

1847-111

SOUTHAMPTON COUNTY
CHANCERY PAPERS

SMITH

VS. ROCHELLE'S EXECUTOR

5/1847

See also Smith v. Rochelle's Admr 1851-

Other SURNAMES. Mahone,
Nash, Bishop, Murfee,
[Weldon Toll Bridge Company]
[Roanoke & Petersburg Rail
Road Company], Sparks

Smith

v. } Papers

Rochelles Exon

1847. May - Decr.

Clk	\$7.62
Shff	1.50
Can	100.00
Law. &c	17.41
	126 53

Smith

v. { Stat. Rules

Rochelles Error

Henning J Smith
Tr.

William A Spark Esq. Clements Rochelle d.c.?

1845 April 4th Sup^a issued returnable to next Term

" May. R. Bill & answer filed Am. Rep.

" " J. Decree for account.

1846 Nov. " Continued.

Smith

v. 3 Bice.

Dee mui Exs.

To The Honourable Richard H Baker Judge
of the Circuit Superior Court of Law and
Chancery for the County of Southampton
Shewing complaining sheweth to your Honour
Your complainant Henning J Smith, that he
and one Clement Pickens of this County in
the year 1835 formed and entered into a
partnership for the purpose of getting and
supplying the wooden materials for the Bridge
across the Roanoke river commonly called the
Wilson Toll Bridge and constructing and putting
up the wood work of the said bridge. As
partners in the said undertaking they made
a contract with the Wilson Toll Bridge Company,
a company incorporated by the Legislature of
North Carolina, by which they were to get and
supply all the wooden materials for the said
bridge, to put up the and construct the same and
to finish it: the bridge for the price of \$18 1/2 per
each running foot constituting the said bridge.
Some time afterwards the interest of the stock-
holders of the said Wilson Toll Bridge Company
in the said bridge
was transferred to the Petersburg and
Roanoke Rail Road Company, a company
incorporated by the Legislatures of Virginia,
and North Carolina, which last named company
undertook and agreed to fulfill all the
contracts made ^{pay all the} and debts due by the said
Wilson Toll Bridge Company. By a settlement
of accounts with the Petersburg and Roanoke
Rail Road Company on the 17th of February
1842 the firm of Pickens and Smith was
credited with the sum of \$32,578.00, being at
the rate of \$18 1/2 per foot for 1761 running feet
constituting the length of the said bridge: they

were like in evidence with \$4648.91 in trust
thereon, making a total of \$37,227.41 for the
materials furnished and work performed by the
said Reckless and others under the said
contract, less the sum of \$1500 for transporting
timber on the said Rail Road and the like
sum of \$1500 for deductions for painting by
alterations of the original plan. Thus two
sums they were charged with; at the same
time they were debited with various sums amounting
in the aggregate to \$18040.43 thereupon paid
on account of the said contract; and on the
same day the Petersburg and Roanoke
Rail Road Company executed their bond
to the said firm for \$16,180.98 in full of
the said ~~contract~~ ^{contract} as well appear by the return
made filed therein marked A. of the said
sum of \$18040.43 the Petersburg and
Roanoke Rail Road Company paid to your
complaint \$7000 and the money thing
to wit \$10540.43 was paid to the said
Reckless, who thereupon paid to your com-
plaint the sum of \$1000, making the
~~amount~~ ^{amount} ~~paid~~ ^{paid} ~~by~~ ^{by} your complaint out of the
said fund of \$18040.43 the sum of \$8500.

The said bond of \$16,180.98 went into
the possession of the said Reckless, who in
the name of the firm instituted a suit
therein in the Circuit Superior Court of Law
and Equity for the County of Halifax, in
the State of North Carolina, upon which a
judgment was rendered, execution said out
the property of the Petersburg and Roanoke
Rail Road Company in that State being upon &
sold and the entire amount thereof including

the principal interest and costs made and accounted
for to the said Reckless, who duly executed a
receipt for the same to the Sheriff of North-
ampton County in the State of North Carolina,
to whom the said execution was directed and by
whom they were executed; so that the said
Reckless is accountable for the said sum of \$16,180.98
under the mortgage thereon, to the said firm.

Your complaint charges that the agree-
ment by which the said Reckless & others
formed and entered into this partnership was
agreed not not used to writing but was
in person, each was to fit and furnish one
half of the wood materials requisite for the said
bridge, with which they were jointly to construct
the said bridge and out of the joint funds to
paint it &c.

Your complaint charges that the said
and furnished according to his part of the
said agreement rather more than one half
of the wood materials for the said bridge and
he admits that the said Reckless paid
something more than one half of the expenses
of constructing the said bridge.

The said Glen Reckless departed this life
in the fall of 1844 having duly made his
last will and testament which has been ad-
mitted to probate in the County Court of
Southampton, to which will & papers has
duly qualified as executor in said Court. The
said Reckless died possessed of a large personal
estate consisting of slaves and other chattel property
and had due and owing to him large sums of
money and was by bonds promising notes and
other writings - all of which come in by due

Delegated might have come to the hands of the said
D.C. to be administered.

In the life time of the said John Richard
Your complainant
presented applied to him for a settlement of
The said partnership accounts and the pay-
of the balance that might be due to your
complainant thereon, but without effect; the
said Richard always professing a willingness
to settle the said accounts, but invariably de-
ferring it to some other time. Since his death
your complainant has several times applied
to the said Wm. & Sparks, his D.C. for a settlement
of the said accounts, who declined doing so
except by virtue of a decree of a Court of Equity.

Your complainant charges that a large
balance is due to him on the said partnership
-ship of the estate of the said John Richard,
and that the partnership accounts have never
yet been settled.

In tender consideration whereof and
premises as your complainant is without
remedy save in a Court of Equity where
matters of this kind are cognizable, he
prays that the said Wm. & Sparks, D.C. of John
Richard do be made a party de-
-fendant to this bill and may answer all
and singular its allegations or specially
as of them particularly imputed to each
of them; that the said partnership accounts
may be settled and the balance due to ~~the~~
your complainant ascertained; that the D.C.
-trust transactions of the said Wm. & Sparks on
the estate of the said Richard may also be
settled, that the balance due to your complain-

ant may be paid to him and that all such
other and further relief as may accrue with
his case may be granted to him.

Chas. W. Spqr.

Smiths

to { Answer of JH

Rochelle's Exon

1845 May Rules

The answer of Wm A Spork to a bill
of complaint exhibited against him
in this honorable court by Theophilus
T Smith, as Executor of Clements
Rockwell decd -

This defendant answering to him-
self all just exceptions to the errors
of the said ~~bill~~ bill, either in point
of law or fact, answering to such
parts thereof as he is advised it
is material for him to make answer
unto, says, that it is true, that he
has qualified as the Executor of
the said Clements Rockwell in the
county court of Southampton, in
which the bill of the said Rockwell
was admitted to probate; as to the
other allegations in the bill of the
plaintiff contained, he makes ac-
knowledgment of his own personal know-
ledge and therefore requires full
proof, as he will demand of them
by the said plaintiff - This de-
fendant believes that the testator and
the said plaintiff were concerned in
building the bridge over the Roanoke

now at Sheldon but upon what terms
or conditions, he does not know —

He has often heard his testator say in
conversations in relation to this subject
that upon a fair & just settlement
~~upon the said subject~~, that
he would not be found debtor to
the said Smith, but that he thought
the Smith was indebted to him —
that inasmuch as he cannot find
any evidence among the papers
of his testator, of a final settle-
ment between them, and as he
knows that they were unsworn
in crossing the said bridge, he is
willing, for justice to both, that
an account shall be taken before
a commissioner of this court
without deciding any principles
in the case, of the transactions
between them so that a fair &
just settlement may be made.

& having fully examined the papers to be
then disposed with his wife &c

Barth & Shands J. J.

Southampton County to wit

Personally appeared before me in
justice of the peace for the county
of Southampton Wm A Spack &
magistrate, that the facts stated by
~~upon his own knowledge~~
them as the said names are true to the
best of his knowledge & belief and those
stated upon the information of others
he believes to be true. Given under
my hand and seal this 5th day of
May 1845.

Dinner May 1845

To be entered

R.H.B.

Smith

vs

3

Reckless Etc..

This cause came on this day by consent
of parties to be heard on the bill answer
exhibits and general replication and was
argued by counsel, ~~and the court~~
~~on consideration~~ on consideration
whereby like cause the court, without
settling any of the principles of the cause
but reserving them for adjudication at the final
hearing, both adjudge and decree that a
compromise of this cause ascertain the terms
on which the copartnerships between the plaintiff
and the defendants referred to in the
bill was formed ~~and the court~~ ^{and adjudge} and that
he settle on account of the said copartnership
= ship according to the said terms, ~~and~~ showing
the balance that may be due by the one
to the other; and if the balance shall be
due by the estate of the said John Reckless
to the plaintiff that the said court settle
an account of the transactions of the ~~bill~~ ^{life}
of the said John Reckless and if
he will admit of his estate in his
hands ~~and the court~~ ^{to satisfy} such balance.
all which the court will require to come
within such matters as he may deem per-
= tinent to be specially stated or which
either party may require to be so stated.

Smith

n. } Copy Done

Rochester Exon

Southampton Circuit Superior Court. May 3rd. 1845.

Henning T Smith

against

William A Sparks Executor of Clements Rochelle dec^d

Def

In Chancery

Deft.

This cause came on this day by consent of parties to be heard on the bill, answer, exhibits and general replication and was argued by counsel. On consideration whereof and by like consent, the Court without settling any of the principles of the case, but reserving them for adjudication at the final hearing, doth adjudge, order and decree that a Commissioner of this Court ascertain the terms on which the copartnership between the plaintiff and the defendant's testator referred to in the bill was formed and conducted, and that he settle an account of the said copartnership according to the said terms showing the balance that may be due by the one to the other and if the balance shall be due by the estate of the said Clements Rochelle to the plaintiff that the said Commissioner settle an account of the transactions of the defendant William A Sparks as Executor of Clements Rochelle unless he will admit assets of his testator in his hands sufficient to satisfy such balance. all which the Commissioner will report to Court with such matters as he may deem pertinent to be specially stated or which either party may require to be so stated.

Attest

Teste.

L. R. Edwards Clk

Decr May 1847

To be entered

R.H.B.

1166
75
1741

Smith

21

Nicholas & S.

This cause came on again to be heard on the papers formerly read together with the report of the Comr. made pursuant to the Decree and of May term 1845 and the objections accompanying my fee same and the exceptions taken by the Def^t to the said report and was argued by counsel, on considerations relating to the facts concerning said exceptions and comparing said report with original order and decree that the Def^t receive of the Def^t as Bt. of Clerk Nicholas the sum of \$8317.80 with interest thereon from Oct. 1. 1843 all paid, to be paid of the fund and charges of the City in the hands of the said Clerk to be determined; and the costs of this suit are to be paid equally by the plaintiff and the Def^t Bt. of Clerk and one of the said selected ~~parties~~ of the Def^t in his hands to be determined.

C.S.B

Smith

~ } Sp. in Ch.

Rochelle's Exor:

1845 May Term
H. J. R. R.

C. & W. Escentul
Emoffenburg. DS

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *William A Spark* Executor of
John Rochelle dec^d

before the Judge
to appear ~~at the Clerk's Office~~ of our Circuit Superior Court of Law and Chancery for the
Court House County of Southampton, at the ~~Rules to be holden for the said Court~~ on the first ~~Monday~~ *day of the*
next Term ~~next~~, to answer a Bill in Chancery exhibited against *him* in
the said Court by *Samuel T Smith*

And unless *he* shall answer the said Bill within ~~four~~ *two* months thereafter, the Court will
take the same for confessed, and decree accordingly. And this *he* shall in no wise
omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON
R. EDWARDS, Clerk of our said Court, at the Court-house, the *4th* day of
April 1845, in the *69th* year of the Commonwealth.

L. R. Edwards

[One Copy to be delivered each Defendant.]

Y. J. Mahone

(A)

Deposition of J. J. Mahone taken before W. J. Croviage
Comm: in ch. to be taken as evidence on the part of the
the plaintiff in a certain matter of account now
before the Comm: between W. J. Smith plaintiff and
M. & S. Fork Enr: of Clements Prochelle - Nov: 8th - 1845.
in the presence of all the parties —

The deponent J. J. Mahone states that he was present
at one time when Prochelle and Smith were framing
the Broadstre bridge - and heard Col. Prochelle say
that himself and Capt. Smith had agreed to frame
and put up one half of the bridge each - that
each one was to perform one half of the work -
that Col. Prochelle complained that Smith was not doing
his part of the work as fast as he ought in getting
his timber there - that he is positive that he heard
Col. Prochelle say that himself and Capt. Smith, each
were to perform one half of the work in build-
-ing the bridge - is also positive that Col. Prochelle
was complaining of Smith and stating, his com-
plaint was, that Smith did not get his timber to
the spot as fast he ought -

J. J. Mahone

C. A. Nash

Deposition

(B)

Deposition of Charles A. Clark Taken to be read
as evidence before W. J. Goodwyn Commissioner in a
matter of account between W. J. Smith plaintiff and
M. A. Spoke Exor. of C. Prochelle on the 9th Nov: 1845
in presence of the parties -

The deponent states that on the day the contract
between Col. Prochelle and Capt. Smith and the Rail
Road Company was executed - after the contract was
executed, a conversation took place between Col.
Prochelle and Capt. Smith, in which they agreed that
each one should furnish one half of the materials
for constructing the bridge and an equal number of
hands, and each one to complete his half of the bridge.

The deponent further states that Col. Prochelle furnished
a part of the timber to complete Capt. Smith's side in
framing the bridge. That is lattice and cords, the lattice
were 3 by 10, length 27 feet - and the cords 14 by 3 and 40 feet
long - that some of Capt. Smith's timber was condemned
by Flemming the master builder of the work - some
small number of tie - beams which were afterwards
carried off by the train, which carried the balance of the
timber to the ^{Prochelle} river - some of the lattice and a very few
of the cords of Capt. Smith were also refused and
carried off by the train. And a part of the cords of
Col. Prochelle were refused and carried off by the
train - The deponent states that he left Virginia on the 1st
May 1836 for New York where he remained until the 20th
September in the same year - In March 1837 they began to
move the frame of the bridge from the depot to Melrose
In July or August ¹⁸³⁷ went out to Melrose in the employ of
Col. Prochelle to work on the bridge, where I remained 15 days
or one month - During the time I was there they were engaged
in raising the bridge - and I think about 25 yds were raised
while I was there which were across the main run of the
river - At the time I went to the bridge there were about

2 1/2 spans of the bridge to be raised to complete the raising
the entire bridge consisting of 11 spans of 160 feet each and
2 feet over. I always understood that - Mr. Prochell framed
the bridge at the abutment (admission) - which Mr. Fleming estimated
to be worth between 8 or 9 thousand dollars, and Mr. Prochell
say that he had not charged Smith within 10000 of what Fleming
thought it worth - but Prochell was in the habit of going to the
bridge every week previous to his ^{disengagement} ~~going there~~ to my going there
after that time he was ^{there} pretty constantly - Capt. Smith broke his
leg on the 13th July whilst engaged on the bridge

Question by J. H. Cannon - Did you understand Mr. Fleming
as valuing the framing and covering alone at 8 or 9
thousand dollars or that that sum included the raising at
Malden also? Answer - I always understood that that sum
included the framing and covering alone ^{of the whole bridge} ~~at the abutment~~
C. D. Nash

John D. M. W. B.

(6)

Commissioners office - May 4th 1846 -

This day personally appeared before me Comrs:
in Chancery, John D Neils and Benjamin E Bailes
who made oath that the within contains a correct
account and statement of the value of framing and
completing a double latticed bridge, linear measure
according to the best of their knowledge - which
statement it is agreed by the parties, should be laid
before the Comrs: as evidence in the case of Smith
v Prochelle Exor. - Given under my hand the 4th
May 1846 -

M. S. Goodwyn Comr:

John D Neils

(C)

Having been requested by Dr. W. A. Smith and W. J. Smith to make a statement of what I believed the value of building the Bridge at Widdow, Built by Rockwell & Smith, how made the following statement estimating the different items of work as follows calculating the Bridge to be 1760 lineal feet (1760 ft)

For adjusting the foundation & laying out the Co's

& Laths for sides of said Bridge at $\frac{1}{2}$ ¢ per lineal foot	\$2640.00
" Booring the same at 42 Cents per lineal foot	739.20
" Framing 296 floor & Tie Beams at \$1. each	296.00
" Do 148 sets Moors & Braces in each at \$1. per set	148.00
" Making 168960 small wedges for pins at \$2. per thousand	337.92
" Do 500 Brace Keys at 15 Cents per hundred	69.00
" Do 70400 large pins at $1\frac{1}{2}$ Cents each	1005.60
" Do 144000 short pins at $\frac{3}{4}$ Cent each	330.00
" Do 1 black pin 10¢ 50¢	50.00
" 1760 lineal feet false center at $\frac{1}{2}$ ¢ at \$1.25 per d. foot	2640.00
" Making 500 large wedges for raising at 5 Cents each	30.00
" Raising Bridge, driving pins wedging bolts and tying braces at $\frac{1}{4}$ ¢ per lineal foot	5720.00
X " 950 Square (containing 100 sq. feet) of weatherboarding & shingling including adjusting the studding at \$1. per sq. ft.	950.00
" Striping the plank & shingles for the same at 50 Cents per sq. ft. (100 sq. feet)	480.00
X " 352 Square (of 100 sq. feet in each) of laying floor at 75 Cents per square	264.00
X " Jointing & clapping plank for the same at 50 Cents per square (of 100 sq. feet)	176.00
" Laying Rails for track at 6 Cents per lineal foot	105.60
" Caping 10 piers & 2 abutments with 3 Cents on each pier & 2 on each abutment at \$10 for each	120.00
	16041.72

1st May 1846. The above statement - is made upon the valuation of labour in the years 1836 and 1837

Wm. E. Baird

(2)

~~I hereby~~

I hereby certify that I have
a few days after he had left the Chamber
himself to the Court & return from the Court
to remain in the Court to the Court
I have not seen him since he left the Court
the Court to the Court with the Court
I have not seen him since he left the Court
I have not seen him since he left the Court

My de Sir I think you are out of the way
the first in the Court of the Court
under my hand the 11th of the Court
Wm. W. W. W.

I hereby certify that Cal No. 1000 said to me
a few days after he had sat the claims due
himself & H J Smith & others from the Portsmouth
& Roanoke Rail Road Co, to Capt F. Kinnor, that
Smith would not agree to let any thing by
the said he had made with Kinnor

Given under my hand, this 11th Nov 1846
Lewis W Bishop

This day Lewis W. Bishop made oath to the facts
set forth in the above certificate - Given
under my hand this 11th day of Nov 1846.

N. M. Schless

(8)

Santhampton County 11 November 1846

The undersigned being called on to state in writing what he knows in relation to the business between Colo. Clements Rochelle dec^d and Capt. Henning T. Smith. The undersigned states that he well recollects that he knew both of them Rochelle & Smith say that they were building the bridge on the Rail Road across the Roanoke river, and he also well recollects that he saw a great deal of timber which Smith got for the work, and he recollects a considerable pile of thick plants lying on the road, which he understood was for the work. He recollects also that in a conversation with Rochelle concerning money Rochelle owed the undersigned that Rochelle said he would pay him all he owed him when he got his money from Capt. Francis Rives, and Rochelle said at the same time that there was money due Smith and asked me if I did not think Smith had ought to lose his proportion, in what he lost in the sale to Rives. I told him I could not tell any thing about that. Rochelle said that he knew it was as Smith pleased but he thought if he (Smith) could get all his money he might well afford to lose

Same with him.

Given under my hand this day
and date before written

J. W. W. W.

(E)

John L Bishop

Deposition

(48)

This day appeared before me John L. Bishop & testified to
 the allegations in the annexed instrument of writing. -
 Given under my hand this 11th day of Nov^r 1846.

M. M. Phelps J.P.

68 68
 268 11/2
 88 6-5
 918 11/2
 066
 978 91

07 978 91

68 68
 268 11/2
 88 6-5
 918 11/2

080 66
 081 91

I went with Col Rochelle to Capt H. T. Smith
here just before Dr Rochelle sold his claims vs
the P & R R R Co. to Capt F. E. Rivers. When Col R
produced a certificate to Capt Smith requesting him
to assign it ~~to~~ authorizing him Rochelle to see the
Int. of Smith in a Judgment they had vs the P & R R R.
Smith refused and said to Rochelle that he considered
him Rochelle bound to him Smith for his Int. in
said Judgment Rochelle replied that he did not think
he ought to be and that he did ~~to~~ not think he
was legally bound Smith said if he Rochelle
was not legally bound to him that his Int.
should not be sold that he Smith would rely
on the Execution & have the property sold as
there was the oldest Judgment & he had no
idea of placing it on a footing with others.
that all the property was bound for the oldest
Judgment and he thought it would pay it
Rochelle replied & said he thought it would not
Smith said if it did not he would be the
purchaser & he thought he could get the money
for it Rochelle stated that ~~so~~ he wished
to get something ~~for~~ his other claims & that a
friend would purchase at a price that would
be advantageous to him Smith said he could not
help that & that his claim must be paid
paid Rochelle then said if Smith would not
place any difficulty in the way that he Smith
^{should} not loan any thing upon which Smith said
he would ~~not~~ place none in the way and
agreed to Rochelle's desire but that it must
be expressly understood that he Smith was
to lose nothing to which Rochelle consented
Jno L Bishop

Interest charged against C. Rockwell in Cont. Report to

with

1110
448.34
260.00
890.00
906.07
<u>\$ 3244.41</u>

Interest credited to C. Rockwell in same report

67.50
870.00
577.50
380.00
1110.00
260.00
<u>\$ 3265.00</u>

So that the whole balance of \$16635.70 is principal
and half of which say \$8317.85 is due to the
leg and carries interest from Oct. 1. 1843 till paid

Smith
- { Cour: Preport

Rochelle, Enr.

1846 Nov 29th

Smith

Rockwell, Exor.

Commissioners office Nov: 23rd 1846

Pursuant to an order of court of May 3rd 1845, the Commissioners began to report; that after W. I. Smith and Clement Rockwell undertook the contract for building the Weldon Toll Bridge, it was agreed between the parties that each one should furnish one half the timber necessary, and that each should build one half the bridge. There appears to have been no written agreement between the parties, but the above were the terms of the co-partnership as appears from evidence taken before the Commr. and filed herewith (marked A & B). The terms of the co-partnership were not strictly carried out by the parties and from the very imperfect accounts kept by them the Commr. met with much difficulty in ascertaining the exact of work done by one of the parties more than the other, and in order to that object, was compelled to rely upon a statement of the value of the work furnished by John D. Chubbs an accomplished mechanic and bridge builder, and Benjamin Barnes who assisted in the building of the bridge (filed herewith marked C) from that estimate the accounts below showing the exact of work done by either of the parties, were made out: not thinking it necessary to take any account of that part of the work done by them jointly and equally in order to ascertain the particular work executed by the parties individually, the Commr. was compelled to rely upon the statement of the plaintiff Smith. The evidence then that already referred to was taken by the Commr. or by the parties themselves and herewith filed as parts of this report marked (D. E. F. & G.)

It is proper that the Commr. should state that all the evidence filed with the exception of a copy of the record from St. Pauline, was taken in the presence of the parties, who agreed that no objections should be made to any part of it; in consequence of the informal manner in which it appears; and the several accounts below were also made up in the presence of the parties, each of them conceding much in the absence of all evidence, in order to enable the Commr. to attain some final result. The accounts herewith returned are believed to be as correct as they can be made under the circumstances there having been no regular books kept by the parties and but very little evidence attainable.

Account of work done by C. Prochelle

1837	Adjusting foundation, laying out lot etc.	$\frac{3}{4}$	1980	00
	Boring the same	"	554	25
	Unshutroding 950 squares		950	00
	Laying floor 342 "		264	00
	Jointing and clamping plank	$\frac{1}{4}$	44	00
	value of work by C. Prochelle		\$	3792.25

Account of work done by H. J. Smith

1837	Jointing and clamping plank	$\frac{3}{4}$	\$	152.00
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Amounts paid by H. J. Smith on account joint work

1837	Am't paid Dempsey Draper	42	40
	" " Samuel Williams	13	24
	" " Benj. Barnes	15	00
	" " Reuben Dudgeon	11	36
	" " William Barnes	108	00
	" " Meritt Whitney	13	00
	" " John M. Boykin	27	69
	" " Jack Boykin	36	30
	" " Jones Griffin	37	37
	" " Giles Whitney	61	00
	" " Samuel Joyner	2	28
	" " John Brackshaw	30	87
	" " Nicholas Mott	15	00
	" " Robert Morris	20	00
	" " John Phipps	5	00
	" " Allen Johnson	5	00
	" " John R. Beale	3	33
	" " James R. Edwards	1	71
	" " A. A. Register	15	75
	" " Lem. Robertson	14	30
	" " Oswin Gordon	18	12
	" " Lewis Williams	13	77
		542	69

1837

am'ts for work

	am't paid Simon Newcome	542	69
	" " Erasmus Plummer	18	28
	" " Richard Morris	112	05
	" " Meritt Whitney for boy	171	00
	" " John M. Miles	25	94
	" " S. Whitney	58	00
	" " David Jones	74	00
	" " Richd Morris expenses in obtaining bond	133	00
	" " J. R. Williams	97	25
	" " Mr. C. Lawrence	"	30
	" " J. I. Holland for meal	300	00
	" " William Bridges	50	00
	" " Nelson Hedges for bond	2	50
	" " For mattresses	23	00
	" " for extra work	20	00
	" " For services of black hands	181	44
	" " Charles George Rice for provisions	476	66
	" " Lawrence Gordon	471	59
	" " For provisions furnished by self	63	37
	am't paid by H. J. Smith	240	00
		\$	3061.27

Amount paid by C. Prochelle on account joint work

1837	am't paid Dempsey Draper	44	62
	" " Samuel Williams	182	77
	" " Benj. Barnes	75	83
	" " Reuben Dudgeon	35	37
	" " William Barnes	120	50
	" " Meritt Whitney	28	75
	" " John M. Boykin	5	25
	" " Jack Boykin	8	37
	" " Jones Griffin	15	62
	" " John Pond	73	95
	" " Josiah Jordan	8	62
	" " Everett Edwards	3	50
	" " John Brackshaw	7	25
	am'ts for work	608	40

amts not found	008	40
amt paid John Barnes	2	00
" " Nicholas Mott	30	00
" " John Phipps	35	00
" " Cullen Daughtry	82	26
" " N. J. Bradshaw	26	41
" " Lewis Williams	12	56
" " J. M. Ely	38	73
" " William Barnes	32	00
" " Simon Newson	3	00
" " Willis Jackson	55	87
" " Erastus Flemming	175	00
" " Richard Morris	171	00
" " Richard Pearce	30	00
" " J. E. Evers	10	00
" " P. Griffin	13	00
" " James Jones	8	25
" " A. Hatton	20	00
" " John Nash for nails	245	09
" " Allen & Probertson for hammers	4	44
" " John W. Miles	575	71
" " A. Comnison for provisions	33	33
" " Nash & Co.	70	61
" " Thomas Newson	96	00
" " Do " do	65	84
" " J. W. Munster	16	26
" " D. B. Boykin & Co	21	87
" " Nancy Coker for vegetables	12	76
" " Angus Annan Sarah for services	20	00
" " M. Hardy	3	00
" " Miles & Register	2	26
" " E. Jordan for beef	15	28
" " D. B. Harris	17	93
" " M. Shedge	12	00
" " A. Dupree for braces	6	00
" " C. A. Nash	51	00
" " Hardy & Brothers for nails	115	00
amts not found	2737	49

1837

amts not found	2737	49
amt paid Robert Dickson	110	00
" " A. Doyle for beef	5	88
" " J. B. Whitehead	34	00
" " Nelson & Hodges	25	30
" " C. H. Matthews	40	00
" " Young & Blewett	100	00
" " E. A. Apperson	8	97
" " L. C. Pierce	11	20
" " John Castro	94	00
" " Dickson & Grant	31	86
" " W. B. Whelan	6	13
" " A. B. Smith	62	83
" " Benj. Bap	60	00
" " H. Maget	200	00
" " For bread furnished	81	30
" " For 22800 feet timber for broken spurs	342	00
" " " services of black hands	650	00
" " Benton & Jordan	101	30
" " O. Bernard	65	92
" " B. J. Newson	8	43
" " For meal furnished	72	86
" " For extra work	49	56
" " Robert Dickson (in addition to above act)	114	56
amt paid by C. Prochelle	4954	19

1837-

Bill of Timber furnished by H. J. Smith

507 short braces	6x9 - 15 ft long	34222 feet
231 long do	" - 20 "	20790 "
144 tie beams	8x12 - 24 "	27648 "
513 joist	6x14 - 24 "	86184 "
293 floor beams	12x16 - 24 "	112512 "
306 cull lattice	3x12 - 28 "	25704 "
25 do cross	4x16 - 40 "	5333 "
201 plank	2x11 - 12 "	4422 "
375 do	2x12 - 16 "	12000 "
amt found		328815 "

1837

	but from	328815 feet
381 plants	2x9 - 16 feet	4144 "
1706 plants	3x1 - 16 "	6824 "
741 plants	2x12 - 16 "	23712 "
717 do	2x12 - 11 "	15774 "
313 scantling	3x4 - 20 "	66260 "
280 do	" - 16 "	4480 "
1200 plants	2x12 - 16 "	38400 "
100 scantling	3x4 - 18 "	1800 "
542 do	" - 9 "	4878 "
		500087
By this amt. to be deducted		38400
at \$15. p. thousand feet		461687
And timber furnished by H. J. Smith -		\$ 6925-30

1837

Bill of Timber furnished by C. Prochelle

264 short braces	6x9 - 15 ft long	17320 feet
13 long beams	" - 20 "	1170 "
20 floor beams	12x16 - 24 "	7680 "
31 caps	" - 24 "	11904 "
69 cull lattice	3x12 - 28 "	5796 "
10 plants	14x11 - 16 "	183 "
140 do	2x11 - 12 "	3080 "
100 "	1x14 - 40 "	4666 "
20 "	2x12 - 14 "	1120 "
20 "	" - 16 "	640 "
21 "	" - 16 "	672 "
67 "	1/2x10 - 16 "	1340 "
126 "	2x12 - 16 "	4032 "
138 "	" - 16 "	4416 "
73 floor joists	6x14 - 24 "	12264 "
By this amt. to be added		11520 "
at \$15. p. thousand		87803 "
And timber furnished by C. Prochelle -		\$ 1317-04

Clements Rochelle deed:

In account with Rochelle & Smith

	Cr.	Dr.
1837 By amt. work done by C. Prochelle individually	3792 25	
" Timber furnished	1317 04	
" " Price on account joint-work	4954 19	
1843 " " Price W. Bragg attorney fee	500 00	
" " Top on sale of scrip	500 00	
" " Int. thereon from July 1 st 1841 to Oct. 1 st 1843	67 50	
To " Work done by H. J. Smith individually		132 00
" " Timber furnished by H. J. Smith		6925 30
" " Price on account joint-work		3061 27
By bal. due C. Prochelle		1312 41
	11430 98	11430 98
By bal. due C. Prochelle but down	1312 41	
1836 Amt. recd. by H. J. Smith on account do.	2000 00	
" Int. thereon from July 1. 1836 to Oct. 1. 1843	870 00	
1837 " Amt. recd. by some	1500 00	
" Int. thereon from May 1. 1837	577 50	
" " Amt. recd. by some	1000 00	
" Int. thereon from June 1 st 1837	380 00	
" " Amt. recd. by some	3000 00	
" Int. thereon from Aug. 1 st 1837	1110	
1839 " Amt. recd. by some	1000 00	
" Int. thereon from June 1. 1839	260 00	
1837 To Amt. recd. by C. Prochelle on account do.		3000 00
" Int. from Aug. 1. 1837 to Oct. 1. 1843		1110 00
1838 " Amt. recd. by some		1546 00
" Int. from Dec. 1. 1838		448 34
1837 " Amt. recd. by some		1000 00
" Int. from June 1. 1839		260 00
1841 " Amt. recd. by some		4000 00
" Int. from Aug. 1. 1841		520 00
1843 " Amt. judgement in St. Carolina		16846 80
" Int. on \$16180.98 from Oct. 24 th 1842		906 07
" Costs of judgement		8 40
By bal. due the firm	16635 70	
And amt. on favors	29645 61	29645 61

1843 with first payment.
 To Bal: due the firm but down

29645	61	29645	61
		16635	70
\$	8317	86	

" Amt due N. S. Smith one half above bal.
 with int thereon from the 1st October 1843 till paid

Respectfully submitted

N. S. Goodwyn Commr.

Commrs fee \$100-
 chs to N. S. Smith Exor.

The Commr. begs leave to state specially that about October 1843, C. Prochelle, without the consent of Smith sold to F. C. Paine the judgment in Ct. Carolina, at a loss of about 33 p. cent, and the defendant contended that Smith ought to sustain the loss equally with Prochelle. The Commr. thought differently, from the evidence contained in the record itself and also from the evidence of John S. Bishop, a statement of which, is herewith filed, taken in pencil in the presence of the parties -

N. S. Goodwyn Commr.

Commissioners office Nov: 28th 1846

The defendant William S. Sports Exor. of C. Prochelle appeared before the Commr. and excepted to the report of the Commr. on the following grounds to wit:

1st Item: Prochelle in the sale of the judgment in Ct. Carolina, of \$16846.80, sustained a loss of 33 p. cent, and the Commr. has failed to charge the plaintiff with his proportion of said loss.

2^d The estimate of the quantity of timber necessary to build the bridge was one million of feet, the plaintiff has credit for about one half that amount, and the Commr. has allowed the said C. Prochelle for only about ninety thousands feet.

3^d The amount allowed C. Prochelle for weatherboarding, laying the floor and jointing, and creping, the plank, is only \$1268, and the said Prochelle has receipts for work done during that time, for upwards of \$3000

N. S. Goodwyn Commr.

It appears upon the face of report that the amount due the firm of Prochelle & Smith of \$16635.70 is composed of principal & interest one half of which is owed Smith with interest from

the first of October 1843, there being interest per interest, which the defendant is left -

Smith } Exhlt. with bill
to }
Rockwell's Co.
A.

Mr. Rochelle & Smith on ^{ac} Weldon Toll Bridge CS

1836 June	To Am ^r for Weldon Toll Bridge C ^t	\$ 2000			
1837 April	To ditto ditto	1500			
May	To ditto ditto	1000			
July	To ditto ditto	6000			
1838 Nov 10	To paid them on account	1546 43			
1839 Feb 7 18	To paid on account	2000			
1840 July 28	To Am ^r transporting the same & average	1500			
	To paid on account	4000			
	To this Am ^r for deduction for painting by alterations of the Plan.	3 1500			
1842 Feb 7 17	To Company's bond for balance	11180 98			
		37227 41			

By the Word Work of the Weldon Toll Bridge 32578 50

" Interest on \$15332.07 from Jan 7 1837
to 28th July 1841 4265 05

" Interest on \$11532.07 from 28th July
1841 to 17th July 1842 383 86

37227 41

Copy from the Books of the
Atty General

Whereas the Weldon Toll Bridge Company on the day of
in the year 1835 made a contract with Clement
Rockelle and Hanning V Smith by which the latter agreed to
build the Bridge across the Roanoke called the Weldon Toll
Bridge and the said Weldon Toll Bridge Company agreed to
pay to the said Rockelle & Smith a stipulated price for the said
work as will be seen by reference to the said contract: and
whereas the Portsmouth and Roanoke Rail Road Company
have become the assignees of nearly all the shares in the said
Weldon Toll Bridge Company. Pursuant to an agreement
mutually agreed upon by the stockholders of the respective
companies: And whereas the Portsmouth and Roanoke
Rail Road Company by their President Walter Euzen,
and the said Rockelle and Smith (the said work having
been completed) having come to a final settlement on account of the
said contract and the said sum of sixteen thousand one hundred
and eighty Dollars and ninety eight cents being the balance
due to the said Rockelle & Smith on the same. Therefore Know
all men by these presents that the Portsmouth and Roanoke
Rail Road Company for and in consideration of the premises
bind themselves and their effects to pay on demand to the said
Clement Rockelle and Hanning V. Smith or their assigns
the said sum of sixteen thousand one hundred eighty
dollar and ninety eight cents, And it is expressly under-
stood that the bond shall ^{not} in any manner indicate or lessen the
claim which the said Rockelle and Smith may have to proceed
against the said Weldon Toll Bridge Company, or the said Bridge
in case the Portsmouth and Roanoke Rail Road Company
should fail to pay the money mentioned in this bond. In Witness
Whereof the Portsmouth and Roanoke Rail Road Company have
hereunto set their Common Seal, And Walter Euzen their
President has affixed his signature this 17th of February 1862

Walter Euzen
Presd. P. & R. R. R. Co.

Be at Richmond. That Clement Rockwell & Henry J Smith instituted their suit against the Portsmouth & Roanoke Rail Road Company upon their bond of which the foregoing is a copy and said out their Verdict on the 4th day of April 1842 which is in words and figures as follows.

State Of North Carolina.

To the Sheriff of Halifax County Greeting.

You are hereby commanded to summon the Portsmouth
and Rouen Rail Road Company, that they appear if
to be found in your Bailiwick before the Judge of the Su-
perior Court of Law, at the Court to be held for the County
of Halifax, at the Court House in Halifax on the fourth
Monday after the fourth Monday in March next, then
and there to answer Clement Hoche & Humming &
Smith, of a Plea that they render unto them the sum of six-
teen thousand one hundred and eighty dollars & seventy eight
cents, which they owe & detain to their damage, five thousand
dollars. ^{Robert C. Matthews} ~~James~~ Clerk of our said Court in
Witness Whereof ~~James~~ ^{Robert C. Matthews} ~~James~~ ^{James} ~~James~~
Office, the fourth Monday after the fourth Monday in
September, and in the 66th year of the Independence of said
State A.D. 1841. — Passed 4th day of April A.D. 1842

Robert L. Whittaker J. D. 11

Which said writ was returned to the ^{Term} of said Court A.D. 1842 with the following enclosures thereon to wit: "Executed this Writ on E. L. Watts William W. Burchell Sheriff and as said Term of said Court Pleadings were entered to wit: "paymunt set off"

And the said cause was then continued until the following
Fall Term of said Court 1842. It then coming on to be tried
the following Jury were sworn and impaneled to wit
Richard Bailey, Henry D. Brown, Valentine Bailey, Benjamin
Hawkins, William E. Cure, Frederic Pittman, William Higgo,
Edward Morecocke, Baker Staton, Littleton Arrington, Jesse
Hubert, Ransom M. Sherrin. ~~The foreman was~~

which send all the species -

in favor of the Plaintiffs, and apportion their damages to the
~~defendants & forty and ninety~~ ^{the} sum of sixteen thou-
 sand eight hundred forty six dollars and eighty cents, of which
 sum sixteen thousand one hundred & eighty dollars & ninety
 eight cents is principal and carries Interest from this Term &
 Costs. Therefore it is considered by the Court that the Plffs. recover
 against the Defendant the said sum of sixteen thousand eight
 hundred forty six dollars and eighty cents by the Jury in form
 aforesaid ^{applied} for these damages with interest upon sixteen thousand
 one hundred eighty dollars & ninety eight cents principal thereof
 from 24th October 1842 till paid, and the sum of Eight dollars
 & forty cents more here taxed and allowed for these costs in
 this behalf expended.

Whereupon the Plaintiffs send out a writ of Habeas Corpus which is in words & figures as follow to wit.

State of North Carolina

To the Sheriff of Northampton County Gent.

You are hereby commanded that of the goods and chattels
lands & tenements of Portsmouth & Roanoke Rail Road Compa-
ny, you cause to be made the sum of sixteen thousand eight
hundred & forty six dollars & eighty cents, which Clement
Rockwell & Humming Smith, lately in our Superior Court
of Law held for the County of Halifax at the Court House
in the town of Halifax, recovered against the ^{said} Portsmouth
and Roanoke Rail Road Company. For debt as also the
sum of Eight dollars & forty cents for costs & damages
charges in the said ^{Portsmouth & Rail Road} suit expended, whereof the said Compa-
ny are liable as to us appears of record. And have
you this said monies before our said Court, at the Town
of Halifax, on the fourth Monday after the fourth Monday
in March next, then & there to render to the said Clement
Rockwell & Humming Smith their debt cost & charges aforesaid,
Hain fail not And have you then & there this writ
Witness W. L. Whittaker Clerk of our said Court at office
the fourth Monday after the fourth Monday in September

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1842 and in the 14th year of our Independence
Espece 15th day of ~~September~~^{December} 1842

Robt L. Whittaker (Sh.)
Which said *Fi Fa* was returned to the next Spring Term
of Halifax Superior Court with the following endorsement
thereon.

January 26th 1843. We assigned the within Execution
to Barnes, French & Barnes, Maget, for value received
of C. Rochelle for Rochelle & Smith
officers the defendants interest in that part of The Rail
Road Bridge in Northampton near Weldon the 26th of January
1843 to the highest bidder for cash which was bid off by Barnes,
S. French & Barnes, Maget at the sum of Ten Thousand one hundred
and dollar but there has been no money paid and by the instructions
of the Plaintiff herein this *fi fa* the same day on that part of
the R Road of said company that lies in Northampton.

Ethel. P. Fuller Shff.
And the said Plaintiffs also sued out other writs
directed ^{to} both the Sheriffs of Northampton & Halifax to check
said writs are in words and figures as follows.

State of North Carolina

To the Sheriff of Northampton
County Existing. We command you that you detain
Portsmouth and Roanoke Rail Road Company, by all
their current money, goods, chattes, lands and tenements,
in your Bailiwick, so that neither they nor any one by
them do lay hands on the same, until you have another
command from us, in that behalf, and that you answer
to us, as well for the said current money, as for the ~~said~~
issues of the said goods and chattes, lands and tenements,
so that the said Portsmouth and Roanoke Rail Road compa-
ny, render to Clement Rochelle & Henning Smith, the sum
of sixteen thousand Eight Hundred & forty six ⁸⁰/₁₀₀ Dollars
with interest on the sum of sixteen thousand one hundred
and eighty ²⁸/₁₀₀ Dollars, which lately in our superior court

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of Law, for our County of Halifax, the said Clement, Rockwell
and Henning Smith ~~joined~~ against the said Company for
damages, besides the sum of Eight ⁴⁰ Dollars for their costs
and charges, by them about their said suit expended, in
their behalf, whereof the said Company are convicted as appears
to us of Record. — And in what manner you shall have exe-
cuted our command, make appear to our Judge of our said
Superior Court, at the Court House in Halifax on the 4th Monday
after the 4th Monday of March next. — Witness Robert L
Whittaker Clerk of our said Court at office the 4th Monday
after the 4th Monday in September A.D. 1842 in the 67th year of
American Independence.

Rob. L. Whittaker C. C.

Issued the 20th of February 1843

State of North Carolina

To the Sheriff of Halifax ^{County} Greeting,

You are hereby commanded that of the goods & chattels, lands,
and tenements of Portsmouth & Roanoke Rail Road Company
you cause to be made the sum of sixteen thousand eight
hundred & forty six dollars & eighty cents, which Clement
Rockwell & Henning Smith, lately in our Superior Court
of Law, held for the County of Halifax at the Court-
House in the Town of Halifax, recovered against the
Portsmouth ^{and} Roanoke Rail Road Company, for debt as also
the sum of eight dollars & forty cents for cost & charges in
the said suit expended, whereof the said Company, are liable,
as to us appears of record. — And have you the said monies
before our said Court, at the Town of Halifax, on the fourth
Monday after the fourth Monday in March next — then
and there to render to the said Clement Rockwell and
Henning Smith. ^{More debt cost & charges as aforesaid} ~~Henning~~ ^{Smith} ~~Smith~~ And have you then and
there this writ. — Witness R. L. Whittaker Clerk of our
said Court at office, the fourth Monday after the fourth
Monday in September 1842. And in the 67th year of our Independence.

Issued the 23rd day of February 1843.

Rob. L. Whittaker C. C.

The before mentioned writ issued to the Sheriff of Northampton was returned to Halifax Superior Court Spring Term 1843 with the following endorsement thereon.

Came to hand the 20th of February 1843 with instructions from the Plaintiffs not to execute this writ on the Engines and Cars running on the Road of the Portsmouth and R.R. R. Company,

No property to be found on which to execute this writ.

Ethel & J. Peeler, Shff

And the aforesaid writ issued to the Sheriff of Halifax was returned to the aforesaid term of the said Court with the following endorsement as follows. Executed by sale of Bridge in Northampton \$10.100.

Plaintiffs Attorney J. Bragg directs this Fi Fa not to be Executed until further Orders.

W. W. Brickell Shff

Whereupon the Plaintiffs send out Alias Fi Fa directed to the Sheriffs both of Halifax & Northampton which are in words and figures as follows.

State of North Carolina

To the Sheriff of Northampton County Greeting:

You are hereby as heretofore commanded that of the goods and chattels lands and tenements of Portsmouth and Roanoke Rail Road Company, you cause to be made the sum of sixteen thousand eight hundred & forty six dollars & 80 cents which Clement Rochelle & Hemming Smith, lately in our Superior Court of Law, held for the County of Halifax at the Court House in the town of Halifax, recovered against the said Portsmouth and Roanoke Rail Road Company. For Debt as also the sum of Eight dollars and forty cents for costs and charges in the said Suit expended, whereof the said Company, are liable as to us appears of record. And have you the said money before our said Court at the Town of Halifax on the fourth Monday after the fourth Monday in September next, then and there to render to the said Clement Rochelle and

and Hemming Smith their debt costs and charges aforesaid. And have you then and there this writ. Witness R. L. Whittaker Clerk of our said Court at office the fourth Monday after the fourth Monday in March 1843 and in the 67th year of our Independence.

Spaced the 14th day of August 1843

Robt. L. Whittaker C. Cl.

State of North Carolina

To the Sheriff of Halifax County Greeting:

You are hereby commanded that of the goods & chattels, lands and tenements of Portsmouth & Roanoke Rail Road Company, you cause to be made the sum of sixteen thousand eight hundred & forty six dollars and eighty cents, which Clement Rochelle and Hemming Smith, lately in our Superior Court of Law, held for the County of Halifax at the Court House in the town of Halifax recovered against Portsmouth and Roanoke Rail Road Company. For Debt as also the sum of Eight dollars & forty cents for costs and charges in the said Suit expended, whereof the said Company are liable as to us appears of record. And have you the said money before our said Court at the Town of Halifax on the fourth Monday after the fourth Monday in September next, then and there to render to the said Clement Rochelle & Hemming Smith their debt costs & charges aforesaid. And have you then and there this writ. Witness R. L. Whittaker Clerk of our said Court at office the fourth Monday after the fourth Monday in March 1843 and in the 67th year of our Independence.

Spaced the 23rd day of August 1843

Robt. L. Whittaker C. Cl.

The aforesaid writ directed to the Sheriff of Northampton was returned to the Fall Term of said Court with the following endorsement thereon. Made by the sale of that part of the Portsmouth & R. R. Road lying between Roanoke and Margaretsville the 7th of October 1843 to Clement Rochelle

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ten thousand and one dollar, and by the sale of the same
house at Martinsville the 9th of the same month to John
Rumay, eighty dollars and twenty five cents, and by the
sale of the one at Barnes & Sparks the same day to Clement
Rockelle forty dollars, making in all Ten thousand one
hundred & twenty one dollar and twenty five cents, which
satisfies their Fi Fa and leaves a balance of twenty three
hundred & ninety five dollars & sixty & twenty nine cents
to be applied as a credit on Fi Fa; W. One & two return-
able to the County Court of this County, November
Term 1843, The former in the name of Rockelle or
Bishop and the latter in the name of Rockelle & Sparks
Ethel. J. Publer Shff.

The aforesaid writ directed to the Sheriff of Halifax
was returned with the following endorsement thereon.

To have the 2nd August 1843 Plaintiffs Attorney J
Baugh, to give directions, none being given, Not Executed.
No property known to be liable.

W. W. Brickell Shff.

In addition to the costs saved in the first Fi Fa paid
to wit \$8.40 there is additional cost incurred by the issuing
of Fi Fa and writs of distresses to the amount
of \$1.84

State of North Carolina, I Henry Garrett Clerk of the Superior
Halifax County, Court of Law for the County of Halifax
do hereby certify that the foregoing is a true & complete copy
of the proceedings had & taken in the aforesaid case as appears of
record in my office

In testimony whereof I hereunto subscribe
my name and affix the seal of office
at office in the town of Halifax this
29th of Oct A.D. 1845

Henry Garrett C. C.