

STATE OF ALABAMA

BALDWIN COUNTY

IN THE CIRCUIT COURT, IN EQUITY

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon Essie Noble Kelly to appear and plead, answer or demur, within thirty days from the service hereof to the bill of complaint filed in the Circuit Court of Baldwin County, Alabama, in Equity, by Henry Kelly, as Complainant, against Essie Noble Kelly, as Respondent.

WITNESS, my hand this the 7 day of February, 1956.

*Oliver J. Duck*  
Register

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HENRY KELLY,  
Complainant  
vs.  
ESSIE NOBLES KELLY,  
Respondent

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY. NO. 3715.

TO THE HONORABLE H. M. HALL, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, IN EQUITY:

Now comes your complainant, Henry Kelly, by his Solicitor, and respectfully shows unto Your Honor and unto this Honorable Court, the following:

1. That he is over the age of 21 years and is a resident of Baldwin County, Alabama; that the respondent is over the age of 21 years and is a resident of Baldwin County, Alabama.
2. That the respondent, Essie Nobles Kelly, were, heretofore, man and wife, until divorced by this Honorable Court on the 2nd day of April, 1954. That the respondent, Essie Noble Kelly, and the complainant are each the owner of an undivided one-half interest in and to the following described property situated in Baldwin County, State of Alabama, to-wit:

Begin at the Southeast corner of the Southwest Quarter of Section 17, Township 2 South, Range 3 East, and run thence West along the South boundary line 156 feet to a point; thence North 52°15' West 546.4 feet to point; thence North 37°45' East 90 feet to a point; thence North 52°15' West 90 feet to a point; thence South

37° 45' West 90 feet to a point; thence South 52° 15' East 90 feet to a point, being and containing an area 90 feet square in the Northwest corner of land owned by Willie Clopton.

3. Complainant alleges that said lot of land cannot be fairly and equitably divided or partitioned among the joint owners therefor without a sale, inasmuch as said property is a lot upon which there is but one dwelling, and incapable of being equitably divided or partitioned.

4. The complainant further avers that it has become necessary to employ solicitors to institute this suit for partition and division, and that he has employed J. Connor Owens, Jr. as such solicitor, and that such services are for the benefit of all parties hereto, and that he is entitled to a fee to be paid from the common property as provided in Title 46, Section 63 of the Code of Alabama, 1940.

PRAYER FOR PROCESS

The premises considered, your Complainant prays that your Honor will cause the usual writ of process to be issued to Essie Noble Kelly, making her party respondent to this Bill of Complaint, and requiring her to plead, answer or demur to the same within thirty(30) days from the service hereof, and that in default thereof, the Bill of Complaint be taken as confessed against her.

PRAYER FOR RELIEF

The premises considered, the Complainant prays that your Honor will decree a sale of the lands herein described by the Register of this Court for partition and division of the proceeds thereof. The Complainant further prays that the Court ascertain and fix a reasonable fee to be paid to the solicitor, and order that said fee be taxed as costs and paid from the common fund which may be received from the proceeds of the sale. The Complainant prays for such other, further and different relief as in equity and good conscience he may be entitled to receive.

  
SOLICITOR

HENRY KELLY,  
Complainant  
vs.  
ESSIE KELLY,  
Respondent

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY No. \_\_\_\_\_

DECREE

This cause coming on to be heard and being submitted for decree in regular term time upon the bill of complaint, appearance by the respondent, and evidence heard by the Court ore tenus, the Court is of the opinion that the Complainant is entitled to the relief prayed for in said bill.

And it appearing that the lands described in the Bill of Complaint are owned jointly by the Complainant and the Respondent, and it clearly appearing that the same is incapable of partition among the two joint owners and must be sold for the division of the proceeds;

It is therefore, ORDERED, ADJUDGED AND DECREED that Alice J. Duck, Register, proceed to sell at public outcry at the Courthouse Door in Bay Minette, Baldwin County, Alabama, the following property owned jointly by the parties in this cause:

A lot of land 90 feet square lying at the northwest corner of the following described parcel of land: being in the SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 17, Township 2 South of Range 3 East, viz: Commencing at the Southeast corner of the Southwest Quarter of said Section 17, thence west along the south boundary line of said section 158 feet to a point, thence North 52 degrees 15' West 427.7 feet to a point; thence North 37 degrees 45' East 140 feet to a point, being the point of beginning; thence continue North 37 degrees 45' East 208.7 feet to a point; thence North 52 degrees 15' West 208.7 feet to a point; thence South 37 degrees 45' West 208.7 feet to a point, thence South 52 degrees 15' East 208.7 feet to the point of beginning, containing one acre; it being the intention of this deed to convey a lot of land in the northwest corner of this land, same to be 90 feet square.

the above described property to be sold at 12:00 Noon on the 31 day of January, 1958, at public auction to the highest bidder for cash, after first

having given notice of the place, day and terms of sale and a description of the property by publication for three successive weeks in a newspaper published in Baldwin County, Alabama, and that said Commissioner make report of said sale to this Court within thirty days after the same is made.

DONE this the 9 day of January, 1958.

Hubert M Hall  
Circuit Judge

112.52

FILED  
AUG 21 1957  
ALICE I. BUCK, Register

HENRY KELLY  
COMPLAINANT,  
VS.  
ESSIE KELLY,  
Respondent.

IN THE  
CIRCUIT COURT OF BALDWIN COUNTY,  
ALABAMA. IN EQUITY  
NO.

MR. OWENS: I would like to offer in evidence deed from Ida M. Clopton to Essie Kelley and Henry Kelley, dated September 28, 1945, and recorded in the office of the Judge of Probate of Baldwin County, Alabama, in deed Book 148 at page 463, of the deed records of Baldwin County, Alabama, and have it marked as Complainant's Exhibit 1.

HENRY KELLEY, THE COMPLAINANT, BEING FIRST DULY SWORN,  
TESTIFIED:

Examination by Mr. Owens.

Q. Will you state your name?

A. Henry Kelley.

Q. Henry, where do you live?

A. Now?

Q. Yes?

A. I stays out in the Gateswood community.

Q. Henry, are you familiar with this land described in the deed to you and your former wife, Essie Kelley, from Ida M. Clopton?

A. Yes sir.

Q. Can you describe that land down there?

A. Is you talking about the location?

Q. First, tell me what is on the land?

A. It ain't nothing on it now, but a house.

Q. How big a lot is it, do you remember?

A. I did used to know but I have done just about forgot. It

ain't very large.

Q. Take a look at this deed and see if that is it?

A. I ain't got my glasses and I can't see.

Q. Can you see this?

A. No sir, I can't see that.

THE COURT: It is identified by the deed and there is no denial of it.

Q. Is the land described in this deed the land that you lived on when you and Essie were living together before you all were divorced?

A. Yes sir.

Q. Does Essie live in Baldwin County, Alabama?

A. She's living on the place right now.

Q. Is she over 21 years of age?

A. Yes sir, she was born in 1909 I think.

Q. Henry, could you divide that property down there between the two of you without selling it equally so you would have half and Essie would have half?

A. You mean the land or the house?

Q. Either one of them?

A. You couldn't divide the house, no sir.

Q. The main thing down there is the house?

A. No sir, if you was to divide the land there would be hardly room enough for two houses on it; if you did, it would be mighty close together.

QUESTIONS BY COURT:

Q. Henry, there could not be an equitable division of that land between you and Essie without a sale of it and a division of the proceeds?

A. No sir.

I hereby certify that the foregoing consisting of pages 1 and 2 correctly sets forth a true and correct transcript of the testimony as taken by me in open court in the above styled cause on this day.

This 20th day of August, 1957.

Louise D. D. D.  
Court Reporter



Com 1 -

WARRANTY DEED.

Moore Printing Co., Bay Minette.

THE STATE OF ALABAMA,  
Baldwin County

BOOK 148 PAGE 463

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of  
Ten Dollars and other good and valuable consideration - - - - -

to her in hand paid by Essie Kelley and Henry Kelley, her husband  
the receipt whereof is hereby acknowledged, Ida M. Clopton, a widow of Willis Clopton,  
deceased

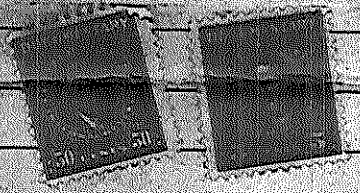
do grant, bargain, sell and convey unto the said

Essie Kelley and Henry Kelley, her husband

the following described lands situated in Baldwin County, Alabama, to-wit:

a lot of land 90 feet square lying at the northwest corner  
of the following described parcel of land; being in the SE $\frac{1}{4}$  of  
SW $\frac{1}{4}$  of section 17, township 8 south of range 3 east, viz; commencing  
at the southeast corner of the southwest quarter of said section  
17, thence west along the south boundary line of said section  
158 feet to a point, thence north 52° 15 minutes west 427.7 feet  
to a point, thence north 37° 45 minutes east 140 feet to a point,  
being the point of beginning, thence continue north 37° 45 minutes  
east 208.7 feet to a point, thence north 52° 15 minutes, 208.7  
feet to a point, thence south 37° 45 minutes west 208.7 feet to  
a point, thence south 52° 15 minutes east 208.7 feet to the point  
of beginning, containing 1 acre; it being the intention of this  
deed to convey a lot of land in the northwest corner of this land,  
said to be 90 feet square

The undersigned, Ida M. Clopton and the grantee herein Essie  
Kelley are the sole and only heirs of Willis Clopton, deceased



TO HAVE AND TO HOLD to the said Essie Kelley and Henry Kelley, her husband  
their heirs and assigns forever.

And I do covenant with the said Essie Kelley and Henry Kelley  
her husband

that I am seized in fee of the above  
described premises; that I have the right to sell and convey the same; that the said  
premises are free from all incumbrances; and that I will, and my heirs  
executors and administrators shall forever WARRANT AND DEFEND the same to the said

Essie Kelley and Henry Kelley, her husband, their  
heirs and assigns, against the lawful claims of all persons whomsoever.

Witness my hand and seal this 28th day of September, 1945.

WITNESS:

Ida M. Clopton L.S.

..... L.S.

..... L.S.



State of Alabama, Baldwin County.

I, Ort H. Ertzinger, Notary Public

in and for said County and State, hereby certify that Ida M. Clouton, a widow whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me, on this day, that being informed of the contents of the conveyance, is executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 28th day of September A. D., 1945

[Signature]

State of Alabama, County

I, in and for said County and State, do hereby certify that on the day of 194

came before me the within named known to me to be wife of the within named

who, being examined separate and apart from her husband, touching her signature to the within conveyance, acknowledged that she signed the same of her own free will and accord, and without fear, constraint or threats on the part of the husband.

In Witness Whereof, I hereunto set my hand and official seal this day of 194

STATE OF ALABAMA, BALDWIN COUNTY Filed 2-1-50 20 M. Recorded book page and I certify that the following Privilege Tax has been paid: Deed Tax 50 Mortgage Tax W. R. Stewart Judge of Probate By H

9-28-45

Warranty Deed

FROM

Ida M. Clouton

TO

Essie Kelley and Henry Kelley

THE STATE OF ALABAMA, County

Office of Judge of Probate

I hereby certify that the within deed was filed

in this office for record on the day of A. D., 194

at o'clock, M., and duly

recorded in Book of Mortgages, page

, and examined.

Judge of Probate.

W. W. Davison

The State of Alabama,  
Baldwin County.

PROBATE COURT

I, W. R. STUART, Judge of Probate Court in and for said State and County, hereby certify

that the within and foregoing two (2) pages

contain a full, true and complete copy of the deed from Ida M. Clopton

to Essie Kelly and Henry Kelly

as the same appears of record in my office in Baldwin County <sup>Deed</sup> Book No. 148

page s 463-464.

Given under my hand and seal of office, this 20<sup>th</sup> day of August, 1957.

W. R. Stuart  
Judge of Probate



# THE BALDWIN TIMES

## BALDWIN COUNTY

Alabama's Best County's Best Newspaper

BAY MINETTE, ALABAMA

JIMMY FAULKNER  
AND  
BILL STEWART  
PUBLISHERS

E. R. MORRISSETTE, JR.  
EDITOR-MANAGER

### Legal Notice

NOTICE OF SALE  
STATE OF ALABAMA,  
In The Circuit Court Of  
BALDWIN COUNTY,  
IN EQUITY NO. \_\_\_\_\_  
HENRY KELLY, Plaintiff, vs.  
ESSIE KELLY, Defendant.

Notice is hereby given that under and pursuant to the decree rendered by the Honorable Hubert M. Hall, Judge of the Circuit Court of Baldwin County, Alabama, in the above entitled cause, I will sell, to the highest bidder, for cash, at 12:00 noon, on 31st day of January 1958, in front of the court house of Baldwin County, Alabama, the following described property, viz:

A lot of land 90 feet square lying at the northwest corner of the following described parcel of land: being in the SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 17, Township 2 South of Range 3 East, viz: Commencing at the Southeast corner of the Southwest Quarter of said Section 17, thence west along the south boundary of said section 158 feet to a point, thence North 52 degrees 15' West

427.7 feet to a point; thence North 37 degrees 45' East 140 feet to a point, being the point of beginning; thence continue North 37 degrees 45' East 208.7 feet to a point thence North 52 degrees 15' West 208.7 feet to a point; thence South 37 degrees 45' West 208.7 feet to a point, thence South 52 degrees 15' East 208.7 feet to the point of beginning, containing one acre; it being the intention of this deed to convey a lot of land in the northwest corner of this land, same to be 90 feet square.

ALICE J. DUCK,  
Register.

J. Connor Owens, Jr.,  
Solicitor for Plaintiff.

1-3tc.

### AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,  
BALDWIN COUNTY.

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

Henry Kelly vs. Essie Kelly

#### COST STATEMENT

267 WORDS @ 5 cents ..... \$ 4.45  
I hereby certify this is correct, due and unpaid (~~paid~~).

Editor.

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

Date of 1st publication Jan 16, 1958 Vol 70 No 1

Date of 2nd publication Jan 23, 1958 Vol 70 No 2

Date of 3rd publication Jan 30, 1958 Vol 70 No 3

Date of 4th publication \_\_\_\_\_, 195\_\_\_\_ Vol \_\_\_\_\_ No \_\_\_\_\_

Subscribed and sworn before the undersigned this 21 day of Jan, 1958

Notary Public, Baldwin County.

Editor.

HENRY KELLY,

COMPLAINANT

VS

ESSIE NOBLES KELLY

RESPONDENT

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA,

IN EQUITY

No. 3715

Comes the defendant in the above styled cause and demurring to complainant's bill of complaint says:

1. There is no equity in the bill.

Beebe & Swearingen

By

  
Solicitor for defendant

HENRY KELLY,  
COMPLAINANT  
VS.  
ESSIE KELLY,  
RESPONDENT

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY NO. 3715.

DECREE

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

Pursuant to the decree of this Court dated January 9th, 1958, Mrs. Alice J. Duck, the commissioner appointed therein, did set a sale of the property hereinafter described for 12:00 o'clock noon on the 31st day of January, 1958, and did give notice of the time, place and terms of sale and the description of the property by publication for three successive weeks in the Baldwin Times, a newspaper of general circulation published in Baldwin County, Alabama, said property being located in Baldwin County, Alabama, and being described as follows:

A lot of land 90 feet square lying at the northwest corner of the following described parcel of land: being in the SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 17, Township 2 South, Range 3 East, viz: Commencing at the Southeast corner of the Southwest Quarter of said Section 17, thence west along the South boundary of said section 158 feet to a point, thence North 52 degrees 15' West 427.7 feet to a point; thence North 37 degrees 45' East 140 feet to a point being the point of beginning; thence continue North 37 degrees 45' East 208.7 feet to a point; thence North 52 degrees 15' West 208.7 feet to a point; thence South 37 degrees 45' West 208.7 feet to a point; thence South 52 degrees 15' East 208.7 feet to the point of beginning, containing one acres, it being the intention of this deed to convey a lot of land in the northwest corner of this land, same to be 90 feet square.

At the time and place set out in said notice, said property was offered for sale at public auction to the highest and best bidder for cash, first offering such parcel as one unit inasmuch as the same could not be described by smaller tracts; that the highest and best bid for said property was THREE HUNDRED AND FIVE and no/100(\$305.00) DOLLARS; that said bid was fair and reasonable and should

be confirmed; that said commissioner reported the said sale on the 1st day of February, 1958, notice of which was given to the parties herein; that no objections or exceptions were filed to said report within ten(10)days thereafter, and that no cause was shown as to why said sale should not be confirmed and it appears to this Court that said sale should be confirmed and a deed executed by the commissioner to E. P. Bell.

It further appearing to the Court that said bill of complaint was filed by J. Connor Owens, Jr., Attorney at Law, and that a reasonable attorney's fee should be allowed him for services rendered in the said cause in the sum of \$ 50<sup>00</sup>.

It further appearing to the Court that Mrs. Alice J. Duck, as commissioner, sold said property and is entitled to a fee of \$ 9<sup>00</sup>.

It further appearing to the Court that the court costs incurred in this proceeding amount to \$ 37<sup>20</sup>/<sub>100</sub>.

It is, therefore, ORDERED, ADJUDGED AND DECREED that Mrs. Alice J. Duck, as commissioner, be and she is hereby ordered to execute a deed for said property to E. P. Bell.

It is further ORDERED, ADJUDGED AND DECREED that from the proceeds of said sale in the hands of the Commissioner, she is hereby ordered to pay J. Connor Owens, Jr., the sum of \$ 50<sup>00</sup>; Alice J. Duck, as commissioner, the sum of \$ 9<sup>00</sup>; and Mrs. Alice J. Duck, as Register, the sum of \$ 37<sup>20</sup>, court costs in this proceeding, and the balance of the proceeds distributed as follows:

Henry Kelly	\$ <u>104<sup>40</sup>/<sub>100</sub></u>
Essie Kelly	\$ <u>104<sup>40</sup>/<sub>100</sub></u>

It is further ORDERED, ADJUDGED AND DECREED that Mrs. Alice J. Duck, as commissioner, report to this Court within thirty days, her actions hereunder.

DONE this the 17 day of February, 1958.

J. Hubert M. Hall  
CIRCUIT JUDGE



NO. 3715

HENRY KELLY,  
COMPLAINANT  
VS.  
ESSIE KELLY,  
RESPONDENT

DECREE

HENRY KELLY,  
Plaintiff

VS

ESSIE KELLY,  
Defendant

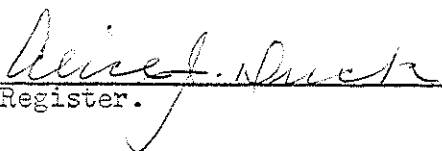
IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY, CASE NO. 3715

In pursuance to a decree of the Circuit Court of Baldwin County, Alabama, in Equity, made on the 9th day of January 1958, I, Alice J. Duck, as Register of the said Court, did offer for sale in front of the Court house door of Baldwin County, Alabama on January 31, 1958, at public out cry, to the highest bidder for cash at 12:00 noon after giving notice of the time, place and terms of said sale by publication in the Baldwin Times, a newspaper published in Baldwin County, Alabama, for three successive weeks, the following described property situated in Baldwin County, Alabama, to-wit:

A lot of land 90 feet square lying at the northwest corner of the following described parcel of land: being in the  $SE\frac{1}{4}$  of  $SW\frac{1}{4}$  of Section 17, Township 2 South of Range 3 East, viz: Commencing at the Southeast corner of the Southwest Quarter of said Section 17, thence west along the south boundary of said section 158 feet to a point, thence North 52 degrees 15' West 427.7 feet to a point; thence North 37 degrees 45' East 140 feet to a point being the point of beginning; thence continue North 37 degrees 45' East 208.7 feet to a point; thence North 52 degrees 15' West 208.7 feet to a point; thence South 37 degrees 45' West 208.7 feet to a point, thence South 52 degrees 15' east 208.7 feet to the point of beginning, containing one acre; it being the intention of this deed to convey a lot of land in the northwest corner of this land, same to be 90 feet square.

At said time and said place, I offered such land for sale in its entirety and there was no means of describing such land in smaller parcels. Several bids were made on such lands by two different persons interested therein. The highest, best and last bid I received for said property was in the sum of \$305.00 which was offered by E.P. Bell. His bid being the highest, best and last bid for said property, I proceeded to sell said property to him, subject to approval of this Court, and they having paid into my hands three hundred five dollars, which amount I now hold as Register of this Court, subject to the orders of this Court.

Respectfully submitted this 1st day of February, 1958.

  
Register.

3710

HENRY KELLY,  
PLAINTIFF

VS

ESSIE KELLY,  
Defendant

Register's Report

HENRY KELLY,  
 Plaintiff,  
 vs.  
 ESSIE KELLY,  
 Defendant

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

NOTICE OF SALE

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Alice J. Duck  
 Alice J. Duck, Register

J. Connor Owens, Jr.  
 Solicitor for Plaintiff