

# Treasure of Walker County

by Thomas E. Jordan

## 15th Annual Fiction Writing Competition

The Editorial Board of the *Georgia Bar Journal* is proud to present "Treasure of Walker County," by Thomas E. Jordan of Atlanta, as the winner of the 15th Annual Writing Competition.

The purposes of the competition are to enhance interest in the *Journal*, to encourage excellence in writing by members of the Bar and to provide an innovative vehicle for the illustration of the life and work of lawyers. As in years past, this year's entries reflected a wide range of topics and literary styles. In accordance with the competition's rules, the Editorial Board selected the winning story through a process of reading each story without knowledge of the author's identity and then ranking each entry. The story with the highest cumulative ranking was selected as the winner. The Editorial Board congratulates Jordan and all of the other entrants for their participation and excellent writing.

Petticoat Cave was officially on the "closed cave list." A closed cave meant that the landowner on whose land the entrance to a cave laid no longer allowed cavers to go onto his property to get access to the cave's entrance. Unofficially the landowner of the entrance to Petticoat Cave, Chad Cooper, allowed a couple of cavers whom he personally knew to lead small groups of experienced cavers into Petticoat Cave two or three times a year. The customary practice was for the trip leader to call ahead and get permission for a specific day. These were private trips and were never published in the trip calendar for any caving club.

On this day in late May, Samuel Taylor gave his standard safety briefing to five other cavers before they started the walk up the wooded slope to the cave's entrance. He never liked to be addressed as "Sam," and he really disliked "Sammy." Everyone who knew him always called him "Samuel."

In addition to Samuel, the trip included Dan Owen, Jimmy Riker, Frank and Cathy Richards, Mark Anderson and Suzy Packer. Frank and Cathy were a married couple. They met in Georgia Cavers and it was the second marriage for both of them. Mark Anderson and Suzy Packer had also met in Georgia Cavers and were dating.

Even though Cooper generally allowed up to three caving trips a year, it had actually been more than a year since the last trip into this cave. There is no shortage of caves in north Georgia. The official "closed cave" list barely put a dent in the number of caves available to cavers. Accordingly, there was really no need to pester Cooper about going into Petticoat Cave.

The entrance to this particular cave was fairly easy to maneuver through and it led into a wide chamber. About a hundred yards into the cave, Samuel stopped in his tracks. This didn't look like the same cave that he remembered. Two of the other people on this trip also knew this cave and they had the same reaction as Samuel. However, they had been in enough caves that they had seen this phenomenon before. Part of the cave had collapsed. The collapse was probably due to an earthquake. The cave was still accessible. It just had a big pile of boulders blocking part of the cave. They could easily go around the blockage, but none of them were going to pass up the chance to see if something new lay on the other side. Sure enough, on the other side of this big pile of big rocks, there was a hole in the side of the cave wall.

There aren't very many things that are higher on a caver's list of things to do than surveying a new cave. After about two hours of stooping, bending, crawling, and climbing, the six of them came to what seemed to be the end. It was a large cavernous room that sloped gently up to the ceiling. They each picked their own particular spot for a well-deserved rest. A couple of the cavers explored the limits of this final area, but they mostly rested and discussed the details of this new cave. Frank was sitting on a rock and absent-mindedly shuffling his feet across the floor. As Frank was getting up to prepare for the return trip, he looked down at his feet to make sure that he hadn't dropped anything. This was one of those moments when the brain cannot comprehend the image that the eye is receiving. A wooden floor lay underneath the thin layer of mud that Frank had absent-mindedly scrapped away with his boots.

"What is this?" Frank exclaimed rhetorically with an incredulous and disbelieving tone as he called the other cavers' attention to what he had discovered.

Over the following thirty minutes or so, they had scrapped away enough mud and rock to reveal about a four-foot by eight-foot boarded area. Samuel and Dan always carried a small pickax with them and they began to pull away the boards. Pretty soon they were able to use their hands to open up the floor. Underneath this wooden floor, in what was a natural depression in the floor of the cave, their collective headlamps revealed four wooden crates about the size of footlockers. The crates were too heavy to lift, either because of the weight of the contents or because they had become stuck in the mud. Again using their pickaxes, Samuel and Dan broke away the top of the nearest one. Samuel got down onto his stomach and reached into the crate to discover its contents.

There is a moment in most everyone's life when they taste brass. It is usually triggered by fear, but it can sometimes result from some other extreme emotional reaction. Samuel tasted the brass the instant when he realized what he had in his hand. Even though it seemed much longer, it took about ten seconds for him to know. He knew because of his deep southern roots. He knew because he was a Civil War buff. In the light of his headlamp was a cache of Confederate gold.

"I'm calling Butch Sarvis first thing tomorrow morning," Samuel said authoritatively and decisively. "Everything stays here until after I talk with Butch. This cannot be mentioned to anyone else, even Cooper."

None of the other five cavers were going to argue with Samuel. He commanded too much respect in the caving community and they had enough self-discipline to not argue with the trip leader deep inside a cave.

Butch Sarvis was a lawyer in LaFayette with a small family style law practice. He used to be in a partnership with his father until his father retired. His name was actually Horace. It was a family name, which his mother bestowed upon him, but his father was wise enough to give him the nickname of "Butch." Butch was also a member of the Georgia Cavers club and he often fielded routine and sundry legal questions from his fellow cavers. He was usually in his office before his secretary and he would spend that time at his desk sorting through e-mail and phone messages. His secretary, Kat, would come in a bit later and make coffee. Then Butch would walk down the hall to the coffee pot beside Kat's desk and tell the same joke every day.

"Last night I dreamt I ate a five pound marshmallow. When I woke up, my pillow was gone."

In the first few weeks that Kat worked for Butch, she would regard the joke as some form of Chinese water torture. She almost quit because of it, but she eventually learned to block the joke out of her sensory perception. Now Kat doesn't even hear it anymore.

Butch was on his way back to his desk when Kat answered the first phone call of the day.

"Butch, Samuel Taylor is calling," Kat said. Butch took the call at his desk.

"Butch, I need to meet with you this morning." From the deliberate and steady tone of Samuel's voice, Butch knew this was not a social call. Butch also knew that Samuel would not impose on his time for anything that was frivolous.

"Come on in," Butch replied, "I'm here all day."

"How do you know it's Confederate gold?" Butch asked after Samuel had laid out the story.

"Because of the 'CSA' stamp on the ingots it can't be anything else," Samuel replied.

"Who all knows about this?" Butch continued. Samuel named everyone on the trip.

"Chad Cooper doesn't even know," Samuel continued.

That reminded Butch of something. "I thought Petticoat Cave was closed?"

There was a treasure trove of Confederate gold in Petticoat Cave. However, because the gold was in the form of historically stamped ingots it was of unknown, and perhaps limited, commercial value. Both known entrances to the cave were on separate private properties and were being guarded by men with shotguns who didn't know that the gold was there.

"Officially it is," Samuel explained, "but Cooper will let me take in a private trip."

Butch thought silently for a bit and then stated, "It's going to be hard to keep it under wraps for very long." Samuel's demeanor and expression didn't change.

"So what do we do next?" Samuel asked.

"See if we can get back into the cave," Butch replied.

"Try to get Dan Owen and Jimmy Riker to go with us as soon as possible."

"Cooper might suspect something, he might want to know why we want to go back in again so soon," Samuel said.

Butch answered, "Tell him we found a new vein and it needs to be surveyed. That's the truth."

Samuel opened his cell phone and called Cooper. Just as Samuel expected, Cooper wanted to know why they wanted another trip into Petticoat cave so soon. Samuel managed to satisfy Cooper's questioning and the arrangement was made for the following morning. Samuel then called Dan and Jimmy. Neither one of them needed to have their arms twisted.

Butch picked up his phone and buzzed Kat. "Clear out my calendar for tomorrow."

Samuel, Butch, Dan, and Jimmy were at the cave's entrance at dawn. They retraced the path back to the crates and opened all four. Being careful not to damage the contents, they photographed and inventoried as much as the four of them could. Two of the crates contained gold ingots, bundles of Confederate cash, and what appeared to be bundled documents. The other two crates had bundles of Confederate cash and documents. Each crate contained two standard Confederate issue pistols.

Of course everyone in that cave had two questions. How did this cache get here, and why was it put here? It took about twenty minutes of exploration to answer the first question. By methodically searching every foot of the walls and ceiling, they had the answer. On the slope leading up to the ceiling was another entrance. It had been covered from the outside by logs. After about thirty minutes of hacking, cutting, and pulling, they were able to see a little bit of daylight. Standing as close to the covered entrance as he could, Samuel used his GPS device to record the spot.

They reconvened that evening at Butch's home and tried to sort through the situation. Actually, the story

that they collectively assembled was pretty close to what really happened. In the summer of 1863, General Longstreet's corps was temporarily moved from The Army of Northern Virginia and assigned to General Braxton Bragg's Army of Tennessee. At the direction of the Confederate Government, they brought this gold and money with them. It was transferred to Bragg's headquarters before Longstreet's corps returned to Virginia following the Battle of Chickamauga in September 1863.

The following spring, as General Sherman was moving his Union army into Georgia and the Confederates were pulling south, the headquarters staff hid the gold in this cave and then covered the entrance with logs and dirt. There were only a dozen men who knew the location of this cache, and they were all killed in one fell swoop on July 20, 1864, during the Battle of Peachtree Creek. In the intervening 140 years, the covered entrance to the cave had become completely overgrown.

With the help of some modern technology (Samuel's GPS reading and the Internet), it was determined that the cache was actually located underneath land owned by an adjacent landowner named Ray Skelton.

"So what happens next?" Dan wanted to know, "What do we do with it?"

"This is like some law school exam problem," Butch replied. "Let me do a little legal legwork and we'll have a conference call tomorrow."

Butch had actually had some prior experience with the legal status of a cave. About two weeks into first year property class in law school, there was some case that had a legal issue relating to caves and mines. While he was able to make a factual distinction between the two, Butch was unable to adequately articulate a legal distinction between a cave and a mine. However, any difference between mines and caves was irrelevant to the present situation.

They had found a "treasure trove." There was no Confederate Government to reclaim it. It had been accessed through Cooper's property but it was actually found on, or more accurately underneath, Skelton's property. More importantly, neither Cooper nor Skelton was the original owner and neither knew it was there. Generally, a treasure trove belongs to the finder.

Butch reviewed all of this with Samuel, Dan and Jimmy during their conference call on Wednesday afternoon.

"So if it's ours, can't we just go get it?" Jimmy asked for all of them.

Butch already knew this question was coming and he had prepared a pragmatic answer. "There is a market for Civil War artifacts, and any dealer is going to want to know where you got it. And you can't just walk into a bank, hand the teller gold ingots with 'CSA' stamped on them, and expect the teller to hand you a stack of money. Furthermore, you know this stuff really belongs in a museum and should be turned over to a historical society. I'm going to contact the Southeastern Historical Society. We'll get someone to go with us back into the cave and we'll show it to them. And then we'll make the proper arrangements. We should be able to get them to make a good donation to the Georgia Cavers."

Samuel backed up Butch on this one. Dan and Jimmy both felt their stomachs drop. For a brief fleeting moment, they had been counting their money. But they knew that it was useless to argue.

Butch made some phone calls and got one of the directors of the Southeastern Historical Society to meet him on Friday. Butch only told Melvin Long that they had found a few Civil War artifacts. The Southeastern Historical Society gets calls like this all the time, and it's usually just someone who found some piece of junk metal. So Butch had to pester Mr. Long until he agreed to make the trip to crawl around in a cave. Butch called Samuel and Samuel called Cooper. This would be the third trip into Petticoat Cave within a week, but Samuel didn't think that he would have any problem getting permission from Cooper.

"I've closed that cave," Cooper said curtly. "Six people showed up yesterday with a bunch of gear and they wanted to go back in. Something is going on and I don't like it. I've closed that cave and nobody is going back in." To make sure that no one misunderstood, Cooper

had made a barbed wire screen to block the cave's entrance and posted his nephew, complete with a shotgun, to stand guard.

Word had already leaked out. There was buried treasure in Petticoat Cave. But Samuel and Butch were quickly able to develop a backup plan. They knew of a second entrance. They would have to go through Skelton's land. It would take some work to clear the other entrance, but it would have to be done to avoid a modern day gold rush. They arrived at the Skelton farmhouse about an hour later. Samuel was going to explain to Mr. Skelton that they had been exploring Petticoat Cave through Cooper's property and had found an unexplored vein with another entrance through the Skelton property. They would then ask permission to open and explore the second entrance.

Samuel never got the chance. As Butch's SUV approached the Skelton farmhouse, Ray Skelton came out the front door and down the front steps with his shotgun in hand and two dogs by his side. Within one minute, Skelton instructed Butch that he was going to turn his SUV around and get off the property. No explanation of why they were on the property was necessary. It didn't matter. No one was allowed on the property. Butch had never told Melvin Long of the purpose of the trip, beyond a vague description of "some artifacts." Butch still held off. Long returned home empty-handed and with no idea of what actually lay underneath the ground.

Here was the situation. There was a treasure trove of Confederate gold in Petticoat Cave. However, because the gold was in the form of historically stamped ingots it was of unknown, and perhaps limited, commercial value. Both known entrances to the cave were on separate private properties and were being guarded by men with shotguns who didn't know that the gold was there. The legal finders of the gold couldn't get to it,

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and news was starting to spread that there was something valuable hidden somewhere in Petticoat Cave.

Samuel and Butch were of the same mind set. The cache needed to be secured and removed and they had to find some way to get the legal authority to do it. They quickly drove to the same conclusion. Claim the cache in the name of Georgia Cavers as found treasure trove.

They immediately realized that it wasn't going to be that easy. Even though all of the original six cavers were members of Georgia Cavers, it was actually a private trip. It was Friday afternoon and they were going to have to have a workable plan by Monday morning. Samuel was on the Georgia Cavers executive committee and he called all of the others for an "emergency" committee meeting at his home for Saturday afternoon. Butch also attended the meeting along with Dan Owen, who was also a member of the executive committee. Samuel explained the entire situation and then Butch explained what needed to be done. The executive committee officially sanctioned both of the trips into Petticoat Cave as official Georgia Cavers functions and then authorized Butch to pursue all necessary legal action to claim the cache as property of the Georgia Cavers organization.

Butch was at the courthouse when it opened on Monday morning. In an action filed in Walker County Superior Court, Butch, as the attorney for the plaintiff Georgia Cavers, petitioned the court to order the defendant Ray Skelton to deliver "certain abandoned personal property" that had been "legally and rightfully found by Georgia Cavers" at an "unknown depth" at the "location of latitude 34.65773 and longitude 85.41232." By calling in a few favors from the courthouse personnel, Butch was able to get Skelton served that afternoon and get a hearing scheduled for the following Monday.

In the intervening week, Cooper had to contend with three other groups who showed up unannounced and wanted into Petticoat Cave. One fellow offered Cooper \$2500 to let him and his group have exclusive use of the cave for one day while Cooper "looked the other way." By the end of the week, Cooper had an around the clock armed guard near the entrance and had retained a lawyer. He still didn't know what he needed a lawyer for, but there was obviously something of considerable value in Petticoat Cave.

Butch and Samuel were in court the next Monday. It had now been two weeks since the cache had been discovered. Butch presented a carefully constructed case. Samuel testified how he had led a group of Georgia Cavers into Petticoat Cave and how they had found the cache. He explained how they returned and he presented the photographs and inventory. Samuel then verified the location from the notes he had taken from his GPS device. Butch gave their theory on how the cache got there and then gave his legal argument that the cache was a "treasure trove" and belonged to the legal finder.

This was the first time that Skelton knew any of this and he could hardly contain himself. His lawyer astutely raised several defenses and wanted a continuance for

another hearing. Judge Marshall Fay, age 55 but with a full head of snow-white hair, knew what was coming. He was going to have to reset this for a final trial date and, whatever the outcome, there would be an appeal.

In the meantime, he couldn't very well let a cache of gold and Confederate artifacts stay in the cave. Every treasure hunter within 500 miles would be in Walker County the next day. Every treasure hunter outside of 500 miles would arrive on Wednesday.

Judge Fay explained his position and asked the lawyers for suggestions. Skelton's attorney, of course, argued that the property should remain in Skelton's possession until a final order. Butch was prepared for the possibility of Judge Fay's position and recommended that the cache be removed, under proper supervision, and placed under the control of the Walker County Superior Court until a final order. This was the direction that Judge Fay was going anyway. The order was written and signed by Judge Fay. The cache would be inventoried and removed from the cave by the Sheriff's department and be kept in the Sheriff's custody. Both parties and their attorneys would be present. Also, Melvin Long from the Southeastern Historical Society would be permitted to observe the inventory and removal. The order was to be executed *instantly*. Butch called Long from the courthouse and explained what, to this date, Long had never been told. Long would be there that afternoon. The Sheriff also made this project a top priority and removal of the cache would begin at 4 p.m.

Samuel was still the only person to know the location of the second entrance on the Skelton land, and he only knew the GPS coordinates. Starting from the Skelton farmhouse, it took about an hour to find it. They had to walk in about 100 yards from their vehicles, and after some prodding around, they located the covered entrance. Skelton had never known it was there. Using brush-clearing tools, including a couple of chainsaws, the county workers cleared away the entrance. From there it was actually an easy and short walk down the slope inside the cave to where the cache had been buried. Everyone was there including Butch and Samuel for Georgia Cavers, Skelton and his lawyer, Melvin Long from the Southeastern Historical Society, and the Walker County Sheriff. Even Judge Fay thought that he should personally observe the execution of his order. Then, very methodically, each crate was inventoried and the contents were carried to a Sheriff's department van.

Judge Fay set a final trial date for November 1st. In the intervening months, Chad Cooper hired a lawyer and intervened claiming that the cache had actually been found underneath his land. Also, Frank and Cathy Richards as a couple, and Mark Anderson and Suzy Packer individually, all hired their own lawyers and filed their own claims alleging they had separate claims to a share of the cache. Not one to let this amount of money out of his sight, the Walker County attorney also intervened claiming that the cache was county property.

Butch had already taken a lot of time from his own practice to handle this project, and now he was dealing with a total of six opposing lawyers. Butch adjusted by expanding his workday to twelve hours. He successfully got all of the subsequent claims dismissed so that he was back down to just Ray Skelton by the trial date. The trial lasted all day before a packed courtroom. Every news organization in Georgia was covering this story, along with several of the national news services. Butch and Samuel were both well prepared.

"So, Mr. Taylor, what do you plan to do with all this money? Buy everyone in your club a Cadillac?" Skelton's attorney asked Samuel.

Samuel effectively deflected this by answering, "No sir. We plan to offer this to the Southeastern Historical Society or other museums who can put it to good use."

At the end of the day, Judge Fay ruled in favor of the plaintiff, Georgia Cavers, on all issues. Georgia Cavers, as an organization, had legitimately found an abandoned treasure trove. They had established legal ownership of the cache over all other parties.

The ruling was, of course, appealed. When all appeals had been exhausted, Judge Fay's ruling was upheld. The cache, now belonging to Georgia Cavers, was still being held in a cell in the county jail. By now, Georgia Cavers had been contacted by several museums and other historical societies in anticipation of this outcome. Through a series of transactions, the cache was divided. Most of it went to the Southeastern Historical Society. Smaller portions were distributed to other museums and historical societies. Georgia Cavers didn't open up a bidding war, but they did accept a reasonable payment in exchange for the items.

About six months after all of the cache had been distributed Samuel paid an unexpected, but always welcome, visit to Butch's office. "Thanks for your help on this Butch. I know that it put a lot of stress on your life. But, it's an extraordinary generous addition to the Georgia Caver's treasury and it has put Georgia Cavers in a position where we are financially secure for a long time to come. We'll be able to use this money to preserve and protect natural caves in Georgia."

Butch nodded. It had put a lot of stress on Butch's life. While he was glad for the outcome, Butch didn't want to have to go through anything like that again.

"Here," Samuel said, "I brought you a paperweight for your desk."

Samuel reached into his pocket and, on the middle of Butch's desk, placed an ingot of Confederate gold. 



**Thomas E. Jordan** is a sole practitioner in Cobb County. His practice is focused on elder law including wills, estates, adult guardianships, probate, and estate administration. He is a 1991 graduate of Mercer Law School.



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