



134

Request for testing  
of  
testimony and the  
affidavits of Commissioners

Filed Aug 13, 1945

Robert  
Regan

STATE OF ALABAMA,  
BALDWIN COUNTY.

TO ANY SHERIFF OF THE STATE OF ALABAMA - GREETINGS:

WE COMMAND YOU that you summon CLARENCE E. BUTLER, to be and appear before the Judge of the Circuit Court of Baldwin County, Alabama, exercising Chancery Jurisdiction, within thirty days after the service of summons, and there to plead, answer or demur, without oath, to a bill of complaint lately exhibited by AUGUST CASSEBAUM, against the said Clarence E. Butler, and further to do and perform what the said Judge shall order and direct in that behalf, and this the Respondent shall in no wise omit under penalty of the law. And we further command that you return this writ with your execution thereon, to our said Court immediately upon the execution thereof.



Register

AUGUST CASSEBAUM,  
COMPLAINANT,

VS.

NE $\frac{1}{4}$  OF NE $\frac{1}{4}$  OF SECTION 29,  
TOWNSHIP 7 SOUTH, RANGE  
6 EAST, and CLARENCE E.  
BUTLER, et al,  
RESPONDENTS.

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

TO HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,  
IN EQUITY:

Comes your Complainant August Cassebaum, and presents this his bill of complaint against the following described lands in Baldwin County, Alabama, to-wit:

Northeast quarter of Northeast quarter of Section 29,  
Township 7 South, Range 6 East;

and against Clarence E. Butler, and against any and all other persons, firms, or corporations, claiming any title to, interest in, lien or encumbrance upon the said lands, or any part or parcel thereof, and respectfully represents and shows unto your Honor and this Honorable Court as follows:

1. That your Complainant is over twenty-one years of age and a bona fide resident of Lillian, in Baldwin County, Alabama;
2. That Clarence E. Butler is over twenty-one years of age, a non-resident of the State of Alabama, his last known address being 109 W. Main Street, Wenton Harbor, Michigan;
3. That your Complainant is the owner in fee simple and in the

actual possession of the lands described herein, in Baldwin County, Alabama,  
to-wit:

Northeast quarter of Northeast quarter of Section 29,  
Township 7 South, Range 6 East.

4. That no suit is pending to protest the Complainant's title to, interest in, or his rights to the possession of said lands;
5. That your Complainant obtained title to said lands by conveyance from John Gaunt, and Harriet Guant, his wife, by deed dated November 22, 1934, and of record in the office of the Probate Judge of Baldwin County, Alabama, in Deed Book 56 NS, page 296;
6. That the title to said lands claimed by the Complainant, stands upon the record in the Probate Court of Baldwin County, Alabama, in the name of August Cassebaum;
7. That no one has at anytime within 10 years next preceding the filing of this bill of complaint, paid any taxes upon, or had any possession of said lands, or any part thereof, except August Cassebaum;
8. That the only persons known by your Complainant, to claim said lands, or any part thereof, or any interest therein, are, August Cassebaum, Your Complainant, and Clarence E. Butler;

WHEREFORE, your Complainant prays that this Honorable Court will by proper process, make the said Clarence E. Butler and any other person, firm, or corporation claiming any right, title to, interest in, or encumbrance upon the said lands in Baldwin County, Alabama, to-wit:

Northeast quarter of Northeast quarter of Section 29,  
Township 7 South, Range 6 East;

or any part thereof, to be parties Respondents to this bill of complaint and by appropriate process require them and each of them, separately and severally, to plead, answer or demur to the same, within the time and under the penalties prescribed by law and the practice of this Honorable Court.

Complainant further prays that upon a final hearing of this cause, this Honorable Court will make and enter a decree ascertaining and decreeing that the fee simple title, free of encumbrance, to the said lands and to each part and parcel thereof, is vested in your Complainant, August Cassebaum, and that Clarence E. Butler, and any and all persons, firms, or corporations,

claiming any title to, interest in, lien or encumbrance upon the said lands, or any part thereof, and that any and all doubts and disputes concerning the same be cleared up.

Your Complainant prays for such other, further, different, or general relief as in equity and good conscience shall seem mete and proper.

BEEBE & HALL

By: J. H. Beebe  
Solicitors for the Complainant.

STATE OF ALABAMA,  
BALDWIN COUNTY:

Before me, the undersigned authority in and for said County, in said State, personally appeared Hubert M. Hall, who is known to me, and having been by me first duly sworn, deposes and says that he is a member of the Firm of Beebe & Hall, Solicitors of Record and Agent for the Complainant, August Cassebaum, in the above styled cause and duly authorized by him to make this affidavit, and the facts stated in the foregoing bill of complaint, from all information obtainable, are true and from such information obtained he verily believes and so states that the same are true.

Hubert M. Hall

Sworn to and subscribed before me on this the 24 day of May, 1945.

Notary Public, Baldwin County, Alabama.





IN WITNESS WHEREOF, I, R. S. Duck, Register, have hereunto set my hand and seal on this the 24 day of May, 1945.

*R. S. Duck*

Register, Circuit Court of Baldwin County, Alabama.

BEEBE & HALL,  
Solicitors for the Complainant.

STATE OF ALABAMA,  
BALDWIN COUNTY.

I, R. S. Duck, Register of the Circuit Court of Baldwin County, Alabama, hereby certify that the above is a full, true, correct and complete copy of the notice given by publication in the Baldwin Times, a newspaper published at Bay Minette, Alabama, in the cause of August Cassebaum, Complainant, vs. Clarence E. Butler, et al, Respondents, and filed in the office of the Probate Judge of Baldwin County, Alabama, the County in which said lands lie, in accordance with the provisions of the statutes of the State of Alabama.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office on this the 24 day of May, 1945.

*R. S. Duck*

Register, Circuit Court of Baldwin County, Alabama.

STATE OF ALABAMA, BALDWIN COUNTY

Filed May 26, 1945 11a M

Recorded \_\_\_\_\_ book \_\_\_\_\_ page \_\_\_\_\_  
and I certify that the following Privilege Tax has been paid.

Deed Tax \_\_\_\_\_

Mortgage Tax \_\_\_\_\_

*W. R. Stuart*  
Judge of Probate

By *RSW*



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August Cassebaum

to

Clarence E. Butler 37

5-24-45

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STATE OF ALABAMA, BALDWIN COUNTY

Filed May 26 1945 11 A.M.

Recorded ..... book ..... page .....  
and I certify that the following Privilege Tax has been paid.

Deed Tax .....

Mortgage Tax .....

L. R. Stuart  
Judge of Probate

By L. R. Stuart

R. L. Duck

See original and compare with 1343 of 1945, volume 1343 of 1945

See original and compare with 1343 of 1945, volume 1343 of 1945

See original and compare with 1343 of 1945, volume 1343 of 1945

See original and compare with 1343 of 1945, volume 1343 of 1945

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See original and compare with 1343 of 1945, volume 1343 of 1945

See original and compare with 1343 of 1945, volume 1343 of 1945

..... AUGUST CASSEBAUM .....

..... COMPLAINANT .....

..... vs. .....

..... CLARENCE E. BUTLER, et al., .....

..... RESPONDENTS .....

CIRCUIT COURT OF  
Baldwin County.  
-----  
IN EQUITY.

In this cause it being made to appear to the Register that on the 28th day of May 1945, a copy of the Bill of Complaint filed in this cause was sent to Clarence E. Butler

Defendant, by registered mail, postage prepaid, marked "For delivery only to the person to whom addressed," and return receipt demanded addressed to the Register of this Court; and that on the 31st day of May 1945, such receipt was duly received and filed in this cause:

And it further appearing to the Register that the said Defendant has failed to plead, answer or demur to the said Bill to the date hereof, it is now, therefore, on motion of Complainant, ordered, adjudged and decreed by the Register that the said Bill of Complaint be, and it hereby is in all things taken as confessed against the said

Clarence E. Butler Defendant

This the 13th day of August 1945.

*Reese*

Register.

No. 1340

**CIRCUIT COURT OF BALDWIN  
COUNTY, ALA.**

**In Equity.**

vs.

**Decree Pro Confesso After  
Notice By Registered Mail.**

Filed in office this 13 day of

Aug 1943  
Robert, Register

Entered in O. B. Page

THE STATE OF ALABAMA, }  
BALDWIN COUNTY

CIRCUIT COURT, IN EQUITY

No. \_\_\_\_\_, Term, 19\_\_\_\_

AUGUST CASSEBAUM

Complainant

Vs.

CLARENCE E. BUTLER, et al.

Defendant

In this cause it appears to the Register R. D. Duck that the order of publication heretofore made in this cause, was published for four consecutive weeks, commencing on the 24th day of May, 19 45, in the Baldwin Times a newspaper published in Bay Minette, Alabama, that a copy of said order was posted at the Court House door in Baldwin County, on the 24th day of May 194 5 and \_\_\_\_\_

And it now further appearing to the Register R. S. Duck that the said Clarence E. Butler

having, to the date hereof, failed to demur, plead to, or answer the Bill of Complaint in this cause, it is now, therefore, on motion of Complainant\_\_\_\_\_, ordered and decreed by the Register R. S. Duck \_\_\_\_\_ that the Bill of Complaint in this cause be, and it hereby is in all things taken as confessed against the said Clarence E. Butler

This 13th day of August 1945.

*R. S. Duck*

Register.

No. 134 Page \_\_\_\_\_

The State of Alabama,  
BALDWIN COUNTY

CIRCUIT COURT, IN EQUITY

Vs.

Decree Pro Confesso of Publication

Issued May 13 1945

R. Deuch

Register.

Recorded in \_\_\_\_\_ Record

Vol. \_\_\_\_\_ Page \_\_\_\_\_

Register.

AUGUST CASSEBAUM,  
COMPLAINANT,

VS.

CLARENCE E. BUTLER,  
RESPONDENT.

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

NOTE OF TESTIMONY.

This cause is submitted on behalf of the Complainant upon the following:

1. Original summons and complaint.
2. Decree pro confesso on publication.
3. Lis pendens notice.
4. Request for appointment of commissioner.
5. Notice of time of taking testimony on behalf of the Complainant.
6. Request for taking testimony.
7. Proof of publication of notice in the Baldwin Times.
8. Appointment of commissioner.
9. Testimony of August Cassebaum.
10. Testimony of Hubert M. Steele
11. Motion for decree pro Confesso on service by Registered Mail
12. Decree pro Confesso on service by Registered Mail
13. Motion for decree pro Confesso on service by Publication

BEEBE & HALL

By: *Hubert M. Steele*  
Solicitors for the Complainant.

*Hubert M. Steele*  
*Hubert M. Steele*

1342

August Casseham  
10

Clarence E Butler

Note of Testimony

Filed Aug 31 1945  
R. J. [Signature]  
[Signature]

THE STATE OF ALABAMA, }  
BALDWIN COUNTY

Circuit Court

To Lillian Patterson

KNOW YE: That we, having full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you, at such time and place as you may appoint, to call before you and examine August Cassebaum, and

as witnesses in behalf of Complainant, August Cassebaum in a cause pending in our Circuit Court in Baldwin County, of said State, wherein August Cassebaum

\_\_\_\_\_ Complainant

and Calrence E. Butler

\_\_\_\_\_ Respondent

on oath, to be by you administered, upon August Cassebaum, and  
to take and certify the deposition of the witness and return the same to our Court, with all convenient speed, under your hand.

Witness 13 day of Aug, 1945

R. Bell

Register

Commissioner's Fee, \$ \_\_\_\_\_

Witness' Fees, \$ \_\_\_\_\_



No. \_\_\_\_\_

**THE STATE OF ALABAMA  
Baldwin County**

**CIRCUIT COURT**

*August Cassaban*

Complainant

VS.

*Clarence E. Butler*

Defendant

**COMMISSION TO TAKE DEPOSITION**

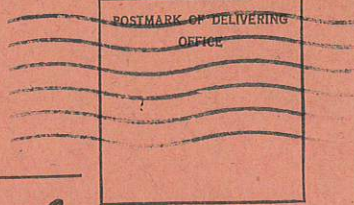
**COMMISSIONER:**

**WITNESSES:**

*[Faint, mostly illegible text and markings on the right side of the page, including what appears to be a signature and some administrative notations.]*

Post Office Department  
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300



Return to R. S. Duck  
(NAME OF SENDER)

Street and Number, }  
or Post Office Box, }

REGISTERED ARTICLE

No. 1889 Post Office Bay Minette, Ala.

INSURED PARCEL Field 5-31-1945  
Date Post Office

No. \_\_\_\_\_ 16-12421

# RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1 **Deliver to Addressee Only**  
*(Signature or name of addressee)*

2 *[Handwritten Signature]*  
*(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)*

Date of delivery *May 25th*, 194*5*

RECEIPT FOR REGISTERED ARTICLE No. 1889

70 fee paid. 1 class postage paid. 5.76, 1945 (Date)

Declared value, \$ none Surecharge paid, \$ \_\_\_\_\_

From R. S. Duke (Sender)  
A. M. (Post office and State)

Addressed to Chas. E. Dudley (Addressee)  
107 W. Main St. (Street and number) Montgomery Harbor, Ala. (Post office and State)

Accepting employee will place initials in space below, indicating restricted delivery

Return receipt fee 4 { in person \_\_\_\_\_  
or order \_\_\_\_\_  
Delivery restricted to addressee { Fee paid 76 Special delivery fee \_\_\_\_\_  
Postmaster, per cdp

U.S. POST OFFICE 10-12806



**THE STATE OF ALABAMA,**  
Baldwin County.

Circuit Court of Baldwin County, Alabama  
(In Equity)

AUGUST CASSEBAUM Complainant

VS.

CLARENCE E. BUTLER Respondent

I, Lillian Patterson  
as ~~Register~~ and Commissioner \_\_\_\_\_  
have called and caused to come before me August Cassebaum, and

witnesses named in the Requirement for Oral Examination, on the 18th day of August  
1945, at the office of Beebe & Hall  
in Bay Minette, Alabama, and having first sworn said Witnesses to speak the  
truth, the whole truth, and nothing but the truth, the said August Cassebaum, and  
\_\_\_\_\_ doth depose and say as follows:

My name is August Cassebaum, I am over twenty-one years of age, and a bona fide  
resident of Lillian, in Baldwin County, Alabama.

The Respondent, Clarence E. Butler, is over twenty-one years of age, a non resident  
of the State of Alabama, his last known address being 109 W. Main Street, Benton  
Harbor, Michigan.

I am the owner in fee simple and in the actual possession of the lands described  
in this bill of complaint, in Baldwin County, Alabama, and being the Northeast  
quarter of the Northeast quarter of Section 29, Township 7 South, Range 6 East.

There is no suit pending to test the complainant's title to, interest in, or his  
rights to possession of said lands.

I acquired the said lands by purchase from John Gaunt and Harriet Gaunt, his wife,  
by deed dated November 22, 1934, filed for record in the office of the Probate  
Judge of Baldwin County, Alabama, on December 11, 1934 and of record therein in  
Deed Book 56 NS, page 296; that a copy of said deed is herewith filed and asked  
to be designated as Exhibit "A".

The title to the said land now stands upon the records in the Probate Court of  
Baldwin County, Alabama, in the name of August Cassebaum. No one has at any time  
within the past 10 years next preceding the filing of this bill of complaint, paid  
any taxes upon, or had any possession of said land, or any part therein, except  
the Complainant. The only persons known by the Complainant to claim said lands,  
or any part thereof, or any interest therein, are the Complainant, and the Res-  
pondent, Clarence E. Butler. The Complainant has annually and regularly since  
acquiring title to said land in 1934, assessed and paid the taxes thereon.

John Gaunt purchased the said land from John Brasy, and wife on October 2, 1929,  
and John Brasy purchased the said property from A. M. Decoudres on April 5, 1929.  
~~A. M. Decoudres purchased said property on June 2, 1916, at tax sale, in the~~  
name of Anton Krawiec. John Gaunt, through whom the Complainant holds, on July  
17, 1933, conveyed all the timber 8 inches in diameter and up, to G. M. Mills,  
who cut and removed the same therefrom. The Complainant is now and has been since  
purchasing the land in 1934, been in the actual possession thereof. The Respondent  
has not at anytime within the past 10 years attempted to exercise any rights of  
possession over the said property.

August Cassebaum

My name is Joseph Trinkwell  
I live at Lillian, in Baldwin County, Alabama. I am personally acquainted with  
the land described in the bill of complaint in this cause. I have personally  
known ~~it~~ for more than 10 years. I know of my own personal knowledge that August  
Cassebaum went into the actual possession of the land sometime in the year 1934  
and that he has continued in the actual possession of the said land from that

time until this date. The Respondent, Clarence E. Butler, is now living in  
Benton Harbor, Michigan. He is not in the Military or Naval Service of the  
United States.

Joseph Trinkwell

**ORAL EXAMINATION.**

I, Lillian Patterson, as ~~Register and~~ Commissioner hereby certify that the foregoing depositions on Oral Examination was taken down by me in writing in the words of the witnesses and read over to them and they signed the same in the presence of myself and H. M. Hall,  
at the time and place herein mentioned; that I have personal knowledge of personal identity of said witnesses or had proom made before me of the identity of said witnesses; that I am not of counsel or of kin to any of the parties to said cause, or any manner interested in the result thereof  
I enclose the said Oral Examination in an envelope to the Register of said Court.

Given under my hand and seal, this 18th day of August, 1945.

Lillian Patterson (L. S.)

NO. 1343 PAGE

THE STATE OF ALABAMA  
BALDWIN COUNTY

IN CIRCUIT COURT, IN EQUITY.

vs. Complainant

Respondent.

**Oral Deposition**

Filed 31, 1945

Patterson, Register.

Recorded in

Record

Vol. \_\_\_\_\_ Page \_\_\_\_\_

, Register.



# The BALDWIN Times

ALABAMA'S BEST COUNTY'S- BEST NEWSPAPER  
BAY MINETTE, ALABAMA

**LIS PENDENS NOTICE**  
**AUGUST CASSEBAUM, Complainant,**  
 vs.  
 OF NE<sup>s</sup> of 29-7-5, and  
**CLARENCE E. BUTLER, et al.**  
 Respondents.  
 In the Circuit Court of  
 Baldwin County, Alabama

It having been made to appear in the above cause, by the affidavit of Hubert M. Hall, Solicitor for the Complainant, that the Complainant owns in fee simple the lands in Baldwin County, Alabama, described as follows: to-wit: the southeast quarter of Northeast quarter of Section 29, Township 7 South, Range 6 East.

having acquired the same by Warranty Deed from John Gault and Harriet Gault, his wife, dated November 22, 1884, and of record in the office of the Probate Judge of Baldwin County, Alabama, in Deed Book 68NS, page 296; that the title to said lands stands on the record of the Probate Court of Baldwin County, Alabama, the county in which said lands lie, in the name of August Cassebaum; that no person is known to have paid taxes upon, or to have been in possession of said lands, or any part thereof, within 10 years next preceding the filing of this bill of complaint, except August Cassebaum; It is therefore ordered and notice is hereby given that the said Respondent Clarence E. Butler, or any other person, firm or corporation, claiming any right, title to, interest in, or encumbrance upon said lands herein described, or any part or parcel thereof, appear in this Court and plead, answer or demur to the bill of complaint in this cause, file on or before the 25th day of June, 1945, or upon their having failed to do so at the expiration of 30 days from said date, a decree pro confesso be taken against them.

IT IS FURTHER ORDERED that this order and notice be published in the Baldwin Times, a newspaper published in Bay Minette, Baldwin County, Alabama, once a week for 4 consecutive

## AFFIDAVIT OF PUBLICATION

STATE OF ALABAMA,  
BALDWIN COUNTY.

Ford Cook, being duly sworn, deposes and says that he is the PUBLISHER of THE BALDWIN TIMES, a Weekly Newspaper published at Bay Minette, Baldwin County, Alabama; that the notice hereto attached of

Augusta Cassebaum

vs.  
Clarence E. Butler (et al)

### COST STATEMENT

349 WORDS @ 4 1/2 cents ..... \$ 15 71

I hereby certify this is correct, due and unpaid (paid)

Ford Cook  
Publisher.

Was published in said newspaper for 4 consecutive weeks in the following issues:

Date of 1st publication May 24, 1945 Vol. 57 No. 17  
 Date of 2nd publication May 31, 1945 Vol. 57 No. 18  
 Date of 3rd publication June 7, 1945 Vol. 56 No. 19  
 Date of 4th publication June 14, 1945 Vol. 56 No. 20

Subscribed and sworn before the undersigned this \_\_\_\_\_ day of \_\_\_\_\_ 1945.

Notary Public, Baldwin County.

Ford Cook  
Publisher.

1243

Proffu Puhleek



AUGUST CASSEBAUM,  
COMPLAINANT,  
VS.  
CLARENCE E. BUTLER,  
RESPONDENT.

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

Notice is hereby given that the Complainant will on the 18th day of August, 1945, before Lillian Patterson as special commissioner, take the testimony orally of the following witnesses, on behalf of the Complainant:

August Cassebaum, Lillian, Alabama

Dated this the 13th day of August, 1945.

BEEBE & HALL

By: *J. L. Lee*  
Solicitors for the Complainant.

*Lillian Patterson*  
Special Commissioner

1343

Notice of Time of Taking  
Testimony

Filed Aug 13, 1942

Robert  
Legates

AUGUST CASSEBAUM,  
COMPLAINANT,  
VS.  
CLARENCE E. BUTLER,  
RESPONDENT.

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

This cause coming on to be heard was submitted for final decree upon the pleadings, decree pro confesso and proof as noted by the Register, and it appearing to the satisfaction of the court that the Complainant is the owner of and in the actual and peaceable possession of the said land, and each and every parcel thereof, and that the title of the Complainant has been duly and justly proven by legal and competent evidence, the Court is of the opinion that the Complainant is entitled to the relief prayed for.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the Respondent, Clarence E. Butler, and any and all other persons, firms, or corporations claiming any title to, interest in, lien, or encumbrance upon said land, or any part or parcel thereof, have no estate, right, claim, interest in, or encumbrance upon the following described land, or any part or parcel thereof, in Baldwin County, Alabama, to-wit:

Northeast quarter of the Northeast quarter of Section 29,  
Township 7 South, Range 6 East.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the full fee simple title to the said land to-wit:

Northeast quarter of the Northeast quarter of Section 29,  
Township 7 South, Range 6 East, Baldwin County, Alabama,

is vested absolutely in the Complainant, August Cassebaum.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that a certified copy of this decree be recorded in the office of the Judge of Probate of Baldwin County, Alabama, in the direct index in the name of Clarence E. Butler, and in the indirect index in the name of August Cassebaum.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Register shall within 30 days from the rendition of this decree, file a certified copy hereof, in the office of the Judge of Probate of Baldwin County, Alabama, for record

and that the costs thereof be taxed in the costs of this cause, for which execution may issue.

Done at Monroeville, Monroe County, Alabama, on this the 31<sup>st</sup> day of August, 1945.

*JWS*

Judge, 21st Judicial Circuit.

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Final Decree

1343

Final Decree

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