

No 9

The Court charges the Jury that if you believe the evidence in this case that you will find for the defendant as to the Northeast Quarter of Southeast Quarter of Section 34, Township 4 South, Range 5 East.

Oliver & Clark

Refused
J. W. Hare
Judge

9. The Court charges the Jury that if you are reasonably satisfied from the evidence in this case that the Complainants and those under whom they claim have been in the open, notorious, continuous adverse possession of the lands involved in this suit under claim of ownership for more than ten years next preceding the commencement of this suit, during all of which time they have annually listed said lands for taxation, your verdict should be for the Complainants.

Refused (conced)

J. W. Hare

Jury

Alben Clark

10. The Court charges the Jury that if you are reasonably satisfied from the evidence in this case that James G. Allen and Sarah E. Allen had been in the peaceable uninterrupted possession of the lands involved in this suit, claiming title thereto continuously for more than forty years prior to the commencement of this suit, your verdict should be for the Complainants.

Refused (enrolled)

Allen & Clark

J. W. Hays
Judge

no 4

The court charges the Jury that if you reasonably believe from the evidence that Jim Allen in 1907 became a tenant of James K. Clarke Sr. and James K. Clarke Jr., then he is estopped from disputing their title or the title of those holding under them, to said lands.

Refused,
J.W. Hare
Judge

Allen & Clark

no 7

The Court charges the Jury that lands which have been assessed by the owner of the legal title and the taxes paid on such assessments for a number of years prior to and during the time that any person not holding such legal title assesses the same are not lands that are subject to taxation, within the meaning of the law.

Refused
J. W. Hare
Judge
Albee & Co. -

No-. 6.

The Court charges the Jury that if the possession of the lands by the Complainants was merely permissive in its inception the possession of the Plaintiffs could become adverse only by a clear, positive, continuous disclaimer and disavowal of the Defendants' title and the assertion of a title hostile to them brought to their knowledge and that without such disclaimer and assertion of hostile title brought to the knowledge of the Defendants the length of time during which the Complainants have been in possession of the land is immaterial and does not affect Defendants' title to the property.

Given
J. W. Hare
Judge

4. The Court charges the Jury that if you are reasonably satisfied from the evidence that the Complainants, James G. Allen and Sarah E. Allen were in the peaceable possession of the lands described in the Amended Bill of Complaint at the time this suit was filed and that no suit was pending to test the Defendants' title to the said property, the burden is on the Defendants to prove title in themselves.

Given
J. W. Ware
Judge

No. 2

The Court charges the Jury that when the owner of the legal title assesses his lands for State and County taxes and pays the taxes on the same, that such lands are not subject to further taxation, within the meaning of the law.

Allen v Clark

Sinner
J. W. Stare
Judge

no 2

The Court charges the Jury that if you reasonably believe from the evidence that Jim Allen became the tenant at will of James K. Clarke Sr. and James K. Clarke Jr in 1907, then the said Jim Allen can not set up adverse possession as to their title to said land until he surrenders his possession of the same to the said James K. Clarke Sr. and James K. Clarke Jr. or those holding under them.

Allen V Clark

Given
J. W. Hare
Judge

no 5

The Court charges the Jury that the permissive occupancy of the land by the owner without reservation of rent is a tendency at will.

Alvin A. Clark

Given

J. W. Ware

Judge

No 6

The Court charges the Jury that if James K. Clarke Jr. and those under whom he claims, had been annually assessing and paying taxes on the lands involved in this suit prior to the tax year 1921, that such lands were not subject to taxation for that year by J. G. Allen and were not subject to taxation by him in any subsequent years so long as the owner of the legal title assessed and paid taxes on the same.

Allen & Clark

Given
F. W. Hare
Judge

2.

The Court charges the Jury that a presumption of title arises in support of a peaceable possession under claim of title for twenty years and if you are reasonably satisfied from the evidence that James G. Allen and Sarah E. Allen had been in the peaceable possession of all of the property involved in this suit under a claim of title for twenty years prior to the filing of this suit, then the Complainants are entitled to a verdict at your hands.

Allen v Clark

Given
J. W. Ware
Judge

4.

I charge you, gentlemen of the jury, that if you believe that the Complainants, and those through whom they claim, have been in the actual possession of the lands described in the Bill of Complaint in this cause continuously for a period of twenty years next before the filing of this suit, claiming to own said premises during all of said period of time, and at no time recognizing, during that period, any claim of title or of ownership on the part of the defendants or either one of them, then you should find the issue in this cause in favor of the complainants.

Allen & Clark

Given
J. W. Hare
Judge

Allen v Clark

5. The Court charges the jury that if you are reasonably satisfied from the evidence in this case that the Complainants, James G. Allen and Sarah E. Allen were in the peaceable possession of the lands described in the Bill of Complaint at the time this suit was filed and that no suit was pending to test the Defendants' title to the said property, the burden is on the Defendants to prove title in themselves.

Revised

J. W. Ward
Judge

Allen & Clark

7. The Court charges the Jury that if you are reasonably satisfied from the evidence in this case that the Complainants, James G. Allen and Sarah E. Allen, had been in the actual, hostile possession of the land involved in this suit, claiming to own it for more than ten consecutive years prior to the commencement of this suit, that they remain in the actual, hostile possession of the said lands, claiming to own them from the commencement of this suit up to the time of the death of Sarah E. Allen, that the Complainants have been in such possession since the death of the said Sarah E. Allen, during all of which time they annually listed the said lands for taxation, your verdict should be for the Complainants.

Given
J. W. Hare
Judge

8. The Court charges the Jury that if you are reasonably satisfied from the evidence that the Complainants and those under whom they claim have been in the actual, open, notorious, hostile, exclusive, peaceable and continuous possession of the lands involved in this suit, claiming to own the said lands, for more than ten years prior to the commencement of this suit, during all of which time they annually listed the said lands for taxation, your verdict should be for the Complainants.

Kieren
Alvin & Chas — *J. M. Hare*
Judge

6. The Court charges the jury that in a suit to quiet title when the Complainants prove peaceable possession in themselves at the time the suit was filed and that no suit is pending to test the Defendants' title to the property involved in the suit, then the burden is on the defendants to prove their title.

Refused -
J. W. Ware
Judge

Attn & clark -

i.

I charge you, gentlemen of the Jury, that if you believe the evidence in this cause you should return a verdict in favor of the Complainants.

Refused
J. W. Hare
Judge

Alfred S. Clark

JAMES G. ALLEN and SARAH
E. ALLEN,

Complainants,

-vs-

JAMES K. CLARKE JR., ET AL,

Respondents.


IN THE CIRCUIT COURT--IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Come the Respondents in the above styled cause and demur to the Complaint filed in said cause, and to each and every count thereof, separately and severally, and as grounds therefor say:-

1st. That there is no equity in said Bill of Complaint.


Attorneys for Respondents.

128
RECORDED
Duck

DEMURRER.

JAMES G. ALLEN and SARAH E. ALLEN,

Complainants,

-vs-

JAMES K. CLARKE JR. ET AL.,

Respondents.

IN THE CIRCUIT COURT-IN EQUITY

STATE OF ALABAMA

BALDWIN COUNTY.

Filed June 17, 1935

J. Robert Duck
Register.

JAMES G. ALLEN et al)

VS.)

JAMES K. CLARK JR.)

IN THE CIRCUIT COURT OF

BALDWIN COUNTY

AT LAW

The motion for a new trial made by the defendant, James K. Clark Jr., in the aforesaid cause, having been called to my attention, the same is continued until Tuesday, May 20, at which time the same will be heard by me.

Dated this the 16th day of May, 1941.

F. W. Hare

Judge

RECORDED

Handwritten vertical text, possibly a name or number, partially obscured by the binding.

Filed May 16 1941
Robert
Clark

The State of Alabama,
Baldwin County

S. D. Page No. _____
Equity
Case No. 128

CIRCUIT COURT

Spring Term, 1941

To Any Sheriff of the State of Alabama, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Jordan Waters

if to be found in your County, at the instance of the

~~Respondent~~ Complainant

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof,

by 8:30 o'clock of the forenoon, on the 15 day of April 1941, and from day to

day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain

cause pending, wherein ~~Jas. K. Clark~~ Jas. D. Allen Plaintiff

and ~~Jas. K. Clark~~ Jas. K. Clark Defendant.

Herein fail not, and have you then and there this Writ.

Given under my hand and seal, this

15

day of

April

, 1941

R. S. Duch

CLERK.

ORIGINAL

Received in office this _____ day of

4/15/41

193

W.R. Head

SHERIFF

Equity
No. *728*

Page _____

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

Allen

Plaintiff

VS.

Clark

Defendant

CIVIL SUBPOENA

Issued this _____ day of

193

Clerk.

I have executed this writ *by*

Serving
Jorge Waters

W.R. Head

SHERIFF

By Mrs. Kemelton

ORAL CHARGE OF THE COURT:

GENTLEMEN OF THE JURY:

We have a procedure in Alabama set up by the statute whereby a person who is in peaceable possession of land and some other party is reputed to claim some interest in or title to the land, that the person so in peaceable possession may file a bill in the chancery court to quiet the title to the land, and make the party who is reputed to claim some interest in or title to the land a party defendant, and call upon him to come into court and propound his claim or interest, whatever it may be. And the law is when a person files such a bill to quiet title the person against whom the bill is filed then has the burden of coming forward and establishing his title or interest in the land. The statute further provides that when such a bill is filed the complainants, in this case the Allens, are entitled to a jury trial of the issues involved. Such a bill has been filed in this case by the Allens, as Complainants, against Mr. Clarke and others, as Respondents, and Mr. Clarke has answered and set up his title to the land.

He claims to^{be} the owner, and the owner of the legal title, to the land, and the evidence is before you with respect to his claim. He has shown that the particular land involved has been patented by the Government to one Stone, as I recall, and he introduced in evidence a quitclaim deed from the patentee, Stone, to his father. That deed, however, was executed prior to the issuance of the patent by the Government and does not convey, for that reason, the legal title since a quitclaim deed does not carry an after acquired title. In this case the evidence shows

that Mr. Stone received title after having executed this deed, but the deed was admitted before you as color of title. And the law is, if a person has color of title, if he has a conveyance of land which calls for several subdivisions and he enters into possession of any part of that, then the law says he has constructive possession of the entire tract, provided there is no one in actual, adverse possession of any part of the tract. In other words, there can't be a constructive possession in the face of actual adverse possession on the part of another. There can't be two possessions.

In this case, though, as I stated, this quitclaim deed is introduced as color of title, and it is for you to say whether or not the Respondents in this case had actual possession of any part of the land. If so, they would have constructive possession of the entire tract provided there was no one else in the actual, hostile possession of any part of the tract. In other words, if Mr. Clarke took possession of any part of the property, he or his predecessors in title, under that quit claim deed, and the Allens were not in the hostile, adverse possession of any part of it, then under the law the Respondents, Clarke, would have had constructive possession of the entire tract conveyed by the deed.

Now, the Complainants claim title by adverse possession, and by prescription. The law is, if a person enters upon possession of land and claims to own it openly, and notoriously, against the whole world, and his possession is peaceable and hostile and continuous for ten years, and he has been paying taxes on it during the entire period, then that gives him title by

adverse possession to the land. However, in this case, it is contended by the Respondents that this possession by the Allens was permissive. In other words, that the Allens went into possession of the land first and constructed their home by mistake; that Mr. James G. Allen went into possession of the land first and constructed his home by mistake, thinking he was on another subdivision, and that Mr. Clarke then told him, "You are at liberty to remain there and cultivate the land and look after the place for me rent free." Now, the burden is upon Mr. Clarke to reasonably satisfy you from the evidence of that fact, and if he has so reasonably satisfied you, then the Allens would be tenants at will of Mr. Clarke. And a tenant cannot dispute the title of his landlord.

In other words, gentlemen, if one of you permitted me to go on your land, and I used it, and used it rent free, and at your sufferance and at your will, then before I can assert any hostile title against you to the land to which you permitted me to take possession, I have got to bring it home to you positively that I have repudiated the trade by which I obtained possession, and tell you in no uncertain terms that I am claiming this land hostile to you. In other words, a man who is a tenant cannot dispute the title of his landlord until he goes to him and repudiates the possession and the trade by which he obtained the possession. It would be inequitable and not permitted under the law.

It is for you to say how the Allens took possession of this tract of land. Or did they atorn to the Clarkes as their tenants? Did they remain ^{in possession} there by sufferance of the Clarkes,

and with the understanding and agreement that they would hold subject to the rights of the Clarkes? If you are reasonably satisfied from the evidence of that fact, then there could be no adverse possession, even for any length of time, no matter how long the possession may exist, unless there was a repudiation, and a positive repudiation, by the Allens of such understanding and agreement by the Allens with the Clarkes. It is for you to say how that possession was and whether or not there was any relation of landlord and tenant at will, and at sufferance. And if you are reasonably satisfied from the evidence that there was such an understanding and agreement between them, then the Allens would not be entitled to claim by adverse possession unless you further find that they did bring it home to the Clarkes that they had repudiated that agreement, and that they were holding the land hostile to them. And if there is such evidence in the case, and if you are reasonably satisfied from the evidence that there was such an agreement and repudiation, then from that time on their possession would be hostile provided it was continuous and open and notorious, with claim of ownership to the land, and provided further that the taxes were regularly assessed and paid by the Allens.

The law is that, if a person enters upon land claiming to own it, and holds it adversely and notoriously, and adverse to any claim whatsoever, for twenty years, then that gives him title by what is known as prescription. But it is not necessary, under the law, to have possession, adverse possession, for twenty years

if a person enters upon land by consent and he then repudiates that obligation that the law says a tenant has to a landlord. If he repudiates that and brings it home to him and pays the taxes for ten years, and holds it adversely to the Clarkes for ten years, that would be sufficient to ripen into title and to entitle the Allens to a verdict at your hands, provided you are reasonably satisfied that they have held this property for at least ten years, and that during that time they have paid taxes on it, and that their possession was hostile to the Clarkes and was brought home to the Clarkes, and was notorious and continuous for a period of ten years. But, as I stated before, if the Allens atorned to the Clarkes as their landlord, if they were their tenants at will and used the land by permission, then so long as that relationship existed no number of years would ripen into title in the Allens.

Now, gentlemen, I think that virtually covers the law in this case, and if you are reasonably satisfied that the Allens are entitled to recover under the law, as I have explained to you, your verdict would be: "We, the jury, find the issues in favor of the complainants." If you are not reasonably satisfied that they are entitled to recover by reason of adverse possession, and are reasonably satisfied that their possession was permissive, and that they have recognized the title of the Clarkes, then the respondents would be entitled to a verdict, the form of which would be: "We, the jury, find the issue in favor of the respondents." Whichever form your verdict takes let one of your number reduce it to writing on the back of the bill of complaint.

I give you this written charge, gentlemen, at the request of the complainants:

(Reads Charge)

Now, gentlemen, here is a written charge that I give you at the request of the respondents.

(Reads Charge)

Now, gentlemen, you may retire to this room here and make up your verdict.

STATE OF ALABAMA,)
BALDWIN COUNTY.)

I hereby certify that the foregoing pages, ^{numbered} ~~numbered~~ 1 to 6, both inclusive, contain a true and correct transcript of the oral charge of the court in the case of James G. Allen, et al. vs. James K. Clarke, Jr. et. al., which said case was tried in the Circuit Court of Baldwin County, Alabama, on November 4th, and 5th, 1942.

In Witness Whereof, I have hereunto set my hand, this the 26th day of December, 1942.


Official Court Reporter, 21st
Judicial Circuit of Alabama

James G. Allen, et al

2

James S. Clarke Jr et al

Oral Charge
of Court

Filed December 28th

1942

Product

Clerk

In answer to the seventh interrogatory, he says:-

I am unable to state who placed said buildings upon said land.

In answer to the eighth interrogatory, he says:-

I understand that James G. Allen is in the occupancy of land under fence in South half of Southeast Quarter. This occupancy has been with my consent and as my tenant at will and consist of about twenty acres.

In answer to the ninth interrogatory, he says:-

That through my tenant, James G. Allen, I have been in the actual possession of these lands ever since I have owned them.

In answer to the tenth interrogatory, he says:-

That James G. Allen has lived on a portion of said lands and possible made improvements thereon, but he has lived there as my tenant ever since I have owned these lands. I am not acquainted with Sarah E. Allen and do not know where she resides, of my own knowledge. I have never heard of any claim of ownership by either James G. Allen or Sarah E. Allen, as to this land, until the time this suit was filed.

In answer to the eleventh interrogatory, he says:-

James G. Allen has lived on a portion of these lands ever since I have known and owned them, but as my tenant.

In answer to the twelfth interrogatory, he says:-

James G. Allen was to look after the lands owned by me in this community, and for such services he was to have the use of a portion of the property involved in this suit, free from any rent. As stated, I never heard of James G. Allen claiming any interest in this property up until about the time this suit was filed.

In answer to the thirteenth interrogatory, he says:-

I have never attempted to eject James G. Allen from this land by legal process, or otherwise. I had no use for the same and I understood that he was looking after the land for me and holding the same as my tenant and I was satisfied with the arrangements.

In answer to the fourteenth interrogatory, he says:-

I acquired a one-half interest in this property from my Father, James K. Clarke, Sr., by Deed, dated March 30th, 1901, and recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Deed Book #4, pages 31-36. I acquired an additional one-fourth interest in this property under the terms of my Father's Will, which Will is Probated in Baldwin County, Alabama.

In answer to the fifteenth interrogatory, he says:-

At the time that I acquired a Deed to a one-half interest in said lands, my Father, James K. Clarke, Sr., was in possession of the same, and we were in the possession of said lands up until the time of his death, and after his death, my brother, John D. Clarke, and myself went into possession of said lands.

In answer to the sixteenth interrogatory, he says:-

I do not know as to whether James G. Allen and Sarah E. Allen were living on the land involved in this suit or any portion of the same at the time I obtained title to the same.

In answer to the seventeenth interrogatory, he says:-

I have already answered this interrogatory.

James K. Clarke, Jr.

STATE OF ALABAMA,
BALDWIN COUNTY.

Before me, Claude Peteet, a Notary Public in and for said State and County, personally appeared James K. Clarke, Jr., who is known to me and who, after being by me first duly and legally sworn, doth depose and say under oath as follows: That his name is James K. Clarke, Jr.; that he signed the foregoing answers to interrogatories propounded to him, and all the matters and facts stated therein are true.

James K. Clarke, Jr.

Sworn to and subscribed before me, a Notary Public, whose seal is hereto affixed this 11th day of September, 1939.

Claude Peteet
Notary Public, Baldwin County,
State of Alabama

My Commission Expires Oct. 11, 1939

My Commission Expires Oct. 11, 1932

State of Alabama
Notary Public, Baldwin County,
Claude Pefest

day of September, 1932.
I solemnly swear and affirm that I am a Notary Public, whose
name is and subscribed as-
stated herein are true.

James K. Clarke, Jr.

to interrogatories propounded to him, and all the matters and facts
name is James K. Clarke, Jr.; that he signed the foregoing answers
legally sworn, both depose and say under oath as follows: That his
Jr., who is known to me and who, after being by me first duly and
and for said State and County, personally appeared James K. Clarke,
Before me, Claude Pefest, a Notary Public in
BALDWIN COUNTY,
STATE OF ALABAMA;

James K. Clarke, Jr.

I have already answered this interrogatory.

ANSWERS TO INTERROGATORIES

JAMES G. ALLEN AND SARAH
H. ALLEN, Complainants
Vs.
JAMES K. CLARKE, JR., et al. Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
IN EQUITY

In answer to the eventful interrogatory, he says:-
the same at the time I obtained title to the same.
were living on the land involved in this suit or any portion of it.

I do not know of any other James G. Allen and Sarah H. Allen.
In answer to the sixteenth interrogatory, he says:-
Clarke, and myself, the respondents of said lands.
the time of his death, and after his death, my brother, John
of the same, and we were in the possession of said lands up to
in said lands, my brother, James K. Clarke, Jr., was in possession

At the time that I acquired a Deed to a one-half interest
in answer to the fifteenth interrogatory, he says:-

father's Will, which Will is prepared in Baldwin County, Alabama,
one-fourth interest in the property under the terms of my
Alabama, in Deed Book 44, pages 21-22. I acquired an additional
recorded in the Office of the Judge of Probate of Baldwin County,
father, James K. Clarke, Sr., by Deed, dated March 20th, 1901, and
I acquired a one-half interest in this property from my

From the NW corner of the NE $\frac{1}{4}$ of SE $\frac{1}{4}$
Sec 34 T4S R5E thence Southwaly
326ft more or less to a fence corner;
thence Easterly 1070ft, more or less
along a fence to a fence corner; thence
Northwaly 326 feet, more or less to the
North line of the aforesaid NE $\frac{1}{4}$ of
SE $\frac{1}{4}$; thence West 1070ft, more
or less, to the beginning.
8 Acres, more or less.

326

7.P
326/348
326/348
2248

43560
8490
1070

326'

16-16'

800/1000

1000'

JAMES G. ALLEN, ET AL.,
VS.
JAMES K. CLARK, JR., ET AL.

IN THE
CIRCUIT COURT OF BALDWIN COUNTY,
ALABAMA. AT LAW.

The hearing of the motion for a new trial filed by the defendants in the aforesaid cause is continued until Tuesday, the 27th day of May, 1941, at 10 o'clock A. M.

Dated at Monroeville, Alabama, this 20th day of May, 1941.

J. W. Hare

JUDGE

RECORDED

JAMES G. ALLEN, ET AL.,

VS.

JAMES K. CLARK, JR. ET AL.

ORDER OF CONTINUANCE

Filed May 22, 1941
R. S. Ditch, Register

The State of Alabama, } S. D. Page No. _____
Baldwin County } Equity _____
Case No. 128 _____
CIRCUIT COURT
Spring, 1941 _____ Term, 193 _____

To Any Sheriff of the State of Alabama, GREETING:

Allen

YOU ARE HEREBY COMMANDED TO SUMMON J. G. Allen, Tillman/, Marvin Fillingim, Walter
Gulledge, Peter Morris, Fred Oglesby, W. H. Allen, Thos. L. Allen, E. S.
Tunstall

if to be found in your County, at the instance of the Complainant,

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof,

by 8:30 o'clock of the forenoon, on the 15th day of April, 1941 193, and from day to

day and term to term of said Court until discharged by law, then and there to testify, and the truth to say, in a certain

cause pending, wherein James G. Allen, Et als., Plaintiff

and James K. Clarke, Jr., et als., Defendant.

Herein fail not, and have you then and there this Writ.

Given under my hand and seal, this 5th day of April, 1941, 193

R. S. Duck

CLERK.

Received in office this 5th day of

April

1941

W.R. Stuart

SHERIFF

I have executed this writ

J. M. Allen

William Allen

Morris Fellegin

Walter Gullidge

Peter Morris

Fred Ozyesky

W.H. Allen

E.S. Turnstall

W.R. Stuart

SHERIFF

Peter Morris & M.B. Hamilton

ORIGINAL

Equity

No. 128

Page

THE STATE OF ALABAMA
Baldwin County

CIRCUIT COURT

JAMES G. ALLEN, ET AL.,

Plaintiff

VS.

JAMES K. CLARKE, JR., ET AL.,

Defendant

CIVIL SUBPOENA

Issued this _____ day of

193

Clerk.

Assessment Book No. 2 Page 1

No. 6351 Beat 7 7 24 192 2

Received of J. H. Allen

the sum of fourteen 46 Dollars,
in full amount of Taxes due the State of Alabama and County of Baldwin, 1921. ¹⁰⁰

Total Value of Real Estate, \$ 890 Total Value of Personal Property, \$ 106
Tax Due October 1, 1921 Tax Rate, \$1.80 per \$100 Valuation Delinquent Jan. 1, 1922

ORIGINAL

State Tax.....	1268
County Tax.....	2244
Special District School Tax.....	
District No. <u>34</u>	585
Fees.....	
Total State and County Tax.....	4097
Interest.....	49
Printer..... Judge..... Notice.....	
Aggregate Amount.....	4146

Ex. Pl.
MARSHALL & BRUCE CO., NASHVILLE
Feb 2

[Signature]
Tax Collector, Baldwin County, Ala.

Assessment Book No. 2 Page 12

No. 6171 Beat 75 1923

Received of J. B. Allen

the sum of 347 Dollars,
in full amount of Taxes due the State of Alabama and County of Baldwin, 1922. ¹⁰⁰

Total Value of Real Estate, \$ 520 Total Value of Personal Property, \$ 721
Tax Due October 1, 1922 Tax Rate, \$1.80 per \$100 Valuation Delinquent Jan. 1, 1923

ORIGINAL

State Tax 2906

County Tax

Special District School Tax 33 484

District No.

Fees 50

Total State and County Tax 3474

Interest 27

Printer Judge Notice

Aggregate Amount 3467

Assessment Book No. _____ Page 167

No. 2032 Beat _____ 1923

Received of W. H. Green

the sum of 3060 Dollars,
in full amount of Taxes due the State of Alabama and County of Baldwin, 1923.

Total Value of Real Estate, \$ 890 Total Value of Personal Property, \$ 810
Tax Due October 1, 1923 Tax Rate, \$1.80 per \$100 Valuation Delinquent Jan. 1, 1924

Total State and County Tax 3060

Special District School Tax _____

District No. 33 510

Fees _____

Total State and County Tax 3570

Interest _____

Printer _____ Judge _____ Notice _____

Aggregate Amount _____

ORIGINAL

Assessment Book No. _____ Page 167

No. 4796 Beat _____ 13731 192 ✓

Received of _____

the sum of _____ Dollars,

in full amount of Taxes due the State of Alabama and County of Baldwin, 1924. 100

Total Value of Real Estate, \$ 890 Total Value of Personal Property, \$ 240

Tax Due October 1, 1924 Tax Rate, \$1.80 per \$100 Valuation Delinquent Jan. 1, 1925

Total State and County Tax _____ 89 09

Special District School Tax _____

District No. 33 485

Fees _____

Total State and County Tax _____ 3394

Interest _____

Printer _____ Judge _____ Notice _____

Aggregate Amount _____

[Handwritten Signature]

Tax Collector, Baldwin County, Ala.

ORIGINAL

Assessment Book No. 1 Page 164

No. 4830 Beat 12-29 1926

Received of J. G. Allen
the sum of thirty and 24/100 Dollars,
in full amount of Taxes due the State of Alabama and County of Baldwin, 1926.

Total Value of Real Estate, \$ 1890 Total Value of Personal Property, \$ 550
Tax Due October 1, 1926 Tax Rate, \$1.80 per \$100 Valuation Delinquent Jan. 1, 1927

Total State and County Tax	25	92
Special District School Tax		
District No. <u>33</u>	4	32
Fees		
Total State and County Tax	30	24
Interest		
Printer		
Judge		
Notice		
Aggregate Amount		

ORIGINAL

J. M. Smith
Tax Collector, Baldwin County, Ala.

Assessment Book No. 1 Page 166

No. 5965 Beat 1-10 192 8

Received of J. G. Allen

the sum of Twenty seven ⁺⁸² Dollars,
in full amount of Taxes due the State of Alabama and County of Baldwin, 1927. ¹⁰⁰

Total Value of Real Estate, \$ 890 Total Value of Personal Property, \$ 430
Tax Due October 1, 1927 Tax Rate, \$1.80 per \$100 Valuation Delinquent Jan. 1, 1928

Total State and County Tax 23 76

Special District School Tax

District No. 33 396

Original

Fees

Total State and County Tax 27 72

Interest 10

Printer _____ Judge _____ Notice _____

Aggregate Amount 27 82

No. 2094

Beat No. 1112

1928

RECEIVED of J. H. Allen

the sum of _____ Dollars,
being in full of the amount of Taxes due the State of Alabama and County of Baldwin, for the year
1928, divided as follows:

	DOLLARS	CENTS
Total Value of Real Estate.....	890	
Total Value of Personal Property.....	405	
Total State and County Tax.....	23	31
District School Tax, Dist. No. <u>33</u> (Int. \$.....)	3	89
District School Tax, Dist. No. (Int. \$.....)		
District School Tax, Dist. No. (Int. \$.....)		
District School Tax, Dist. No. (Int. \$.....)		
District School Tax, Dist. No. (Int. \$.....)		
Assessor's Fees.....		
Total.....	27	20
Interest on State and County Tax.....		
Interest on District School Tax.....		
Collector's Fee.....		
Printer's Fee.....		
Probate Judge's Fee.....		
Grand Total.....		

J. H. Allen
Tax Collector.

RECEIVED of *J. G. Allen*

the sum of *thirty* Dollars, being in full of the amount of Taxes due the State of Alabama and County of Baldwin, for the year 1929, divided as follows:

	DOLLARS	CENTS
Total Value of Real Estate <i>955</i>		
Total Value of Personal Property <i>485</i>		
Total State and County Tax	<i>25</i>	<i>93</i>
District School Tax, Dist. No. <i>33</i> (Int. \$)		<i>432</i>
District School Tax, Dist. No. (Int. \$)		
District School Tax, Dist. No. (Int. \$)		
District School Tax, Dist. No. (Int. \$)		
District School Tax, Dist. No. (Int. \$)		
Assessor's Fee		
Total	<i>30</i>	<i>74</i>
Interest on State and County Tax		
Interest on District School Tax		
Collector's Fee		
Printer's Fee		
Probate Judge's Fee		
Grand Total		

Jesse M. Smith
Tax Collector.

No. 6112

Book No. 1

Page No. 150

1-19

193. 1

RECEIVED OF

J. G. Allen
Monthly fee

006/m

the sum of _____ Dollars,
being in full of the amount of Taxes due the State of Alabama and County of Baldwin, for the year 1930, divided as follows:

	DOLLARS	CENTS
Total Value of Real Estate	1055	
Total Value of Personal Property	560	
Total State and County Tax	29	07
District School Tax, Dist. No. 33 (Int. \$)	4	85
District School Tax, Dist. No. (Int. \$)		
District School Tax, Dist. No. (Int. \$)		
District School Tax, Dist. No. (Int. \$)		
Assessor's Fee	33	92
Total	34	14
Interest on State and County Tax		
Interest on District School Tax		
Collector's Fee		
Printer's Fee		
Probate Judge's Fee		
Grand Total	34	06

James M. Smith
Tax Collector

No. 6053 Book No. _____ Page No. 149 2-4 1932

RECEIVED OF J. K. Allen

the sum of Twenty Five Dollars,
 being in full of the amount of Taxes due the State of Alabama and County of Baldwin, for the year 1931, divided as follows:

		DOLLARS	CENTS
Total Value of Real Estate	<u>1055</u>		
Total Value of Personal Property	<u>630</u>		
Total State and County Tax		<u>30</u>	<u>33</u>
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. <u>33</u> (Int. \$ _____)		<u>5</u>	<u>06</u>
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. _____ (Int. \$ _____)			
Assessor's Fee			
Total		<u>35</u>	<u>39</u>
Interest on State and County Tax			<u>25</u>
Interest on District School Tax			<u>10</u>
Collector's Fee			
Printer's Fee			
Probate Judge's Fee			
Grand Total		<u>35</u>	<u>64</u>

James M. Smith

No. **3252** Book No. **7** Page No. **4** 12-29 193**2**

RECEIVED OF

the sum of **Three hundred and thirty nine** Dollars, being in full of the amount of Taxes due the State of Alabama and County of Baldwin, for the year 1932, divided as follows:

	DOLLARS	CENTS
Total Value of Real Estate 1055		
Total Value of Personal Property 631		
Total State and County Tax	30	33
District School Tax, Dist. No. (Int. \$)		
District School Tax, Dist. No. 33 (Int. \$)	5	06
District School Tax, Dist. No. (Int. \$)		
District School Tax, Dist. No. (Int. \$)		
District School Tax, Dist. No. (Int. \$)		
Assessor's Fee		
Total	35	39
Interest on State and County Tax		
Interest on District School Tax		
Collector's Fee		
Printer's Fee		
Probate Judge's Fee		
Grand Total		

James M. Smith
Tax Collector

BEAT NO. 3

1933

RECEIVED of

7-4 11/27 J. H. Allen

the sum of Dollars,

being in full for the amount of Taxes due the State of Alabama and County of Baldwin for the year 1933, divided as follows:

Total Value of Real Estate	1055		DOLLARS	CENTS
Total Value of Personal Property	630			
State and County Tax			3033	
Special School Tax, District No. 22, (Interest \$			506	
Special School Tax, District No. 22, (Interest \$				
Special School Tax, District No., (Interest \$				
Special School Tax, District No., (Interest \$				
Special School Tax, District No., (Interest \$				
Assessor's Citation Fee				
Assessor's Delinquent Fee				
Amount Due to December 31, 1933			2539	
By Payment....., 193....., Partial Receipt				
No....., Taxes \$....., Ass'r's Fee \$.....				
Interest on Taxes to..... 1934, (\$.....)				
Collector's Fee..... (\$.....)				
To Balance Taxes Due.....				
By Payment....., 193....., Partial Receipt				
No....., Taxes \$....., Cost \$.....				
Interest on Taxes to..... 1934, (\$.....)				
Collector's Fee..... (\$.....)				
To Balance Taxes Due.....				
By Payment....., 193....., Partial Receipt				
No....., Taxes \$....., Cost \$.....				
Interest on Taxes to..... 1934, (\$.....)				
Collector's Fee..... (\$.....)				
To Balance Taxes Due.....				
Interest on Taxes.....				
Collector's Fees: Delinquent—Notice—Levy—Docket.....				
Probate Judge's Fees: Notice—Decree.....				
Printer's Fee.....				
Total				

Original

J. H. Allen

RECEIVED OF J. A. Allen

the sum of _____ Dollars,
 being in full of the amount of Taxes due the State of Alabama and County of Baldwin, for the year 1934, divided as follows:

		DOLLARS	CENTS
Total Value of Real Estate	<u>125</u>		
Total Value of Personal Property	<u>630</u>		
Total State and County Tax		<u>3</u>	<u>033</u>
District School Tax, Dist. No. <u>33</u> (Int. \$ _____)			<u>5706</u>
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. _____ (Int. \$ _____)			
Assessor's Fee			
Total		<u>3</u>	<u>039</u>
Interest on State and County Tax			
Interest on District School Tax			
Collector's Fee			
Printer's Fee			
Probate Judge's Fee			
Grand Total		<u>3</u>	<u>039</u>

BRUCE CO. HARRISVILLE

J. A. Allen
 Tax Collector

No. 1779 Book No. _____ Page No. 4 10731 1935

RECEIVED OF J. B. Allen

the sum of thirty three Dollars, being in full of the amount of Taxes due the State of Alabama and County of Baldwin, for the year 1935, divided as follows:

		DOLLARS	CENTS
Total Value of Real Estate	<u>1055</u>		
Total Value of Personal Property	<u>630</u>		
Total State and County Tax		<u>31</u>	<u>33</u>
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. <u>33</u> (Int. \$ _____)		<u>5</u>	<u>06</u>
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. _____ (Int. \$ _____)			
District School Tax, Dist. No. _____ (Int. \$ _____)			
Assessor's Fee			
Total		<u>35</u>	<u>39</u>
Interest on State and County Tax			
Interest on District School Tax			
Collector's Fee			
Printer's Fee			
Probate Judge's Fee			
Grand Total			

Jesse M. Smith

Tax Collector

JAMES G. ALLEN, et al
Complainants,
VS.
JAMES K. CLARKE, JR., et al,
Respondents.

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

AMENDED BILL.

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, SITTING IN EQUITY:

Now comes James G. Allen, W. H. Allen, Tillman Allen, Thomas L. Allen, Wade Allen, Arthur Allen and Nellie Allen Hastings, the heirs at law of Sarah E. Allen, who were made parties to this cause as the heirs at law of Sarah E. Allen, Deceased; and James G. Allen, and revive this cause in their names, and amend the Bill of Complaint heretofore filed in this cause so that the same will read as follows:

"Your Orators, James G. Allen, W. H. Allen, Tillman Allen, Thomas L. Allen, Wade Allen, Arthur Allen and Nellie Allen Hastings, as the heirs at law of Sarah E. Allen, Deceased, and James G. Allen, present this their Bill of Complaint against John D. Clarke, James K. Clarke, Jr., and Henry Talmadge and Company, a Co-Partnership composed of Henry P. Talmadge and Jacob H. Van Deventer, and thereupon your Orators complain and show unto the Court as follows:

1. Your Orators are each over twenty-one years of age and their respective places of residence are as follows: James G. Allen, Baldwin County, Alabama, W. H. Allen, Pensacola, Florida; Tillman Allen, Baldwin County, Alabama; Thomas L. Allen, Baldwin County, Alabama, Wade Allen, Escambia County, Alabama; Arthur Allen, Escambia County, Alabama and Nellie Allen Hastings, Escambia County, Alabama.

The Defendant, John D. Clarke is over twenty-one years of age and a non-resident of the State of Alabama, whose residence and post office address is Darien, Georgia; the Defendant, James

K. Clarke, Jr., is over twenty-one years of age and a resident of Baldwin County, Alabama; the Defendant, Henry Talmadge and Company, is a Co-Partnership composed of Henry Talmadge and Jacob H. VanDeventer, who are each over twenty-one years of age and non-residents of the State of Alabama, whose places of residence and post office addresses are New York City, New York.

2. Your Orators claim to own the following described land situated in Baldwin County, Alabama, to-wit: All of the East Half of the Southeast Quarter; Southwest Quarter of Southeast Quarter and Southeast Quarter of Southwest Quarter of Section 34, Township 4 South Range 5 East, except the following described property, to-wit: From the Northwest Corner of the Northeast Quarter of the Southeast Quarter of Section 34, Township 4 South Range 5 East, run thence Southerly 326 feet more or less to a fence corner; thence Easterly 1070 feet more or less along a fence to a fence corner; thence Northerly 326 feet, more or less to the North line of the aforesaid Northeast Quarter of Southeast Quarter; thence ~~West~~ 1070 feet, more or less to the beginning, containing 8 acres, more or less.

3. Your Orators claim to own the said land in their own right and are in the actual, quiet and peaceable possession of the said land.

4. The Defendants, John D. Clarke, James K. Clarke, Jr., and Henry Talmadge and Company, a Co-Partnership composed of Henry P. Talmadge and Jacob H. Van Deventer, are reputed to claim some right, title or interest in or encumbrance upon the said land; no suit is pending to enforce or test the validity of such title, claim or encumbrance, and your Orators bring this their Bill of Complaint against the said Defendants to settle the title to the said land and clear up all doubts and disputes concerning the same, and your Orators here and now make call upon the said Defendants and each of them to set forth and specify their title, claim, interest or encumbrance to or upon the said land or any part thereof and how and by

what instrument the same is derived and created.

PRAYER FOR PROCESS

Your Orators pray that the said John D. Clarke, James K. Clarke, Jr., and the said Henry Talmadge and Company, a Co-Partnership composed of Henry P. Talmadge and Jacob H. Van Deventer be made parties respondent to this Bill of Complaint and that the usual process of this Honorable Court do forthwith issue to them and each of them.

PRAYER FOR RELIEF

Your Orators further pray that upon a final hearing of this cause your Honor will grant and enter a decree against the said Respondents, John D. Clarke, James K. Clarke, Jr., and Henry Talmadge and Company, a Co-Partnership composed of Henry P. Talmadge and Jacob H. Van Deventer, quieting title to the said land and adjudging and decreeing that your Orators are the owners of the said land in their own right; that title to the said land is in your Orators, forever quieting your Orators' title against the said Respondents, John D. Clarke, James K. Clarke, Jr., and Henry Talmadge and Company, a Co-Partnership composed of Henry P. Talmadge and Jacob H. VanDeventer and adjudging that the said Defendants are without right, title or interest in the said land and have and hold no encumbrance upon the same.

Your Orators further pray for such other, further and general relief as they may be equitably entitled to the premises considered.

J. B. T. Blashlum
Gordon Gordon
Solicitors for Complainants.

Your Orators will and hereby demand a Jury for the trial of the issues in said cause as provided in and by Title 7, Section 1112 of the 1940 Code of Alabama.

J. B. T. Blashlum
Gordon Gordon
Solicitors for Complainants."

CIVIL SUBPOENA—ORIGINAL—In case witness shall wish to charge for attendance, he shall produce to the Clerk in term this Subpoena, or within five days after adjournment of Court, else he will be barred.

Gill Ptg. & Sta. Co., Mobile—Re-Order No. 720

THE STATE OF ALABAMA
BALDWIN COUNTY

S.D. Page No.

CIRCUIT COURT

Case No. 128

Spring Term, 1939

To any Sheriff of the State of Alabama, GREETING:

You are hereby commanded to summon George Pitman, Mrs. George Pitman,
W.O. Gibson (of Gatswood, Ala.)

if to be found in your County, at the instance of the

to be and appear before the honorable, the Judge of the Circuit Court of Baldwin County, at the Court House thereof,

by 8:30 o'clock of the forenoon, on the 13 day of April 1939

and from day to day and term to term of said Court until discharged by law, then and there to testify, and the truth to

say, in a certain cause pending, wherein Jas. G. Allen, et al Plaintiff

and Jas. H. Clarke, Jr. et al, Defendant.

Herein fail not and have you then and there this Writ.

Given under my hand and seal, this 7 day of April 1939.

R. S. DUCK

clerk

By Handwritten Signature
Deputy

Clerk.

MORRIS Foster

Dependants

Received in office this 4-7 day of

ORIGINAL

1939

No. 128

Page

W.R. Stuart

Sheriff.

THE STATE OF ALABAMA
BALDWIN COUNTY

I have executed this writ *by serving*

CIRCUIT COURT

Geo Pittman

Mrs Geo Pittman

W. O. Gibson

4-8-39

(Pittman)

James H. Allen, et al.,

Complainant

Plaintiff

VS.

James K. Clarke, Jr., et al.,

Respondent

Defendant

CIVIL SUBPOENA

Issued this 7 day of

April

1939

W.R. Stuart

Sheriff.

R. S. Duck

Clerk.

By Pauline Thompson

Deputy

12

JAMES G. ALLEN AND SARAH
E. ALLEN,
Complainants,
VS.
JAMES K. CLARKE, JR., et al,
Respondents.

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

INTERROGATORIES TO BE PROPOUNDED TO JAMES K.
CLARKE, JR., UNDER SECTION 7764 OF THE 1923
CODE OF ALABAMA.

1. State your name, age, occupation and residence.
2. Are you acquainted with James G. Allen and Sarah E. Allen, and if so, how long have you known them?
3. Where do they reside and how long have they so resided there?
4. Are you familiar with the property in Baldwin County, Alabama, described as the East Half of the Southeast Quarter, Southwest Quarter of Southeast Quarter and Southeast Quarter of Southwest Quarter of Section 34, Township 4 South Range 5 East?
5. State the general character of this land and how much of it is cleared and fenced?
6. What buildings and other improvements are on the above described land and how long have they been there?
7. Who placed such buildings and improvements on this land?
8. Who is in actual occupancy of the land, buildings and other improvements and for what period of time?
9. Have you ever at any time been in the actual possession thereof and if so when and for how long? State the nature, character and extent of any possession you might have had.
10. Is it not a fact that James G. Allen and Sarah E. Allen have lived on said land, built a house and other improvements for upwards of forty years continuously and under claim of ownership?
11. Is it not a fact that James G. Allen and Sarah E. Allen have lived continuously on said land for upwards of forty years?
12. Is it not a fact that they have not offered to pay you

any rent but claimed the land as their own?

13. Have you ever attempted to eject them from this land by legal process or otherwise? If your answer is yes, in what court and what was its decision? If your answer is no, why did you never attempt to dispossess them?

14. State on what date you claim, if you do, to have acquired title to the above property and attach hereto a copy of your deed or other instrument under which you claim said land.

15. Who was in possession of said land at the time you obtained such deed or other instrument?

16. Is it not a fact that James G. Allen and Sarah E. Allen were living on the land at the time of your acquisition of any muniments of title thereto?

17. Did you or not ever hear or have brought to your attention that James G. Allen and Sarah E. Allen were claiming ownership of this land and if so, on what date?

Gordon, Leigh, Leigh & Gordon

J. T. Blackburn
Attorneys for Complainants.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, Ora Sirmon, a Notary Public, within and for said County in said State, personally appeared J. B. Blackburn, who, after being by me first duly and legally sworn, deposes and says: That he is one of the attorneys for the Complainants in the above entitled cause and that the answers to the foregoing interrogatories, if well and truly made, will be material testimony for the Complainants in the said cause.

J. T. Blackburn

Sworn to and subscribed before me
on this the 2nd day of July, 1939.

Ora Sirmon

Notary Public, Baldwin County, Alabama.

I hereby accept service
of a copy of within
interrogatories, and waive
further notice of same.

John Rason
Attorney for
James K. Clarke, Jr.

INTERROGATORIES TO BE PROPOUNDED TO
JAMES K. CLARKE, JR., UNDER SECTION
7764 OF THE 1923 CODE OF ALABAMA.

JAMES G. ALLEN AND SARAH E. ALLEN,
Complainants,

VS.

JAMES K. CLARKE, JR., et al,
Respondents.

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

Filed July 7, 1939
R. S. Luck, Clerk
By: *Michael Thompson*, Deputy

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 James J. Clarke, Jr.,
and Henry Talmadge and Company, a Co-partnership
composed of Henry P. Talmadge and Jacob H. Van Deventer,

of _____ 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 Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by
James G. Allen and Sarah E. Allen,

against said James K. Clarke, Jr., and Henry Talmadge & Company,
a Co-Partnership composed of Henry P. Talmadge and Jacob
H. Van Deventer,

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, Robert S. Duck, Register of said Circuit Court, this 11th day
of May 1935
Robert S. Duck Register

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

RECORDED

Serve on James B. Clarke Jr.
Wade
Foley, also

Serve on _____
Circuit Court of Baldwin County
IN EQUITY

No. 128

SUMMONS

James G. Allen, and
Sarah E. Allen,

vs.

James K. Clarke, Jr., and Henry
Henry P. Talmadeg and Jacob H.
Van Deventer,

Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA,
BALDWIN COUNTY

Received in office this _____
of _____, 193

SHERIFF

Executed this 20th day of
May 1935

by leaving a copy of the within Summons with

James K. Clarke Jr
Defendant

M. H. Wilkins
Sheriff

By John R. Duns
Deputy Sheriff