

#31

32

No. (21) 326

THE STATE OF ALABAMA  
BALDWIN COUNTY.

CIRCUIT COURT

Term, 191

THE STATE  
vs.

Henry H Cooper

INDICTMENT.

No

Prosecutor.

WITNESSES:

John Purifoy

Charles E Wilkins

J.M. Voltz,

Oscar Hall

W.D. Stapleton

R.W. Padgett, Mobile,

FILED

Jan 9, 1920

James Albrecht  
Register

Grand Jury No. 21

A TRUE BILL.

J.T. Bradley,

Foreman Grand Jury.

Filed in open Court and in the  
presence of the Grand Jury on the  
30th day of October  
& 1908.

J.M. Voltz,

Clerk.

Presented in open Court to the  
Presiding Judge by the Foreman of  
the Grand Jury, in the presence of  
other Grand Jurors.

Clerk.

Bail fixed in open Court at  
Three hundred Dollars, this  
30th, day of October, 1908.

Sam'l B Browne

Judge.

State of Alabama

Baldwin County.

I.T.W. Richerson, Clerk Circuit Court  
do hereby certify the foregoing to be a true  
and correct copy of the indictment in cause  
of State of Alabama vs Henry H Cooper.

Jan 3rd, 1920.

*I.T.W. Richerson*

Clerk Circuit Court Baldwin Co, Alabama.





Maggie Roberts, )  
Complainant)

Np 251

In The Circuit Court of Baldwin County.

vs )

In Equity.

Bushman Abstract & )  
Investment Company.

Comes now the respondent and Cross Complainant and move to exclude the paper marked " official Receipt for 1908 taxes " upon the following grounds 1st there is no affidavit or other proof attached thereto showing said purported receipt to be genuine or was in fact such a receipt.

2nd because it is illegal, irrelevant and immaterial

*and legal notice was not given to respondent and cross-complainant of the introduction of the same to evidence.*

*and become due*

*Jesse F. Hogan*  
*S. C. Jenkins*

Solicitors for Respondent & Cross -Complainant.

Maggie Roberts, )  
Complainant . )  
vs )  
Buchman Abstract & )  
Investment Company. )

No 251

In The Circuit Court of Baldwin County.  
In Equity.

Comes now the respondent and cross-complainant and moves to exclude the paper dated May 2nd 1905, purporting to be a receipt for the taxes for the year 1904 of Est. of Thos S James and the paper dated May 3rd, 1905 purporting to be a receipt for the year 1904 taxes from Maggie - Roberts upon the following grounds . 1st because there is no affidavit or other proof attached to said receipts showing said purported receipts to be genuine or were in facts such receipts. 2nd because they are -

illegal, irrelevant and immaterial.

*Given 7th introduction in evidence & introduced.*

*3rd Because legal notice was not  
Jesse F. Hogan  
J C Jenkins*

Solicitors for Respondent & Cross Complainant.

RECEIVED  
JAN 10 1906



MAGGIE ROBERTS,  
Complainant.

NO.

vs

BUCHMANN ABSTRACT &  
INVESTMENT COMPANY,  
Respondent.

IN EQUITY

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

Complainant objects to the admission of the tax deed offered by Respondent upon the following grounds:

1. That the taxes for the year 1906 for which the lands described in said deed purport to have been sold, were paid.
2. Respondent has failed to show a compliance with all necessary requirements of law justifying a valid decree of sale by the Probate Court of the lands described in the deed, and particularly has not affirmatively shown:

- (a) That the Probate Court had jurisdiction to order said sale.
- (b) That the Tax Collector had made a search for personal property before praying for a sale of the realty.
- (c) That the Tax Collector had reported that he was unable to collect taxes assessed against said land without a sale of such land, under Section 4046 of the Code of 1896 (present Code 2368).
- (d) That notice was issued to the party against whom the land was assessed under Section 4049 of 1896 Code (now 2371).
- (e) That any of the provisions of 1896 Code Sections 4047, 4048, 4050, 4051, 4055 or 4060 (present Sections 2369, or 2370, 2372, 2373, 2377, 2382) had been complied with.

*Rickard & Buch*  
Solicitors for Complainant.



~~102~~ #21  
9 *Alieptman 5/4 D9*

MAGGIE ROBERTS

VS.

BUCHMANN ABSTRACT & INVESTMENT CO.

Complainant's objection to  
admission of Respondent's tax

Deed

*Filed Aug 13th 1921*  
*J. W. McIlwain*  
*Register*

✓

(2)

- (a) That the Respondent's tax is not a valid tax because of the fact that the Respondent is not a duly authorized collector of taxes for the State of New York.
- (b) That the Respondent's tax is not a valid tax because of the fact that the Respondent is not a duly authorized collector of taxes for the State of New York.
- (c) That the Respondent's tax is not a valid tax because of the fact that the Respondent is not a duly authorized collector of taxes for the State of New York.
- (d) That the Respondent's tax is not a valid tax because of the fact that the Respondent is not a duly authorized collector of taxes for the State of New York.
- (e) That the Respondent's tax is not a valid tax because of the fact that the Respondent is not a duly authorized collector of taxes for the State of New York.

*Application for Demurrer*  
*Robert J. [unclear]*



*Baldwin*  
The State of Alabama, Mobile County

MAGGIE ROBERTS

Complainant

BALDWIN  
Circuit Court of Mobile County

No.

vs.

BUCHMANN ABSTRACT & INVESTMENT  
COMPANY

Defendant

IN EQUITY

The Complainant

requests the oral examination of the following named witnesses  
on her behalf, viz.:

- E. A. Shaffer
- M. O. Discher
- J. R. Crosby
- Joseph D. Beroujon
- Junius W. Woolf

said witnesses reside in the County of Mobile,  
State of Alabama.

C. A. Strain

who resides at Mobile, Ala.

is suggested as a suitable person to be appointed Commissioner to take the depositions of said  
witnesses on such oral examinations.

*R. Kirby & Beebe*

Solicitor for Complainant



No. ....

**Circuit Court of Baldwin  
Mobile County**

Mobile, Alabama

**IN EQUITY**

.....MAGGIE ROBERTS.....

.....Complainant.....

VS.

.....BUCHMANN ABSTRACT &  
INVESTMENT COMPANY.....

.....Defendant.....

**Demand for Oral Examination**

Filed *May 9* 1921

*J. M. Richardson*  
Register

Circuit Court of Baldwin County

The State of Alabama vs. Mobile County



MAGGIE ROBERTS,  
COMPLAINANT )

VS )

BUCHMANN ABSTRACT &  
INVESTMENT COMPANY,  
A CORPORATION, )  
RESPONDENT )

CIRCUIT COURT BALDWIN COUNTY ALABAMA

IN EQUITY

We hereby waive notice of Complainant's application for oral examination, of certain witnesses named in her application filed in this cause May 9th, 1921, consent that commission issue to the person therein suggested as commissioner, forthwith, and that said commissioner proceed to take the testimony of such witnesses at such time and place in the City of Mobile as he shall elect, upon due notice to us or either of us *prior to next*  
*term of Circuit Court. May 20, 1921*  
This May 13th, 1921.

*S. C. Jenkins*  
*D. B. Cobbs*  
Solicitors for Respondent.



The State of Alabama, )

CIRCUIT COURT.

Baldwin COUNTY.

EQUITY Division.

To C.A. Strain,

or such of you as may act herein, of Baldwin County, State of Alabama, Greeting:

KNOW YE, That we, reposing confidence in your integrity, skill, and ability have appointed you Commissioners to take the testimony of

E.A. Shaffer, M.O. Discher, J.R. Crosby, Joseph D Beroujon, Junius Woolf,

material witnesses in a suit now pending in our Circuit Court of Baldwin County, wherein

Maggie Roberts,

Plaintiff, and Buchmann Abstract and Investment Company,

Defendant, and we hereby authorize and empower you to call and cause to come before you E.A. Shaffer, M.O. Discher, J.R. Crosby, Joseph Beroujon, Junius Woolf,

the said witnesses and their deposition on the Holy Evangelists to take, as well for the Complainant, as for the touching their knowledge of the matters and things in controversy in said suit, which deposition, when so taken, shall be signed by said witness and certified by such of you Commissioners as may act herein; and you are further commanded, the deposition, when so taken, with this commission, to return under your hands and seals to the Clerk of said Court, with all convenient speed, and any one or more of you Commissioners, are authorized to act alone in the premises.

Witness my hand, this 15th, day of May, 1921, 191--

Witness' Fees, - - - \$

Commissioners' Fees, \$

J.W. Dickerson Clerk.



10/2  
No.

The State of Alabama,

County.

CIRCUIT COURT,

DIVISION.

vs. Plaintiff,

Defendant.

COMMISSION TO TAKE DEPOSITION ON SET INTERROGATORIES.

Issued this ..... day of ..... 191.....

Clerk.

WITNESSES:

MARSHALL & BRUCE CO., NASHVILLE

# DIRECTIONS:

## TO THE COMMISSIONERS IN EXECUTING AND RETURNING THE COMMISSION.

1. If the time and place of executing the commission are not named therein, the Commissioners will subpoena the witness to appear before them at such time and place as they may appoint, and administer the oath to witness.
2. Either the Commissioners, witness, or some impartial persons, must reduce the answer of witness to writing, as near as may be in the language of the witness.
3. State the caption of the cause at the beginning, and then the following heading or title:

By virtue of the Commission hereto annexed, issued from the office of the Clerk of the Circuit Court of \_\_\_\_\_ County, State of Alabama, we, the Commissioners therein named, have called and caused to come before us the said A B, the witness named in said commission, on this \_\_\_\_\_ day of \_\_\_\_\_ 191., at the \_\_\_\_\_; and having duly cautioned and sworn the said witness to speak the truth, the whole truth, and nothing but the truth, A B, the said witness, deposeth and saith as follows:

- First.—To first interrogatory he saith:  
 Second.—To second interrogatory he saith:  
 First.—To first cross-interrogatory he saith:

4. When the deposition is finished, it must be subscribed by the witness and certified as follows:

We, C D and E F, the Commissioners in said commission named, do hereby certify that the foregoing testimony and answers, taken down and written by us in the words of the witness, A B, were read over to him; that he assented, swore to, and subscribed the same in our presence, at the time and place herein mentioned: that we have personal knowledge of the personal identity of said witness [or, if unacquainted with the witness, that proof hath been made before us of the identity of the said witness]; that we are not of counsel or kin to either of the parties to said cause, nor interested in the event thereof. And we inclose the said testimony, together with said commission and the interrogatories, direct and cross, to the said Clerk of the Circuit Court whence the same emanated, as our full execution of said commission.

Given under our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ 191--

\_\_\_\_\_[L. S.]  
 \_\_\_\_\_[L. S.]

Next unite the commissions, interrogatories, and answers together, with wafers or tape; second, envelope all, sealed with three seals; third, write each Commissioner's name across each seal; and, fourth, write on the envelope the names of the parties and witnesses, and direct it thus:

|                      |   |
|----------------------|---|
| C D v. E F           | To _____ Esq.,<br>CLERK OF THE CIRCUIT COURT. |
| DEPOSITION OF<br>A B |   |
|                      | _____<br>County, Ala.                         |

The package may be sent by mail or private conveyance.



The State of Alabama, Mobile County

Circuit Court  
IN EQUITY  
AT MOBILE, ALA.

Maggie Roberts,-----  
vs.

Buchman Abstract & Investment Co.-----

To O. F. Metz,-----  
Cullman, Ala.-----

Esq., Greeting:

KNOW YE, That we in confidence of your prudence and fidelity, have appointed you, and by these presents do give you ~~or either of you~~ full power and authority to take, upon oral examination, the deposition of

F. J. Buchmann

as witness on part of defendant

in the above entitled cause, and therefore we command you ~~or either of you~~, that at such time and place, or times and places, as you may appoint, of which you will give ~~one~~ days' notice to all the parties, or their solicitors of record in said cause, viz: to

S. C. Jenkins, D. B. Cobbs, solicitors for defendant,

Rickarby, Austill & Beebe, solicitors for complainant,

you do cause the said witness to come before you, ~~or either of you~~, and then and there examine ~~him~~ on oath, on the interrogatories and cross-interrogatories, which may be then and there propounded to them by the said party. And that you ~~or either of you~~, do take such examination, and reduce the same into writing and return the same annexed to this Writ, closed up under your seal, ~~or the seal of either of you~~, into our said Circuit Court, with all convenient speed, that the same may be read in evidence on the trial of the cause aforesaid.

WITNESS: JAMES A. CRANE, Register of our said Court, at office

this 1st day of August 1917.

ATTEST:

James A. Crane  
Register



TO THE COMMISSIONER :

In executing the within commission, you will please be particular in observing the following rules: Your certificate must show that you caused the witnesses to come before you at some specified time and place, or times and places; that said witnesses are known or have been made known to you, and that they were duly sworn by you; that they testified as it is set down; that the testimony was by you reduced to writing, and that it was subscribed by the witnesses in your presence after having been first read over to them. And further, that you are not of kin nor of council to either party to the suit and that you are not in any manner interested in the result thereof. All the papers returned by you should be attached together, all enclosed in an envelope; this envelope should be sealed up by you, and across the seals of the same you should write your name or names. The title of the case must be endorsed on the outside of the envelope; also the names of the witnesses examined, and whether for the complainant or defendant. On the commission itself must be marked the amount of your fees, and if paid, by whom. The package should then be directed to the Register, Circuit Court Mobile County, Mobile, Ala.

No. 326

Circuit Court Mobile County  
IN EQUITY  
AT MOBILE, ALA.

Maggie Roberts,

vs. } Commission to take Testimony  
on Oral Examination

Buchmann Abstract & Investment  
Company.

Witness for defendant.

F. J. Buchmann.

Commissioner's Fees

\$2.50

Paid by

Handwritten signature and red stamp "Dec 1 117"



Maggie Roberts,

No. 326.

VS.

Buchman Abstract & Investment  
Company.

This cause is submitted upon complainant's motion to modify decree rendered April 10, 1918, and to set aside the submission, and being duly considered, the Court is of the opinion that said motion should be granted, it is therefore ordered, adjudged and decreed by the Court that said motion be and the same hereby is granted and that the decree rendered April 10, 1918, and the submission of this cause made on February 8, 1918, be, and the same hereby are set aside and the taking of further testimony with reference to the payment of taxes for the year 1906, be and hereby is allowed.

In term time, May 9, 1918.



Judge.



CIRCUIT COURT OF MOBILE COUNTY  
MOBILE, ALA.  
IN EQUITY

No. 326.

Maggie Roberts,

VS.

Buchman Abstract & Investment  
Company.

**ORDER**

DECREE SETTING ASIDE DECREE OF  
APRIL 10, 1918.

January 8 Term, 1918

May 9, 1918. 1918

Ent. Min. 2 Page 618



CIRCUIT COURT OF MOBILE, ALA.  
MOBILE, ALA.  
No. 326  
Maggie Roberts,

VS.

Buchman Abstract & Investment  
Company.

This cause coming on further to be heard upon the demurrer of the defendant to the motion of the complainant to set aside submission and modify decree rendered April 10, 1918, and being submitted and duly considered by the Court, it is ordered, adjudged and decreed by the Court that said demurrer to said motion be and the same hereby is overruled.

In term time, May 9, 1918.



CIRCUIT COURT OF MOBILE COUNTY  
MOBILE, ALA.  
IN EQUITY

No. 326.

Maggie Roberts,

VS.

Buchman Abstract &  
Investment Company.

**ORDER** overruling

demurrer.

January Term, 1918

May 9, 1918.

191

Ent. Min.

2

Page

618



No: 251 In Baldwin County Circuit  
Court. In Equity .

Maggie Roberts, Complainant,

vs.

Buchmann Abstract and Investment Company, Defendant .

The defendant demands the oral examination of W . F. Rogers, Joe Reding, A.B.Stedham, and Elijah Ard, residing in Baldwin County, Alabama, as witnesses for defendant and suggests H.D.Moorer, who resides at Bay Minette in said County, as commissioner to take their depositions orally .

And defend nt demands the oral examination of H.Van Cooper, Wilton A.Cooper, and E.A.Cooper, who reside in Mobile County, and suggests Bernard A.Carlin, Stephen Carlin and C.A.Strain, who reside in mobile, Mobile County, as commissioners to take their depositions .

And demands the ~~oral~~ examination of F.J.Buchmann, of Cullman, Alabama, and suggests O.F.Metz, of Cullman, Ala., as commissioner to take his deposition .

*D.B. Hobbs,*  
*S. C. Jenkins,*  
sol'rs for Defendant .



The State of Alabama, Mobile County

Maggie Rolate Complainant

No. 326 vs.

Buschman abstract Defendant  
+ Investment Co

Circuit Court of Mobile County

INEQUITY

The Respondent

requests the oral examination of the following named witness

on behalf, viz:

Elijah a ard

said witnesses reside in the County of  
State of Alabama.

Baldwin

L. Glendinning

who reside at

Robertsdale Baldwin Co Ala

is suggested as suitable person to be appointed Commissioner to take the deposition of  
said witness on such oral examination

S. Jenkins &  
F. B. Cables

Solicitor for Respondent



A

No. 326

Circuit Court of Mobile County  
Mobile, Alabama  
IN EQUITY

Maggie Roberts

vs.

Buckman Abstract  
& Co. Inc.

Demand For Oral Examination

Filed Sept 28 1917

James A. Crane

Register

RECORDED

Crane Register  
Comm recd Sept 28 17

*Faint handwritten notes on the left margin.*

*Vertical handwritten notes in the center margin, including "Mobile Co" and "Buckman Abstract".*

*Vertical handwritten notes on the right margin, including "Maggie Roberts" and "James A. Crane".*

MOBILE

Circuit Court of Mobile County

The State of Alabama, Mobile County



MAGGIE ROBERTS, COMPLAINANT,

VS

BUCHMAN ABSTRACT & INVESTMENT  
COMPANY, RESPONDENTS AND CROSS-  
COMPLAINANTS.

NO. 326.  
IN EQUITY.

IN THE CIRCUIT COURT  
OF MOBILE COUNTY, ALA.

Comes the Complainant and moves the Court to re-open the cause and modify the decree of April tenth, Nineteen Hundred and Eighteen, adjudging the Cross-Complainant as the owner of the land, upon the following grounds:

FIRST: Because at the hearing of the cause, Complainant was prevented from offering in evidence her tax receipt showing the taxes were paid for the year in which the lands were sold, by the statement of the Court from the bench to the effect that the one issue was one of possession and that should said receipt seem to be material, Complainant would be allowed to reopen said cause, and make proper proof of the authenticity of said receipt, which Complainant was ready and willing to do.

SECOND: Because from the finding of the Court as expressed in the opinion, the possession of both parties to the cause was a scrambling possession, which would not sustain the cross-bill any more than the original bill.

THIRD: Because evidence of Respondents' alleged possession was dependent upon the admission of its tax deed which was not admissible under Chancery Rule 64.

FOURTH: Because the burden was upon one claiming under a tax title to show that taxes were not paid for the year, for the non payment of which said tax title is based.

FIFTH: Because of the burden of showing that the tax sale and proceedings leading up to the sale complied with Sections 2268 and 2278 was upon Cross-Complainant and such proof was not made.

SIXTH: Because failure to show compliance with Code Sections 2268 and 2278 not only rendered the tax deed void,



but would not furnish a basis for the three year Statute of Limitations to be invoked.

SEVENTH: Because the tax deed was in evidence only as color of title and not as a tax deed and hence, while it might be considered as supporting a disputed possession, could not be the basis of an adverse title, and thereby evidence supporting the cross-bill.

EIGHTH: Because the tax deed and claim of Cross Complainant is based upon the sale of taxes assessed to Mary James, whose life interest is shown to have since terminated.

*Rickaby, Austill + Beebe.*  
Solicitors for Complainant.

*Service of copy of foregoing accepted this  
April 23<sup>rd</sup>, 1918.*

*N.B. Cobbs, S.C. Jenkins,  
Sols. for Defendant  
Buchman & Abstract &  
Int. Co.*



# 326.

MAGGIE ROBERTS

VS

BUCHMAN ABSTRACT & INVEST-  
MENT COMPANY.

MOTION TO  
MODIFY DECREE OF APRIL 10th.

Filed April 23, 1918,  
James A. Crane,  
Register

Rickarby, Austill & Beebe,  
Attorneys.



MAGGIE ROBERTS :  
 COMPLAINANT. :  
 VS :  
 BUCHMAN ABSTRACT & INVEST- :  
 MENT COMPANY, DEFENDANT. :  
 IN CIRCUIT COURT OF MOBILE  
 COUNTY, ALABAMA.  
 IN EQUITY.

INTERROGATORIES PROPOUNDED TO MAGGIE ROBERTS, 8920 EXCHANGE AVENUE SOUTH, CHICAGO, ILLINOIS, WITNESS FOR COMPLAINANT, BY COMPLAINANT'S ATTORNEYS.

FIRST: State your name, age and address and whether or not you are complainant in the suit above named. *Maggie Roberts - 49 years old - 8920 Exchange Ave, Chicago, Illinois*

*I am*  
 SECOND: State whether or not you claim the ownership of lands described as follows:

The West Half of the Northeast quarter and the East Half of the Northwest quarter of Section Twenty-one, Township Six South of Range Four East, Baldwin County, Alabama. *I do*

THIRD: DID you or MARY JAMES, or anyone else, pay the taxes on these lands falling due October 1st, 1906; state whether or not you paid taxes on any other lands in Baldwin County for that year. If you state that you paid taxes on such lands for such year, state the time, place and manner of payment and the person to whom they were paid. If you answer that you paid the taxes on these lands, state whether or not you paid them in person or by mail. If you answer that you paid in person, state whether you paid them by check or cash. If with check, have you such original check or have you stub? If so, attach stub or check to your deposition and mark "Exhibit A". If you state that you paid through the mail, state as nearly as you can when you mailed remittance, to whom letter was addressed and remittance payable, whether remittance was made in the



form of check, cash, postal money order or express money order or some other form. If by check and you have such check or stub of such check, attach same to your deposition and mark "Exhibit A". If by postal money order or express money order, state whether or not you have receipt for same. If so, attach to your deposition and mark "Exhibit A"; state what postoffice or express office you bought such money order and date of purchase.

Fourth: If you answer that you paid the taxes in person, was a receipt for such taxes given you? If so, state whether or not you have such receipt, if so, attach to your answer and mark "Exhibit B".

Fifth: If you answer that you paid the taxes through the mail, state whether or not in due course of mail you received a receipt for the money sent in payment of taxes. If you state that you did receive a receipt, state whether or not you have such receipt and, if so, attach the receipt received by you to your answer and mark "Exhibit B".

Sixth: If you answer that you did not pay the taxes, but that someone else did, state who paid such taxes and answer the questions asked above relative to their payment as nearly as you can.

*Rickaby, Austill & Bube*  
Solicitors for Complainant.



Complainant suggests Squire S. Burke, 9233 Commercial Avenue, Chicago, Illinois, as a suitable person to act as commissioner to take the deposition of Maggie Roberts under above interrogatories.

*Richard Austell & Burke*

Solicitors for Complainant.

Received copy of the foregoing interrogatories on this the first day of August, Nineteen Hundred and Eighteen. Further notice waived.

*D.B. Cobbs and J. Jenkins*

Solicitors for Complainant.

*210350*

*[Faint handwritten notes and scribbles]*



326  
No 326

Maggie Roberts,  
Complainant

vs

Buchman Abstract & Invest-  
ment Company, Defendant.

Interrogatory

*Filed Aug 6, 1918,  
James Crane  
Register.*

Rickarby, Austill & Beebe,  
Attorneys.



MAGGIE ROBERTS

VS.

BUCHMANN ABSTRACT AND  
INVESTMENT COMPANY.

}  
In the Circuit Court,  
Baldwin County, Alabama,  
In equity.

- - - - -

By virtue of the commission hereto annexed, issued from the office of the Clerk of the Circuit Court of Baldwin County, State of Alabama, I, one of the Commissioners therein named, have called and caused to come before me, the said Wilton A. Cooper and E. A. Cooper, witnesses named in said commission on the 8th day of November, 1920, at the office of Bernard A. Carlin, 203 Pollock Building, Mobile, Alabama, and the said H. Van Cooper, the other witness named in the commission, on the 20th day of November, 1920, at the residence 309 North Joachim Street, Mobile, Alabama,; and having duly cautioned and sworn the said witness to speak the truth, and nothing but the truth, the said witnesses depose and say as is set forth in the annexed pages of their depositions respectively:



In the Circuit Court, Baldwin County, Alabama.

MAGGIE ROBERTS

vs.

BUCHMANN ABSTRACT AND INVESTMENT  
COMPANY,

}  
In Equity Division.  
}

- - - - -

DEPOSITIONS OF WILTON A. COOPER, E. A. COOPER and  
H. VAN COOPER, WITNESSES CALLED ON BEHALF OF THE  
RESPONDENT, TAKEN AT THE OFFICE OF BERNARD A. CARLIN,  
203 POLLOCK BUILDING, MOBILE, ALABAMA, NOVEMBER 8TH  
1920.

- - - - -

PRESENT:

HON. E. G. RICKARBY, Solicitor for Complainant,  
HON. D. B. COBBS, Solicitor for Respondent,

BERNARD A. CARLIN, Commissioner.

- - - - -

WILTON A. COOPER, a witness called on behalf of the  
Respondent, after having been first duly sworn, testified  
as follows:-

DIRECT EXAMINATION,  
By Mr. Cobbs,

My name is Wilton A. Cooper. I am a son of  
H. H. Cooper, who was formerly Tax Collector of Baldwin  
County, Alabama. He was Tax Collector during the years  
of 1906 and 1907. He was first Tax Collector in 1901.  
He resigned in 1907, if I am not mistaken, but I don't  
recall that exactly. I would have to look up the records  
of that. I am not entirely sure about that. His  
term would have been out in 1907 or 1908. He was elected  
for two terms, and he resigned a year, I think, before  
his term was out. I don't recall just now when it was  
that he resigned.

I have examined the paper which you hand me, and I  
see that this is a tax sale.

(witness had been handed a paper by Mr. Cobbs)



That paper purports to be in the form of a tax deed, dated the 9th day of July, 1909, signed J.H. H. Smith, Judge of Probate Baldwin County, acknowledged and recorded, and relates to west half of northeast quarter and east half of northwest quarter of Section 21, township 6 south of range four east, and recites amongst other things that that land was returned for taxation for the tax years of 1906,-

I attach that paper as an exhibit to this my deposition.

Said paper is herewith returned, attached hereto and made a part of this deposition, the same being marked Respondent's Exhibit "A".

Witness Continued:-

I know nothing about this. All this business was handled by my brother and I could not attach that under those circumstances.

Q. I don't ask you to testify about that paper,-- I simply ask that that paper be attached to your deposition.

Ans. I don't care to commit myself that way,-- I don't know anything about it.

Q. I just asked you to identify it,-- that is all.

Ans. I don't know anything about the form.

Q. I am simply asking you to attach that to your deposition? Ans. I could not even do that because I didn't have anything to do with it.

Q. I simply described that to identify it.

Ans. All I can say is this---

Q. I do not ask you to say anything about it,-- don't say anything about it, Mr. Cooper. Ans. All right.

Q. Here is a paper consisting apparently of different pieces worn apart or torn apart, and pasted together, or else not worn apart or torn apart, but pasted upon another piece of paper, and the whole purports to be a receipted bill for the taxes of 1906, assessed to Mary James in



Baldwin County, Alabama, and purports to be signed in the name of H. H. Cooper, Tax Collector of Baldwin County, and of the date of such purported receipt all that seems to appear is the word "Feb. 1906", and said paper is attached to another paper purporting to be the deposition of Maggie Roberts taken and sworn to on January 15th, 1919 in this cause, while it was pending in the Circuit Court of Mobile County, in Equity and Numbered 326 on the docket of that Court of Maggie Roberts, Complainant vs. Buchmann Abstract and Investment Company, Defendant,--examine that so-called tax receipt Mr. Cooper, if you please?

Mr. Cobbs thereupon handed to the witness the tax receipt referred to.

Witness testified as follows:-

I have examined it. I might say that I was a clerk or agent of my father in the Tax Collector's office of Baldwin County, continuously during the term of office,- that is, off and on while I was in the County,- I was acting always as his agent, helping him out and collecting his taxes. I knew my father's signature. I knew my father's signature during the time that he was Tax Collector.

The signature of the name "H.H.Cooper", upon that paper purporting to be a tax receipt that I have been asked about heretofore, is not and was not my father's signature.

During these years,- that is, 1906 and 1907, during the latter part of his term of office, I was a clerk of my father in my father's office,

I am thirty-seven years of age. My father had other clerks in his office besides myself. My brother, H. Van Cooper, was his Chief Clerk, and he did all of his office work. I knew then and know now the handwriting-



ing of both my father and my brother, H. Van Cooper. That signature "H.H.Cooper" upon that purported receipt that I have been asked about is not in the handwriting of my brother H. Van Cooper.

That signature "H.H.Cooper" upon that purported receipt is not in my hand-writing.

That signature "H.H.Cooper" upon that purported receipt that I have just been asked about is not in the handwriting of anyone who was an agent of my father to receive tax monies that I know of. I knew all of the clerks or agents of my father in the tax office.

Those clerks were: myself and my brother H. Van Cooper and my father, and sometimes W. G. Hall would sometimes help us out. He was Chief Clerk in the Probate Judge's office, and when we were not there, he would receive the taxes. His name was W. Gaskey Hall. He is now dead.

During the season, in the Fall of the year, when we would go around and make appointments, we would have deputies to go around there at these different polling places to collect taxes. Those places were the different polling precincts, -to collect taxes just at that time, - that would be in October or November.

I do not know whether Mrs. Maggie Roberts in 1906, or 1907, or 1908, or 1909, was or was not living in Alabama. I never knew where she lived and don't know. I do not know whether during all those four years or during any of them, she was living in Baldwin County. I do not know anything about where she was living.

The name "H.H.Cooper" signed upon that purported tax receipt that I have been asked about, is not in the handwriting of said W. G. or W. Gaskey Hall.

When we started out meeting those appointments, if



5.

would be around about the first of October, and it would take us about fifteen days, and one party would go to the north part of the County, and the other would go to the south end, and then in November, we would make another round. We would start out about the first of October and we would be engaged in doing this until the middle of October. We would make our rounds and stop and then the taxes would become delinquent the first of January, and I would ride over the County and collect the taxes mostly. My duty was to go around the precincts from house to house and collect the taxes until after January 1st, after they became delinquent. After January, while I made those rounds too, I did not go from house to house, canvassing. When I finished those rounds, I was through with my father's work. I wasn't the regular man in the office. My father's office didn't require two men, and my brother Van, was the regular office man, and he was there all year round. I was there from time to time at times, but I never fooled around much in the office. After January 1st I would be on the road collecting.

When I was in the office I was authorized to receive tax monies. When my brother, Van, was in the office, he was authorized to receive tax monies. Myself and my brother, Van, were the only agents of my father authorized to receive those tax monies at the office or in the office, other than at times, W. G. Hall was. He was connected with the Judge of Probate's office, and when we were out, he would sometimes come in and receive monies for us.

When he received those monies from a tax payer, he was authorized to give a receipt for the taxes, and he signed my father's name by him.



6.

The Tax Collector or his clerks or agents would not know in February, 1906, what would be the tax amounts for that year, 1906. They would not have any way of knowing until the Tax Commission would pass upon the rate and they made the book up,- the Tax Assessor's book.

CROSS EXAMINATION,  
By Mr. Rickarby.

This receipt about which I testified is written upon one of the blanks of the tax bills, and that blank is a tax bill plank for 1906. Those bills, according to the custom of the office, were sent out to tax payers to let them know the amount of their indebtedness for that year.

Other than the signature this is apparently a bill regularly made out in the tax collector's office Number on page 302, and made out by my brother Van.

It was not customary, however, to give receipts on those forms. As to why the words "received payment" appear on them, - they were printed in that form, and our receipts were stub-books,-- I reckon some of the old records are there now. They were stub books that we gave receipts out of. We would tear the receipt out, and leave the carbon copy in the book.

IT WAS HERE AGREED by and between Counsel for both sides that the witness would testify as follows:

"In the book, marked Tax Receipts, 1907, Baldwin County, Alabama, Manufactured by Roberts and Son, of Birmingham, Alabama, and which is the stub book of tax receipts for that year, I find a number of carbon duplicates of receipts signed by me. The number of those signed by me are: 4925, 4927, 4928, 4929, 4930, 4931, 4933, 4934, 4935, 4936, 4937, 4939, 4940, 4941, 4942, 4943, 4944, 4945



7.

4946, 4947, 4948, 4949, 4952, 4953, 4954, 4959, 4960, 4961, 4962, 4966, 4967, 4970, 4977, 4979, 4981, 4982, 4983, 4984, 4985, 4987, 4988, 4990, 4991, 4998,- but all of these relate to other peoples' taxes, and not to those of Mrs. Maggie Roberts, or Mrs. Mary James."

Respondent objected to this testimony upon the ground that the predicate has not been laid, second, because none of them are carbons of tax receipts of either Mrs. Mary James or Mrs. Maggie Roberts.

Witness Continued:-

As a matter of fact, during the years 1905, 1906 and 1907, my father had a very little to do with the work of the tax office personally. He had very little to do with it personally all the way through. Van did most of his work; he did all of his bookkeeping and all that all the way through.

Van and myself ran the entire office,- handled the cash and were generally in charge, under my father's instructions. Under his general instructions. Van did it mostly because at times I was there, and then I would be out making the rounds and picking up taxes. Van handled the cash. Van was really the head of the office.

Nobody, but us two, had anything to do with the books or the finances of the office, except for the general supervision and looking over that my father gave from time to time.

Q? Do you know, of your own knowledge, whether, or not, the accounts of your father with the State of Alabama and with the County of Baldwin, were short during the year 1905?

Respondent objected to the question upon the ground that it calls for evidence that is immaterial.

Ans. I do not know,- no sir; I had nothing to do with the settlement of the estate, or the accounting, or anything.



8.

Q. Do you know anything about whether a complete and full settlement for the taxes was made for 1906?

Respondent objected to the question upon the ground that it is immaterial, and second, because it is irrelevant.

Ans. I do not, because I never had anything to do whatever with the settlement in any way.

Q. Would the same be your answer as to settlement for taxes for 1907?

Respondent objected to the question upon the ground, first, that it is immaterial, and second, that it is irrelevant.

Ans. I could not answer it just that way.-- I don't know. I never had anything to do with the settlement, and never fooled with the books.

Q. There was some trouble with the estate, wasn't there?

Respondent objected to the question upon the ground that the same calls for irrelevant and immaterial testimony.

Ans. Yes sir.

Q. Is it not a fact that your father was removed from office during the year, 1907?

Respondent objected to the question upon the ground that it calls for immaterial testimony.

Ans. He resigned.

Q. Did, or not, the Bonding Company make up the difference with the State and with the County, between the amount paid in by the Baldwin Tax Collector's office, and the amount that the examination of Judge Purifoy' showed to be due for the years 1906 or 1907?

Respondent objected to the question, first, on the ground that it does not show as to what period of time it relates, and second, upon the ground that it is immaterial.

Ans. I could not tell you whether they did, or not. I understand it did, but I don't know about that. I don't know.

Respondent objected to that portion of the answer in which he states that he understands, etc., upon the ground that it is hearsay.



9.

Q. Mr. Cooper, didn't the Grand Jury indict your father about that time?

Respondent objected to the question upon the ground first, that this calls for secondary evidence, second, because it calls for immaterial evidence, and third, because it does not call for any disposition of any indictment that might have been made.

Ans, May I refuse to answer that question.---

They did.

Respondent moved to exclude the answer of the witness upon each of the grounds assigned in objection to the question.

Q. In what year did your father die? Ans. In 1909.

Q. This matter was still pending at that time, wasn't it?

Respondent objected to the question upon the same grounds assigned to the last preceding objection to question.

Ans. Yes.

*Begin*  
RE-DIRECT EXAMINATION,

Q. Who was it, if anyone, who attended to the making out of the list of lands to be sold for non-payment of taxes in that office while your father was Tax Collector, and attended to the matter of having such sales made?

Complainant objected to the question because the subject matter was not introduced on direct examination, nor is the question in rebuttal of any matter brought out on cross examination.

(witness made no answer)

Witness Continued:-

A robbery occurred in the office of the Tax Collector. Let's see, I am mixed up as to the date this robbery occurred. I don't know whether it was 1906 or 1907,-- I can't get that straight.

It occurred in the fall of the year, if I am not mistaken So far as I know, my father was never tried on any indictment, and he was never convicted.



10.

I said it was the custom of the Tax Collector's office to send bills to tax payers showing what they owed from time to time, and whenever money was paid it was the custom to give or send the tax payer a receipt All of such receipts were signed in the name of H. H. Cooper.

*Comp. Chief*

Q. State what you know, if anything, about whether this property concerned in this case was sold by the Tax Collector as for nonpayment of taxes.

Complainant objected to the question, first, because it is too general, second, because it calls for hearsay evidence; third, because the previous testimony of the witness shows that his clerical duties were confined to simply collecting money and that the management and details of the office was conducted by the Chief Clerk, Mr. Van Cooper.

Ans. I could not say because I don't know.

*Wilton A. Cooper*

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11.

E. A. COOPER, a witness called on behalf of the Respondent, after having been first duly sworn, testified as follows:-

DIRECT EXAMINATION,  
By Mr. Cobbs,

My name is E. A. Cooper. I am a son of Mr. H. H. Cooper who used to be the Tax Collector of Baldwin County I am thirty-five years old, and will be thirty-six this coming February.

I was acquainted with my father's signature.

(Mr. Cobbs thereupon handed a paper to the witness)

Q. Here is a paper attached to what purports to be the deposition of Mrs. Maggie Roberts in her case against the Buchmann Abstract & Investment Company, No. 326, in the Circuit Court of Mobile County, taken while this cause was pending in that Court, and purporting to be a bill for Mrs. Mary James' taxes in Baldwin County for the tax years of 1906, and purporting to be signed in the name of H. H. Cooper, Tax Collector of Baldwin County, and so far as appears, purporting to have been signed on some undated date in February, 1906,- please examine that paper and tell me when you have examined it.

Ans. I have examined this. I have seen this before. I think I have.

Witness Continued:-

The signature of the name H. H. Cooper at the bottom of that bill is not in the handwriting of my father, H. H. Cooper, formerly Tax Collector. I am very familiar with the handwriting of my brother, H. Van Cooper.

I am also very familiar with the handwriting of my brother, Wilton A. Cooper. That name "H. H. Cooper" is not in the handwriting of my father, but I will not state that it is not in the handwriting of my brother



H. Van Cooper, That would be a hard thing for me to swear to.

My best knowledge is that it is not, but I won't swear that it is not. I will swear that it is not my father's, but I cannot swear that it is not my brother's because I don't know whether it is or is not. Anybody can write funny ways, you know. That signature does not look like the handwriting of my brother, Wilton A. Cooper. It does look like the handwriting of my brother, Van, - it resembles it, but it is not his. I do not think it is his. My father's handwriting was very poor, but his signature was written very firmly, but in bad order generally. It was a very heavy hand. I am a good penman and so are all my broters. None of us have shaky hands. I have never noticed that my brother, Van, or my brother Wilton, ever wrote in a shaky hand.

I have seen their handwriting a great deal. I am very familiar with them.

I was never at any time an agent of my father's in the Tax Collector's office. I was in school while he was in office,- that is, most of the time. I never had anything to do with his office whatever.

CROSS EXAMINATION,  
By Mr. Rickarby,

Considering that thing is written on rough paper and has been somewhat blurred by having been wet, I am not willing to swear that that could not have been written by Van Cooper with a scratchy pen and on a rough board, such as would be on the counter of a post office. I am not willing to swear that he did not write it.

RE-DIRECT EXAMINATION,  
By Mr. Cobbs.

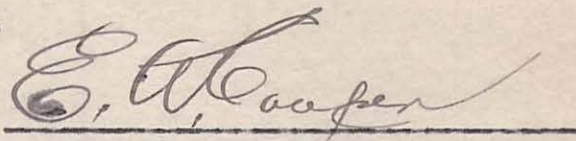
I do not recall ever being in the office when Van signed



13.

any paper on that order on a rough board. I do not remember anything like that.

To the best of my knowledge and opinion, that is not my brother, Van's signature or handwriting. It is not in his handwriting.

  
A handwritten signature in cursive script, appearing to read "E. W. Cooper", is written above a horizontal line.

Owing to the illness of the remaining witness, H. Van Cooper, the Commissioner thereupon adjourned, to be continued at a date agreeable to the attending physician of said H. Van Cooper.



The witness, H. Van Cooper, was called as a witness before the Commissioner, on this day, November 20th, 1920, at 3 o'clock, P. M., and Mr. Cobbs, Solicitor for Respondent, and Mr. E. G. Rickarby, Solicitor for Complainant, being present, the witness was sworn by the Commissioner to speak the truth, the whole truth and nothing but the truth. Said testimony being taken at the residence of the witness H. Van Cooper, 309 North Joachim Street, Mobile, Alabama.

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H. VAN COOPER, a witness called on behalf of the Respondent, after having been first duly sworn, testified as follows:

DIRECT EXAMINATION,  
By Mr. Cobbs,

My name is H. Van Cooper. I am a son of Mr. H. H. Cooper, deceased, who was formerly Tax Collector of Baldwin County, Alabama. My age is 41 years.

I was a clerk in my father's office, or an agent of my father in the matter of collection of taxes for about seven years, I believe. I was such for the years from 1900 to 1907. I was such and was there during the tax year of 1906. I was his Chief Clerk. For the most part, I conducted the running of the books of his office and making collections. During that time, he also had my brother from time to time act as clerk also. This brother's name is Wilton A. Cooper.

I remember testifying in this matter once before.

I remember being shown then a paper purporting to be a receipted tax bill for the Baldwin County taxes for the tax year of 1906 with the name of H. H. Cooper as Tax Collector, appearing to have been signed upon that paper by someone.



Q. Do you remember the date of it at the bottom, or the receipt part of it,- so far as appeared to be on some unstated day in February, 1906?

Complainant objected to the question, first, because it is leading, second, because the paper testified about is not exhibited to the witness for the purpose of identification.

Q. Do you remember having seen that paper? Ans.  
Yes sir.

Witness Continued:- I knew, during his life, the handwriting and signature of my father.

Q. Was it written in a firm, smooth hand or did it appear to be shaky or nervous, or as if he was sick or weak?

Complainant objected to the question, first because it is leading.

Ans. It was written in a firm hand.

Witness Continued:-

The signature of my father's name upon that instrument that I have just been asked about, was not written in the handwriting of my father. That name was not written in my handwriting either. It was not written in the handwriting of my brother, Wilton A. Cooper.

As to what other person ever had any authority to receive tax monies during that time while my father was Tax Collector, besides him and myself and my brother, Wilton A. Cooper,- Gaskey Hall used to receive taxes while we were out of the office. We might have been home to dinner at the time. At that time Gaskey Hall was Tax Assessor's clerk. Sometimes, we might be out at dinner or stepped over to the Post Office, and someone would drop in and pay the taxes, and he would collect for us, and turn the money over to us when we returned. That was done seldom, and not often.



The name of my father upon the paper I have been asked about, was not signed in the handwriting of Gaskey Hall.

The taxes on that property, concerned in that tax receipt which I have seen, were not paid to me for the tax year of 1906.

I made up the lists of lands for sales for non-payment of taxes when that was done. Before making up the lists of lands for tax sales for non-payment of taxes, I checked back against my stub books and examined the records of our office to see what lands to advertise for sale.

As to whether I remember any peculiarity about that paper you have asked me about, which purports to be a receipted tax bill for taxes assessed to Mrs. Mary James for the year 1906, I do remember such peculiarity,- I remember the date was peculiar. As to whether there was anything peculiar about the appearance of it,- it appeared to have been torn. I am not sure whether it had been pasted together again, but I think it had when I last saw it.

I last saw that paper when I was being examined as a witness in this case before when this case was in the Circuit Court of Mobile County.

To the best of my knowledge, the taxes on that land for that year, 1906, were not paid.

Q. Mrs. Maggie Roberts testified in this case once before, as to how she claimed to have remitted the tax monies for that year,- I think about thirteen years prior to her testimony, and stated in her deposition that she had sent it by cash by mail,- did you ever receive the cash remittance, or not?

Ans. By mail,--- Yes sir.

Q. I mean the cash remittance of Mrs. Roberts?



Ans. Oh,- No sir, not to my knowledge.

Witness Continued:-

It was not customary in the office for any tax payers to be permitted to pay taxes prior to the time when they became due, and were collectible. There was no way for anybody to know in the month of February, 1906, or in February, 1907, or in February 1908, or in February of any other tax year, what the State and County taxes would be for that tax year. The books were not turned over to us until July,- that is the 1906 taxes were not turned over to us until July, 1906, and that would be after the County Commissioners had sat upon the question of what the county taxes should be.

I do not remember just when my father died, but I could find out from my mother. If this suit was brought in 1916 in the Circuit Court of Mobile County, my father was dead at that time. To the best of my recollection, he lived about four years after going out of office.

He had no other clerks or agents authorized to receive tax monies in Bay Minette other than myself and the men that I have named.

CROSS EXAMINATION,  
By Mr. Rickarby,

I was Chief Deputy for my father during the time that I was in his office, and I had general charge and supervision of the office. My father had very little to do with the clerical part of it. He very seldom signed any receipts. I handled the banking and the books and kept things running, and my brother Wilton was just a clerk, and occasionally Gaskey Hall would help me out in there. My brother would help out occasionally, and



then he would go out in one end of the County. He would take one end of the County, when we went around and made our appointments.

I think I was in there from 1900 to 1907. My father resigned from the office in 1907, and at that time I had charge of the books and affairs and knew generally what was going on in the office at that time. I think the taxes on that Mary James property had been paid regularly up to the tax year of 1906, but our records would show, and I am not sur@ about it.

Q. But if it was assessed for 1906----

Respondent objected to the question upon the ground that there is no evidence that it was assessed for the prior years that Counsel is talking of.

Q. If it was assessed for 1906, the taxes had been paid prior to that time, had they not,-- certainly for the year of 1905?

Respondent objected to the question upon the further ground that it calls for a conclusion or assumption or guess of the witness and is incompetent.

Ans. They could have escaped assessment or something like that. Frequently taxes on land did escape.

Q. Escaped assessment? Ans. Yes sir; skipped a year; assessors overlooked it, and nobody paid on it.

Q. Then you don't know one way or the other whether those taxes had been paid for the four or five years prior to 1906? Ans. I would not say for sure, but I naturally would suppose they were, because they would have been sold for taxes if they had not been paid.

Respondent objected to and moved to exclude that part of the answer of the witness which states that it would have been sold for taxes if it had not been paid, upon the ground that it is a conclusion of the witness.

Witness Continued:-

As to what became of the stub book for 1906,- we left all the stubs in charge of Oscar Hall when