

1875-018  
Nansemond Co. (Suffolk)

Chancery Causes: James J. Lewis vs James W. Mears & James L. Mears

Sinclair, Harrison, Southall, Hall, McNeal, Crittenden, Bunting, Savage, Graham, Haughwaut, Prentis, Gray,  
Haughwaut

Virginia. In the Circuit Court of the County of Albemarle. 1872

James J. Lewis

Plff

v

Defendants

James W. Means &

Plffs

Statement of Plffs Costs

Clerk

\$8.56

Attorney

15.00

Tax

1.00

Comm

5.00

Witnesses

J. H. Corlenden

\$1.14

W. H. Bunting

1.22

Geo. E. McVeer

1.14

Wm. B. Savage

1.14

James Graham

1.14

Tho. Haughwerth

1.14

Mrs. Sinclair

1.14

Jas. H. Means

1.14

9.20

Not. Pub.

6.00

\$144.76

And

Coils

**THE COMMONWEALTH OF VIRGINIA,**

TO THE SHERIFF OF NANSEMOND COUNTY,—GREETING :

YOU ARE HEREBY COMMANDED TO SUMMON *James W. Mears, James L. Mears*  
*and Peter B. Prentiss, Trustee,*

to appear at the Clerk's office of our *County* Court for the County of Nansemond, on the  
first Monday in *May* next, 1871, being rule day, to answer a bill in chancery,  
exhibited against *them* by

*James J. Lewis*

and unless *they* shall answer the said bill by the  
next rule day thereafter, the Court will take said bill for confessed, and decree accordingly. And  
have then and there this writ. Witness, PETER B. PRENTISS, Clerk of our said Court, at his office, this  
5th day of *April* 1871, and in the 95th year of the Commonwealth.

*Peter B. Prentiss* Clerk.

*Recd.* The Sheriff will, in his return, note the day on which this process is executed on each defendant.

Memo:

injoin and

The Object of this suit is to restrain the Defendants, James W. Means and James L. Means, Their agents and all others concerned, from selling, carrying away or otherwise disposing of the oysters and the other property, in the Bill and Exhibits mentioned, until the further order of the ~~the~~ Court.

Teste, Peter B. Prentiss, Clerk.

Baker & Walker, 19

James J. Lewis

as { Sumd. in Chy: d

James W. Means & ar

=> May Rules 1871

Pro: B. No: 1. page 68

Co: Co:

Executed April 5<sup>th</sup> 1871 and a true copy  
delivered to James W. Means & James L. Means  
& Peter B. Prentiss each

Lewis  
vs.  
Means &c

On the motion of the Plaintiff,  
an Injunction is awarded here to injoin  
and restrain the defendants James M. Means  
and James L. Means, their agents and all others  
concerned, from selling, carrying away, or  
otherwise disposing of, the oysters, and the  
other property in the bill and Exhibits men-  
tioned, until the further order of the  
Court. And it is further ordered that  
Peter Galloway, who is appointed a Receiver  
for the purpose, do take possession of the  
Oyster Beds, the oysters planted thereon, and  
the other personal property aforesaid, with  
authority to sell the said oysters from  
time to time, when in his discretion it  
may be necessary or expedient to do so,  
and make report to the Court. But this  
Injunction is to be suspended, until  
the said J. M. Lewis, or some one for  
him, shall enter into bond with re-  
cognizance, before the Clerk of this Court  
in the penalty of <sup>Five hundred dollars (\$500)</sup> ~~\$1000~~, payable to the  
Commonwealth of Virginia, & conditioned  
to pay to the defendants all such dam-  
ages as shall be sustained by them, in  
case this Injunction be dissolved.  
And as to the said personal property,  
other than the said oysters, leave is  
given to the said James M. Means,

to retain the sum in his possession until  
the full term of the bond, upon his  
giving bond with security, in the penalty  
of \$200, payable to the plaintiff, and  
conditioned to have the sum forth coming  
to answer any further demand in  
the cause -

W. H. Burroughs,  
City Judge Norfolk City.

March 25. 71

To the Clerk of the  
Superior Court.

Lewis  
in the  
mean the

Signature

It is agreed that when Jas. W. Mear, called  
on Peter B. Prentiss to write the Bill of sale  
from said Mear, & his son James L. Mear,  
dated the 16<sup>th</sup> day of Feb 1871, that the said  
James W. Mear, told said Prentiss to write  
it so as to convey one half of the oysters  
planted on the flats on Narragansett River  
opposite the farm purchased by said James  
W. Mear of Jas. J. Lewis, & his son Jas  
L. Mear, owned the other half - when Mr  
Prentiss said it made no difference as it was  
all in the family & accordingly wrote it  
conveying a "lot of planted oysters"

Correct -

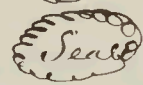
Peter B. Prentiss

John R. Kilby

R. H. Baker

Know All Men, by these presents, that we, James J. Lewis and Horace L. Gray, are held and firmly bound unto the Commonwealth of Virginia, in the sum of Five Hundred Dollars, to the payment whereof well and truly to be made to the said Commonwealth, we bind ourselves and each of us, our and each of our heirs, Executors and Administrators, jointly and severally, firmly, by these presents: and we do hereby waive the benefit of our Homestead Exemption, as to this debt and obligation. Sealed with our seals and dated this 5th day of April, A.D. 1871.

The Condition of the above obligation is such, that Whereas the above bound James J. Lewis, in his Bill in Chancery, addressed to the Honorable Theodore S. Garnett Jr, Judge of the County Court of Nansemond County, has obtained from the Honorable W. H. Burroughs, City Judge of Norfolk City, an Injunction against James W. Means and James L. Means, Two of the Defendants in said Bill, (Peter B. Prentiss, Trustee, being the third Defendant in said Bill) enjoining and restraining the said Defendants, James W. Means and James L. Means, their agents and all others concerned, from selling, carrying away or otherwise disposing of the Oysters and the other property in the said Bill and Exhibits mentioned, until the further order of the Court: Now, if the said James J. Lewis, shall pay to the said Defendants, all such damages as shall be sustained by them, in case said injunction be dissolved, then, this obligation to be void, else to remain in full force and virtue.

James J. Lewis   
Horace L. Gray 

James J. Leavis  
To { Injunction Bond  
Commonwealth

April 5<sup>th</sup> 1871 Executed Filed.  
C. H.

Lewis

or

Means

1. The Injunct. should be dissolved as to all claim set up Lewis as to the oysters, for admitting that Lewis has a legal demand against ~~Means~~ Means, for Balance of his debt, he has at Law an ample and complete remedy, by Judgment, Execution & Writs to reach all estate of Means. and where a plain & simple remedy at Law & Complete also is had, Equity is not the remedy <sup>that has no jurisdiction</sup>  
Smith p. 9. Sec 4.

Story Sec 33 &c. &c.

2. Equity has jurisdiction we admit to investigate a fraudulent deed or one alleged to be so, so that so far as the Bice seeks to investigate the deeds of the father to the son, Equity has jurisdiction —
3. The Injunction is of great injury to Bice, as it prevented his selling oysters last season, stopped his business, his ~~now~~ yet doing so — should be dissolved as to them.
4. Mr Baker is altogether mistaken in supposing that the oysters are above low water mark — we readily admit that to low water mark we have no claim but below that we claim.

What are the facts — That (as the depts. interfere

prove) there were no oysters of value two  
stakes on the flats when he purchased of Lewis,  
& that oysters & stakes were put there by Means.

But suppose oysters were on the flats below  
low water mark, & that Means took possession  
under his purchase of Lewis, and used up  
all the oysters on the flats - and then  
put down others. yet he is entitled  
to the occupation of the flats & all oysters  
on them put there by himself.

Now if Lewis undertook to sell the  
flats it was a void contract, see

Code p. 366 sec 2. Angel on ~~water course~~  
tide water 139 &c. & the great case of Martin v.  
Waddell 16 Peters. 369. &  
Collins v. Benbury 3 De. 277.

If Means got possession of the flats under  
his supposed purchase of Lewis, yet as  
Lewis had no right to sell, and as Means  
then staked them in & planted oysters - being  
then in possession with his stakes & oysters  
he is liable under the Deed of Trust  
could convey any title to the flats  
to Lewis below low water mark, & hence  
Means is lawfully in possession &  
Lewis has no claim whatever.

Means is protected in the enjoyment of his  
planted oysters by Law, see Code p 790 sec 24  
Angel on tide waters p. 139 &c

There being no tile below low water mark  
to any of the soil, in Lewis, he sold nothing  
& the Debt to ~~the~~ extent any Bond may  
given therefor is ~~void~~, without consideration  
& cannot be recovered — & Robt Prad. 577 &c

This last question need not arise here  
if the Injunction is to be dissolved,  
unless the plt. continues <sup>to assert</sup> his claim in this  
case — But should a suit at Law be  
brought the above defense can be made.

J. R. Kelly J. C.

Lewis

7

means to

note by  
J. R. Kiehl

Lewis

21

3

Note

Mean - &c

1. The Cause is set down for hearing on the merits & must be decided of by the Court on its merits, not on the simple motion to dissolve. A motion to dissolve on irregularities in a Cause, which is ready as to all the parties, & in which other relief is also sought beyond the irregularities, as is the case here, cannot be made.
2. The Irregularities is now of no avail or injury to either party as the Receiver has never taken possession of any of the property and the Oysters cannot be taken up or removed at the season.
3. As to the Chancery property which is involved in the Controversy.  
I submit that the fraudulent Character of the sale by the Father to the son is clearly made out - It is perfectly transparent that it was a mere device or shift to keep

the father's property out of the reach of his creditors, by transferring it to the son, not for money but for services of the son, for which the son had been doing more than paid by his board lodging & monthly wages furnished by the father.

The answer filed by the son practically admits the fraud & admits, one of the plaintiffs is trying to prove it, as he proves the sale by the father, as if it were his own property, of the boat as well mentioned in the bill of sale, just as if no bill of sale had been made. Authorities on this head of the case will be furnished if the Court desires it.

#### 4. As to the Oysters -

The plaintiff claims no ownership in the flats on which the oysters were and are, bay and low-water mark, but he does claim all the oysters on the flats, at the time of his purchase from the Justice Printing, out to the Center of the Stream. I suppose the Fifth Concedes this claim over to low-water mark, and I

maintain that all the oysters then are within that limit. The witnesses of the plaintiff all testify distinctly on this point, and their testimony is the testimony of men familiar with the subject for years, from actual employment on the farms and in oystering on the flats, who could have no motive to swear falsely. But suppose the oysters were bay and low-water mark, is it claimed that there can be no ownership of oysters on other Chattels, deposited on the bed of a <sup>navigation</sup> stream bay and low-water mark merely because the party has no title to the soil there? I suppose not. If I deposit my fence in the public highway it is still as much mine as if it were in my pocket. If I sink it in the River the same rule applies, and all my remedies to recover it are unimpaired, not withstanding the public, on the State may own the soil of the highway -

Now the proof is, bay and low-water mark, that they found more oysters on the flats than be left them, that

he carried away more than he planted,  
that the beds were staked off on the right  
staked off by Lewis; that Means bought  
the place chiefly for the oysters, that  
he found a large quantity there, &  
that all the title he was had to  
them, he acquired by Lewis' deed to  
him of the 1<sup>st</sup> Jan'y '67 - On the  
same day out by purchasing the same  
larger or he conveyed the same prop-  
erty including the oysters and flats  
to Prentiss ten years, and Prentiss ten-  
tee sold them in 1871, without  
exception or reservation, the same  
property & Lewis, to save himself,  
becomes the purchaser. In other words,  
Means could not have any better title  
than Lewis who conveyed to him, & by using  
the same language he conveyed back to  
Lewis exactly what he bought of him,  
to wit the land and the oysters within  
the area staked off, & appurtenant to  
the farm.

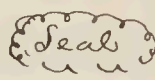
All the hardship in the case is upon the  
plaintiff - His farm is not worth as  
much as it was when he sold it; the  
oyster beds have been stripped of oysters  
and the land of manure & soil - The

small price which the land brought at  
 the recent sale, which is admitted  
 to have been a fair one, is no  
 fault on the part of the plaintiff,  
 and is more his misfortune than  
 it is that of the deft. And the  
 Plaintiff, as he states in his depositions, is  
 ready at any moment to give up  
 the farm on the payment of the  
balance due him & will gladly do  
 so - <sup>whether or not the place now</sup> If the deft. has so greatly increased its value, let him pay.  
 The deft's claim of Homestead need  
 not be noted here - It cannot,  
 under any circumstances, be set up  
 in this case.

R. W. Baker Jr  
 for Plaintiff

Luvi  
✓ 2 Note  
Mean

This Deed, made this first day of January in the year One thousand eight hundred and Sixty seven between James J Lewis and Adaline A, his wife, of Nansemond County Virginia, of the first part, and James W Mears, of same place, of the second part. Witnesseth, that, in consideration of the sum of Three thousand (3000) dollars, the said James J Lewis and Adaline A, his wife, do grant unto the said James W. Mears, and to his heirs & assigns forever, with general warranty, a certain tract piece, or pieces of land, lying and being situate in the lower parish of said County, containing One Hundred acres, more or less, and bounded as follows: by the land of John Sinclair on the North and West: on the East, by the lands of P. N Jewett, and on the South, by Nansemond River: the land hereby sold, being that known as the "Pitt place", together with a few acres added by said Lewis, since his purchase from Hugh H Kelly Commr: The said James J Lewis, covenants that he has the right, to convey the said land, to the grantee; that he has done no act, to encumber the said land: that the grantee shall have quiet possession of the said land, free from all encumbrances, and that they, the parties of the first part, will execute such further assurances of the said land, as may be requisite: Witness the following signatures and seals.

James J Lewis.   
Adaline A Lewis. 

In the Clerk's Office, of Nansemond County Court, the 28th day of March 1868:

This Deed, was acknowledged by James J Lewis, and the same Court, having been examined by me, in my Office, privily

and apart from her husband, and having the deeds of record,  
fully explained to her, acknowledged the same to be her act, de-  
clared that she had willingly executed the same, and that  
she did not wish to retract it: and thereupon admitted to rec-  
ord: (The requisite stamps of \$3.00 having been affixed and  
cancelled).

Teste = Peter B. Prentiss. Clerk  
a Copy:

Teste:  
Peter B. Prentiss. Clerk

James J. Lewis Sup.

To { Copy Made

James W. Means.

To Es. M. Pears and James L. Pears

**Take Notice,** That I shall proceed on the 26<sup>th</sup> day of June 1871  
and between the rising and setting of the sun, at the office of Re-  
m & Walker in the City of Norfolk.  
to take the deposition of Gilbert Gray, Jas. J. Lewis  
and others

to be read as evidence in the suit now depending in the County Court of the  
Harrison and County.

in which I am — plaintiff and you are —  
— defendants. And if, from any cause, the said deposition should not be com-  
menced on that day, or if commenced, be not concluded on that day, the taking of the same  
will be adjourned and continued from day to day, or from time to time, at the same place  
and between the same hours, until the same shall be completed.

June 10. 1871

Jas. J. Lewis  
by his Counsel

James J. Lewis jr. this day made oath before me  
that he did on Monday the 19<sup>th</sup> instant deliver to  
James W. Meers and James L. Meers each a copy  
of the within notices.

Rich<sup>d</sup>. Blunston,  
Notary Public

29,

To be returned to me  
on the endorsement of  
the party or parties  
the order on the  
English Bank of North America

1  
The Depositions of J. F. Lewis, J. J. Lewis and others, taken before me, Richard B. Tunstall, a Notary Public for the City of Norfolk, pursuant to notice hereto annexed, at the office of Baker & Walke in the City of Norfolk on the 26<sup>th</sup> day of June 1871, between the hours of 6 A.M. & 6 P.M., to be read as evidence on behalf of James J. Lewis in a certain suit in equity depending in the County Court of Nansemond County, wherein James J. Lewis is Plaintiff and James W. Mears and James L. Mears are Defendants.

No witness appearing, the further taking of these depositions is continued until to-morrow, at the same place and between the same hours.

Rich<sup>d</sup>. B. Tunstall  
Notary Public

June 27<sup>th</sup> 1871 - Office of Baker & Walke.

Present - R. H. Baker jr. - Counsel for Plaintiff

Isaac F. Lewis being first duly sworn deposes & says:

1<sup>st</sup> Question by Plaintiff, Continued.

What is your age & where do you reside?

Answer I am 3-1 years old & reside in Portsmouth.

2<sup>d</sup> Question by same.

Are you acquainted with the parties to this suit?

Answer. Yes

3<sup>d</sup> question by same.

I state what you know in regard to the sale by your brother James S. Lewis of the farm in controversy in this suit to the defendant L. N. Means.

Answer. I introduced Mr Means to my brother at the time he bought the place, recommending him to buy it on account of the oyster flats as well as the land itself. At the time of the purchase the oyster flats were staked out as claimed by my brother and there were oysters on the flats at the time. The quantity I do not know, but I do know, that my brother was engaged in planting and raising oysters at the time. I have passed the shores very many times & am well acquainted with the river. It depends upon the wind whether the oysters are above or below low water mark. When the wind is Southern the tides leaves them entirely bare; when it is Easterly, it does not leave them. There is a great difference in the tides, in that river according as the wind happens to be. At the time of the sale to Means, the land was in very

good condition, the house was somewhat out of repair but tenant-able. The place was under a good fence at the time.  
Cross examined.

1<sup>st</sup> Question by Defendant's Counsel.

Are the oysters planted by Means the defendant below ordinary low water mark?

Answer. I know nothing about any oysters planted by Mr Means.

2<sup>d</sup> Question by same.

Who staked in the flats on which the oysters of the defendant are planted.

Answer. As I don't know anything about Mr Means' oysters I can't say who staked in the flats on which they were planted. But my brother's flats were staked in by Richard Southall. At the time he surrendered the place to Means there were stakes there, but whether they were put there by Rich<sup>d</sup> Southall or Ames, I can't remember.

3<sup>d</sup> Question by same.

Is the farm, including house, fence & land in as good or better condition than when the defendant first obtained possession of the same.

Answer. That I can't tell, because I haven't

been there for about three years.

4<sup>th</sup> Question by same.

Is the said farm worth as much now as when originally sold by said Lewis to said Meas?

Answer. I am not sure to say as I do not know the present condition of the place.  
Jacob B. Lewis

John H. Harrison being duly sworn deposes and says as follows

1<sup>st</sup> question by Counsel for Plaintiff  
What is your age and occupation?

Answer - I am 44 years old, and am an optician

2<sup>nd</sup> by same

Do you know the parties to this suit?

Answer - Yes -

3<sup>rd</sup> by same

Do you know anything about a boat or small vessel called "The Josie Bell", which was mentioned in the deed of James L. Meas, as having been loaned to James W. Meas? if yes, state all you know about it?

Answer I only know I went on board of ~~the~~ <sup>the Kygia</sup> once, and asked James L. Meas what he was going to do with the Josie Bell now that he had another boat.

He said "the old man" (his father) was going to sell her, and Mr. Himes was going to take her, if he could not buy the Cucumber at \$200. Soon after I was aboard again and he told me his father had sold her to Mr. Himes for \$200. These conversations took place the last of March or 1<sup>st</sup> of April last.

### Cross-Examination

1<sup>st</sup> question by Counsel for Defendant.

Are the oysters planted by means the Defendant below ordinary low water mark.

Answer. I could not say. I would not say that they are not bare, but I have never seen them bare.

2<sup>nd</sup> question. ~~Who state~~ by same

Who stated in the flats on which the oysters of the Defendant are planted?

Answer. I could not tell. I do not know.

3<sup>rd</sup> question by same

Is the farm including houses, fences & land in as good or better condition than when the defendant first obtained possession of the same?

Answer. I do not know. I do not know the condition then or now. I have never been to the house in my life.

4<sup>th</sup> question by same

Is the said farm worth as much now as when  
originally sold by said Lewis to said Meas<sup>r</sup>?  
Answer - I could not say -

J. H. Harrison

Richard Southall being duly sworn depo-  
-ses and says as follows

1<sup>st</sup> question by Counsel for Plaintiff  
What is your age and your occupation?  
Answer I am 42 or 43 years old and am  
an oysterman by trade

2<sup>nd</sup> by same

Do you know the parties to this suit?

Answer - Yes.

3<sup>rd</sup> by same

Do you know the land and the oyster  
flats sold by Mr. Lewis to Mr. Meas<sup>r</sup> -

Answer - Yes - I have known the place  
twelve or fifteen years -

4<sup>th</sup> by same

were the oyster flats staked off at the  
time Mr. Lewis sold to Mr. Meas<sup>r</sup> -

Answer - Yes - it was - I put the stakes  
down myself, and it has been staked  
off ever since to my knowing - I have  
been employed on the river ever since

5<sup>th</sup> by same

Did Mr. Lewis have oysters on the flats  
at the time he sold to Mr. Meas<sup>r</sup> -

Answer - Yes. I planted some myself. I was living with Mr. Lewis at the time and know the fact that shortly before that time he bought several loads of oysters from James Wyatt, and planted them on the flats; he also bought oysters from a man named Robinson and planted them. I don't know the quantity that were upon the flats at the time of the sale, but I should judge that there were at least \$700 or \$800 worth of old oysters at the time, besides some newly planted oysters. Myself ~~and~~ were planting every day that the weather would allow, and there <sup>were</sup> <sup>a</sup> three or four thousand <sup>bushels of</sup> newly planted oysters there at the time.

<sup>6th</sup> by same  
Was Lewis' ownership of the flats as stated off recognized and acknowledged by the neighbors & others?

Answer - Yes nobody ever disputed it.

#### Cross Examination

<sup>1st</sup> by Counsel for Plaintiff

are the oysters planted by means the defendant below ordinary low water mark.

Answer - I don't say - whether the tide leaves them entirely or not. If they are planted where we planted, I can walk from the shore dry footed and pick them up, when the wind is from the Southwest.

2<sup>nd</sup> by same

who staked in the flats on which the oysters of the defendant are planted?

Answer I staked it off - and it was staked off when he went there - I don't know who put the stakes down, which are there now, but when I left there were some of the stakes which I put down, still there - I left in 1867

3<sup>rd</sup> by same -

Is the farm including houses, fences & land in as good or better condition than when the defendant first obtained possession of the same?

Answer The farm was in very good condition when he sold to Meas, and under very good fence - Mr. Meas has improved the buildings somewhat but I can't say whether the farm ~~was~~ is worth more or not - I don't think what he has put upon the lease compensates for the difference in the land and fence - Mr. Meas only used one horse and Mr. Lewis used four and sometimes five, and had some cattle and consequently always ~~could~~ had a great deal of manure, and could in that way keep the land in good order - Mr. Meas only had a force of himself, son and one hired man, Mr. Lewis worked 6 men, 1 boy & 4 women

4<sup>th</sup> by same

Is the said farm worth as much now as when originally sold by said Lewis to said Meers?

Answer - There can't be as many oysters there now as when Mr. Meers bought the place and therefore I should not think the place was worth as much.

### Reexamination

1<sup>st</sup> by Counsel for Plaintiff.

Do you know George E. McNeal?

Answer - Yes. The first day he came to the country, he came to my house & boarded at my house several months. We oystered together ~~for~~ on the rocks from the fall of 1865 till Christmas. We passed over Mr. Lewis' oyster grounds every day during that period.

2<sup>nd</sup> by same

At that time were Lewis' grounds staked off?

Answer - Yes. I am absolutely certain of that, and McNeal must have seen them as well as myself.

3<sup>rd</sup> by same

Do you know Capt. Alfred Becker?

Answer - Yes.

4<sup>th</sup> by same

What do you know about Mr. Lewis selling him oysters?

answer. In the winter of 1865 or 1866 Mr. Lewis sold to Capt. Decker not to exceed one hundred bushels of oysters from the place sold to Sinclair, not from the place sold to Meas. I aided in taking them up myself and know all about it. Mr. Lewis never sold any oysters from the Meas place since the war. The oysters referred to in McNeals' deposition were taken from the Sinclair place, and I state again with absolute certainty, having been on the spot, all the time, that at the time Meas took possession of the place sold to him, Mr. Lewis had from three to five thousand bushels of oysters old and new.

Witness Richard <sup>his</sup> Soulhall  
Richard Soulhall.  
mark.

Price Hall being duly sworn deposes and says

1<sup>st</sup> question by Counsel for Plaintiff-  
What is your age & occupation?

Answer. I am 58, and am now on a farm, but have followed oystering  
2<sup>nd</sup> by same.

Do you know the parties to this suit?

Answer. Yes

3<sup>rd</sup> Do you know the land and the oyster flats

sold by Mr. Lewis to Mr. Meas?

Answer Yes. I have known of the place for about fourteen or fifteen years.

4<sup>th</sup> by same

were the oyster flats staked off at the time Mr. Lewis sold to Mr. Meas?

Answer - Yes. They were certainly staked off. Richard Southall staked them off. I was following oystering at that time, and he showed me the stakes

5<sup>th</sup> by same

Did Mr. Lewis have oysters on the flats at the time he sold to Mr. Meas?

Answer - Yes. I used to pass there, and have seen them; I don't know how many there were, but they seemed to be pretty thick.

6<sup>th</sup> by same

Was Lewis' ownership of the flats as staked off recognized and acknowledged by the neighbors and others?

Answer - Yes. all acknowledged it.

### Cross Examination.

1<sup>st</sup> by Counsel for Defendant.

Are the oysters planted by Meas the Defendant below ordinary low water mark?

Answer - I don't know. I have not particularly examined them, and don't know exactly where Mr. Meas' oysters are planted

2<sup>nd</sup> by same

Who staked in the flats on which the oysters of the defendant are planted?

Answer - George Carter put the stakes on the side of the flats between Mr. Jewett and Mr. Morrisett, Mr. Morrisett occupying the Pitt farm before Mears took possession - but all ~~along~~ the shore of the Pitt farm Richard Southall put the stakes - I don't know whether Mr. Mears has since put any stakes there or not.

3<sup>rd</sup> by same -

Is the farm including houses, fences and land in as good or better condition than when the defendant first obtained possession of the same?

Answer When Mr. Lewis was there, he had cattle & horses and manured the land regularly - <sup>as</sup> it has been in cultivation ever since I should not think it was in as good a condition <sup>now</sup> - It was Mr. Lewis' "main trucking land" the houses he has put there I do not think make up for the difference of the condition of the land - One year, I think 1865, when Mr. Lewis owned <sup>the farm</sup>, I put in the corn myself, and it was the best corn I made that year, and as good, if not better, than any made in the neighborhood, and this

shows that the land was in good condition  
4th by same

Is the said farm worth as much as when  
originally sold by said Lewis to said Mead?

Answer I don't think it is - It was in  
very good order when Mr. Lewis sold it.

### Reexamination

1st question by same -

Do you know George E. McNeal?

Answer - I do. He came to the county in  
1865 & lived with Southall as stated in  
his deposition.

2nd by same.

at that time were Lewis' ground staked off?

Answer Yes.

3rd by same

Do you know from your long residence on  
the adjoining <sup>place</sup> anything of the quantity of  
oysters Mr. Lewis had on his place when  
he ~~was~~ sold it to Mr. Mead?

Answer I know Mr. Lewis was frequently  
planting oysters and in large quantities, and  
there must have been a large quantity there.

Witness

Richd. B. Southall.

Price <sup>his</sup> X Hall  
mark

Fredrick Lewis being duly sworn deposes and says

1<sup>st</sup> question by Counsel for Plaintiff  
State your age and place of residence  
Answer I am 22 years of age and reside in Nansemond County.

2<sup>nd</sup> by same

Do you know the parties to this suit?

Answer. I do.

3<sup>rd</sup> by same.

Did you ever live on the farm Mr. Lewis, your father, sold to Mears?

Answer. I lived on the farm he sold to Mr. Sinclair, which is adjoining and at that time was a part of the same place.

4<sup>th</sup> by same

Did your father have the oyster grounds to the place sold to Mears, staked off at the time he sold to Mears?

Answer He did

5<sup>th</sup> by same

How long had they been staked off?

Answer As long as I can remember

6<sup>th</sup> by same

Did you live with your father and work with him at the time he sold to Mears?

Answer Yes

7<sup>th</sup> by same.

Did your father have any oysters upon the flats in front of the place he sold to mears at the time he sold to mears?

Answer - He did and I should judge about four thousand bushels, including ~~new~~ old oysters and those newly planted. I know that during the year prior to the sale to mears, he purchased and planted several loads of oysters from Robinson, Wyate and others, and that he had Southall engaged every day the weather was suitable in planting oysters. The oysters referred to by McNeal in his deposition were sold to Decker from the Sinclair place. The quantity sold to Capt. Decker amounted to about \$75 worth.

8th by same

What was the condition <sup>of the place</sup> sold to mears at the time he took possession?

Answer The farm was in very fine condition; the land was rich, under very good fences, & had been highly manured, & the buildings then upon the place were in better condition than now. Mr. Mears did put a log crib, stable and a smoke house the whole not to exceed \$100. The old buildings are in a complete state of wreck; there is not a lock on any of the doors, they having been taken away by Mr. Mears when he left. Mears also carried off all the manure from

the place, and cut and carried off all the  
stave timber

9th by same

Did Mr. Mears plant any oysters there?

Answer Yes, he did plant some, but sold &  
carried away more than he planted. He  
left there nothing like as many as he  
found there; those that he left are com-  
paratively worthless in their present  
condition. He took up and carried away  
a great many of the oysters after the  
sale by Mr. Prentiss, the Trustee, and did  
so until the injunction was served  
on him.

### Cross Examination

1st question by counsel for Defendant.

Are the oysters planted by Mears the Defen-  
dant below ordinary low-water mark?

Answer - I can't exactly say, but I think  
with a South westerly wind, some of them  
are bare. The tides in the river are much  
affected by the winds, an Easterly wind  
making a very high tide & a Westerly a  
low tide

2nd by same

Who started in the flats on which the  
oysters of the Defendant are planted?

Answer I don't know. I know they were  
started in when he bought the place

3<sup>rd</sup> by same

Is the farm including houses, fences and land in as good or better condition than when the defendant first obtained possession of the same?

Answer - I don't think it is in as good a condition - considering the timber and oysters that have been taken away and the difference in the condition of the land, & the condition of the old buildings

4<sup>th</sup> by same

Is the said farm worth as much now as when originally sold by said Lewis to said Meers?

Answer I think not.

Reexamination

1<sup>st</sup> question by Counsel for Plaintiff

Do you <sup>know</sup> Mr. McNeal, one of the witnesses for the defence?

Answer - Yes - he is an Irishman - came to the county in 1865, and boarded for a while with the witness Richard Southall - He was a stranger in the neighborhood at that time and what he knew about the place, he learned at the time he was with Southall - The oyster grounds were staked while he was there as they had been before and have been since.

2<sup>nd</sup> by same

Do you know anything of the relative value of lands in that neighborhood at the time your father sold to Mears, and at present?

Answer - Yes - land has depreciated from 25 to 50 per cent, I think, since Mears bought the place. *Frederic Lewis*

James J. Lewis being duly sworn deposes and says.

1<sup>st</sup> question by Counsel for Plaintiff

Where do you reside & what is your occupation?

Answer - In Hansemond County <sup>I am Plaintiff in this suit</sup> I am a farmer.

2<sup>nd</sup> by same.

State all that may be material to this controversy in reference to your sale of the land in question to James W. Mears, and in reference to the oysters & oyster flats appertaining to the farm -

Answer - My brother brought Mr. Mears to look at the farm in the summer of 1866 with a view of his purchasing it. He expressed himself as well pleased with the farm, & particularly with the flats they being the main consideration of his purchase. After showing <sup>him</sup> around the place, the lines & flats, he said the only difficulty in the matter was

the money, the price being \$3000, which was  
the price proposed by him, provided I would  
give him the credits mentioned in the Deed  
of Trust, which I did. He bought the place in <sup>the summer,</sup>  
paid \$500, although \$1000 was the <sup>agreed</sup> cash payment,  
and took possession in the January following  
~~when the deed was made~~. He moved on the  
place, built <sup>2 or 3</sup> little huts, that disgraced the  
appearance of the place. The weather boarding  
on the house is not as good as when he took  
possession; the steps are gone, and the whole  
in a dilapidated condition. The fences all  
around are down. The place looks like  
a wreck. The place is not now worth more  
than one half ~~than~~ as much as when he bought  
it. When he bought the place, my oyster  
ground ~~had~~ were all staked off, and had  
been for years before, and my right had  
never been disputed, and they had been so  
used uninterruptedly for 15 or 18 years.  
I had upon the flats from four to six  
thousand bushels of oysters, old and new,  
worth as I thought then and now believe  
certainly not less than \$2500 at the lowest  
estimate. These passed under my convey-  
-ance to me as if they passed at all to him  
and passed back to the Trustee Prentiss  
by his conveyance to the Trustee, and such  
of them as remained there passed back to

me under my purchase from the Trustee  
If Meass ever had any title, he got it  
under my conveyance of the 1st Jan:  
1867; if he did not acquire them under that  
deed, he did not get them at all, and they  
have been mine from the beginning.  
I am satisfied that he has sold more  
oysters from the flats than would have  
paid for the farm, and of the oysters that  
were sold <sup>by him</sup> ~~such a proportion~~ at least two  
thirds were the oysters he found there, when  
he went there. Mr. Meass has sold many  
oysters and planted very few, and what  
he has left there, will not amount to  
\$500 at the largest estimate; indeed, in  
the condition in which they were, when  
he left them, they are almost valueless.  
The oysters which I planted are frequently  
bare, and always when the wind is Southwest, &  
lie upon the shore, which under the laws of the land  
I am entitled to in fee simple. The low water  
in the river is different according to the  
wind; during an easterly wind, the tide falls  
much less than when the wind is southwest-  
erly. You can go there now any day and  
find the oysters bare, when the wind is southwest  
Meass has ~~been~~ carried away a great many oys-  
ters since I purchased the property from Mr.  
Prentiss the Trustee & against my positive

and repeated protest. The land and the fences when he bought the place, were in very good condition; ~~now~~ the fences <sup>were</sup> ~~are~~ all down when he quit it, and the land is in nothing like the condition that I left it, when I sold to mears. I notified him not to carry the manure from the farm, after I bought from Prentiss, but he persisted in doing so, taking with the manure a large mixture of the soil.

3<sup>rd</sup> by same

What instructions did you give Mr. Prentiss when he sold

Answer. I left him to use his own judgment in regard to the interests of both parties, and when he made the sale, the representation was, that I only wanted \$200 or \$300, and <sup>for</sup> the balance any reasonable credit would be given. A short time before the sale, Mr. Mears ~~thought~~ came to me, and told me that he could not pay for it; I told him that if he would raise \$1000. or \$1200 for me, I would give him any time he wanted for the balance. I am willing to do that to-day; I urged him to keep the place. He went off to borrow the money, came back in a week, and said he could not raise the money in any way, and that

the place would have to be sold.

### Cross Examination

1<sup>st</sup> question by Counsel for Defendant.

Are the oysters planted by Mears the Defendant below ordinary low-water mark?

Answer- It is hard to say what is low water mark in that river. I have often seen them bare. They are upon the flats, which were always used & claimed by me, & entirely accessible during low-tides without boats.

2<sup>nd</sup> by same.

Who staked in the flats on which the oysters of Mears are planted?

Answer- They were always staked in by those who preceded me, and by me, & they were kept staked by Mears.

3<sup>rd</sup> by same

Is the farm including houses, fences and land in as good or better condition than when the Defendant first obtained possession of the same?

Answer I think it is <sup>in</sup> nothing ~~is~~ like the same condition as when I left. He had not so large a force as myself, & could not keep it up as I did.

4<sup>th</sup> by same

Is the said farm worth as much now as when originally sold by you to said Mears?

Answer- It is not & I will take for it \$1000- less, than what he agreed to give me for it. He may resume possession on the terms -

### Reexamination

1<sup>st</sup> question by Counsel for Plaintiff-

Did you ever say in presence of John Sinclair that if he and Meas did not stake in the flats, some "damned Yankee would stake them in and they would never get them"?

Answer - Never. The flats were already staked in. Sinclair bought a farm and oyster flats from me adjacent to the one sold to Meas, for which he has not paid, and I have been told by several persons that his object is to serve me just as Meas has done.

2<sup>nd</sup> by same

Did you in the year 1865-1866 or 1867 sell to Capt. Decker from the Meas' place?

Answer not one. I sold him in 1866 ~~about~~ just before I sold the place to Mr. Sinclair about one hundred bushels of oysters taken from the farm sold to Sinclair

3<sup>rd</sup> by same

Did you ever say to or in the presence of W. B. Savage that you had no stakes on your flats, or that your flats were not staked in?

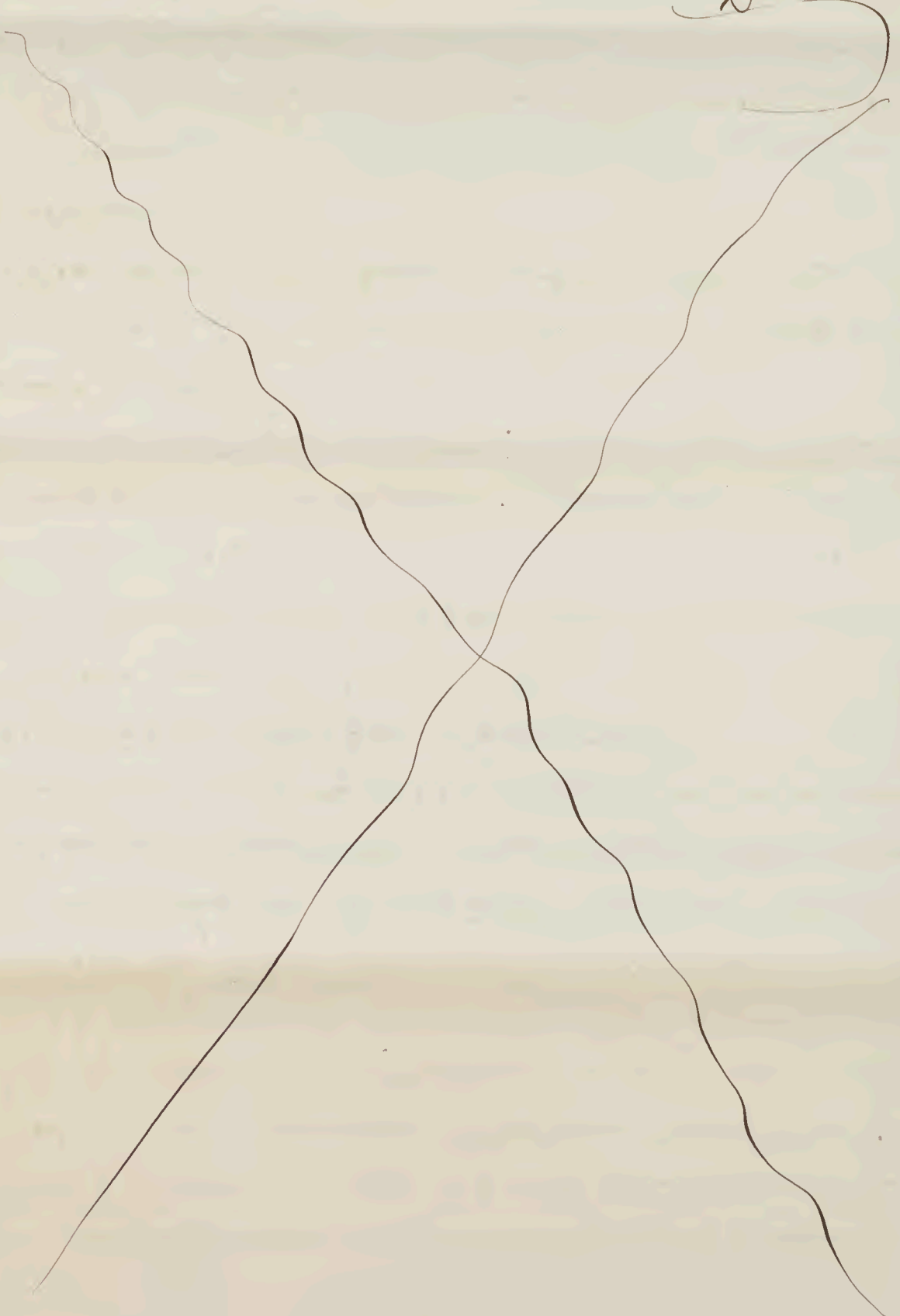
Answer - No. That would be impossible for they have always been staked in ever since I have known them.

4<sup>th</sup> by same.

Do you know anything of James L. Meas' means, and of his ability to buy property?

Answer He is a very young man, not more  
than 21, if that; never had any property that  
I know <sup>of</sup>, and if he had any, must have  
got <sup>it</sup> from his father or from the sale of  
~~his~~ my oysters.

James J. Lewis



Gilbert W. Gray being duly sworn deposes and says  
1st question by Counsel for Plaintiff

Do you know the place Mr. Lewis sold to Mead?

Answer - Yes. I was on it the winter of 1865 & 1866, & went there for the purpose of buying from Mr. Lewis the oysters on the flats, being then engaged in selling oysters in Petersburg. Mr. Lewis represented that there were many oysters on the flats, but I did not buy because we could not agree upon the price. He charged me more than I was willing to give

2nd by same

were Mr. Lewis' ground at that time staked off?

Answer - They were. He went down to the shore with me, and pointed out the stakes to me.

3rd by same

What was the condition of the farm at the time you were there?

Answer - I walked over Mr. Lewis' & thought it in good condition.

G. W. Gray

Memorandum - The cross interrogatories left by the Defendants' counsel were read to this witness G. W. Gray, and to all he stated he had no knowledge in reference to the matters to which they referred.

Richd. B. Bunstall  
Notary Public

State of Virginia.

City of Norfolk, Court:

I, Richard B. Tunstall a Notary Public  
for the City aforesaid, in the said State, do  
hereby certify that the foregoing depositions  
were duly taken, sworn to and subscribed  
before me at the times and place men-  
-tioned therein. Given under my hand

Paid-Fee this 27<sup>th</sup> day of June 1871.  
\$6 by Plaintiff

Richard B. Tunstall.  
Notary Public

Leaves 3 Depositions.  
by Mears

1871 July 1<sup>st</sup>  
Rec'd under cover

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *George E. Mc Neal, James Graham, John T. Gray, James H. Cruttenberg and John Sinclair,*

to appear before the ~~proper officer of said~~ *at the Office of John R. Kelly, in the*  
*Town of Suffolk.* ~~\_\_\_\_\_~~ Court of Nansemond County, on the *20th*:  
day of *May 1871* to testify and the truth to say in behalf of *James W.*  
*Mears*

in a certain ~~matter of controversy in our said Court~~ *Chancery Suit, in the County Court*  
~~of said County~~ depending and undetermined between *James J. Lewis, Plaintiff; and said*  
*James W. Mears & others, Defendants*

And this *They* shall in nowise omit, under the penalty of ~~\$~~*100* each And have then there  
this writ.

Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, the *27<sup>th</sup>* day of *April*  
*1871*, in the *95th* year of the Commonwealth.

*Peter B. Prentiss, Clerk*

Execute 5 May 11<sup>th</sup> 1871 and a true copy delivered  
to James Graham John T Gray James H. Luntz  
and John Sinclair (each)

George E. McNeal not found

W. E. by for  
A. S. Ely Sheriff

James W. Means do.

ads { Sp.

James J. Lewis

= To 20 day & May  
1871, at the Office of  
No. 20. Kelly, Suffolk.

W. E.

Sp. 50

THE COMMONWEALTH OF VIRGINIA,

*Norfolk*  
TO THE SHERIFF OF ~~NANSEMOND~~ COUNTY, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

*W. H. Branting and Wm Savage*

to appear before the ~~proper Officer of said~~ *at the Office of John R. Kelly, in the*  
*Town of Suffolk* ~~Court of Nansemond County~~, on the *20th*  
day of *May 1871* to testify and the truth to say in behalf of *James W.*  
*Mears*

in a certain ~~matter of controversy in said Court~~ *Chancery suit in the County Court*  
~~of Nansemond County~~ depending and undetermined between *James J. Lewis, Plaintiff; and*  
*said James W. Mears & others, Defendants*

And this *They* shall in nowise omit, under the penalty of ~~\$100~~ *each*. And have then there  
this writ.

Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, the *29<sup>th</sup>* day of *April*  
1871, in the *95th* year of the Commonwealth.

*Peter B. Prentis. Clerk*

James W. Means

ad { Sp:

James J. Lewis.

To 20<sup>th</sup> day of May  
1871, at the Office of  
John R. Kelly, Solicitor  
Gen.

Executed May 5<sup>th</sup> 1871  
by delivering Copies  
of the within  
John Lermer Duff

c.c.c.

To James J. Lewis

Take notice that ~~we~~ shall on the 20<sup>th</sup> day of May 1891, next, at  
John R. Kilby's office in Suffolk,  
Nauvoo County ~~be~~ between the hours of 8 a. m. and 6 p. m. of that day, proceed  
to take the Depositions of Geo. E. McNeal ~~and~~  
\_\_\_\_\_ and others, to be read as evidence in ~~our~~ behalf, in a certain ~~suit~~  
in chancery, depending in the County Court of Nauvoo  
County, wherein you \_\_\_\_\_  
\_\_\_\_\_ are plaintiffs, and ~~we & another~~ \_\_\_\_\_  
\_\_\_\_\_ are defendants; and if from any cause the taking of the said  
Depositions be not commenced on that day, or if commenced be not concluded on that day, the  
taking of the same will be adjourned and continued from day to day or from time to time, at the  
same place and between the same hours, until the same shall be completed.

Respectfully,

To the Sheriff of Nauvoo }  
County to execute.

Sam<sup>l</sup> W. Meary  
Sam<sup>l</sup> L. Meary  
by att<sup>ys</sup>.

Executed May 10<sup>th</sup> 1871. and a true copy delivered  
to James J Lewis —

W H Ely Dy for  
A S Ely Sheriff

Lewis

"

Present to

notice to take

depos. on 20 May

1871.

San Jose

San M. Mearns & Co.

This cause came on this day to be again heard upon the paper formerly read, and upon the report of M<sup>r</sup>. J. H. Sheriff made him in pursuance to the decree of the day of September 1871, to which report no exceptions are taken and was argued by counsel.

On consideration whereof the Court doth confirm the said report, and doth adjudge order and decree that one of the Commissioners of this Court do enter the following account, viz:

1<sup>st</sup> An account of the Plaintiff's demand.

2<sup>d</sup> An account of any accounts rendered by the plaintiff under the said decree, on account or in part of his said claim, showing the balance now due to the said plaintiff.

Which accounts the said Commissioners is directed to state separately and to the Court upon, together with any matter specially stated, deemed pertinent by himself or which may be required by either party to be so stated.

Leaves  
in 3 books  
Mian &c

Dec 8. 1872

To be entered:  
Theodore S. Garnett. Jr.

Expnd ~~page~~ 210

James J Lewis -

note ~~\$289~~<sup>45</sup>/<sub>100</sub>-

Or by cash 7.00

\$ 283.<sup>45</sup>/<sub>100</sub>

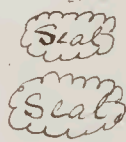
due 30<sup>th</sup> day

March 1842

\$20<sup>45-0</sup> Four months after date, with interest from date. We promise  
to pay unto W.H. Eley by for A. S. Eley Sheriff of Nassau County  
The just and full sum Two hundred and ninety dollars -  $\frac{45}{100}$   
for value received, it being for the purchase of a lot of planted  
oysters belonging to James W. Mears sr, sold under a decree of  
Court for the benefit of James J. Lewis, and we hereby waive  
the benefit of our homestead exemption, in the payment of  
this debt - Given under our hand and seal this 30<sup>th</sup> day of  
November 1871 -



James J. Lewis



at a Court held and closed for Hanswonus  
County September 20th 1871 Det  
James W. Means, & James L. Means <sup>against</sup> complainant  
and Peter B. Painter Trustee Defs

This cause came on this day to be again  
heard on the bill and exhibits filed therewith,  
and on the answer of the defendants James  
W. Means, and James L. Means, and ~~on the~~  
general replication thereto, and on the said  
bill taken on confessed as to Peter B. Painter on  
whom process has been duly served and he  
failing to appear and make defence, and  
on examination of witnesses, and was  
argued by Counsel; on consideration  
whereof the Court deciding that the sale  
made by James W. Means, to James L. Means  
of the Chattle Estate referred to in the deed  
of sale from James L. Means dated the 16<sup>th</sup>  
day of February 1871 was without sufficient  
consideration and is fraudulent and  
void, ~~that the said sale be set aside and~~  
~~and~~ doth ~~and~~ further adjudge, order  
and decree that the Sheriff of this County  
proceed to sell at auction near the  
property aforesaid or such thereof as he  
may be able to find; to-wit, one, bed,  
six chairs, two bureaus, two safes, one Carpet  
one lot of trunks and chest, twenty five  
bushels of corn, three thousand pounds

of fodder, fifteen hundred pounds of  
bacon, a quantity of lard, nineteen (19)  
hogs and eight (8) Cattle and their future  
increase, One horse, one ox, one goat and  
fifteen and a lot of planted oysters,  
first having to set apart such portion  
thereof as is exempt from levy or distress  
under the provisions of sections 33 and 34  
of chapter 49 of the Code of Virginia -  
which sale shall be made on a credit  
of four months with interest from date,  
and the purchaser to give bond with  
good personal security, the said sale  
to be first advertised at the Court House  
door of Hanseman County at least  
twenty days, and also at Chancellors  
and at Courtrooms doors, and once a  
week for three weeks in the Christian  
Sun, a newspaper published at  
Suffolk and what to Court

Clerk

Teste

Wm. E. Bohan clerk

By virtue of the annexed decree I have on  
the 29<sup>th</sup> day of October 1871 on a lot of Slaves  
Appraisers the property of the Defendant James W.  
Mears and exposed the same for sale at  
Public Auction upon a credit of three  
months time after due advertisement and  
~~exposed~~ on the 30<sup>th</sup> day of November 1871  
on the premises at the hour of Two o'clock  
P.M. when the Plaintiff James Lewis be-  
came the purchaser thereof at the price  
of three hundred and five dollars which  
after deducting my commission of fifteen  
dollars and ten cents. Prizes bill of Six  
dollars and fifteen cents for Revenue  
Stamps leaves a balance of Two hundred  
and eighty three dollars and seventy five  
cents which I have taken a bond from  
the said purchaser for the same payable  
three months after date with interest from  
date and dated the 30<sup>th</sup> day of November  
1871 without security the purchaser being  
the Plaintiff in this case which bond  
along with decree I here with return to  
The Clerk's Office of this County.

Witness my hand the 1<sup>st</sup> day of December  
1871

Sept 12<sup>th</sup> 1872, continuation of above decree. I did advertise  
and sell one ox, represented as the property of J. W. Mears  
and sold as such for seventeen dollars. Wm Burns,  
purchaser, one calf for 2.50. H. L. Gray purchaser,  
and proceeds returned to debt Lewis

W H Ely D. S. for

A. S. Ely Sheriff

W H Ely shff

Quincy  
79

Mass.

3<sup>rd</sup> A. Sum

1871

Car. W. Sum

1871

Filed Dec 18<sup>th</sup> 1871

James J. Lewis . . . . . Complainant

vs.

James W. Means, James L. Means,  
and Peter B. Prentiss, Trustee . . . Defendants.

This cause came on this day to be heard on the bill and exhibits filed therewith, and on the answer of the defendants James W. Means and James L. Means, and general replication thereto, and on the said bill taken for confessed as to Peter B. Prentiss, on whom process has been only served and he failing to appear and make defence, and on examination of witnesses, and was argued by counsel; On consideration whereof, the Court deciding that the ~~the~~ <sup>sale</sup> made by James W. Means to James L. Means of the Chattel Estate referred to in the deed of loan from Jas. L. Means to James W. Means, dated the 16<sup>th</sup> day of February, 1871. was without sufficient consideration and is fraudulent and void, doth adjudge, order and decree that the said sale be set aside, and doth further adjudge, order and decree that the Sheriff of this County proceed to sell at auction near the premises the property aforesaid or so much thereof as he may be able to find; to wit: one bed, six chairs, two bureaux, two safes, one carpet, one lot of trunks and chests, twenty-five barrels of corn, three thousand pounds

of fodder, fifteen hundred pounds of bacon, a quantity of lard, nineteen (19) hogs and eight (8) cattle, and their future increase, one horse, one ox, one Boat and fixtures, and a lot of planted oysters, first having set apart such portion thereof as is exempt from levy or distress under the provisions of Sections 33 and 34 of Chapter 49 of the Code of Virginia, - which sale shall be made on a credit of four months, with interest from date, and the purchasers to give bond with good personal security, the said sale to be first advertised at the Court House door of Nansemond County at least twenty days, and also at Chuckatuck and at Crittenden's Store, and once a week for three weeks in the "Christian Sun", a newspaper published at Suffolk, and make report to Court.

Lewis

or {

Mear,

Sept 1871

To be entered

Theodore S. Hammett Jr.

Entered

Lewis

vs

Meera Hal:

3 Exhibits - filed with the Bill

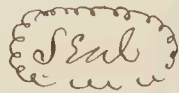
C. A.

990621

Whereas I have this day, purchased of my father James W. Mears, of Hansemond County, Virginia for the sum of One thousand Dollars, the following property, to wit, one bed, six chairs, two bureaus, two safes, one Carpet, one lot of trunks & chests, twenty five barrels of Corn, Three thousand, pounds of fodder, Fifteen Hundred, pounds of bacon, a quantity of lard, nineteen (19) hogs and Eight (8) Cattle, and their future increase, one horse, one ox, one Boat and fixtures, and a lot of planted oysters: And whereas I desire to aid the said James W. Mears, my said father, as far as I can, now be it known to all whom it may concern, that I have loaned the above described property to said James W. Mears, which is all times to be subject to my orders. Witness my hand and seal, this 16th. day of February 1871.

W. F. Mears.

R. H. Roddick

James W. Mears. 

1871. Feb. 16. I acknowledge to have received on loan from James W. Mears, the property above described, which is to be subject at all times to his orders. and to be delivered up to him when requested.

Witness:

R. H. Roddick.

James W. Mears.

In the Clerk's Office of Hansemond County.  
Court the 16th. day of February 1871.

This Deed of Loan, was acknowledged, by

James L. Mears, and the Memorandum thereto appended was acknowledged by James W. Mears. Whereupon the said Deed and Memorandum are admitted to be recorded. Stamps of the Internal Revenue of \$5. having been affixed and cancelled.

Teste.

Peter B. Prentiss Clerk

A. Copy

Teste

Peter B. Prentiss. Clerk.

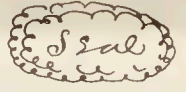
Contract between  
S. W. & J. W. Mears.

Exhibit "B"

B.

This Deed, made this 1st. day of January A.D. 1867. between James W. Mears, of the one part, and Peter B. Prentis, mutually chosen Trustee, of the other part, both parties of Nansemond County Virginia. Witnesseth, that the said James W. Mears, doth grant with general warranty, unto the said Peter B. Prentis, Trustee as aforesaid, the following real estate, to wit: a certain tract, piece or parcel of land, lying and being situate in the lower parish of said County containing One Hundred Acres, more or less; and bounded as follows; by the lands of John Sinclair, on the North and West; on the East, by the lands of P. N. Jewett; and on the South, by Nansemond River. In Trust, to secure the debt, part of the purchase money for said land, which was this day purchased by said James W. Mears of James J. Lewis and wife: and which debt, is due as follows. Five Hundred Dollars, on demand. Five Hundred Dollars, due 1st. Jan: 1868. with interest from 1st Jan: 1867: Five Hundred Dollars, due 1st. Jan: 1869. with like interest. Five Hundred Dollars, due 1st. Jan: 1870. with like interest, and Five Hundred Dollars, due 1st. Jan: 1871. with like interest, all of which, amount to the sum of Seventy Five Hundred (2500) Dollars, and are due by Five (5) Several bonds, bearing date the 1st. day of January 1867. and payable as above, with interest as above; with power, to the said Trustee, after default, shall have been made in the payment of all of said sums, and when thereafter due, by the said James J. Lewis, his heirs, Exors<sup>ts</sup> & admors<sup>rs</sup>, to sell the said land at public or private sale, for cash or on such reasonable credit, as the said Trustee, may deem best for all parties; and out of the proceeds of sale, pay all costs and

Charges, attending the execution of this trust, including a Commission of five (5) per Cent, to said Trustee, on such sales, and then pay to said James J. Lewis, his heirs, Exors<sup>ad</sup> admors or assigns, the said several sums of money and all interest thereon, or such part thereof as may be then due and unpaid. And the said James W. Means, covenants that he will execute all further assurances necessary therefor: Witness the following signature & seal.

James W. Means. 

State of Virginia }  
Nansemond County to wit S

I, Wm. R. Ellis, a Justice of the Peace, for the County aforesaid in the State of Virginia, do certify that James W. Means, whose name is signed to the foregoing writing bearing date on the 1st day of January AD. 1867. has acknowledged the same, before me, in my County aforesaid. Given under my hand, this 15th. day of February AD. 1867.

Wm R. Ellis. J.P.

In the Clerk's Office, of Nansemond County Court, the 28th. day of March 1868:

This Deed of Trust, was received; and with the Certificate written thereon, admitted to record. (the requisite stamp, of \$2.50 having been affixed and cancelled).

Teste:

Peter B. Prentiss. Clerk

A. Copy:

Teste:

Peter B. Prentiss. Clerk

James W. Meard

xm<sup>d</sup>

To { Copy Deed of Trust.  
Peter B. Prentiss, Trustee for James  
J. Lewis.

(a)

The depositions of James H. Crittenden, Wm. H. Bunting, George E. McNeal, William B. Savage, James Graham, Theodore Haughwout, John Sinclair and James W. Meard taken on this 20<sup>th</sup> day of May 1871, at John R. Kelly's office in Suffolk, Nansemond County, Va. between the hours of 8 o'clock a. m. and 6 o'clock p. m. of that day, to be read as evidence on behalf of James W. Meard & Jas. L. Meard, in a suit in chancery pending in the County Court of Nansemond County, Virginia, wherein, James J. Lewis is plaintiff and said James W. & Jas. L. Meard are defendants - Taken pursuant to the annexed notice -

The said James H. Crittenden being duly sworn on the Holy Evangelists of almighty God, deposes and says as is set forth in the annexed below.

1<sup>st</sup> Question by John R. Kelly atty. for said Meard  
How old are you? where do you reside?  
and are you acquainted with the parties to this suit? and are you acquainted with the land lately occupied by Jas. W. Meard & referred to in the proceedings

Answer. I am Forty-Three (43) years old, reside on Barretto's Neck, Nansemond County, Va. am acquainted with the parties to this suit, I live about a mile and a half from the land referred to and am

generally acquainted with said premises,  
2d: Question, by same

State when you saw the premises lately occupied by James W. Means, one of the Defendants, state what improvements, if any, had been put thereon by said Means and its condition generally: and, whether its condition is as good, or better or worse, than when said Means took possession thereof, on the 1st day of January 1867?

Answer. I saw the said premises in February last (1871): the improvements put on the premises by the said Means, whilst in his possession, are as follows: a new Smoke-House, worth \$60.00 a Corn Crib of Locust poles, and Stables, worth \$45.00 - and a young orchard worth, at least \$75.00. The premises, including houses, fences &c, were in better condition during his occupancy of them, than I have ever seen them - I had, however, not seen the said premises, before, since about the year 1858.

3d: Question, by same.

What would be a reasonable rent for the premises referred to, say, from 1st: June: 1867 to 13th: July: 1871?

Answer. I think that \$100.00 per year, would be a reasonable rent for said premises, during the period referred to.

4th: Question, by same

What is the fair value of the said premises, if

Sold on a reasonable Credit?

Answer. I do not think that the premises would bring more than \$2000, on a reasonable Credit and further this Deponent, saith not.

(Signed)

J. H. Crutcher

William H. Bunting, being duly sworn, deposes and says, as below.

1st: Question, by John R. Kelly, Atto: for said Means.

How old are you? where have you resided for the last four (4) years, and what has been your employment? Are you acquainted with the parties to this suit, & the premises & oyster flats referred to in the proceedings?

Answer. I was 28 years old, my last birth-day - Have resided in the Western Branch, in Norfolk County, for the last four (4) years - ~~my~~ Farming & Oystering have been my employment during that time - I am acquainted with the parties to this suit, and also with the premises and oyster flats referred to.

2nd: Question, by Same.

State what you may know of any oysters on the said flats, on 1st: Jan'y: 1867, when the Defendant, James W. Means, took possession thereof?

Answer. I was employed by Mr. Means to plant oysters for him, after he purchased the land; & I found no oysters with mentioning, on said flats.

3 Question by same

Do you know, whether the oyster flats aforesaid were staked off by said Lewis or any one else before said Means took possession thereof, in Jan'y 1867, and whether they were then staked off by said Means?

Answer. There were no stakes put up on these flats by the said Lewis, at all: a few had been put up there by Mr. John F. Morrisett, the year before Means moved there. After Mr. James W. Means took possession of said premises, he staked off said flats.

4th Question by same.

Do you know, whether the Defendant, James W. Means has planted oysters on the flats referred to, and, if so, how many, he has now, on them?

Answer. I know he has planted oysters there, and I have also planted them for him - I cannot say, how many he has on said premises, at present.

5th Question, by same.

Are the oysters planted by said Means and the grounds staked off by him, above ordinary Low water mark or below it?

Answer. ~~They~~ The grounds staked off by said Means and the oysters planted thereon, are below ordinary low water mark. I have <sup>seen</sup> these premises during very low tides, & never saw them bare.

6th Question by same.

Did you know the condition of the said premises, when Mr. James W. Means took possession, & when he left, and what was the same, at the respective dates?

Answer. I did know the condition of the said premises when he took possession thereof, & when he left the same - When he took possession, they were in bad order - having no improvements, except the Dwelling House, and an old slab shed - When he left,

the fences had been repaired - a good crib, stables & smoke house had been built - the dwelling house had been repaired to some extent, inside, and an orchard had been set out - The land, itself, had been improved considerably. During the time the said premises were in <sup>his</sup> possession, I consider, that \$100. per year was a fair rent - I consider, also, that the premises were worth \$600 or \$700 more, when he left, than when he took possession thereof.

And further this deponent saith not

(Signed)

W. H. Brown

19 miles

George E. McNeale, being duly sworn, deposes and says as follows: I was 30 years of age last July (1870) at present reside on the East side of Hammond River, but for several years past, resided on the West side of said River, in Barlett's Neck, Hammond County - Have been engaged in oystering the last six (6) years, and planted oysters in partnership with said James W. Means, the year he took possession of said premises

and planted oysters thereon: When we commenced  
planting oysters, the flats in question, were not staked  
out - but were staked out by Mr. Jas. W. Means,  
& myself, at the time we commenced planting:  
at this time, there were no planted oysters on said  
premises, belonging to said Lewis, he, having the year  
before sold all he has to Capt. Alfred Becker,  
who took them up & removed them - The flats in  
question on which the oysters were planted and which  
were occupied by Mr. Jas. W. Means, are below ordi-  
nary low-water mark - and which flats are still  
occupied by said Means. The premises were in  
bad condition, when taken possession of by said Means -  
having no fence, of any value - nothing but a dwelling-  
house, sadly out of repair & a slab shed -  
Mr. Means improved the premises, by building a  
new smoke-house, Crib & stable - repairing the  
dwelling-house, in the inside, to some extent: putting  
the fence in good order, clearing up the branches &  
manuring the farm: I consider the place worth  
\$600 or \$700 more when he left than when  
he took possession of it. I wish further state, that  
Mr. Means set out an Orchard thereon. Peter Galloway,  
the Receiver in this case, I know to be insolvent  
and further, this defendant South not.

(Signed)

George E. McNeal

William B. Savage, being duly sworn, deposes

and says: That he was 32 years old, last birth day (1870) resides on the Western Branch, in Norfolk County, Va. ~~has~~ has been engaged in the Oyster trade for the past Six (6) years. I know all the Parties to this Suit, and am familiar with the premises, in question and when Mr. Means was about to take possession of said premises, I went <sup>to the</sup> ~~residence of~~ ~~residence of~~ ~~residence of~~ Mr. Lewis with Mr. Means, and heard Mr. Lewis then say to Mr. Means, that he (Lewis) had no stakes in these flats & that if he (Means) wanted them, he had better come up & stake them in. I further state, that I have just heard read, the foregoing deposition of George E. McNeal, and fully concur in all he has stated therein.

and further this deponent saith not.

(Signed)

W B Shreve

James Graham, being duly sworn, deposes and says, as follows: That he is about 68 years of age - resides in Barnett's Neck, Nansemond County, Va. has been engaged in the Oyster business for the last 4 or 5 years; that he knows all the parties to this Suit, and is quite familiar with the premises in question: at the time Mr. Means took possession of the oyster flats, in question, they were not staked in: but were staked in by Mr. Means or some one for him, after he acquired possession: and, at that time, there were ~~no~~ <sup>small</sup> oysters on the flats worth mentioning: These flats, upon which Mr. Means

had his oysters planted, ~~are~~ all below low-water mark.

and further this deponent saith not.

Witness  
P. B. Beards  
Commissary

James <sup>his</sup> Graham  
mark

Theodore Haughwout, being duly sworn deposes and says that he was 38 years old the 27<sup>th</sup> day of October 1870: resides in Barnett's Neck, Nansemond County, Va. and is acquainted with the parties to this suit, and quite familiar with the premises in question — have been engaged in the oyster <sup>business</sup> for the last 25 years: do not think that the oyster flats, on said premises, were staked in, at the time Mr. Means took possession thereof — I purchased oysters of Mr. Means, after he took possession of said premises, and examined the said flats, thoroughly, for old oysters, and found none, but such as Mr. Means had planted.

The flats referred to & on which the oysters were planted, by Mr. Means, are all below ordinary low water mark — never saw said flats, where said oysters were planted, bare of water.

The Farm, at the time Mr. Means took possession of it, could not have been in a much worse condition: the fences gone down — bushes grown up — no out-houses thereon — dwelling house in bad condition without windows, & had been used as a bodder house.

Mr. Means improved the dwelling house a good deal: put the fences & gates in good order — cleaned up the

branches. Set out an orchard: built a new Smoke-house, Cuck & Stable and manured & otherwise enriched & improved the said premises, <sup>so</sup> that the enhanced value thereof, was at least one third ( $\frac{1}{3}$ ) greater when he left than when he took possession thereof.

During the time Mr. Means had possession of said premises, say four (4) years I consider \$100. to be a fair average rent, per year. I consider that it was worth all the rent the last year, but not it so, it could be overpaid.

I know Peter Galloway, the Receiver in this case, to be insolvent.

And further this Defendant, saith not.

(Signed)

Theodore Haughmont

18

John Sinclair, being duly sworn, deposes and says: That he was 43 years old, last birth day - lives in Barrett's Neck, Hanseman County, Va. Knows all the parties to this suit, and quite familiar with the premises in question (main being the adjoining farm). At the time Mr. Means took possession of said premises, the oyster flats referred to, nearest to my own were not staked in: as to the side farthest from me, I cannot say. In a conversation with Mr. Lewis, after Mr. Means had bought the said premises, but before he had moved thereon, he (Lewis) said to me "if you (Sinclair) and Mr. Means, don't stake in these flats, Lewis

damned Yankee would stake them in, and you  
will never get them". I, at once, proceeded  
to stake in mine. There were no stakes on the  
premises <sup>(plots)</sup> occupied by Means. Afterwards, Mr.  
Means did stake them in.

I fully concur with Mr. Theodore Haughwout  
in his foregoing deposition, as to the condition of  
the said premises, when Mr. Means took possession  
thereof & when he left the same. I further state,  
that I know of no place in the neighborhood that  
has been more highly manured than this, by Mr.  
James ~~W.~~ Means.

I consider that the said premises were worth  
nothing for the first year over & above it, being  
L.; and that \$100. would be a fair average  
per year  
rent for the 4 years Mr. Means had possession  
thereof.

and further this Deposition saith not.

(Signed)

John Sinclair

James W. Means, being duly sworn, deposes  
and says: That he was 47 years old last birth-day,  
lives in Barnett's Neck, Nassau and County, Va., and  
is one of the Lieutenants, in this Court: that when he  
took possession of the premises in question, the dwelling-  
house was not fit to live in; there were no out-houses  
fences had gone down; place very much grown up in

1  
bushes: land poor & full of vine-grapes: repaired the  
house to the extent of \$30:00: built a Suck-house  
costing \$60:00 - ~~and~~ built a crib of locust-  
logs - & stables of these logs: both worth \$45:00  
planted out \$50 worth of fruit trees - repaired  
the fences. Cleaned up the bushes - Cleaned up the  
vine-grapes: manured the place, heavily; so that when  
I left the premises, they were worth at least, one  
third ( $\frac{1}{3}$ ) more than when I took possession of  
the same. The Oyster flats, were not staked  
in: there being no planted oysters thereon, worth  
mentioning - these flats were staked in by me  
& Mr. McNeal for me - Mr. James J.  
Lewis, advised me to stake in these flats, to  
prevent others from doing so before me.

The said Lewis, in December last (1870) Agreed  
to take these premises back for the balance of  
the purchase money, then due & unpaid ~~and~~  
and I refer to a statement relative thereto, in  
my answer, which I adopt, as a part of this, my  
deposition - as further evidence, of my statement, in  
this respect, showing that said Lewis had thus agreed  
with me, he claimed certain rights, by virtue of this  
agreement, as may be seen by writing annexed, marked  
(A). I have on these flats, at present, about  
Four thousand (4000) bushels, worth, according  
to the present market price, about \$2000 -

All these oysters are on flats, below

Mr. Mead I understand you have given  
Mr. Root permission to work on the  
flats which I thought were mine  
according to understanding it he takes  
Oysters from the flats in the way of  
trespassing I shall make you know  
for some 13 weeks I am only willing  
for you to take up your plants  
by then by a short seven time and

if I likewise on arrangement  
and the flats must be set  
one as I believe I have to

Very Respectfully

Yours Truly

Jan 5<sup>th</sup> 1871

Ordinary low-water mark.

And further, this Deposition saith not.

(Signed)

James W. Meers

State of Virginia

Nansemond County, to wit

I, Peter B. Prentiss, a Commissioner in Chancery of the County Court for the County aforesaid, in the said State, do hereby certify that the foregoing Depositions were duly taken, sworn to and subscribed before me, at the time and place mentioned therein.

Given under my hand, this 20th day of May 1871.

Peter B. Prentiss

Commissioner in Chancery

Comptrol Fee. \$5.00  
J. H. Crutchen. 1.14  
Wm. H. Brumby 1.22  
Geo. E. W. Bone 1.14  
Wm. B. Savage 1.14  
Jas. Graham 1.14  
Thos. Langford 1.14  
John Sinclair 1.14  
Jas. W. Meers 1.14  
\$14.20

Depositions

filed 21<sup>st</sup> May 1871

James W. Meers del.

ads & Depositions

James W. Meers.

1871  
May 22<sup>nd</sup> filed

Leave;

or,

Mean &c

In reason, appearing to  
the Court it is advised that the Cause  
be removed from the docket, each  
party paying his own costs &c.

Levis

on



order

Meads

Removing the cause  
from the dockets.

Oct 11, 75

To be entered.

Geo. F. Blod,

Entered O.B. No. 1 - p. 2835

The answer of James W. Mear to  
a Bill in chancery (Injunction) exhibited  
in the County Court of Nantuxent County  
by James J. Lewis, against said James  
W. Mear, & ~~James~~ James L. Mear and Peter B.  
Prentiss, trustee -

This Respondent says that it is  
true as is alleged in said Bill, that on the  
1<sup>st</sup> day of January 1867, he purchased of said  
James J. Lewis, the tract of land referred to  
in said Bill for the sum of \$3000. as stated.  
But your respondent denies that the said James  
J. Lewis by said sale & the deed executed by  
him & filed as Exhibit with said Bill, sold  
to your Respondent any oysters, or oyster flats  
or oyster grounds -

That it is true, that your Respondent  
executed on the same day of the said purchase  
a deed of Trust to Peter B. Prentiss, trustee  
as stated in said Bill, conveying the said  
Land, and nothing more, to secure the  
purchase money -

That your Respondent  
paid to said James J. Lewis \$500 in cash  
and soon thereafter paid him \$105. & \$100.  
& a Barrel of corn \$5. all making \$710 -  
and that as to the Balance of said purchase  
he was unable to pay - That he set out  
an apple orchard of 130 trees on said

Land, built a smoke house, corn crib & stable, fixed up the fence, planted in the yard & greatly improved the place, & by these works and clearing it of wire grass, shrubs, ~~and that the place is~~ <sup>the said Land has become &</sup> is now more valuable than when purchased by your Respondent,

Your Respondent further says that the said Jas. J. Lewis did order the said Peter B. Puritis, Justice of the Peace to sell said Land which he did on the 13<sup>th</sup> of February 1871, requiring a large cash payment to wit. \$500 ~~cash~~ & Balance on credit, and as no one could ~~find~~ be found to buy the said place, it was bid in & purchased back by said Lewis for \$1000, being one third of what was charged by him to <sup>your Respondent</sup> ~~him~~ for the same place. — thus obtaining of your Respondent \$710: and the place back again for the original purchase money, now seeks by one of the harshest remedies to demand more.

That in the latter part of the year 1870 the said James J. Lewis agreed with this Respondent to take the said Land back for what remained due thereon, & to which your Respondent was willing & both parties agreed to the arrangement, and your

Respondent was directed by said Lewis to call on Peter B. Prouty Esq. who would write the deed to (and) your Complainant did call on said Prouty to get the deed prepared & was told by him that <sup>Mr</sup> Lewis had never given any directions concerning the same as he had promised to do & hence nothing was done, except that the said Lewis took advantage of his own bad faith & ~~threw~~ <sup>sold</sup> the said land to herself as aforesaid & under the pressure of circumstances got the land back at a great sacrifice.

Your Respondent says that if said Lewis had carried out his contract with your Respondent & taken the land back, he would have owed Lewis nothing, and he claims that a Court of Equity will not allow him to take advantage of his own bad faith & to seek to make your Respondent pay for it, as he is now seeking - That your Respondent did see his oxen & chattel & take to his son James W. Mearns for a consideration he valued at one thousand dollars, - His said son became twenty one years of age on the 6<sup>th</sup> day of September 1870 that, not under age when said sale was made, as is alleged in said Bill - The service renders to your Respondent by said son J. W. Mearns

was estimated to be worth \$1000. - The service,  
rendered in part to be rendered hereafter.

My Respondent denies that the sale  
to his said son was fraudulent, charged.

Your Respondent denies that the said  
James J. Lewis has any claim whatever  
to the oysters referred to - They are below  
low water mark on James River, & on  
flats, staked out by your Respondent, & on  
which said Lewis had no oysters, no stakes,  
and your Respondent denies that these  
flats below <sup>ordinary</sup> low water mark pass by any sale  
as made of the said aforesaid, but are ~~the~~  
a part of the Eminent Domain of the Com-  
monwealth of Virginia, & on which your  
Respondent as a citizen of James River  
County State of Virginia had & has the  
right to plant oysters & to put in his  
title thereto - Your Respondent denies  
that the said Lewis has any title to said flats  
below <sup>ordinary</sup> low water mark, the same being  
overflowed & covered by the waters of James  
River, a navigable River in which the tide  
eth & flows and over whose waters all the  
citizens of the Commonwealth have the right to  
pass - Your Respondent says it is  
true he is poor and unable to pay all his  
debts at present, but denies that that

fact ~~into~~ the plaintiff ~~to~~ any equitable demand against him or any estate he may or is alleged in said Bill -

Your Respondent further says that he objects to the property aforesaid being taken possession of by Peter Gallman named as Receiver by the Injunction order as he is perfectly Insolvent and not required by said order to give any bond and security for the performance of his duties -

Your Respondent Demurs to the said Bill as Insufficient in Law.

Your Respondent claims the benefit of all exemptions allowed by Law - those under the Law exempting certain articles, from sale by Dishest or Levy & also under the Homestead & prays that these articles may be & the value of the same, be set apart out of any estate he may have.

And having answered &c.

James W. May

Sworn to before me in  
my Office, this 29th day  
of April 1871.

Peter B. Prentiss, Clerk

James W. Mears

ads } Answer

James J. Lewis.

1871  
May 15<sup>th</sup>: Filed.  
clk:

The answer of James L. Means to a  
Bill in chancery exhibited in the <sup>Court</sup> ~~Circuit~~  
Court of Hancock County by James J. Lewis  
against James W. Means, said James  
L. Means & Peter B. Prentiss

This Respondent says that it is  
not true as stated in said Bill that  
he was under twenty one years of age when  
he purchased the system & chattel estate  
of his father the said James W. Means  
but became twenty one years of age on the  
6<sup>th</sup> Sep. 1870. That he had rendered  
efficients service to his father & was  
then at work with him & expected to  
continue & for such service rendered  
and to be rendered, the price was  
assigned him, & he was willing as  
soon to render his services then, & by  
the retention of the property and his father  
& family. He denies all fraud  
in the purchase - As to other matters  
in said Bill he is unable to answer.

(and having answered &c.

Witness  
John P. Kelly

his  
James L. & Means  
Mark

Shown to before me in my  
Office, this 29<sup>th</sup> day of April 1871

Peter B. Prentiss. Clerk

James L. Mears  
ads & answer

James J. Lewis

1871  
May 1st: Filed  
clk.

James J. Lewis

v.

James W. Means, James L. Means, and  
Peter B. Prentiss Trustees.

To the Honorable, Theo:

S. Garnett Jr., Judge of the County  
Court of Ramsey County, has  
ably complying, sheweth unto your  
honor, that on the first day of Jan-  
uary 1867, being the owner of a tract  
of land and other grounds on Ran-  
som River in said County, sold  
and conveyed the same to James  
W. Means, for the sum of \$3000 and  
as part of the same transaction,  
on the same day, the said Means, con-  
veyed the said land by deed of trust  
to Peter B. Prentiss as a trustee to re-  
turn to your honor the unpaid pur-  
chase money, to be paid in certain  
instalments, as therein set forth.

The said deed of trust is herewith filed  
and the said deed from the plat to James W. Means with the filed  
as an exhibit marked A; <sup>hereafter</sup>

And your honor for the states that  
the said James W. Means, wholly fail-  
ed and refused to pay to your  
honor the said instalments of  
the purchase money, as they fell due,  
so that there is now due to your

orator, in the aggregate, the sum of about  
\$2300 (principal) under the said deed of  
trust, with interest as stipulated therein.

Your orator for the State, that on  
the 13<sup>th</sup> day of February 1871, the said Peter  
B. Prentiss, under as aforesaid, offered  
the said tract of land for sale, under the  
said deed of trust, and sold the  
same at public auction, for more  
to said deed, at which sale the same  
was bid off and sold <sup>to your orator</sup> at the price  
of \$1000 — being the highest bid made  
therefor; and after applying the said  
proceeds to the payment of your orator's  
demand, there will still be a large  
balance due to your orator, for which  
your orator is entitled to a decree in this case.  
Your orator for the State understands,  
that afterwards to wit, on the 16<sup>th</sup>  
day of February 1871, the said James  
M. Pease, made a fraudulent contract  
and conveyance with his son the  
said James L. Pease, who, as your  
orator is advised is under the age  
of twenty one year, whereby he  
pretended to have transferred to the  
said Jas. L. Pease his entire personal  
estate, including the notes, placed  
on the Oyster grounds belonging to the

said tract of land, wheel oyster & oyster  
oyster claims to be his property, both  
by virtue of his purchase from  
the said Hunter & Curtis, and by vir-  
tue of his agreement with the said  
a copy of the said contract marked B. is herewith filed  
said deed of trust; John Oyster,  
being the purchaser from the said Hunter  
& Curtis, bought from him the said Hunter,  
Exactly what he & John Oyster had  
originally sold to Meay, & what  
Meay conveyed to said Curtis as a  
Hunter or oyster, and the said Meay  
never had any title either to the said  
oysters, or Oyster ground, except that  
he acquired from John Oyster by  
his original conveyance thereof to said  
Meay, by deed of the 1<sup>st</sup> day of  
January 1867: And John Oyster alleges  
that his title to the said oyster  
land at the time of his said sale  
thereof was clear and unencumbered,  
to the exclusion of all persons what-  
soever. John Oyster alleges that the  
said James W. Meay and his son the  
said James L. Meay, are both in-  
solvent, and that they, or some agent  
of them, or of one or the other  
of them, are now engaged, in violation

of your orator rights, in taking up,  
carrying away, and selling to dealers  
unknown to your orator, the said Ex-  
-ters from the said system ground, and  
only trusted therein, they will re-  
-move and sell the whole thereof &  
render the said land utterly worthless.

In last consideration thereof, and  
for as much as your orator is with-  
out remedy in the premises, save by  
the intervention of a Court of Equity  
wherein matters of the sort are properly  
cognizable to the end therefore he  
that <sup>said</sup> Jas. M. Meear, <sup>Ld.</sup> L. Meear, & John B. Fyler be made parties  
<sup>and pray</sup> that the said Jas. M. and Jas.  
L. Meear, their agents and all others  
concerned, may be enjoined from  
selling, removing, or otherwise dispo-  
sing of, the said oysters, and from using  
or disposing of the said Oyster beds on  
and the said other personal property,  
grounds, and that your orator's rights  
therein may be protected from trespass  
and interference by them: And that a  
warranty may be afforded & directed  
to take possession of and hold the  
said Oysters, and Oyster beds, with  
the said other personal property, with  
discretionary power to sell the said  
Oysters, or he may deem best & to  
account for the same, and that  
the said conveyance from Jas. M. to Jas. L. Meear  
may be set aside & declared to be null

and void, and that in all other relief, both general and special may be granted in the premises, which the nature of the case requires, and by unity and good conscience demanded, and your order will so prove. May a subpoena issue to

Baker & Walker

by

Nassau County, to wit.

Esq. J. Lewis this day personally appeared before me and made oath that the matters and things set forth in the foregoing bill are true to the best of his knowledge & belief.

- Given under my hand this 23 day of March 1871.

John R. Kilby

J.R.

Lewis

M. E. Hill

Mears & Co

Baker & Walker  
Lg.

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Peter Gallaway

James J. Lewis

vs { Chy: Notes

James W. Means vs.

1871. April 5th: Injuri. Bond executed Filed: & Summ. in Chy & filed

" May 1st Bill & exhibits filed

" do do Answers & Defts. of James W. Means & Wm L. Means filed & sent.

upl. to Clerk -

" June 1st Decree in " debt: Peter B. Prentiss, Trustee.

" May 21. Dep. of Deft. filed  
June R. C. O. v. Means, Confirmed & Cause set for hearing

" July 1 Dep. of plt. filed

" Sept. 20 Sale from James W. Means to J. & S. Means set aside  
no shift to see at auction, having first sold  
about such portion as is comprised by 33 & 34 sections  
of code

1872 March contd

" June 11 "

" Dec 7 Decree to take account

1873 Aug Term, Removed to Cir Co

1875. Octo: Term. Final Decree

*Chy: Notes*

Revised List

Atty Costs

James S. Lewis

v { Chancery Papers

James W. Mears

Ck - 88. 56

Shps - 1. 00

Atty - 15. 00

Tax - 1. 00

Comm. - 5. 20

Inds - 9. 20

Net Pub - 6. 00

\$115. 76