

The State of Alabama, {  
Baldwin County

CIRCUIT COURT OF BALDWIN COUNTY,  
IN EQUITY

To Any Sheriff of the State of Alabama--GREETING:

WE COMMAND YOU, That you summon G.W.Humphries, and C.S.Tompkins,

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

L.G.Crosby,

against said Baldwin County, Alabama,

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

WITNESS, T. W. Richerson, Register of said Circuit Court, this 16th day of

August, 1932

T. W. Richerson Register.

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

L. G. CROSBY,	)	IN THE CIRCUIT COURT OF
Complainant,	)	BALDWIN COUNTY, ALABAMA.
vs.	)	IN EQUITY.
BALDWIN COUNTY,	)	
Respondent.	)	

Comes the Respondent, and for answer to the Complainant's Bill of Complaint, and to each Count thereof, separately and severally, says:

FIRST:

That it admits the allegation contained in Paragraph "FIRST".

SECOND:

That the Respondent admits in part the allegations contained in Paragraph "SECOND", in that the Complainant is the owner and in possession of the land described in Paragraph "SECOND", except a strip 15 feet wide along the East side thereof;

That the Respondent acquired title to a strip of land 15 feet wide beginning at a center stake on the South boundary line of Section fourteen (14) and running 330 feet North, being a fractional portion of S.E.1/4 of S.W.1/4 of Section fourteen (14), Township five (5) South, Range six (6) East of St. Stephens Meridian, in Baldwin County, Alabama, by a Warranty Deed from Alto Boyington and Anna Belle Boyington, husband and wife, to Baldwin County, Alabama, dated December 7, 1925, and filed for record in the office of the Probate Judge of Baldwin County, Alabama, on November 16, 1926, and recorded therein in Deed Book 41 N.S., pages 192-3; that a copy of said deed is attached hereto and asked to be made a part of this answer as though herein fully set out; that said land so acquired constitutes a part of the land set out in Paragraph "SECOND" of the Complainant's Bill of Complaint.

THIRD:

For answer to Paragraph "THIRD" the Respondent says that it acquired title to a strip of land 15 feet wide beginning at a center stake on the South boundary line of Section fourteen (14) and running 330 feet North, being a fractional portion of S.E.1/4 of S.W.1/4 of Section fourteen (14), Township five (5) South, Range six (6) East of St. Stephens Meridian, in Baldwin County, Alabama, and which constitutes a part of the land described in said Complainant's Bill of Complaint, by a Warranty Deed from Alto Boyington and Anna Belle Boyington, husband and wife, dated December 7, 1925, filed for record in the office of the Probate Judge of Baldwin County, Alabama, on November 16, 1926, and recorded therein in Deed Book 41 N.S., pages 192-3.

FOURTH:

The Respondent, for answer to the allegations contained in Paragraph "FOURTH", admits that the Complainant is using as a part of his pasture that part of the land described in the said Bill of Complaint, except such part thereof as was acquired by and is owned by the Respondent, Baldwin County, Alabama;

That the Respondent specifically denies that it, through its engineers and agents, has been making repeated trespasses upon said parcel of land described in Paragraph "SECOND" of the said Bill of Complaint which is owned by the Complainant; that it denies that it has torn down the fence or threatened to keep torn down the fence located on the lands of the Complainant.

FIFTH:

For answer to Paragraph "FIFTH" of the Bill of Complaint the Respondent says that it admits that no suit is pending to test the title as to said land between the Complainant and the Respondent, or anyone else that it knows of; that it admits that it has not by order or otherwise condemned any of said land for its use as a highway or otherwise, but on the contrary says that the title to the property claimed by the said Baldwin County, Alabama, and

over which it proposes to construct a highway, was acquired by purchase by Warranty Deed as hereinabove set out; that it specifically denies that it is taking over or attempting to take over any lands belonging to the Complainant, but on the contrary states that it is only exercising its rights to that land owned by it and who has a fee simple title.

And for further answer to the Complainant's Bill of Complaint, and to each Count thereof, the Respondent says: That there is and has been for the past several years a public highway leading from what is known as the Bay Minette-Pensacola Road to the Magnolia Farm; that the said road, which is maintained and used generally by the public, and which leads from the Pensacola Road to the Magnolia Farm and on South, passes through Section fourteen (14), Township five (5) South of Range six (6) East, at approximately on a line which divides the North half of the North half and the South half of the North half of said Section fourteen (14), Township five (5) South of Range six (6) East; that some several years ago there was opened up, plowed and graded a road 30 feet wide leading from the original road which leads from the Pensacola Road to the Magnolia Farm and on South, 15 feet on either side of the half section line beginning at the Northwest corner of the Southwest quarter of the Northeast quarter of said Section fourteen (14), and leading South along said half section line to the center of said Section fourteen (14); that on December 7, 1925, it acquired from Robert L. Kelly, a bachelor, a deed to a strip of land 15 feet wide on the West side of the half section line running North and South through said Section fourteen (14), and beginning at the center point of said Section fourteen (14) and running South to a point 330 feet North of a point at the center of the South boundary line of said Section fourteen (14); that a copy of said deed is hereto attached and asked to be made a part of this answer as though herein fully set out.

That it acquired the title to a strip of land 15 feet wide beginning at a stake on the South boundary line of Section fourteen (14) and running 330 feet North, being a fractional portion of the S.E. 1/4 of the S.W. 1/4 of Section fourteen (14), Township five (5) South, Range six (6) East of St. Stephens Meridian, Baldwin County, Alabama, from Alto Boyington and Anna Belle Boyington, husband and wife, by deed dated December 7, 1925;

That the Complainant, L. G. Crosby, acquired title to the lands described as follows situated in Baldwin County, Alabama, to-wit: Beginning at a center stake on the South boundary line of Section fourteen (14), and running West 12 chains; thence North 5 chains; thence East 12 chains; thence South 5 chains to point of beginning, containing six acres more or less, being a fractional portion of the Southeast quarter of the Southwest quarter of Section fourteen (14), Township five (5) South, Range six (6) East (West of St. Stephens Meridian) in Baldwin County, Alabama, by Warranty Deed dated January 17, 1927, and filed for record in the office of the Probate Judge of Baldwin County, Alabama, on January 25, 1927, and recorded in Deed Book 42 N.S., pages 154-5, from Alto Boyington and Annie Belle Boyington, his wife; that said property was acquired by the said L. G. Crosby subsequent to the time the said property claimed by Baldwin County, Alabama, and which constitutes a part of the property described in the Bill of Complaint as claimed by L. G. Crosby, and that the deed to Baldwin County, Alabama, was recorded prior to the deed to L. G. Crosby, and that the recording thereof served as notice to the said L. G. Crosby that Baldwin County, Alabama, claimed the property that it now owns; that in the deed from Alto Boyington and wife to Baldwin County, Alabama, it was set out: "This strip of land is deeded to Baldwin County, Alabama, for use as a public road and is not to be closed or obstructed"; and the said L. G. Crosby of necessity had notice that the said property now claimed and owned by Baldwin County, Alabama, was to be used as a public road and not

to be closed or obstructed;

That the said Complainant has been repeatedly requested by parties in the neighborhood surrounding and also by parties who own land contiguous to the right of way owned by the said Respondent, to open up and grade said road leading from the South line of Section fourteen (14) up to and adjoining the road already opened up and maintained by the County beginning at the center of said Section fourteen (14);

That the said L. G. Crosby sometime ago constructed or erected a fence along the East and West center line of Section fourteen (14), and without the knowledge, consent or approval of the Respondent continued said fence on across the lands owned by the Respondent, and thereby prevented and is preventing the free access of the County and of its citizens to the unobstructed use of that land owned by the Respondent and which was deeded to it to be used as a public highway, and that the Respondent, on account of the acts and conduct of the Complainant, is prevented and hindered from using that part of said Section fourteen (14) which is owned by the Respondent and lies South of and within the fence erected by the Complainant.

And now the Respondent, having fully answered the Complainant's Bill of Complaint, prays that the injunction heretofore on August 16, 1932, issued in this cause be dissolved, and that the Respondent be permitted to go hence unobstructed in the use of that property owned by it.

Beebe & Hale  
Solicitors for Respondent.

STATE OF ALABAMA.  
BALDWIN COUNTY.

Before me, T. W. Richerson, Clerk of the Circuit Court of Baldwin County, Alabama, personally appeared C. S. TOMPKINS, who being duly sworn, says that the allegations contained in the foregoing answer are true and correct.

Sworn to and subscribed before me, on this the 31 day of August, 1932.

T. W. Richerson  
Clerk of the Circuit Court, Baldwin County, Alabama.

C. S. Tompkins

THIS DEED made the 7th day of December, 1925, between ALTO BOYINGTON and ANNA BELLE BOYINGTON (husband and wife) of the first part and BALDWIN COUNTY, ALABAMA, of the second part,

WITNESSETH, That the parties of the first part, by these presents do grant, deliver unto the said party of the second part all that real property in Baldwin County, Alabama described as follows to-wit:

A strip of land 15 ft. wide beginning at a center stake on the South boundary line of Section (14) fourteen and running 330 ft. North, being a fractional portion of S.E. 1/4 of the S.W. 1/4 of Sec. (14) fourteen, Township (5) five South Range (6) Six East - East of St. Stephens Meridian in Baldwin County Alabama. This strip of land is deeded to Baldwin Co. Alabama for use as a Public Road and is not to be closed or obstructed.

TOGETHER with all appurtenances thereunto belonging to have and to hold forever and against any person lawfully claiming the same, said part of the first part shall ever warrant and defend.

IN WITNESS WHEREOF, the part of the first part ha hereunto set hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED	Alta Boyington	(SEAL)
IN PRESENCE OF	Anna Belle Boyington	(SEAL)
Hector L. McNeill		
Oscar Williams		

STATE OF ALABAMA, BALDWIN COUNTY.

I, Mrs. Oscar Williams ----- in and for said County and State hereby certify that Alto Boyington 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 he executed the same voluntarily on the day the same bears date.  
Given under my hand and seal this 7th day of Dec. 1925.  
Mrs. Oscar Williams Notary Public.  
My commission expires June 2, 1929.

STATE OF ALABAMA, BALDWIN COUNTY.

I, Mrs. Oscar Williams ----- in and for said County and State, do hereby certify that on the 7th day of Dec. 1925, came before me the within named Anna Belle Boyington, known to me to be the wife of the within named Alto Boyington, 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 her husband.  
IN WITNESS WHEREOF, I hereunto set my hand and seal this 7th day of Dec. 1925.  
Mrs. Oscar Williams, Notary Public  
My commission expires June 2, 1929.

THIS DEED made the 7th day of December, 1925, between ROBERT L. KELLY (a bachelor) of the first part and BALDWIN COUNTY, ALABAMA, of the second part,

WITNESSETH, That the party of the first part, and by these presents do grant, deliver unto the said party of the second part all that real property in Baldwin County, Alabama, described as follows to-wit:

A strip of land 15 ft. wide beginning 330 ft. North of a center stake on the South boundary line of Section (14) fourteen and running North on West side of center line to a stake in center of Section (14) fourteen, being a fractional part of the East 1/2 of South West 1/4 of Sec. (14) Township (5) five South of Range (6) Six East - East of St. Stephens Meridian in Baldwin County, Alabama.

This strip of land is deeded to Baldwin County, Alabama, for use as a Public Road and is not to be closed or obstructed.

TOGETHER with all appurtenances thereunto belonging to have and to hold forever and against any person lawfully claiming the same, said party of the first part shall ever warrant and defend.

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED  
IN PRESENCE OF

Robert L. Kelly

(SEAL)

Alta Boyington  
Hector L. McNeill

STATE OF ALABAMA, BALDWIN COUNTY.

I, Mrs. Oscar Williams ----- in and for said County and State hereby certify that Robert L. Kelly (a bachelor) 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 he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 7th day of Dec. 1925.

Mrs. Oscar Williams, Notary Public  
My commission expires June 2, 1929.

Filed for record November 16th, 1926.  
Recorded in Record Book 42 N.S., page 9.



L. G. CROSBY,  
Complainant,  
vs.  
BALDWIN COUNTY,  
Respondent.

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

NO. \_\_\_\_\_

Comes the Respondent in the above styled cause and moves the Court to dissolve the injunction heretofore issued in the aforesaid cause on the 16th day of August, 1932, enjoining the Respondent, its agents or servants, from trespassing upon certain lands in Baldwin County, Alabama, to-wit:

That certain plot of land beginning at a center stake on the South boundary line of Section Fourteen (14), and running West Twelve (12) Chains, thence North Five (5) Chains, thence East Twelve (12) Chains, thence South Five (5) Chains to point of beginning, containing Six (6) acres, more or less, being a fractional portion of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section Fourteen (14), Township Five (5) South of Range Six (6) East, West of St. Stephens Meridian, in Baldwin County, Alabama;

and for grounds of such dissolution the said Respondent submits:

The sworn answer of the Respondent heretofore filed in this cause on August 31, 1932.

BALDWIN COUNTY, ALABAMA,

By L. S. Josephine  
Chairman, County Commission.

Beebe & Stapp  
Solicitors for Respondent.

STATE OF ALABAMA.

BALDWIN COUNTY.

Before me, T. W. Richerson, Clerk of the Circuit Court of Baldwin County, Alabama, personally appeared E. N. ROGERS, who is known to me and who, having been by me first duly sworn, deposes and says: That his name is E. N. Rogers; that he is County Engineer of Baldwin County, Alabama, and as such has supervision over the opening and maintenance of County roads in Baldwin County, Alabama; that he is acquainted with the County road which leads from the Pensacola-Bay Minette Road to and towards Magnolia Farm, in Baldwin County, Alabama; that said road runs approximately on a line dividing the North half of the North half and the South half of the North half of Section fourteen (14), Township five (5) South, Range six (6) East; that there was sometime ago opened, plowed and graded a road over land owned by Baldwin County, Alabama, leading from the Pensacola Road toward the Magnolia Farm 30 feet wide South to the half section post of said Section fourteen (14), Township five (5) South, Range six (6) East; that the owners on either side of said road have fenced their lands up to the border of said road; that sometime ago L. G. Crosby erected a fence along the East and West half section of said Section fourteen (14) and across lands owned by Baldwin County, Alabama; that sometime ago he, as Engineer for Baldwin County, was instructed and directed by the Board of Revenue of Baldwin County, Alabama, to open that strip of land belonging to Baldwin County, Alabama, leading from the center of Section fourteen (14), Township five (5) South, Range six (6) East, South to the South line of said Section fourteen (14), being a strip of land 15 feet wide on the West side of the North and South half section line of said Section fourteen (14), and being the strip of land owned by Baldwin County leading from the road already opened to the South section line of said section; that preparations were made and he went upon the land to begin the clearing, but was warned by L. G.

Crosby to get off and stay off of said land; that as Engineer for the County he has examined certain deeds conveying title to that 15 foot strip leading from the center of said Section fourteen (14) to the South line thereof; that copies of said deeds are hereto attached and asked to be made a part of this affidavit as though herein fully set out;

That the said Baldwin County, as a result of the actions of said L. G. Crosby, has been prevented from pursuing its rights in opening and using the land owned by it in said Section fourteen (14) hereinabove set out.

Sworn to and subscribed before me, this the 31st day of August, 1932.

J. N. Rodgers  
County Engineer

T. W. Rice  
Clerk of the Circuit Court of Baldwin County, Alabama.

THIS DEED made the 7th day of December, 1925, between ALTO BOYINGTON and ANNA BELLE BOYINGTON (husband and wife) of the first part and BALDWIN COUNTY, ALABAMA, of the second part,

WITNESSETH, That the parties of the first part, by these presents do grant, deliver unto the said party of the second part all that real property in Baldwin County, Alabama described as follows to-wit:

A strip of land 15 ft. wide beginning at a center stake on the South boundary line of Section (14) fourteen and running 330 ft. North, being a fractional portion of S.E. 1/4 of the S.W. 1/4 of Sec. (14) fourteen, Township (5) five South Range (6) Six East - East of St. Stephens Meridian in Baldwin County Alabama.

This strip of land is deeded to Baldwin Co. Alabama for use as a Public Road and is not to be closed or obstructed.

TOGETHER with all appurtenances thereunto belonging to have and to hold forever and against any person lawfully claiming the same, said part of the first part shall ever warrant and defend.

IN WITNESS WHEREOF, the part of the first part ha hereunto set hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED  
IN PRESENCE OF  
Hector L. McNeill  
Oscar Williams

Alta Boyington (SEAL)  
Anna Belle Boyington (SEAL)

STATE OF ALABAMA, BALDWIN COUNTY.

I, Mrs. Oscar Williams ----- in and for said County and State hereby certify that Alto Boyington 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 he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 7th day of Dec. 1925.  
Mrs. Oscar Williams Notary Public.  
My commission expires June 2, 1929.

STATE OF ALABAMA, BALDWIN COUNTY.

I, Mrs. Oscar Williams ----- in and for said County and State, do hereby certify that on the 7th day of Dec. 1925, came before me the within named Anna Belle Boyington, known to me to be the wife of the within named Alto Boyington, 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 her husband.

IN WITNESS WHEREOF, I hereunto set my hand and seal this 7th day of Dec. 1925.

Mrs. Oscar Williams, Notary Public  
My commission expires June 2, 1929.

Filed for record November 16th, 1926.  
Recorded Deed Book 41, N.S., pages 192-3.

THIS DEED made the 7th day of December, 1925, between ROBERT L. KELLY (a bachelor) of the first part and BALDWIN COUNTY, ALABAMA, of the second part,

WITNESSETH, That the party of the first part, and by these presents do grant, deliver unto the said party of the second part all that real property in Baldwin County, Alabama, described as follows to-wit:

A strip of land 15 ft. wide beginning 330 ft. North of a center stake on the South boundary line of Section (14) fourteen and running North on West side of center line to a stake in center of Section (14) fourteen, being a fractional part of the East 1/2 of South West 1/4 of Sec. (14) Township (5) five South of Range (6) Six East - East of St. Stephens Meridian in Baldwin County, Alabama.

This strip of land is deeded to Baldwin County, Alabama, for use as a Public Road and is not to be closed or obstructed.

TOGETHER with all appurtenances thereunto belonging to have and to hold forever and against any person lawfully claiming the same, said party of the first part shall ever warrant and defend.

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED  
IN PRESENCE OF

Robert L. Kelly

(SEAL)

Alta Boyington  
Hector L. McNeill

STATE OF ALABAMA, BALDWIN COUNTY.

I, Mrs. Oscar Williams ----- in and for said County and State hereby certify that Robert L. Kelly (a bachelor) 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 he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 7th day of Dec. 1925.

Mrs. Oscar Williams, Notary Public  
My commission expires June 2, 1929.

Filed for record November 16th, 1926.  
Recorded in Record Book 42 N.S., page 9.

L. G. CROSBY,

Complainant,

-VS-

BALDWIN COUNTY, ALABAMA,

Respondent.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Comes the Complainant and on the hearing on Respondent's Motion to dissolve the Injunction heretofore issued in this cause and notes the following evidence:-

1. The Original Sworn Bill;
2. The Affidavit of L. G. Crosby;
3. The Affidavit of Alto Boyington.

I hereby certify that the foregoing Note of Evidence is correct.

This the 27th day of September, 1932.

  
Register.

NOTE OF TESTIMONY.

L. G. CROSBY,  
Complainant,  
vs.  
BALDWIN COUNTY,  
Respondent.

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

This cause is submitted in behalf of Respondent upon:

1. Sworn answer;
2. Motions to dissolve temporary injunction;
3. Notice of filing of motion to complainant and attorneys of record.
4. Affidavit of E. N. Rodgers;
5. Affidavit of Francis W. Taylor;
6. Affidavit of Bodie E. Garrett;
7. Affidavit of Oscar Williams;
8. Affidavit of Mrs. Oscar Williams;
9. Brief of Respondent.

  
Register.

L. G. CROSBY,  
Complainant,  
vs.  
BALDWIN COUNTY,  
Respondent.

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

NO. \_\_\_\_\_

Comes the Respondent in the above styled cause and moves the Court to dissolve the injunction heretofore issued in the aforesaid cause on the 16th day of August, 1932, enjoining the Respondent, its agents or servants, from trespassing upon certain lands in Baldwin County, Alabama, to-wit:

That certain plot of land beginning at a center stake on the South boundary line of Section Fourteen (14), and running West Twelve (12) Chains, thence North Five (5) Chains, thence East Twelve (12) Chains, thence South Five (5) Chains to point of beginning, containing Six (6) acres, more or less, being a fractional portion of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section Fourteen (14), Township Five (5) South of Range Six (6) East, West of St. Stephens Meridian, in Baldwin County, Alabama;

and for grounds of such dissolution the said Respondent says:

The Bill of Complaint upon which said injunction was issued is without equity.

BALDWIN COUNTY, ALABAMA,

By

B. S. Thompson  
Chairman, County Commission.

Beebe & Stoll

Solicitors for Respondent.

We hereby accept service of the above on  
this the 1<sup>st</sup> day of September 1932

R. H. Heard  
for Hyatt Heard & Chason



STATE OF ALABAMA.

MONROE COUNTY.

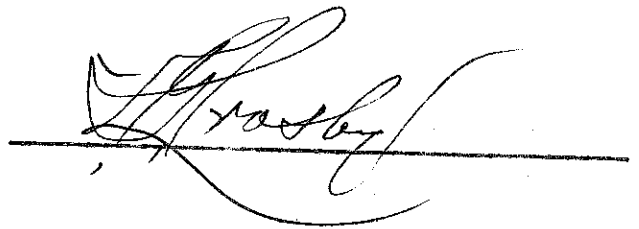
Before me, J. H. Agee, Clerk of the Circuit Court, Monroe County, Alabama, personally appeared L. G. Crosby, who being duly sworn deposes and says:-

That he is the Complainant in the suit out of which the injunction now moved to be dissolved was issued; that at the time he purchased the land specifically described in the Bill of Complaint from Alto Boyington he had no actual knowledge that a right-of-way across said land had ever been deeded to Baldwin County; that said property was bought by him for a valuable consideration in order to enable him to enclose his pasture referred to in said Bill of Complaint; **that he went into, and is now in possession thereof;** that he personally knows Oscar Williams and Mrs. Oscar Williams, his wife; that for several years the said Oscar Williams has been vitally interested in procuring a road or right-of-way which would enter his pasture from the north, and at or about the location where the road referred to in the Bill of Complaint would enter the same. That at this time he owns all of the land included within his pasture except approximately seven hundred twenty acres owned by one Taylor, excepting further some acreage near the South end of said pasture, and not contiguous to the road way referred to in the Bill of Complaint; that no persons reside within said pasture; that he is familiar with the proposed road referred to in Respondent's answer; that the route over which said road would travel is impracticable for all purposes, and especially for the removal of timber, or timber products from any property located within said pasture; that the proposed road leads to a point which is in the woods, and does not go to anybody's house, or to any settlement, or to any terminus whatever, and stops at the edge of the land of the said Taylor, which is wild, cutover, and unimproved land having no houses or residences or building of any nature thereon; timber has been cut and removed from this Taylor property for many years and none of it has ever been

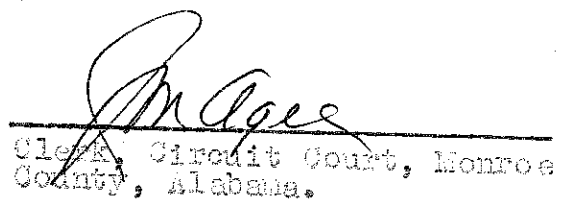
moved over the road described in Respondent's answer.

Affiant further deposes and says that the practicable route for the removal of any timber or timber products on the Taylor land would be to follow the old Captain Jones' road, which leads from the Taylor land across the property now owned by Oscar Williams and associates, which road has been therefor forty years, and used by the public for the removal of timber, or timber products and other commodities, and without let or hindrance for the aforesaid period.

Affiant further deposes and says that should said road be opened it would destroy his enclosure as now maintained by him and would permit a thousand or more head of cattle to go on to the open range, resulting in much loss to this affiant; that it would subject his pasture property to fire and other trespasses probably resulting in great and irreputable damages; that said affiant has never denied to the said Taylor, nor his predecessors in title, nor to the owners of any property within said enclosure the free and uninterrupted right to remove their property from said enclosure, but has and will continue to cooperate with any said owner to that end but affiant has objected to the opening of a public/<sup>road</sup> to the edge of his property, extending through his fences when such road would serve no purpose except to break his enclosure and put him to great expense and ceaseless worry and much damage.



Sworn to and subscribed to before me this 20th day of September, 1932.



Clerk, Circuit Court, Monroe  
County, Alabama.

STATE OF FLORIDA:

ESCAMBIA COUNTY:

Before the undersigned personally appeared Francis W. Taylor, who being duly sworn, deposes and says that he is the owner of the following described real property in Baldwin County, Alabama, to-wit: Northeast quarter and East half of Southeast Quarter of Section Twenty-two, and North half and Southwest quarter of Section Twenty-three, all in Township Five South, Range Six East; that when he purchased said land he understood that there were conveyances of record to Baldwin County, for a public road from the north boundary line of his land, running north and connecting with the public road that enters the property known as Magnolia Farm; that he would not have purchased said land had there not been such a right-of-way; that affiant entered into a contract in good faith with Bodie Garrett, to get the down timber and stumps off of said land for the Newport Company; that by reason of the fact that one L. G. Crosby had built a fence on said right of way, or a portion thereof, affiant and/or his agent, was unable to have access to his land over said right-of-way, and by reason thereof affiant is being damaged daily; that affiant had an inquiry for said land and gave a price on it and the prospective purchaser advised affiant's agent that he would not buy because he understood or had been advised that he could not get access to the land; that the continuation of the obstructions on said right of way and the failure to open this right of way has resulted in affiant sustaining damages, the extent of which is at present to affiant unknown.

Francis W. Taylor

Sworn to and subscribed before  
me this 7th day of September,

A. D., 1932.

Quinn M. Russell  
Notary Public State of Florida at Large

My commission expires Nov. 16, 1933

L. G. CROSBY'

Complainant'

-VS-

BALDWIN COUNTY'

Defendant.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

STATE OF ALABAMA'

BALDWIN COUNTY.

TO ANY SHERIFF OF SAID STATE - GREETINGS:-

We command you that without delay you execute this Writ and due return thereof to make to us instantler' at a term of our Circuit Court-In Equity' to be held at Bay Minette' Alabama' on the \_\_\_\_\_ day of \_\_\_\_\_' 1932.

TO BALDWIN COUNTY - GREETINGS:-

WHEREAS' L. G. Crosby has exhibited his Bill of Complaint in the Circuit Court of Baldwin County-In Equity' and has obtained from the Hon. F. W. Hare' Judge of said Court' an order for the issuance of an Injunction to restrain and enjoin you as hereinafter mentioned;

AND WHEREAS' the said L. G. Crosby' in accordance with said order' entered into Bond with security in the sum of Five Hundred Dollars' payable to and approved by the Register of said Circuit Court and conditioned according to law.

NOW' THEREFORE' you' the said Baldwin County' your agents or servants' are hereby commanded and strictly enjoined from trespassing upon the following described lands situated in Baldwin County' Alabama' to-wit:-

That certain plot of land beginning at a center stake on the South boundary line of Section Fourteen (14)' and running West Twelve (12) Chains' thence North Five (5) Chains' thence East Twelve (12) Chains' thence South Five (5) Chains to point of beginning' containing Six (6) acres' more or less' being a fractional portion of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section Fourteen (14)' Township Five (5) South of Range Six (6) East' West of St. Stephens Meridian' in Baldwin County' Alabama;

and from making repeated trespasses on said parcel of land or from tearing down fences thereon or therefrom' or from interfering with the possession of the said L. G. Crosby as to said land until fur-

(page two)

ther orders of this Court.

Witness the hand of the Register and the seal of said  
Circuit Court-In Equity' this 16 day of August, 1932.

J. M. Pearson  
Register.

L. G. CROSBY,

Complainant,

-vs-

BALDWIN COUNTY,

Respondent.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

TO THE HON. F. W. HARE, JUDGE OF THE TWENTY-FIRST JUDICIAL CIRCUIT  
OF ALABAMA:-

Your Orator, L. G. Crosby, humbly complaining of the  
Defendant, Baldwin County, shows unto your Honor as follows:-

FIRST:-

That he is a resident of the State of Florida and over  
the age of twenty-one years.

SECOND:

Your Orator further shows unto your Honor that he is  
the owner and in the possession of the following described lands  
situated in Baldwin County, Alabama, to-wit:-

That certain plot of land beginning at a center  
stake on the South boundary line of Section Four-  
teen (14), and running West Twelve (12) chains,  
thence North Five (5) Chains, thence East Twelve  
(12) Chains, thence South Five (5) Chains to point  
of beginning, containing six (6) acres, more or  
less, being a fractional portion of the Southeast  
Quarter of the Southwest Quarter (SE $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of  
Section Fourteen (14), Township Five (5) South of  
Range Six (6) East, west of St. Stephens Meridian,  
in Baldwin County, Alabama.

THIRD:-

Your Orator further shows unto your Honor that the De-  
fendant claims or is reputed to claim some right, title or int-  
erest in or encumbrance upon such lands, and your Orator calls  
upon the said Baldwin County to set forth and specify its title,  
claim, interest or encumbrance upon said lands, and how and by  
what instrument or instruments the same is derived and created.

FOURTH:-

Your Orator further shows unto your Honor that the afore-  
said plot of land is being used by him in connection with his  
pasture, which consists of more than nineteen thousand acres  
(19,000) of land, and on which pasture he has many head of cattle  
now grazing and being cared for; that on said plot of land here-

tofore mentioned is a portion of his pasture fense which encloses the several thousand acres of land heretofore mentioned as being a part and parcel of the same. Your Orator further shows unto your Honor that the said Baldwin County, through its engineer and other agents, has been making repeated trespasses upon said parcel of land described in paragraph two of this Bill of Complaint, have torn down the fense and are threatening to keep the same torn down, which will cause his cattle to escape from said pasture, thereby causing him much expense and possibly a loss of a good many of his said cattle. Such repeated trespasses will bring about a multiplicity of suits and prevent the orderly use of the same.

FIFTH:

Your Orator further shows unto your Honor that there is no suit pending to test the title as to said lands between him and the said Baldwin County or anyone else that he knows of; that the said Baldwin County has not by order or otherwise condemned any of said land for its use as a highway or otherwise, and that the said Baldwin County is now attempting to take over a portion of said lands described in paragraph two of this Bill of Complaint without compensating him therefor or without due process of law, and that unless they are restrained and enjoined the said Baldwin County will take over a portion of said lands, destroying the continuity of his pasture fense, causing him a great amount of trouble and expense in rounding up his cattle that will escape through the breach in the fense of said pasture as heretofore mentioned.

PRAYER FOR PROCESS.

To the end that equity may be had in the premises, your Orator prays that your Honor will cause the usual Writ of Process to issue to the said Baldwin County, making it a party defendant to this Bill of Complaint and requiring it to plead, answer or demur to the same within the time as required by law; that your Honor will grant to your Orator a temporary Injunction restraining the said Baldwin County, its agents or servants, from interfering with your Orator in the use and enjoyment of said lands described

in paragraph two and expecially from tearing down the fences there-  
on.

PRAYER FOR RELIEF.

The premises considered' your Orator prays that upon a final hearing of this cause your Honor will decree that he is the absolute owner in fee of the lands described in paragraph two of this Bill of Complaint and that your Honor by appropriate order will remove any instrument' conveyance' Deed or what not that the said Baldwin County may claim as to the land involved in this suit as a cloud upon your Orator's title to the same. Your Orator further prays that upon a final hearing of this cause that your Honor will decree that the temporary Injunction heretofore prayed for be made final and that the said Baldwin County be perpetually enjoined from trespassing upon said lands and interfering with your Orator's ownership of the same.

Your Orator prays for such other' further and different relief as in equity may seem just and meet.

*Stevens, McCowley, McLeod, Stoddard & Turner*  
*Hyatt, Heard & Pherson*  
Attorneys for Complainant.

FOOT-NOTE:

Defendant is required to answer Paragraphs "First" to "Fifth" inclusive' of the foregoing Bill of Complaint' but answer under oath is hereby expressly waived.

*Stevens, McCowley, McLeod,*  
*Stoddard & Turner*  
*Hyatt, Heard & Pherson*  
Attorneys for Complainant.

STATE OF ALABAMA'

BALDWIN COUNTY.

Before me' Mary E. Green a Notary Public in and for said State and County' personally appeared L. G. Crosby' who being duly sworn says:- That the allegations contained in the foregoing Bill of Complaint are true and correct.

*L. G. Crosby*

Sworn to and subscribed before me' a Notary Public whose seal is hereto affixed' this 15th day of August' 1932.

*Mary E. Green*  
Notary Public' Baldwin County'  
Alabama.



(page four)

This Bill being presented to me for an order directing that a temporary Injunction be issued against Baldwin County, as prayed for in the foregoing Bill of Complaint, it is ordered that on the Complainant entering into Bond in the sum of Five Hundred Dollars (\$ 500<sup>00</sup>), to be approved by the Register, that a temporary Injunction be issued restraining the said Baldwin County, its agents or servants, from trespassing upon said lands as prayed for.

Dated this 16<sup>th</sup> day of August, 1932.

A. W. Hare

Judge of the 21st Judicial  
Circuit of Alabama.

L. G. CROSBY,	)	IN THE CIRCUIT COURT OF BALDWIN
Complainant,	)	COUNTY, ALABAMA. IN EQUITY.
vs.	)	
BALDWIN COUNTY,	)	NO. _____
Respondent.	)	

TO HON. L. G. CROSBY, Complainant, and

STEVENS, McCORVEY, McLEOD, GOODE & TURNER, and  
HYBART, HEARD & CHASON,

Solicitors for Complainant in the above  
styled cause.

NOTICE IS HEREBY GIVEN that motion will be made before  
the Hon. F. W. Hare, Judge of the Circuit Court of Baldwin Coun-  
ty, Alabama, on the 12th day of September, 1932, to dissolve the  
injunction issued in the above styled cause against Baldwin Coun-  
ty, its agents or servants, enjoining them from trespassing upon  
certain land in Baldwin County, Alabama, to-wit:

That certain plot of land beginning at a center stake  
on the South boundary line of Section Fourteen (14),  
and running West Twelve (12) Chains, thence North  
Five (5) Chains, thence East Twelve (12) Chains,  
thence South Five (5) Chains to point of beginning,  
containing Six (6) acres, more or less, being a frac-  
tional portion of the Southeast Quarter of the South-  
west quarter (SE $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section Fourteen (14),  
Township Five (5) South of Range Six (6) East, West  
of St. Stephens Meridian, in Baldwin County, Alabama;

and specifically described in the original bill of complaint  
filed on August 16, 1932, for want of equity in the bill of com-  
plaint upon which said injunction was issued.

BALDWIN COUNTY, ALABAMA,

By B. S. Thompson  
Chairman, County Commission.

Beebe J. Hare  
Solicitors for Respondent.

*We hereby accept service of the above on this  
the 12th day of Sept 1932.*  
*Re Heard*  
*for Hybart, Heard & Chason*

STATE OF ALABAMA

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That we' L. G. Crosby' as Principal' and the undersigned' as Surety' are held and firmly bound unto the Register of the Circuit Court in Equity for said County' in the sum of Five Hundred Dollars (\$500.00)' for the payment of which to the said Register' or to his successors' we bind ourselves' our executors and administrators' jointly and severally.

Sealed with our seals and dated this 16<sup>th</sup> day of August' 1932.

WHEREAS' the said L. G. Crosby has filed his Bill of Complaint in the said Circuit Court' in Equity' and has obtained thereon an Order for the issuance of an Injunction from the Hon. F. W. Hare' Judge' to restrain and enjoin Baldwin County' its agents or servants' from making repeated trespasses on said parcel of land or from tearing down fences from or on the following described real estate situated in Baldwin County' Alabama' to-wit:-

That certain plot of land beginning at a center stake on the South boundary line of Section Fourteen (14)' and running West Twelve (12) chains' thence North Five (5) Chains' thence East Twelve (12) Chains' thence South Five (5) Chains to point of beginning' containing Six (6) acres' more or less' being a fractional portion of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$  of SW $\frac{1}{4}$ ) of Section Fourteen (14)' Township Five (5) South of Range Six (6) East' West of St. Stephens Meridian' in Baldwin County' Alabama;

and from trespassing upon said lands or interfering with the possession of the said L. G. Crosby as to the same.

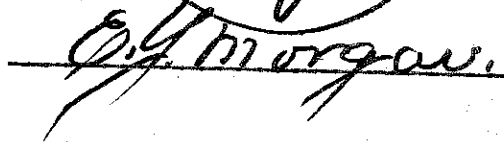
NOW' THEREFORE' THE CONDITION OF THE ABOVE OBLIGATION IS SUCH' that if the said L. G. Crosby' his heirs' executors' administrators' or any of them' shall well and truly pay or cause to be paid all damages which any person may sustain by the suing out of said Injunction if the same is dissolved by the Circuit Court' in Equity' on the Bill filed by the said L. G. Crosby as aforesaid' then the above obligation to be void' otherwise to remain in full force and effect.

(page one)

(page two)

Witness our hands and seals on the day and year first  
above written.

 (SEAL)

 (SEAL)

\_\_\_\_\_ (SEAL)

Taken and approved this  
16 day of August' 1932.

  
Register.

STATE OF ALABAMA.

MONROE COUNTY.

Before me, J. M. Agee, Clerk of the Circuit Court, Monroe County, Alabama, personally appeared Alto Boyington, who is made known to me, and who being duly sworn deposes and says as follows:

That he is acquainted with the

Southeast Quarter of the Southwest Quarter,  
Section 14, Township 5, Range 6, Baldwin  
County, Alabama,

and that he has known the same ever since 1924. That in 1924 he purchased from Olga Hinote the following part of said subdivision, to-wit:

Beginning at a center stake on the South boundary line of Section 14 and running west 12 chains; thence North 5 chains; thence East 12 chains; thence South 5 chains to point of beginning, containing 6 acres, more or less, being a fractional portion of the Southeast Quarter of the Southwest Quarter, Section 14, Township 5, Range 6, East of St. Stephens Meridian in Baldwin County, Alabama.

That he continued to own this land up until the time that he conveyed the same to L. E. Crosby. Affiant further says that on the 7th day of December, 1925, Oscar Williams, a resident of Baldwin County, Alabama, and who is interested in this litigation, held a mortgage on this property for the sum of \$125.00, which affiant was endeavoring to have the payment due thereon extended. That on said date the said Oscar Williams came to him with a paper which he was under the impression was a renewal of said mortgage, and which affiant executed. That he had requested, shortly prior thereto, that the said Oscar Williams would permit him to execute another mortgage on the land for the purpose of renewing the mortgage that was then outstanding and payable to the said Oscar Williams, and that when the said Oscar Williams came to him on the 7th day of December, 1925, and presented him with the instrument that was signed on that day, and which will hereinafter be referred to, the said Oscar Williams said,

"Here is that paper that I want you to sign".

Affiant further says that sometime about thirty days ago affiant found out that the instrument that was brought to him by the said Oscar Williams on December 7, 1925, was a deed from he and his wife to Baldwin County, Alabama; that affiant had no intention of making a deed to Baldwin County, Alabama. That no consideration was ever given to him for a deed to Baldwin County, Alabama, and that he had no intention of making a deed to Baldwin County, Alabama, nor did he intend to do so; that due to the misrepresentation, or the misleading of the affiant by the said Oscar Williams, and believing that he was executing a renewal of his said mortgage he executed said deed. That he and his wife, in the year 1927, by warranty deed, conveyed and sold the aforesaid property to L. A. Crosby.

That at the time that the said Oscar Williams presented the paper to him that Mrs. Oscar Williams was present, and that all that was said relative to the paper was as to what Oscar Williams said to me, and which I have heretofore mentioned. That by reason of the fact that I had been talking to Oscar Williams about renewing the mortgage, and having never discussed the granting of a right-of-way to Baldwin County, or to anyone else, all of which Oscar Williams knew, and by his stating to me "that here is the paper", and by his conduct he fraudulently mislead me into executing an instrument that I would not have executed, and had no reason to execute. That by reason of the fact that we had been discussing the renewal of the mortgage and his having agreed to renew the mortgage, at or about the time that the deed was executed, and by his stating to me, "that here is the paper", and relying upon the said Oscar Williams' statement ~~that~~ I did not read the paper, nor did my wife read the paper, nor did anyone in my presence read the paper, and on the strength of his misrepresentation and my confidence in him I was fraudulently induced, as well as my wife, to sign the same. That I con-

tinued in possession of the aforesaid six acres of land up until the time that I sold the same to Mr. Crosby, which was in the early part of the year, 1927, and that at no time did any one claim any interest in said land except himself, and that he was very much surprised when he heard that Baldwin County, Alabama, was claiming a deed to this property. That no agent of Baldwin County ever approached him relative to having him convey a right-of-way over or across his said land; that Baldwin County at no time has ever requested him to make a deed for a right-of-way over this land that he owned, and that Baldwin County at no time has ever notified him that it ~~accepted~~ any land ~~for~~ him for a right-of-way, or other purposes. That the only dealing that I have ever had with Baldwin County, Alabama, was to pay it taxes.

Alb Boyington

Sworn to and subscribed to before me this 20th day of September, 1932.

J. M. Ague  
Clerk of Circuit Court,  
Moore County, Alabama.

STATE OF FLORIDA:

ESCAMBIA COUNTY:

Before the undersigned personally appeared Mrs. Oscar Williams, who being by me duly sworn, deposes and says that on the 7th day of December, A. D., 1925, she was duly qualified and acting Notary Public, for Baldwin County, Alabama; that on said date personally appeared before her Alto Boyington and Anna Belle Boyington and in her presence executed a deed to Baldwin County, Alabama, conveying a strip of land fifteen (15) feet wide, by three hundred thirty (330) feet, being a part of the southeast quarter of the southwest quarter of Section Fourteen (14), Township Five (5) South, Range Six (6) East, in Baldwin County, Alabama, said conveyance being made for use as a public road; that as said Notary Public, she took the separate acknowledgment of each of said grantors, and both of said grantors acknowledged before her that they executed the same.

Mrs. Oscar Williams

Sworn to and subscribed before  
me this 7th day of September,  
1932.

Quinn M. Russell  
Notary Public  
State of Florida at Large

My commission expires Nov. 16, 1935



STATE OF FLORIDA,  
ESCAMBIA COUNTY.

Before the undersigned personally appeared Oscar Williams who being by me duly sworn deposes and says that he is the identical person who owned the following described real property in Baldwin County, Alabama, viz; Northeast quarter and East half of Southeast quarter of Section twenty-two and North half and Southwest quarter of Section twenty-three (23) all in Township five (5) South Range six (6) East; that while he owned said land in order to have free and uninterrupted access thereto he procure conveyances from Southern State Land & Lumber Company; Alto Boyington and wife; Robert L. Kelly and Hector L. McNeill and wife for a sufficient amount of land to give access to his lands, all of said conveyances being made to Baldwin County, Alabama;-that said right of way so conveyed to Baldwin County by above parties extended from the North line of the lands then owned by affiant and ran North and connected with the public road entering the farm then owned by the Southern States Land & Lumber Company; that for over thirty years last past there has been a public road connecting with the Pensacola-BayMinette Road and running into the farm property formerly owned by said Southern States Land & Lumber Company and said road has been used by the public for the period of time above stated; that affiant sold his lands above described to Mr. P. K. Yonge and at the time of the purchase by Mr. Yonge advised him of the fact that there was a right-of-way leading into said lands. That the right-of-way procured by affiant was along the north and south half section line, thru the middle of Section Fourteen (14), Township Five (5) South, Range Six (6) East.

Affiant further states that he was present when Alto Boyington and Anna Belle Boyington executed a conveyance to a strip of land fifteen (15) feet wide, for use as a public road, said conveyance being made to Baldwin County, Alabama, the said deed being dated December 7th, 1925; that he saw them sign the deed and at said time he signed the deed as a subscribing witness.

Oscar Williams

Sworn to and subscribed

before me this 26 day of Sept., 1932.

My commission expires Nov. 16, 1935.


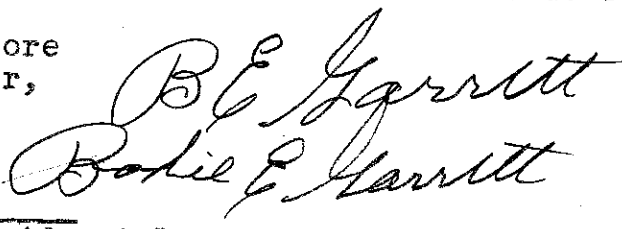
Notary Public State of Florida at Large

STATE OF FLORIDA,

ESCAMBIA COUNTY:

Before the undersigned personally appeared Bodie E. Garrett who being by me duly sworn deposes and says that he has a contract with the Newport Company to furnish them with tar wood and stumps; that acting in good faith and based upon that contract he entered into a contract with Mr. Francis W. Taylor for the tar wood and stumps on his lands in Baldwin County, Alabam, viz; Northeast quarter and East half of Southeast quarter of Section twenty-two and North half and Southwest quarter of Section twenty-three all in Township five ~~North~~ South Range six east; that affiant has about two car loads of wood ready to be hauled from said lands and about five hundred fence posts; that affiant cannot get the above material from said land because M r. L. G. Crosby refuses to permit him to use the right of way into the lands above described; that the said Crosby has part of the right of way under fence; that by reason of his inability to use said right-of-way he cannot make deliveries to Newport Company as required by his contract and he is daily suffering damages; that affiant has on five different times requested the said Crosby to let him have access to said lands but he refused to do so.

Sworn to and subscribed before  
me this 7th day of September,  
A. D. 1932.

   
Notary Public, State of Florida at Large.  
My commission expires Dec 7-1935

L. G. Crosby, :  
Complainant, :  
-vs- :  
Baldwin County, Alabama, :  
Respondent. :

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

We, L. G. Crosby, as principal, and E. G. Morgan  
and G. W. Robertson, as sureties, do hereby acknowl-  
edge ourselves as security for costs on appeal to the Supreme  
Court of Alabama from an order and decree of the Court ren-  
dered in the above entitled cause by the Honorable F. W.  
Hare as Judge of said Court dated the 24th day of October,  
1932, dissolving the temporary injunction theretofore issued  
in said cause, said temporary injunction having issued against  
the respondent, Baldwin County, Alabama.

Dated this 9<sup>th</sup> day of November, 1932.

*Ed. Moran* (SEAL)  
*Ed. Moran* (SEAL)  
*Ed. Moran* (SEAL)

Taken, approved, and filed the 24 day of November,  
1932.

J. M. Richardson  
Register.

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

CITATION.

TO THE SHERIFF OF BALDWIN COUNTY, ALABAMA, Greetings:

Whereas, at a term of the aforesaid Court in a certain cause in said Court wherein L. G. Crosby is complainant and Baldwin County, Alabama, is respondent a decree was rendered against the said L. G. Crosby, complainant, dissolving a temporary injunction theretofore issued in said cause against Baldwin County, Alabama, to reverse which he, the said L. G. Crosby, has applied for and obtained from this office an appeal to the Supreme Court of the State of Alabama, now being held at Montgomery, Alabama, said term having commenced on the first Monday of October, 1932; and the necessary security for costs of appeal having been given by the said L. G. Crosby with E. Y. Morgan and G. W. Robertson as sureties therein:

Now, therefore, you are commanded without delay to cite the said Baldwin County, Alabama, or Beebe & Hall, its solicitors of record, to appear at said term of our said Supreme Court to defend against said appeal if they think proper.

Witness T. W. Richerson, Register of the Circuit Court of Baldwin County, Alabama, this 9th day of November, 1932.

T. W. Richerson  
Register.

SHERIFF'S RETURN.

Received this 9th day of November, 1932, and on the 10th day of November, 1932, I served a copy of the within citation on Wm. Hall, a member of the firm of Beebe & Hall, solicitors for Baldwin County, Alabama.

W. R. Burt  
Sheriff Baldwin County, Alabama.

same source, the county acquiring its deed in December, 1925, which deed was promptly placed on the records. This deed had been of record for a year or two before complainant purchased the entire tract from the same grantor. Complainant had constructive notice of the County's right and interest when he purchased. It appears that a part of the proposed road had been graded at that time. In fact, that the road had been graded up to the northern boundary of the tract of land in dispute. It

L. G. Crosby, )  
Complainant, )  
Vs. ) In The Circuit Court, Baldwin County,  
Baldwin County, ) Alabama.  
Respondent. ) In Equity.

The original bill of complaint in this cause alleged that the complainant was the owner of a small tract of land therein described; that the County through its engineer and other agents had been making repeated trespasses on said tract of land; had torn down the fence and threatened to keep it town down; that the land was a part of a large tract used as a pasture in which complainant had a large number of cattle, and that the trespasses of respondent's agents would cause said cattle to escape and bring about a multiplicity of suits.

The sworn answer denies the trespass charged in the bill but claims title to a strip of land 15 feet wide on the east side of said tract of land described in the bill, over which strip the County proposes to construct a highway. The deed to the county is made an exhibit to the sworn answer.

The cause is now submitted on respondent's motion to dissolve the temporary injunction issued on the bill restraining the county from trespassing on said tract of land; the motion as worded is confined to the sworn answer of respondent, and complainant contends that, notwithstanding Section 8511, affidavits on behalf of respondent should not be considered, while those on behalf of complainant should be considered. I find nothing in the affidavits for complainant supporting ~~their~~ allegation of the bill as to trespass, or threatened trespass. On the other hand it appears from the affidavit of E. N. Rogers (which complainant insists should not be considered) that he, as County Engineer, had gone on said strip of land and made preparations to clear same as a public highway when he was warned by complainant to stay off. This seems to be the only matter, by way of evidence, tending to uphold the allegations of the bill upon which the tem-

3.

dedication was of such a length of time as to avoid the dedication. Certainly this could not be seriously contended if the final proof shows there was in fact a substantial money consideration for the dedicatory deed. At the hearing of the motion to dissolve I was not impressed with the ex parte affidavit of the common grantor that the deed to the county was obtained by fraud and misrepresentation, but offered then to hear the evidence ore tenus at any early date requested by the Solicitors for Complainant, indicating at the time that in my judgment the injunction ~~was~~ should be dissolved. I have received no such request for a hearing. Since the road Commissioners of Baldwin County have ordered the construction of the road, the presumption is that the public convenience requires its construction without unnecessary delay. I see no good reason for delay, or for the reinstatement of the injunction under Section 8312, pending an appeal from an order of dissolution. I feel sure that arrangements could be made ~~for~~ cattle guards to prevent injury pending any appeal. When the case is so very plain as this one appears to me from an examination of the pleadings and the affidavits, my idea is that the public convenience should be the first consideration.

The Register will enroll the following

DECREE.

This cause coming on to be heard is submitted on motion of Respondent to dissolve the temporary injunction heretofore issued in this case, and upon consideration of the pleading and proof as noted by the Register I am of the opinion that said temporary injunction should be dissolved.

It is, therefore, ordered, adjudged and decreed that said temporary injunction be, and same hereby is, dissolved.

Done at Monroeville, Alabama, this 24th day of October, 1932.

J. W. Hare  
Judge.