

Dallas County, Texas Probate Cases 1846 – Early 1900's

Case Number 2856

Dallas Genealogical Society
Founded 1955

www.dallasgenealogy.org



FILED BY DALLAS GENEALOGICAL SOCIETY - 1978

2856

FILED BY DALLAS GENEALOGICAL SOCIETY - 1978

Dallas, Texas,

190

Dallas County, To

Dr.

Com. Dist. No.

- FOR**
- (1) Captions
 - (2) Pet for Temp & Per Admin
 - (3) Notice for letters of Admin
 - (4) Ord appointing Temp Admin
 - (5) Bond of Temp Admin
 - (6) Motion of G.C. & S.J. to vacate Temp Admin
 - (7) Ord continuing Temp Admin
 - (8) Ord continuing Temp Admin
 - (9) Exception to G.C. & S.J. Mo to vacate
 - (10) Ord continuing Temp Admin
 - (11) Report of Temp Admin
 - (12) Ord of Court approving Rept of J/A
 - (13) Final Rept
 - (14) Ord of Court approving J/A
 - (15) Certificate
 - (16) Copy of Bond
 - (17) Certificate

ADMINISTRATOR'S BOND.

THE STATE OF TEXAS,
COUNTY OF DALLAS.

Estate of *And P. Bishop Deed*

Know all Men by these Presents, That we *C. N. Cooper*
as Principal, and _____ and _____
as Sureties, are held and firmly bound unto the County Judge of said County of Dallas,
and his successors in office, in the sum of *Five Hundred* Dollars;
conditioned that the above bound *C. N. Cooper* who has
been appointed *Administrator of the Estate of And P. Bishop Deed*
shall well and truly perform all the duties required of him under said appointment.

WITNESS our hands and seals, this *15* day of *April* 190*5*

Attest
J. B. Roberson
Gen agent

FIDELITY AND DEPOSIT CO. of MARYLAND,
John H. ... [SEAL]

I do solemnly swear that *And P. Bishop*, deceased, died without leaving any lawful will, so far as I know or believe, and that I will well and truly perform all the duties of Administrator of the estate of said deceased.

C. N. Cooper

Sworn to and subscribed before me this *15* day of *Apr* 190*5*

F. R. Shunk
County Clerk, Dallas County, Texas.

By *R. H. Lee* Deputy.

6

No. 3721

COUNTY COURT,
DALLAS COUNTY.

ADMINISTRATOR'S BOND.

ESTATE OF

Ind. P. Bishop Deed

Filed

Apr 15 A. D. 1908

F. R. Shaw's Clerk

By

R. H. Lee Deputy

Approved this 15th day of

April

A. D. 1908

Hiram Lindy

County Judge, Dallas County.

Recorded
Book 3 - 225

TEMPORARY ADMINISTRATOR'S BOND.

THE STATE OF TEXAS. } Estate of Fred P. Bishop
COUNTY OF DALLAS. } **DECEASED.**

Know all Men by these Presents, That we, C. H. Cooper
as Principal, and _____ and _____
as Sureties, are held and firmly bound unto the County Judge of said County of Dal-
las, and his successors in office, in the sum of Five Hundred Dollars;
conditioned that the above bound C. H. Cooper who has
been appointed Temporary Administrator of the Estate of Fred P. Bishop
Deceased, shall well and truly perform all the
duties required of him under said appointment.

WITNESS our hands and seals, this 27^e day of Dec 1904

Attest J. H. Labors
in court

FIDELITY AND DEPOSIT CO. of MARYLAND
BY John Davis
Agency in Fact [SEAL]

I do solemnly swear that I will well and truly perform all the duties of Temporary
Administrator of the Estate of Fred P. Bishop Deceased, in
accordance with law, and with the order of Court appointing me such Administrator.

C H Cooper

Sworn to and subscribed before me this 27^e day of Dec 1904

J. R. Shanks
County Clerk, Dallas County, Texas.
By R. H. Lee Deputy.

NOTICE OF APPLICATION FOR LETTERS OF ADMINISTRATION.

THE STATE OF TEXAS,

To all Persons Interested in the Estate of Fred P. Bishop
Deceased.

C. H. Cooper has filed in the County Court of Dallas
County, State aforesaid, an application for Letters of Administration upon the estate
of said decedent Fred P. Bishop.
which application will be heard and acted upon by said Court at the next term thereof,
to be held at the Courthouse in the City of Dallas, County of Dallas and State of Texas,
and commencing on the first Monday in March 1905, at which time and
place all persons interested in said estate shall appear and contest said application
should they desire to do so.

WITNESS: FRANK R. SHANKS, County Clerk of Dallas County, Texas.

Given under my hand and the seal of said Court, at office in the City
of Dallas, this 27 day of Dec 1904

FRANK R. SHANKS,
County Clerk, Dallas County, Texas.

By R. H. Lee Deputy.

113307

(5)

No. 3721

COUNTY COURT,
DALLAS COUNTY.

BOND OF TEMPORARY ADMINISTRATOR.

ESTATE OF
Frank P. Bishop

DECEASED.

Filed *Dec 27* A. D. 190*4*

J. N. Shanks Clerk.

By *R. H. Lee* Deputy.

Examined and Approved this *27th*

day of *Dec.* A. D. 190*4*

Hiram F. Finch
County Judge, Dallas County.

STATE HILLMANSON PRINTING DALLAS TEXAS

Recorded

Book 3-274

(3) *< Original >*

No. *3721*

COUNTY COURT.

ESTATE OF
Frank P. Bishop

Deceased.

**Notice of Application for Letters
of Administration.**

Issued *27* day of *Dec.*

190*5* **FRANK R. SHANKS.**
County Clerk, Dallas County, Texas.

By *R. H. Lee* Deputy.

SHERIFF'S RETURN.

Came to hand the *27* day of *Dec*
190*4* and executed the *27* day of *Dec*
190*4* by posting up three copies of this writ at three
public places in Dallas County, one of which was at
the Court House door of said County, and no two of
which were in the same town or city.

A. L. Hedderley
Sheriff Dallas County.

By *James South* Deputy

STATE HILLMANSON PRINTING DALLAS TEXAS

Posting 3 copies 300

FILMED BY DALLAS GENEALOGICAL SOCIETY - 1978

THE STATE OF TEXAS,

TO THE SHERIFF OR ANY CONSTABLE OF DALLAS COUNTY, GREETING:

Whereas on July 18th, 1905, the Gulf Colorado & Santa Fe Railway Company filed in the District Court, 14th Judicial District ~~State~~ of Texas, a petition complaining of C. H. Cooper, Administrator, Jennie W. Bishop and her two minor children, Josiah Brooks Bishop and Sarah M. Bishop, said petition being Numbered 502, and alleging in substance that on the 27th day of December, 1904, said C. H. Cooper filed in the probate court of Dallas County, Texas his application for the appointment of temporary administrator of the estate of Fred P. Bishop, deceased; that on Dec. 27, 1904, Hon. H. F. Lively Judge of said probate court appointed said Cooper temporary administrator of said estate and on January 2nd, 1905, the said court continued in force the said order appointing said Cooper temporary administrator; that on January 9, 1905, said Gulf Colorado & Santa Fe Rwy Co filed in said probate court a contest of said appointment of said temporary administrator which said contest was on January 16, 1905, overruled by said court and on April 14, 1905, the said ~~Kirk~~ Cooper appointed permanent administrator of said estate; that on April 15th 1905, said administrator filed his report showing that he had received no property belonging to the estate of said Bishop and had filed suit in the Federal Court against the petitioner and the Atchison Topeka & Santa Fe Ry Co for the use of said estate; that said temporary administration was closed on that date and said administrator authorized to employ a counsel to prosecute said suit; that petitioner makes application for a writ of certiorari directed to Clerk of the County Court of Dallas County, Texas requiring him to make out a transcript of the record in the matter of the Estate of Fred P. Bishop, deceased, No. 3721, and the said Gulf Colorado and Santa Fe Rwy Co., having giving bond as required by the fiat of said court and having obtained an order from said Court directing that the writ of CERTIORARI issue at once, requiring said clerk of the County Court of Dallas County, Texas, to send up to this Court, without delay, a complete record in the matter of said estate;

These are therefore to Command You that you cite the said Clerk, by delivering to him a true copy of this writ, to obey said order at once, and to send up to the Clerk of this Court a certify copy of said proceedings, and that you return this writ forthwith, with your endorsement showing have you have executed the same.

Witness, A. B. Rawlins, Clerk of the District Court, Dallas County, Texas, with the seal thereof annexed, at Dallas, this the 29th day of July, 1905.

A. B. RAWLINS, Clerk,

By H. Newlands Deputy.

No. 502

(14)

In Re Estate of

Fred P. Bishop,

Deceased.

WRIT OF
CERTIORARI.

Issued, This July 25, 1905

A. B. Rawlins, Clerk,

By H. Williams
Deputy.

CITY

Estate of Fred P. Bishop Deed 3 April 1905
C. H. Cooper Adm'r 3

Now on this day comes C. H. Cooper and files and presents for approval his bond and oath of office as ~~was~~ as administrator of the estate of Fred P. Bishop dead. And said bond being examined and adjudged sufficient it is ordered that the same be approved - and the oath of office being in compliance with the terms of the Statute it is ordered that the Clerk issue to said C. H. Cooper letters of administration on said estate.

Hiram F. Lindly
Co. Judge -

Estate of Fred P. Bishop Deed 3 April 1905
C. H. Cooper Adm'r 3

Now on this day came on to be heard the inventory and appraisement of the estate of Fred P. Bishop dead filed by the administrator, which being examined is approved and duly recorded. It appearing to the Court that the claims for undesignated damages are not susceptible of appraisement at this time it is ordered that upon the return of final judgment or judgments on said claims that said administrator file an additional inventory thereof.

Hiram F. Lindly
Co. Judge

① No 3721

Est of Fred P Bishop Deed

Order on Bond of admrs
" " Directors "

Copy from minutes
for transcript

21
198-9

Estate of Fred P. Bishop Deceased Inventor.

C. H. Cooper Adminr

To the Hon. W. F. Lively County Judge of Dallas County.

C. H. Cooper administrator of said estate shows to the Court that the following constitutes the whole of the property of said estate situated in the State of Texas which has come to his knowledge:

- (1) A Cause of action for the use of the estate against the Gulf, Colorado and Santa Fe Railway Company - a railroad Corporation Company incorporated under the laws of the State of Texas which has a line of road extending through Dallas County and an agent in Dallas County as also against the Atcherson Pipe and Santa Fe Railway Company, a Kansas Corporation doing business in and having agents at several points in Texas, as joint tortfeasors for personal injuries inflicted ^{through the negligence of} said Railway Companies upon the said Fred P. Bishop resulting in pain and suffering mental and physical to the said Fred P. Bishop. Which cause of action under the laws of the United States in force in the Indian Territory where said injuries were inflicted survives to the estate and is required to be prosecuted by the administrator.
- (2) There is also a cause of action against the same above named railroad Companies for the negligent infliction of personal injuries upon the said decedent resulting in his death of which cause of action is required to be prosecuted by the administrator but the proceeds of which are to be for the use and benefit of the surviving wife and children of said decedent. The said Bishop having left surviving him his wife Jennie W. Bishop and two minor children.
- (3) The administrator further reports that there are no other debts within the State of Texas owing to said estate, and no claims against said estate that have come to his knowledge. And the above is a full and complete inventory of the property and claims of said estate that have come to his knowledge.

C. H. Cooper administrator

Subscribed to and subscribed before me this 15 day of April 1900

R. Heaps

Notary Public of
Dallas County
Texas

State of Texas

Dallas County, Tex W.S. Rogers and Thos S. Plowman

Plowman two of the three appraisers appointed of the estate of Fred P. Bishop decd having examined the statement, ^{above} made by C. H. Cooper administrator of the estate of Fred P. Bishop decd are of opinion that it is impracticable to fix a value on the same until final judgment shall have been recovered on the causes of action therein stated. and recommend that upon the recovery of final judgment upon said causes of action the administrator be required to file an additional inventory when an appraisement fixing the value can be made.

W.S. Rogers

Thos S. Plowman

Done to and subscribed before me this 15th day of April 1905

R. Heapers

Notary Public

of Dallas Co. Texas

E No 972 (17)
Estate of
Fred P. Bishop Decd
Inventory

FILED

APR 15 1905

R. Heapers

April 15th 1905

Examined and
Approved

Wm. F. Kirby
Ct Judge

RECORDED 9-50

Estate of Fred P Bishop Deceased In County Court - In Probate
Temporary Administration

C. H. Cooper Exec. Adm^r

To the Hon H. F. Lively County Judge:

C. H. Cooper heretofore appointed temporary administrator of the estate of Fred P Bishop deceased makes this his report of such administration - He having qualified as permanent administrator.

He has received no property belonging to said estate since his appointment and has none to account for.

He further reports that he instituted suit in the United States District Court for the Northern District of Texas against the Gulf Colorado and Santa Fe and the Atchison Topeka and Santa Fe Railways for the use of the estate for the ^{personal} injuries inflicted by them of the decedent as well as for the use of the widow and children for the death of Fred P Bishop negligently caused by said defendants. But the Gulf Colorado and Santa Fe Ry Company plead its personal privilege to be sued in the Southern District of Texas where it its general office is situated and its plea was sustained by the Court which effected a dismissal of the cause.

Your Adm^r would further report that there are no claims against said temporary administration except the Court costs. That he has the same security on his bond as permanent administrator that he had as temporary administrator. He therefore asks that the cost bill be taxed against the ^{general} administration and that he be discharged as temporary adm^r his term having already expired.

C. H. Cooper
Temporary Administrator

Account to and subscribed before me this 15th day of April 1905.

Frank P Shauld Clerk
By R. N. Lee Deputy

No 3721 (10)
Estate of Mrs P Bishop
decd
Report of Temporary Admin

FILED

APR 15 1906

FRANKLIN COUNTY CLERK
R. Lee

Estate of Paul P. Bishop Deceased In Co Court Dallas Co
C. H. Cooper Administrator In Probate.

To the Hon. H. F. Lively, C. J.:

C. H. Cooper Admin of said estate shows to the Court that in order to recover the claim in favor of said estate as well as the claim for the use of the widow and children of the decedent against the Gulf Colorado and Santa Fe and the Atchison Topeka and Santa Fe Ry Cos it will be necessary to employ counsel. And he therefore asks that he be authorized to employ H. R. Craig, who has associated with him John W. Scarborough as attorney, as his counsel in both suits and pay for such services one half ^{proceeds of the} recovery in each case contingent upon and payable out of such proceeds only. The attorneys above named have a contract on the terms above named with the surviving wife of said decedent.

C. H. Cooper
Administrator

No 3721

Estate of
Frnd P. Bishop
Deed

Appl- for authority to employ
Council

FILED

APR 15 1905

FRANKLIN COUNTY, MASS.

R. H. Lee

Estate of Fred P. Bishop Deed April 15th 1905

C. H. Cooper Adm^r

Now on this day, came on to be heard the application of C. H. Cooper Administrator for authority to employ Counsel for the prosecution of the claim in favor of said estate against the Gulf Colorado and Santa Fe Ry Co and the Atchison Topeka and Santa Fe Ry Co and also for the prosecution of the claim against the same defendants for the use of the widow and minor children of the decedent, ^{as dependent in the inventory} at a fee of one half the amount collected on such claims, ^{and} each of them.

And it appearing that such employment is necessary and the fee reasonable it is ordered that said application be granted and said Administrator authorized to enter into such contract with H. R. Crain ~~and his associates~~ for the payment out of the proceeds of such claims and each of them when collected of one half the amount so collected.

Wm. F. Lively

C. Judge

No 3721

Estate of Fred P. Bishop
Deed

Order Authorizing Adm'r
to employ Counsel to bring
suit

21
199

Estate of Ford P. Bishop Deed April 14th 1905

C. H. Cooper Adm.

Now on this day came on to be heard the application of C. H. Cooper for letters of administration on the estate of Ford P. Bishop decd. And it appearing to the Court that notice of such application has been given in the manner prescribed by law. And it further appearing to the Court that Ford P. Bishop died intestate in the Indian Territory on or about Feb'y 12th 1904 and at the time of his death was a resident of Oklahoma Territory. ~~It~~ It further appearing that there ^{is property in some personal or real estate and that there} is a necessity for an administration on said estate in Texas. That C. H. Cooper is not disqualified from acting as such administrator and that there is no other person resident of Texas entitled to the preference right to the appointment it is ordered that C. H. Cooper be and he hereby is appointed administrator of the estate of Ford P. Bishop deceased and that letters of administration issue to him upon his entering into bond in the sum of five hundred dollars and taking the oath prescribed by law. It is further ordered that said C. H. Cooper return an inventory of said estate and that Kenneth Force, W. S. Rogers and Tom Phloxman be and they are hereby appointed appraisers of said estate.

Hiram F. Lively
Co. Judge

④ No 3721

Estate of And P Bishop
Seed

C H Cooper Admtr

Order Appointing Admtr

Copy from minutes
for transcript

NA
7

$\frac{u}{198}$

Estate of

Frank P. Bishop Decd.

January 16th 1905

Contest of Gulf Colorado and Santa Fe Ry

Now on this day came on to be heard the Contest of the Gulf Colorado and Santa Fe Railway Company ⁱⁿ ~~and~~ the motion of said Ry Co to vacate the temporary administration herein and to vacate the appointment of C. H. Cooper as temporary administrator and both parties by their respective attorneys appeared and announced ready for trial.

Thereupon came on to be heard the exceptions of the administrator to the Contest and motion of the Gulf Colorado and Santa Fe Railway Company on the ground that the interest disclosed by its application is not such interest in the estate as entitles it to be heard in this matter, which exceptions are in all things overruled. To which ruling of the Court the administrator C. H. Cooper by his attorney in open Court excepts.

The motion of the Gulf Colorado and Santa Fe Ry Company being then fully considered by the Court it is ordered that the same be in all things overruled and refused, and that the ~~administrator C. H. Cooper~~ ~~of this proceedings~~ be and the same are hereby adjured and taxed against the said Gulf Colorado and Santa Fe Railway Company for which execution may issue. To which judgment and order of the Court the said G. C. & S. F. Ry Co in open Court excepts and gives notice of appeal to the District Court of Dallas County.

Hiram F. Hardy

C. J. Judge

Dallas Co Tex

Estate of
 Fred P Bishop
 Deed
 Contract of 4 Cr & Prefs
 Draft of
 Order overruling
 Contract

OK
Good

~~Write~~

Make OK with
 return or if no
 change be made
 back to Clerk

OK
 Alexander Thompson

In re

Estate of Fred P. Bishop, dec'd

C. H. Cooper, Admin'r

San Diego County Court

Dallas County

Now comes the administrator C. H. Cooper and
excepts to the contest or motion of Gulf Colorado &
Santa Fe Ry Co to vacate this administration and
for grounds of such exceptions says that the motion
of said Ry Company discloses the fact that it is
not interested in the estate of Fred P. Bishop dec'd
and has no such interest in this administration as entitles
it to make this contest, wherefore he moves the
Court to strike out and dismiss said motion and
contest.

K. R. Crutcher
Attorney for C. H. Cooper
Receiving Admin'r

⑦ No 3721 (7)
Order of
Jmd P Bishop
Shed

Exceptions to motion
of the Island vs Ryle

FILED

JAN 11 1898
FRANKLIN COUNTY COURT
J. P. Allison
DEPUTY

K. R. Craig
Atty for Admt

Estate Fred P. Bishop Deed July 2nd 1905
Temporary Administration

It is ordered that the temporary administration of the Estate ~~with~~ of Fred P. Bishop deed be continued in force and that C. H. Cooper temporary administrator thereof be continued in office as such until the appointment and qualification of a permanent administrator of said estate - application for which is now pending.

Hiram P. Shook
C. J. Judge

No 272 (9)
Temporary Admin^r of
Estate of
Fred P Bishop
Deed

C. H. Cooper
Temporary Admin^r

Order Continuing Tem-
porary Admin^r in force

State of Texas } In the County Court of Dallas County
Dallas County } In Probate

To the Hon. H. F. Lindly, County Judge:

C. K. Cooper shows to the Court that on to-wit: the 12th day of February, 1904 Fm. P. Bishop a resident of Oklahoma Territory departed this life intestate leaving surviving him a wife Jennie W. Bishop and two minor children, Josiah Brooks Bishop and Sarah May Bishop, who reside in Oklahoma Territory. He further shows that there is in this State a claim for unliquidated damages for personal injuries causing the death of said Fm. P. Bishop against the Gulf Colorado and Santa Fe Railway Company and the Atchafalaya, Paduca and Santa Fe Railway Company, ^{both of which, and each, are agencies in Dallas County, Texas -} arising under the laws in force by virtue of an Act of Congress of the United States in force in the Indian Territory where said injuries were inflicted, recoverable by the Administrator for the use and benefit of the widow and minor children aforesaid. That for the purpose of instituting and prosecuting a suit for the recovery of said damages in this State it is necessary that an Administrator of said estate be appointed by this Court.

Your Applicant further shows that it is necessary for the purpose of ^{securing and} procuring testimony to support said claim that a temporary Administrator be appointed, pending this application for permanent administration.

Your Applicant further shows that there is no person resident in Texas of any of the classes named by the statute as having the preference right of administration. That he is not disqualified from acting as such administrator and he prays upon proper notice that he be appointed

C. K. Cooper
By his Attorney, ~~C. K.~~ K. R. Craig

(2)

② 3721

Letter of
Ind. P. Bishop
Reedy

Appln for letters of
Administration
Temporary & Permanent

FILED

DEC 27 1964

B. J. Cullom

Notices issued 7/27/64

K. R. Craig

City for Applicant

Wednesday, September 27th, 1905.

Gulf, Colorado & Santa Fe Ry., Co., Appellant. III
No. 636. --vs-- III
C. H. Cooper, Administrator III
Appellee. III

In the District Court of Dallas County, Texas, 14th Judicial District
Appeal from Probate Court of Dallas County.

On this, the 20th day of September, 1905, there came on to be heard on regular call of the docket, in open Court, the above entitled and numbered cause, in which the Gulf, Colorado & Santa Fe Railway Company is Appellant and C. H. Cooper, Administrator, is Appellee, pending on Appeal from the County Court of Dallas County, Texas; and both parties having announced ready for trial; and the demurrers of defendant to the appeal and to the petition of Gulf, Colorado & Santa Fe Ry. Co. were thereupon presented and having been considered by the Court the said demurrers are in all things overruled to which ruling of the Court the Defendant, C. H. Cooper, Adm'r., ~~is~~ in open Court excepts and thereupon the issues of fact as well as of law were submitted to the Court without the intervention of a jury.

And, after hearing the evidence and the argument of counsel for the respective parties, it is the opinion of the Court that jurisdiction on the part of the County Court of Dallas County was improperly assumed over the estate of Fred P. Bishop, deceased, and that letters of administration were improperly granted to C. H. Cooper, Administrator, Appellee herein by the County Court of Dallas County;

It is therefore adjudged and considered, and so ordered by the Court, that the said Orders of the County Court appointing C. H. Cooper permanent Administrator of the estate of Fred P. Bishop, deceased, and all subsequent orders in said administration made be revoked and held of no force and effect, and be treated as null and void, for want of jurisdiction. And that all costs of this proceeding be taxed against

G. H. Cooper, for which execution shall issue. To which ruling of the Court the Appellee, G. H. Cooper, Administrator, by his attorney, in open Court, excepted, and gave notice of Appeal to the Court of Civil Appeals for the Fifth Supreme Judicial District of Texas, at Dallas.

The Clerk of this Court will certify to the County Court of Dallas County, a copy of this Order and Judgment.

The State of Texas. ||

County of Dallas. ||

I, A. B. Rawlins, Clerk of the District Courts of Dallas County, Texas, hereby certify that the above and foregoing is a true and correct copy of the Order and Judgment in cause No. 686, styled: Gulf, Colorado & Santa Fe Railway Company, Appellant, -VS- G. H. Cooper, Administrator, Appellee, as same now appears of record in my office in Vol. 19 page 555 of the Minutes of the 14th Judicial District Court in and for the County of Dallas, State of Texas.

In witness whereof, I have hereunto affixed my official signature and the Seal of the said Court at office in the City of Dallas, this the 27th day of September, A. D. 1905.

A. B. Rawlins, Clerk, District Courts,
Dallas Co., Texas

By *S. F. Jackson*
Deputy.

No. 3721 .

In re Estate of Fred P. Bishop, Deceased.

§
§
§

In County Court,
Dallas County, Texas.

WHEREAS, on the 22nd day of July 1905, came on to be heard the motion of the Gulf Colorado & Santa Fe Railway Co. to vacate the administration in the above matter and to hold null and void the appointment of C. H. Cooper as administrator of the above estate, and the Court having heard the same, and having overruled said motion; &

WHEREAS, the said Gulf Colorado and Santa Fe Railway Co., in open court, excepted to the ruling of the court and gave notice of appeal to the District court of Dallas County, Texas, and the court having fixed the amount of this bond to be given by the said Gulf Colorado and Santa Fe Railway Co. at the sum of Three hundred Dollars:

NOW THEREFORE, we the Gulf Colorado and Santa Fe Railway Co., as principal and _____ and _____ as sureties acknowledge ourselves bound to pay unto H. F. Lively Judge of the County Court of Dallas County, Texas, the sum of Three Hundred (\$300.00 Dollars; Conditioned, that the said Gulf Colorado and Santa Fe Railway Co. shall prosecute said appeal to effect, and perform the decision, order, decree or judgment which the District Court shall make thereon, in case the case shall be decided against it upon such appeal.

Witness our hands this 27th day of July, 1905.

The Gulf, Colorado and Santa Fe Railway
Company, by J. W. Terry, its solicitor.

J. W. Sealey,
Geo. Sealey.

Approved:

F. R. Shanks, Clerk County Court,
Dallas County.

By B. F. Cullum, Deputy.

The State of Texas,
County of Dallas.

I, J. F. Simons, Clerk of the District court in and

for said County of Galveston, do hereby certify that Jno. Sealey, Geo. Sealey, whose names appear signed to the annexed bond, are good, ample security for the amount therein stipulated; that they have property in said County subject to execution to a larger amount, and that if said bond was offered to me for approval, the same would be accepted and approved.

To certify which, I hereunto set my hand and the impress of my official seal at my office, in the City of Galveston, on this the 27th day of July, 1905.

J. F. Simons, Clerk District court,
Galveston, County.

By F. T. Simons, Deputy.

Filed Jul. 27, 1905.

Frank R. Shanks, Co. Clerk,
By B. F. Cullom, Deputy.

The State of Texas,
County of Dallas.

I, Frank R. Shanks, Clerk of the County Court in and for the County of Dallas, State of Texas, do hereby certify that the above and foregoing is a true and correct copy of Appeal bond, Est. of Fred P. Bishop, Deceased, No. 3721. as the same now appears from the original now on file in my office.

Witness my hand and seal of office this the 9th day of Sept. 1905.

Frank R. Shanks, County Clerk,

By *R. W. Lee* Deputy.

No. 3721 : In the Probate Court of
In the Matter of the Estate of :
of Fred P. Bishop, Deceased. : Dallas County, Texas.

To the Honorable Judge of said Court:

Your petitioner, Gulf Colorado & Santa Fe Railway Company, represents that it is interested in this matter, for that, as shown by the application of C.H. Cooper, for letters of administration herein, it is one of the railroad companies against whom the deceased's estate is said to have a claim for unliquidated damages, on account of alleged personal injuries resulting in death, and this Honorable Court has authorized suit against your petitioner and the Atchison Topeka & Santa Fe Railway Company on said alleged claim, and suit has been brought thereon by said C.H. Cooper, as permanent administrator of said estate, in the Circuit Court of the United States for the Southern District of Texas, at Galveston.

For matter of complaint your petitioner moves the court to abate the permanent administration granted herein on the 14th day of April, 1905, and to vacate, set aside and hold for naught the orders made on said 14th day of April, 1905, granting permanent administration herein and appointing C.H. Cooper permanent administrator of this estate; and to vacate, set aside and hold for naught any and all action or things done by the said C.H. Cooper since his appointment as permanent administrator, and as grounds for such motion your petitioner would show:

1. That this court is without jurisdiction in this cause, and the said orders granting permanent administration herein and appointing said C.H. Cooper permanent administrator, are wholly null and void, because-

(a) It does not appear from the application for letters of

administration filed herein, that the deceased, Fred P. Bishop, left any estate to be administered upon; the only item of property mentioned is an alleged claim for unliquidated damages, and under the laws of Texas this is the property of the surviving wife and children and forms no part of the estate of deceased, and such claim is not a property right of the said estate under any law which can be enforced by the courts of this state.

(b) Because it appears from said application that the deceased was, at the time of his death, a resident of Oklahoma Territory, and that his surviving wife and children now reside in said Territory; and it does not appear therefrom that the deceased died in Texas, and especially in Dallas County, Texas; nor does it appear that the deceased ever had, or that his estate now has, any property in Dallas County, Texas; nor does it appear therefrom that the deceased had at the time of his death, or now has, any relatives or kin in Dallas County; nor does said application state any other facts which, under Article 1643 of the Revised Statutes of Texas, or under any other law of this state, to give this court jurisdiction over the estate of the said Fred P. Bishop, deceased.

It is further shown by the report of the appraisers appointed by your Honor on the 15th day of April, 1905, that the only property or property right or asset belonging to the estate of said Fred P. Bishop, deceased, is the claim for damages, aforesaid, against your petitioner and the Atchison Topeka & Santa Fe Railway Company; that it is shown by the report of the said C.F. Cooper, temporary administrator, made heretofore on the 15th of April, 1905, that the only assets belonging to the estate of said Fred P. Bishop, deceased, was the aforesaid cause of action, and it is further shown by the said report that there were no claims outstanding against said estate; that the facts stated to give this court jurisdiction relate to an alleged claim for damages; if any part of the deceased's estate,

4904

which your petitioner says it is not, this claim does not give the court jurisdiction. That the deceased resided out of the State of Texas at the time of the alleged injuries and not in Dallas County; ~~the alleged injuries were received in the Indian Territory and not~~ in Dallas County, Texas; the situs of this claim, if a part of deceased's estate, would be in Oklahoma Territory, where he resided, and not in Dallas County.

(c) Because No facts are shown or alleged in said application showing a necessity for administration. Deceased died intestate; it is shown there are no debts against his estate; on the contrary, the reports of the administrator made heretofore on April 15, 1905, shows that there are no debts outstanding against the said estate; the claim for damages on account of his death is the property of his surviving wife and children, and is no part of his estate.

The deceased is not shown to have left any property. No reason is shown why the wife, for herself and as next friend for her minor children, could not sue upon the claim for damages, as well as can the temporary administrator. The sole purpose of the administration is, that suit may be brought upon this claim, and that it may be brought in Dallas County; but the application does not state any facts showing why it would be to the interest of the deceased's heirs to have the suit brought at Dallas and not in Oklahoma Territory, where the heirs reside.

2. That administration on the estate of deceased should be had in Oklahoma Territory, where he resided at the time of his death, and where his surviving family now reside, and where his estate, if any, is situated.

Your petitioner would show that by the laws of Oklahoma Territory, in force at the time deceased died, and at the present time, as provided in paragraph 1176, Ch 10, Art 1, Sec.7, administration must be taken out on the estate of residents of said

Territory, regardless of where they die, in the County of their residence.

3. That this administration is a fraud upon the rights of your petitioner, in that it authorizes said suit against it at Dallas, in Dallas County, Texas, where, in the absence of such administration, suit could not be brought upon this alleged claim, and in that, the administration is sought, not from any necessity, nor for the best interests of the estate, but for the sole purpose of suing upon said claim in Dallas County, and of attempting to confer jurisdiction upon the person of this petitioner on the Circuit Court of the United States for the Southern District of Texas, at Galveston, which court, but for said administration, would not have a color of jurisdiction over the person of this petitioner in a suit based upon said alleged claim.

Your petitioner would show that the surviving wife and children of the deceased are citizens and residents of Oklahoma Territory; that the deceased was a citizen and resident of Oklahoma Territory at the time of his death; that the alleged injuries were received at Purcell, in the Indian Territory; that your petitioner and the Atchison Topeka & Santa Fe Railway Company are the only persons charged with causing said injuries; that the said Atchison Topeka & Santa Fe Railway Company is a resident and citizen of the State of Kansas; that your petitioner is a resident of Galveston County, in the Southern District of Texas, and not a resident of Dallas County, in the Northern District of Texas. That no necessity is shown for said administration, and that it is not shown that the interests of the estate will be best subserved by having administration in Dallas County.

Wherefore, your petitioner prays that this motion may be in all things granted. It also prays for general relief.

Alexander Thompson *Wainwright*
Attorneys for Petitioner,
G.C.&S.F. Ry Co.

⑥ #372 ~~10~~

In Re estate of
Fue P. Bishop.

Motion of G. C. et F. R.
Geo. to vacate Admini-
stration

FILED

JUL 19 1905

FRANK S. SHANKS, Co. Clerk.

By *B. J. Callaway*
Deputy.

ALEXANDER & THOMPSON,
ATTORNEYS AT LAW,
DALLAS, TEXAS.

No. 3721

In the Matter of the Estate of : In the Probate Court of
Fred P. Bishop, Deceased. : Dallas County, Texas.

To the said Honorable Court:

Your petitioner, Gulf, Colorado & Santa Fe Railway Company, with respect would represent, that it is interested in this matter, for the reason that, as is shown by the application of C.H. Cooper for letters of administration herein, it is one of the railway companies against whom the deceased's estate is said to have a claim for unliquidated damages on account of alleged personal injuries resulting in death, and this honorable court has authorized suit against your petitioner and the Atchison Topeka & Santa Fe Railway Company on said alleged claim, and suit has been brought thereon by said C.H. Cooper, as temporary administrator of this estate, in the Circuit Court of the United States for the Northern District of Texas, at Dallas.

For matter of complaint, your petitioner moves the court to abate the temporary administration granted herein on December 27, 1904, and to vacate, set aside and hold for naught the order made on said December 27, 1904, granting temporary administration herein and appointing C.H. Cooper temporary administrator of this estate; and to vacate, set aside and hold for naught the order made on January 2, 1905, continuing the temporary administration granted herein, and continuing the said C.H. Cooper in office as temporary administrator; and as grounds for this motion your petitioner would show:

First.

That this court is without jurisdiction in this cause, and the said order granting temporary administration herein and appointing

the said C.H.Cooper temporary administrator, is wholly null and void,

Because (a) it does not appear from the application for letters of administration filed herein that the deceased, Fred P. Bishop, left any estate to be administered upon, wife and children, and is no

part. The only item of property mentioned is the alleged claim for damages; and under the laws of Texas this is the property of the surviving wife and children, and forms no part of the estate of the deceased, and the said claim is not a property right of the said estate under any law which can be enforced in the courts of this state.

Because (b), it appears from the said application that the deceased was at the time of his death a resident of Oklahoma Territory, and that his surviving wife and children now reside in said Territory; and it does not appear therefrom that the deceased died in Texas, and especially in Dallas County; nor does it appear therefrom that the deceased ever had or that his estate now has any property in Dallas County, Texas; nor does it appear therefrom that the deceased had at the time of his death or now has any relative or kin in Dallas County; nor does the said application state any other facts which, under Art. 1842 of the Revised Statutes of Texas, or under any other law of this state, would give this court jurisdiction over the estate of the said Fred P. Bishop, deceased.

The facts stated to give this court jurisdiction relate to the alleged claim for damages. If any part of the deceased's estate, which your petitioner says it is not, this claim does not give the court jurisdiction. The deceased resided out of Texas at the time of the alleged injuries, and not in Dallas County. The alleged injuries were received in the Indian Territory and not in Dallas County, Texas. The situs of this claim, if a part of deceased's estate, would be in Oklahoma Territory, where he resided, and not in Dallas County, Texas.

Because (c) no facts are alleged in the application showing a necessity for administration.

The deceased died intestate. It is not shown that there are any debts against his estate. The claim for damages on account of his death is the property of his surviving wife and children, and is no part of his estate.

The deceased is not shown to have left any property. No reason is shown why the wife, for herself and as next friend for her minor children, could not sue upon the claim for damages, as well as can the temporary administrator. The sole purpose of the administration is, that suit may be brought upon this claim, and that it may be brought in Dallas County; but the application does not state any facts showing why it would be to the interest of the deceased's heirs to have the suit brought at Dallas and not in Oklahoma Territory, where the heirs reside.

Second.

That the said order continuing the temporary administration and continuing the said C.H. Cooper as temporary administrator, is void and of no force and effect whatever, because said order is vague and indefinite and does not specify any particular time to which said temporary administration is continued.

Third.

That the temporary administration granted herein expired by operation of law on January 2, 1905, when the next term of this court after the same was granted convened, and no valid order was made continuing the same.

Fourth.

That the administration on the estate of deceased should be had in Oklahoma Territory, where he resided at the time of his death, and where his family now reside, and where his estate, if any, is situated.

Your petitioner would show that by the laws of Oklahoma Territory, in force at the time deceased died, and at the present time, as provided in Paragraph 1176 Ch 18, Art 1, Sec. 12, administration must be taken out on the estate of residents of said Territory, regardless of where they die, in the county of their residence.

Fifth.

That this administration is a fraud upon the rights of your petitioner, in that it authorizes said suit against it at Dallas, in Dallas County, Texas, where, in the absence of such administration, suit could not be brought upon this alleged claim; and in that the administration is sought, not from any necessity nor for the best interests of the estate, but for the sole purpose of suing upon said claim in Dallas County, and of ^{attempting to confer} conferring jurisdiction over the person of this petitioner upon the Circuit Court of the United States for the Northern District of Texas, at Dallas, which court, but for this administration, would not have ^{a claim} jurisdiction over the person of this petitioner in a suit based upon said alleged claim, ~~and~~

Your petitioner would show that the surviving wife and children of the deceased are citizens and residents of Oklahoma Territory; that the deceased was a citizen and resident of Oklahoma Territory at the time of his death; that the alleged injuries were received at Purocell in the Indian Territory; that your petitioner and the Atchison Topeka & Santa Fe Railway Company are the only persons charged with causing said injuries; that the said Atchison Topeka & Santa Fe Railway Company is a resident and citizen of the State of Kansas; ~~and~~ that your petitioner is a resident of Galveston County, in the Southern District of Texas, and not a resident of Dallas County in the Northern District of Texas; ^{that no necessity is shown for said administration; and that it is not shown that the interests of the estate will be best subserved by having administration in Dallas County.} Wherefore your petitioner prays that this motion may be in all things granted. It also prays for general relief.

Alexander & Thompson
Attorneys for
Gulf Colorado & Santa Fe Railway Company.

No. 3721. (6)

In the Matter of the Estate
of Fred P. Bishop, Deceased.

Motion to Abate Tempo-
rary Administration
and to Annul Orders

FILED

JAN 9 1905

FRANK R. SHANKS, Clerk
BY *[Signature]*
CLERK

ALEXANDER & THOMPSON,
ATTORNEYS AT LAW,
DALLAS, TEXAS.