

STATE OF ALABAMA

SHELBY COUNTY

## AFFIDAVIT

#190

Before me, Grace Carter, a Notary Public in and for said County in said State, personally appeared Clay Butler, who is known to me and who, being by me first duly sworn, deposes and says:

I am acquainted with the east half of the south east quarter of Section 26, Township 20, Range 3 West in Shelby County, Alabama, or that portion of same lying west of the right of way of the L. & N. Railroad, and have known said land even before January 9, 1891, when Dr. C. C. O'Barr purchased the same from W. C. Powers. When Dr. O'Barr bought the land from Powers, as shown by deed dated as above stated and recorded in the Probate Office of Shelby County, Alabama, in deed book 33 at page 217, he went into immediate possession of said eighty acre tract of land, or that part lying west of the L. & N. Railroad right of way, and remained in the actual, open, notorious, continuous, exclusive, adverse possession of same until his death about the year 1900. When Dr. O'Barr bought the land there was no house on it but he immediately put up a house on it which house is situated in the north west corner of the north forty and just west of Buck Creek. That house was put up or erected immediately after Dr. O'Barr bought it and different people lived in the house, renting the same from Dr. O'Barr each and every year and cultivated portions of said eighty acres of land each and every year until Dr. O'Barr's death and for a considerable time thereafter and up until I rented it from Mrs. Laura C. O'Barr, his widow, twenty three years ago. I rented the land from Mrs. Laura C. O'Barr, the widow of Dr. C. C. O'Barr about twenty three years ago, as stated above and moved in the house on the land which was erected by Dr. O'Barr, and I have remained in the house on the land which was erected by Dr. O'Barr, and I have remained in the actual, open, notorious, continuous, exclusive, adverse possession of same down to the present time, cultivating portions of it each and every year, and exercising acts of ownership over it, as a tenant down to the present time. When Mrs. Laura C. O'Barr died in 1922 I then rented the property from Mr. F. C. Oates, her son-in-law, and who was Guardian from William Allen Oates, Forest C. Oates, Jr and Margaret Oates, who were the sole, surviving heirs at law of Mrs. Laura C. O'Barr and Dr. C. C. O'Barr. They had only one daughter, who married Mr. Forest C. Oates, Sr. and the above named children are the issue of that marriage and the only issue.

When Dr. O'Barr bought the land in 1891 he also erected a dam across Buck Creek in the northern forty and near the dwelling house which he had put up and erected a gin and grist mill, both of which were operated by water power from said dam, and that grist mill and cotton were operated there from ten years or more and up to the time of his death, and probably some time thereafter. During all of the time intervening from 1891 down to the present time the occupancy and possession of Dr. O'Barr during his life time and that of his widow and grand children thereafter has been actual, open, notorious, continuous, exclusive and adverse against all the world and no other person, firm or corporation has asserted any claim of ownership or title thereto, so far as the same has come to my knowledge and if any such claim had been advanced I think I would have known about it, because as stated, I have been thereon the land for twenty three years. During all the time I have known this land no person has been in possession of same, except Dr. O'Barr and his heirs at law, acting through tenants.

In 1922 after the death of Mrs. O'Barr, Mr. Forest C. Oates, as Guardian for the three children above named leased this land east of Buck Creek to Keystone Lime Company for use in quarrying stone or rock for the manufacture of lime, at an annual rental of four hundred dollars. The Keystone Lime Company during the running of this lease cleared off a lot of dirt down to the rock and used some of the lime rock during that ten years period.

Clay Butler

Sworn and subscribed to before me this the 10th day of November, 1939.

Grace Carter, Notary Public

Filed in this office November 10, 1939 at 3 pm and recorded in Deed Record 107 on page 98 and examined.

L. C. Walker, Judge of Probate

✓