

STATE OF ALABAMA, EX REL )

IN THE CIRCUIT COURT OF

KENNETH COOPER, SOLICITOR OF )

BALDWIN COUNTY, ALABAMA.

BALDWIN COUNTY, ALABAMA, )

IN EQUITY.

VS. )

E.J. ROBERTS AND THIRTY-FIVE )

5¢ SLOT MACHINES, TWO 10¢ )

SLOT MACHINES, SIXTEEN 25¢ )

SLOT MACHINES, AND ONE 50¢ )

SLOT MACHINE. )

TO THE HONORABLE TELFAIR J. MASHBURN, JR., OF THE CIRCUIT COURT OF  
BALDWIN COUNTY, IN EQUITY SITTING.

Comes your Petitioner, KENNETH COOPER, as Solicitor of the 28th  
Judicial Circuit of Alabama, and respectfully shows and informs the  
Court of the following facts:

(1) That your Complainant, KENNETH COOPER, is the Circuit Solici-  
tor of Baldwin County, Alabama, and is authorized by law to bring  
this bill.

(2) That E.J. ROBERTS is a resident of Baldwin County, Alabama,  
and is over the age of twenty-one years.

(3) That on, to wit, August 7, 1949, Highway Patrol Capt. O.T.  
McDuff, Lt Joe Smelley, Sgt W.F. Dyer and Patrolman A.L. McGilberry,  
of the Alabama Highway Patrol, acting under competent authority, did  
find and seize in Baldwin County, Alabama, the gambling devices here-  
inafter described, and have reported such seizure and detention to  
your Complainant.

(4) That said report of seizure and detention of said personal  
property shows that said Patrolmen have seized the following des-  
cribed gambling devices, to wit:

One 5¢ Mills Slot Machine, Ser. #567070, manufactured by or  
for Bell-O-Matic Corp., of Chicago, Ill.

One 5¢ Mills Novelty Slot Machine, Ser. #509417, Bell-O-Matic  
Corp., Chicago, Ill.

One 5¢ Mills Novelty Slot Machine, Ser. #508651, Bell-O-Matic,  
Corp., Chicago, Ill.

One 5¢ Jewel Slot Machine, Ser # 543126, with no further  
markings.

One 5¢ Jumbo Playout, Ser #9924, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Playout, Ser #23760, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #3371, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #2155, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #6882, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #110, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #4297, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Serial number unknown, but with key No. 9412, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser # 4349, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #11510, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #2446, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser. #8800, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #8138, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #11187, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #6810, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #10375, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #6782, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #9221, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #7730, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #3095, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #7724, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #11856, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #8780, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #7517, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #11365, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #9093, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #8685, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #8557, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Big Game, Ser #92021, with no other markings on machine.

One 5¢ Jumbo Parade, Ser #490311, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser No. not listed, nor any further markings.

One 10¢ Bell-O-Matic, Ser #507459, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 10¢ Bell-O-Matic, Ser #486086, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 25¢ Jewel Slot Machine, Ser #558039, with no further markings.

One 25¢ Jewel Slot Machine, Ser #558193, with no further markings.

One 25¢ Bell-O-Matic, Ser #500338, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 25¢ Bell-O-Matic, Ser #524938, manufactured by Mills Novelty

Co., of Chicago, Ill.

One 25¢ Seven Play Evans Races, Ser #1244, with no further markings.

One 25¢ Jumbo Parade Payout, Ser #4040, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Payout, Ser #4064, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #4059, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser # 4000, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser # 6148, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #7465, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #4333, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #2314, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #3686, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #is unknown, but with key no.9647, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #549086, manufactured by Mills Novelty Co., of Chicago, Ill.

One 50¢ Bell Fruit, Ser #548814, GH-2 scratched on back, table model, with no further markings.

(5) That said above described machines when seized and removed were in the possession or under the control of E.J. ROBERTS, and your orator is informed and on such information believes and states that the said machines are the property of said E.J. ROBERTS.

(6) Your Complainant charges and avers that the above described machines are gambling devices within the meaning of Code of Alabama, 1940, Title 14, Section 283.

The premises considered, your orator prays that the said E.J. ROBERTS be made a party respondent to this bill of complainant, that summons issue requiring him to plead, answer or demur to this bill of complaint under the rules of this Honorable Court, and within the time prescribed by law; and that on the final hearing of this cause that the Court will make and enter a decree declaring that the above named articles are gambling devices, that same be forfeited with their contents to the State of Alabama, and be destroyed.

And the Complainant prays for such other, further and additional relief, decrees and orders as may be necessary to accomplish such condemnation and destruction of said gambling devices as illegal gambling devices under the laws of Alabama.

  
Solicitor

28th Judicial Circuit of Alabama.

STATE OF ALABAMA, EX REL	¶	
KENNETH COOPER, SOLICITOR	¶	
OF BALDWIN COUNTY, ALABAMA,	¶	
Complainant,	¶	IN THE CIRCUIT COURT OF
vs.	¶	BALDWIN COUNTY, ALABAMA
E. J. ROBERTS AND THIRTY-FIVE	¶	IN EQUITY.
5¢ SLOT MACHINES, TWO 10¢	¶	
SLOT MACHINES, SIXTEEN 25¢	¶	
SLOT MACHINES AND ONE 50¢	¶	
SLOT MACHINE.	¶	
Respondent.		

I. As to that aspect of paragraph 3 of the Bill of Complaint in which it is alleged, "that on to-wit, August 7, 1949, Highway Patrolmen Capt. O. T. McDuff, Lt. Joe Smelley, Sgt. W. F. Dyer and Patrolman A. L. McGilberry of the Alabama Highway Patrol, acting under competent authority, did find and seize in Baldwin County, Alabama, the gambling devises hereinafter described", the Respondent demurs and assigns the following separate and several grounds, viz:-

(a) For aught appearing the Highway Patrolmen did not have authority to seize the machines thereafter described. (b) That it affirmatively appears that such machines were not seized by the Sheriff of Baldwin County, Alabama, as required by Section 286, Title 14 of the 1940 Code of Alabama. (c) That it affirmatively appears that such machines were illegally seized by the Highway Patrolmen. (d) That the allegation, "acting under competent authority", is but a conclusion of the pleader. (e) That it is not shown by what authority such machines were seized by the Highway Patrolmen. (f) That it affirmatively appears that this condemnation proceeding was brought without lawful authority therefor. (g) That there is no provision in law for a seizure by the Highway Patrolmen, and the allegation that they were acting under competent authority is vague and indefinite. (h) That the allegation that they were gambling devises is but a conclusion of the pleader.

(i) That it is not shown in what manner said machines could be used as gambling devises. (j) That it is not shown what such Patrolmen did with such machines. (k) For aught that appears said machines have already been destroyed by the Highway Patrolmen. (l) That it is not alleged that said machines are now in the custody of any officer or subject to any condemnation proceeding. (m) For aught that appears said machines were illegally seized, robbed and have been totally destroyed.

II. As to that aspect of paragraph 3 of the Bill of Complaint in which it is alleged, "and have reported such seizure and detention to your Complainant", the Respondent demurs and assigns the following separate and several grounds, viz:

(a) That it affirmatively appears that such report was made by the Highway Patrolmen and not by the Sheriff of Baldwin County, Alabama, as required by Section 286, Title 14 of the 1940 Code of Alabama. (b) That it is not alleged that such report was made within five days as required by Section 286, Title 14 of the 1940 Code of Alabama. (c) For aught appearing such report did not give a full description of such machine, the number of the devise, if any, the place and firm of manufacture, the person in whose possession they were found and the person making claim to the same as required by Section 286, Title 14 of the 1940 Code of Alabama. (d) That this allegation does not show any authority of the Highway Patrolmen to make such a report.

III. As to that aspect of paragraph 4 of the Bill of Complaint in which it is alleged, "said report of seizure and detention of said personal property shows that said Patrolmen have seized the following described gambling devises, to-wit", the Respondent demurs and assigns the following separate and several grounds, viz:-

(a) That it affirmatively appears that said machines were seized by the Highway Patrolmen and not by the Sheriff of Baldwin County, Alabama, as required by law. (b) That it is not alleged where said machines are being detained or stored. (c) It is not alleged who now has possession of said machines and by what authority. (d) That it affirmatively appears that said machines were illegally seized and detained.

IV. As to that aspect of paragraph 5 of the Bill of Complaint in which it is alleged, "that said above described machines when seized and removed were in the possession or under the control of E. J. Roberts", the Respondent demurs and assigns the following separate and several grounds, viz:-

(a) That this allegation is but a conclusion of the pleader.

Hybart, Chason & Stone

By: 

Solicitors for E. J. Roberts

STATE OF ALABAMA, EX REL  
KENNETH COOPER, SOLICITOR  
OF BALDWIN COUNTY, ALABAMA,

VS.

E. J. ROBERTS AND THIRTY-FIVE  
5¢ SLOT MACHINES, TWO 10¢  
SLOT MACHINES, SIXTEEN 25¢  
SLOT MACHINES AND ONE 50¢  
SLOT MACHINE.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY.

1. As to that aspect of paragraph 3 of the Amended Bill of Complaint in which it is alleged, "That on, to-wit, August 7, 1949, Highway Patrol Capt. O. T. McDUFF, LT JOE SMELLEY, SGT W. F. DYER AND PATROLMAN A. L. MCGILBERRY, of the Alabama State Highway Patrol, acting under written authority from the Governor of the State of Alabama, as prescribed under the provision of Section 71, Title 36, Code of Alabama, 1940, did find and seize in Baldwin County, Alabama, the gambling devices hereinafter described", the Respondent demurs and assigns the following separate and several grounds, viz:

(a) That it is not alleged that the persons named therein who seized the machines were members of the Alabama State Highway Patrol. (b) That it is not alleged that the persons named therein as seizing such machines were acting as Peace Officers of the State of Alabama, at the time of such seizure. (c) That it is not alleged that the persons named as seizing such machines were members of the Alabama State Highway Patrol and acting as Peace Officers of the State of Alabama, at the time of such seizure on August 7, 1949. (d) That it is not alleged that such written authority was in full force and effect at the time of such seizure. (e) The allegation, "of the Alabama State Highway Patrol", is not sufficient to show that they were members of such Alabama State Highway Patrol at the time of making such seizure. (f) That it is affirmatively shown that such machines were not seized by the Sheriff of Baldwin County, Alabama, as required by law. (g) That

it affirmatively appears that such machines were illegally seized.

(h) For aught that appears the persons seizing such machines did so without a valid search warrant issued out of a Court of competent jurisdiction. (i) That the allegation that they were gambling devices is but a conclusion of the pleader. (j) That it is not shown in what manner said machines could be used as gambling devices. (k) That it is not shown whether such purported officers have retained custody of such machines as required by law. (l) For aught that appears said machines may have been completely destroyed and are no longer in being. (m) For aught that appears the Court does not now have jurisdiction over such machines. (n) For aught that appears said property sought to be condemned is not properly before the Court.


2. As to that aspect of paragraph 3 of the Amended Bill of Complaint in which it is alleged, "and have reported such seizure and detention to your Complainant", the Respondent demurs and assigns the following separate and several grounds, viz:

(a) That it affirmatively appears that such report was not made by the Sheriff of Baldwin County, Alabama, as required by Section 286, Title 14 of the 1940 Code of Alabama. (b) That it is not alleged that such report was made within five days as required by the law of the State of Alabama. (c) That this allegation is but a conclusion of the pleader. (d) That it fails to appear that such machines have been detained and the allegation that they have reported such detention is but a conclusion of the pleader. (e) That it is not alleged that such machines have been detained and are now within the jurisdiction of this Court. (f) For aught that appears said machines may have been completely destroyed and are no longer subject to the jurisdiction of this Court.

3. As to that aspect of paragraph 4 of the <sup>Amended</sup> Bill of Complaint in which it is alleged, "that said report of seizure and detention of said personal property shows that said Patrolmen have seized the following described gambling devices", the Respondent demurs and assigns the following separate and several grounds, viz:

(a) That it affirmatively appears that said machines were illegally seized. (b) That it affirmatively appears that said machines were not seized and detained by the Sheriff of Baldwin County, Alabama, as required by law. (c) That the allegation that such machines were gambling devices is but a conclusion of the pleader. (d) That it is not alleged in what manner said machines could be used as gambling devices. (e) That said machines are not properly described.

Hybart, Chason & Stone

By:   
Solicitors for Respondent.

STATE OF ALABAMA, EX REL     ) Case No. 2325     IN THE CIRCUIT COURT  
KENNETH COOPER, SOLICITOR,    ) OF BALDWIN COUNTY,  
COMPLAINANT,                    ) ALABAMA, IN EQUITY.  
Vs.                                )

E.J. ROBERTS AND THIRTY-FIVE)  
5¢ SLOT MACHINES, TWO 10¢     )  
SLOT MACHINES, SIXTEEN 25 ¢ )  
SLOT MACHINES AND ONE 50¢     )  
SLOT MACHINE.                    )

DECREE

This cause coming on to be heard, was submitted for final decree on the bill of complaint and decree pro confesso on personal service against the respondent E.J. ROBERTS, and the Court having considered the same is of the opinion that the Complainant is entitled to the relief prayed for, and that said machines, namely;

Thirty-five 5¢ Slot Machines, described as follows,

One 5¢ Mills Slot Machine, Ser. # 567070, manufactured by or for  
Bell-O-Matic Corp., of Chicago, Ill,

One 5¢ Mills Novelty Slot Machine, Ser # 509417, Bell-O-Matic  
Corp., of Chicago, Ill,

One 5¢ Mills Novelty Slot Machine, Ser. # 508651, Bell-O-Matic  
Corp., Chicago, Ill,

One 5¢ Jewel Slot Machine, Ser # 543126, with no further  
markings,

One 5¢ Jumbo Payout, Ser No. 9924, Manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Payout, Ser # 23760, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 3371, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 2155, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 6882, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 110, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 4297, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser. # unknown, but with key No. 9412,  
manufactured by Mills Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Award, Ser # 4349, manufactured by Mills Novelty  
Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 11510, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 2446, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 8800, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 8138, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 11187, manufactured by Mills  
Novelty Co., of Chicago, Ill,

5¢  
One/Jumbo Parade, Ser # 6810, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 10375, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Award, Ser # 6782, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 9221, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Award, Ser # 7730, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo <sup>Parade</sup> Award, Ser # 3095, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Award, Ser # 7724, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 11856, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 8780, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Award, Ser # 7517, manufactured by Mills  
Novelty Co., of Chicago, Ill,

One 5¢ Jumbo Parade, Ser # 11365, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 5¢ Jumbo Parade, Ser # 9093, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 5¢ Jumbo Award, Ser # 8685, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 5¢ Jumbo Parade, Ser # 8557, manufactured by Mills  
Novelty Co., of Chicago, Ill  
One 5¢ Big Game, Ser # 92021, with no further markings,  
One 5¢ Jumbo Parade, Ser # 490311, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 5¢ Jumbo Parade, Ser No. not listed, nor any further markings,  
Two 10¢ Slot Machines, described as follows,  
One 10¢ Bell-O-Matic, Ser # 507459, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 10¢ Bell-O-Matic, Ser # 486086, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
Sixteen 25¢ Slot Machines, described as follows,  
One 25¢ Jewel, Ser # 558039, with no further markings,  
One 25¢ Jewel, Ser # 558193, with no further markings,  
One 25¢ Bell-O-Matic, Ser # 500338, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 25¢ Bell-O-Matic, Ser # 524938, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 25¢ Seven Play Evans Races, Ser # 1244, with no further  
markings,  
One 25¢ Jumbo Parade Payout, Ser # 4040, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 25¢ Jumbo Payout, Ser # 4064, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 25¢ Jumbo Parade, Ser # 4059, manufactured by Mills  
Novelty Co., of Chicago, Ill,  
One 25¢ Jumbo Parade, Ser # 4000, manufactured by Mills  
Novelty Co., of Chicago, Ill,

or monies be paid into the General Fund of Baldwin County, Alabama,  
as provided by law.

It is further ordered and decreed by the Court that the Sheriff  
of Baldwin County, Alabama, in the presence of the Register of this  
Court, destroy the gambling devices hereinabove described, within  
twenty days of the date of this decree, unless an appeal is taken  
from this decree as provided by law.

It is further ordered and decreed by the Court that the costs  
of this suit be taxed against the Respondent, E.J. Roberts, for  
which let execution issue. If, however, such costs are not collected  
by such execution, then the Register shall tax and collect the costs  
from Baldwin County, to be paid as in criminal cases where the  
State fails.

Done, ordered and decreed this 21<sup>st</sup> day of June, 1950.

Julius J. Mashburn, Jr.  
Judge, Circuit Court of  
Baldwin County, Alabama

The State of Alabama,  
Baldwin County.

{ No. \_\_\_\_\_ CIRCUIT COURT IN EQUITY.

STATE OF ALABAMA, EX REL KENNETH COOPER, Complainant  
vs.

E. J. ROBERTS & THIRTY-FIVE 5¢ SLOT MACHINES, TWO 10¢ Slot Defendant  
MACHINES, SIXTEEN 25¢ SLOT MACHINES AND ONE 50¢ SLOT MACHINE  
In this cause it appears to the Register

that a summons requiring the Defendant E. J. ROBERTS AND THIRTY-FIVE 5¢ SLOT  
MACHINES, TWO 10¢ SLOT MACHINES, SIXTEEN 25¢ SLOT MACHINES AND ONE 50¢ SLOT  
MACHINE

to appear and demur, plead to or answer the Bill of Complaint in this cause within thirty days  
after the service of said Summons upon Defendant, E. J. Roberts, et al  
was served upon them by the Sheriff of Baldwin County, Alabama, on the  
18th day of August 1949

And the said Defendant having failed to demur, plead to or answer the said Bill of Complaint  
to this date, it is now, therefore, on motion of Kenneth Cooper

ordered and decreed that the said Bill of Complaint in this cause be and it hereby is in all things  
taken as confessed against the said E. J. ROBERTS AND THIRTY-FIVE 5¢ SLOT MACHINES,  
TWO 10¢ SLOT MACHINES, SIXTEEN 25¢ SLOT MACHINES AND ONE 50¢ SLOT MACHINE

Defendant aforesaid.

This 29th day of May 1950

*David L. Church* Register.

No. 2325

Page

**The State of Alabama,**  
Baldwin County.

**CIRCUIT COURT, IN EQUITY**

STATE OF ALABAMA, EX REL

KENNETH COOPER, SOLICITOR OF BALDWIN  
COUNTY, ALABAMA  
vs.

E. J. ROBERTS AND THIRTY-FIVE 5¢ SLOT  
MACHINES, TWO 10¢ SLOT MACHINES, SIX-  
TEEN 25¢ SLOT MACHINES, AND ONE 50¢  
SLOT MACHINE.

**DECREE PRO CONFESSO ON  
PERSONAL SERVICE**

Issued 29th 19 50

*David J. Black*  
Register.

Moore Printing Company, Bay Minette, Ala.

THE STATE OF ALABAMA, }  
Baldwin County }

No. 2325 Circuit Court, In Equity.

STATE OF ALABAMA, EX REL KENNETH COOPER, Complainant---

Vs.

E.J. ROBERTS AND THIRTY-FIVE 5¢ SLOT MACHINES, TWO 10¢ SLOT MACHINES,  
SIXTEEN 25¢ SLOT MACHINES, AND ONE 50¢ SLOT MACHINE DefendantS---

Motion is hereby made for a Decree Pro Confesso against E.J. ROBERTS AND THIRTY-FIVE 5¢ SLOT

MACHINES, TWO 10¢ SLOT MACHINES, SIXTEEN 25¢ SLOT MACHINES AND ONE 50¢ SLOT MACHINE DefendantS---

Decree of Affirmance  
in the above stated cause, on the ground that more than thirty days have elapsed since ~~rendered by the Supreme Court of Alabama in said proceedings~~  
~~upon said DefendantS---~~ rendered by the Supreme Court of Alabama in said proceedings  
and Decree upon said DefendantS---; and that said summons was duly served according to law, and that said DefendantS---  
have failed to ~~xxxxx~~ plead to or answer the Bill of Complaint in this cause to this date.

This 27th day of May 19 50

*Kenneth Cooper*  
Solicitor.

No. 2325

Page

THE STATE OF ALABAMA  
BALDWIN COUNTY

Circuit Court, In Equity

STATE OF ALABAMA, EX REL

KENNETH COOPER, COMPLAINANT,

Vs.

E. J. ROBERTS AND THIRTY-FIVE 5¢

SLOT MACHINES, TWO 10¢ SLOT MACHINES,  
SIXTEEN 25¢ SLOT MACHINES AND  
ONE 50¢ SLOT MACHINE.

Motion for Decree Pro Confesso on  
Personal Service

Filed 27 May 1950

*Lucie J. Duck*  
Register.

Recorded in Record

Vol. Page

Register.

APR 27 1950

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

SPRING TERM, 1950

1 Div. 402

E. J. Roberts et al.,

v.

State of Alabama ex rel. Kenneth Cooper,  
Solicitor of Baldwin County,

Appeal from Baldwin Circuit Court,  
In Equity.

BROWN, JUSTICE.

This appeal is from the interlocutory decretal order of the circuit court overruling the respondent's demurrer to the "amended bill of complaint" filed by the State of Alabama on the relation of Kenneth Cooper, as Solicitor of the 28th Judicial Circuit of Alabama, against E. J. Roberts, alleged to be a resident of Baldwin County, under Chapter 46, Art. IV, Code of 1940, Title 14, embracing §§ 283 to 292, seeking to condemn fifty-three alleged gambling devices seized while in the possession of E. J. Roberts and alleged to be his property.

2.

The amended bill alleges that "on towit, August 7, 1949, Highway Patrol Capt. O. T. McDuff, Lt. Joe Smelley, Sgt. W. F. Dyer and Patrolman A. L. McGilberry, of the Alabama State Highway Patrol, acting under written authority from the Governor of the State of Alabama, as prescribed under the provisions of Section 71, Title 36, Code of Alabama, 1940, did find and seize in Baldwin County, Alabama, the gambling devices hereinafter described, and have reported such seizure and detention to your complainant.

"That said report of seizure and detention of said personal property shows that said Patrolmen have seized the following described gambling devices, towit: (a description of each of said devices such as 'one 5 ¢ Mills Slot Machine, Ser. # 567070, manufactured by or for Bell-O-Matic Corp., of Chicago, Ill.')

\* \* \*

"Your complainant charges and avers that the above described machines are gambling devices within the meaning of Code of Alabama, 1940, Title 14, Section 283."

By demurrer filed to the bill as amended the defendant challenged the sufficiency of the allegations of the bill on numerous grounds and his first contention is that the allegations of the bill do not show "that the men named as seizing said property were members of the Highway Patrol at the time of such seizure and were acting as Peace Officers of the State."

It is provided by statute, " \* \* \* Members of the state highway patrol when so authorized in writing by the governor shall have the power of peace officers in this state and may exercise such powers anywhere within the state." —Code of 1940, Tit. 36, § 71 as amended. Cum. Sup. 1947, p. 93.

3.

In Chapter 11, Title 55, Code of 1940, dealing with "Peace and Law Enforcement Officers," Section 375 provides, inter alia: "All police officers and patrolmen when called upon by the governor or directed by the city authorities, shall obey the orders and directions of the governor and of the city authorities and shall proceed to the place where their services are needed and required. Such police officers and patrolmen and any other person the governor may employ and authorize to act as peace officers in the particular emergency shall be deemed and treated as legal officers of the state and county where acting, shall be entitled to all the protections and privileges of legal officers, and shall possess all the authority to make arrests and to do other things in the preservation of the peace and enforcing the laws as sheriffs may do under the existing laws of the State."

The sheriff by Title 15, § 398, Code of 1940, is declared to be, "the principal conservator of the peace in his county." Title 14, Code of 1940, § 286 provides, that "It shall be the duty of the sheriff of any county in which any gambling device may be found to seize the same, remove it from the place where it is found, and keep until disposed of as hereinafter provided in this article. Within five days after the seizure and removal of any gambling device, the sheriff making the same shall report the seizure and detention to the circuit or other solicitor, or deputy solicitor, or any prosecuting officer within the county where the gambling device was found or seized, giving a full description thereof, the number of the device, if any, the place and firm of manufacture, the person in whose possession it was found, and person making claim to the same, or any interest therein, if the name can be ascertained or is known, and the date of the seizure."

4.

Construing said several sections of the code as in pari materia, we are of opinion that the members of the highway patrol named, while acting under the written authority given by the governor, were clothed with authority as peace and law enforcement officers to seize said gambling devices and report their seizure to the solicitor of the county wherein they were seized and on such report he was authorized to file suit seeking their condemnation and destruction. — Code of 1940, Title 14, Sec. 387. It was not essential to the court's jurisdiction that the bill alleged that said gambling devices were dealt with and preserved as provided by Sections 286 and 288, Title 14, Code of 1940. In the absence of allegation and proof, it will be presumed that said seized devices and their contents were dealt with as provided by the statute. Whether the proceedings be treated as in rem or quasi in rem, the seizure was lawful and the things seized are such as that they cannot be put to any legitimate use. The law will not recognize such things as property and they may be destroyed. — 27 C. J. p. 1045, Sec. 259; 1 C. J. p. 929, Sections 1-6; Jackson v. State, 251 Ala. 226, 36 So. 2d 306. We note that the alleged owner of the property in whose possession the devices were found and seized is a party to the proceeding.

It is sometimes permissible and necessary for a pleader to draw conclusions where facts are alleged that tend to support the conclusion. — Birmingham Ry. Lt. & Pr. Co. v. Gonzales, 183 Ala. 273, 61 So. 80. It is only "mere conclusions" or "bald conclusions", without supporting facts which are objectionable in pleading. The

5.

facts alleged in the bill tender an issue which may be met by denial and proved or disproved by evidence. This meets the rule of good pleading in equity. —Perry v. New Orleans, M. & C. R. Co., 55 Ala. 413, 28 Am. St. Rep. 740; 3 Mayfield's Digest, Vol. 2, p. 283. If the allegations of the bill that the devices seized are "gambling devices" are treated as conclusions, the other allegations of fact aided by judicial knowledge clearly justify the conclusion. —State ex rel. Green, Deputy Solicitor etc. v. One 5/8 Fifth Inning Baseball Machine, 241 Ala. 455, 3 So. 2d 27; State ex rel. Glenn v. Wilkinson, 220 Ala. 172, 124 So. 211. However, it is our opinion that the allegation that the alleged devices are "gambling devices" is one of fact.

We find no error in the ruling of the court on the demurrer to the bill and the decree appealed from will be affirmed. The defendant is allowed 30 days to plead as he may be advised.

Affirmed.

All the Justices concur except Gardner, C. J., not sitting.

THE STATE OF ALABAMA--JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1 Div., No. 402,

E. J. Roberts et al.,, Appellants

vs.

State of Alabama ex rel. Kenneth Cooper, Appellee,  
Solicitor of Baldwin County

From Baldwin Circuit Court.

In Equity

The State of Alabama,  
City and County of Montgomery, }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing pages, numbered from one to 5 inclusive, contain a full, true and correct copy of the opinion of said Supreme Court in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, J. Render Thomas, Clerk of the Supreme  
Court of Alabama, this the 27th day of

April, 1950

J. Render Thomas  
Clerk of the Supreme Court of Alabama.

---

THE SUPREME COURT OF ALABAMA

October Term, 1949-50

1 Div., No. 402

E. J. Roberts et al.,  
Appellants

vs.

State of Alabama ex rel.

Kenneth Cooper, Solicitor  
Baldwin County

Appellee.

From Baldwin Circuit Court.

In Equity

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COPY OF OPINION

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AMENDED BILL OF COMPLAINT

STATE OF ALABAMA, EX REL            )            IN THE CIRCUIT COURT OF  
KENNETH COOPER, SOLICITOR        )            BALDWIN COUNTY, ALABAMA,  
OF BALDWIN COUNTY, ALABAMA,        )            IN EQUITY.  
  
VS.                                    )  
  
E.J. ROBERTS AND THIRTY-FIVE       )  
5¢ SLOT MACHINES, TWO 10¢         )  
SLOT MACHINES, SIXTEEN 25¢        )  
SLOT MACHINES, AND ONE 50¢        )  
SLOT MACHINE.                        )

TO THE HONORABLE TELFAIR J. MASHBURN, JR., OF THE CIRCUIT COURT  
OF BALDWIN COUNTY, IN EQUITY SITTING.

Comes now the Complainant in the above styled cause, and amends  
the Bill of Complaint heretofore filed herein, <sup>to read</sup> as follows:

"Comes your Petitioner, KENNETH COOPER, as Solicitor of the 28th  
Judicial Circuit of Alabama, and respectfully shows and informs the  
Court of the following facts:

(1) That your Complainant, KENNETH COOPER, is the Circuit Solicitor of Baldwin County, Alabama, and is authorized by law to bring this bill.

(2) That E.J. ROBERTS is a resident of Baldwin County, Alabama, and is over the age of twenty-one years.

(3) That on, to wit, August 7, 1949, Highway Patrol Capt. O.T. McDUFF, LT JOE SMELLEY, SGT W.F. DYER, AND PATROLMAN A.L. McGILBERRY, OF THE Alabama State Highway Patrol, acting under written authority from the Governor of the State of Alabama, as prescribed under the provision of Section 71, Title 36, Code of Alabama, 1940, did find and seize in Baldwin County, Alabama, the gambling devices hereinafter described, and have reported such seizure and detention to your Complainant.

(4) That said report of seizure and detention of said personal property shows that said Patrolmen have seized the following described gambling devices, to wit:

One 5¢ Mills Slot Machine, Ser. #567070, manufactured by or  
for Bell-O-Matic Corp., of Chicago, Ill.

One 5¢ Mills Novelty Slot Machine, Ser. #509417, Bell-O-Matic

Corp., Chicago, Ill.

One 5¢ Mills Novelty Slot Machine, Ser. #508651, Bell-O-Matic,  
Corp., Chicago, Ill.

One 5¢ Jewel Slot Machine, Ser #543126, with no further markings.

One 5¢ Jumbo Playout, Ser #9924, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Playout, Ser #23760, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 3371, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 2155, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #6882, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #110, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #4297, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Serial number unknown, but with key No. 9412,  
manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser # 4349, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #11510, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #2446, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #8800, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #8138, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #11187, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One Jumbo Parade, Ser #6810, manufactured by Mills Novelty  
Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #10375, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo award, Ser #6782, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #9221, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #7730, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #3095, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #7724, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #11856, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #8780, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #7517, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #11365, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #9093, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Award, Ser #8685, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser #8557, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Big Game, Ser #92021, with no other markings on machine.

One 5¢ Jumbo Parade, Ser #490311, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser No. not listed, nor any further markings.

One 10¢ Bell-O-Matic, Ser #507459, manufactured by Mills Novelty Co., of Chicago, Ill.

One 10¢ Bell-O-Matic, Ser #486086, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jewel Slot Machine, Ser #558039, with no further markings.

One 25¢ Jewel Slot Machine, Ser #558193, with no further markings.

One 25¢ Bell-O-Matic, Ser #500338, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Bell-O-Matic, Ser #524938, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Seven Play Evans Races, Ser #1244, with no further markings.

One 25¢ Jumbo Parade Playout, Ser #4040, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Playout, Ser #4064, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #4059, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #4000, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #6148, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #7465, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #4333, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #2314, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #3686, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser # is unknown, but with key no. 9647, manufactured by Mills Novelty Co., of Chicago, Ill.

One 25¢ Jumbo Parade, Ser #549086, manufactured by Mills Novelty Co., of Chicago, Ill.

One 50¢ Bell Fruit, Ser #548814, GH-2 scratched on back, table model, with no further markings.

(5) That said above described machines when seized and removed were in the possession or under the control of E.J. ROBERTS, and your orator is informed and on such information believes and states that the said machines are the property of said E.J. ROBERTS.

(6) Your Complainant charges and avers that the above described machines are gambling devices within the meaning of Code of Alabama, 1940, Title 14, Section 283.

The premises considered, your orator prays that the said E.J. Roberts be made a party respondent to this bill of complaint, that summons issue requiring him to plead, answer or demur to this bill of complaint under the rules of this Honorable Court, and within the time prescribed by law; and that on the final hearing of this cause that the Court will make and enter a decree declaring that the above named articles are gambling devices, that same be forfeited with their contents to the State of Alabama, and be destroyed.

And the Complainant prays for such other, further and additional relief, decrees and orders as may be necessary to accomplish such condemnation and destruction of said gambling devices as illegal gambling devices under the laws of Alabama

*Kenneth Cooper*  
Solicitor

28th Judicial Circuit of Alabama."

Received copy of the within Amended Bill of

Complaint this 30<sup>TH</sup> day of September, 1949.

Nybart, Chason & Stoebe

By: Marion P. Stoebe  
Attorneys for Respondent

THE STATE OF ALABAMA, EX-REL:  
KENNETH COOPER, SOLICITOR,  
Complainant,

VS.

E. J. ROBERTS AND THIRTY-FIVE  
5¢ SLOT MACHINES, TWO 10¢ SLOT  
MACHINES, SIXTEEN 25¢ SLOT MACH-  
INES, AND ONE 50¢ SLOT MACHINE.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY: NO. 2325

TO HON. TAYLOR WILKINS, SHERIFF OF BALDWIN COUNTY, ALABAMA:

You are hereby commanded in accordance with that certain decree of this Court made and rendered on the 21 day of June, 1950, by Hon. Telfair J. Mashburn, Jr, Judge of said Court, to destroy in the presence of the Register of said Court, the following named articles:

Thirty-five 5¢ Slot Machines, described as follows:

One 5¢ Mills Slot Machine, Ser. # 567070, manufactured by or for Bell-O-Matic Corp., of Chicago, Ill,

One 5¢ Mills Novelty Slot Machine, Ser # 509417, Bell-O-Matic Corp., of Chicago, Ill,

One 5¢ Mills Novelty Slot Machine, Ser.# 508651, Bell-O-Matic Corp., Chicago, Ill.

5¢ One Jewel Slot Machine, Ser. # 543126, with no further markings,

One 5¢ Jumbo Payout, Ser No. 9924, Manufactured by Mills Novelty Co. of Chicago, Ill,

One 5¢ Jumbo Payout, Ser # 23760, manufactured by Mills Novelty Co. of Chicago. Ill.

One 5¢ Jumbo Parade, Ser # 3371, manufactured by Mills Novelty Co. of Chicago. Ill.

One 5¢ Jumbo Parade, Ser # 2155, manufactured by Mills Novelty Co. of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 6882, manufactured by Mills Novelty Co. of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 110, manufactured by Mills Novelty Co. of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 4297, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser. # unknown, but with key No. 9412, manufactured by Mills Novelty Co. of Chicago, Ill.

One 5¢ Jumbo Award, Ser # 4349, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser. # 11510, manufactured by Mills Novelty Co. of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 2446, manufactured by Mills Novelty Co. of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 8800, manufactured by Mills Novelty Co. of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 8138, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Parade, Ser # 11187, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Parade, Ser # 6810, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Parade, Ser # 10375, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Award, Ser # 6782, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Parade, Ser # 9221, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Award, Ser # 7730, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Parade, Ser # 3095, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Award Ser.# 7724, manufactured by Mills Novelty Co. of Chicago, Ill.

One 5¢ Jumbo Parade, Ser. # 8780, manufactured by Mills Novelty Co., of Chicago, Ill

One 5¢ Jumbo Award, Ser # 7517, manufactured by Mills Novelty Co., of Chicago, Ill.

One 5¢ Jumbo Parade, Ser # 11365, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Parade, Ser # 9093, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Award, Ser # 8685, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Parade Ser # 8557, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Big Game, Ser # 92021, with no further markings,

One 5¢ Jumbo Parade, Ser # 490311, manufactured by Mills Novelty Co. of Chicago, Ill

One 5¢ Jumbo Parade, Ser No. not listed, nor any further markings,

Two 10¢ Slot Machines, described as follows:

One 10¢ Bell-O-Matic, Ser # 507459, manufactured by Mills Novelty Co., of Chicago, Ill.

One 10¢ Bell-O-Matic, Ser # 486086, manufactured by Mills Novelty Co. of Chicago. Ill

Sixteen 25¢ Slot Machines, described as follows:

One 25¢ Jewel, Ser # 558039, with no further markings,

One 25¢ Jewel, Ser # 558193, with no further markings,

One 25¢ Bell-O-Matic, Ser # 500338, manufactured by Mills Novelty of Chicago, Ill.

One 25¢ Bell-O-Matic, Ser # 524938, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Seven Play Evans Races, Ser # 1244, with no further markings.  
One 25¢ Jumbo Parade Playout, Ser # 4040, manufactured by Mills Novelty Co. of Chicago, Ill,  
One 25¢ Jumbo Playout, Ser # 4064, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Jumbo Parade, Ser # 4059, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Jumbo Parade, Ser # 4000, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Jumbo Parade, Ser # 6148, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Jumbo Parade, Ser # 7465, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Jumbo Parade, Ser # 4333, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Jumbo Parade, Ser # 2314, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Jumbo Parade, Ser # 3686, manufactured by Mills Novelty Co. of Chicago, Ill  
One 25¢ Jumbo Parade, Ser # is unknown, but with Key No. 9647, Manufactured by Mills Novelty Co. of Chicago, Ill.  
One 25¢ Jumbo Parade, Ser # 549086, manufactured by Mills Novelty Co. of Chicago, Ill  
One 50¢ Slot Machine, described as follows,  
One 50¢ Slot Bell Fruit, Ser # 548814, GH-2 Scratched on back of machines, table model with no further markings,

The above named property is to be destroyed within twenty(20) days from the date of said decree.

You are further directed to report to this court your Compliance with said decree of Condemnation.

WITNESS my hand this 21st day of June, 1950.

\_\_\_\_\_  
Register of Circuit Court.  
In Equity.

STATE OF ALABAMA, EX REL  
KENNETH COOPER, SOLICITOR  
OF BALDWIN COUNTY, ALABAMA,

VS.

E. J. ROBERTS AND THIRTY-FIVE  
5¢ SLOT MACHINES, TWO 10¢  
SLOT MACHINES, SIXTEEN 25¢  
SLOT MACHINES, AND ONE 50¢  
SLOT MACHINE.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

DECREE OVERRULING DEMURRER

This cause coming on to be heard is submitted on Respondent's Demurrer to Complainant's Amended Bill of Complaint, and the same being considered and understood by the Court, the Court is of the opinion that said Demurrer is not well taken and should be overruled. It is, therefore

ORDERED, ADJUDGED AND DECREED that Respondent's Demurrer to Complainant's Amended Bill of Complaint be, and it is, hereby, overruled.

Done this 19th day of October, 1949.

Jelfair A. Mashburn Jr.  
Judge

APRIL 27, 1950

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM, 1949-50

1 Div. 402

E. J. Roberts, et al.

vs.

STATE OF ALABAMA ex rel.  
Kenneth Cooper, Solicitor  
of Baldwin County,

Baldwin Circuit Court,  
In Equity.  
(No. 2325)

Come the parties by attorneys, and the record and matters therein assigned for errors, being argued and submitted and duly examined and understood by the Court, it is considered that in the record and proceedings of the Circuit Court there is no error.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED, AND DECREED that the decree of the Circuit Court be in all things affirmed, and the defendant is allowed thirty (30) days to plead as he may be advised.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED, AND DECREED that the Appellant, E. J. Roberts, and John H. Wienand, Jr., and H. I. Kamper, sureties on the appeal bond, pay the costs of appeal of this Court and of the Circuit Court, for which costs let execution issue accordingly.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

1st Div., No. 402

E. J. Roberts, et al., Appellant \$

v.

STATE OF ALABAMA ex rel., Appellee  
Kenneth Cooper, Solicitor of  
Baldwin County,

From Baldwin Circuit Court.  
In Equity

The State of Alabama, }  
City and County of Montgomery. }

I, J. Render Thomas, Clerk of the Supreme Court of Alabama, do hereby certify that the fore-  
going pages ~~numbered from one to~~ inclusive, contain a full, true, and correct  
copy of the DECREE OF AFFIRMANCE rendered  
April 27, 1950, by - - - - -

said Supreme Court in the above stated cause, as the same appears and remains of record and on file  
in this office.

Witness, J. Render Thomas, Clerk of the Supreme

Court of Alabama, this the 27th day of

April 19 50.

*J. Render Thomas*

Clerk of the Supreme Court of Alabama.

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THE SUPREME COURT OF ALABAMA

1st Div., No. 402

E. J. Roberts, et al.

Appellant, s

v.

STATE OF ALABAMA ex rel.  
Kenneth Cooper, Solicitor  
of Baldwin County,

Appellee.

From Baldwin Circuit Court.  
In Equity  
(No. 2325)  
Certified Copy of

Decree - April 27, 1950  
of Affirmance

STATE OF ALABAMA, EX REL  
KENNETH COOPER, SOLICITOR  
OF BALDWIN COUNTY, ALABAMA,

vs.

E. J. ROBERTS AND THIRTY-FIVE  
5¢ SLOT MACHINES, TWO 10¢  
SLOT MACHINES, SIXTEEN 25¢  
SLOT MACHINES AND ONE 50¢  
SLOT MACHINE.

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA

IN EQUITY

No. 2325.

E. J. Roberts, the Respondent in the above styled  
cause hereby gives notice of Appeal to the Supreme Court of the  
State of Alabama from the decree of the Circuit Judge of the 28th  
Judicial Circuit of Alabama, rendered October 19, 1949, overruling  
the demurrer filed by said Respondent in said cause.

Hybart, Chason & Stone

By: 

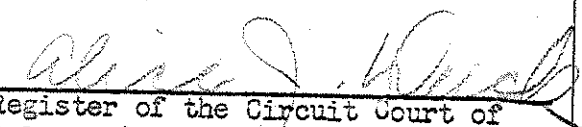
Solicitors for Respondent.

C E R T I F I C A T E   O F  
A P P E A L

I, ALICE J. DUCK, Register of the Circuit Court of Baldwin County, Alabama, hereby certify that the Respondent, E. J. ROBERTS, in a cause wherein STATE OF ALABAMA is Plaintiff and E. J. ROBERTS is Respondent, in the Circuit Court of Baldwin County, Alabama, has taken an appeal to the Supreme Court of the State of Alabama, from a decree of the Circuit Court, rendered in this cause on the 19th day of October, 1949

I further certify that the Appeal was taken and security for cost approved by the Register and filed on the 14th day of November, 1949.

Given under my hand and seal this 30th, day of November, 1949.

  
Register of the Circuit Court of  
Baldwin County, Alabama.

STATE OF ALABAMA, EX REL  
KENNETH COOPER, SOLICITOR  
OF BALDWIN COUNTY, ALABAMA,

Complainant,

vs.

E. J. ROBERTS AND THIRTY-FIVE  
5¢ SLOT MACHINES, TWO 10¢  
SLOT MACHINES, SIXTEEN 25¢  
SLOT MACHINES AND ONE 50¢  
SLOT MACHINE.

Respondent.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

IN EQUITY.

NO. 2325.

We, the undersigned, hereby acknowledge ourselves as  
security for costs on the Appeal of the Respondent in the aforesaid  
cause to the Supreme Court of Alabama, from the ruling of the  
Circuit Judge of the 28th Judicial Circuit of Alabama, overruling  
the Demurrer filed by the Respondent, which Decree was rendered  
on the 19th day of October, 1949.

E. J. Roberts  
Paul W. Stewart, Jr.  
H. L. Hamper

Taken and approved this

14<sup>th</sup> day of November, 1949.

Alfred A. Lench  
Register.

SECURITY FOR COSTS

STATE OF ALABAMA, EX REL  
KENNETH COOPER, SOLICITOR  
OF BALDWIN COUNTY, ALABAMA,  
Complainant,

vs.

E. J. ROBERTS, et al,  
Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
IN EQUITY.

Filed November 14<sup>th</sup>, 1949.

Wm. A. Ruck  
Register.

THE STATE OF ALABAMA,

BALDWIN

County.

CIRCUIT COURT, IN EQUITY.

To KENNETH COOPER

GREETING:

WHEREAS E. J. ROBERTS

has taken an appeal from the decree rendered by the Circuit Court of said County, in Equity, in the cause of

STATE OF ALABAMA

against E. J. ROBERTS

Now, you are therefore cited to appear at the Next Term, 1949, of the  
Supreme Court of Alabama, to defend on said appeal, if you shall think proper so to do.

Witness, this 17th day of Nov. 1949

Alice J. Smith

Register.

2325

THE STATE OF ALABAMA,

BALDWIN County.

CIRCUIT COURT, IN EQUITY.

STATE OF ALABAMA

Complainant.....

vs.

E. J. ROBERTS

Defendant.....

CITATION OF APPEAL.

SERVE THIS NOTICE UPON

Solicitors of Record.

Received in office this 17

day of Nov. 1949

Taylor Walker  
Sheriff.

Executed by serving a copy of the within  
notice upon Kenneth Coopers

on this 17 day of  
Nov. 1949

Taylor Walker  
Sheriff.

W. G. Sanders D. S.

2325