of the conveyance from you
2 to him?

3 A. No...Yes, he has run it since I conveyed it
4 to him.

5 Q. Well, now, during the period of time between
6 your husband's death and the time of the conveyance of this
7 Russell County tract to your nephew, Mr. Burns, what--who
8 occupied the property or who used it or what was done with
9 it?

10 A. He, his mother, and father, occupied it. And
11 my brother helped run the farm until he died, and then
12 Charlie took it over. I sold it to him.

13 Q. What was your brother's name?

14 A. Tom. Thomas Burns.

15 Q. Is he the father of Mr. Charles Sutton Burns?

16 A. Yes, he is.

17 Q. And if I understand you then, your brother,
18 Mr. Thomas Burns, and his wife and Mr. Charles Sutton Burns
19 had been in--were in possession of this Russell County land
20 from the time of your husband's death until your conveyance
21 of it to Mr. Charles Sutton Burns?

22 A. They were in conveyance of it before. My
23 brother took it over as soon as we bought it.

24 Q. In what year was that?

25 A. I think it was 1936 or 7.

1 Q. And has anybody else ever occupied the
2 property since?

3 A. Never. Never.

4 Q. What use did they make of it?

5 A. They farmed and we had beef cattle and
6 tobacco. And then Charlie after he took it over, he turned
7 it into a dairy farm. We just had a small dairy set-up on
8 it before...before--I think before he took it over. But he's
9 run a dairy farm there since he took it over, and I think it
10 was in 1969 or 70.

11 Q. Well, now, was there any buildings on this
12 property at the time of your husband's death?

13 A. Yes, there was a couple of buildings.

14 Q. What kind of buildings?

15 A. They were barns. One was a tobacco barn and,
16 uh, I don't know what the other was used for. It was there.

17 Q. Was there a dwelling house on the property?

18 A. Yes, there was.

19 Q. Did Mr. and Mrs. Thomas Burns live in this
20 dwelling house?

21 A. Yes, they did. They still live there.

22 Q. State whether or not there were any fences
23 on the property.

24 A. Oh, yes, the place was fenced all over.

25 Q. Were the fences of a substantial sort?

1 A. Yes, they were. We had to have them to take
2 care of the stock that was on it.

3 Q. In cultivating this land or raising tobacco,
4 did you raise tobacco every year on it?

5 A. Yes.

6 Q. What was the size of the acreage devoted to
7 production of tobacco?

8 A. Well, now, I just honestly don't know that
9 because they--the government changed the acreage so often
10 that I can't--I wouldn't try to say just what it was because
11 I don't know.

12 Q. Did you and your--have you received any
13 income from this property since your--the death of your
14 husband prior to the time it was sold to Mr. Burns?

15 A. No, I--well, that was one reason I let him
16 have it because I had spent so much in it and I didn't get
17 enough out of it to justify me keeping it so I--that's why
18 I sold it to Charlie.

19 Q. Who paid the taxes on the property--the
20 Russell County property--between the time of your husband's
21 death and your sale of this property to Mr. Burns?

22 A. I did.

23 MR. WARREN: I object to that if your Honor please,
24 and move to strike it. Irrelevant and immaterial.

25 COURT: All right, objection overruled.

1 Q. Did Mrs. Sally ever pay any of the taxes on
2 this property?

3 A. Never.

4 MR. WARREN: Same objection.

5 Q. Did Mrs. Sally ever demand any part of the
6 income from this property after your husband's death?

7 A. No, I--she had plenty of income without that
8 because I gave her liberally even after she's married.

9 Q. Did you--has she ever exercised any act of
10 management of this property since your husband's death?

11 A. Never, or any property I have.

12 Q. Has she been to Russell County to your
13 knowledge since your husband's death?

14 A. Oh, yes, she's been to my house.

15 Q. And is your house on this particular tract?

16 A. Yes, it was on this particular farm.

17 Q. Prior to the sale of this property to Mr.
18 Burns, did you notify Mrs. Sally of the contemplated sale?

19 A. Yes, uh-huh, I wrote to her and to Martha
20 Louise. And I had a reply from Martha Louise, and she said,
21 Mother, it's yours. You can do what you want to do with it.

22 MR. WARREN: I object to that and move to strike
23 it as hearsay and irrelevant.

24 A. But Mrs. Sally didn't ever reply to my letter.

25 COURT: I'll sustain objection to be hearsay

1 evidence. All right, go ahead.

2 Q. Did Mrs. Sally reply to your letter?

3 A. She did not.

4 Q. Mrs. Sutton, I hand you photo copies of two
5 deeds. Both dated October 3, 1972; both between Martha

6 Louise Oswald and M. J. Oswald, her husband. The first of
7 which is a conveyance to Charles Sutton Burns--excuse me.

8 The first of which is a conveyance to Sarah Belle Sutton
9 of record in the Clerk's office of the Circuit Court of
10 Russell County, Virginia, in Deed Book No. 235, page 248.
11 And ask you to examine this conveyance.

12 (Witness studies the conveyance.)

13 Q. Did you request your daughter to execute this
14 deed?

15 A. Well, it was sent to her, yes. And she called
16 me because the deed was sent to her, and she called me and...

17 Q. Well, now, but this deed has been executed...

18 A. Yes, it has.

19 Q. And it--I'll read this portion of the deed.
20 This deed, your Honor, has been--I showed to Senator Warren.
21 After the consideration of five dollars (\$5.00), first
22 parties do hereby grant, convey, assign, release and quit-
23 claim unto the party of the second part, all of their right,
24 title and interest, if any, in and to all that certain tract
25 or parcel of land containing in the aggregate of 5 acres,

1 more or less, --I'll paraphrase some of the language.--
2 situated in Russell County, Virginia, and being the same
3 tract of land that was reserved and excepted by Sarah Belle
4 Sutton, widow, in a deed to Charles Sutton Burns, dated
5 October 7, 1967, of record in said Clerk's office, in Deed
6 Book No. 206, page 390. And your Honor, that particular
7 conveyance from Mrs. Sutton to Charles Sutton Burns is an
8 exhibit in this Court File. --and being a part of those
9 certain lands that were devised to the said Sarah Belle
10 Sutton by D. B. Sutton in his Will, and so forth. With that,
11 we offer in evidence this conveyance from the Oswalds to
12 Mrs. Sarah Belle Sutton to be marked Sarah Belle Sutton
13 Exhibit No. 1.

14 COURT: All right.

15 MR. WARREN: No objection, your Honor.

16 COURT: No objection. All right, it'll be
17 admitted in evidence as complainant's Exhibit No. 1. Well,
18 that is just the quit-claim on the five and a half acres
19 that she had reserved when she conveyed the hundred and
20 forty seven acre tract?

21 MR. SUTHERLAND: Yes, sir.

22 COURT: All right.

23 Q. Have you conveyed any real estate in Florida
24 other than the residence which you conveyed to Mrs. Sally?

25 MR. WARREN: I object to that, if your Honor

1 please, as being irrelevant and immaterial.

2 COURT: All right, the objection'll be overruled.

3 Q. Now, I'm speaking of since the death of your
4 husband.

5 A. Other than what I sold, yes.

6 Q. Well, have you sold land in Florida?

7 A. Yes, I have.

8 Q. Directing your attention to the property
9 which you refer to as the Black Point property, who was
10 your attorney in arranging...

11 A. Mr. George Sally.

12 Q. Mr. George Sally, who's one of the defendants
13 here?

14 A. Yes. Beg your pardon?

15 Q. One of the defendants here? Your son-in-law?

16 A. Yes.

17 Q. Did Mrs. Sally or Mr. Sally make any
18 objection to your conveyance of that property?

19 A. No. No, there was none at all.

20 MR. WARREN: May the record show that my
21 objection applies to all this line of testimony, if your
22 Honor please.

23 COURT: All right.

24 MR. WARREN: And I take it the Court's ruling
25 would be the same.

1 COURT: Yes, the ruling will be the same.

2 Q. Did Mrs. Sally receive any of the consideration
3 that resulted from those--from the sale of that Black Point
4 property?

5 A. Yes, she--I have in Certificates in the bank
6 money for her and Martha Louise both that came out of the
7 property of the farm and also that property that I sold in
8 Florida. It's put away for both of the children.

9 Q. Have you sold the Redlands property?

10 A. Yes, I sold that a year after Mr. Sutton died,
11 a year or year and a half.

12 Q. Have you sold the acreage at Stuart, Florida?

13 A. Yes, I have. And I put most of that on the
14 farm over--that Charlie now has. I spent most of that in
15 that farm for fertilizer and building fence and fixing--
16 keeping it cleaned up and different things.

17 MR. WARREN: Excuse me, please, ma'am. May I ask
18 a question of counsel? Is that Stuart?

19 MR. SUTHERLAND: Yes, sir.

20 MR. WARREN: S-t-u-a-r-t?

21 MR. SUTHERLAND: Our spelling, yes.

22 MR. WARREN: Thank you, sir.

23 Q. Was any objection made by Mrs. Sally to any
24 of these conveyances by you in Florida property?

25 A. Not at all. None whatsoever.

1 Q. Was she aware of the fact that you'd conveyed
2 these properties?

3 A. Yes.

4 Q. I believe that's all.

5 CROSS EXAMINATION

6 BY GEORGE M. WARREN, JR., ESQ.:

7 Q. Mrs. Sutton, what year, if you remember,
8 please, ma'am, did you and your husband move to Florida?

9 A. In 1919.

10 Q. 19 and what?

11 A. 19 and let's see. No, 1921. The first part
12 of 1921.

13 Q. And you lived there then continuously until
14 his death, and you have continued to live there since his
15 death?

16 A. Yes, that's correct.

17 Q. And the gentlemen, as I understand you, who
18 drew this Will that's in controversy—did you say, Judge
19 Thompson?

20 A. Yes, Judge Uley O. Thompson.

21 Q. What sort of a Judge had he been; do you
22 recall?

23 A. He was a Judge in Miami, and he was Professor
24 in Mercer College before he came to Florida. And he went to
25 Florida just before we did and we became friends and were

1 fast friends all through his lifetime. He passed away before
2 my husband did.

3 Q. So then, you became acquainted with him
4 shortly after you all moved to Florida?

5 A. Yes, he and his wife were our very--two of
6 our closest friends.

7 Q. And you say he was a neighbor?

8 A. Yes.

9 Q. All those years?

10 A. He--not all those years, no. He lived at
11 Miami Beach, and after the boom and the bust, he lost his
12 home. And they had a home over in Grove Park that had been
13 his mother-in-law's place. And they came there and lived
14 until he died. He died there.

15 Q. And you say they were your all's closest
16 friends?

17 A. They were very close friends.

18 Q. Uh-huh. All right, I'm...Now, the farm that
19 we're talking about here in Russell County...

20 A. Uh-huh.

21 Q. According to the pleadings which are not in
22 dispute in this regard, this property was conveyed to Mr.
23 D. B. Sutton, your husband, by Clarence C. Burns, Special
24 Commissioner, by Deed dated January 11, 1937; is that in
25 accordance with your recollection?

1 A. That's correct. That is correct.

2 Q. And I further understood you to say that
3 your brother, Mr. Thomas Burns, took over the operation of
4 the farm right after you--your husband acquired it?

5 A. That is right, and moved into the house that's
6 now--they live in.

7 Q. And he lived there, then, for the remainder
8 of his life?

9 A. Absolutely, yes.

10 Q. And his son, Mr. Charles Sutton Burns, has
11 continued to live there?

12 A. Yes, uh-huh.

13 Q. Did they pay you rent over those years?

14 A. No. No, there was never any formal agreements
15 or anything. He just lived there and took care of the farm
16 and...

17 Q. That was the understanding.

18 A. That was all there was to it.

19 Q. I see. So, the arrangement since Mr. Sutton's
20 death is no different from what it was prior to his death?

21 A. Well, it's different because I sold it to
22 Charlie.

23 Q. I understand, but up until the time of the
24 sale?

25 A. That is correct. That is correct.

1 Q. Mrs. Sutton, I understood you to say that
2 prior to the sale of a portion of this farm to Mr. Charles
3 Sutton Burns, you wrote to both of your daughters and
4 informed them of what you intended to do.

5 A. I did.

6 Q. Why did you do that?

7 A. Well, because I've--I've always asked the
8 children's advice. They were older and young ladies at the
9 time and both of them married, and I just wanted to know
10 what their feelings would be.

11 Q. Wh-huh. Had either of them objected to the
12 sale you would not have made it?

13 A. Well, I guess I would not, if they had
14 objected. But they didn't object. In fact, I never heard
15 from Virginia.

16 Q. You didn't hear from Mrs. Sally at all?

17 A. She didn't write me at all.

18 Q. I hand you here, if I may please, ma'am, what
19 is not a very good copy, but appears to be a copy of the Will
20 that you and Mr. Sutton made. Will you examine that and see
21 if that is a copy?

22 (Witness examines the copy of the Will.)

23 A. Yes, that is. That is.

24 Q. This is a correct and photo copy of the Will?

25 A. That is. It looks like it is.

1 Q. And do you recognize that as a photo copy
2 of your signature and that of your husband?

3 A. Yes, it is. Yes, it is, and these were
4 neighbors of ours and neighbors of Judge--and friends of
5 Judge Thompsons who signed that.

6 Q. Who signed the Will as witnesses?

7 A. Yes, that's...

8 Q. And you remember well signing this document?

9 A. Oh, yes, I do. My husband and I made--had
10 Judge Thompson come to our house. He came down and was
11 right on our sun porch when he wrote the--when he took down
12 what he wanted to--when he took down whatever my husband
13 gave him or I. And then, he had a copy--the copies made
14 and brought back to us. And then, we went to Mr. and Mrs.
15 Koger, and I believe there's another name on there, isn't
16 there?

17 Q. Yes, ma'am, I cannot make it out, but there
18 appears to be a third name.

19 A. Well, I don't know what that is, but we went
20 with Mr. Thompson to the Kogers and had that signed.

21 Q. Yes, ma'am. And you read this Will, of
22 course, before you signed it?

23 A. Oh, yes, many times.

24 Q. Will you offer this as an Exhibit to your
25 testimony?

1 A. Yes.

2 Q. Thank you, ma'am.

3 COURT: All right, it'll be admitted in evidence
4 as Exhibit No. 2.

5 MR. WARREN: It consists of two pages by the way,
6 and the staple has come out of them.

7 COURT: Well, we'll staple them together.

8 Q. Without waiving our objection, your Honor,
9 in view of the Court's ruling, I would ask a further question
10 or two concerning the Florida property. Mrs. Sutton, you've
11 testified about the Florida lands, and I understand that
12 your attorney is going to file deeds bearing upon that
13 testimony. You say that your daughter, Virginia, did not
14 object to your selling what you referred to as the Black
15 Point property?

16 A. She never--no, she did not. And her husband
17 handled the deal. He was the one, and I asked him if he
18 would advise me to sell it, and he said he would.

19 Q. All right, and you say she got a part of the
20 proceeds of that sale?

21 A. She hasn't gotten it yet, but I have it in
22 the bank for her.

23 Q. But it's in your name?

24 A. Yes, it's in my name as trustee for her and
25 my other daughter, too. I have an equal amount for both of

1 the girls, and I kept that out of all the properties that
2 I've sold and my farm that I sold to Charlie. I put a third
3 of that in the bank for her and a third for my daughter and
4 I kept a third.

5 Q. So, you--but you just opened an account in
6 your name as trustee?

7 A. Yes, and I told the girls that's what I was
8 doing.

9 Q. Did you tell Virginia this?

10 A. Yes, she knows it.

11 Q. And that was true of the Black Point property,
12 the Redlands property?

13 A. The Redlands property--I did not use--I used
14 that to build my house up here and pay taxes.

15 Q. And the Stuart property?

16 A. I put a great deal of that back into the
17 farm, Charlie's farm, in fertilizers and different things
18 and cutting the corn and putting it in the silo and for
19 different fences and things. I put that--most of that
20 property went into that.

21 Q. And then, you say a third--did I understand
22 you--of the proceeds of the sale of the Russell County farm
23 to Charles Sutton Burns...

24 A. Is in the bank.

25 Q. Where is it in the bank?

1 A. It's--part of it's over here and part of it's
2 in the First National Bank in Miami.

3 Q. Can you tell the Court from memory how much
4 money you have in your name as trustee for your two daughters?

5 A. I think I have about forty thousand (\$40,000)
6 or fifty thousand dollars (\$50,000).

7 Q. A total for both of them?

8 A. Yes, for both of them.

9 Q. Is there just one account, or are there two
10 accounts?

11 A. There's--it's in Virginia's name and in
12 Martha Louise's name, and I'm trustee for both of them.

13 Q. All right.

14 A. But now besides that I gave Virginia--a couple
15 of years ago I gave her five thousand dollars (\$5,000), and
16 then I sent her two thousand dollars (\$2,000) that belonged
17 to her as interest on some money I had put away for her.

18 Q. Is this different money that you had put
19 away for her?

20 A. Yes, different money.

21 Q. Different from the...

22 A. Uh-huh.

23 Q. ...money proceeds of the sale of these
24 properties?

25 A. Yes. Yes, I already have given her that.

1 She already has it.

2 Q. Already has what, please, ma'am?

3 A. I've gave her seven or eight thousand dollars
4 either last year or year before last.

5 Q. And what did that come from?

6 A. It came from some bonds, two and a half
7 percent Treasury Bonds that I had.

8 Q. Uh-huh, and this was your property that you
9 were giving to your--making a gift to your children?

10 A. That's right.

11 Q. I believe there is an action somewhat similar
12 to this action pending in the State of Florida at this time;
13 is there not?

14 A. Well, I--from the note I have from my lawyer
15 down there, there is.

16 Q. Between yourself and your daughter, Virginia?

17 A. Well, I--I didn't know what she did that for.
18 I have no idea. And I know that I have that to face when I
19 go home, but I'll have to find out more about. I don't know
20 anything about it now except it is pending.

21 Q. Yes'm. Mrs. Sutton, go back to the Russell
22 County farm for just a minute. What was the monetary
23 consideration of the sale of this hundred and forty-one
24 acres or so to Mr. Burns?

25 A. I think it was--it was fifteen thousand

1 dollars (\$15,000), wasn't it, Charlie? Fifteen thousand
2 dollars.

3 Q. Has that money been paid to you?

4 A. Yes.

5 Q. All of it?

6 A. And I have it in a bank for the girls and
7 myself.

8 Q. Yes'm. Well, I wasn't questioning what you
9 had said before. What I really meant to ask you was; have
10 you received it all, the full amount of the consideration?

11 A. Yes, I have. I received it immediately after
12 he took--after he bought the farm.

13 Q. So, Mr. Charles Sutton Burns is not indebted
14 to you in any amount at this time?

15 A. Not at all in any way.

16 Q. And you are not the endorser on a note for
17 him...

18 A. No.

19 Q. ...for the consideration that was paid to you?

20 A. I never endorsed a note for him in my life.

21 Q. Uh-huh. I believe that's all, your Honor.

22 Thank you, sir.

23 COURT: All right.

24 REDIRECT EXAMINATION

25 BY MR. SUTHERLAND:

1 Q. Let me ask Mrs. Sutton...do you customarily
2 seek the advice of your daughters in property transactions?

3 MR. WARREN: We'll object to the leading.

4 A. No, I don't.

5 COURT: Objection overruled.

6 A. They never have paid any taxes, and they have
7 never—I have never accepted a penny from them, and I have
8 never asked their advice in doing things except in selling
9 the farm to Charlie that I wrote and asked them if they
10 would object to that. And Martha Louise replied and said
11 she would not and...

12 Q. Yes'm. Very well. All right, thank you.

13 MR. WARREN: Thank you, ma'am.

14 A. Thank you.

15 (Witness is excused.)

16 CHARLES SUTTON BURNS, the second witness for the
17 plaintiff, having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SUTHERLAND, ESQ.:

20 Q. Please state your name and address.

21 A. Charles Sutton Burns, Route 1, Box 69,
22 Cleveland, Virginia.

23 Q. You are one of the complainants in this case?

24 A. Yes, sir.

25 Q. What is your occupation?

1 A. I'm a dairy farmer.

2 Q. And where are you engaged in this occupation?

3 A. Well, it's located four miles north of

4 Lebanon in the Lebanon District.

5 Q. And you're in Russell County, Virginia?

6 A. Yes, sir.

7 Q. And is your operation on this--I'll call it--

8 a hundred thirty five acre tract that's involved in this

9 case?

10 A. Yes, sir, it is.

11 Q. How long have you lived on this hundred

12 thirty five acre tract?

13 A. All my life, 38 years.

14 Q. And it's in evidence that you have purchased

15 this property from Mrs. Sutton. What use have you made of

16 this property since you've purchased it from her?

17 A. Well, I've made a dairy farm out of it, and

18 that's my source of income.

19 Q. Well, describe the nature of the farming

20 operation you conduct there.

21 A. Well, I just raise corn for silage for my

22 dairy cows, hay and tobacco.

23 Q. How much of the acreage do you cultivate?

24 MR. WARREN: If your Honor please--excuse me, Mr.

25 Sutton--Mr. Burns, I beg your pardon. I object to all this

1 as irrelevant and immaterial to the issues in this case as
2 to what use he is making of the farm and what...

3 MR. SUTHERLAND: He claims the title to it by
4 adverse possession.

5 MR. WARREN: How much he farms and how much he
6 cultivates I think is all surplusage and just is increasing
7 the size of this record.

8 COURT: All right, objection overruled.

9 A. About fifty acres.

10 Q. How many years have you cultivated this
11 acreage?

12 A. Well, I've cultivated it ever since I bought
13 it, and prior to that my father and I did.

14 Q. Has anybody ever been in possession of this
15 property since--during your memory other than your parents
16 and yourself?

17 A. No, sir.

18 Q. Who has paid the taxes on this property since
19 you purchased it?

20 A. I have, sir.

21 Q. Have you any evidence of payment of taxes?

22 A. Yes, sir, I do.

23 Q. Your Honor, we offer into evidence by agree-
24 ment the tax tickets beginning with the year 1967 through
25 1975 to be marked as Charles Sutton Burns Exhibits 1 through

1 whatever.

2 COURT: All right.

3 MR. WARREN: If your Honor please, we have no
4 objection as to the authenticity of the documents, but we
5 do object as to their relevancy and materiality.

6 COURT: All right, they'll be admitted in
7 evidence.

8 Q. How many dairy cows do you have in your
9 operation?

10 A. I have seventy three.

11 Q. What's the tobacco acreage?

12 A. Well, it isn't on acreage any more. It's on
13 poundage. Thirty three hundred and sixty eight pounds I
14 think.

15 Q. Have you produced tobacco on this property
16 every year since you purchased it from Mrs. Sutton?

17 A. Yes. Yes, sir, I have.

18 Q. Describe the buildings that were on this land
19 when you purchased it.

20 A. Well, it had one tobacco barn that's about
21 forty eight feet long and thirty six feet wide, and then it
22 had another--just a general barn for cattle and hay storage.

23 Q. Was there a dwelling house on the property?

24 A. Yes, there is.

25 Q. And was it there at the time you purchased it

1 from Mrs. Sutton?

2 A. Yes, it was.

3 Q. And who occupies that building?

4 A. My mother.

5 Q. And was that the family residence during the
6 lifetime of your parents?

7 A. Yes, sir.

8 Q. Do you reside on this Russell County tract?

9 A. Yes, sir, I do.

10 Q. Are you married?

11 A. Yes, sir, I am.

12 Q. Now, what---just state the nature of the
13 improvements that you have made since you've acquired this
14 property.

15 A. Well, I've built a dairy parlor. I built a
16 calf barn. I built a feeding barn. I built the machinery
17 shed, and I built a silo, and I put up a lot of fencing.

18 MR. WARREN: Your Honor please, we object and
19 move to strike as being irrelevant and immaterial.

20 COURT: All right, objection overruled.

21 Q. Who has paid for these improvements?

22 A. I have, sir.

23 Q. Do you have a dairy barn?

24 A. Yes, sir, I do.

25 Q. Describe it's construction.

1 A. Well, it's a block building. It's a--what
2 they call a three-stall diagonal parlor, pit style, milk
3 three cows at a time.

4 Q. And describe the equipment in your dairy
5 operation.

6 A. Well, it has a pipeline milker; it has seven
7 hundred and thirty five bulk milk tank and the compressors
8 and everything that goes with it.

9 Q. What's the production of this dairy farm?

10 A. Well, last year I sold seven hundred and
11 sixty thousand, four hundred and thirty eight pounds of milk
12 to Dairymen, Incorporated in Bristol, Virginia.

13 Q. Have you--are you continuing to operate on
14 that--roughly that same scale?

15 A. Yes, sir, maybe just a little more this year.

16 Q. Uh-huh. What in your opinion was the value
17 of this property at the time you acquired it?

18 A. Well, Mr. Yeats appraised it for twenty seven
19 thousand and four hundred dollars (\$27,400) or something like
20 that. I can't remember exactly.

21 Q. And, in your opinion, is that valuation a
22 correct or valid value of it?

23 A. Yes, sir, that was...

24 Q. It's market value at that time?

25 A. Yes, sir, it was.

1 Q. What, in your opinion, is the present market
2 value of this property?

3 A. Well, that's hard to say really. It could be
4 worth up to a hundred thousand dollars (\$100,000) now as a
5 unit.

6 Q. In your opinion, would that represent it's
7 present day fair market value?

8 A. Yes, sir.

9 Q. I hand you a photo copy of a Deed dated
10 October 3, 1972 from Martha Louise Oswald and M. J. Oswald,
11 her husband, to Charles Sutton Burns which is recorded in
12 the Clerk's Office of this County in Deed Book No. 235, page
13 247. I ask you to read this instrument.

14 (Witness examines copy of Deed.)

15 Q. Your Honor, this is a Quit-Claim Deed from
16 the Oswalds to Mr. Burns of a hundred and forty acre tract
17 and being the same lands conveyed by Sarah B. Sutton, widow,
18 to Charles Sutton Burns, and so forth. We offer this if
19 there's no objection.

20 MR. WARREN: No objection.

21 COURT: All right, it'll be admitted in evidence
22 as Charles Sutton Burns Exhibit No.--whatever the number is
23 after those tax tickets. What number is it, Court Reporter?

24 COURT REPORTER: Four.

25 COURT: Four? All right, she'll mark it then.

1 Q. When you purchased this land, did you have a
2 Title examination by an attorney?

3 A. Yes, sir, I did.

4 Q. Did your attorney approve the Title?

5 A. Yes, sir, he did.

6 Q. Has Mrs. Sally made any demand on you for any
7 rent or income from this property since you've purchased it?

8 A. No, sir, she hasn't.

9 Q. Has she made any claim to you or any demand
10 of any sort in this matter?

11 A. No, sir, she hasn't.

12 Q. Has she made any offer to pay any of the
13 expenses or any of the taxes?

14 A. No, sir, she hasn't.

15 Q. All right, that's all, sir.

16 MR. WARREN: Is that all?

17 CROSS EXAMINATION

18 BY MR. GEORGE WARREN, ESQ.:

19 Q. Mr. Burns, how much did you pay for the farm,
20 sir?

21 A. Fifteen thousand dollars (\$15,000).

22 Q. Have you paid the full consideration?

23 A. Yes, sir, the day I bought it.

24 Q. You've lived on that farm all your life, and
25 you're 38 years old?

1 A. Right, sir.

2 Q. And of course you lived there in your father's
3 home until his death, and then you've continued to live there
4 with your own family?

5 A. I lived there until 1970 when I got married.
6 Then I moved out in a mobile home.

7 Q. Oh, I see.

8 A. And my mother lives in the dwelling.

9 Q. I see, you bought your home. Is your home
10 not on this farm?

11 A. Yes, sir, it is.

12 Q. It is on it. Well, you are not telling the
13 Court, are you, that until the day you bought it in 1967
14 you claimed it as being your property?

15 A. No, sir.

16 Q. Well, I didn't think you were. You, at all
17 times, recognized that it belonged to someone else?

18 A. Yes, sir, I did.

19 Q. I believe that's all. Thank you, sir.

20 A. Thank you, sir.

21 MR. SUTHERLAND: Mr. Yeats.

22 C. B. YEATS, JR., the third witness for the
23 plaintiff, having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. BENJAMIN SUTHERLAND, ESQ.:

1 Q. State your name and address.

2 A. My name is C. B. Yeats, Jr. I reside at
3 Honaker, Virginia.

4 Q. What is your employment?

5 A. I'm employed by First National Exchange Bank,
6 Lebanon, Virginia.

7 Q. In what capacity?

8 A. I'm Assistant Vice President.

9 Q. How long have you held that position, and how
10 long have you been with the First National Exchange Bank of
11 Lebanon?

12 A. I've been with the Bank since March of 1966.
13 As far as holding that title, I really don't remember--five
14 or six years. But I've been employed in the capacity of a
15 loan officer since coming with the Bank.

16 Q. And what is your responsibility as a loan
17 officer? Do you have anything--any duties with respect to
18 valuation or appraisal of real estate?

19 A. Yes, I have really primarily been an
20 agricultural loan officer with First National Exchange Bank.
21 My duties do not consist at the present of as much of that
22 type work as I have done over the past seven or eight years.
23 During that time I was employed really as an agricultural
24 representative for the Bank, and a great part of my work was
25 inspection of and appraisal of farm real estate.

1 Q. Have you had any other appraisal experience
2 prior to beginning your work with the Bank here in Lebanon?

3 A. I worked with Federal Land Bank of Baltimore.

4 MR. WARREN: If your Honor please, if it'll shorten
5 this testimony, we will admit Mr. Yeats' qualifications as a
6 able land appraiser in Russell County, Virginia.

7 COURT: All right. Very well.

8 Q. Thank you, Senator Warren. Mr. Yeats, did
9 you make an appraisal of the Russell County property which
10 Mr. Charles Sutton Burns acquired from Mrs. Sarah Belle
11 Sutton at the time of his purchase of that property?

12 A. Yes, I did.

13 Q. What, in your opinion, was the fair market
14 value of that tract of land at that time?

15 A. It was appraised for twenty seven thousand,
16 four hundred dollars (\$27,400).

17 Q. Now, have you recently re-appraised this
18 property?

19 A. Yes.

20 Q. At the request of Mr. Burns?

21 A. Yes.

22 Q. And what was the date, roughly, of your
23 recent appraisal?

24 A. It was last week--Friday, to be exact.

25 Q. Now, have you been familiar with the--this

1 property during the time that he has been it's owner, or
2 since he acquired his Deed for it?

3 A. Yes, sir, I've been on it many times, and
4 I've seen the development of it during that time.

5 Q. What, in your opinion, is the present fair
6 market value as of your appraisal last week?

7 MR. WARREN: Excuse me, please, sir. We object
8 as being irrelevant and immaterial.

9 COURT: All right, objection--objection overruled.
10 Go ahead.

11 A. I would say in the range from a hundred to a
12 hundred and ten thousand (\$100,000 - \$110,000).

13 Q. I believe that's all, sir.

14 COURT: All right. Any questions, Senator Warren?

15 MR. WARREN: No, sir.

16 COURT: All right, thank you very much.

17 MR. WARREN: Thank you, Mr. Yeats. If your Honor
18 please, may I ask Mrs. Sutton to kindly come back around.
19 I'd like to ask her another question that I omitted.

20 COURT: All right.

21 MRS. SARAH BELLE SUTTON, being recalled to the
22 witness stand, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. GEORGE WARREN, JR., ESQ.:

25 Q. Thank you, Mrs. Sutton.

1 A. Yes.

2 Q. Mrs. Sutton, going back to your testimony of
3 a few minutes ago, you have testified that in the sales of
4 these various Florida properties and also the sale of this
5 farm to your nephew that you took a portion of the proceeds
6 of those sales except where you explained about putting them
7 back into the land or something of that sort or building a
8 your home, I believe, once--you took the proceeds and put
9 them in a bank account in your name as trustee for your
10 daughters.

11 A. Yes. Yes.

12 Q. Why did you do that?

13 A. Because I wanted to have something to leave
14 them when I passed on. That was what my husband and I
15 thought that if he passed on before I did, that he would
16 take care of the children; and if he passed on before I did,
17 that I would do the same thing which I'm trying to do.

18 Q. Where are these accounts? Can you give me
19 the names of the banks?

20 A. Yes, I have some over at the--I have some
21 over at the First National Bank--Exchange Bank.

22 Q. Here in Lebanon?

23 A. Yes. And I have some in the First National
24 Bank in Miami, and I have some in the First--I have an
25 account at the First Federal and Savings in Miami. But that

1 is in my name, but of course whatever I have will go to the
2 two girls.

3 Q. Well, the Bank Account here in Lebanon, is
4 it a Savings Account?

5 A. Yes, that is the Certificates. It is a
6 Savings Account, and the one in Miami is, also.

7 Q. Can you tell me, in each of those cases, how
8 the Certificate is made out? To whom is it made out?

9 A. It's made out to Martha Louise Sutton Oswald,
10 Sarah B. Sutton, trustee, and Virginia's is made out the
11 same way, to Virginia Sutton Sally, and I'm her trustee.

12 Q. So, it's in the daughter's name and your
13 name as trustee...

14 A. Yes, uh-huh.

15 Q. ...in each instance?

16 A. The one in Miami is the same way.

17 Q. Well, there--I take it there must be two in
18 Miami and two in Lebanon; is that true? I'm not trying to
19 put words in your mouth. I just want to...

20 A. No, but do you mean two certificates?

21 Q. Yes'm.

22 A. No, I have more in Miami than I have in
23 Lebanon.

24 Q. Well, do you have separate certificates for
25 each girl? That's what I meant.

1 A. Yes, I have. I have. But now, in Miami they
2 put that on my Checking Account--the interest that occurs I
3 think every three months. They put it on, but I have the
4 interest just--they put it, I guess--I don't have a Checking
5 Account at Lebanon. I just have a Savings Account there.

6 Q. Can you from memory give us the amounts of
7 these various Certificates?

8 A. I think they're all in five thousand dollar
9 (\$5,000) denominations.

10 Q. What would the ones in Lebanon in the case
11 of Virginia Sutton Sally total?

12 A. I think it would be five thousand (\$5,000)
13 here, and Martha Louise is five thousand (\$5,000).

14 Q. And in the bank in Miami, First National?

15 A. I think they're--I think it's about thirty
16 thousand (\$30,000), and they have--I have just the same
17 amount for Virginia as I have for Martha Louise.

18 Q. You mean fifteen a piece?

19 A. Yes.

20 Q. And then you have a separate account in the
21 Savings and Loan...

22 A. Yes, I have...

23 Q. ...that is in your name...

24 A. In my name alone.

25 Q. ...individually?

1 A. Uh-huh.

2 Q. I think that's all. Thank you, ma'am.

3 A. Thank you.

4 COURT: Mrs. Sutton, let me ask you a question.
5 Just from your seat there you may answer.

6 A. Yes.

7 COURT: Do you have these Certificates you've
8 talked about--these Certificates of Deposit there in your
9 possession?

10 A. Yes, they are. Here and in Miami, too. But
11 now, my daughter, Martha Louise, can go in the Safety Deposit
12 Box anytime she wants to. And I had it the same way for
13 Virginia, but I went to the Bank one day and the Vice
14 President said, Mrs. Sutton, we've had to--I don't know what
15 you call it when in the bank, they--you can't get in your
16 box. But I went down--I had my Safety Deposit Box in Mrs.
17 Sally's name and also in my daughter, Martha Louise's name;
18 and I said, well, why on earth. I said, what have I done to
19 keep you from getting in my box, and she said--the man said,
20 well, it was something that concerned Mrs. Sally. And after
21 that, I took her name off the box, and I've never put it
22 back on again, and I don't expect to.

23 COURT: Is there--do you know, of your own
24 knowledge, whether or not you can change these Certificates
25 of Deposit if you be so inclined? In other words, could you

1 change these Certificates of Deposit out of Virginia or
2 Martha Louise's name?

3 A. Oh, yes, I know that, but I have had no
4 desire to make any changes at all, and I try to be--give
5 them equal in everything always.

6 COURT: All right. All right, any other
7 questions?

8 MR. WARREN: No, sir. I would like to ask counsel
9 if he would obtain and file copies of these Certificates--
10 photocopies--in the record?

11 MRS. SUTTON: Well, I can--I can get them out of
12 the bank and...

13 COURT: Well, they just want to get photostatic
14 copies. You could get Mr. Yeats to give you the photostatic
15 copies.

16 MRS. SUTTON: Well, I have them in my Safety
17 Deposit Box over at the bank, and I can get them out anytime
18 you want them.

19 COURT: Well, would you have your lawyer to get
20 copies. Mr. Yeats will have one of his employees prepare
21 the photostatic copies and file them as exhibits in this
22 case.

23 MR. WARREN: And may we do the same thing from
24 the Florida bank?

25 MRS. SUTTON: Well, I'm going back to Florida in

1 a few days, and I can have that done there.

2 MR. WARREN: Thank you, ma'am.

3 MRS. SUTTON: And send them to you.

4 COURT: All right, thank you very much. Now, any
5 other witnesses?

6 MR. SUTHERLAND: Your Honor, I may desire--I don't
7 have this witness present this morning. I may desire to
8 call Mr. Clarence C. Burns, Jr.

9 COURT: Well, Court's going to be here this
10 afternoon, but if you want to, you may take it here in Court
11 or...

12 MR. SUTHERLAND: I can take it the date that Mrs.
13 Sally comes.

14 COURT: All right. Well, there's a possibility
15 there'll be a deposition there. Well, just go ahead and
16 take that evidence then at that same time.

17 THE FOLLOWING CONSTITUTES ALL THE PROCEEDINGS,
18 TESTIMONY, AND EXHIBITS HAD AT THE HEARING OF THIS MATTER.

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1 The following procedures were had, to wit:

2 All witnesses are duly sworn.

3 MR. SUTHERLAND: May we stipulate that all parties
4 reserve all objections to questions except as to their form?

5 MR. WARREN: Yes. That may not preclude me
6 stating some objections from time to time?

7 MR. SUTHERLAND: Not at all.

8 SARAH BELLE SUTTON, The first witness, having
9 been duly sworn, deposed as follows:

10 DIRECT EXAMINATION

11 BY BENJAMIN SUTHERLAND, ESQ.:

12 Q. Mrs. Sutton, were you present during the
13 discussion of the provisions of the will that's involved in
14 this case?

15 A. I was.

16 Q. Who was present?

17 A. Judge Uley Thompson, the lawyer that wrote
18 the will and my husband.

19 Q. Did you have any conversation with Mr. Sutton
20 or with Judge Thompson in Mr. Sutton's presence concerning
21 the provision that property would not be sold or whatever
22 the restriction on sale was?

23 A. Yes. Yes, I did.

24 MR. WARREN: Just a minute, please, ma'am, I want
25 to object to that as being improper. You're undertaking now

1 apparently to prove statements made by the testator concern-
2 ing the plain and, I think, patently unambiguous language in
3 this will. I think it is improper and not permissible to
4 prove his statements unless there is some latent ambiguity
5 arising outside the will. The language is plain enough, and
6 we object to it.

7 Q. Would you relate this conversation as best
8 you can?

9 A. Well...

10 MR. WARREN: May the record show that this
11 objection is a continuing one, Mr. Sutherland, by agreement?

12 MR. SUTHERLAND: Yes. That was--I thought was
13 to be accomplished by the stipulation, but it's agreed.

14 MR. WARREN: All right, I want to be sure that's
15 by a Judge.

16 MR. SUTHERLAND: Yes, indeed. Now, will you
17 relate that conversation, please, ma'am?

18 A. Yes, I will because my husband on occasions
19 drank a great deal, and he had gone in our safety deposit
20 box and had taken a good deal of money out because he was
21 not at himself. And they thought because of that--of his
22 drinking problem--that it would be better if he didn't have--
23 that I could--that neither of us could sell anything without
24 the other's consent.

25 Q. And was that provision inserted in the will

1 with his consent?

2 A. I thought it was.

3 Q. And at the time of the making of this will,
4 you related the other day the various tracts of real estate
5 that were owned by you and by Mr. Sutton and the tract that
6 was in Virginia that was titled in his name. Now, state
7 whether or not you had independent estate or income or
8 property other than this real estate that you owned in
9 Florida and of course the one tract in Virginia.

10 A. No, I did not.

11 Q. Would you have been able to—well, was the
12 income derived from the Florida property sufficient to pay
13 for the cost of maintenance of the property and the taxes
14 and the other expenses of ownership?

15 MR. WARREN: Just a minute, please, ma'am. This
16 is wholly irrelevant and immaterial and objected to on that
17 basis. It goes far wide and afield from the issues embraced
18 within the pleadings in this case. It's not a question here
19 as to whether one of the testators or the testator and the
20 other party to the will had enough to live on. The will
21 speaks for itself, and we're here concerned with a suit to
22 remove a cloud on title to a piece of property in Virginia.
23 We object to the question for that reason.

24 Q. Now, would you answer, please?

25 A. Will you repeat the question?

Q. Was the income produced by the Florida property—I'm speaking as of the time of the execution of the will—sufficient to pay for the cost of maintenance of the property, the cost of taxation, insurance...

A. No.

Q. ...and other expenses of ownership?

A. No, I didn't have sufficient income to do that.

MR. WARREN: And the way the question is rephrased is further objected to. We're not concerned, in this suit, with whether Florida property produced enough income to sustain itself or with Florida property on any account; irrelevant and immaterial.

Q. Mrs. Sutton, was any income produced by the Virginia property at the time of the execution of the will?

A. Yes, my brother and nephew had the property.

Q. Well, did you and your husband, Mr. Sutton, receive any of this income at that time?

A. No.

Q. Would the entire estate, including the Virginia real estate and the Florida real estate and all other property, have been sufficient to have paid the costs of ownership and maintenance and the like?

MR. WARREN: Same objection.

A. It would—what I had would not take care of the taxes. That's why I started selling the Florida real

1 estate. Because I didn't have enough money to take care of
2 the taxes.

3 Q. This was after your husband's death?

4 A. Yes.

5 Q. Were you able, after your husband's death,
6 on the income from the estate, to maintain yourself in the--
7 in your usual style of living?

8 MR. WARREN: Same objection.

9 A. No, not unless I had sold some of the real
10 estate I couldn't.

11 Q. Was that the same situation that you were in
12 at the time of the execution of the will?

13 A. Well...

14 MR. WARREN: Object to that as leading and for
15 the reasons previously stated.

16 A. I don't remember exactly when the will was
17 executed, but I didn't have any money outside of what I got
18 from the real estate. And my husband was trying to sell
19 some property before he passed away but was unsuccessful in
20 doing it.

21 Q. Mrs. Sutton, what kind of business were you
22 and Mr. Sutton engaged in in Florida?

23 A. We were in the jewelry business.

24 Q. For how long did you operate such business?

25 A. I think it was either thirty nine (39) or

1 forty (40) years.

2 Q. And where was your business located in part?

3 A. It was located most of the time at 130 East
4 Flagler Street.

5 Q. In Miami?

6 A. Right downtown in Miami.

7 Q. Did you operate in partnership...

8 A. Yes.

9 Q. ...or as a corporation or how?

10 A. No, it was in partnership.

11 Q. Did you assist in the management and the
12 operation of the business?

13 A. Yes, I did. I was there for almost twenty
14 years, and I was there without a salary.

15 Q. Did you devote part of your time or all of
16 your time during this twenty (20) year period to the opera-
17 tion of the business?

18 A. Well, I was sick a great deal of the time and
19 had to be in the hospital; but when I was up and out, I was
20 taking care of the business.

21 MR. WARREN: Excuse me, Mr. Sutherland. I want to
22 further object to this entire line of testimony as being
23 irrelevant and immaterial. This will be, unless disputed, a
24 continuing objection to this entire line of questioning.

25 MR. SUTHERLAND: Senator, I have no--my under-

1 standing is that this is a continuing objection, and that...

2 MR. WARREN: All right, sir, I'm a precautionist.
3 Go ahead.

4 MR. SUTHERLAND: Very well. Is it fair then to
5 say that except when prevented by reasons of health, that
6 you devoted your full time to this business?

7 A. I did. Yes, I did and that was most of the
8 time.

9 Q. And was that primarily the source of your
10 income; the income of you and Mr. Sutton during your--his
11 life?

12 A. Yes, that was it, uh-huh, the jewelry store.

13 Q. Mrs. Sutton, did you make any contribution to
14 the payment for the Russell County property?

15 A. Yes, I did.

16 MR. WARREN: Mr. Sutherland, I want to state an
17 additional ground there that you are now undertaking to go
18 behind the stated consideration in the deed that was executed
19 1937. In addition to the other objections, I object on that
20 ground to the present question and to the answer and move to
21 strike the answer.

22 Q. Can you tell what portion of the consideration
23 for this Virginia property was paid by you?

24 A. No, I couldn't tell you that.

25 Q. Was it--did you pay all of it, Mrs. Sutton?

1 A. No, we did not. We didn't pay any of it. I
2 don't remember whether it was all paid or not.

3 Q. Well, my question is; what proportion of the
4 cost of the Russell County, Virginia property was paid by
5 your contribution or by your labor or service to your
6 business?

7 A. Well, I stayed in the store. I told my
8 husband if he would buy this farm up here, I would stay in
9 the store without salary for the full length of time that it
10 took to take care of it all--to pay for it in full--which I
11 did.

12 MR. WARREN: Continuing objection.

13 Q. And then did the income from the--your service
14 to the business in Florida contribute to a major part of the
15 payment for this Virginia property?

16 A. Well, it contributed a great deal. I don't
17 know how much in dollars and cents, but it was a great deal.

18 Q. Could you give a percentage?

19 A. No, I couldn't. I just don't--I couldn't give
20 you that.

21 Q. Would you say it--was it as much as one half?

22 MR. WARREN: I'm going to object to the leading
23 and what amounts to cross-examination of your own witness.

24 A. I just couldn't tell you.

25 Q. I believe that's all.

1 MR. WARREN: The defendant, by counsel, for the
2 reasons stated in our prior objections which were agreed to
3 be continuing objections, now moves to strike the entire
4 testimony of this witness given on this date. Now, without
5 waiving our previous objections and subject to the same, I
6 want to ask Mrs. Sutton a few questions in cross examination
7 of the testimony she's just given.

8 CROSS EXAMINATION

9 BY GEORGE M. WARREN, JR., ESQ.:

10 Q. Mrs. Sutton, I understood you to say that you
11 had no separate estate in Florida; that all you had was
12 whatever interest you had in these various pieces of real
13 estate; is that correct?

14 A. That is correct.

15 Q. Did you qualify in Florida as the executrix
16 under your husband's will?

17 A. No.

18 Q. You did not?

19 A. No, I didn't.

20 Q. Who did qualify?

21 A. Martha Louise, my daughter--older daughter.

22 Q. Uh-huh. Has an inventory of that estate ever
23 been filed?

24 A. Yes, with Mr. Hizer in Miami.

25 Q. Uh-huh. What was the total value of the

1 A. Well, I believe Mr. Hizer, if I remember
2 correctly, he told me that it was sixty five thousand
3 (\$65,000).

4 Q. Sixty five thousand? Did that include the
5 real estate?

6 A. Yes, it did. It included it all at the time.

7 Q. And that was in the year 1955?

8 A. Well, it was around that time.

9 Q. Uh-huh.

10 A. Well, my husband died in 1955, and it was before
11 this--no, it was after his death, fifteen months after his
12 death.

13 Q. Uh-huh.

14 A. Because that's how long it took to settle the
15 estate.

16 Q. Well, the estate has never been settled, has
17 it?

18 A. Yes, it was by Mr. Hizer.

19 Q. A final settlement has been filed?

20 A. Yes.

21 Q. An accounting?

22 MR. SUTHERLAND: We object to this...

23 A. Yes, Mr. Hizer had to pay the government so
24 many--so much taxes, and it was all taken care of through his
25 office.

1 Q. Who is Mr....

2 MR. SUTHERLAND: We object to this testimony and
3 move that it be stricken because of the—it involves matters
4 of record and the oral testimony as to the contents of an
5 official record in a proceeding in another state is insuffi-
6 cient and inadmissible.

7 Q. Well, did you—were you through, Mr.
8 Sutherland?

9 MR. SUTHERLAND: Yes, sir.

10 Q. In the inventory that was filed, was there
11 listed a piece of property at Stuart known as the Hope Sound
12 property?

13 A. Yes, there was.

14 Q. Uh-huh.

15 MR. SUTHERLAND: Same objection.

16 Q. Was that property sold by you, Mrs. Sutton?

17 A. Yes, it was sold—may I just tell you in my
18 own words how that happened?

19 Q. Yes, ma'am.

20 A. I went to Mr. Hizer's office one morning, and
21 he had Mr. Adrian McCuen go to Stuart and appraise the
22 property, and Mr. McCuen appraised it at ten thousand dollars
23 (\$10,000).

24 Q. It was fifty six acres, was it not?

25 A. Well, it was something like that. I don't

1 remember the exact acreage.

2 Q. All right.

3 A. And that morning while I was in Mr. Hizer's
4 office that he gave me the information about Mr. McCuen
5 having gone up and appraised it, a man from—Mr. Melvin,
6 who lived in Hope Sound and who wanted the property, called
7 me and I sold the property to him over the telephone.

8 Q. What year was this?

9 A. Well, I think it was 1956—56 or 7.

10 Q. Within a year or two years after your husband's
11 death?

12 A. It was about fifteen months after Mr. Sutton
13 died.

14 Q. And what did you—how much did you get for
15 that property?

16 A. I got sixty five thousand dollars (\$65,000)
17 for it.

18 Q. Sixty five thousand?

19 A. Yes.

20 Q. And what did you do with that money?

21 A. I put part of it in the bank, and I lived on
22 the other, and I put a great deal of it into the farm that I
23 owned over here then.

24 Q. The farm in Russell County?

25 A. Yes.

1 Q. How much did you put into the Russell County
2 farm?

3 A. Well, I think it was around fifty thousand
4 dollars (\$50,000) that I paid out in operation of the farm.

5 Q. Did you build any of the milk barns or stalls
6 or put in any of the grade A equipment in the farm?

7 A. No, sir, I did not.

8 Q. Mrs. Sutton, did you advise or confer with
9 either of your daughters before you sold the Hope Sound
10 property?

11 A. Yes, I wrote to both of them and told them
12 that I was going to sell this property up here. And I wrote
13 to Martha Louise and Virginia, and I got a letter from Martha
14 Louise, but I never heard from Virginia. And I don't know
15 whether she ever got the letter.

16 Q. Where was Virginia living at the time?

17 A. She was living in Miami where she's always
18 lived.

19 Q. And then that was the only effort you made to
20 make any contact with Virginia about your sale of the Hope
21 Sound property; is that right?

22 A. I thought you were talking about the Russell
23 County property.

24 Q. No, ma'am, I was talking about the Hope Sound
25 property in 1956.

1 A. I don't know that I made any contact with her
2 at all or Martha Louise either.

3 Q. Uh-huh.

4 A. I don't remember. I took Mr. Hizer's, my
5 lawyer's, advice and did what he told me to do. And I know
6 my husband had wanted to sell that before he passed away but
7 he didn't get a sufficient offer on it and so that...

8 Q. That property today'd be worth over a million
9 dollars, wouldn't it?

10 A. I don't have any idea, but at the time it
11 was what—Mr. Melvin owned all the property back of us, and
12 we had no right-of-way out to the road.

13 Q. All right, now, when did you sell the Naranja
14 property?

15 A. That was sold right then—about a year and a
16 half after Mr. Sutton died.

17 Q. How much did you get for the Naranja property?

18 A. I got sixty five thousand dollars (\$65,000).

19 Q. Sixty five for it. The same thing that you
20 got for the Hope Sound?

21 A. Yes, that's right.

22 Q. And what became of that money?

23 A. Well, it was paid to me in such small amounts
24 that I used it for living expenses, and I put some in the bank
25 that I have in the bank now.

1 Q. You did confer with Virginia and Martha
2 Louise before you sold that property, didn't you?

3 A. Yes, they knew, both of them. I sold...

4 Q. And they encouraged you to sell it so you
5 wouldn't be out in the orange groves and could have a more
6 convenient residence in town, did they not?

7 A. Yes, I was isolated out there, and I had a
8 colored man who had tried to break into my house, and after
9 that Martha Louise and Jack came down and stayed with me.
10 They were living in Hollywood, and they came down and stayed
11 with me until I sold the property.

12 Q. Did you spend any part of that money on
13 another dwelling?

14 A. Yes, I...

15 Q. In town?

16 A. I spent part of it on my house I have over
17 in the country.

18 Q. Oh, in Russell County?

19 A. Yes, I...

20 Q. How much did you spend on that?

21 A. Well, I don't know just how much I spent, but
22 it was around twelve or fifteen thousand dollars (\$12,000 or
23 \$15,000).

24 Q. Is that the five acres that you retained when
25 you made the conveyance to Mr....

1 A. That is correct.

2 Q. ...Charles Burns?

3 A. That's right.

4 Q. So then, what was the next piece of property
5 you sold in Florida?

6 A. The Black Point property that Mr. Sally
7 handled. The...

8 Q. And you've already testified about that
9 transaction?

10 A. I have and I...

11 Q. Now, Mrs. Sutton, do you--are you telling the
12 Court that when Mr. Sutton died, that you were left with
13 nothing...

14 A. Absolutely. I don't...

15 Q. ...from his estate other than whatever
16 interest he owned in the property?

17 A. Yes, that--I'm telling the truth.

18 Q. And you--well, I don't mean to imply that
19 you're not.

20 A. Mr. Sutton died without leaving enough money--
21 I didn't have enough to pay the funeral expenses until I
22 sold some property.

23 Q. He had no jewelry, no diamonds...

24 A. No, he did not. We didn't have--we sold our
25 store before--we sold everything to a firm in Boston, and we

1 had--we didn't reserve anything. We sold it to them just
2 exactly as they saw it with everything.

3 Q. He had no bonds, no savings accounts?

4 A. Yes, I had some saved at two and a half
5 percent (2½%) coupon bonds, and I had to sell some of them
6 before they came to maturity because I didn't have enough
7 money...

8 Q. Were they in your name or his?

9 A. They were in both of our names.

10 Q. Were any of them in the girls' names?

11 A. No, not--I asked him to put five thousand
12 dollars (\$5,000) in Martha Louise and Virginia's name which
13 he did and which I have given to both of them.

14 Q. Uh-huh. You gave it to them after you clipped
15 the coupons and used the income from that?

16 A. Yes. Yes.

17 Q. The savings accounts--were there savings
18 accounts in your name and in the names of the two girls and
19 grandson?

20 A. They're in the names of both Martha Louise
21 and Virginia what I have. I have both of...

22 Q. Well, I'm talking about at the time of the
23 death of your husband.

24 A. I didn't have any bank certificates at that
25 time.

1 Q. And he didn't leave any savings account to
2 you?

3 A. No, he did not. Not at all.

4 Q. Or jointly to you and himself?

5 A. Not at all.

6 Q. He didn't have a checking account?

7 A. Yes, we had a checking account, but it was
8 very small and I didn't have enough to take care of all the
9 expense I had up here and in Florida when he passed away.

10 Q. What expense did you have up here, Mrs.
11 Sutton?

12 A. Well, I...

13 Q. Other than money you were pouring into the
14 farm?

15 A. Well, Guy Finney took care of the funeral
16 expenses, and they weren't small. And then I had the
17 funeral director in Miami where I bought my husband's
18 casket and a steel vault that I bought for him.

19 Q. And it is not your understanding that you
20 qualified in Florida as the executrix of your husband's
21 estate under his will?

22 A. I don't--well, I don't remember. I know
23 Martha Louise, his older daughter, and that was his choice
24 that she be administrator of the estate. But as of the
25 executor, I don't remember.

1 Q. He didn't have any will other than the will
2 we have before us here?

3 A. That's the only one he ever had.

4 Q. And as you said the other day, you read that
5 will carefully before you signed it?

6 A. Yes, and I had it in the house and gave it to
7 Virginia and Martha Louise to read, but Virginia never cared
8 to read it.

9 Q. Mrs. Sutton, in regard to the Hope Sound
10 property, also referred to as the Stuart property, from the
11 time that you wrote the letter to each of your daughters,
12 as I understood you to say you did; or am I misquoting you?

13 A. You are.

14 Q. Did you write them a letter before you sold
15 Hope Sound?

16 A. No, I was—I wrote them a letter before I
17 sold the farm.

18 Q. I beg your pardon. All right, did you ever
19 or have you ever told your daughter, Virginia, that you sold
20 the Hope Sound property?

21 A. Yes, I have talked about it.

22 Q. When did you tell her?

23 A. Well, I can't remember what day it was, but
24 I've talked with the children. I never tried to keep
25 anything from the children.

1 Q. Was it at a time after you brought this
2 lawsuit here in Virginia in 1972?

3 A. Oh, no, long before that.

4 Q. Long before that?

5 A. Yes, long before.

6 Q. Do you remember where you were or what the
7 occasion was?

8 A. No, I do not. I do not remember.

9 Q. Did you tell her in person or in letter form
10 or...

11 A. I told her in person, and I told my other
12 daughter in person.

13 Q. I believe that's all I have to ask Mrs.
14 Sutton, thank you, sir.

15 REDIRECT EXAMINATION

16 BY BENJAMIN SUTHERLAND, ESQ.:

17 Q. Let me ask Mrs. Sutton this question. The
18 Black Point property was sold--that is the property you
19 referred to as the Black Point property--sometime in the late
20 fifties or 1960's whenever the...

21 A. I think it was the early sixties.

22 Q. Very well, now, did I understand you to say
23 that Mr. Sally handled this transaction?

24 A. Yes, he did.

25 Q. Mr. Sally is your son-in-law and one of the

1 parties to this suit?

2 A. Yes, he's right here.

3 Q. And Mr. Sally is one of the more eminent
4 attorneys in Miami, is he not?

5 A. Yes, he is.

6 Q. Now, was any question reported to you about
7 any title difficulty with the Black Point property?

8 A. No.

9 MR. WARREN: I object to that. Object to that.
10 There's nothing in this record that Mr. Sally was passing
11 on the title for her or for the purchaser who would be the
12 person ordinarily to be concerned with the title, and
13 furthermore Mr. Sally was not a party in interest and what-
14 ever he did would not waive any right or interest that Mrs.
15 Sally might have. Furthermore, it's all irrelevant and
16 immaterial, and we object to it.

17 Q. And none of the--was there more than one
18 purchaser of the Black Point property?

19 A. Well, I don't know. They have a lawyer with
20 whom I talked in Mr. Sally's office, Mr. Traurig. But I
21 understood that he bought it for Mr. Seagle. Is that correct?

22 MR. SALLY: He took title as trustee, but I don't
23 know for whom...

24 Q. Has any demand ever been made upon you by the
25 purchasers of the Black Point property?

1 A. No, not at all.

2 Q. No effort or request to you to clear up a
3 title defect of any sort?

4 A. No, not at all.

5 MR. WARREN: We further object to that and move
6 to strike the question and the answer. We're not concerned
7 with the title to property under a will probated in Florida
8 under Florida law.

9 Q. In response to that I'll just state to the
10 Court that if this will transfers title in Florida, it is
11 equally effective to transfer title to Virginia property.
12 And the fact that no demand or no question of title has ever
13 been raised in Florida would be some--of some relevance in
14 this proceeding.

15 MR. WARREN: Well, I think that requires this
16 response. As I understand the law when it comes to real
17 estate, the law of Florida is going to determine that as to
18 Florida property and the law of Virginia as to Virginia
19 property quite different from what it would be if it were
20 personal estate. And therefore, in no event is the title to
21 Florida property or whether anyone protested prove whether
22 it's defective in Florida and certainly it doesn't prove
23 whether it was defective in Virginia.

24 Q. I believe that's all.

25 MR. WARREN: That's all, sir.

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MR. SUTHERLAND: Mr. Clarence Burns.

CLARENCE CLIFTON BURNS, JR., the second witness,
having been duly sworn, deposed as follows:

DIRECT EXAMINATION

BY BENJAMIN SUTHERLAND, ESQ.:

Q. Please state your name.

A. Clarence Clifton Burns, Jr.

Q. Are you a son of the Clarence C. Burns who
was Special Commissioner in the conveyance to Mr. D. B.
Sutton of 1937?

A. I am.

Q. Where do you live, Mr. Burns?

A. I live in Lebanon.

Q. How long have you lived in Lebanon?

A. Sixty five years.

Q. Did you know Mr. D. B. Sutton?

A. Very well.

Q. And you, of course, are acquainted with Mrs.
Sutton and Mrs. Sally?

A. Very--yes, I know them very well.

Q. Did you ever visit in the Sutton home in
Florida during Mr. Sutton's lifetime?

A. One time.

Q. Were the Suttons originally residents of
Russell County, Virginia?

1 A. Mrs. Sutton was an original resident of
2 Russell County, Virginia.

3 Q. Do you know the kind of business they were
4 engaged in in Florida?

5 A. Yes, sir.

6 Q. What was that, sir?

7 A. Jewelry business.

8 MR. WARREN: Excuse me, gentlemen, I want to
9 object to all this as irrelevant and immaterial and may it
10 be a continuing objection.

11 Q. Do you know anything of the--as to amount of
12 time Mrs. Sutton devoted to the Florida business?

13 A. Only the time I was there. I can testify to
14 that fact.

15 Q. Now, on that occasion how long were you in
16 Florida?

17 A. Two weeks.

18 Q. What was the extent of her participation in
19 the business at that time?

20 A. Daily.

21 Q. What portion of her time daily did she devote
22 to this business?

23 A. I couldn't tell you that.

24 Q. Did--was Mr. Sutton active in the business at
25 that time?

1 A. I never saw him.

2 Q. And do you know--do you have any personal
3 knowledge of how long in years Mrs. Sarah Belle Sutton worked
4 in this business?

5 A. The only knowledge I have is what I--is the
6 hearsay knowledge of course.

7 Q. Very well.

8 A. I have no direct knowledge.

9 Q. All right. When I'm to say personal knowledge,
10 sir, I mean your direct knowledge. Now, do you have any
11 personal knowledge as to Mr. D. B. Sutton's habits?

12 A. Yes, I was very...

13 MR. WARREN: Well, now, I've got to interpose a
14 further objection to that. His habits are absolutely and
15 completely immaterial in this case from any conceivable
16 standpoint. And furthermore, I don't believe that--I just
17 think it's rather peculiarly improper to go into that at this
18 stage.

19 MR. SUTHERLAND: Well, Senator Warren, you're
20 entitled to your objection, and I dislike your statement or
21 accusation of impropriety. And now, we will proceed.

22 MR. WARREN: I don't mean ethical or professional
23 impropriety. I think it's just an unwarranted trampling on
24 perhaps some people's personal feelings when it doesn't
25 accomplish anything in my judgment, has no appropriative

1 value.

2 Q. Very well. Now, sir, will you answer the
3 question?

4 A. During my stay in Florida for two weeks, I
5 never saw Mr. Sutton because he never appeared around. His
6 daughter, Virginia, would come by occasionally and said she
7 would go find him. She could take care of the situation,
8 and she would find him and take care of him wherever he was.
9 My understanding at the time was that he was in some bar
10 someplace drinking and...

11 MR. WARREN: Object to his understanding.

12 A. That was all the knowledge I had in that
13 respect.

14 Q. Do you have any knowledge as to whether or
15 not Mrs. Sutton made any contribution toward the payment
16 for the Virginia property?

17 A. None.

18 Q. Do you know how long the Suttons resided in
19 Florida?

20 A. No, I don't know the length of the time they
21 resided in Florida. I don't know...

22 Q. Do you know when their business operations in
23 the jewelry business terminated?

24 A. No, I don't remember that either.

25 Q. Uh-huh. Do you know the extent of Mr. Sutton's

1 participation in the management of their businesss or
2 businesses in Florida?

3 A. No, I don't know the extent that he participated
4 in that. I was in the store two or three times while I was
5 visiting, and I never saw him anywhere at all.

6 Q. Uh-huh. Were you visiting in their home?

7 A. In their home, that's right. I spent my
8 honeymoon there.

9 Q. Are you related to Mr. Charles Sutton Burns?

10 A. Not that I know of. Charles Sutton Burns?
11 Oh, well, I'm not related to him directly that I know of
12 actually because—I've felt of course because his name was
13 Burns and my name was Burns that there might be some distant
14 relationship. But as far as I know—how far back it would go
15 I don't know. I know that Dr. Burns married his first
16 cousin who was Belle Burns and an aunt of Sarah Belle Burns.
17 That's the only relationship that I can get around in that
18 situation.

19 Q. Are you related to Mrs. Sutton?

20 A. I am I guess, but we can't—I can't figure out
21 how far back it might go.

22 Q. It's rather distant?

23 A. I don't—yes, it's bound to be. I mean we've
24 always been relatives as far as the word go. She's been as
25 near to me as my mother, and in fact I've told her time after

1 time that she exemplifies my mother in nearly every act. She
2 looks like my mother, and I've loved her for all that over
3 the years. And she knows that that's the way I feel towards
4 her, but as far as our blood kin, I don't--I can't--my
5 father probably would be able to trace it, but I couldn't--
6 I don't know how that's--she can't either. She won't admit,
7 and I want to admit it.

8 (Off the record conversation)

9 Q. Mr. Burns, did you ever, during the time you've
10 lived in Lebanon, see Mr. Sutton here?

11 A. Every time he came practically.

12 Q. How frequently was that?

13 A. Well, at least--most of the time once a year
14 and sometimes more often.

15 Q. During the time he was here, would you
16 describe his condition?

17 MR. WARREN: We'll object to that for the same
18 reasons heretofore stated.

19 A. I saw him here practically on every occasion
20 that I saw him he was intoxicated. And he made it a point to
21 come to see me because of our relationship. That's the reason
22 why I saw him. I didn't go out to look him up, but he would
23 come to my place of business to visit with me. And
24 practically every time that I saw him he was intoxicated.

25 Q. Uh-huh.

1 A. Some of the times he would have some of the
2 men around who participated in the drinking along with him.
3 Other times he would have his—Tom Burns who was with him to
4 take care of him. But he was most of the time intoxicated
5 heavily.

6 Q. That's all.

7 MR. WARREN: I move to strike the entire
8 testimony of this witness for reasons heretofore stated, and
9 all of which can be summarized as irrelevant and incompetent
10 and immaterial.

11 MR. SUTHERLAND: Now, the complainants in this
12 suit desire to present the authenticated deeds pertaining to
13 the Florida real estate. Those deeds have not yet been
14 received and as soon as they have been received we will file
15 them with the reporter as a part of the testimony of Mrs.
16 Sutton to be marked in evidence as Complainant's Exhibits
17 Nos. 1 through 3.

18 MR. WARREN: Mr. Sutherland, don't you think we
19 ought to also file the other deeds if we haven't. I don't
20 recall that we did; the 1937 deed and the 1967 deed.

21 MR. SUTHERLAND: These are exhibits with the Bill
22 of Complaint if I'm not mistaken.

23 MR. WARREN: Well, may they then be considered
24 exhibits in evidence; and if not, may we put them in the
25 record? I believe the Court would want those to complete the

1 record.

2 MR. SUTHERLAND: Well, I don't think there's any
3 need to exhibit them if they're in the---filed with the Bill.
4 But if they have not been filed, why, I agree that they
5 should be considered by the Court as exhibits in this case.

6 MR. WARREN: Well, and following what you have
7 said, we will of course object to the introduction of the
8 Florida deeds as being irrelevant and immaterial. (Off the
9 record conversation) Continuing with our remarks, wherein
10 we objected to the proposed introduction of the deeds to the
11 various Florida properties that have been mentioned in
12 evidence, after those deeds are obtained---and I assume we're
13 talking about authenticated copies---and without waiving that
14 objection, if the Court receives those documents in evidence
15 over our objection and again without waiving it, we would
16 then ask the Court to permit us to offer in evidence and to
17 file in evidence authenticated copies of the probate proceed-
18 ing in Dade County, Florida and the estate and inheritance
19 tax returns filed on the estate of Mr. D. B. Sutton. All
20 right, sir, if the plaintiff is finished---concluded its
21 testimony in chief, then we would begin on behalf of the
22 defendant by calling the defendant, Mrs. Virginia Sutton
23 Sally.

24 VIRGINIA SUTTON SALLY, the first witness for the
25 defendant, having been duly sworn, deposed as follows:

1 DIRECT EXAMINATION

2 BY GEORGE WARREN, JR., ESQ.:

3 Q. You are Virginia Sutton Sally?

4 A. Yes.

5 Q. Mrs. Sally, I believe you are the younger
6 daughter of D. B. Sutton and Sarah Burns Sutton; is that
7 correct?

8 A. That's correct.

9 Q. And your sister is--what is her name?

10 A. Martha Louise.

11 Q. Martha Louise Oswald?

12 A. Yes.

13 Q. Where does Mrs. Oswald live?

14 A. In South Miami, Dade County, Florida.

15 Q. And where do you live?

16 A. Miami Beach, Dade County, Florida.

17 Q. I believe you are married to Mr. George Sally
18 who was also named as a defendant in this suit?

19 A. Yes, sir.

20 Q. And when were you and he married? What year?

21 A. 1961.

22 Q. Mrs. Sally, as I stated, you are a named
23 defendant in this Virginia litigation in which it is alleged
24 and asserted that you claim an interest in the farm of
25 approximately a hundred and forty acres here in Russell

1 County acquired by your father in 1937 by reason of the
2 joint will of your mother and father which is exhibited with
3 the Bill of Complaint. It is further not a matter of dispute
4 that by deed in October of 1967 your mother, the complainant,
5 Mrs. Sutton, conveyed or undertook to convey approximately
6 a hundred and thirty five acres of this farm to Charles
7 Sutton Burns.

8 MR. SUTHERLAND: Object to the speech by Senator
9 Warren. I think he ought to ask questions.

10 MR. WARREN: Well, I'm trying to summarize. You
11 don't dispute any of those statements, do you, Mr. Sutherland?

12 MR. SUTHERLAND: No, I'm—I'm objecting...

13 MR. WARREN: I'm talking about your exhibits and
14 your allegations.

15 MR. SUTHERLAND: I object to the statement of
16 counsel. I move that counsel confine himself to asking
17 questions.

18 MR. WARREN: All right, sir. I'll be duly
19 chastised and try to improve my conduct in the future.
20 Nevertheless, Mrs. Sally, based on my statement I want to
21 ask you this. When did you first obtain knowledge--when did
22 you first come to know about this purported conveyance from
23 Sarah Burns Sutton to Charles Burns?

24 A. Well, when I first knew what transpired was
25 after Mr. Sally showed me a piece of paper which my mother

1 had sent to him after a telephone conversation she and I had,
2 and it proved to be a quit-claim deed. She had telephoned
3 me one night about ten o'clock before I was leaving for New
4 York and asked me if I would come over to her house right
5 then.

6 Q. Now, let's see if we can fix the date of that
7 telephone call approximately.

8 A. Well, that was in May. (Conversation from
9 Mrs. Sutton.) It was in May; the first part of May, 1972.

10 Q. Now, where were you, and where was your
11 mother when you received this telephone call?

12 A. I was in our house at Miami Beach, and mother
13 was in her house on Northwest 34th Avenue.

14 Q. And what time of day or night was the call?

15 A. It was ten o'clock at night.

16 Q. All right, go ahead and repeat the conversa-
17 tion that took place.

18 A. Um-...

19 Q. As near as you can recall it.

20 A. I received this call from her asking me to
21 come to her home, and I said, "Well, it's a little bit late.
22 I've called you all evening to say good-by to you because
23 I'm leaving for New York in the morning." And she said,
24 "Well, I really would like very, very much to see you before
25 you go." And I said, "Well, mother, it's pretty late and I

1 don't think I will come over tonight." Because it was quite
2 a distance, and I'd been calling her all evening—late after-
3 noon—trying to reach her. And she said, "Well, it's really
4 important that I see you." And I said, "Well, why?" And
5 she said, "Well, I want you to sign a paper for me." And I
6 said, "Well, send it to me." And she said, "No, I need it
7 right now." And she said, "Your sister and her husband,
8 Jack, have signed—Martha Louise and Jack have signed it,
9 and I need your signature on it." And I said, "Well, what
10 is it?" And she said, "Well, it's a paper that I have to
11 have a signature on so Charlie can get a loan on the farm."

12 Q. Who did you understand her to mean when she
13 said Charlie?

14 A. Charlie Burns.

15 Q. All right. One of the plaintiffs in this
16 case?

17 A. Yes.

18 Q. All right.

19 A. And I said, "Well, why would I have to sign a
20 paper so Charlie can get a loan on the farm?" And she said,
21 "Well, he wants to change his loan." And I said, "Well,
22 mother, I'm not about to go on a loan for Charlie." And she
23 said, "No, it isn't that. He wants to get money at a cheaper
24 rate of interest from the Land Bank in Baltimore, and you'll
25 have to sign this before he can get it." And I said, "Well,

1 I'm certainly not coming over there for that. I have no
2 interest in Charlie's loan." And she got a little bit angry
3 with me and she said, "Well, you've wanted your part of the
4 estate, and I'm going to get a lawyer and give you your share
5 and settle it, and I hope I never see you again." And she
6 hung the phone up, and that was the end of the conversation.

7 Q. Uh-huh. Now, at that time, when you had that
8 conversation with your mother, that was in May you say?

9 A. Yes.

10 Q. And she told you that she was going to get a
11 lawyer and settle up the estate?

12 A. Yes.

13 Q. Talking about the estate of your father?

14 A. Yes.

15 Q. Well, did you hear from her, or what next
16 transpired?

17 A. Well, my husband called me and said that she
18 had mailed the paper, and he said what...

19 MR. SUTHERLAND: Object to the statement as to
20 what her husband said.

21 Q. Don't say what he said, but go ahead and...
22 Did he receive a paper, and did you see it?

23 A. He received a paper and read it to me on the
24 phone.

25 Q. Do you know what that paper was?

1 A. It was a quit-claim deed.

2 Q. And what did it pertain to?

3 A. To my signing away my rights in the farm that

4 my father had left my sister and me.

5 MR. SUTHERLAND: Objection to that as a conclusion

6 of law and as an conclusion as to the interpretation of the

7 document that's for the Court to construe--or documents.

8 Q. Do you have that document anywhere, Mrs.

9 Sally?

10 A. I'm sure it's in a file somewhere. I don't

11 have it with me.

12 Q. Are you confident that you have it or your

13 husband has it?

14 A. I believe so.

15 Q. Will you undertake to find that, and if you

16 can do so, supply it to the reporter so that it may be filed

17 as an exhibit to your testimony?

18 A. Yes, indeed.

19 Q. Now, Mrs. Sally, I take it there's no dispute

20 about the fact that your father died in 1955?

21 A. Correct.

22 Q. Where were you living at that time?

23 A. I was in Naranja in our home, my parents'

24 home in the Redlands at that time.

25 Q. Now, did you--when following that or how long

1 after that was it before you saw a copy of your father's will
2 to the best of your recollection?

3 A. It was quite a few years. I don't know
4 exactly when. I was sent a copy of it.

5 Q. By whom?

6 A. It was either my former husband or a man by
7 the name of Doug Tower down in Homestead, Florida who was a
8 friend of my parents.

9 Q. He was a friend of your parents, Mr. Tower.
10 And you were married to Mr. Sally in 1961?

11 A. Uh-huh.

12 Q. Was it prior to that time that you received
13 a copy of it? If you remember? If you don't, why, say so.

14 A. Yes, I think it--I think it was about 1959.

15 Q. Uh-huh.

16 A. Or 1960. I think really it was just before or
17 just after Mr. Sally and I were married.

18 Q. I see. So that's the first time that you were
19 familiar with the contents of that will?

20 A. Yes.

21 Q. Now, up until that time had you--and you're
22 talking about around 1959 now--had you had any conversations
23 with your mother concerning the Russell County farm that's
24 in controversy here?

25 A. Prior to which time? What date?

1 Q. Prior to '59, to the time you saw the will.

2 A. Sometime...no, it was after that.

3 Q. It was after that?

4 A. Uh-huh.

5 Q. Well, when did you first have a conversation
6 with her concerning the Russell County farm?

7 A. I would say it was in the sixties. Now, I
8 don't know exactly the date, but I would say--well, sometime
9 in the sixties when...

10 Q. That's when you had your first conversation
11 with her about the farm. Where were you and she, or how did
12 that conversation take place, if you recall?

13 A. I don't recall whether it was in Miami or not,
14 but I--and I don't remember whether it was on the phone, but--
15 no, it was face to face because she said to me--and I believe
16 it was Miami--that she told me she was going to give the farm
17 to Charlie. And it kind of surprized me, and I said, "Well,
18 what do you mean give the farm to Charlie? I said, that
19 farm is supposed to be for Martha and me. And why would you
20 give Charlie the farm?"

21 Q. And what was her response, if anything?

22 A. She said, "Well, Charlie just works so hard."
23 And I said, "Well, mother, that's no reason for us to give
24 up the farm to Charlie."

25 Q. Was that the extent of the conversation, or

1 was there anything else said on that subject?

2 A. Not at that time.

3 Q. When was the next time that you had a conver-
4 sation with your mother that you recall concerning the
5 Russell County farm?

6 A. It was a few years after that in '68 or '69.

7 Q. Where did that conversation take place?

8 A. That was here. I had come by to see her, and
9 had spent the night at her house.

10 Q. At her home on the farm?

11 A. Yes.

12 Q. All right, and so, relate to the Court where
13 and under what circumstances that conversation took place
14 and what was said.

15 A. Well, as I say, I spent the night with her,
16 and then the next morning I took my things out to the car
17 after breakfast, and then we sat in her little den and talked
18 for a few minutes. And she said, "I want you to know that
19 I'm going to sell the farm to Charlie."

20 Q. Now, this is '68 or '69?

21 A. Yes.

22 Q. All right, what did you reply to her, or what
23 else was said?

24 A. Well, I said, "Mother, I don't think you
25 should do that, but what you and Martha want to do is all

1 right but be sure you keep my part of that farm for me."

2 Q. Did she make any reply to that and, if so,
3 what?

4 A. No, she didn't say anything. She just sort
5 of, I think, changed the subject, and I left a few minutes
6 afterwards. I was just ready to leave.

7 Q. Uh-huh. Now, was that the last conversation
8 that you had with your mother until she called you in May of
9 on the subject of the Russell County farm until she called
10 you in May?

11 A. Yes.

12 MR. SUTHERLAND: Objection as leading.

13 Q. Did you have any other conversations with
14 your mother between that 1968 or 9 conversation and the
15 conversation that you've alluded to in May of '72?

16 A. Well, many times when I was with her, she
17 would say what she was doing to the farm; that she was put-
18 ting in milking machines or she was doing this and that and
19 the other, but we had no more conversation about selling it
20 or anything else.

21 Q. Did you, at any time prior to October 2, 1967,
22 receive a letter or any other writing from your mother
23 advising you or informing you in any way that she was about
24 to sell the farm to Charles Sutton Burns?

25 A. No, we only had that one discussion about it.

1 Q. Now, following your May, 1972 conversation
2 with your mother, what was the next communication that took
3 place between you and her?

4 A. Well, she had said that she was going to get
5 a lawyer and give me my share of the estate, and I thought I
6 would hear from her about that as she had stated. And I did
7 not hear from her. So, I wrote her a letter.

8 Q. When did you write her a letter? On what
9 date?

10 A. June 8th, 1972. I had gone on to New York
11 after, and I was still there then.

12 Q. Do you have a copy of that letter that you
13 wrote to her?

14 A. Yes.

15 Q. May I see it, please, ma'am?

16 A. Yes.

17 Q. Do you want to look at that, Mr. Counselor?

18 (Mr. Sutherland is handed a copy of the letter to examine.)

19 (Off the record conversation.) You mentioned to me a moment
20 ago in the presence of those here when we were off the record
21 that you had--something else had occurred to you in the line
22 questioning just preceding my mentioning this letter. What
23 did you want to say

24 A. Well, it didn't pertain to Charlie, but at
25 some time in the fifties--I would say mid to late, 57, 8 or 9,

1 somewhere in there--mother told me that she thought she
2 would give Tom Burns, who is Charlie's father, and his wife
3 the house they live in. And I said, "Well, mother, they've
4 lived there all those years. Why don't you just let them
5 continue to live there?" And she said, "Well, of course,
6 there's Charlie." And I said, "Well, mother, I don't think
7 that you should even think about that. As far as I'm
8 concerned, that farm was left to my sister and me, and I
9 don't want you to give the house away." And I said, "They
10 can live there as long as they want as far as I'm concerned."
11 And no more was said about it, but that's when her brother
12 was living.

13 Q. And this was--was this after you had seen the
14 will and were familiar with the contents of the will?

15 A. Yes.

16 Q. All right, now, let's get back to the letter
17 that you mentioned, dated June 8, 1972, a copy of which I
18 have shown to opposing counsel. This appears to be a photo-
19 copy of a letter. Is it in your own handwriting?

20 A. Yes.

21 Q. Will you read that letter into the record,
22 please?

23 A. (reading from letter) " June 8th, 1972, New
24 York City. Dear Mother, I thought possibly I'd hear from
25 you by now as last month before leaving Miami, you said you

1 were going to get a lawyer, give me my share of the estate
2 and settle it. You have told me this before, yet nothing
3 has happened. You said when you sold the Black Point pro-
4 perty, you would divide the proceeds three ways, between you
5 and Martha and me and you said Daddy intended for you to do
6 this. Then later when I asked you about it, you said George
7 told you not to give me the money. George apparently doesn't
8 remember it being quite like that. However, this is really
9 none of George's business, but if you will recall, I told
10 you last year that George has no objection whatever to my
11 having or receiving my interest in the estate. I feel it is
12 time for you to do for me, as you have said you would all
13 along, and give me my share and settle the estate. If you
14 have written, I have not gotten the letter, but I plan to be
15 in Miami soon, so you can write there. Chip's graduation
16 was fine, but George was very very ill. Have a lovely
17 summer. Love to all, Virginia."

18 Q. Is that a letter that you wrote to your
19 mother, Sarah Burns Sutton?

20 A. Yes.

21 Q. On the date that the letter shows?

22 A. Yes.

23 Q. June 8, 1972?

24 A. Uh-huh.

25 Q. And did you mail that letter to her?

1 A. Yes.

2 Q. Now, I'll ask you if you received a reply
3 from your mother to that letter?

4 A. Yes.

5 Q. And do you have the letter that you received,
6 the original?

7 A. Yes.

8 Q. And is what I have in my hand a photocopy of
9 the original reply you received from Mrs. Sutton?

10 A. Yes.

11 Q. I show that to counsel for his examination.
12 While counsel is reading the second letter, we'll offer the
13 letter of June 8, 1972 in evidence as the next numbered
14 exhibit to the defendant's testimony. (Letter of June 8,
15 1972 is so marked Exhibit No. 4.) Now, the letter of
16 July 3, 1972 that you received from your mother, will you
17 read that in evidence, please?

18 A. Dear Virginia...

19 Q. What is the date of the letter?

20 A. July 3rd, 1972. "Your note said that you had
21 not heard from me. I have written you twice—once in Miami
22 Beach — once in Maine, and sent you a Mothers Day card. If
23 you did not get the mail, I am sorry. I certainly sent it.
24 I hope you can see your way to sign the deed I sent to ML
25 (meaning Martha Louise). I was afraid you would not get it

1 since you must not have received my other mail. I wrote a
2 letter to her I hope you will read. I have been sick since
3 before I left Miami, and have been in the hospital since I
4 have been here. My blood pressure is much too high the
5 doctor said. I went back to him Friday, and he said the
6 same thing. I take the medicine but seemingly it doesn't
7 come down. I said in my letter to Martha Louise, I would
8 give you the money you want this fall when I return, if God
9 is willing I do return. My house here isn't clear if you
10 and George can't find it necessary and are willing to sign
11 the deed I have sent I hope you can find it in your heart to
12 do it for me. Love, Mother."

13 Q. Was this before or after you had been advised
14 that your husband had received the quit-claim deed?

15 A. After.

16 Q. All right, we offer this or make the exhibit
17 to the defendant's testimony. (Letter of July 3, 1972 so
18 marked Exhibit No. 5.) Did you make reply to that letter,
19 Mrs. Sally?

20 A. I did to my mother's note--the other letter
21 she refers for me to see, my sister never showed it to me.
22 So, I did to this letter that I've just read.

23 Q. You never did see the letter that she had
24 written to your sister?

25 A. No, she never called, or if she called me, she

1 didn't get me. I didn't—I've never seen it, and I haven't
2 seen the deed to this day.

3 Q. And the other letter, I believe, she mentioned
4 having written to you, you did not see that?

5 A. No.

6 Q. All right'm, did you then make response to
7 this last letter that's been introduced that you received
8 from your mother?

9 A. Yes.

10 Q. I hand counsel a copy.

11 (Mr. Sutherland reads copy of the letter dated
12 July 19, 1972.)

13 MR. SUTHERLAND: We object to the admission of
14 this letter on the ground that it's immaterial. It is self-
15 serving, and it's—does not pertain to any issue in this
16 case that's relevant.

17 Q. All right, Mrs. Sally, will you read the
18 letter of July 19, 1972 that you wrote to your mother in
19 response to...

20 A. July 3rd, 1972.

21 Q. ...the letter of July 3rd, 1972? Now, unless
22 counsel insists, I'm going to ask her to omit all except the
23 third, fourth, and fifth paragraphs, though we will put the
24 whole letter in evidence. The rest of it pertains to matters
25 that have nothing to do with the farm, and if it's all right

1 you, I will ask her to read only those three paragraphs into
2 the letter.

3 MR. SUTHERLAND: I think the omission of the
4 paragraphs you've indicated is appropriate, and I renew my
5 objection to the admissibility of the other paragraphs.

6 Q. Yes, sir, that's understood. If you will
7 then, please, ma'am, you opened the letter with "Dear,
8 Mother".

9 A. "Dear, Mother".

10 Q. Now, will you read the third, fourth and
11 fifth paragraphs of the letter?

12 A. "Martha has not sent your letter to me--has
13 not sent your letter for me to read. I did get the Mother's
14 Day card, but George says no mail from you has come to me to
15 Miami. The signing of the deed is related to the rest of the
16 estate, and you know as well as I do, it was Daddy's intention
17 that Martha Louise and I share and share alike. He discussed
18 the farm and it's disposition with her because she told me
19 he did, and he discussed it with me. It never occurred to
20 him that anyone would have that farm except her and me, and
21 you and he agreed the properties would be held for us. When
22 you first told me you were giving the farm to Charlie, I
23 told you to keep my part of it for me. We even discussed
24 how much Chip liked it in Virginia and that I might want a
25 little house there. I'm sure you remember this because it

1 was no short discussion. Then later Dick told me you had
2 "sold" the farm to Charlie. I presumed you kept my share for
3 me, as you have told me you are holding certain things for
4 me that are to be mine. When you first talked about selling
5 the Black Point property, you assured me you were going to
6 divide equally the proceeds between Martha and me. It was
7 for this reason I did not object to the sale, but so far I
8 haven't gotten my third. I feel there should be an account-
9 ing from you to the estate and since you keep very accurate
10 records, this should not be a problem for you. There need
11 be no immediate rush about it, but you told me in May you
12 were going to get a lawyer and give me, as you said "your
13 share". If you wrote me about this, I repeat I haven't
14 received the letter, nor have I heard from your lawyer."

15 Q. Mrs. Sally, who is Chip referred to in the
16 second paragraph you read?

17 A. Mr. Sally's young son whom I have brought up
18 since he was six years old.

19 Q. And did he, as the letter indicates, come up
20 on the farm in Virginia?

21 A. Uh-huh, he would spend summers up here.

22 Q. And who is the person referred to as Dick?

23 A. My sister's middle son, Richard Oswald, who
24 was a teenager.

25 Q. And you refer in the paragraph--second

1 paragraph--to Charlie, to whom were you referring?

2 A. Charlie Burns.

3 Q. One of the complainants in this case?

4 A. Yes, uh-huh.

5 Q. We offer this letter of July 19, 1972 in
6 evidence as the next exhibit to this witness' testimony.

7 (Letter so marked as Exhibit No. 6.) Mrs. Sally, again,
8 the second paragraph that you read you referred to the
9 signing of the deed. What deed were you referring to?

10 A. The one she wanted me to sign to relinquish
11 my interest in the farm.

12 Q. Is that the one you referred to as a quit-
13 claim deed?

14 A. Yes.

15 Q. All right'm. Now, did you receive any reply
16 to this letter of the 19th of July prior to the time that
17 suit was then filed against you in Virginia?

18 A. Yes.

19 Q. Is this the next letter you received?

20 A. No, the next thing I received was a notifica-
21 tion from Mr. Sally that he had been served in his office--
22 accepted service for him and me by a lawsuit started by my
23 mother. That was my...

24 Q. And that's this lawsuit that we're in here
25 today, is it not?

1 A. Yes, uh-huh.

2 Q. All right. Well, following your being served,
3 and I take it that was sometime in October. The suit the
4 record shows was filed October 16th, 1972. Did you write to
5 your mother following that service?

6 A. Yes.

7 Q. Do you have a copy of the letter you wrote to
8 her?

9 A. Yes.

10 Q. Is this it?

11 A. Yes.

12 Q. May I show that to counsel, please?

13 A. Yes.

14 (Off the record while counsel examines the
15 witness' letter.)

16 A. The lawsuit was the only answer I had to this
17 letter. I didn't have anything—I said I had something from
18 her, but I didn't. It was just the lawsuit filed.

19 Q. To your—it was the only answer you received
20 to your letter of what?

21 A. July 19, 1972.

22 Q. All right. Mrs. Sally, would you read this
23 letter on November 1, 1972, written by you to your mother,
24 into the record, please?

25 A. (Witness reads from the letter.) "November 1,

1 1972. Dear Mother, I want you to know I feel very badly
2 about your bringing a lawsuit against me, and I cannot
3 understand it. Through the years you have told me each time
4 I asked you that you were taking care of my share of Daddy's
5 estate for me and that you were dividing equally between
6 Martha and me. If this is true, if you have been truthful
7 with me and intend to keep your word to carry out Daddy's
8 will as he intended, I do not see why a lawsuit is necessary.
9 It hurts me very much to think you've been telling me this
10 if in reality you are trying to cheat me out of my share of
11 things. You told me definitely last spring you would account
12 for things and settle my part. Now all I get is a lawsuit.
13 That which you have given me in comparison is very, very,
14 very little. I do not want to go into Court."

15 MR. WARREN: "I do not want to have to go into
16 Court."

17 A. Thank you. "I do not want to have to go into
18 Court, but unless I hear from you immediately regarding your
19 carrying out your word to me I will have to protect myself.
20 I cannot help but be very shocked and disappointed that thus
21 far you have failed to do as you said you would and as Daddy
22 intended you to do. Sincerely hope you are feeling well and
23 enjoying your summer. God bless you, Mother. Love, Virginia"
24 And then I put my address for the next ten days at Apt. 12-F,
25 2 W. 67 Street, New York City, and then for the next ten days

1 Miami, Florida.

2 MR. SUTHERLAND: Objection to the letter just read
3 as being immaterial, as being self-serving, and as not having
4 had sufficient foundation laid as to how Mrs. Sally has
5 obtained possession of a letter directed by her to her
6 mother.

7 MR. WARREN: Mrs. Sally, in view of that last
8 objection, is this letter or not written in your handwriting?

9 A. Yes, it is.

10 Q. Is it a reproduction of the letter that you
11 sent to your mother?

12 A. Yes, I first wrote the letter, and then I
13 copied it off on stationery. That, as you can see, is just
14 a--on the back of a letter sent to me, but I didn't want to
15 write it on stationery the first time because I thought I
16 might have to change it and mark it out. So I just wrote it
17 out. As you can see, this is scratched out. And then I
18 wrote it over and sent her the letter.

19 Q. Well, is it an exact duplication...

20 A. Yes.

21 Q. ...in content and language...

22 A. Yes.

23 Q. ...to the letter that you sent to your
24 mother?

25 A. Yes, that's why I kept it--exactly what I

1 wrote.

2 Q. All right. We offer this in evidence as the
3 next exhibit to this witness' testimony. (Letter of November
4 1, 1972 so marked Exhibit No. 7.) You've handed me a
5 letter here dated November 7, '72 addressed to "Dear,
6 Virginia" and signed "Love, Mother." Was this letter
7 addressed to you?

8 A. Yes.

9 Q. Written to you by your mother?

10 A. Yes.

11 Q. In her handwriting?

12 A. Yes.

13 Q. I hand it to counsel.

14 (Off the record while counsel examines the letter
15 dated November 7, 1972.)

16 Q. Would you read that letter into evidence,
17 please, ma'am?

18 A. "November 7th, 1972. Dear Virginia, Your
19 letter received, and I will tell you, I have not at any time
20 wasted any money, nor have I ever cheated you nor have I ever
21 lied to you. I have saved your money and Martha Louise's
22 the same amount for both of you. I have told you this
23 repeatedly, but you never believe anything I say because you
24 have let your hate run away with you--with your better
25 judgment. Love, Mother."

1 Q. We offer that in evidence as the next numbered
2 exhibit to the testimony of this witness. (Letter dated
3 November 7, 1972 so marked Exhibit No. 8.)

4 (Off the record conversation)

5 Q. Mrs. Sally, did your mother, Mrs. Sutton, ever
6 assert to you prior to the institution of this suit any
7 ownership on her part in the Russell County farm?

8 MR. SUTHERLAND: Objection as leading.

9 Q. Go ahead.

10 A. No. No. When you say the farm, you're
11 talking about equipment for it?

12 Q. No, I'm talking about the land.

13 A. Just the land? No.

14 Q. I'm talking about the land.

15 A. No, in fact when mother wanted to build her
16 house up there, she called me one day and told me that she
17 would like to have a house up there, and she wanted to take
18 five acres out of the farm, and she said, "I have called your
19 sister and she has no objection. Do you?" And I said, "Is
20 the house for you?" And she said, "Yes." And I said, "No,
21 I don't have any objection."

22 Q. And did she then go ahead and...

23 A. She then took the five acres out and...

24 Q. And built herself a house?

25 A. Yeah, and built her house.

1 Q. Is that the house that she refers to now as
2 her house at...

3 A. Yes.

4 Q. Here in Russell County?

5 A. Yes.

6 Q. Where she stays when she is here?

7 A. Yes.

8 Q. How long do you have a recollection of this
9 farm, or since what time in your life?

10 A. Well, I remember when my father bought it.

11 Q. You do remember that?

12 A. Yes, you know, there...

13 Q. Where were you all living? Were you born in
14 Florida?

15 A. Uh-huh.

16 Q. Yes, I thought you were.

17 A. Now, we were children, but the farm had
18 belonged to my uncle Dave, and I remember his saying he was
19 going to buy uncle Dave's farm.

20 Q. I see.

21 A. And there was some discussion about it.

22 Q. Have you--to what extent have you been on the
23 farm from time to time over the years since then?

24 A. Well, very frequently until quite recently.
25 My father would come up some as Mr. Budly Burns so aptly

1 stated, but he knew what was going on because he knew the
2 cattle he put on it and he knew the prices coming in from the
3 tobacco and he knew the money he put out on it, and it was
4 his farm.

5 Q. Well, who has lived on the farm from the time
6 of your first recollection?

7 A. Well, my uncle Tom Burns and Virgy, and I
8 think the children were born on that farm.

9 Q. Now, uncle Tom Burns is your mother's--was
10 your mother's brother?

11 A. Yes, and Charlie's father. Charlie Burns'
12 father.

13 Q. And Charles Burns' father. And Virgy...

14 A. Is his wife.

15 Q. ...was Mrs. Tom Burns?

16 A. Yes.

17 Q. And do you know when or about when it was that
18 Mr. Tom Burns died? That's not too important if you don't
19 remember. Did he live there until the time of his death?

20 A. Yes, and I think it was '69.

21 Q. And thereafter, who has continued to live on
22 the farm?

23 A. Virgy and Charlie and now Charlie's family,
24 but prior to that his other brother, Tommy, had lived on it
25 growing up there and his older sister, Janice.

1 Q. Now, you talked about being up here in 1968
2 or '69 when you had a conversation with your mother as you
3 were getting ready to leave the farm in your automobile.
4 On that occasion did you see Charles Sutton Burns while you
5 were here? Or do you recall?

6 A. I don't know. One time he took me out to the
7 cemetery, but I don't know whether it was that time or not.
8 My father was buried here. And I had been here right in that
9 period I think three times fairly frequently. My husband
10 and I had stopped by, and I stopped by with my daughter,
11 Gail. I don't know whether I saw him that particular time.
12 I have seen him.

13 Q. How often would you say over the years you've
14 been on this farm?--Say since 1967. That's rather recent,
15 but since that time how many times have you been there?

16 A. Three or four times.

17 Q. How many of those times, to the best of your
18 recollection, have you seen Charles Sutton Burns?

19 A. Well, I remember one time I talked to him at
20 the milk barn, and I remember one time I talked to him when
21 he took me to the cemetery.

22 Q. Uh-huh.

23 A. And if I'd see him, I'd, you know, I'd talk to
24 him. I just really don't remember.

25 Q. All right, at any time did he ever mention to

1 you anything about owning this farm or having bought this
2 farm or having taken conveyance of this farm from your mother?

3 MR. SUTHERLAND: Objection as immaterial.

4 Q. Did he ever claim ownership of it at any of
5 those times?

6 MR. SUTHERLAND: Same objection. Well, further
7 objected to as leading.

8 A. He referred to his milk barn.

9 Q. To his milk barn?

10 A. Yes...and what he had done with his milk
11 barn, but...

12 Q. Well, that isn't exactly what I asked you.
13 Can you answer my question?

14 A. I don't remember any discussions with him
15 about the farm except he showed me the milk barn and told me
16 what he was doing and said, "we have so and so". And then
17 one time mother had bought something, and he said--showed me
18 something she'd bought--I think milk machines or something in
19 the milk barn. And I think he mentioned that--something
20 about a truck that she had gotten him.

21 Q. All right'm.

22 A. He had a new truck or a new tractor or some-
23 thing up there...

24 Q. I see.

25 A. And mentioned it very lightly.

1 Q. You may cross examine, sir.

2 CROSS EXAMINATION

3 BY BENJAMIN SUTHERLAND, ESQ.:

4 Q. Mrs. Sally, you've presented a series of
5 letters--some correspondence between you and your mother. Do
6 you customarily make carbon copies of personal correspondence?

7 A. If it pertains to business, I do.

8 Q. And, for instance, we're looking at the letter
9 dated June 8, 1972.

10 A. Yes.

11 Q. From you to your mother. A copy of which is
12 in evidence. This is a--appears to be a xerox or similiar
13 photo copy of...

14 A. Yes.

15 Q. ...the letter which you actually mailed.
16 Did you anticipate that there would be litigation involving
17 this property?

18 A. Well, after I found out the paper she wanted
19 me to sign which she said was just a little paper was a quit-
20 claim deed, and after she failed to give me a third in the
21 property in Black Point that she promised me and said she
22 would give me an accounting of the estate; I wanted to know
23 what I had said to her.

24 Q. Well now, these letter...

25 A. I have copies. Excuse me. I do have copies.

1 of other letters that my mother has sent me. I'm kind of
2 funny. I'm a writer. I do write, and I write magazine
3 articles, and I've written a book on antiques. And it's
4 quite customary for me to copy something off. I move around
5 a great deal, and, uh—from New York to Miami. I take—I've
6 learned to make copies of everything because so many letters
7 have been lost with baggage being stolen at airports. An
8 entire antique inventory I had—even the copies were taken
9 from that. I had just made all the copies and they were in
10 the suitcase that was stolen at the airport in Miami. So,
11 I copy many, many, many things, yes.

12 Q. Now, the letter dated July 19, 1972 from you
13 to your mother that's been introduced in evidence is that a—
14 it was typewritten. Do you customarily write your personal
15 correspondence by use of a typewriter? Or is that...

16 A. I type a great deal. I have a lot of things
17 typed, and a great deal I type, a great deal.

18 Q. But you made a copy of this letter for your
19 file when you wrote to your mother?

20 A. Well, it wasn't in a file; I just kept a copy
21 of it so I would know what I had said of course.

22 Q. Now, the letter to you—excuse me—from you to
23 your mother dated November 1, 1972—incidentally the copy in
24 evidence has a very dim...

25 A. Date?

1 Q. Date up there.

2 A. It didn't come out apparently on the copy
3 machine.

4 MR. WARREN: I call to counsel's attention there
5 is a date at the bottom of the letter.

6 Q. But the letter of which this is a copy shows
7 a date at the top.

8 A. Yes, sir, it does.

9 Q. Since nothing else is missing...

10 A. November--no, the same thing.

11 Q. That date is November 1, 1972?

12 A. Yeah.

13 Q. Now, the letter that has been presented in
14 evidence, which is a copy, if I understood you correctly,
15 Mrs. Sally, did you write this in longhand and mail a copy
16 to your mother or did you mail the original to your mother?

17 A. No, I wrote it out what I wanted to say to
18 her. Mr. Sally had just told me about the lawsuit, and I
19 was very upset, and I wanted to be--I didn't want to say
20 anything to my mother I would regret. I wrote it out think-
21 ing I would make some changes, but I didn't. You can see
22 what is scratched out there, and I copied it on a piece of
23 stationery--just wrote it out on scratch paper as I often do
24 articles and other things, and I copied it on a piece of
25 stationery and sent it to her.

1 Q. Uh-huh. Well, is the—did you make a photo—
2 did she receive a photo copy, or did she receive the original?

3 A. No, she received—as I say, I wrote out on
4 this piece of paper what I wanted to say, and then I trans-
5 ferred exactly this—copied it off to a piece of stationery.
6 This is written on the back of a letter sent to me, and I
7 wrote it late at night, sitting on the couch, on my elbow.

8 Q. Actually the thing that—the letter which was
9 mailed to your mother is not an exact copy of this, but the
10 letter introduced in evidence dated November 1, 1972.

11 A. Her letter is not a photostat, but it is an
12 exact copy. I copied it off on a piece of stationery.

13 Q. The filing of the suit in Virginia, you said
14 upset you?

15 A. Well, of course it would.

16 Q. Uh-huh. And you commented on that in your
17 next letter to your mother, did you not?

18 A. In my next letter?

19 Q. Yes'm, after the suit had been filed or
20 served—the suit—the papers that pertain to the Virginia
21 suit.

22 A. I had written her a letter and she—reiterating
23 what she had told me she would do in Florida. She did not
24 answer it. She immediately filed a lawsuit. And then I
25 wrote this letter to her that we have just discussed.

1 Q. Uh-huh. And you expressed some degree of
2 shock or something to that effect at the fact that...

3 A. Shock, hurt, disappointment because I felt
4 my mother had not done what she told me she was going to do
5 in any of these matters.

6 Q. Well, now, you filed a suit on December the
7 29th, 1972 against your mother in a Florida court involving
8 the same issues--involving the validity of the will?

9 A. I asked my mother for an accounting of the
10 estate because all these years she has been telling me that
11 she has kept a part of this for me. I assumed she had kept
12 a part of the farm for me because I told her to. And when
13 I found out what happened, I wanted an accounting for the
14 estate. Through the years when I had asked her for money or
15 certain things, she would say to me constantly, "Well, the
16 estate hasn't been settled yet. The estate hasn't been
17 settled yet." And I thought it was just about time the
18 estate was being settled.

19 Q. Well, now, your mother conveyed property in
20 Florida to you, did she not?

21 A. Yes, she did.

22 Q. And...

23 A. And helped my--she conveyed a house to me,
24 and at the same time helped my sister buy her house down in
25 South Dade.

1 Q. Well, now, under your contention, your mother
2 really had no title to that Florida property she conveyed to
3 you, did she?

4 MR. WARREN: I'm going to object to that. We're
5 not concerned with title to Florida property. We're concerned
6 with title to Virginia property. Florida property is not
7 embraced within the framework of the pleadings in this case,
8 and it's irrelevant and immaterial.

9 Q. Now, will you--would you now answer my ques-
10 tion, ma'am?

11 A. I have never seen the deed actually to it.
12 Is that what you're asking me?

13 Q. The deed from your mother to you of the
14 Florida real estate?

15 A. The Grove Park house you're referring to.

16 Q. Well...

17 A. Yes. Yes. Yes. Yes, I had that deed in my
18 hand. I have seen that deed.

19 Q. And that was conveyed to you by your mother?

20 A. Yes.

21 Q. And Mrs. Oswald hasn't conveyed to you any
22 interest in that property, has she?

23 A. No, not to my knowledge.

24 Q. Well, now, if you are correct in your
25 contention, Mrs. Oswald then would own a half interest in

1 this real estate in Florida, would she not?

2 A. Would she?

3 MR. WARREN: I'm going to object to that. You're
4 asking the witness questions of law about Florida property.

5 A. I wouldn't know.

6 MR. WARREN: Witness is neither qualified to
7 answer the questions, nor is the question proper.

8 MR. SUTHERLAND: Well, you contend that under the
9 will of your father the property belongs jointly to you and
10 to your sister, do you not? Or do you?

11 A. I know that farm did. I know the other
12 properties were supposed to--some of them. I don't--I'd
13 have to have a list and look at them. I believe all the
14 properties were supposed to be held by my mother. She agreed
15 to that--that she would not sell anything and they would be
16 held for my sister and me. Now, I haven't looked at that
17 will probably in several years...

18 Q. Well, did then...

19 A. So, I'd--that is my understanding from what
20 my father told me, and told me on many occasions, and also
21 on the--as I remember the will.

22 Q. Well, then, as to the Virginia property, is
23 it your contention that you own a half interest in that under
24 the will, or the entire property?

25 A. Well, since we're discussing Virginia property

1 I certainly own it under the will, and I don't know how the--
2 that will was in his name alone, and he discussed my owning
3 it and my sister owning that farm with me on several
4 occasions. And there's certainly no question about that,
5 and I do not believe there is about the other property
6 according to the way I remember the will reading; that they
7 agreed whichever one survived the other would hold the
8 property, and it was to be divided equally; that my sister
9 and I were to share and share alike.

10 MR. WARREN: I'm going to interpose another
11 objection here. Counsel is asking this witness questions of
12 law and is arguing with the witness, and I don't think that
13 is proper to do that, and I would say to the--to you and to
14 the Court that I am answering for the lady. We have asserted
15 her ownership in this Russell County farm in the pleadings,
16 and we'll stand on those.

17 MR. SUTHERLAND: And I reiterate to the Court the
18 statement I made to him when we discussed this matter in
19 Lebanon recently, Senator Warren and I; that I request the--
20 (outside interruption) We consider that we're entitled
21 to be informed as to the contention of the defendants in the
22 Virginia suit as to whether they contend that Mrs. Sutton
23 owns a life estate in the property or whether she acquired
24 under the will no interest.

25 MR. WARREN: All right, sir, I will answer that

1 question for you. It's answered in the pleadings first of
2 all. If counsel's not satisfied with the pleadings, I think
3 that's a matter to be taken up with the Court and not with
4 the witness on the stand who happens to be one of the
5 defendants and who doesn't purport to be a lawyer. Our
6 pleadings speak for themselves.

7 MR. SUTHERLAND: They're ambiguous.

8 MR. WARREN: And we—well, they may be, but if
9 they are, we'll stand on them. We ask that the deed be set
10 aside for the reason stated in our pleadings, in our cross
11 bill.

12 MR. SUTHERLAND: Have you made any demand on Mrs.
13 Oswald for a deed for the Florida property—the Grove Park
14 property?

15 MR. WARREN: We object to that as being
16 immaterial and irrelevant.

17 Q. Have you made any demand on Mrs. Oswald for
18 conveyance?

19 A. No, sir.

20 Q. Mrs. Sally, I understood you to testify on
21 direct examination that you had conversations with your
22 mother about the Russell County property, and that in 1968
23 or 1969 during one of those conversations with your mother,
24 you said that your mother told you that she was going to give
25 the farm—the Virginia tract—to Charlie.

1 MR. WARREN: I'm going to have to object to that,
2 sir. I believe you're misquoting her. That was a conversa-
3 tion earlier about giving the tract.

4 MR. SUTHERLAND: Well, the record will show
5 whether or not I am misquoting Mrs. Sally, and if I am...

6 MR. WARREN: I don't say you're (unintelligible)...

7 MR. SUTHERLAND: ...I apologize. But, now, did
8 you make such a statement? That is, I'm asking if that
9 conversation occurred in 1968 or 1969?

10 A. It is my recollection that conversation was
11 before that date.

12 Q. Now, you've stated also that your mother...

13 A. Excuse me. Did you say the word "give"?

14 Q. Yes'm.

15 A. Yes. No, that conversation was prior to that
16 date. Give--yes.

17 Q. All right. Now, did you testify on direct
18 examination that your mother told you during one of your
19 conversations with her that your mother was having milking
20 machines put in this farm in Virginia?

21 A. I think that was in Miami when we were having
22 dinner one night. She has talked about that so much, but
23 she was discussing it. It was during the time, I think, of
24 the building of her house, and she was talking about the
25 gravel, and she has mentioned that she was putting in or

1 she had bought a milking machine or milking machines. I
2 cannot tell you exactly when that was. I think it--I think
3 it was more than once she's talked about it. She talks about
4 that farm a great deal.

5 Q. Very well. Now, on another--at another point
6 in your direct examination did you say that on one of the
7 occasions since 1967 when you have visited the Virginia
8 property, your mother or perhaps Charles Burns told you that
9 your mother had purchased a truck for him? What was the
10 statement you made--your testimony as to the truck?

11 A. You see, this was in the general conversation.
12 I may have remarked about the pretty truck, and he may have
13 said, "Well, Aunt Sarah Belle got it." There was so much
14 conversation between the nephews about the truck or the
15 tractor that grandmother got. I would hear it up there when
16 I was there. I would hear it down here what grandmother had
17 done, and mother has said many times, "Well, I got Charlie
18 so and so."

19 Q. What was the statement...

20 A. To use, you know, in the working of the farm.
21 She has stated on several occasions that she was supplying
22 things that had to be--you had to have on a farm to work it.

23 Q. ...that she had purchased a truck for the
24 farm since 1967?

25 A. I don't know the date, but I think that...I

1 just don't know the date, but she or he or someone had said--
2 truck, tractor. I heard milking machines. I've heard
3 fencing.

4 Q. Well, did they--was the statement made about
5 the truck on any--during any of your visits since 1967?

6 A. I'm trying to remember when I was there with
7 our son. (pause) Whether it was after '67 or before I just
8 don't know because I was there three or four times. I just
9 don't--I don't remember whether it was three or four. I
10 think I can pretty well go back and pinpoint visits. The
11 last time I remember because of the car I was driving. That
12 was in '68 or '69.

13 Q. Well, did the conversation about the truck
14 occur during any of these visits since 1967?

15 A. I just don't know.

16 Q. All right. Were you--are you aware that your
17 mother has established--now let me rephrase that. Do you
18 know whether or not your mother has established separate
19 bank accounts in your name and Mrs. Oswald's name and in the
20 names of certain of her nephews?

21 A. Yes.

22 Q. Did...

23 A. There was an account prior to my father's
24 death.

25 Q. Yes. Well, now...

1 A. That I know was in my name, and that's the
2 only one I know of in my name. That was prior to my father's
3 death, and I think he established it. I saw the book on it.

4 Q. Well, you have testified previously in
5 litigation between you and your mother in Florida, have you
6 not?

7 A. (directed to Mr. Sally) I haven't, have I?
8 I don't--no, I don't think so.

9 Q. I show you a copy...

10 A. The day we took the depositions in Paul Louis'
11 office did I testify? I don't remember.

12 Q. I show you...

13 A. I just don't remember. I know she did, and I
14 was there with my attorney but I just don't remember.

15 Q. I show you a--what purports to be a copy of
16 the deposition of Virginia Sutton Sally given...

17 A. Well, then I must have.

18 Q. ...December 20, 1973 in certain litigation
19 between you as plaintiff and your mother as defendant pending
20 in the Circuit Court of Eleventh Judicial Circuit for Dade
21 County, Florida.

22 A. Uh-huh. Well, I truly didn't remember whether
23 I had or not. I remember the day. And to answer your
24 question I remember seeing that one book, that one account,
25 and I know that she had one with my sister's...

1 Q. But you had, uh...

2 A. This was before my father died. She had—I
3 saw the book that she had with my name on it; one with my
4 little Durby Sutton's name on it; and my sister's. And she
5 has told me she had opened savings accounts for them, but I
6 have not seen the books except that one.

7 Q. Mrs. Sally, having looked at that document
8 which purports to be a copy of your deposition, would that
9 refresh your memory? Would you now consider that you did
10 testify on one occasion prior to today?

11 A. To what?

12 Q. In litigation in Florida between you and your
13 mother?

14 A. Oh, that I just testified? Yes. Yes.

15 MR. WARREN: Well, I'm going to object to any
16 questions about litigation in Florida or testimony in Florida
17 on matters concerning an estate in Florida, and not the
18 issues involved in this case here in Virginia concerning
19 Virginia property. Furthermore, I think it's all irrelevant
20 and immaterial, as is questions about whether or not bank
21 accounts were established.

22 Q. Now, I'll ask you to refer to page 35 and page
23 36 of the deposition beginning with the last question on page
24 35 and the answer which begins on page 35 and concludes on
25 page 36. And then read two questions and the two answers

1 that follow immediately on page 36.

2 (Witness examines the questions in the deposition
3 referred to by counsel.)

4 A. I can't remember the books I've seen, but I
5 never saw those. All I know is what to be said.

6 Q. Mrs. Sally...

7 A. Yes.

8 Q. Were you asked the questions that I pointed
9 out to you, and did you give the answers shown on those pages?

10 A. What is your question? I didn't understand
11 you. I'm sorry.

12 Q. Were you—I've referred to certain questions
13 and answers in this purported deposition which I've handed
14 to you.

15 A. Yes.

16 Q. My question is; were you asked the questions
17 that I've pointed out, and did you make the answers that are
18 shown in that deposition to those questions?

19 A. Let me look at those again.

20 Q. Yes.

21 A. Starting of page 35?

22 Q. Yes'm, uh-huh.

23 A. (aside conversation to her attorney) Yes, I was
24 asked that question. Yes, uh-huh. And I answered that
25 question on page 35. (witness studies the deposition)

1 MR. WARREN: We object to all questions on the
2 deposition for reasons heretofore stated.

3 Q. Now, I'm going to ask you—now, are you—you
4 have already acquired knowledge that your mother has
5 established separate bank accounts for each of her daughters
6 and for certain of her nephews. Are you aware of that?

7 A. Well, when you say "acquired knowledge", I
8 don't understand that. My mother...

9 MR. WARREN: Is counsel making a statement or
10 asking a question?

11 Q. I am asking a question. Did—do you know that
12 your mother...

13 A. No.

14 Q. ...whether or not your mother has established
15 separate bank accounts?

16 A. No, I only know that she's said she has. I
17 don't know that she has.

18 (Off the record conversation.)

19 Q. I'm going to read this question beginning on
20 the—the last question beginning on page 35 and the answer to
21 it and two—the two succeeding questions on page 36 with the
22 answers. "What other specific gifts do you recall? Well,
23 she bought another car. I believe there were three cars
24 involved for one nephew. Maybe just two, but I believe three;
25 or two cars and a motorcycle. Then the younger nephew said

1 that grandmother was helping him buy a car, and she had
2 promised it to him. And she told me that she had promised
3 to buy him a car at graduation and she was going to do that.
4 He said that they went to three different banks to get the
5 money out to buy the car so whether it came out of an account
6 that she told me she had started for the children or not—
7 she had an account for each of her nephews and she had one
8 for me and one for my sister and whether some came out of his
9 or she paid it all, I don't know. Did you object to any of
10 these things at the time she did them?" Answer: "No, I
11 didn't." Question: "Do you object to them now?" Answer:
12 "I certainly don't. In fact I remember one conversation
13 reminding my mother that she had promised the younger nephew.
14 At one time she thought she wouldn't do that, and I reminded
15 her she had promised. And she said, 'Yes, I did.' And it
16 was after that that she bought the car or he—they bought it
17 however, it was." Now, then, you stated that, at the time
18 of this deposition, Mrs. Sally, that as a fact that your
19 mother had established bank accounts for perhaps they were
20 your nephews rather than her nephews—would be her grand-
21 children.

22 A. Uh, right.

23 Q. But you also—but you also stated that—as a
24 fact that bank accounts had been established by your mother
25 both in your name and in your sister's name.

1 A. No. No, the bank account that was established
2 that I knew of for me and for my sister and for the first
3 born child was established at the time my father was living.
4 Now, the accounts that she—and that I saw the bank books.
5 I saw those bank books. The others, I only know what she has
6 said and what the children have said that grandmother was
7 putting money in their accounts. And when I gave them money
8 at Christmas time in silver dollars, and later asked them
9 where it was, they said grandmother had taken them to the
10 bank...

11 Q. Yes'm.

12 A. ...and converted to dollars for their bank
13 accounts. So all I know is what they've said about that,
14 but my bank account that—at the time my father was living,
15 I saw the book to that.

16 Q. But you testified, according to that deposition
17 in Florida, that you had made no objection to the establish-
18 ment of accounts in the names of these nephews.

19 A. No.

20 MR. WARREN: I'm going to have to object to that.
21 I don't believe that's what the witness said at all. I don't
22 believe that was the drift of the testimony.

23 A. That wasn't the question.

24 Q. Very well.

25 MR. WARREN: Let me state in the record that...

1 MR. SUTHERLAND: I submit to the Court that it
2 means--has the meaning we ascribe to it, and let's leave it
3 to the Court.

4 MR. WARREN: Well, the word "establish" doesn't
5 appear in anything you read, and if the deposition be taken
6 as a whole rather than out of context, she's talking about
7 Corvettes and other things that were bought for various
8 nieces and nephews and where the money came from.

9 MR. SUTHERLAND: From bank accounts--from certain
10 bank accounts.

11 MR. WARREN: Well, there's nothing in there about
12 any bank accounts having been established by the complainant
13 in this case for this defendant.

14 MR. SUTHERLAND: (Reading from the deposition)
15 "She had an account for each of her nephews and she had one
16 for me and one for my sister."

17 MR. WARREN: Right, and that's the one the witness
18 says her father established.

19 MR. SUTHERLAND: I submit to the Court that the
20 purpose of this interrogation is to show--is to establish
21 that Mrs. Sally had knowledge that her mother had established
22 accounts in the names of Mrs. Sally's nephews and that Mrs.
23 Sally had made no objection to such accounts having been
24 established.

25 MR. WARREN: What burden is there on Mrs. Sally

1 to make objection to what accounts her mother makes. There's
2 no duty upon her.

3 MR. SUTHERLAND: If it's her--if it's Mrs. Sally's
4 property that she claims, it makes a whale of a difference.

5 MR. WARREN: What property are you talking about,
6 Mr. Sutherland? We're not claiming property in Florida in
7 this lawsuit. We're talking about a farm out here in
8 Russell County right next to Lebanon.

9 MR. SUTHERLAND: And I'm saying that if the
10 estate--if the Russell County property belongs to Mrs. Sally
11 under this will, the entire estate does. And the fact that
12 she's permitted portions of it to be transferred without
13 objection on other occasions is an acknowledgment by her
14 that she has no just claim.

15 MR. WARREN: I don't agree with that number one
16 for reasons I've heretofore stated, but in the second place
17 you lift something out of context here about money spent
18 on nieces and nephews--I don't know and the Court can't know
19 and no one else can know from what you read where the money
20 came from that bought the Corvettes and the cars and the
21 motorcycles. I don't know whether it came from an oil well
22 or from the sale of property or from diamonds...

23 MR. SUTHERLAND: It came from a bank account.

24 MR. WARREN: ...or what it came from and neither
25 can the Court. It's all irrelevant and immaterial.

1 MR. SUTHERLAND: We submit the whole thing to the
2 Court.

3 Q. Now, who was appointed executrix or executor
4 under your father's will?

5 A. I do not know.

6 Q. Very well. Have you made any inquiry to--
7 have you made any effort to ascertain who was appointed?

8 A. No.

9 Q. Very well. Do you know what disposition your
10 mother made of the proceeds of the sale of the Black Point
11 property?

12 A. No.

13 Q. Do you know whether or not she has put aside
14 any portion of it for you?

15 A. No.

16 Q. Do you know whether or not she's put aside
17 any portion of it for Mrs. Oswald?

18 A. No.

19 MR. WARREN: I object to all this line of
20 testimony.

21 Q. Did you--has it been your understanding that
22 your mother was to split that property--the proceeds into
23 three shares, she taking one third and your sister and you
24 each one third?

25 MR. WARREN: Wait just a minute. I object to that

1 as irrelevant and immaterial. Now, go ahead and answer.

2 A. My mother called me up, and then I met with
3 her and she told me that she wanted to sell the Black Point
4 property. And I said, "That was a property, as was the Hope
5 Sound property, that my father had said for my sister and me
6 not to sell until I was at least fifty years old." And she
7 said, "Well, I want to sell it. And if you will agree, I
8 will split the property--the proceeds from it three ways. I
9 will keep a third if that's all right with you all." And
10 she said my sister had no objection. I said, "If you need
11 the money and you want to split it three ways, I will agree
12 to the sale of it."

13 Q. Now, was that the property that Mr.--in which
14 Mr. Sally took some part in the sale?

15 A. Yes.

16 Q. Did--were you aware at that time of the
17 provisions of the will?

18 A. I had read the will.

19 Q. Uh-huh. Did you have an understanding that
20 there were some serious legal problems involved in the title
21 to that property because of the provisions of the will?

22 MR. WARREN: I'm going to object to that.

23 A. No, huh-uh.

24 MR. WARREN: I don't think that's a fair or proper
25 question to ask a lay witness about legal questions.

1 Q. Well...Were you aware that there were some
2 serious legal problems involved in the sale of the Black
3 Point property?

4 A. All I know is my mother asked me if I would
5 agree to the sale provided she gave me a third.

6 Q. Uh-huh.

7 A. And she would keep a third and give my sister
8 a third, and I agreed to that. That's all I know.

9 Q. Now, I'm going to refer again to your
10 deposition we've already talked about, and this is on page
11 45. I'm going to read this question. During a discussion or
12 interrogation or questioning concerning the sale of the Black
13 Point property, the transcript contains this question directed
14 to you. "You were aware that there were some rather serious
15 legal problems involving that property, were you not?"

16 Answer: "Uh-huh, she said there were. I don't know what
17 they were, and I never investigated them personally."

18 Question: "You were aware that there was a possible lawsuit
19 or litigation involving the Bay Bottom and that sort of thing?"

20 Answer: "Yes." Were you asked...

21 A. Well, then, I misunderstood your question. I
22 thought you said because of the will. There's always been
23 litigation about Bay Bottom land in Florida. I mean problems
24 about the actual land.

25 Q. So, the—are you saying now that the questions

1 that were asked you on the occasion of that deposition in
2 Florida were not questions that resulted in any way from the
3 test of this will but were--involved ripuarian--questions of
4 ripuarian rights and literal questions?

5 A. This had nothing to do with the will.

6 MR. WARREN: I've got to object. Wait just a
7 minute, Mrs. Sally. There's no--no foundation has been laid
8 for this line of questioning. It has no materiality whatever
9 to this record. It doesn't concern in any way the title to
10 the property under Virginia law in Russell County. It's
11 simply an enlarging of this record endlessly over things
12 that are absolutely immaterial, and this lady is no expert
13 and is not a lawyer and does not know what legal problems
14 result from what. If that were true, she wouldn't need a
15 lawyer in this case, and wouldn't have needed one in Florida
16 where she was represented by counsel.

17 MR. SUTHERLAND: For the Court's benefit, the
18 question that Mrs. Sally was asked by me here this afternoon
19 on cross examination whether she was aware that there were
20 some serious legal problems involving the sale of the Black
21 Point property. And she said that--her answer was that she
22 was not aware of any such problems.

23 MR. WARREN: I'm going to object to this argument
24 and dissertation by counsel into the record. The record
25 speaks for itself as far as that goes.

1 MR. SUTHERLAND: I am entitled to state to the
2 Court the reason for the presentation of this testimony, and
3 I presented this deposition and asked Mrs. Sally if she had
4 been asked the questions which I read and had she given the
5 answers which I read, for the purpose of impeaching her
6 testimony given here today that she was not aware that there
7 were serious legal problems involved in the sale of the
8 Black Point property.

9 A. I thought you said something...

10 MR. WARREN: Well, I don't say it disrespectfully,
11 Mr. Sutherland, but I think trying to impeach a witness on
12 a absolutely immaterial and irrelevant matter is like setting
13 up a straw man and knocking him down. And it's like saying
14 two times nothing is still nothing.

15 MR. SUTHERLAND: Well, Senator, there may be some
16 basis for disagreement on these matters, and...

17 MR. WARREN: I'm aware of that. I'm aware of
18 that.

19 MR. SUTHERLAND: And to be submitted to the Court.
20 Mrs. Sally, on the occasion when you testified or gave your
21 deposition in Florida, were you under oath?

22 A. Yes, sir.

23 Q. Uh-huh. And according to the caption of this
24 deposition, the deposition was taken before a Notary, Silvia
25 A. Iswald, pursuant to notice of taking deposition filed in

1 the above case. Present; Paul Louis, Esq., counsel for
2 plaintiff, Virginia Sutton Sally; George L. Knight, counsel
3 for Mrs. Sutton also present; Mr. George Sally, Mrs. Martha
4 Louise Oswald, and Mrs. Sarah Belle Sutton. That's all.

5 MR. WARREN: Mr. Sally, will you be sworn, please?

6 MR. GEORGE SALLY, the second witness for the
7 defendant, having been duly sworn, deposed as follows:

8 DIRECT EXAMINATION

9 BY MR. GEORGE WARREN, ESQ.:

10 Q. Without waiving the objections that we have
11 made to the last questions that were asked of the last series
12 of questions that were asked of Mrs. Sally pertaining to the
13 title or the condition of the title of what has been referred
14 to as the Black Point property in Florida, I want to call
15 Mr. George Sally who is also a party to this proceeding.
16 You are George Sally?

17 A. I am.

18 Q. What is your profession, sir?

19 A. I am a lawyer.

20 Q. And where do you practice your profession?

21 A. In Miami, Dade County, Florida.

22 Q. Are you the husband of Virginia Sutton Sally,
23 one of the parties to this case?

24 A. I am.

25 Q. Were you present, sir, at the taking of the

1 discovery—I take it—deposition or certainly the deposition
2 of your wife on December 20th, 1973 at the Alfred Dupont
3 Building, Miami, Florida, in the case of Virginia Sutton
4 Sally, plaintiff against Sarah Belle Sutton, pending in the
5 Circuit Court of the Eleventh Judicial Circuit in and for
6 Dade County, Florida?

7 A. I was.

8 Q. Were you appearing there as her attorney?

9 A. No.

10 Q. Did you hear the questions that asked of her
11 and answered by her that have been referred to here in the
12 later portion of her cross examination a few moments ago
13 pertaining to the title to what is known as the Black Point
14 property in Florida?

15 A. I did.

16 Q. Can—do you know what the deposition concerned
17 and what the matter pertaining to the title and the status
18 and difficulty of the title, if any, to that property was
19 at that time?

20 A. Yes, my acquaintanceship with the property
21 was occasioned when Mrs. Sutton came to me with the property
22 then in litigation, represented by two other law firms in
23 Florida under a quiet title suit involving the trustees of
24 the State of Florida and one of the taxing districts of the
25 State of Florida who were claiming title to the property and

1 the County who was claiming that the Upland property that had
2 existed and had been sold and was being claimed by the estate
3 of D. B. Sutton was, in fact, owned by the State of Florida.
4 Litigation had been going on for five or six years at that
5 time—several years anyway—and an appeal had been taken to
6 the Supreme Court. That appeal was lost, and there was
7 probably a diminution of a claim title of about a hundred
8 and twenty odd acres down to about twenty three acres of
9 Upland at the time the property was sold. It had been a
10 piece of property that had been prominently title. It lay
11 on both sides of the canal and title to the north of it had
12 been acquired by a couple of people, former employees of the
13 County, and then almost immediately condemned by the County
14 for a park at a substantial profit. And oddly enough the
15 counsel for Mrs. Sally who was present at this deposition
16 had been counsel for the parties in the property to the north
17 so that they were discussing in that deposition the question
18 of the—whether or not Mrs. Sutton could sell a hundred and
19 twenty acres or twenty acres of land. It wound up with a
20 rather peculiar disposition in which we gave a warranty deed
21 to the twenty three acres as I believe and a quit-claim deed
22 to whatever claim she might have under the right to fill in
23 up to the bulkhead line of the property. And everybody in
24 the room knew what the title problems were to the Black Point
25 property. Those were the title problems. As I understood

1 Mr. Sutherland here just now to ask Mrs. Sally if she was
2 aware of title problems arising out of the will. If that
3 was not his precise question, it was certainly the context
4 of his question following along as it did a question about
5 the will. And there were no title problems raised by the
6 purchaser about the will—or under the will. The only title
7 problems we had were the title problems occasionally with
8 prior litigation which had only been settled very shortly
9 before the sale, and I did handle the sale.

10 Q. All right, sir, that's all. You can ask him.

11 MR. SUTHERLAND: And I have no questions except I
12 do desire to say that my question was directed and meant to
13 ask Mrs. Sally if the title problems referred to in the
14 deposition resulted from the will.

15 A. That was the intent of your question as I
16 understood it.

17 MR. SUTHERLAND: Indeed, it was.

18 A. Yes, and there were—I don't know what I
19 would have done had I been examining attorney for the
20 purchaser, but the examining attorney did not raise any
21 question.

22 MR. SUTHERLAND: All right, sir.

23 MR. WARREN: Well, did the question to which Mr.
24 Sutherland alluded and the answers in this deposition
25 pertain to any problems concerning the title arising out of

1 the will of D. B. Sutton?

2 A. No, they did not.

3 MR. WARREN: All right, sir, that is all.

4 THE PROCEEDING CONSTITUTES ALL THE PROCEEDINGS,
5 TESTIMONY, AND EXHIBITS HAD AT THIS DEPOSITION.

6 CLARENCE C. BURNS, JR.

7 SARAH BELLE SUTTON

8 VIRGINIA SUTTON SALLY

9 GEORGE SALLY

10 BY: Pam Hyatt
11 Pam Hyatt, Court Reporter

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Clarence C. Burns, Spl. Com'r., &c.,

To (DEED

D. B. Sutton.

Exhibit A

Filed
2-5-37
132 E. Flagler St
Miami,
Fla

This deed, made this the 11th day of January, 1937, by and between Clarence C. Burns, Special Commissioner of the Circuit Court of Russell County, Virginia, party of the first part, and D. B. Sutton, of Miami, Florida, party of the second part,

W I T N E S S E T H :

That whereas, by a decree of said Court, rendered on the 31st day of August, 1936, in the Chancery cause of The Federal Land Bank of Baltimore, Complainant, vs. D. R. Cowan et al, defendants, it was, inter alia, adjudged, ordered and decreed that the real estate hereinafter described be sold by Clarence C. Burns who was appointed a Special Commissioner for the purpose; and,

WHEREAS, said real estate was thereafter sold by him on the 2nd day of November, 1936, on the terms and conditions set forth in the decree aforesaid, at which sale D. B. Sutton, the said party of the second part became the purchaser thereof at the price of Forty six hundred and eighty (\$4680.00) Dollars, of which amount Fifteen hundred and sixty (\$1560.00) Dollars, was that day paid, and the balance thereof with interest at the rate of 6% having this day been paid in full by the said D. B. Sutton, party of the second part, to Clarence C. Burns, Special Commissioner, party of the first part, the receipt whereof is hereby acknowledged; and,

WHEREAS, said court, by decree entered in said cause December 1st, 1936, did approve and confirm said sale, and did order and decree that said Clarence C. Burns, Special Commissioner, should convey the land in the bill and proceedings mentioned to the said D. B. Sutton, with covenants of Special warranty of title.

NOW, THEREFORE, in consideration of the foregoing premises, the consideration paid, as aforesaid, and in execution of the decree last aforesaid, the said Clarence C. Burns, Special Commissioner, does hereby grant, alien and convey unto the said D. B. Sutton, with covenants of Special Warranty of title, to-wit:

A certain tract or parcel of land in Lebanon Magisterial District, Russell County, in the State of Virginia, containing one hundred and forty (140) acres, more or less, and embraced within the following courses and distances:

BEGINNING at a doublewhite oak on a ridge, being in the gap of said ridge, in a line of S. A. Fletcher, then with his line, S. 46 W. 60 $\frac{3}{4}$ poles to a chestnut in a line of H. F. Gray, then with said Gray's line S. 42 E. 47 poles to a large white oak; N. 85 E. 118 poles to a stake; a corner to H. F. Gray and C. H. Cowan, thence N. $75\frac{1}{2}$ E. 37 poles to a planted stone 8 ft. S. of a white oak; S. $87\frac{1}{2}$ E. $15\frac{3}{4}$ poles to a set stone; N. $78\frac{1}{2}$ E. 14 poles to a planted stone by a fence; N. 64 E. 23 poles to a large chestnut on a ridge; N. 81 E. $7\frac{1}{2}$ poles to a double dogwood; N. $11\frac{1}{2}$ W. $36\frac{1}{2}$ poles to a stone on a north hill side; N. $28\frac{1}{2}$ W. $36\frac{1}{2}$ poles crossing the road to a fence post; N. 36 E. 11 poles to a red oak on a hill side; N. 29 E. $14\frac{1}{2}$ poles to a poplar on Smoots Branch; N. 53 W. 33 poles to an oak stump by a road; N. 42 W. 8 poles to an ash by the branch and below a house then up the branch N. 62 W. 28 poles to a stake in the branch; W. 24 poles to a stake in the branch; N. 72 W. 34 poles to a stake in the branch; S. $21\frac{1}{2}$ W. 150 poles to a haul road; S. $14\frac{1}{2}$ W. 15 poles to a stake in the road; S. $34\frac{1}{2}$ W. $5\frac{1}{2}$ poles to the beginning.

hereby
THIRTY-NINE and one-fourth ($39\frac{1}{4}$ acres of land/ conveyed were conveyed to said David R. Cowan by deed from Charles H. Cowan, a widower, dated October 11, 1915, and recorded in the Clerk's office of said county in deed book 52, page 491. The residue of the land

hereby conveyed, to-wit: 100 $\frac{3}{4}$ acres, comprises all of the tract of 204 acres that was conveyed to said David R. Cowan by deed from G. H. Cowan and wife, dated May 16, 1913, and recorded in said office in deed book 50, page 114, less 103 $\frac{1}{2}$ acres conveyed off by said David R. Cowan to S. A. Fletcher by deed recorded in said office in deed book 50, page 247.

To have and to hold unto the said party of the second part, his heirs and assigns forever.

Witness the following signatures and seal

Clarence C. Burns (Seal)
Special Commissioner.

Virginia,

County of Russell, to-wit:

This day personally appeared before me, Grady Jessee, D. Clerk of the Circuit Court of Russell County, Virginia, Clarence C. Burns, Special Commissioner, whose name is signed to the foregoing writing bearing date on the 11th day of January, 1937, and acknowledged the same before me in my Clerk's office aforesaid.

Given under my hand, this the 11th day of January, 1937.

Grady Jessee
Deputy Clerk of the Circuit Court of Russell
County, Virginia.

Virginia: County of Russell, to-wit:

Exhibit C

BOOK 206 PAGE 390



THIS DEED, made this the 2nd day of October, 1967, by
and between SARAH B. SUTTON, widow, party of the first part, and
CHARLES SUTTON BURNS, party of the second part,

WITNESSETH:

That for and in consideration of the sum of FIFTEEN
THOUSAND (\$15,000.00) DOLLARS, cash in hand paid, the receipt of
which is here acknowledged, the said party of the first part has
bargained and sold and by these presents does hereby grant and
convey unto the party of the second part, Charles Sutton Burns,
with covenants of General Warranty of title, all of that certain
tract or parcel of land containing 141 acres, more or less, situate,
lying and being in the Lebanon Magisterial District of Russell
County, Virginia, on Copper Ridge, and being more particularly
described as follows, to-wit:

Tract No. 1- (6 acres)

BEGINNING at the corner of the H. F. Gray lands and what is known as the D. R. Cowan lands, and also corner of what was the Mattie Burns tract of land, then

S 20 E 31 poles to a planted stone, then

N 76½ E 31 poles to a black oak on a flat, then

N 20 W 31 poles to a planted stone in the D. R. Cowan tract, then

S 76½ W 31 poles to the BEGINNING, and containing 6 acres, more or less,

and being identically the same lands conveyed to Sarah Belle Sutton by deed dated April 11, 1944, from Will G. Jessee and Nannie Jessee, his wife, which said deed is of record in the Office of the Clerk of Russell County, Virginia, in Deed Book No. 107, at page 207, to which said deed reference is hereby made.

Tract No. 2-(140 acres)

All of that certain tract or parcel of land containing 140 acres, more or less, which was conveyed to D. B. Sutton by deed dated January 11, 1937, from C. C. Burns, Special Commissioner of the Circuit Court of Russell County, Virginia, which said deed is of record in the said Clerk's Office in Deed Book No. 92, at page 277, to which said deed reference is hereby made for a more particular description of said land.

The said D. B. Sutton, the husband of Sarah B. Sutton, having heretofore departed this life testate, as will be shown by his last will and testament which was filed for probate in the Office of the Clerk of Russell County, Virginia, on February 11, 1955, and recorded in Will Book No. 18, at page 455, and which said Will of D. B. Sutton devised said Tract No. 2, hereinabove described to Sarah B. Sutton his widow, in fee simple.

By deed dated October 26, 1962, the said Sarah B. Sutton, widow, conveyed a certain parcel of land, where Thomas B. Burns now lives, to Thomas B. Burns and Vergie Lyons Burns, his wife, and Charles Sutton Burns, and the survivor thereof, for the period of their respective lives, with remainder to the said Sarah B. Sutton, and her heirs, and which said deed is of record in the said Clerk's Office in Deed Book No. 183, at page 516, to which said deed reference is hereby made for a more particular description. Said tract of land was originally a part of the said Tract No. 2 hereinabove described. It is the intention of the said party of the first part, Sarah B. Sutton, widow, to convey her interest in remainder in said parcel of land to the said party of the second part, Charles Sutton Burns, by this deed, and she does hereby grant and convey unto the said Charles Sutton Burns, party of the second part, all of her right, title and interest in said remainder, subject only to the life estates conveyed to Thomas B. Burns and Vergie Lyons Burns, his wife, and the survivor thereof.

The party of the first part, Sarah B. Sutton, does hereby except and reserve from the operation of this conveyance, a certain parcel of land containing 5 acres, more or less, and which said parcel of land was originally a part of Tract No. 2 herein described, and which said 5 acre parcel of land is more particularly described on that certain plat showing the property of Mrs. Sarah B. Sutton, located on Copper Ridge, Lebanon Magisterial District, Russell County, Virginia, as surveyed by B. G. Owens, September 30, 1967, which said plat is attached hereto and by reference made a part of this deed. And which said parcel of land is described as follows, to-wit:

BEGINNING at a stake in the fence in the line of the W. N. Gray land on the south side of a 30 foot right of way, thence in a northerly direction a distance of 30 feet to a stake; thence

N 5 W 43.6 feet to a stake; thence

N 70-57 W 357.4 feet to a stake; thence

S 85 W 699.1 feet to a stake; thence

S 5 E 223.7 feet to a stake in the fence, in the line of W. N. Gray; thence with his line

N 60 E 1,026 feet (this call was N 85 E in the old deeds) to the point of beginning, and containing 5 acres, more or less,

The party of the first part does further except and reserve from the operation of this conveyance an easement and right of way from the 5 acre tract hereinabove described to Secondary Highway No. 742 of the Virginia Highway System, known as the the center line of Copper Ridge Road, and/which said easement and right of way is more particularly described, as shown on said plat, as follows, to-wit:

BEGINNING at a point which is 15 feet north of the point of beginning of said 5 acre parcel of land, and thus 15 feet north of the line of W. N. Gray; thence

N 60 E 430.3 feet to a point in the center of a cattle guard; thence following the same course 124.8 feet to a point which is 15 feet north of corner of W. N. Gray's land, thence following the same course 81 feet to a point; thence

N 40 E 57.5 feet to a point; thence

N 23-10 W 229 feet to a point in the center of Secondary Highway No. 742.

Said easement and right of way extends 15 feet on each side of the above described center line, and thus is 30 feet in width. It is agreed and understood that the party of the second part, his heirs and assigns shall have the unrestricted right to use said easement and right of way and to cross same at will.

The party of the first part, Sarah B. Sutton, hereby excepts and reserves from the operation ^{of this conveyance} an equal and joint right to draw water from the well which is located north of the 5 acre parcel which was excepted from this deed, together with the right to use water from the spring located on the lands herein conveyed. Said water rights to said well and spring shall include the right to pipe water therefrom and if necessary to pump said water. It is expressly agreed and understood that these water rights shall be personal rights for the benefit only of Sarah B. Sutton and members of her family who may hereafter own said 5 acre parcel of land, and shall cease and terminate in the event said 5 acre parcel of land is conveyed or devised to any person other than a member of the family of Sarah B. Sutton.

TO HAVE AND TO HOLD, the above described tracts or parcels of land, together with the privileges and appurtenances thereunto belonging or anywise appertaining, unto the party of the second part, his heirs and assigns forever.

The aforesaid grantor covenants that she is seized in fee simple and has the right to convey the said lands to the aforesaid grantee; that the said grantee shall have quiet possession of said land, free from all encumbrances, except as herein set forth; and that she has done no act to encumber said lands, except as herein set forth; and that she will execute such further assurances of title as may be requisite.

Witness the following signature and seal:

Sarah B. Sutton (SEAL)
SARAH B. SUTTON

COMMONWEALTH OF VIRGINIA,
COUNTY OF RUSSELL, to-wit:

I, J. D. Parness, a Notary Public in and for
the Commonwealth and County aforesaid do hereby certify that
Sarah B. Sutton, whose name is signed to the foregoing deed
bearing date on October 2, 1967, has personally acknowledged the
same before me in my said county.

Given under my hand this 2 day of October, 1967.

My commission expires June 18, 1969.

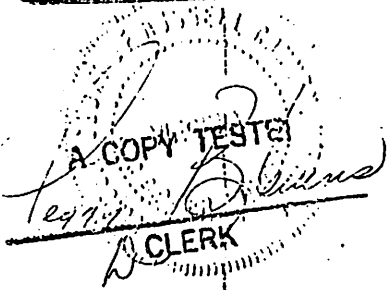
J. D. Parness
Notary Public



VIRGINIA: In the Clerk's Office of the Circuit Court of Russell County, October 16, 1972. This deed was this day received in said office and, upon the certificate of acknowledgment, thereunto and admitted to record, at 10:30 o'clock A.M. after payment of \$ tax imposed by Sec. 58.51 (d). Walter A. Duckett, Clerk.

BOOK 235 PAGE 248

Tax \$ Transfer Fee \$



Verified
10-30-72

Sarah Belle Sutton
25 1 Pk 69
Chapel Hill

THIS DEED, Made and entered into this the 3rd day of October, 1972, by and between MARTHA LOUISE OSWALD and M. J. OSWALD, her husband, parties of the first part; and SARAH BELLE SUTTON, party of the second part:

W I T N E S S E T H:

THAT, For and in consideration of the sum of FIVE (\$5.00) DOLLARS, cash in hand paid by the party of the second part to the parties of the first part at and before the signing, sealing and delivery of this deed, the receipt of which is hereby acknowledged, the said parties of the first part have this day bargained and sold and do by these presents hereby grant, convey, assign, release and quit-claim unto the party of the second part, all of their right, title and interest, if any, in and to all that certain tract or parcel of land containing in the aggregate of 5 acres, more or less, situate, lying and being in the Lebanon Magisterial District of Russell County, Virginia, and being the same tract or parcel of land that was reserved and excepted by Sarah Belle Sutton, widow, in that certain deed to Charles Sutton Burns, dated October 7, 1967, and of record in the Clerk's Office of the Circuit Court of Russell County, Virginia, in Deed Book No. 206, at page 390, and being a part of those certain lands that were devised to the said Sarah Belle Sutton by D. B. Sutton in his Will which is a matter of record in said Clerk's Office in Will Book No. 18, at page 455, reference to which said deed and will is hereby made for a more particular description of the said lands.

WITNESS the following signatures and seals:

Martha Louise Oswald (SEAL)
Martha Louise Oswald
M. J. Oswald (SEAL)
M. J. Oswald



IN THE NAME OF GOD. AMEN.

MC-44100

We, D. B. Sutton and Sarah B. Sutton, husband and wife, of Miami, Dade County, Florida, being each of sound mind and memory, and mindful of the uncertainty of human life, do hereby make, publish and declare this, our conjoint Last Will and Testament, hereby revoking all former wills or codicils or other like papers of similar import or intent, by either of us heretofore made and executed.

FIRST: The said D. B. Sutton does hereby will and direct that there first be paid out of his estate his funeral expenses and the expenses of his last illness, with all his just debts and liabilities and thereafter does hereby will, devise and bequeath to his said wife Sarah B. Sutton, (should she survive him) all the rest and residue of his estate, of whatever nature and wherever situated. The said D. B. Sutton does hereby appoint the said Sarah B. Sutton, sole executrix of this his last will and testament, and directs that no bond or other like undertaking be required of her as such executrix.

SECOND: Likewise, the said Sarah B. Sutton does hereby will and direct that there first be paid out of her estate, her funeral expenses, the expenses of her last illness and all her just debts and liabilities. All the rest and residue of her estate, of whatever nature and wherever situated, the said Sarah B. Sutton does hereby devise and bequeath to her said husband, D. B. Sutton, (should he survive her), and does hereby appoint the said D. B. Sutton as sole executor of this her last will and testament, and directs that no

or other like undertaking be required of him as such executor.

THIRD: Both parties to this conjoint last will and testament hereby jointly and severally agree not to sell, encumber or otherwise hypothecate or dispose of any property or estate now held or owned by either, without the written consent of the other party, it being the mutual desire and will of both parties to this indenture to hold all property now owned or hereafter acquired by either, for the use and benefit of their mutual offsprings, Martha Louise and Virginia, their children born to the union of the parties hereto.

FOURTH: In the event of the simultaneous death of both parties hereto, resulting from any accident or otherwise, then each of the parties hereto constitute and appoint their older daughter, Martha Louise Oswald, as sole executrix of this our Last Will and Testament, and we do each, jointly and severally direct that she be not required to give bond or other like undertaking, as such executrix.

FIFTH: Should neither of the parties hereto survive the other, then we each do hereby give, will, devise and bequeath to our said children, share and share alike, all the residue of our estates, of whatever nature and wherever situated, after the payment of all our just debts, including the expenses during our last illness with funeral charges, as hereinabove provided for. It is the intent of this Last Will and Testament, that any and all property left by either of the parties to this instrument, at the time of their death, respectively, shall be and become the property of our said children, share and share alike.

IN WITNESS WHEREOF, The said D. B. Sutton and the said Sarah B. Sutton have subscribed their names hereto on this the

State of Florida
31st day of October, 1950, in Miami, Dade County, Florida.

Filed this FEB 11 1955
Recorded this FEB 11 1955 in
Record of WILLS
Book 237 Page 630

FRANK B. DOWLING, County Judge

By H. B. Sutton
CLERK

D. B. Sutton (Seal)

Sarah B. Sutton (Seal)

The above and foregoing instrument was subscribed by the said D. B. Sutton and Sarah B. Sutton in our presence and acknowledged by each of them severally, and subscribed by each, and each, at the time of so subscribing their names hereto, declared same to be their respective Last Will and Testament; and we at their request have signed our names as witnesses hereto, in the presence and in the presence of each other and have written opposite our names our respective places of residence.

Dated this the 31st day of October, A. D. 1950.

Ethel Brooks Hayes
Name of Witness

1510 N. W. 10th St.
Place of residence

David D. Hayes
Name of Witness

1510 N. W. 10th St.
Place of Residence

[Signature]
Name of Witness

I hereby Certify this document
a true and correct copy of the original
instrument.

503 N. W. 9th St. Miami, Fla.
Place of Residence

Witness my hand and Official Seal,

This 20th day of Jan. 19 52
Frank B. Dowling

#3

COMMONWEALTH OF VIRGINIA
COUNTY OF RUSSELL
LEBANON DISTRICT

1552 N.W. 10th St.

REAL ESTATE

152 39, 40

Miami, Fla. 33125

Virginia

REAL ESTATE

TO RUSSELL COUNTY, VIRGINIA, Woodrow W. Barrett, Treasurer, Lebanon, Va.

| COUNTY LEVIES | | Value | Rate in \$100 | Levied | Levies, Penalties, Interest and Costs |
|---------------|-------|-------|------------------|--------|--|
| H-140 | Acres | 5320 | | 155.34 | <div>Amount Brought Forward</div> <div><div>PAID</div><div>DEC 3 1927</div></div> <div>W. W. BARNETT, Treas. BUTLER COUNTY Tulsa, Okla.</div> <div>5% Penalty, December 11, 1927</div> <div>Total Levies and Penalty</div> <div>6% Interest from July 1, 1928</div> <div>Advertising Costs</div> |
| 6 | Acres | 60 | | 1.75 | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | Acres | | | | |
| | | | | 157.09 | |
| | | | | | |

COMMONWEALTH OF VIRGINIA
COUNTY OF RUSSELL
-- Lebanon -- DISTRICT

REAL ESTATE

P. 161 L. 7, 8

Virginia

REAL ESTATE

TO RUSSELL COUNTY, VIRGINIA, Woodrow W. Barrett, Treasurer, Lebanon, Va.

156

1969

M Burns, Charles Sutton

Rt. 1

Cleveland 24225, Virginia

TO RUSSELL COUNTY, VIRGINIA, Woodrow W. Barrett, Treasurer, Lebanon, Va.

262
REAL ESTATEP. 96, 16-17 LEBANON DISTRICTCOMMONWEALTH OF VIRGINIA
COUNTY OF RUSSELL

REAL ESTATE

| COUNTY LEVIES | | Value | Rate on \$100 | Levies | Levies, Penalties, Interest and Costs | |
|-------------------------------|------------------------|-------------|---------------|------------------|---|----|
| Real Estate | Acres | \$ | | \$ | Amount Brought Forward | \$ |
| " | Acres | | As | | | |
| " | <u>H&135</u> Acres | <u>3520</u> | Shown | <u>114.40</u> | | |
| " | <u>6</u> Acres | <u>60</u> | on | <u>1.95</u> | | |
| " | Acres | | Reverse | | | |
| " | Acres | | Side | | | |
| " | Acres | | of | | | |
| " | Acres | | Ticket | | | |
| " | Acres | | | | | |
| " | Acres | | | | | |
| " | Acres | | | | | |
| " | Acres | | | | | |
| " | Acres | | | | | |
| " | Acres | | | | | |
| Total Real Estate Levies | | | | \$ <u>116.35</u> | 5% Interest from July 1, 1970 | |
| Received Payment: | | | | <u>19</u> | Advertising Costs | |
| WOODROW W. BARRETT, Treasurer | | | | By | Total Levies, Penalties, Interest and Costs | \$ |

PAID
SEP 2 1969W. W. BARRETT, Treas.
RUSSELL COUNTY
Lebanon, Virginia

167

000266

COMMONWEALTH OF VIRGINIA
COUNTY OF RUSSELL
LEBANON DISTRICT

M Burns, Charles Sutton

Rt. 1

Cleveland, 24225

_____, Virginia

TO RUSSELL COUNTY, VIRGINIA, Woodrow W. Barrett, Treasurer, Lebanon, Va.

REAL ESTATE

P 98, 12-13

Tax Rates For 1970

General County Fund_____ \$0.30

School Capital Outlay..... 1.03

County School Fund ----- 2.39

Total Tax Rate-----\$3.72

REAL ESTATE

| COUNTY LEVIES | | Value | Rate on \$100 | Levies | Levies, Penalties, Interest and Costs | | |
|-------------------------------|-------|-------|------------------|-----------|---|--|--|
| Real Estate | Acres | \$ | 3.72 | \$ | Amount Brought Forward | | |
| " | 88185 | Acres | 3520 | 3.72 | 130.94 | | |
| " | 6 | Acres | 60 | 3.72 | 2.23 | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| " | | Acres | | 3.72 | | | |
| Total Real Estate Levies | | | | \$ 133.17 | 5% Penalty, December 1, 1970 | | |
| Received Payment: | | | | 19 | Total Levies and Penalty | | |
| WOODROW W. BARRETT, Treasurer | | | | By | 6% Interest from July 1, 1971 | | |
| | | | | | Advertising Costs | | |
| | | | | | Total Levies, Penalties, Interest and Costs | | |

159

Route 1

Cleveland 24225

TO RUSSELL COUNTY, VIRGINIA, Woodrow W. Barrett, Treasurer, Lebanon, Va.

266

REAL ESTATE

COMMONWEALTH OF VIRGINIA

COUNTY OF RUSSELL

P. 98, 32-33

LEBANON

Tax Rates For 1971

General County Fund.....\$0.16

| | |
|-----------------------|------|
| School Capital Outlay | 0.92 |
|-----------------------|------|

County School Fund 2.64

Total Tax Rate..... \$3.72

REAL ESTATE

| COUNTY LEVIES | | Value | Rate on \$100 | Levies |
|----------------------------------|-------|---------------|---------------|-----------|
| Real Estate | H&135 | Acres \$ 3520 | 3.72 | \$ 130.94 |
| " | | Acres | 3.72 | |
| " | 6 | Acres 60 | 3.72 | 2.23 |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| " | | Acres | 3.72 | |
| Total Real Estate Levies | | | | \$ 133.17 |
| Received Payment: 19 | | | | |
| WOODROW W. BARRETT, Treasurer By | | | | |

| Levies, Penalties, Interest and Costs | | |
|---|----|--|
| Amount Brought Forward | | |
| PAID | | |
| SEP 10 1971 | | |
| 5% Penalty, December 11, 1971, Treas. | | |
| RUSSELL COUNTY | | |
| Total Levies and Penalty Virginia | \$ | |
| 6% Interest From July 1, 1972 | | |
| Advertising Cost | | |
| Total Levies, Penalties, Interest and Costs | \$ | |

۱۲

285

COMMONWEALTH OF VIRGINIA

COUNTY OF RUSSELL

101 13-14

☐ Castlewood District:

_____, Virginia.

General County Fund. — — — \$0.43

Lehman District

Schec. Capital Outlay - 0 92

☐ New Garden District

County School Fund 3.00

Total Tax Rate - .435

REAL ESTATE

TO RUSSELL COUNTY, VIRGINIA, Woodrow W. Barrett, Treasurer, Lebanon, Va.

| COUNTY LEVIES | | Value in \$100 | Levies |
|--------------------------|---------|-------------------|-----------|
| Real Estate | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | 6 Acres | 100 | 4.35 |
| " | Acres | | 4.35 |
| " | H&I 35 | \$100 | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| " | Acres | | 4.35 |
| Total Real Estate Levies | | | \$ 226.20 |

OFFICE RECORD

| Levies, Penalties, Interest and Costs | |
|---|----|
| Amount Brought Forward | |
| Paid | |
| SEP 29 1972 | |
| W. W. BARRETT, Treas. | |
| RUSSELL COUNTY | |
| Ledbetter, Virginia | |
| 5% Penalty December 11, 1972 | |
| Total Levies and Penalty | \$ |
| | |
| | |
| | |
| | |
| | |
| 6% Interest From July 1, 1973 | |
| Advertising Cost | |
| Total Levies, Penalties, Interest and Costs | \$ |

171

Burns, Charles Sutton

305

104 7-8

Cleveland 24225

LEBANON

| | | |
|-------|------|--------|
| 6 | 100 | 4.35 |
| H&I35 | 5100 | 221.85 |

226.20

Interest From 10/1/1974

Interest Cost

Cost of Goods Sold

172

173

THIS DEED, Made and entered into this the 3rd day of
October, 1972, by and between MARTHA LOUISE OSWALD and M. J.
OSWALD, her husband, parties of the first part; and CHARLES
SUTTON BURNS, party of the second part:

W I T N E S S E T H:

THAT, For and in consideration of the sum of FIVE DOLLARS
(\$5.00), cash in hand paid by the party of the second part to the
parties of the first part at and before the signing, sealing and
delivery of this deed, the receipt of which is hereby acknowledged,
the said parties of the first part have this day bargained and sold
and do by these presents hereby grant, convey, assign, release and
quit-claim unto the party of the second part, all of their right,
title and interest, if any, in and to all those certain tracts or
parcels of land containing in the aggregate of 141 acres, more or
less, situate, lying and being in the Lebanon Magisterial District
of Russell County, Virginia, and being the same lands that were
conveyed by Sarah B. Sutton, widow, to the said Charles Sutton
Burns in that certain deed dated October 2, 1967, of record in the
Office of the Clerk of the Circuit Court of Russell County, Virginia,
in Deed Book No. 206, at page 390, reference to which said deed is
hereby made for a more particular description of the said lands.

WITNESS the following signatures and seals:

Martha Louise Oswald (SEAL)
Martha Louise Oswald

M. J. Oswald (SEAL)
M. J. Oswald

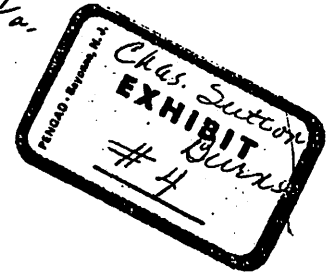
STATE OF FLORIDA,
COUNTY OF DADE, To-wit:

I, R. M. R. R. R., Notary Public in and
for the County of Dade in the State of Florida do certify that
Martha Louise Oswald and M. J. Oswald whose names are signed to the
foregoing writing, bearing date on the 3rd day of October, 1972,
have this day personally appeared before, in my said County afore-
said in the State of Florida, and duly acknowledged the same.

My commission expires _____

Given under my hand and official seal this the 10 day of
October, 1972.

R. M. R. R. R.
Notary Public



(June 8/1872
U/C.)

Dear Walter:

I thought possibly I'd
hear from you by now, as
last month before leaving
Miami, you said you were
going to get a lawyer,
give me my share of the
estate & settle it. You have
told me this before, but
nothing has happened. You said
when you sold the Beech-
Park property, you would

between the parents three ways,
between you & Martha & me
and you said Daddy intended
for you to do this.

Then later when I asked
about it, you said George
told you not to give me the
money. George apparently
doesn't remember it being
quite like that. However this
is really none of George's
business, but you will recall,
I told you last year, that
George has no objection whatever
to my having ^{or receiving} my interest in
the S. S. Co.

I feel it is better for
you to do for me, as you
have said you would all
along, & give me my
share, & settle the estate.

If you have written, I
have not gotten the letter,
but I plan to be in Miami
soon, so you can write there.

Chips' graduation was fine,
but George was very well.

Have a lovely summer.

Love to all,

Katherine

Dear D^y.

6-15-12

Your note said you had not heard from me - I have written you twice once in Maine B - once in Maine and sent you a mother's day card - if you did not get the mail I am sorry I certainly sent it - I hope you can see your way to sign the deed I sent to M. L. - I was afraid you would not get it - since you must not have received my other mail - I wrote a letter to her I hope you will read - I have been sick since before I left Maine - and have been in the hospital since I have been here - my blood pressure is much too high Mr. B. said - I went back to him Fri and he said the same thing - I take the medicine but always it doesn't come down - I paid in my

letter to Martha Louise - I would give you the money you want this fall when I return, if God is willing I do return - my house there rent clear of you and you can't find it necessary and are willing to sign the deed I have sent I hope you have found it in your heart to do it for me -
Love
Mother

July 19, 1972

Dear Mother,

I'm sorry you have been ill, and hope you are feeling better by now. Your letter was here when I returned. No medicine in the world can bring down your blood pressure as long as you let yourself react as you do to so many things. That is what they told me in Lehey Clinic, and said I was apt to have a stroke if I wasn't able to learn how to control my emotions. Life with George has not been easy, and it took a lot of doing to learn not to react to things that were not my fault; but when I finally did learn and controlled my emotions, my blood pressure went down. It didn't from just taking medicine and neither will yours. I have learned to really trust the Lord and when things don't go as I think they should, I do what I think is right, and then I just don't worry about it. All of our lives are in God's hands and that's a good thing to be aware of when we don't get our own way about things. He gives us our own way only if He thinks it's best.

Oscar Hyde has never felt he belonged in prison, but he said in a recent letter to me, that if it was God's will, he was not sorry to be there and he couldn't be there unless God wanted it that way. So he is trying to find out what lesson he is to learn by this.

Martha has not sent your letter for me to read. I did get the Mother's Day card, but George says no mail from you to me has come to Miami.

The signing of the deed is related to the rest of the estate, and you know as well as I do, it was Daddy's intention that Martha Louise and I share and share alike. He discussed the farm and its disposition with her, because she told me he did; and he discussed it with me. It never occurred to him that anyone would have that farm except her and me, and that you and he agreed the properties would be held for us. When you told me at first you were "giving" Charlie the farm I told you to keep my part of it for me. We even discussed how much Chip liked it in Virginia and that I might want a little house there. I'm sure you remember this, because it was no short discussion. Then later Dick told me you had "sold" the farm to Charlie. I presumed you kept my share

for me, as you have told me you are holding certain things for me that are to be mine. When you first talked about selling the Black Point property, you assured me you were going to equally divide the proceeds between you and Martha and me. It was for this reason I didn't object to the sale, but so far I haven't gotten my third. I feel there should be an accounting from you to the estate and since you keep very accurate records, this should not be a problem for you. There need be no immediate rush about it, but you told me in May you were going to get a lawyer and give me, as you said "your share". If you wrote me about this, I repeat I haven't received the letter, nor have I heard from your lawyer.

Charlie is a very nice hard working boy, and I've always liked him. The last time I was in Virginia, he drove me over to the cemetery to see Daddy's grave, and when we got there, he jumped out of the car real fast and tried to pull the weeds off of the grave. I thought that was very nice of him, but told him not to bother. Couldn't help but wonder, though, with all the money spent in Virginia, why the weeds couldn't be kept off of Daddy's grave. It seems like a little thing to be done for a man who did so much for so many up there.

George may come up next week for a few days. I hope to go to Miami by August 20th.

I hope you are feeling better. To worry is an insult to God - as He works things out for the highest good of all, in His own time, so please don't worry and try to enjoy the beautiful summer and your pretty home and family and friends.

Love and blessings,

Dear Mother I want you to know ~~how~~ I feel very
badly about your bringing a law suit against me & I cannot
understand it. - I thought the years you had told me each
time I asked you - that you were taking care of my share of the
Daddy's estate for me & that you were dividing equally
between Martha & me. If this is true, if you have been telling
me & intend to keep your word to carry out Daddy's will
as he intended, I do not see why a law suit is necessary.
It hurts me very much to think you've been telling me this -
if in reality you are trying to cheat me out of my share of
things. You told me definitely last Spring you would
account for things & settle my part - now all I get is a
law suit. That which you have given me in compensation
is very, very, very, little.

I do not want to have to go into court - but unless I
hear from you immediately regarding your carrying out your
word to me I will have to protect myself.

I can not help but be very shocked & disappointed that
this for you have failed to do as you said you would & as
Daddy intended you to do -

Sincerely hope you are feeling well & have
enjoyed your summer -

God bless you Mother -
Love,

Virginia

for next 10 } 12-7-APL
copy - then }
- mention - } A.W. 6/55.

NYC

Nov. 1972

Nov 7-72

Dear VA

Your letter received, and
I will tell you, I have not
at any time wasted any
money, nor have I ever
cheated you nor have
I ever lied to you - I
have saved your money and
Martha Louisa is the same
amount for both of you -
I have told you this repeatedly
but you never believe any
thing I say - Because you
have let your hate run away
with your better judgement
never
more -

TAX DEED

STATE OF FLORIDA,
COUNTY OF DADE

KNOW ALL MEN BY THESE PRESENTS, That whereas, D. B. Sutton

Wm O. Thompson, Atty. Congress Bldg. Miami, Florida
has this day applied for a deed to the land hereinafter described, and has produced and surrendered to the undersigned, Clerk of the Circuit Court for the County aforesaid, Drainage Tax

Certificate No. 6018 from which it appears that the said land was sold by the
Tax Collector of said County on the 7th day of July, A. D. 19 30,
for unpaid Drainage Taxes for the year A. D. 19 29, as the property of First Tr. & Sav.

Bank; and whereas, said applicant
has redeemed (or purchased and surrendered) all other outstanding Drainage Tax Certificates
covering the said lands, and has paid to the Clerk of the Circuit Court of the County and State
aforesaid all fees and charges that are required to be paid on the application for a tax deed in
cases where lands have been sold for unpaid State and County taxes, and proper notice having
been given as required by law of his application for the issue of this deed, and no
owner, claimant or other person entitled to redeem said land has appeared to redeem the same:

NOW, THEREFORE, the Board of Commissioners of Everglades Drainage District, in
consideration of the premises and the sum of

Twenty four and 17/100 (\$24.17) Dollars,
the amount paid upon the certificates and for costs and charges, and in pursuance of the statute
in such cases provided, has given, granted, bargained and sold, and does hereby give, grant,

bargain, sell and convey unto the said D. B. Sutton

and his heirs

and assigns forever, and to their own proper use, benefit and behoof, the
following land, situated and being in the County and State aforesaid and described as

All Fractional Section 27, Township 56
South, Range 40 East, less Black Creek
Canal R/W., containing 24.56 Acres more
or less, in the County of Dade, State of
Florida.



containing 24.56 acres, more or less;

PROVIDED, HOWEVER, That said land shall continue subject and liable for any un-
paid taxes thereon, and this deed shall vest in the grantee a fee simple title to the lands herein
described free from all liens except for State and County taxes.

IN TESTIMONY WHEREOF, by virtue of the authority in me vested by law, and for and
on behalf of the Board of Commissioners of Everglades Drainage District, I, the undersigned, as
Clerk of the Circuit Court for the County and State aforesaid, have executed this deed and have

hereunto set my official signature and seal at Miami, in the

County of Dade, State of Florida, on this 28th day of

December, A. D. 19 45.

Signed, sealed and attested in our presence:

[Handwritten signatures]

[Handwritten signature] (Seal)
As Clerk of the Circuit Court of
DADE County, Florida

STATE OF FLORIDA,
COUNTY OF DADE

(On this 28th day of December, A. D. 1945), before me,

a Notary Public personally appeared E. B. Leatherman,
Clerk of the Circuit Court in and for the State and County aforesaid, to me well known to be the
person described in, and who executed the foregoing instrument, and acknowledged to me that
he did the same in his official capacity as Clerk of the Circuit Court aforesaid for the uses and
purposes therein mentioned.

WITNESS my hand and official seal the date aforesaid.

J. R. Stanley (Seal)
Notary Public, State of Florida at Large
My commission expires; March 24, 1949

TAX DEED

FROM
Board of Commissioners of Everglades
Drainage District
TO

D. B. SUTTON

STATE OF FLORIDA

DADE County.

I, E. B. LEATHERMAN

Clerk of the Circuit Court in and for said
County, do hereby certify that the within
Deed was filed in the Clerk's office for
record on this the 28 day of Dec.

A. D. 1945, at o'clock M.,

and that the same was duly recorded in
Deed Book 1405 on page 216, this
the 28 day of Dec.

A. D. 1945. Record verified.

WITNESS my hand and seal of said
Court at Miami, Florida.

E. B. LEATHERMAN, Clerk

By J. R. Stanley, Deputy Clerk

FILED FOR RECORD
DEC 28 1945 12 29 PM
E. B. LEATHERMAN
CLK. CIR. COURT CO.

THIS INDENTURE, Made this sixth day of November, A. D. 1922, between Lawrence Estate Land Company, a corporation organized and existing under and by virtue of the Laws of the State of Florida, having its principal place of business in the County of Dade, in the State of Florida, party of the first part, and D. B. Sutton of the County of Dade, in the State of Florida, party of the second part, WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Ten Dollars and other valuable considerations to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said party of the second part, his heirs and assigns, forever, all that certain parcel of land lying and being in the County of Dade, State of Florida, more particularly described as follows:

Lot Seventeen (17) of Block Six (6) of Grove Park, according to a plat thereof made by F. K. Ashworth, C. E., and recorded in Plat Book 5, on page 66 in the office of the Clerk of the Circuit Court in and for Dade County, Florida.

This conveyance is given and accepted subject to the following conditions, restrictions, and limitations, which are intended to be and shall be taken as covenants to run with the land, and which are intended to be and shall be taken as conditions of said conveyance and one of the express considerations thereof, viz:

1. No residence building shall be constructed or erected on any lot hereby conveyed unless the same shall cost at least \$5,000.00; said amount to be actually expended in the construction and erection of such residence building, and not for fees in connection therewith, nor in the construction of any outbuilding thereon, except that on all lots in Blocks 1 and 2 the residence shall cost not less than \$10,000.00.

2. Only one residence shall be erected on one lot, and the real estate hereby conveyed shall not be subdivided. Nothing herein, however, shall prohibit the construction or erection of servants' quarters in connection with the garage or other outbuilding on said lot; and if said servants' quarters, garage, or outbuilding be constructed or erected prior to the residence or dwelling, the same shall not be occupied by servants or others for living purposes until work is actually commenced upon said residence and assurance given that said residence will be completed within a reasonable time.

3. No house, structure, or building to be used as a business room, storage house, manufacturing establishment, machine shop, apartment house, hotel, sanitarium, church, or for any other business of commercial purpose whatsoever shall be constructed or placed on any of the lots owned by the Grantor, situated in said Subdivision; nor shall any business or commercial enterprise whatever be operated or maintained thereon; nor shall any structure be erected, or other provision be made thereon, for the care of horses, cows, cattle, hogs, or poultry; nor shall any horses, cows, cattle, hogs, or poultry be kept or raised thereon.

4. No building shall be constructed or erected on any of the lots hereby conveyed so that the frontage or any part of said building or any projection thereof shall be closer than twenty feet to the front line of the lot or lots upon which said building shall be erected.

5. None of the lots situated in said subdivision shall be sold, leased, or rented, in any form or manner, by any title, either legal or equitable, to any person or persons other than of the Caucasian race, nor to any firm or corporation of which any person or persons other than of the Caucasian race shall be a member or a stockholder.

6. No spirituous, vinous, malt, or other intoxicating liquor shall ever be manufactured, sold, or bartered upon said real estate.

7. The conditions, restrictions and limitations of this instrument shall not be construed so as to prevent or limit the Grantee, his executors, administrators, legal representatives, heirs, successors, or assigns, from keeping and maintaining, on the real estate hereby conveyed, such servants as may be required for family use.

8. An easement or right of way three (3) feet in width reserved along the rear ends of all lots in Blocks Three (3) and Nine (9) and of all lots in Block Eight (8) west of Park Lane, for the purpose of erecting and maintaining gas pipes, water mains, electric-light and telephone poles.

9. It is understood that the Grantee herein shall be and is entitled to the full, but not exclusive, use of the riparian rights and submerged lands of the Miami River in front of Park Lane, as shown on plat of said subdivision; provided, only, that purchasers or owners of lots in said addition shall not erect nor cause to be erected any house or other unsightly building or obstruction of any nature thereupon.

10. That no cesspools will be permitted, and no sewage shall be emptied into the Miami River, but suitable septic tanks, approved by the City Plumbing Inspector or the State or County health authorities, shall be constructed for its disposal.

11. Violation in whole or in part of any of the aforesaid conditions, restrictions, and limitations by the Grantee his executors, administrators, legal representatives, heirs, successors and assigns or by the owner or owners of the real estate herein conveyed by virtue of any judicial proceedings, shall cause the said above described and conveyed real estate immediately to revert to the Grantor, its successors or assigns, and shall entitle the Grantor, its successors or assigns, immediately to enter upon said property without notice and take possession of the same, with full title, in fee simple, together with all improvements thereon.

And the said party of the first part does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said party of the first part has hereunto caused its corporate name and seal to be set and affixed by S. M. Tatum, its President, attested by B. B. Tatum, its Secretary, the day and year first above written.

Witness, sealed and delivered
in the presence of,

LAWRENCE ESTATE LAND COMPANY

Notary Public

BY S. M. Tatum
President

(CORP. SEAL)

PROD. R. Stamp cancelled.

BY B. B. Tatum
Secretary

STATE OF FLORIDA)
SS
COUNTY OF DALLAS

Before me, a Notary Public in and for said County and State, this day personally appeared S. M. Tatum and B. B. Tatum, respectively President and Secretary of Lawrence Estate Land Company a corporation of Florida, to me well known to be such President and Secretary respectively, and to be the persons described in and who executed the foregoing deed, and they severally acknowledged before me that they executed the same as such President and Secretary, respectively, for and on behalf of such corporation, for all uses and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, at Miami, in said County and State, this sixth day of November, 1922.

(N.P. SEAL)

A. R. Beckman
Notary Public State of Florida at large
My commission expires May 15, 1925.

Filed for record this 8th day of Nov. A. D. 1922 at 3:22 P.M.
Recorded in Deed Book 320 on page 46.
Witness my hand and official seal.
Ben Shepard, Clerk.

Ed. J. ...

This Indenture, Made this 30th day of April, A. D. 1940
BETWEEN WESLEY E. GARRISON, INC., a corporation
existing under the laws of the State of FLORIDA, having its principal place of
business in the County of DADE and State of FLORIDA
and lawfully authorized to transact business in the State of Florida, party of the first part, and
D. B. SUTTON AND SARAH ERNS SUTTON, husband and wife,

of the County of DADE and State of FLORIDA
parties of the second part, WITNESSETH:

That the said party of the first part, for and in consideration of the sum of -----
TEN (\$10.00) DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS pp/mt
to it in hand paid by the said parties of the second part, the receipt whereof is hereby acknowl-
edged, has granted, bargained and sold to the said part ies of the second part, their
heirs and assigns forever, the following described land situate, lying and being in the County of
DADE and State of Florida, to-wit:

Lot sixteen (16) of Block six (6), GROVE PARK,
as recorded in Plat Book 5 at page 66 of the
Public Records of DADE COUNTY, FLORIDA.

This deed is issued subject to all taxes for
the year 1940 and thereafter, and to all
conditions, restrictions and limitations of
record.

And the said party of the first part does hereby fully warrant the title to said land, and will
defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the said party of the first part has caused these
presents to be signed in its name by its proper
officers, and its corporate seal to be affixed, at-
tested by its secretary, the day and year above
written.

ATTEST

(Corporate
Seal)

Wesley E. Garrison
Secretary

WESLEY E. GARRISON, INC.

By

Wesley E. Garrison
President

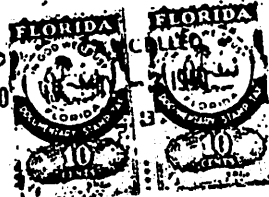
SEAL)

Signed, sealed and delivered in the presence of us:

Henrietta Horn
Opal Beach



CANCELLED
MAY -3 1940
E.O.L.



STATE OF FLORIDA,

COUNTY OF DADE

I HEREBY CERTIFY, that on this _____ day of _____, A. D. 1940
 before me personally appeared WESLEY E. GARRISON
 and FLORENCE L. GARRISON President and Secretary respectively of
WESLEY E. GARRISON, INC., a corporation under the laws of

the State of FLORIDA, to me known to be the persons who signed the fore-
 going instrument as such officers and severally acknowledged the execution thereof to be their free
 act and deed as such officers for the uses and purposes therein mentioned and that they affixed
 thereto the official seal of said corporation, and that the said instrument is the act and deed of
 said corporation.

WITNESS my signature and official seal at MIAMI
 in the County of DADE and State of FLORIDA
 the day and year last aforesaid.

My commission expires 193

Henrietta Brown (Seal)
 Notary Public

Notary Public, State of Florida at Large
 My Commission Expires Sept. 10, 1942

Warranty Deed

(FROM CORPORATION)

WESLEY E. GARRISON, INC.

TO

D.B. SUTTON & SARAH BEERS SUTTON

Date April 30th, 1940

ABSTRACT OF DESCRIPTION

Lot 16, Block 6, GROVE PARK,

Dade County, Florida.

STATE OF FLORIDA,

COUNTY OF DADEOn this 3 day of April

A. D. 1940 at _____ o'clock PM this in-
 strument was filed for record, and being duly
 acknowledged and proven, I have recorded
 the same on pages 25 of Book 2059
 in the public records of said County.
 IN WITNESS WHEREOF, I have here-
 unto set my hand and affixed the seal of the
 Circuit Court of the 11th Judicial
 Circuit of said State in and for said County.

H. L. LAMBERTSON Clerk

E. C. L. LAMBERTSON D. C.

FILED FOR RECORD

APR 30 1940
 E. C. LAMBERTSON
 CLERK OF DISTRICT COURT

Exhibits:

Tax Deed 12-28-45
Deed, 11-6-72 (Lawrence to Sutton)
Deed, 4-30-40 (Garrison to Sutton)

PRINTER'S NOTE

SEVEN ADDITIONAL DOCUMENTS FILED WITH THE LAST
THREE EXHIBITS LISTED ABOVE, COULD NOT BE REASON-
ABLY REPRODUCED. THE ORIGINALS ARE ON FILE IN
THE CLERK'S OFFICE.