

1054 197

PETITION FOR PROBATE OF WILL

THE STATE OF ALABAMA,  
JEFFERSON COUNTY

COURT OF PROBATE 37203

Petition of The First National Bank of Birmingham for the Probate of the Will of  
Clarence G. Elliott deceased.

TO THE HON. J. Paul Weeks, JUDGE of the COURT OF PROBATE, JEFFERSON COUNTY:

The petition of the undersigned The First National Bank of Birmingham  
respectfully represents unto your Honor that Clarence G. Elliott  
who at the time of his death was an inhabitant of this county, departed this life at Birmingham,  
Jefferson County, Alabama on or about the 20th day of November 1957  
leaving assets in this State, and leaving a Last Will and Testament duly signed by Clarence G. Elliott  
and attested by Malcolm L. Wheeler, Edward L. Rose and Gladys Newman

That your petitioner as verily believes, is named in said Will as Executor  
and does now herewith surrender said Will to the Court and pray that after  
proper proceedings and proofs, it may be probated and admitted to record as the true Last Will and Testa-  
ment of said deceased. Your petitioner further represents that  
is the widow of said deceased, and that the names, ages, residence and  
condition of the next of kin are as follows, to-wit:

Name	Age	Address	Relationship
Vivian E. Wood	over 21 years	808 Graymont Avenue West, Birmingham, Ala.,	sister
Van Sloss Elliott	over 21 years	608 Arch Avenue, Birmingham, Alabama,	brother
Gordon Crane Elliott	over 21 years	1672 Fulton Avenue, Birmingham, Alabama,	brother
Inez E. Anderson	over 21 years	3587 Cowden, Memphis, Tennessee,	sister
William Young Elliott	over 21 years	1501 North 31st Street, Birmingham, Ala.,	brother
Lewis H. Elliott	over 21 years	2251 Highland Avenue, Birmingham, Ala.,	brother

Your petitioner further represents that the said attesting witnesses reside as follows:

Malcolm L. Wheeler, 804 Massey Building, Birmingham, Alabama  
Edward L. Rose, 804 Massey Building, Birmingham, Alabama  
Gladys Newman, Sandusky, Birmingham, Alabama

Your petitioner therefore further prays that your Honor will take jurisdiction of this  
petition and cause all such notices or citations to issue to the said next of kin and to said witnesses, and cause all  
such proceedings to be had and done and render all necessary orders and decrees in the premises as will duly  
and legally effect the probate and record of said Will in this Court.

20th Street and  
Address First Avenue North  
Birmingham 3, Alabama  
The First National Bank of Birmingham  
Trust Officer

THE STATE OF ALABAMA,  
Jefferson County

The First National Bank of Birmingham

being duly sworn deposes and says that the facts alleged in the above petition are true according to the  
best of its knowledge, information and belief.

Subscribed and sworn to before me this the

10<sup>th</sup> day of December 1957

Malcolm L. Wheeler  
Notary Public, Jefferson County

The First National Bank of Birmingham  
Trust Officer

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT

Estate of Clarence G. Elliott

hereby accept service of notice of the filing of the Petition for Probate of Will  
 in the matter of the Estate of Clarence G. Elliott  
 and hereby waive all other or further notice thereof, either by publication or otherwise, and do further hereby  
 enter my appearance in Court on the 10 day of Dec., 1957.  
 the day set for hearing said matter.

Dated this the 10 day of December, 1957.

Witness:

W D Gray  
Lillie Mae Webb

Van Sloss Elliott  
 Van Sloss Elliott

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT

Estate of Clarence G. Elliott

hereby accept service of notice of the filing of the Petition for Probate of Will  
 in the matter of the Estate of Clarence G. Elliott  
 and hereby waive all other or further notice thereof, either by publication or otherwise, and do further hereby  
 enter my appearance in Court on the 10 day of Dec., 1957.  
 the day set for hearing said matter.

Dated this the 7 day of December, 1957.

Witness:

James J. Wheeler  
Paul G. Garrison

William Young Elliott  
 William Young Elliott



WAIVER OF NOTICE

197 421  
131 PAGE 248

Form No. 16

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT

Estate of Clarence G. Elliott

hereby accept service of notice of the filing of the Petition for Probate of Will

in the matter of the Estate of Clarence G. Elliott

and hereby waive all other or further notice thereof, either by publication or otherwise, and do further hereby  
enter my appearance in Court on the 10 day of Dec., 1957,  
the day set for hearing said matter.

Dated this the 7<sup>th</sup> day of December, 1957.

Witness:

Alexander Smith  
Mary Ruth Smith

Gordon Crane Elliott  
Gordon Crane Elliott

WAIVER OF NOTICE

WILL  
RECEIVED 131 PAGE 249

Form No. 16

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT

Estate of Clarence G. Elliott

hereby accept service of notice of the filing of the Petition for Probate of Will

in the matter of the Estate of Clarence G. Elliott

and hereby waive all other or further notice thereof, either by publication or otherwise, and do further hereby  
enter my appearance in Court on the 10 day of Dec., 1957,  
the day set for hearing said matter.

Dated this the 9<sup>th</sup> day of December, 1957.

Witness:

Inez E. Anderson  
Inez E. Anderson  
Witness W. J. Jeppelton, Jr.  
Witness Mrs. Elizabeth Buckett

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT

Estate of Clarence G. Elliott

hereby accept service of notice of the filing of the Petition for Probate of Will

in the matter of the Estate of Clarence G. Elliott

and hereby waive all other or further notice thereof, either by publication or otherwise, and do further hereby

enter my appearance in Court on the 10 day of Dec., 1957  
the day set for hearing said matter.

Dated this the 7<sup>th</sup> day of December, 1957.

Witness:

Mrs. Pearl M. Brown

Vivian E. Wood  
Vivian E. Wood

Mrs. Ida Russell

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT

Estate of Clarence G. Elliott

hereby accept service of notice of the filing of the Petition for Probate of Will

in the matter of the Estate of Clarence G. Elliott

and hereby waive all other or further notice thereof, either by publication or otherwise, and do further hereby

enter my appearance in Court on the 10 day of Dec., 1957  
the day set for hearing said matter.

Dated this the 7<sup>th</sup> day of December, 1957.

Witness:

Anna Sessions Gould

Lewis H. Elliott  
Lewis H. Elliott

P. H. McDaniel

PROOF OF WILL

WILL  
RECEIVED

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Form No. 33

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT OF SAID COUNTY

In the matter of the Probate of the last Will and Testament of .....

Clarence G. Elliott

deceased.

Before me, J. Paul Meeks Judge of said Court, personally appeared in open Court

Malcolm L. Wheeler who having been by me first duly sworn and examined, did

and does depose and say on oath that he

is a subscribing witness to the instrument of writing now shown to him and which purports to be the last

Will and Testament of Clarence G. Elliott

deceased, late an inhabitant of this County, that said deceased, signed and executed said instrument on the day that

same bears date, and declared the same to be his last Will and Testament, and that affiant set his signature thereto, on the day the same bears date, as a subscribing witness to the same in the presence and at the request of said deceased and in the presence of the other subscribing witnesses, and that such other witnesses subscribed

their names as a witness in his presence and at the request of said deceased. That said deceased was

of sound mind and disposing memory, and in the opinion of deponent fully capable of making his Will, at the time the same was so made as aforesaid. Affiant further states that said deceased was on the day of the said date of said Will, of the full age of twenty-one years and upwards.

*Malcolm L. Wheeler*

Subscribed and sworn to before me this 10th day of December, 19 57.

*J. Paul Meeks* Judge of Probate



37809

WILL 131-252

STATE OF ALABAMA, )  
 )  
JEFFERSON COUNTY. )

I, Clarence G. Elliott, a resident citizen of Jefferson County, Alabama, being of sound mind and disposing memory, do hereby make and publish this, my last will and testament, hereby revoking any and all former wills made by me.

ITEM ONE: I desire and I hereby direct that all of my just debts, including my funeral expenses, and the expenses of my last illness, be paid by my executor hereinafter named, as soon after my death as convenient.

ITEM TWO: I hereby give and grant unto my said executor, full power and authority to sell and convey any or all property owned by me at the time of my death, real, personal or mixed, at private or public sale, without order of court.

ITEM THREE: I desire and I hereby direct that all taxes, specifically including estate or inheritance taxes, taxable against my estate, or against any life insurance on my life, shall be paid by my said executor hereinafter named, just as all other of my just debts shall be paid hereunder.

ITEM FOUR: I hereby give, devise and bequeath unto The First National Bank of Birmingham, a national banking association, as trustee, all the rest and residue of my property, real, personal or mixed, which I may own or to which I may be entitled at the time of my death or to which my estate may become entitled after my death, or over which I may have any power of disposition, in trust,

Clarence G. Elliott.

Signature

however, for the uses and purposes and with the powers hereinafter set forth.

1. The trustee shall during the life of my mother, Mrs. J. B. Elliott, pay to her in monthly installments the net income from the trust estate, after paying the expenses of administration (and other expenses herein authorized).

2. Upon the death of my mother, or should she predecease me, then upon my death, the trustee or my executor, whichever the case may be, shall then apportion the trust estate remaining in its hands, or coming into its hands at that time, into so many equal shares so that there will be one share for

Vivian E. Wood, Birmingham, Alabama,	sister,
Van Sloss Elliott, Birmingham, Alabama,	brother,
Gordon Crane Elliott, Birmingham, Alabama,	brother,
Inez Anderson Elliott, Kingsville, Texas,	sister,
William Young Elliott, Birmingham, Alabama,	brother,
Lewis H. Elliott, Birmingham, Alabama,	brother,

or such of them who are then living or having died theretofore leave lineal descendants then surviving. The share set aside for each brother or sister shall be delivered over to him or her as promptly thereafter as is convenient, or to his or her lineal descendants, per stirpes, provided, however, that there will be included in the share of my brother, Lewis H. Elliott, the log cabin and approximately three acres of land surrounding it, located a quarter of a mile off the Florida Short Route, approximately fourteen miles from Birmingham.

When the final distribution has been made from the corpus or principal of the trust estate, in accordance with the provisions of this will, this trust shall terminate and the trustee shall forthwith stand discharged.

*Clarence H. Elliott*

3. In making any apportionment and/or distribution of principal as herein contemplated, my trustee is authorized to itself determine the total value of my estate and make selection of the items of property to be paid over and distributed to the party or parties entitled thereto with reference to the share of the trust estate to which such party or parties may be entitled, and without securing any valuation or determination of valuation or direction as to specific items of property to be paid over and distributed from any court; it being my intention that my trustee shall use its sole judgment and discretion in any such determination, without liability to anyone on account of the exercise of such judgment and discretion.

Powers of Trustee.

(a) The trustee shall hold and manage said property and such other property as it may subsequently acquire pursuant to the power and authority herein given to it (all of which for convenience will hereinafter be referred to as "trust estate"), with full power to compromise, adjust and settle in its discretion any claim in favor of or against said trust estate, with full power to collect the income therefrom and from time to time to sell, convey, exchange, lease for a period beyond the possible termination of this trust, or for a less period, improve, encumber, borrow on the security of, or otherwise dispose of, all or any portion of said trust estate, in such manner and upon such terms and conditions as said trustee may approve, and with full power to invest and reinvest said trust estate and the proceeds of sale or disposal of any portion thereof, in such loans, stocks, bonds, or other securities, mortgages, or other property, real or personal,

Signature

Loren H. Hilditch



as to said trustee may seem suitable, and to change investments and to make new investments from time to time as to said trustee may seem necessary or desirable.

The trustee may continue to hold any property or securities originally received by it as a part of this trust estate so long as it shall consider the retention thereof for the best interests of my estate, regardless of whether such property or securities are a so-called "legal" investment of trust funds. In the disposition of any property constituting a part of said trust estate the trustee may acquire other property which is not a so-called "legal" investment of trust funds where such course is in its opinion for the best interests of my estate. The trustee shall have power to determine whether any money or property coming into its hands shall be treated as a part of the principal of the trust estate or a part of the income therefrom, and to apportion between such principal and income any loss or expenditure in connection with said trust estate as to it may seem just and equitable;

(b) To hold bonds, notes and other securities in bearer form and to omit to register them; to hold stocks, bonds, notes or securities or property in names other than that of the trustee or in the name of the trustee, and all without any indication that the securities or property are held in trust and without any disclosure of the fiduciary capacity of the trustee;

(c) Whenever and as often as in the opinion of the trustee the income from the trust estate is insufficient for the reasonable and comfortable support and maintenance of my mother, to advance to her so much of the corpus or

Signature

Lawrence H. Elliott

principal of the trust estate as the trustee may deem proper. Any such advances or the money so utilized shall be deemed to be partial distributions and not debts of my mother or of her estate;

(d) Upon the death of my mother to pay the funeral and burial expenses and the expenses of her last illness from the corpus or principal of the trust estate;

(e) The trustee shall have full power and authority, privately and without order of court, to borrow any money which it may deem advisable for the protection or proper administration of the trust estate, and as trustee, to mortgage and pledge any of the trust property for the purpose of securing same, with full power and authority to renew or extend any indebtedness at any time existing against any of the trust estate;

(f) The trustee shall have power and authority at any time or from time to time to advance money to the trust estate from its funds for any purpose or purposes of the trust and may reimburse itself for the money advanced and interest thereon from the trust property or from any funds belonging to the trust property thereafter coming into its custody from any source;

(g) The trustee shall be entitled to receive fair and reasonable compensation for its services in administering this trust.

(h) The trustee shall pay from and out of the income of the trust property any and all expenses reasonably necessary for the administration of the trust, including interest, taxes, insurance, including public liability insurance, and compensation to the trustee, as well as any other expense incurred for the benefit of the trust

Signature

Lawrence H. Elliott



estate, and in the event the income from the trust property is insufficient for the purpose of paying such expenses, the same may be paid from the corpus of the trust estate;

(i) The trustee shall not be required to pay any interest on any money in its custody while awaiting distribution and investment under the terms hereof, even though the money be commingled with its own funds, provided it keeps a separate account of same on its books;

(j) The trustee shall not be required to give bond as trustee under this instrument, unless ordered so to do for cause shown by a court having jurisdiction, in which event the cost and expense of the bond shall be paid from the trust estate;

ITEM FIVE: During the period of administration of my estate, my executor, hereinafter named, shall have and may exercise all of the rights, powers, duties and rights of discretion herein granted to or conferred upon the trustee.

ITEM SIX: The First National Bank of Birmingham, herein referred to, shall mean the corporation existing by that name at the date of this will and any successor thereto by merger, consolidation or conversion under state or federal laws.

ITEM SEVEN: I hereby constitute and appoint as executor of this, my last will and testament, The First National Bank of Birmingham, of Birmingham, Alabama, hereby directing that, as such executor, it shall not be required to make any bond or file any inventory or an accounting and settlement of my estate in any court.

Signature

Lawrence H. Ellis

IN WITNESS WHEREOF I, the said Clarence G. Elliott,  
 have hereunto set my signature and seal on this, the  
6<sup>th</sup> day of May, 1947,  
 hereby declaring the instrument contained on this and  
 the six preceding pages to be my last will and  
 testament.

Clarence G. Elliott (SEAL)

The foregoing was signed, sealed, published and  
 declared by Clarence G. Elliott, to be his last will  
 and testament in our presence and we, at his request  
 and in his presence and in the presence of each other,  
 have hereunto set our signatures, as attesting witnesses,  
 on the day the said instrument bears date.

Mollie L. Wheeler

Edmund L. Rose

Blanche Newman

Clarence G. Elliott

Signature

CERTIFICATE TO THE PROBATE OF WILL

WILL 131 PAGE 258

THE STATE OF ALABAMA,  
 JEFFERSON COUNTY.

I, J. Paul Meeks, Judge of the Court of Probate, in and for said

State and County, do hereby certify that the foregoing instrument \_\_\_\_\_ of writing made this day, in said Court, and before me as

the Judge thereof, been duly proven by the proper testimony to be the genuine Last Will and Testament \_\_\_\_\_

Clarence G. Elliott, Deceased and that said Will \_\_\_\_\_

together with the proof thereof have been recorded in my office in Book of Wills, Vol. 131 Page 251-258

In witness of all which I have hereto set my hand, and the seal of the said Court, this the 10 day of Dec., 1957

J. Paul Meeks, Judge of Probate





10-10-57

CLARENCE G. ELLIOTT, DECEASED, ESTATE OF,  
ORDER ON FILING AND PROBATING HIS  
LAST WILL AND TESTAMENT.

Case No. 37309  
PROBATE COURT  
December 10, 1957.

This day came The First National Bank of Birmingham, by its Trust Officer, M. Graham Musgrove, and filed its petition in writing, under oath, therewith producing and filing in this court an instrument of writing purporting to be the last will and testament of Clarence G. Elliott, deceased, bearing date the 6th day of May, 1947, and attested by Malcolm L. Wheeler, Edward L. Rose and Gladys Newman; and praying that the same be probated as provided by law; that petitioner is named in said will as executor thereof; and that the next of kin of said decedent are as follows, to-wit:

- Vivian E. Wood, sister, Birmingham, Alabama
- Van Sloss Elliott, brother, Birmingham, Alabama
- Gordon Crane Elliott, brother, Birmingham, Alabama
- Inez E. Anderson, sister, Memphis, Tennessee
- William Young Elliott, brother, Birmingham, Alabama
- Lewis H. Elliott, brother, Birmingham, Alabama

each of whom is over twenty-one years of age.

And thereupon comes each of the above named next of kin expressly waiving all notice of the petition to probate said will and consenting that the same be probated at once, and the court having ascertained by sufficient evidence that the signatures affixed to said waivers of notice and/or acceptances of service are the genuine signatures of said next of kin; now, on motion of said petitioner, the court proceeds to hear said petition, and, after due proof and hearing had according to the laws of this state, the court is satisfied and is of the opinion that said instrument is the genuine last will and testament of the said Clarence G. Elliott, deceased, and that such instrument should be probated as the last will and testament of Clarence G. Elliott, deceased. It is, therefore,

ORDERED, ADJUDGED AND DECREED by the court that said instrument be duly admitted to probate as the last will and testament of Clarence G. Elliott, deceased, and ordered to be recorded together with the proof thereof and all other papers on file relating to this proceeding. It is further ordered that petitioner pay the costs of this proceeding.

BOOK

147 PAUL 132  
The State of Alabama  
JEFFERSON COUNTY

COURT OF PROBATE

37809

Petition of The First National Bank of Birmingham for Letters Testamentary without  
Bond on the Will of Clarence G. Elliott, deceased.

TO THE HON. J. Paul Meeks, JUDGE PROBATE SAID COUNTY:

The petition of the undersigned The First National Bank of Birmingham  
respectfully represents unto your Honor, that in the last Will and Testament of Clarence G. Elliott  
deceased, which Will and Testament has been duly probated and admitted to  
record in this Court and it was named as the executOR thereof.

That by an express provision in said will to that effect, your petitioner is exempted from giving any bond as such executor.

That the said testator died seized and possessed of certain real and personal estate, consisting chiefly of

Real estate  
all of said real and personal estate being estimated to be worth about Fifty Thousand and no/100 Dollars  
(250,000.00) dollars, and probably not more; that your petitioner  
is an inhabitant of this state, above the age of twenty-one years, and in no respect disqualified, under the law, serving as such  
executOR

To the end therefore, that the said property may be collected and preserved for those who appear to have a legal interest  
therein, and the said will executed according to the request of the said testator, your petitioner prays that your honor will grant  
letters testamentary to it as executOR of last will and testament, without it  
entering into bond as such as is provided in and by the terms of said will.

Address: 20th Street and First Avenue North,  
Birmingham, Alabama

The First National Bank of Birmingham  
(Petitioner)

*[Signature]*  
Notary Public

THE STATE OF ALABAMA  
JEFFERSON COUNTY

The First National Bank of Birmingham

being duly sworn depose and say that the facts alleged in above petition are true according to the best of its  
knowledge, information and belief.

Subscribed and sworn to before me this the

10 day of December, 1957

The First National Bank of Birmingham  
(Petitioner)

*[Signature]*  
Notary Public

131 PAGE 259

The State of Alabama,  
JEFFERSON COUNTY.

Probate Court December Term, 1957  
December 10th, 1957

The Will of Clarence G. Elliott, deceased,

of the said County, having been duly admitted to record, in said County, LETTERS TESTAMENTARY are hereby granted to

The First National Bank of Birmingham the executOR named in said Will, who haS  
complied with the requisitions of the law and is authorized to take upon it self the execution of such Will.

Dated, this 10th day of December, 1957.



---o0o---

B CLARENCE G. ELLIOTT, DECEASED, ESTATE OF, )  
DECREE GRANTING LETTERS TESTAMENTARY WITHOUT BOND. ) Case No. 37809  
PROBATE COURT  
December 10, 1957.

Now on this day comes The First National Bank of Birmingham by its Trust Officer, M. Graham Musgrove, and files in this court its petition in writing, under oath, praying that Letters Testamentary upon said will of Clarence G. Elliott, deceased, be issued to him.

It is therefore ordered and decreed by the court that Letters Testamentary upon said will be granted to The First National Bank of Birmingham, and that said letters issue without bond or security being required in accordance with the terms of said will. It is further ordered that the petition filed in this behalf be recorded.

---o0o---

work for Mr C. G. Elliott

work on the well

June 8 - 1957 hours 8  
June 27 - 1957 hours 8  
July 20 - 1957 hours 8  
July 27 - 1957 hours 8  
August 3 - 1957 hours 8

work on the Pump at the old house

September 16 - 1957 hours 6  
November 9 - 1957 hours 8

work on the old house repairing it  
November 18, 1957 hours 8  
62 hours at \$2.25 hour  
which will be \$139.50

THE STATE OF ALABAMA, JEFFERSON COUNTY

Before me the undersigned authority in and for said county in said state personally appeared

Robert H. Smith

Who being first duly sworn says that he is

of \_\_\_\_\_, the claimant, and that he has full and complete knowledge of the correctness of the above claim against the estate of Clarence G. Elliott deceased, and that the amount claimed is justly due (or to become due), and after allowing all proper credits.

Robert H. Smith

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 1958.

Walter D. Smith Notary Public.

THE STATE OF ALABAMA,  
JEFFERSON COUNTY.

PROBATE COURT <sup>197</sup> ~~197~~ <sup>134</sup> ~~134~~

I, J. Paul Meeks, Judge of the Court of Probate, in and for said County in said State hereby certify that the foregoing contains a full, true and correct copy of the entire proceedings in  
the matter of the probate of the will of Clarence G. Elliott, deceased,  
and grant of Letters Testamentary to The First National Bank of Birmingham,  
together with claim filed against said estate

~~XXXXXXXXXXXX~~

as the same appears on file and of record, in this office. I further certify that said Letters are  
still in force. Given under my hand and official seal, this

the 5th day of December, 1958.

J. Paul Meeks  
Judge of Probate.

Filed 8th December, 1958.

State of Alabama, Shelby County

I, L. G. Walker, Judge of Probate hereby certify that the within Deed was filed in this office for record the 8  
day of December, 1958 at 1 o'clock PM, and recorded in Deed Record 197 Page 419 & examined 12/10/58  
and the Mortgage Tax of \$       Deed Tax of \$       has been paid.  
Fee \$ 9.50 pd. L. G. Walker Judge of Probate