

STATE OF SOUTH CAROLINA )  
COUNTY OF OCONEE ) COURT OF COMMON PLEAS

EX PARTE: )  
The Clemson Agricultural College )  
of South Carolina )  
IN RE: )  
The Purported Cemetery of Unknown )  
Deceased Persons. )

O R D E R .

On reading and filing the Petition of the Clemson Agricultural College of South Carolina,

IT IS ORDERED, that a Notice substantially in the form set out below be published not less than ten (10) days prior to Saturday, September 3, 1960, in THE GREENVILLE NEWS and the ANDERSON INDEPENDENT, and in the August 25 issue of the MESSENGER, a weekly newspaper of general circulation in the Clemson area. The form of the Notice is as follows:

" LEGAL NOTICE

TO THE RELATIVES AND FRIENDS OF ANY PERSONS BURIED IN UNMARKED GRAVES ON THE HILLSIDE WEST OF CALHOUN CEMETERY AT CLEMSON IN OCONEE COUNTY, SOUTH CAROLINA:

WHEREAS, the Clemson Agricultural College of South Carolina has by its Petition to this Court alleged that it needs for its corporate purposes an area owned by it lying on the hillside West of the Calhoun Cemetery at Clemson, in which area certain field stones set in no regular pattern are thought by legend and ancient report to mark the graves of deceased Negro slaves or of prisoner laborers at one time employed in the construction of the works of the College, the identity of such persons, if any are so buried there, being unascertainable by the petitioner, and

WHEREAS, said College desires an Order of this Court permitting it to disinter the remains of such persons if any be found on exploration and to reinter the same in a more suitable location some 300 feet South of the area in question, and asks that the relatives and friends of the persons, if any, so buried be cited by advertisement to show cause why such an Order should not be passed,

NOW, THEREFORE, you, the relatives and friends of any persons so buried, are cited to show cause, if any you can, before me at chambers at Anderson, South Carolina, at 11 o'clock, A.M. on Saturday, September 3, 1960, why the Order prayed for should not be passed.

J. B. Pruitt  
Judge of Tenth Judicial Circuit

August 20, 1960."

Let the matter come before me for hearing at the time  
and place set forth in said Notice.

*J. B. Pruitt*  
\_\_\_\_\_  
Judge of Tenth Judicial Circuit

August 20<sup>th</sup>, 1960.

CERTIFIED TRUE COPY  
**AUG 17 2020**  
CLERK OF COURT  
OCONEE COUNTY, SC *[Signature]*

Case # 90 89

File Docket # 4

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\$1.50 Pd. on costs  
8-26-60

ROY D. HARDEN  
CLERK OF COURT  
OCONEE COUNTY, S.C.

1960 AUG 24 AM 10:59

Filed Aug. 24, 1960  
Roy D. Harden  
c.c.p.

STATE OF SOUTH CAROLINA, )  
COUNTY OF OCONEE. ) COURT OF COMMON PLEAS

EX PARTE: )  
The Clemson Agricultural College )  
of South Carolina )  
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The Petitioner would show by this Petition:

I.

The Petitioner is a corporate body duly organized and existing under the laws of the State of South Carolina as an educational institution with property, offices and other facilities located in the County and State aforesaid.

II.

Included in the property of Petitioner in Oconee County, South Carolina, is an area bounded generally on the east by Williamson Drive, on the south by Clemson Bottoms, on the west by Seneca River and on the north by Memorial Stadium, and popularly known as Cemetery Hill, on the eastern slope of which the Calhoun cemetery is located. The western slope of Cemetery Hill, west of the Calhoun cemetery, and the drive which encircles it, is wooded and steep and in its present condition is valueless to Petitioner, but on account of its proximity to Petitioner's campus is presently much needed for the orderly and proper development of the campus.

III.

That upon the western slopes of Cemetery Hill there is an area some 180 feet in length and some 90 feet in width, upon

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W.V. FFK

which unmarked field stones set in no regular pattern are thought by legend and ancient report to mark the graves of deceased Negro slaves or of prisoner laborers at one time employed in the construction of the works of the College.

IV.

Petitioner cannot determine whether the area so marked by stones does, in fact, contain the remains of deceased persons, except by exploration, the effect of which will be to disturb the remains, if persons have been buried there.

V.

Petitioner has made diligent search and investigation and is unable to ascertain the identity of the persons whose graves are so marked, if, in fact, any persons are so buried there, and consequently is unable to ascertain the relatives or friends of the persons, if any, so buried, to notify such relatives or friends, or to request their consent.

VI.

Petitioner has immediate need for possession of the area where said stones are located to excavate and grade the same to be suitable for its corporate purposes, and desires to disinter the remains of any persons found on investigation to be so buried, and to reinter the remains so found at a more suitable location approximately 300 feet south of the location of said stones at a place more accessible and one which can be kept in a condition more in accordance with the proper respect for the dead.

WHEREFORE, your Petitioner prays:

(1) That this Court issue its rule, addressed to the unknown relatives and friends of the unknown deceased persons

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*W.V. F.K.*

who may be interred in the aforesaid purported cemetery, requiring them to show cause within a reasonable time after the publication of said notice, why this Court should not grant an order authorizing the action hereinafter described.

(2) Upon failure to show cause, for an order authorizing Petitioner by persons thereto qualified to make exploration to determine whether evidence exists that the bodies of persons have, in fact, been buried in such area, and if exploration indicates such to be the fact, to disinter the remains of the persons so buried and to reinter said remains in a suitable area approximately 300 feet south thereof; and

(3) for such other and further relief as to the Court may appear proper.

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Watkins, Vandiver, Freeman & Kirven  
WATKINS, VANDIVER, FREEMAN & KIRVEN  
Attorneys for Petitioner.

STATE OF SOUTH CAROLINA, )  
  )  
COUNTY OF OCONEE.      )

PERSONALLY appeared before me R.C. Edwards  
who, being sworn, says that he is an officer of The Clemson  
Agricultural College of South Carolina, being its President  
\_\_\_\_\_ ; that he has read the foregoing Petition and that the  
allegations thereof are true to the best of his knowledge, infor-  
mation and belief.

SWORN to before me this 22nd )  
day of August, 1960.          )

Stanley H. Hines (SEAL)  
Notary Public for South Carolina

R.C. Edwards

CERTIFIED TRUE COPY  
AUG 17 2020  
CLERK OF COURT  
OCONEE COUNTY, SC

Roll # 9589

STATE OF SOUTH CAROLINA )  
: COURT OF COMMON PLEAS  
COUNTY OF OCONEE )

EX PARTE: )  
: )  
The Clemson Agricultural College )  
of South Carolina )

O R D E R

IN RE: )  
: )  
The Purported Cemetery of Unknown )  
Deceased Persons. )

On August 22, 1960, Clemson College submitted its petition alleging that it needs possession for its institutional functions an area on the West slope of Cemetery Hill, on its campus in Oconee County, and that in the area are unmarked stones thought by some to mark the graves of unknown and unidentifiable slaves or prisoner laborers. Thereupon, I issued a rule directed to the relatives and friends of such persons to show cause before me on this date why the petitioner should not be allowed to remove the graves to a more suitable site. Ten days notice was given by the publication of the rule in three newspapers having general circulation in the Clemson area and the counties adjoining it. No one appeared in response thereto.

I have taken testimony which freely supports the allegations of the petition. It cannot be determined whether the stones in the area in question actually mark graves without performing exploration which will have the effect of disturbing the remains of those, if any, who were there buried. But by "legend and ancient report" there may be graves so marked. There is nothing to identify the persons, if any, so buried, and, therefore, no

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way by which consent to removal can be sought or obtained. Petitioner has need of the area for the expansion of its campus, and should not be denied the use of it without good cause.

As a general rule, a body cannot be removed from its place of burial without the consent of the next of kin. 15 Am. Jur. 842, et seq. Removal against the objections of the next of kin will be permitted for good cause shown. Ex Parte McCall, 68 S. C. 489, 47 S. E. 974. Removal before flooding by water power pond is permitted by statute (1952 Code Section 70-171, et seq.) and provision is there made for the giving of notice by publication and the issuance of a rule to show cause.

It is, therefore, found that this Court has the right to authorize the removal of the graves in question, that good cause has been shown therefor, and that all reasonable efforts have been made to notify and bring before me any persons having an interest in or objecting to the relief sought.

NOW, THEREFORE, IT IS ORDERED:

1. That The Clemson Agricultural College of South Carolina may and is hereby authorized to make exploration to determine whether evidence exists that persons have been buried in the area on the Western slope of Cemetery Hill at Clemson, in Oconee County, West of Calhoun Cemetery and the drive which encircles it, about one hundred eighty (180) feet in length and ninety (90) feet in width where unmarked field stones appear.

2. If upon such exploration, evidence is found that graves do so exist, said College, by its agents and servants, under the supervision of a duly licensed embalmer and at its expense,

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shall cause the remains so found to be disinterred and reinterred in an area about three hundred feet south thereof, the graves to be marked with stones as they are now marked. The method of removal and reinterment shall be determined by the licensed embalmer in accordance with the custom as regards bodies long buried, and the area of the reinterment will be suitably marked.

At Chambers  
Anderson, South Carolina  
September 3, 1960

*J. B. Pruitt*  
\_\_\_\_\_  
Judge of the Tenth Judicial  
Circuit

*Recorded Sept. 7, 1960,  
Roy D. Harden, C. C. P.*

*J. B. P.  
Page 3  
Shue*

