

30 39

Page 1.

State of Alabama  
Jefferson County:

Before me the undersigned authority in and for said State and County personally appeared Clare B. Smith, known to me, who, deing duly sworn, deposes and says as follows:

My name is Clare B. Smith. I am a Circuit Judge of the Tenth Judicial Circuit of Alabama, and have occupied this position continuously for more than forty years. I live at Birmingham, Alabama. On September 26th, 1911 I bought from a gentlemen by the name of S. H. Pledger a total of 160 acres of land, 80 acres lying in Shelby County, Alabama and 80 acres lying in St. Clair County, Alabama. The land lying in Shelby County Alabama is described as follows:

The NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  and the SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  -- Section 24, Township 17, Range 1 East.

The land in St. Clair County, Alabama is described as follows:

The South  $\frac{1}{2}$  of the NW  $\frac{1}{4}$  of Section 19, Township 17, Range 2 East.

Pledger's deed to me on the Shelby County property was recorded on the 2nd day of October 1911, in volume 45 at page 333, in the Probate Office of Shelby County, Alabama. The deed on the St. Clair County property, as above described, was recorded in St. Clair County, Probate Office, on October 2nd, 1911 and is to be found in volume 12, at page 535.

About ten years ago I sold the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 24, Township 17, Range 1 East, in Shelby County. The remaining 120 acres I have continued to own up until recently. On the 5th of February of 1958 my wife, Alta B. Smith, and I conveyed to Whit Windham of Birmingham Alabama all of the lands first hereinabove described except the forty acres which I had previously sold and which are hereinabove described as having been sold and conveyed by me some ten years ago.

During the continuous forty-six years and more that I owned and possessed the 120 acres hereinabove described as being sold to Whit Windham I have never known or heard of any adverse claim being made to said lands by any person or corporation. My ownership and possession and use of the lands have been continuous and have been entirely peaceable and without any adverse claim or argument or confusion during all of this continuous period of more than forty-six years. When I bought and took possession of the entire 160 acres as first described in this affidavit there was then upon the land a home but it was not then occupied by any one. There was also a road -- a public road -- running through the property at that time and there has continued to be, so I understand, a somewhat neglected and dilapidated road through the property since then, but I understand that the road has not been maintained by any public authority for quite a long time. I further understand that this road was prior to the time that I bought the property a public road which had been going through there perhaps more than half a century.

Clare B. Smith



At approximately 1930 I sold the large timber on this land and the timber was cut from it at that time under my ownership and under my direction and under the contract of sales which I made. No one challenged the sale of the timber or its removal and there was never any argument or discussion about the matter from anyone. In years thereafter I made two other sales of timber on the land. I sold crossties from the land in quantity at a later date and I also sold poles in quantity from the land at still another and later date. There was never any discussion or argument from anyone about the matter of my selling the timber or ties or poles and receiving the proceeds therefrom. No one ever protested or in any way challenged my power and authority as the owner to so deal with it.

I am making this affidavit at the request of Whit Windham so that he may put it of record and not for any reason that there has been any challenge of my ownership of the land. In truth I have never heard any person in all of the many years involved say or suggest that there was any question about my complete and peaceable and undisputed ownership of the entire 160 acres from the time I bought it in 1911 up until I sold forty acres of it about ten years ago and there was further never any dispute or challenge or question concerning my continuing ownership and possession of the remaining 120 acres on up until the time I sold it to Whit Windham as heretofore stated. This land, as appears from the original patent from the United States of America, was granted through a patent from the United States of America to Jesse Isbell on the first day of June, 1858. Jesse Isbell died without a will and in due course his heirs deeded the property to S. H. Pledger who in turn, as a widower, deeded it to me as heretofore stated.

I do not have any recollection about who the heirs of Jesse Isbell were. I do know that his name "Jesse" is spelled sometimes "Jessie" and sometimes "Jesse", the latter of which is undoubtedly the correct spelling. His name "Isbell" is also sometimes spelled "Isbel". I have examined the papers and memoranda which I have had in my file all these years concerning this land and concerning the heirs of Jesse Isbell. I do not profess to have any memory about who the heirs in fact were, but I do find, from my own memoranda made about the time that I purchased the land and which I have every reason to believe to be correct when made, information about the names, ages, and marital status of the heirs of Jesse Isbell. I also have in my files an old unrecorded affidavit of J. C. Bowden, the husband of one of the daughters of Jesse Isbell, made in 1911, when he was 63 years old. This affidavit was never recorded for the reason that in listing the heirs, Bowden sometimes gave a "nick" name rather than the correct name and he did not always give the name of the heirs' spouses. He had known Jesse Isbell for 28 years before Jesse's death in 1904. I find from the whole of my data, as above shown, the following information concerning the heirs of Jesse Isbell, which appears to be complete and correct as of the date that the deeds to Pledger were given (in March, April & May, 1911):

It appears from these documents and from these memoranda in my file that the wife of the said Jesse Isbell at that time was dead. It further appears that one son of the said Jesse Isbell by the name of James K. Polk Isbell (sometimes known as "Bud" Isbell) was dead and that the said James K. Polk Isbell left surviving him as his only heirs, as of the year 1911,

*E. Care B. Smith*



the following persons: Will Isbell, an unmarried son; T. C. or Tommie Isbell, a married son, whose wife was N. J. Isbell; Mrs. L. A. Armstrong, a daughter, whose husband was E. F. Armstrong; Francis Isbell Adkins, a daughter, whose husband was H. M. Adkins; another unmarried son whose name was "Sug" Isbell; and Julie Isbell Wesson, a daughter, who was a widow.

In addition to the heirs of the deceased son James K. Polk or Bud Isbell, there were living nine other children whose marital status and spouses, according to the records and memoranda in my files, were as follows in 1911 at the time that Pledger secured his deeds from the heirs: H. M. Isbell, whose wife was Etta Isbell; Lucinda Jane Nelson, a daughter whose husband was H. B. Nelson; Nancy Isbell Epperson, a daughter, whose husband was W. D. Epperson; Margaret Isbell Pack, a daughter, whose husband was John Pack; Missouri Isbell, a daughter who was single; America Isbell Bowden, whose husband was J. C. Bowden (the same person who made an affidavit concerning the heirs of Jesse Isbell which I have heretofore referred to); Ellen Isbell Adams, a daughter whose husband was Frank Adams; S. D. Isbell, a son, whose wife was M. V. Isbell; and Mary Isbell Watson, a daughter who was a widow.

During each and all of the years that I have owned the 120 acres, hereinabove described as having been recently sold by me to Whit Windham, I have accurately assessed the Shelby County portion in the County Assessor's Office of Shelby County, Alabama, for Ad Valorem taxes, and I have paid the said taxes. Moreover, as to the portion lying in St. Clair County, I have in each of said years assessed it accurately in the County Assessor's Office of St. Clair County, Alabama, for Ad Valorem taxes, and I have paid the said taxes.

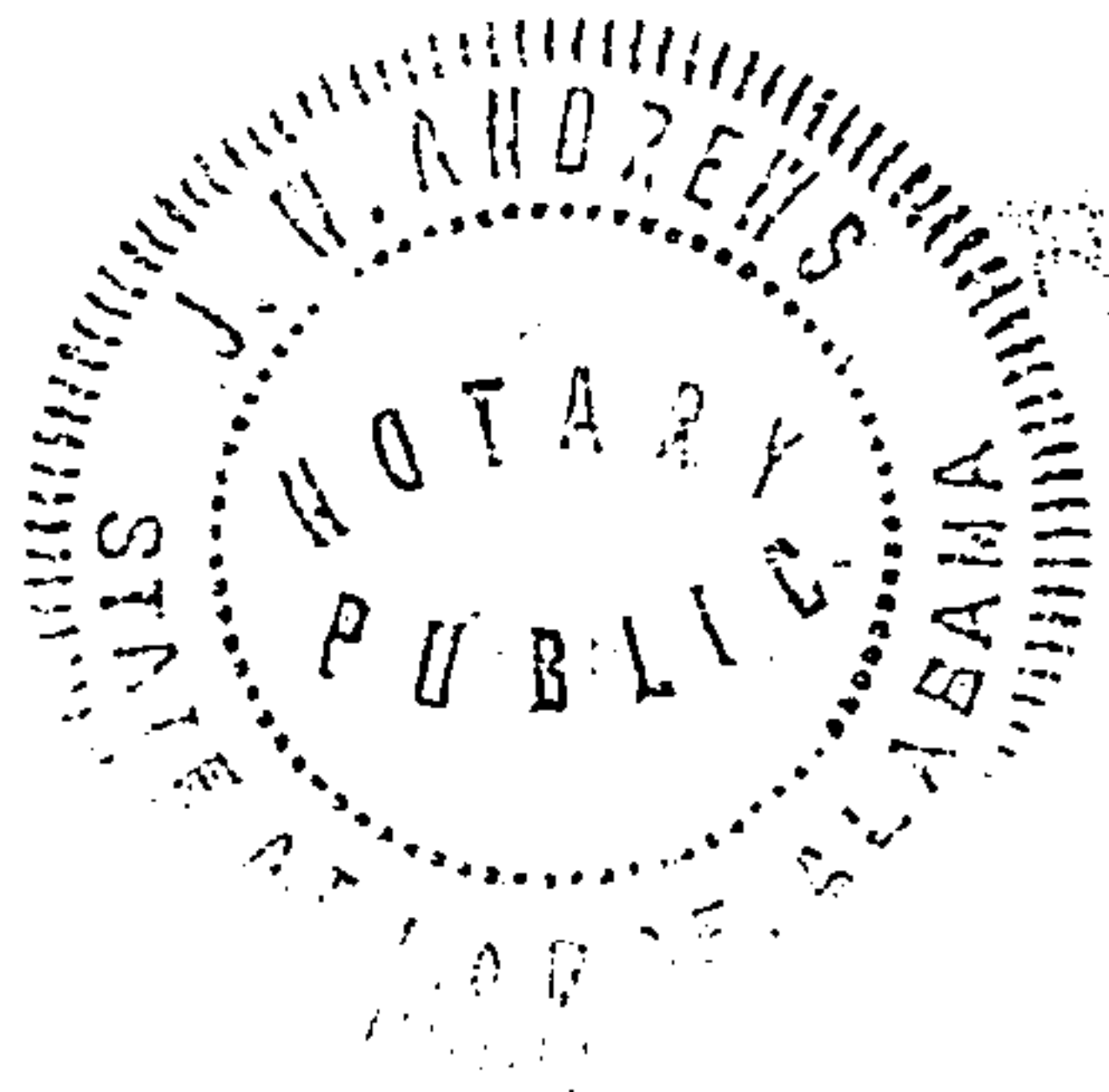
I have signed on the margin of the first and second pages of this three-page affidavit to identify them properly.

In witness whereof I have hereunto set my hand and seal on this the 4 day of June, 1958.

E. L. R. Smith (Seal)  
Affiant.

Sworn to and subscribed before me this 4<sup>th</sup> day of June, 1958.

J. W. Andrews  
Notary Public.



State of Alabama, Shelby County

I, L. C. Walker, Judge of Probate, hereby certify that the within

affidavit of E. L. R. Smith was filed in this office for record the 5  
day of June 1958 at 3 PM and received in Deed Record 193 Page 342 & examined  
and the mortgage tax of \$ 2.50 and the deed tax of \$ 2.50 has been paid.  
by L. C. Walker Judge of Probate