

174

DOCKET NO. _____

NUMBER	TERM	YEAR
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248	May	1961
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Dan W. Kline, Mary Bush, Isabel

Merritt, Walter Merritt and Clair

Hallman

VERSUS

D. Earl Kline

Mary Jungquist

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

No. 248 May Term, 1961

In Re : DAN W. KLINE, MARY
BUSH, ISABEL MERRITT,
WALTER MERRITT and
CLAIR HALLMAN

vs.

D. EARL KLINE, MARY
JUNGQUIST and RUTH
SUSIE KLINE

O R D E R



LAW OFFICES
CHAPLIN & ARNOLD
CLEARFIELD, PA.

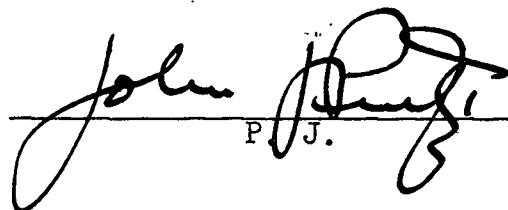
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: DAN W. KLINE, MARY BUSH, :
ISABEL MERRITT, WALTER :
MERRITT and CLAIR HALLMAN :
vs. : No. 248 May Term, 1961
D. EARL KLINE, MARY :
JUNGQUIST and RUTH SUSIE :
KLINE :
:

O R D E R

NOW, August 10, 1961, no exceptions having been filed to the Order of this Court dated July 10, 1961 within twenty (20) days thereof, said Order of July 10, 1961 is hereby made final and conclusive.

BY THE COURT,


John P. J.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

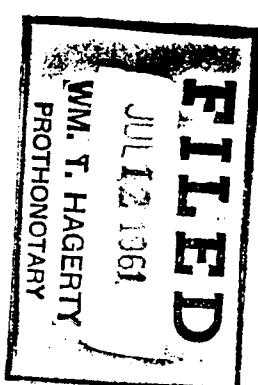
No. 248 May Term 1961

DAN W. KLINE, et al

VS

D. EARL KLINE, et al

ORDER



JOHN J. PENTZ
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA.

In re: :
DAN W. KLINE, MARY :
BUSH, ISABEL MERRITT, :
WALTER MERRITT and : No. 248 May Term 1961
CLAIR HALIMAN :
VS :
D. EARL KLINE, MARY :
JUNGQUIST and RUTH :
SUSIE KLINE :
:

O R D E R

NOW, July 10, 1961, the date fixed for hearing, by previous Order of this Court, all of the plaintiffs appearing in person and represented by F. Cortez Bell, Sr.; the defendants, D. Earl Kline and Ruth Susie Kline appearing in person and represented by Dan P. Arnold and John Scollins; and defendant, Mary Jungquist having failed to file an appearance, exceptions, or to appear at the hearing; the parties all being in agreement as to the ownership of the surface and the mineral estate in the property described in the Complaint, no Master will be required, and the Court hereby directs partition of all of the coal, iron ore, fire clay, gas and oil, and all other minerals of every kind and character, under the following described property; situate in Woodward Township, Clearfield County, Pennsylvania:

THE FIRST THEREOF: BEGINNING at a maple corner of Richard Whitehead and Barbara Snyder surveys; thence South 157.7 perches to a post corner of Chad Landen survey; thence West 157.7 perches to a hemlock and corner of Henry Faunce; thence 160 perches to a post; thence East 130 perches to a maple and place of beginning. Containing 133 acres, 31 perches, more or less.

THE SECOND THEREOF: BEGINNING at a maple corner of Richard Whitehead and Barbara Snyder surveys; thence East 18 perches

to a post corner of the Chad Landen survey; thence South 157.6 perches; thence West 18 perches to a post and corner of Charles London and Henry Faunce surveys; thence North along the line of Henry Faunce survey 157.6 perches to the place of beginning. Containing 17 acres, more or less, but out of which is a reservation of two acres heretofore sold by John Coulter to Nancy Fisher by deed dated the 20th day of June, 1840, and recorded March 19, 1841, in Deed Book "T", pages 308 and 309.

as follows:

To D. Earl Kline, an undivided 19/30ths interest,
To Mary Jungquist, an undivided 1/30ths interest,
To Daniel W. Kline, an undivided 5/30ths interest,
To Mary Bush, an undivided 5/30ths interest.

The Court further directs partition of the surface of the land described in the Complaint, as follows:

To Daniel W. Kline, the following two described pieces or parcels of land:

BEGINNING at a post in the Township Road (leading to Faunce) at a point South 83 degrees East 1462 feet from an Oak Tree corner, and corner of other land of grantee (also known as D. W. Kline, Jr.); thence along said Township Road South 83 degrees East 623 feet to stake-corner; thence South 7 degrees West, 287 feet to stake on other land of grantor; thence thereby North 85 degrees West, 167 feet to stake; thence still thereby South 7 degrees West, 172 feet to stake and fence corner; thence still thereby North 85 degrees West, 511 feet to stake, corner of this and other land of the grantee (also known as D. W. Kline, Jr.); and thence thereby South 10 degrees West, 552 feet to post in Township Road aforesaid, and place of beginning, and containing five and one-tenth (5.1) acres.

BEGINNING at an Oak Tree, corner of the original tract, and the Township Road (leading to Faunce); thence along said Township Road South 83 degrees East, 1462 feet to post, corner of other land of said D. W. Kline; thence thereby South 10 degrees West, 552 feet to post on land of D. Earl Kline; thence thereby North 85 degrees West, 1462 feet to stake; and thence North 10 degrees East, 710 feet to oak tree and place of beginning; containing 20 acres more or less.

To D. Earl Kline, the following described piece or parcel:

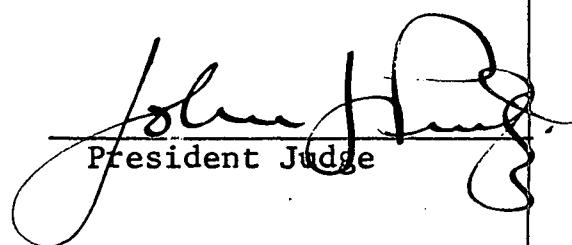
BEGINNING at a stake at the intersection of Township Road 17078 and the State Highway, being the Southwest corner of the original Sophia Kline Estate; thence South 7 degrees West 2348 feet to a stake corner near Township Road 17078; thence North 84 degrees 30 minutes West 2720 feet to oak tree, corner of Albert Kline property; thence North 10 degrees East 2018 feet to stake along fence line; thence South 85 degrees East 1462 feet to stake; thence South 85 degrees East 511 feet to stake; thence North 7 degrees East 172 feet to a stake; thence South 85 degrees East 167 feet to a stake; thence South 83 degrees East 322 feet to stake and point of beginning.

The above descriptions being as set forth on a survey by E. R. Griffith, labeled "Earl Kline Estate", and being attached to this Order and made a part of the Court records.

If no exceptions are filed to the within Order within twenty days from the date hereof, the said Order shall be final and conclusive. A copy of this Order to be given to F. Cortez Bell, Sr., attorney for the plaintiffs; a copy to Dan P. Arnold and John Scollins, attorneys for D. Earl Kline and Ruth Susie Kline, and a

copy to be served on Mary Jungquist, by Registered Mail.

BY THE COURT



John H. Jungquist
President Judge

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 24 & May Term, 1961

In Re: DAN W. KLINE, MARY BUSH,
ISABEL MERRITT, WALTER
MERRITT, and CLAIR HALLMAN
VS.
D. EARL KLINE and MARY
JUNGQUIST

MOTION

BELL, SILBERBLATT & SWOOPPE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

accepted for
D. Earl Kline &
Susan Kline
and D. Arnold
6-27-61

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: DAN W. KLINE, MARY :
BUSH, ISABEL MERRITT, :
WALTER MERRITT, and :
CLAIR HALLMAN :
VS. : No. 248 May Term, 1961
:
Susan :
D. EARL KLINE and :
MARY JUNGQUIST :
Ruth Suzie Kline

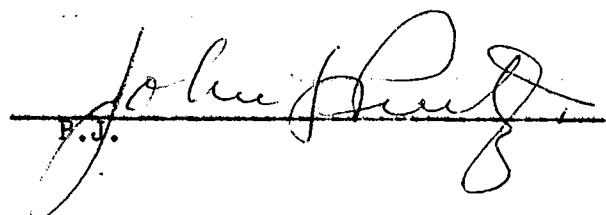
MOTION

TO THE HONORABLE JOHN J. PENTZ, PRESIDENT JUDGE OF SAID COURT:

NOW, comes Bell, Silberblatt & Swoope, attorneys for Dan W. Kline and Mary Bush, son and daughter of Sophia Kline, and aver that the Complaint filed and sworn to by Dan W. Kline and Mary Bush was duly served on counsel for D. Earl Kline and his wife, Susan Riddle Kline, now appearing that the original Complaint did not include Earl's wife, Susan, as a party defendant and that she be included herein, and in compliance with the Order of your Honorable Court, notice was served by registered mail on Mary Jungquist on June 8, 1961, on her married son, George Jungquist on June 10, 1961, and on Mrs. William B. Pierce on June 8, 1961, and that service was accepted by the heirs of Dan Kline who have interests, namely, Isabel Merritt, Walter Merritt and his wife, Ethel Jean Merritt, and Clair Hallman, who have filed an acceptance of service which is attached hereto, and no Exceptions having been filed within 20 days from the date of said Order, it is, therefore, decreed that a hearing be set for this court on the 10th day of July 1961 at 10 a.m. or p.m., at which time all interested parties shall appear and be heard and a hearing will be had to determine the advisability of awarding a Partition or taking such other actions as shall benefit said parties. It is directed that Susan Kline's name be added as a party defendant. Notice

of the date of this hearing should be served on counsel of the various parties, and a letter written to Mrs. Pierce and Mrs. Jungquist so that they will be present and heard, if they so desire.

BY THE COURT:


John P. Jungquist
P.J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: DAN W. KLINE, MARY BUSH, ISABEL MERRITT, WALTER MERRITT, and CLAIR HALLMAN :
VS. : No. May Term, 1961
D.. EARL KLINE and MARY JUNGQUIST :
:

WE, the undersigned interested parties, do hereby acknowledge receipt of a Notice that the Court had fixed Monday, June 26, 1961 as the return day for the Petition for Partition in the Court of Common Pleas, and we acknowledge receipt of the Notice of the same and agree to the fixing of a date for a hearing before the Court.

Walter Merritt
Walter Merritt

Ethel Jean Merritt
Merritt

Clair Hallman

Clair Hallman

Isabel Merritt
Isabel Merritt

POST OFFICE DEPARTMENT <small>OFFICIAL BUSINESS</small>		PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300	
		POSTMARK OF DELIVERING OFFICE	
		INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN REQUEST STD.	
REGISTERED NO.	NAME OF SENDER		
✓ 590	Bell, Silberblatt & Swoope		
CERTIFIED NO.	STREET AND NO. OR P. O. BOX		
	P. O. Box 670		
INSURED NO.	CITY ZONE AND STATE		
	Clearfield, Pa.		

POD Form 3811, Jan. 1958

C55-16-71546-4

RETURN
TO

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver ONLY to
addressee Show address where
delivered
(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Mary Jeanneist Breda Ottosen

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Deliver to Addressee Only

DATE DELIVERED 1961 ADDRESS WHERE DELIVERED (only if requested in item #1)

JUN 8

C55-16-71548-4 GPO

#1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver ONLY to

addressee

Show address where

delivered

(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

George Jungwirth

SIGNATURE OF ADDRESSEE'S AGENT IF ANY

Deliver to Addressee Only

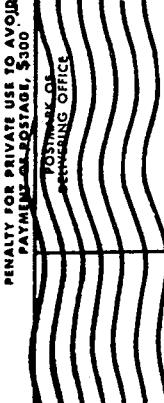
DATE DELIVERED

ADDRESS WHERE DELIVERED (only if requested in item #1)

JUN 10 1961

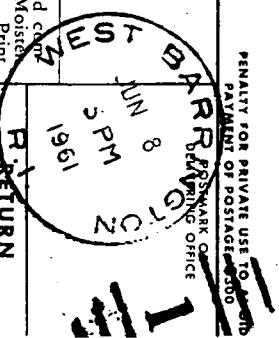
C55-16-71448-4

GPO

POST OFFICE DEPARTMENT <small>OFFICIAL BUSINESS</small>	
PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$500	
	
WESTON, JUN 10 1961 N.Y.	
POSTMARK OF ARMING OFFICE	
INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RETURN RECEIPT REQUESTED.	
RETURN TO	
REGISTERED NO.	NAME OF SENDER
<i>8811</i>	<i>Bell, Silberblatt & Swoope</i>
CERTIFIED NO.	STREET AND NO. OR P. O. BOX
	<i>P. O. Box 670</i>
INSURED NO.	CITY, ZONE AND STATE
	<i>Clearfield, Pa.</i>

POD Form 3811 6-1958

CS5-16-71548-4

POST OFFICE DEPARTMENT OFFICIAL BUSINESS		PENALTY FOR PRIVATE USE TO <u>100</u> PAYMENT OF POSTAGE <u>500</u>									
 1											
<p>INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article. RETURNS REQUESTED.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">NAME OF SENDER</td> <td style="text-align: center;">STREET AND NO. OR P. O. BOX</td> </tr> <tr> <td><u>1969</u></td> <td><u>Bell, Silberblatt & Swoope</u></td> </tr> <tr> <td>CERTIFIED NO.</td> <td>P. O. Box 670</td> </tr> <tr> <td>INSURED NO.</td> <td>CITY, ZONE AND STATE <u>Clearfield, Pa.</u></td> </tr> </table>				NAME OF SENDER	STREET AND NO. OR P. O. BOX	<u>1969</u>	<u>Bell, Silberblatt & Swoope</u>	CERTIFIED NO.	P. O. Box 670	INSURED NO.	CITY, ZONE AND STATE <u>Clearfield, Pa.</u>
NAME OF SENDER	STREET AND NO. OR P. O. BOX										
<u>1969</u>	<u>Bell, Silberblatt & Swoope</u>										
CERTIFIED NO.	P. O. Box 670										
INSURED NO.	CITY, ZONE AND STATE <u>Clearfield, Pa.</u>										

CGS-16-71548-4

1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver **ONLY** to addressee

Show address where delivered
(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

Mrs. Wm. B. Prince

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Delivery

DATE DELIVERED

ADDRESS WHERE DELIVERED (Only if requested in item # 1)

JUN 8 1961

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
No. 741 May Term, 1961

In Re: DAN W. KLINE, MARY BUSH,
ISABEL MERRITT, WALTER
MERRITT, and CLAIR HALLMAN

VS.

D. EARL KLINE and MARY
JUNGQUIST

COMPLAINT

NOTICE TO PLEAD

To the within named Defendants:

You are hereby notified to
plead to the enclosed Complaint
within twenty (20) days from
the service hereof.

BELL, SILBERBLATT & SWOPE
By

John Bell

Attorneys for Plaintiff's
FILED

March 5, 1961
BELL, SILBERBLATT & SWOPE
ATTORNEYS AT LAW
CLEARFIELD TRUST CO. BLDG.
CLEARFIELD, PENNA.

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

6-5-61
Accepted
D. Earl Kline
D. Earl Kline

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: DAN W. KLINE, MARY ^{b6} ✓
BUSH, ISABEL MERRITT, ^{b4} ✓
WALTER MERRITT ^{b4} and :
CLAIR HALLMAN ^{b1} : No. ^{b4} ✓ May Term, 1961
VS. :
D. EARL KLINE and :
MARY JUNGQUIST ^{b3} ✓ :

COMPLAINT

(1). Dan W. Kline and Mary Bush are both in their nineties and are children and heirs of Sophia Kline, who died testate on the 23rd day of December, 1923, leaving a last Will and Testament, which was duly probated and which is recorded in Clearfield County in Will Book "M", page 366. A copy of the Will of Sophia Kline is attached hereto, marked Exhibit "A" and made a part hereof.

(2). That John Goss, by deed dated February 1, 1868, and recorded in Clearfield County on February 3, 1868, in Deed Book "BB", page 278, granted and conveyed to Daniel Kline and Sophia Kline, his wife, the following described tracts of land situate in Woodward Township, Clearfield County, Pennsylvania, being bounded and described as follows:

THE FIRST THEREOF: BEGINNING at a maple corner of Richard Whitehead and Barbara Snyder surveys; thence South 157.7 perches to a post corner of Chad Landen survey; thence West 157.7 perches to a hemlock and corner of Henry Faunce; thence 160 perches to a post; thence East 130 perches to a maple and place of beginning. Containing 133 acres, 31 perches, more or less.

THE SECOND THEREOF: BEGINNING at a maple corner of Richard Whitehead and Barbara Snyder surveys; thence East 18 perches to a post corner of the Chad Landen survey; thence South 157.6 perches; thence West 18 perches to a post and corner of Charles London and Henry Faunce surveys; thence North along the line of Henry Faunce survey 157.6 perches to the place of beginning. Containing 17 acres, more or less, but out of which is a reservation of two acres heretofore sold by John Coulter to Nancy Fisher by deed dated the 20th day of June, 1840, and recorded March 19, 1841, in Deed Book "T", pages 308 and 309.

(3). That the Will of Sophia Kline gives to her son, John W. Kline, now deceased, the surface of a portion of the farm in Woodward Township and the Will states that the quantity should be at least 67 acres.

(4). That no line was ever run on the ground to determine the location of the surface, which vested in John W. Kline, and of the portion of the surface vested in the remaining heirs.

(5). That said Will gave the balance of the surface of the farm to Dan W. Kline, one of the Plaintiffs, Mary Bush, one of the Plaintiffs, Annie Holman, and to the heirs of a deceased daughter, Catherine Newton, share and share alike.

(6). That said Will states that the fire clay was under lease and she gave unto her son, John W. Kline, one-third; and the other two-thirds she divided between D. W. Kline, Jr., Annie Holman, Mary Bush and the heirs of Catherine Newton and a grandson, Alvin Kline, saying that D. W. Kline was to receive $4/27$; Annie Holman to receive $4/27$; Mary Bush to receive $4/27$; the heirs of Catherine Newton to receive $4/27$ and $2/27$ to Alvin Kline.

(7). That Alvin Kline died intestate, unmarried and without issue so that his interest in the said property would vest in his heirs at law, who would be his uncles and aunts and the children named of Sophia Kline.

(8). That said Will also provided that if the said lease expired, any new lease should be divided in the same proportions, and likewise provided that the coal and other minerals were to be divided in the same proportions, and there was a provision as to the waiver of surface support or damages to the surface.

(9). That John W. Kline, by deed dated the 21st day of December, 1934, and recorded in Clearfield County in Deed Book 342, page 222, granted and conveyed to his son, D. Earl Kline, all the surface, coal, fire clay and other minerals underneath a tract of approximately 120.2 acres, which is the land described in said Will.

(10). That D. Earl Kline, by deed dated the 21st day of March, 1947, and recorded in Clearfield County in Deed Book 382, page 120, granted the same property received from his father, John W. Kline, to himself and his wife, Susie Ruth Kline.

(11). That on the 16th day of July, 1957, Anna Balfour, a daughter of Catherine Kline Newton, granted to Mary Bush, Annie Holman, Dan Kline, Alvin Kline, D. Earl Kline and Susie Ruth Kline, Robert Newton, Jane Wolfe, Mary Jungquist, Ruth Pierce and Frank Miller, as Guardian of Janet Miller, all her interest in said property, but said deed has never been placed of record and is attached hereto as Exhibit "B" and made a part hereof.

(12). That there is a deed from Annie Holman and David Holman to John W. Kline dated the 27th day of December, 1924, and recorded in Clearfield County in Deed Book 477, page 346, of all their right, title and interest in the homestead property. This deed was not recorded, however, until August 31, 1959.

(13). There is a deed signed by Mary Bush dated the 7th day of November, 1924, of all their right, title and interest to the homestead property, which deed is recorded in Clearfield County in Deed Book 477, page 345, but which was not recorded until August 31, 1959, and which deed Mary Bush insists she did not sign.

(14). There is a deed from some of the heirs of Catherine Newton dated the 5th day of July, 1927, which was recorded in Clearfield County in Deed Book 477, page 348. This deed was not recorded until August 31, 1959, and the parties signing said deed were Pearl Newton Miller, F. K. Miller, Jane Wolfe, John E. Wolfe, J. Ruth Newton, Maude R. Newton, Robert D. Newton, Anna Balfour and Fred L. Balfour. Said deed includes all the children of Catherine Newton except Mary Jungquist, whose last known address was 35 Fairmont Street, Jamestown, Chataqua County, New York, and Ruth Pierce of 63 Alfred Drowne Road, West Barrington, Rhode Island.

(15). That the Manufacturer's Light and Heat Company has entered into an oil and gas lease on said premises under which they have said that they believed the gas to be held 19/30 by Earl Kline, the son of John; 1/30 by Mary Jungquist; 5/30 by Daniel W. Kline; and 5/30 by Mary Bush, but your Plaintiffs have received no income from said oil and gas lease nor did they execute any lease.

(16). That there was some understanding or agreement entered into between John W. Kline and his son, D. Earl Kline, under which John W. Kline employed a surveyor named E. R. Griffith to run off a distribution of a tract of 20 acres, and another distribution of 5.1 acres.

(17). That Attorney John Scollins prepared deeds to be executed by D. Earl Kline for said tracts of land, and the plaintiffs were unable to state whether said deeds have been executed or not executed but believe they were never delivered and are now in the possession of Counsel for D. Earl Kline.

(18). That said deeds were surveyed and drawn on the assumption that the three daughters of Sophia Kline had made a deed for said premises to John W. Kline, but said deeds had not been recorded at the time and were not recorded until August of 1959.

(19). That the description prepared by E. R. Griffith of the said 20 acre tract was intended by the said John W. Kline, D. Earl Kline, and his brother, Dan Kline, to straighten the lines of the property between the property of John W. Kline and the property that said parties assumed went to Dan W. Kline under the Will of his mother, Sophia Kline.

(20). Said deeds were prepared in the belief that each would be the same in the following respects:

(a) That each of the children of Sophia Kline, other than John W. Kline, would receive approximately 20 acres of surface, which could not be determined until the line mentioned in the Will of Sophia Kline was first determined and the balance of the acreage ascertained.

(b) That said children of Sophia Kline each assumed that they owned a particular portion of surface on which Annie Holman erected her home, Dan Kline's daughter, Isabel Merritt, erected her home, and some of the other heirs have been exercising the right of possession.

(21). That John W. Kline, during his lifetime, had the County Commissioners change the assessment of a certain portion of said land to himself and another portion consisting of 20.5 acres to Dan W. Kline.

(22). That Dan W. Kline permitted the assessment against him for the 20.5 acres to go to sale by the County Treasurer of Clearfield County, and the same was purchased on July 8, 1940 by his daughter, Isabel Merritt, said deed being recorded in Clearfield County, Deed Book 385, page 96, and is incorporated hereunder by reference.

(23). That Isabel Merritt, by deed dated the 29th day of July, 1948, and recorded in Clearfield County in Deed Book 392, page 115, which deed is incorporated hereunder by reference, granted and conveyed four acres of the land she had bought at County Treasurer's sale to her daughter, Bessie Hallman, and Clair Hallman.

(24). That Bessie Hallman and Clair Hallman are now divorced and by an action in partition filed in the Court of Common Pleas of Clearfield County, Pennsylvania, the property mentioned in the foregoing paragraph was sold to Clair Hallman.

(25). That Isabel Merritt, by another deed, dated the 8th day of May, 1954, recorded in Clearfield County in Deed Book 435, page 329, granted and conveyed one acre to her son, Walter Merritt, and his wife, Ethel Merritt, which deed is likewise incorporated hereunder by reference.

(26). That the deeds to Mr. and Mrs. Hallman and to Walter Merritt and his wife were made by Isabel Merritt on the strength of her deed from the County Treasurer, which deed was on the strength of an assessment made to their father, D. W. Kline, whereas there never had been any conveyance between the heirs of Sophia Kline granting unto Daniel Kline the said property, but the County Treasurer's deed is based solely on the assessment in the name of Daniel Kline.

(27). That Clair Hallman is a son of Annie Holman, and he has erected a home on the parcel of ground that he and his wife, a daughter of Isabel Merritt, purchased from Isabel.

(28). That the deed signed by Mary Bush only conveys her right, title and interest in the surface of the homestead and as she denies having executed said deed and as this Complaint has to do with the coal and clay rights on the property, she would be a necessary party.

(29). That the deed from the children of Catherine Newton does not include Mary Jungquist, for whom no guardian has ever been appointed, but who is confined in a nursing home in Providence, Rhode Island.

(30). That Ruth Pierce, also of Providence, Rhode Island, a daughter of Catherine Newton, has stated that she did not sign the deed, and when advised that there was a Ruth Newton who signed the deed in 1927, stated that she was misinformed as to what she was signing. The Plaintiffs have no knowledge of what defense, if any, the heirs of Catherine Newton may have, as to the effect of the deed signed in 1927 and recorded in August of 1959, but Mary Jungquist, a daughter of Catherine Newton, was not included in said deed.

(31). That Mary Bush denies that she or her husband executed the deed in 1924, and said deed only calls for the surface. The said Mary Bush would have her interest in minerals, oil and gas on said property.

(32). That the Manufacturer's Light and Heat Company have indicated to Counsel for the Plaintiffs that they are willing to enter into an additional lease to include all parties who have any interest in said property.

(33). That a lease for the clay on said property was prepared years ago but not signed by all of the interested parties and not recorded.

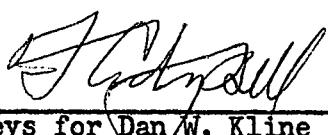
(34). That Counsel for D. Earl Kline has stated that Earl would be willing to enter into a lease for the clay on said property with the Harbison-Walker Refractories Company and the Harbison-Walker Refractories Company, through their representatives, have indicated that they are interested in entering into such a lease, either in the name of that company or in the name of the party who had the prior lease prepared and partially executed as said parties, namely Thompson and Phillips, would do the stripping on said property for the Harbison-Walker Refractories Company

(35). Dan W. Kline is bringing this proceeding with the knowledge and consent of his daughter, Isabel Merritt, and the parties to whom she gave deeds for the same.

(36). Because the interest of the various properties is uncertain, the owners thereof have been unable to enter into any legal lease or sale of the same, and the Plaintiffs are desirous of bringing this proceeding under rules of civil procedure, 1551 to 1574, and respectfully request your Honorable Court to make an Order directing a partition of said property to and among those legally entitled thereto, and to hold a preliminary conference, as required by rule of civil procedure 1558, at which time it may be ascertained the ownership of said surface and the quantity and distribution of the area of land owned by each of said parties, and the ownership of the minerals, oil and gas underneath the entire tract, and to determine whether a partition or plan of partition and sale may be agreed upon, or whether after the preliminary hearing, the matter need be referred to a Master.

And they will ever pray.

BELL, SILBERBLATT & SWOOPES
By



Attorneys for Dan W. Kline and
Mary Bush

STATE OF PENNSYLVANIA:
SS:
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared DAN W. KLINE, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief.

his
X
Dan W. Kline

March

Sworn and subscribed to
before me this 27th day
of May, 1961.

STATE OF PENNSYLVANIA:
SS:
COUNTY OF CLEARFIELD :

Before me, the undersigned officer, personally appeared MARY BUSH, who being duly sworn according to law, deposes and states that the facts set forth in the foregoing Complaint are true and correct to the best of her knowledge, information and belief.

Mary Bush
Mary Bush

Sworn and subscribed to
before me this 27th day
of May, 1961.

PROTHONOTARY
My Commission Expires
1st Monday Jan. 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re: DAN W. KLINE, MARY
BUSH, ISABEL MERRITT,
WALTER MERRITT, and
CLAIR HALLMAN : No. 2418 May Term, 1961
VS. :
D. EARL KLINE and
MARY JUNGQUIST :

ORDER OF COURT

NOW, June 5th, 1961, the within Complaint having been presented and service having been accepted by all parties who made any claim of interest, except Mary Jungquist and possibly Ruth Pierce, it is directed that a Rule be issued on Mary Jungquist and Ruth Pierce to show cause why said partition should not be awarded. Said Rule to be returnable the 28th day of June, 1961. Service on the said Mary Jungquist and Ruth Pierce may be had by Registered or Certified Mail. The service on Mary Jungquist to be sufficient if return-receipt is received from the nursing home where she resides, or from her son, who resides in Providence, Rhode Island. If no Exceptions are filed within 20 days from the date of said service, a date for preliminary hearing before the Court will be fixed on motion of any party interested herein.

BY THE COURT:

John Kline
P.J.

I, Sophia Kline of Woodward township in the County of Clearfield, and state of Pennsylvania, being of sound mind, memory and understanding, do make and publish this my last will and testament, hereby revoking and making void all former wills by me at any time heretofore made.

And first, I direct that my funeral be conducted in a manner corresponding with my estate and situate in life and that all my just debts and funeral expenses be fully paid and satisfied as soon as conveniently may be after my decease.

As to such estate as it hath pleased God to intrust me with, I dispose of the same as follows, viz:

Item - I give, devise and bequeath to my son John W. Kline the surface of that portion of my homestead property situate in Woodward township aforesaid, which shall be enclosed by lines as follows; on the east by line of my land adjoining Jarrett Estate; on the South by line of land of Albert Kline (now David Holman) on the North by land of D. W. Kline Jr and Milton Hampton and Chase Estate; and on the West by remainder of my homestead property; the lines of the tract of land hereby devised shall be the tract lines of my homestead property on the North, south and East and the Western line shall be parallel with the Eastern line and shall be run a sufficient distance therefrom to enclose sixty seven acres of land and enclose therein all the farm buildings on said premises. if by a line running parallel with the said line adjoining the Jarrett estate land (Being the eastern line of said homestead tract) and so run as to cut off and contain sixty seven acres, the buildings would not be enclosed then it is my will that the acreage given to my said son shall be so increased that the Western line shall together with the Northern, eastern and southern lines as herein described and located enclose the buildings on said homestead property in the tract devised herein it being my intention to devise to my said son John W. Kline the buildings now erected on said homestead, together with sufficient land off the eastern part of said homestead to in any event

enclose said buildings and to be at least sixty seven acres.

I give devise and bequeath the remainder of the surface of my homestead property to my children D. W. Kline, Jr. Annie intermarried with David Holman, Mary intermarried with John Bush and the heirs at law of Catherine Newton, share and share alike; the heirs at law of my daughter Catherine Newton shall take such share as their mother would have taken in said remainder (to wit, an undivided one fourth) if said mother had been living at the date of this my will.

Item. The fire clay underlying my said homestead property is now under lease. Should said lease remain in force and effect and said fire clay be operated and removed thereunder, I give devise and bequeath to my son John W. Kline one third of the rents and royalties devised therefrom, whether actual or minimum royalties; and the other two thirds of said royalties I give, devise and bequeath unto my children, D. W. Kline, Jr. Annie Holman, Mary Bush the heirs at law of my deceased daughter Catherine Newton and my grandson Alvin Kline the said D. W. Kline Jr; Annie Holman; Mary Bush and the heirs at law of Catherine Newton; to have equal shares and my said grandson Alvin Kline to have one half as much as each of my said children, that is to say:- D. W. Kline Jr. shall receive four twenty sevenths of said royalty; Annie Holman four twenty sevenths; Mary Bush four twenty sevenths; the heirs of Catherine Newton, four twenty sevenths and the said Alvin Kline two twenty sevenths of said royalty. Should the lease on said fire clay be at any time surrendered or forfeited, then it is my will that the estate in said fire clay shall be taken and vest in the proportions herein above stated viz: to John W. Kline one third to D. W. Kline four twenty sevenths; to Annie Holman four twenty sevenths; to Mary Bush four twenty sevenths to the heirs of Catherine Newton four twenty seventh and to Alvin Kline two twenty sevenths.

Item: I direct that all the coal and other minerals, except fire clay in and under my homestead premises shall be divided between my children and others in the said proportions as the fire clay is above divided; the heirs of Catherine Newton taking their mothers share therein and Alvin Kline, my grandson to receive one half as much as any of my children except my son John and I so devise the said coal and other minerals.

Item. The devises of the surface of my home stead are to be deemed to be taken with restrictions and reservations as follows; no claim for damages shall be made by any owner of any portion of said surface for injury to said surface or to any structures therein or to any water thereon or thereunder by reason of the mining and removal of the coal and fire clay and other minerals in and under said premises.

All my personal property and all the rest and residue of real estate owned by me or in which I have any interest I direct to be sold and used for the payment of my debts funeral expenses and costs of administering my estate. Any balance remaining shall belong to my son John W. Kline and I so devise and bequeath the same; if the amount realized from sale shall not be sufficient, then my said son John shall pay any deficiency.

And I hereby nominate, constitute and appoint my son John W. Kline Executor of this my last will and testament.

In Witness Whereof, I Sophia Kline the Testatrix, have to this my will, written on one sheet of paper set my hand and seal, this seventeenth day of August A. D. One Thousand Nine hundred and twenty one.

Sophia ^{her} X Kline (SEAL)
mark

The sixteenth line from top of first page, to wit: on the South by line of land of Albert Kline now D. W. Holman, being first interlined before signing.

Sophia ^{her} X Kline

Signed, sealed, published and declared by the above named Sophie Kline, as and for her last will and testament, in the presence of us, who have hereunto subscribed our names at her request as witnesses thereto, in the presence of said Testatrix and of each other.

Walter Jarrett

A. H. Woodward

IN WITNESS WHEREOF, said grantor has hereunto set her hand and seal the day and year first above written.

/s/ Anna Balfour

(SEAL)

Signed, Sealed and Delivered
in the presence of

/s/ G. W. Nusser

STATE OF PENNSYLVANIA:

COUNTY OF Indiana : SS:

On this, the 17 day of July, 1957,
before me the undersigned officer, personally appeared ANNA BALFOUR,
known to me (or satisfactorily proven) to be the person whose name
is subscribed to the within instrument, and acknowledged that she
executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

/s/ Donald B. Shank

(SEAL)

My Commission Expires
First Monday in January 1960
RECORDED OF DEEDS
Title of Officer

I do hereby certify that the precise residence of the within named grantees are as set forth in this instrument.

1957.

Attorney for

1-INSTRUCTIONS TO DELIVERING EMPLOYEE

Deliver ONLY to addressee
 Show address where delivered
(Additional charges required for these services)

RETURN RECEIPT

Received the numbered article described on other side.

SIGNATURE OR NAME OF ADDRESSEE (must always be filled in)

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Dolores McCracken

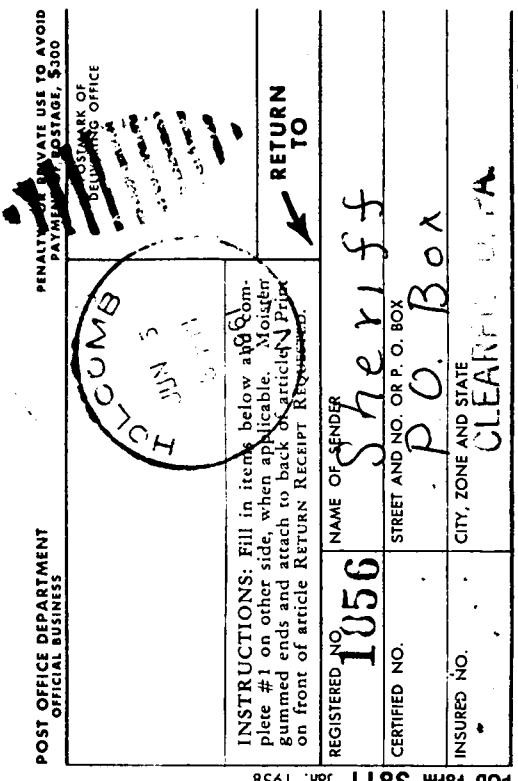
DATE DELIVERED

ADDRESS WHERE DELIVERED (only if requested in item #1)

6/5/61

C55-16-71548-4

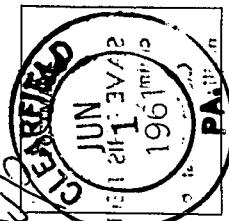
GPO 1

POST OFFICE DEPARTMENT OFFICIAL BUSINESS		PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300	
			
<p>INSTRUCTIONS: Fill in items below and complete #1 on other side, when applicable. Moisten gummed ends and attach to back of article. Print on front of article RECEIPT REQUESTED.</p> <p>RETURN TO</p>			
REGISTERED NO.	NAME OF SENDER		
1056	Sheriff		
CERTIFIED NO.	STREET AND NO. OR P. O. BOX		
	P. O. Box		
INSURED NO.	CITY, ZONE AND STATE		
	CLEARFIELD, PA		

POD Form 3811 Jan. 1958

CS5-16-71548-4

REGISTERED NO. 1856 *PA*



Value \$ 1.00 Spec. del'ly fee \$ 0.00

Fee \$ 0.00 Ret. receipt fee \$ 0.00

Surcharge \$ 0.00 Rest. del'ly fee \$ 0.00

Postage \$ 0.00 Airmail

Postmaster (Signature) *John V. (Vito) Mazzoni*

From *John C. Cope*

To *LeRoy & Robert Mack*

Post Office *Seattle, WA*

Postage *PA*

Postage *PA*

Postage *PA*

Postage *PA*

POD Form 3806

Dec. 1959

648-16-70493-4

SAVE THIS RECEIPT. Present it when making inquiry or claim.

Claim must be filed within 1 year from the date of mailing.

Consult postmaster as to fee chargeable on registered parcel post packages addressed to foreign countries.