

To Hon. Thomas L. Williams, Chancellor for Eastern division of Tennessee, County of Sevier. Roberts of Sevier County and Bogle of Bradley County. About November 1836 Roberts and Bogle with Samuel West "entered into a partnership in the business of hog driving, and in December thereafter started to the south with two or three hundred head of hogs." No written contract entered into but partners were share the loss or profit according to the money invested in business. Roberts and West went with drove as far "as Danielsville in the state of Georgia." West left and returned home and business left with Roberts. Roberts gave West about 200 dollars when latter left. Roberts went on with drove about "half of which he baconed up in the south, and attended to the curing and sales in the following spring and summer." The \$200 not written down in any book; partners had confidence in each other. Roberts made several trips south before he got all the bacon disposed of and when he returned always a division of money but no mention made of the \$200. "Your orators further state that about september 1838 said West departed this life leaving a certain Champion Cowan his Executor." On 5 Sept. 1838 settlement made with Cowan. "According to said settlement your orators fell in debt to the estate of said West in the sum of \$235.51, and gave their joint note therefor." Afterwards Roberts and Bogle discovered that money brought home by West not accounted for in settlement. Cowan asked to correct this but refused "not because it was unjust, but because, as he said, Mrs. West would be displeased with it." Roberts and Bogle offered to arbitrate but Cowan refused. Latter on 9 April 1841 got judgment against Roberts and Bogle in Sevier circuit court for \$235.5. debts and \$31.79 damage besides costs. Asked for injunction against Cowan's collecting judgement and an accounting. Rensau & Rodgers, sols. Robert M. Anderson, Chancellor J.C. Henderson, Dept. Clk & Master.

Cowan's Answer, Filed 9 Aug. 1841. W. Duggan, C. & M.

Admitted that West and Roberts & Bogle in hog driving partnership. That West died in 1838 and left will. He qualified as executor Nov. term county court, 1838. West kept book and this used when settlement made. No mention in book of \$200 they claim they gave West when he left Roberts with drove in Georgia. Roberts also had book. Thought the settlement was correct and no proof given of \$200 alleged paid to West. Col. M.C. Rogers helped make settlement and partners, Roberts & Bogle gave him their note. Asked that injunction be dissolved and that he be allowed to collect judgement on note. Hynds, sol.

Depositions, 11 Nov. 1841: Taken before Wilson Duggan, C & M, depositions of Micajah C. Rogers, Samuel Stockton, Joseph P. Lusk. Stockton said he was a "hand" with drove until all sold or baconed up. "I was present on 22nd January 1837 below Danielsville Georgia, when Major Samuel West turned back. I saw Willson P. Roberts pay him West, one hundred & ninety or two hundred dollars." West was to take money back and pay debts that the partners contracted for the drove and this money was money Roberts had received for hogs. Lusk said he was also a hand with drove and he also saw Roberts pay West one hundred & eighty or ninety dollars.

Depositions, 23rd Feb. 1842, taken before Wilson Duggan, courthouse Sevierville. Bogle said he went with drove two or three days and came back. West went on and left Roberts to dispose of hogs. When latter returned said he

had baconed up part of hogs for which he went back two or three times. Tried time or two to make settlement with West, but no final settlement made until after West's death. Then got Col. M.C. Rogers to assist in calculation and result was they owed West over two hundred dollars and we gave Cowan a joint note. "I went home with Roberts to stay all night during my stay with Roberts he frequently remarked there must be something wrong that it was very different to his expectations to fall so far behind after some time had elapsed Roberts said he recollected of giving West near all the money received when he turned back which had not been taken into consideration in the settlement." Roberts and Bogle told Cowan the mistake and asked him to leave "it to men." Cowan wanted to see his attorney first. Had never heard either West or Roberts mention amount given West until after settlement.

M.C. Rogers: "Some one of the three called upon me to go to C. Cowan's house in the upper end of Sevierville, to aid in making said settlement- when I got there all three, Cowan, Bogle and Roberts were present with their books, papers and memorandums, made relative to the cost of the drove of hogs, the expenses of driving and the amount they were sold for- I was jointly requested to look them over- All seemed to wish me to do so- After looking over the papers, I told them if they could give me the amount that each man had paid out, and the amount that each man had received, the settlement could be easily made as it was quite a plain question in fellowship- We went at it at once." "The next day the parties came to my store and after a night's repose and thought, there was something else thought of which altered the amounts, and the whole was calculated over again and it brought Roberts and Bogle less in debt to West than the first calculation, which was over two hundred and thirty dollars and did not exceed two hundred and forty dollars." Bogle and Roberts seemed to think result was different to what they had expected." Had heard Roberts say often that mistake was in his payment to West of two hundred dollars, but this not taken into account in the settlement.

Report of C & M: That proof showed that Roberts did pay West at least \$190. and therefore should have credit for this amount on judgment.