

1895-001
Nansemond Co. (Suffolk)

Chancery Causes: John L. Roper Lumber Co vs B M Bruce

Dismal Swamp Land Co., Godfrey, White, White & Garnett J,
Wilson, Herring, Ellis, Fleming, Loyall, Roper

Folder 1 of 2

(1)

John B. Pinner

The depositions of B.M. Bruce and others taken before me a Notary Public for the County of Nansemond State of Virginia pursuant to notice hereby annexed ^{to be read as evidence in behalf of B. M. Bruce} at the office of R.H. Rawles Esq in Suffolk Va. on the 8th. day of Feb. 1887 between the hours of 11.30 A.M. and 5 P.M. in a certain suit in equity depending in the Circuit Court of Nansemond County Virginia, wherein The John L. Roper Lumber Co. is plaintiff and B. M. Bruce is defendant.

*Present. R.H. Rawles & E.E. Holland. counsel for defd.
Thos. S. Garnett & Geo. McIntosh " " pltf.*

B.M. Bruce being duly sworn deposeth as follows

1 Ques State your age, residence, occupation, and do you know the parties to this suit?

Ans. 34 years Suffolk, Yes, I am the defendant.

2. State whether or not you made a contract with the Dismal Swamp Land Co. with the knowledge and consent of the John L. Roper Lumber Co. or about the 16 day of April 1886 for the purpose of cutting lumber in their swamp?

Ans. I did.

Ques 3 Examine paper marked exhibit No. 1 (B.M.B.) and state whether it is the original contract filed with your answer?

Ans. It is the contract Sir. excepting the pencil mark "per foot" for telegraph poles

4. State whether the plaintiffs had knowledge of the fact that you made this contract and ^{that} it was in existence before you began operations and state also all the facts connected therewith?

Ans. I first made a lease with Robt H. Herring *Ag't.*

(Plaintiff hear calls for the lease and the defd's counsel say the lease is in possession of B.P. Loyall the President of the Dismal Swamp Land Co.)

subject to the approval of Mr. B.P. Loyall President. Mr Herring saw Mr Loyall and Mr. Loyall told him to say to me that he could not lease the Company's land but that he would sell ^{me} the timber standing in the swamp. A few days afterwards I ^{saw} Mr. Loyall in person and refused to contract with him unless Mr. Roper had fully abandoned the Suffolk

side of the swamp. Mr. Loyall and myself called at Mr. Roper's office to know positively if he had given up the Suffolk side of the swamp. Mr. Roper was not in. I said to Mr. Loyall that I was in no hurry that he could see Mr. Roper at his leisure and if he had fully abandoned the Suffolk side that I was willing to contract with him for the lumber in that part of the swamp. In one or two days I received the contract from Mr. Loyall, stating if I accepted the terms and prices to sign the contract in the presence of two witnesses. I also received a letter with the contract stating if I found any green juniper that Mr. Roper would buy it of me. I called to see Mr. Roper not many days afterward and offered to sell him the juniper logs at \$8.50 per cord delivered on rail or vessel in Nansemond River opposite the shingle yard. Mr. Roper said I was making too much money that he would give me \$5.50 per cord delivered on rail or vessel subject to inspection in Northern markets. I afterwards told him if there was so much money in it, he to furnish the money for cutting, I to do the work and he to settle with me in every six months, I to receive one half the net profits; he said he thought very favorable of the proposition and would let me hear from him in a few days. In about a week or ten days, I judge, I received a letter from the Company stating that when they wanted the lumber cut they would let me know, and since that time Mr. Lynch Agt for the J L Roper Lumber Co. has been cutting in my territory the lumber I offered to sell him and he offered to buy.

4.5. (Plaintiff objects to so much of the above ans. as refers to conversations between B.P. Loyall Pres. and the defendant not had in the presence of the plaintiff, also calls for the production of the letters referred to in the foregoing answer between the defendant and B.P. Loyall Pres.)

Ques. 5 Examine exhibit No. 2 and say if this is the letter which you alluded to in your answer as having received from B.P. Loyall Pres. and which has been called for by plaintiff's counsel?

Ans. Yes Sir this is the letter.

Ques. 6 Examine exhibit No. 3 (B.M.B.) and state whether or not it is

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the letter received after the conference between Pres. Royall and Pres. Roper?

Ans. Yes Sir I received this letter after the interview between Mr. Loyall and Mr. Roper.

Ques. 7 When you called to see Mr. Roper on the occasion alluded to above state whether or not he in any manner objected to your making such a contract with the Dismal Swamp Co. or to your cutting timber according to said contract?

Ans. His only objection was to the price, he was perfectly willing to my cutting it, if I would sell to him at 5.50 delivered on rail of vessel.

Ques. 8 State whether or not the price alluded to any other than juniper timber?

Ans. He only agreed to contract for juniper logs such as being cut by his agents elsewhere.

Ques. 9 Did he or not otherwise object to the contract?

Ans. When I refused to sell him the logs for less than 8 50, he said that he had never given up the juniper and that the Company had no right to sell it.

Ques. 10. Did he or not otherwise object to the said contract?

Ans. He said the Company had no right to sell the juniper in the swamp but if I would sell at 5.50 it would be all right.

Ques. 11. State whether or not under your contract you began operations on the Suffolk side of the swamp?

Ans. I did.

Ques. 12. State all the facts connected therewith, when you began cutting &c.

Ans. I had the swamp examined, the timber marked out and commenced building a road and cutting timber the 12 May 1886 (In the last deposition it should have been about the 12 May, instead of July, which is an error and which I discovered the same day)

Ques. 13 State whether or not you have operated in any other part of the swamp other than that known as the Suffolk side?

Ans. I have not.

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Ques. 14 State whether you made your monthly reports to said Land Company according to your contract?

Ans. I did.

Ques. 15 State whether you made your monthly payments to said Land Company according to said contract?

Ans. I did.

Ques. 16 State whether you ever interfered with the said Land Company or its agents in counting or inspecting your work?

Ans. I never did.

Ques. 17 Have you or have you not in any manner forfeited any right under the contract?

Ans. I have not. ~~Ans.~~

Ques. 18. I now hand you four checks marked 'A' 'B' 'C' & 'D' respectively. Examine them and state whether or not, they are the checks sent by you in payment and whether any or all of them have paid?

(Objected to on the ground that it has not been shown that any checks have been sent)

Ans. The first three marked 'A' 'B' & 'C' have been paid, check marked "D" Mr Loyall returned and refused to receive it. I afterwards tendered him the currency same amount by Mr. Nat Beamon of the firm of Riddick Brinkley & Co of Norfolk which he also refused to receive ~~to receive~~ in payment of lumber cut the previous month.

Ques. 19 Examine exhibit No. 4 and state whether or not it is a letter received from Mr. Loyall stating why he refused to receive said check

Ans. It is.

Ques. 20.. Had that part of the swamp known as the Suffolk side been abandoned by the plaintiff before you began operations therein?

Ans. Yes Sir it had; they had pulled up all of their roads except one small piece which Mr. Williams sold to Mr. Robert Herring to haul some dead poles over; they had also torn down their stables on both sides of the canal and carried them away.

Ques. 21. State whether or not the plaintiff was operating in that

part of the swamp when you commenced work?
Ans. No Sir there was no one operating in that part of the swamp.

Ques. 22. State whether the plaintiff was in open or notorious possession of that, the Suffolk side of the swamp when you began operations?

Ans. No Sir they were not in possession of it. They had carried away everything usually used in swamping.

Ques. 23. Did or did not the J.L. Roper Lumber Co. object to your beginning operations on the Suffolk side or assert any claim to the exclusive ~~claim~~ right to cut lumber therein themselves?

Ans. They never objected until we failed to agree as to price of lum

ber--juniper lumber--- delivered on rail of vessel. I never knew of any ^{exclusive claim} until we failed to agree as to price.

Ques. 24 Were you or were you not induced to believe from the action of the Roper Lumber Co. that if they ever had any right to cut the timber on the Suffolk side they had abandoned it?

Ans. ~~Sir~~. Yes Sir.

Ques 25 Did you or did you not rely on the action of Pres. Roper in this matter before you made this contract?

Ans. I did.

Ques. 26 Relying upon such action and conduct of Pres. Roper state whether or not you have ~~not~~ spent large sums of money in preparing for your work on the Suffolk side?

Ans. I have.

Ques. 27 Are you now ready and prepared if permitted to do so to ~~per~~ completely your part of said contract?

Ans. I am.

Ques 28 Have you or not received notice from the Lumber Co. to quit the Suffolk side of the swamp, and if so when did you receive such notice?

Ans. I dont remember the exact date but not very long after we failed to agree as to price.

Ques. 29 State whether or not you could have left the property at that time without great loss to yourself?

Ans. No Sir I should have been greatly damaged to have left at that ~~time~~ time.

Ques. 30 State whether or not you are now being injured and

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damaged by reason of the restraining order in this case?

Ans. Yes Sir I am being damaged every day that I am prevented from work.

Ques. 31. Had you or not any notice of the different leases ~~present~~
~~ed~~ filed with the plaintiff's bill until they had filed their bill?

Ans. No Sir.

Ques 32

Cross examination.

Ques. 1. In answer to Ques 4 you refer to a lease made with one Herring which had to be ratified by the Pres. of the Land Co. what was the objection to the ratification of that lease?

Ans. I preferred the signature of the Pres. of the Co. and the seal of the Co. so that there might be no trouble in the future

Ques 2. In answer to Ques "4" you do not give that ~~as~~ the reason, you say "Mr. Herring saw Mr. ^LRoyall and Mr. ^LRoyall told him to say to me that he could not lease the Co's land but would sell you the timber standing in their swamp, now why could not Mr. ^LRoyall give you a lease of the Co's land as prepared by you and Mr. Herring?

Ans. Mr. Herring said he was authorized by Mr. Loyall to say to me that Mr. Roper had no lease and he would give me a contract the same he gave Mr. Roper for the lumber on the Suffolk side. I asked Mr. Herring the boundaries of the Suffolk side and he told me that the line began at Washington ditch, thence around the Lake to Jericho Canal, and to the Douglass corner.

Ques 3 Did you understand the boundaries named by you and the area known as the Suffolk side to be the portion in which you were to cut according to your contract made with Loyall?

Ans. Yes Sir I know every acre.

Ques 4 Did you conceive that your rights permitted you to cut anywhere else than on the Suffolk side as referred to by you?

Ans. The contract does not say where I was to cut but that was the understanding that I was to have full possession of the Suffolk side

Ques. 5 Was that the only part?

Ans. Yes Sir that was enough for me.

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Ques 6 You say you never contended for anything else?

Ans. No Sir.

Ques 7. Does the writing given you by Mr. Loyall say where you were to cut, look at it and see?

Ans. No Sir it does not, it simply says the timber standing in their swamp.

Ques 8 .How many interviews did you have with Mr Roper as Pres. about this business?

Ans. I saw Mr, Roper a few days after I received the contract and letter from Mr. ~~Loyall~~^{Ly} stating the agreement with J ohn L Roper Pres.

Ques 9. Some time after that probably two weeks I called to see Mr, Loyall and talked with him concerning the contract and timber. I left Mr. Loyall's office and started to Portsmouth to attend to some business over there and when I got near the ferry wharf I saw Mr. Roper in the act of getting in his buggy ^{for} ~~for~~ a drive .I asked him why it was if he thought so favorable of my proposition ~~if~~, why he allowed his agent Mr Lynch to abandon his territory and come into mine and cut the lumber I had offered to cut on joint account and he told me that he had a contract for all the juniper on the Co's land and that Mr, Loyall had no right to contract with me or anyone else and that Mr. Loyall had never said anything to him concerning making a contract with me. I have not had a word with Mr Roper since.

Ques ⁹~~10~~ Then you only had two interviews with Mr. Roper?

Ans. I have only talked with Mr Roper twice concerning the swamp and timber.

Ques ¹⁰~~11~~. Cant you fix the date of this last interview with Mr. Roper in some way, your contract is dated the 16 day of April 1836, reckoning from that date cant you come within a week say of the date of that last interview with ^{Mr} ~~Mr~~. Roper?

Ans. As near as I can judge about two weeks time from the first interview I had with him.

Ques ¹¹~~12~~ .Please state the date of the first interview?

Ans I had the contract here several days. It was within a few days after signing the contract.

Ques ¹²~~13~~. Please state what work you had done in the swamp prior to the signing of the contract?

Ans. Mr Wilson a partner of Robert H Herring the agent of the Dismal Swamp Land Co. said in my store that Mr Norman Williams the agent of the J L Roper Lumber Co. wanted to see him to turn over the Suffolk side of the swamp to him. Mr. Herring afterwards asked me if I did not want to lease the Suffolk side that Mr. Roper had authorized Mr Williams to turn over the Suffolk side to the agent here, that they were done with it; it was ~~all~~ cut out and that Mr. Loyall had authorized him to sell all the timber that might be found to best advantage.

I asked permission of the agent Robert H Herring to have the land examined and if there was any timber in there I was willing to contract. if it could be had at a fair price.

(Mr. Garnett counsel for plaintiff objects to the foregoing answer as irrelevant and not responsive to the Ques. and to all hears^ay testimony sought to be given thereby)

Ques ³~~14~~ What time did you begin operations in the swamp?

Ans On or about the 12 of May I think.

Ques ⁴~~15~~ What did you do?

Ans Commenced cutting juniper dead and live and six inch shingles and building ^aroad.

Ques ⁵~~16~~. Which first, building the road or cutting the timber?

Ans. ~~The~~ timber, both commenced very near the same time.

Ques ⁶~~17~~. You say that you have spent large sums of money in preparing for your work on the Suffolk side, how much money did you spend?

Ans I cant tell you exactly how much I spent but some ~~days~~ ^a my expenses were ^{\$}15 or ^{\$}20 ^a day, for rambling. and at the time I was restrained I had 40 hands cutting lumber. I took their own account and settled with them.

Ques. 17 You do not mean to say your expenses were 15 dollars a day always?

Ans. I do not, for tracing lumber.

Ques 18. Is there no way of approximating what your expenses were?

Ans. O yes my books will show and the lumber I cut in Sept. will show for itself. All the lumber I ever cut, except some buoys and shingles, are in the swamp and have never been removed. The last month I cut more than I did the two months previous up the time of the injunction.

Ques 19. Did you find plenty of lumber in that part of the swamp in which you were cutting?

Ans. I found enough to satisfy me.

Ques 20. How much of the road had you built?

Ans. I think in all about a mile.

Ques. 21. Please state whether or no you wrote letter marked exhibit No. 1 (B.P.L.)

Ans. That's my writing.

Ques 22. And did you mail it to Mr Loyall Pres. of the Co.?

Ans. Yes Sir.

~~Ques 23. For plaintiff testified by Mr. Garnett counsel~~

Cross examination continued by Mr. Garnett counsel for plaintiff.

Ques. 23. Please examine exhibit "E" filed with the deposition of J. L. Roper in this cause and say whether you ever received the original of which that purports to be a copy and if so when did you receive it?

Ans. I think that it is a copy of a letter I received. I can't say whether I received it in due time or not. I know it was a long time in coming, after my first interview with Mr Roper.

Ques 24. Have you the original of the letter dated the 21 April 1886. If not, who has it and can you produce it?

Ans I think I have, and I think I can.

Ques 25 (Counsel requests the production of the letter)

(Counsel for defendant will produce letter if can be found)

Ques 26. This letter of April 21 1886 speaks of your interview with Mr Roper "last week" did you regard this letter as a reply to the interview ^{which you mentioned} as your first interview with Mr. Roper.?

Ans. No Sir.

(Counsel for defendant in response to call from counsel for plaintiff here produced the original of exhibit E above referred

to and Notary is requested to mark same and file it with his papers)

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

John B. Pinner
Notary Public.

9 day of Feb.1887.

Present R.H.Rawles, and E.E.Holland for dfdt.

Theo. S. Garnett and Geo McIntosh for pltf.

Cross examination continued.

B.M.Bruce on stand

Ques 27. Examina^e this letter dated April 21 1886 filed with your ans. to Ques 26 on yesterday and say what interview it does relate to between you and the Pres. of the Lumber Co?

Ans. (Here witness examines letter and says) I am unable to say.

Ques 28. Did not you have an interview with J L Roper Pres. during the week prior to the date of this letter April 21 1886?

Ans. A few days after I made the contract I called to see Mr. Roper at the request of Mr. Loyall and offered to sell him juniper logs at 8.50 per cord delivered on rail of vessel. He offered me 5.50 He told me I had been making too much money I afterwards told him if he to furnish the money for cutting, I to do the work and he to settle with me once in six months he giving me half profit(Counsel for pltf. here asks the Notary to read the Ques, to witness and requires a plain ans. and here Notary reads the Ques, again) I had an interview with a few days after I received the contract

Ques 29. Was that interview between the ^{16 & 21} ~~21 and 16~~ days of April 1886?

Ans. It was.

Ques 30 Was that the interview at which you have testified that you failed to agree with J.L.Roper Pres as to price of juniper lumber?

Ans It was.

Ques. 31. And was your ^{second} ~~second~~ and last interview with the Pres. of the Lumber Co. held about two weeks after that as described by you in your ans to Ques. 18 in cross examination?

Ans. It was about that time as near as I can remember.

Ques 32. And this second interview with Mr Roper Pres. was had after you had received the letter of April 21 1886 , is that so?

Ans. It was.

Ques 33 Then you knew both in person and by letter from the Pres. of

the Lumber Co. that he declined to let you cut juniper and cypress timber and you say that at your second interview that Mr Roper told you "that he had a contract for all the juniper on the Co's. land and that Mr Loyall had no right to contract with me or any one else". Is th^{at} so?

Ans Yes Sir.

Ques. 34 . And notwithstanding this knowledge you commenced work in the swamp as described by you on or about May 12 1836. Is that so?

Ans. I was making preparations.

Ques 35 But did not commence work until on or about May 12 1836?

Ans. I commenced cutting about that time. Prior to that I was having ~~Ques 36~~ the lumber traced.

Ques 36. Can you tell how much juniper and cypress you had cut between May 12 and August th 11 1836?

Ans. I can by referring to my account.

Ques 37. Will you produce your account?

Ans I can not do it right now.

Ques 37 Will you do so before you close your deposition?

Ans. My books are not posted up.

Ques 38 Where are your books?

Ans My book is home in Suffolk.

Ques 40. After information had reached the Lumber Co. that you were cutting juniper and cypress did you receive a notice forbidding you to do so? say about Aug 11 1836? If so where is the original you rec'd? ^{notice}

Ans. Yes Sir I received a notice ^{from both companies} ~~I think my counsel has those letters~~ ~~from both companies~~ ~~I think~~ I think my counsel has those letters.

(Counsel for pltf. here asks that the original be produced by counsel for defd. The original letter is here produced. Notary requested to mark and file the same)

Ques. 41. If you disregarded these notices which you say you received from both companies please state how much juniper and cypress you cut after that date Aug 11 1836?

Ans. When the company got this injunction I never went in the swamp any more .I dont know how much was cut.

All the hands stopped work at ^{once} ~~case~~. I did not consider that Mr Roper had any more right than any other company or person to interfere with my business

Ques 42. Then you do not know how much juniper and cypress you cut from Aug 11 1836 to Oct 5 1836 the date of the injunction?

Ans. No Sir, I do not. I settled with the hands according to their own account.

Ques. 43 Examine exhibit ~~no~~ "C" filed with the deposition of J L Roper in this cause and say if you received the notice contained in that exhibit on or about that date?

Ans. As to the particular date I do not know, but I received a letter similar to that.

(Counsel for defdt. in response to call here produces the original of said exhibit "C") Here marked by Notary.)

~~Ques 44.~~

"B.M.B. No. 6"

Ques 44. Is it true that you knew that Capt. Roper had been cutting on that land for years as stated in your letter of April 19 1836 referred to in answer to Ques 21 in your cross examination?

Ans Yes Sir I have seen his force in there and his agents Williams and Stewart.

Ques 45. Did you know that Roper was working ~~the~~ ⁱⁿ the swamp during all those years under an agreement with the Dismal Swamp Land Co.?

Ans I knew nothing about their agreement dont know they ~~ever~~ ^{had} had one until the papers to the suit were brought in.

Ques 46 Was it not openly and generally known by you and other lumber getters in this vicinity that Roper was the lessee of the Dismal \$ Swamp Land Co.?

Ans. Cant speak for anyone else but myself. I knew his force was in there cutting lumber; never knew until Mr Loyall told me he had a contract and would give me the same for the part he had abandoned.

Ques 47 Did ~~you~~ ^{you} never hear from the agent of the Dismal Swamp Land Co. or in any other way that Roper was the lessee of that Co. for that swamp?

Ques objected⁶⁵ as seeking to elicit hearsy testimony

Ans. Mr Loyall himself told me and also through⁶⁶ Robert Herring that Mr Roper had no lease, but had a contract ,

Ques. 48 A contract for what?

Ans For lumber satanding in their swamp, and that he could not give me a lease but would give me a contrac the same as Mr Roper had.

Ques 49. When and where did Mr Loyall tell you this?

Ans. Mr Herring took the lease which was drawn up here for Mr Loyall to sign , it was made subject to his approval, Mr Herring told me when

he came back that Mr Loyall said that he could not lease the Co's land but would give me a contract the same that J L Roper had

Ques 48 Ques 49 repeated.

Ans. Near In the store of Taylor and Loyall when I carried the contract down to him for his signature. I think Mr Nat Beamon heard it.

Ques 51. And do you say that ~~the statement of Mr Loyall to you~~ the fact that Roper had a contract for the lumber standing in that swamp was not known to you before the date of your visit to Norfolk abovementioned.

Ans. I knew of no contract.

Ques. 52. But have you not said that before you would make a cotract with Mr Loyall you were careful to learn that the Roper Lumber company had ceased to make operations, why was that, if you did not know of their rights ?

Ans. I knew that Roper's force was in there ^{at one time but not there} As to what rights I dont know and I wanted to be satisfied when I went to work that I would not be interfered by anybody, and I wanted ^a claim beyond doubt . That is why I asked the Pres^{Loyall} if he had any claim, had he surrendered it to that part. If he had not I wanted nothing to do with it , if he had had aclaim and had surrendered I would then make a cotract.

Ques 53. But have you not said that at your second interview with Mr Roper Pres. that ^{you told him that} Mr Lynch his agent was cutting in that terrirory

Ans. I told Mr Roper that Mr Lynch was cutting in my territory and told him exactly where he was

Ques 54 State where Mr Lynch agent of the company was cutting at that

time?

Ans. Mr Lynch had a road almost ^{opposite} the apple tree which he worked and cut all there was on that road, he pulled up his tract, tore down his stables and carried everything away. After I commenced work building a road, Mr Lynch commenced also making for a juniper green cutting out the road and cutting the timber on the line of the road to a juniper green on the rear of the gum swamp on the left of the canal going down to the lake

Ques 55. In other words Mr Lynch the agent of the company at the time of your second interview with Mr Roper ^Dres. was cutting and preparing to cut juniper timber which you intended to cut, is that so?

Ans. I so informed Mr Roper that Mr Lynch was in my territory running a road, cutting the timber along the line of the road, rather, that I proposed to sell him .

Ques 56. Did not Mr Loyall Pees. of the Land Co. tell you explicitly and distinctly before either signed any papers that the agreement entered into between you included only down and standing timber not green and growing ~~timber~~ and was not this stated to you in so many words by Mr Loyall, and did not you throughout your entire negotiation with Mr Loyall contract with him solely upon that basis and upon no other?

Ans. (Objected to on the ground of the contract itself is the best evidence of their understanding and agreement and for other reasons)
(To which the pltf. says that the deponent, who is the defdt. in this suit, has already in his deposition introduced proof to the effect that the contract related to the whole of the Suffolk side of the swamp and that such was the understanding of the parties)

Ans. I agreed to cut just such timber as that contract specifies and nothing else.

Ques 57. I refer to a conversation had between you and Mr Loyall in the store of Taylor & Loyall in Norfolk Va. just antecedent to the signing ~~signature~~ of this paper dated 16 April 1836, did not Mr Loyall make three statements to you and did you not assent thereto, please answer

yes or no

Ans No Sir.

Ques. 53. Was Mr R.H.Herring interested in any way either directly or indirectly in this business, or in the profit you expected to make out of it, if so, how?

(Counsel for dfdt. objects on the ground that the best evidence in reply to this Ques.would be Mr Herring's testimony himself)

Ans Mr Herring had not one cents interest in it.i

Re examination.

Ques.1. Was or not your present contract with the Land Co. given you in place of the lease made by you with R.H.Herring agent?

(Pltf objects as no lease has been shown to have been made with Herring agent nor was Herring empowered to make a lease nor that Herring was the agent of the company for any such purpose)

Ans.Yes Sir.

Ques 2. Did or not the lease mentioned by you as made by R H Herring agent stipulate that you were to cut on the Suffolk side of the swamp or in that territory already cut over and abandoned by the Roper Co.?

(Objected to as the lease or pretended lease was never carried into effect, that Herring had no power to make it and that by the testimony of the deponent it was to be ratified by Mr Loyall before being binding, ^{which was never done} and that further the writing itself is the best evidence of what it contains)

Ans.Yes Sir.

~~(The plaintiff then says that he produced one of the papers possession nor under his control)~~

(The production of the paper called for)

(To which the counsel for dfdt. says it is not in his possession nor under his control)

Ques 3 Was or not the understanding as to what kind of timber to be cut agreed upon by you and Herring agent consented to by Loyall Pres and embraced in your contract?

Ans. Yes Sir.

Ques 4. Did you or not have an understanding with R H Herring agent who stated to you that he was authorized to sell the timber on that part of the swamp cut over by the Roper Co, that you were to cut only within that territory?

(Objected to on the ground that the Roper Co is no party to those proceedings that Herring had no authority to make such contracts, that no authority is shown in Herring to so contract)

Ans Mr Herring said to me that the Roper Co had turned over the Suffolk side of the swamp ^{over} through their Mr Williams and that he had reported the same to the Pres Mr Loyall and Mr Loyall had authorized him to sell the timber to the best advantage and asked me to buy it.

(Answer objected to as hearsay.)

Ques 5. Was there or not any concurrent parole agreement as to the kind of timber to be cut or the prices to be paid different in any respect from that mentioned in the contract?

(Objected to on the ground that it is not responsive to anything brought out on cross examination)

Ans. I asked Mr Herring the price of timber, various kinds, he told me the same that J L Roper was paying but he did not remember all the prices.

Ques 6 Was there or not any agreement, parole I mean, made between you and Loyall Pres. different from the contract itself?

(Same objection as above)

Ans. The only agreement I made ~~I made~~ ^{filed Exhibit No 1 B.M.B.} was that one - Mr Loyall told me on one occasion down there that certain parties had entered a very heavy suit ^a against the company, the amount I think he said was sixty thousand dollars, if they were successful in winning the suit that it would ruin the company and that both of you would have to stop. Mr Herring afterwards said he was authorized by Mr Loyall to say to us Mr Roper as well as myself that they would give us all the time they could to remove all we had in there. This conversation took place about two or three weeks after we had closed this contract,

Ques 7. Did you or not have any interview with Roper Pres before contract was made, if not why?

Ans. I did not, I called at Mr. Roper's office with Mr Loyall Mr Roper was not in, I said to Mr Loyall to see Mr Roper ^{at his} ~~if it was~~ convenient ~~or~~ if he had abandoned that part of the swamp I was willing to contract with him for the timber in therelf he had any clain upon it whatever I did not want to have anything to do with it .

Ques 8 State as nearly as you can the conversation which took place bttween you and Roper at your first interview .

Ans. I told him I had been requested by Mr Loyall ^{to let him know} if I found any green juniper that he ^{Roper} would buy it . I offered to sell it to him but we ^{failed} ~~failed~~ to agree as to price . I afterwards made him a proposition, he to furnish the means for cutting, I to do the work, he to settle with me once in six months, he to give me one half the net profit, he said he thought favorable of my propositoin and would let me know to morrow

Ques 9 Was it then or at the second interview that he raised objection to your cutting in the swamp?

Ans. He did not object, if I would take his price .

Ques 10 Had you or not previous to your first interview put your ramblers in the swamp and located the timber you would cut?

Ans A part of it, yes Sir, I had.

Ques 11 State when you had the interview, if any, spoken of in Ques 56? ⁱⁿ (cross examination)

Ans. The interview ~~which~~ ^{means} I think Mr McIntosh took place about two weeks after the contract was signed. Mr Loyall said to me that there was a heavy suit brought against the company by certain parties amounting to about sixty thousand dollars and if the company lost it it would be ruined and that Mr Roper and myself would both have to stop. We had no conversation only concerning the contract.

Re cross examination

Ques 1. You have had Ques 56 read over to you twice and the Notary is now requested to read the same to you again will you please state whether such statements were ever made to you by Mr Loyall either before or after the 16 April 1886 and if so when and where

Ans. In my last interview with Mr Loyall he asked me, about two weeks after the 16 April 1886 the date of the contract, if I would not work the down and dead timber and leave the balance to Mr Roper. I told him it would not pay to build roads for dead timber alone and that if Mr Roper was so anxious for the green timber, if he would pay for the extra roading I would sell it to him at a fair price, that was the only time dead timber was mentioned to me .

And further this deponent saith not

B. M. Bruce.

Archibald Ellis being duly sworn deposeth as follows

Ques 1 State your residence, age, occupation and do you know the parties to this suit?

Ans, Nansemond County on the Jericho Canal, 69 years, farmer, I do.

Ques 2 Mr Ellis are you acquainted with the boundaries of the Suffolk side of the Dismal Swamp?

Ans. I am.

~~Ques 3 When Mr Bruce~~

Ques 3 State the boundaries.

Ans. Washington ditch, Douglass's corner, that contains the Suffolk side of the Dismal Swamp Co.

Ques 4 When Mr Bruce commenced work there in May or April 1886 state whether the Roper Lumber Co ^{had} abandoned and left the Suffolk side of the swamp.

Ans. Yes Sir.

Ques 5. Has or not Mr Bruce ever built a road in any other part of the swamp or worked any other part of the swamp than the Suffolk side?

Ans No Sir.

Cross examination.

Ques 1 Was not Mr Lynch upon the Suffolk side during the time that Bruce was there, and has not Mr Lynch done work there in the last six months?

Ans Not as I know of. Mr Lynch was gone in April.

Ques 2 Did Mr Lynch ever come back to do any work there?

Ans Not until after Mr Bruce commenced.

Ques 3 How long after Bruce commenced ^{before} ~~did~~ Mr Lynch ^a come back?

Ans. I could not tell you exactly how long but it was pretty soon after Mr Bruce found the green; then Mr Lynch came back and started his old road over new.

Ques 4 Is Mr Lynch working there now?

Ans. I am informed he is.

Ques 5 Do you know how many hands he is employing?

Ans I do not.

Ques 6. Is there much green lumber on the Suffolk side as above described by you?

Ans On the lower line there is a good deal.

Ques 7 .Was it on the lower line that Mr Bruce was cutting?

Ans. No sir he had not got to it.

Ques 8. What part of the swamp was Mr Bruce ~~was~~ cutting at, I mean the Suffolk side?

Ans. A little above the Brown ditch on the left hand side.

Ques 9 How far was that from the green timber?

Ans A little over a mile.

Ques 10 Was Mr Bruce heading for this timber?

Ans. Yes Sir.

Ques 11 How much do you suppose he had cut?

Ans That is more than I can say.

~~Ques 12~~

Re examination.

Ques 1 Did Mr Bruce or not cut in any part of the swamp not already cut over by Roper's agents or contractors?

Ans. No Sir.

Re-cross examination.

Ques 1 When had Roper or his agents or contractors last cut over that part which Bruce cut over or was heading for?

Ans. The lumber which Mr Bruce was cutting they last cut over two years ~~ago~~ before, The lumber Mr Bruce was heading for Roper had not cut.

And further this deponent saith not

Archibald ^{his} X Ellis
mark

J B Primes
N.P. Witness

Virginia

County of Nansemond to wit

I John B. Pinner a Notary Public for the County of Nansemond in the State of Virginia, do hereby certify that the foregoing depositions of B M Bruce and Archibald Ellis were duly taken, sworn to, and subscribed to before me at the times and place and for the purposes therein mentioned

Given under my hand this 9 day of February 1887.

John B. Pinner

Notary Public.

To The John L. Roper Lumber Com-
pany:-

Take notice that we shall on
the 8th day of November 1886
at the office of R. H. Rawles in
the Town of Suffolk, County of Nan-
smond and State of Virginia
between the hours of 9 A.M. and
6 P.M. of that day, proceed to
take the depositions of B. M. Bruce
and others to be read as evidence
in our behalf in a certain suit
in equity, depending in the Circuit
Court for the County of Nansmond
wherein you are plaintiff and we
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 con-
tinued from day to day or from time
to time at the same place and between
the same hours until the same shall be
completed.

Very Respectfully

B. M. Bruce

By R. H. Rawles and E. E. Holland his
Attorneys.

Service accepted
Octo: 25th 1886.

White & Carnett
for Geo L. Rogers
Lumber Co.

The depositions of B. M. Bruce and
others taken before me a Notary Public
for the County of Hansemond in the
State of Virginia pursuant to the
notice hereto annexed and the letter
hereto annexed concerning said notice
at the office of R. H. Rawles in the
Town of Suffolk between the hours
of 1.45 P. M. ^{3.45} P. M.
in behalf of B. M. Bruce in a
certain suit in equity depending
in the Circuit Court for the County
of Hansemond wherein The John
L. Roper Lumber Co. is Plaintiff
and the said B. M. Bruce is
Defendant

Present

R. H. Rawles and E. E. Holland
for Defendant

B. M. Bruce being duly sworn
deposes and saith as follows
1st Ques: What is your age, residence
occupation and do you know the
parties to this suit?

Ans:- 34 years, Suffolk, Va.
Merchant. Yes, I am the

The Defendant.

2^d Ques:- State whether you made a contract with the Dismal Swamp Land Co on the 16th April 1886 for the purpose of cutting lumber in their swamp?

Ans:- I did

Witness handed a paper here

3^d Ques:- Examine paper marked Exhibit No 1, and state whether it is the original contract filed with your answer?

Ans:- It is, sir.

4th Ques:- State whether the Plaintiff has knowledge of the fact that you made this contract at the time it was made, and all the facts connected therewith?

Ans:- They did. I refused to make a contract until it was sanctioned by John L. Roper. I first made a contract with Robt. H. Herring agent of Dismal Swamp Land Co subject to

The approval of The President
of the Diemal Swamp Land
Co. Mr Loyall The President
sent me word that he would
not lease the land but would
sell the tracts standing in
their swamp. In a day or two
I saw Mr Loyall Mr B.P.
Loyall in person and refused
to contract with him unless
Mr Roper had given up the
Suffolk side of the swamp. Mr
Loyall & myself called at Mr
Roper's office to see him about
the matter; we called at Mr
Roper's office but he was not
in. I said to Mr Loyall to
see Mr Roper at his residence
& if he had abandoned the
Suffolk side of the swamp I
accepted his contract. The
next day I received the contract
and a letter (here letter handed
to outlay) marked Exhibit No 2
I mean the contract referred
to as marked Exhibit No 1.
By request of Mr Loyall I called
to see Mr John L Roper to

sell him the juniper ~~limb~~^{logs}
& offered to sell him the juniper
~~logs~~^{logs}, cut as he might wish
it and deliver the same on rail
of vessel in Hawsenior's River
at Shingle Creek at \$8⁵⁰ per
cord. Mr Roper said \$8⁵⁰ was too
much & offered me \$5⁵⁰ for
same delivered on vessel subject
to inspection in Northern market
I afterwards offered to cut the
lumber any length he might de-
sire deliver it on vessel, but to
furnish means for cutting and
to settle with me once in 6
months he to give me one half
the net profit. He told me he
thought very favorably of the
proposition & would let me hear
from him in a few days. I
received a letter from him in
about a week's time afterwards
stating that when he wanted
it cut he would let me hear
from him. I explained the term-
ing that I proposed to work in
& he did not seem to under-
stand it. While waiting to hear

to hear from him in regard to
 the proposition I had made
 him, his agent Mr Lynch
 commenced cutting in my territory
 the lumber that I had traced
 out ~~on~~ the Suffolk side the
 boundaries of which are com-
 mencing at the Washington Ditch
 ending at Douglas's Corner. Since
 that time I have ~~commenced~~ ^{been}
 cutting lumber and have never
 removed any but one lot of
 logs which I sold to Capt
 Munsangh.

Ques 5. Examine Exhibit- A² 3
 (Paper so marked handed witness)
 and state whether it is the letter
 received from the President of
 the Diomed Island Land Co.
 Ans:- It is the letter Mr
 Lyall wrote me

Ques 6 When you called to see
 Mr Roper on the occasion alluded
 to above, state whether he in
 any manner objected to your
 making such a contract with

The Diemal Swamp Land Co or
to your cutting timber according to
said contract?

Ans:- No sir, he did not object
until I refused to take the
\$3.50 per cord and said to me
he had never given up the pri-
vilege in the swamp.

Ques: 7 Was not his objection then
really in regard to the price
of the lumber you proposed to
sell to him, and not in regard
to the simple making of the con-
tract

Ans:- No sir, he ~~was not~~ had
no objection except to the price

Ques 8 Was that at the time
you were bargaining to sell him
lumber cut by you from the land
known as the Suffolk side &
belonging to the Diemal Swamp
Land Co?

Ans:- It was.

Ques 9. Examine Exhibit No 4
Letter marked exhibit No 4 here

handed to witness / and state
whether it is the letter received from
The President of The Disposal Swamp
Land Co by you?
Ans:- It is

Ques 10 State whether under your
contract filed Exhibit N^o 1 you
began operations on the Suffolk
side of the swamp & if so state
facts connected therewith.

Ans:- I did. I had the swamp
examined at once, a line of
timber marked out. I commenced
cutting and building a road
about the 12 July 1886 and
have strictly complied with the
contract. All the timber I ever
cut is in the swamp except
the buoy referred to before
me above and a few shingles.

Ques 11 Have you ever operated
in any part of the swamp
except that known as the
Suffolk side?

Ans:- I have not

12 May

Ques 12. Did you make your monthly reports to The Company according to contract?

Ans:- I did.

Ques 13. Have you made your payments monthly according to contract?

Ans:- I have.

Ques 14. Have you in any manner forfeited any right under the contract?

Ans:- I have not.

Ques 15. (Four checks marked exhibit "A" = "B" = "C" = "D" handed witness here) Examine exhibits "A" "B" "C" & "D" and state whether they are the checks sent by you in payment and whether they have been paid?

Ans:- They are the checks sent by me. Three marked "A" "B" & "C" have been paid. That marked "D" the president refused to receive & returned to me & I afterwards tendered him

(3)

currency which he also refused to receive.

Ques:- 16 Has that part of the swamp known as the Suffolk side been abandoned by the plaintiffs before ~~they~~^{you} began operations.

Ans:- I had been so offered by Robt H Herring agent of the Company and the President of the Company Mr. B. P. Loyall.

Ques 17. Were the plaintiffs operating in that part of the swamp when you commenced work?

Ans:- No sir.

Ques 18 Were the plaintiffs in open & notorious possession of the Suffolk side of the swamp when you began operations.

Ans:- No sir.

Ques 19. Had they not in fact pulled up their tracks & removed all of their property therefrom?

Ans:- They had removed all

of their property and turn up
all of their track except one
small piece of track which
Wm. Williams agent of the
John L Roper Co had sold to
Mr Robt. H. Herring to haul
some dead poles over.

Ques 20 When you began opera-
tions were the plaintiffs operating
the numerous canals, ditches
roads, tram roads and rail roads
constructed by them on the
Suffolk side

Ans:- No sir. They had none to
use they had torn them all
up

Ques 21 Have you ever prevent-
ed or disturbed any person in
the employ of the Dracut
Swamp Land Co in inspecting
any of the work you were
doing?

Ans:- No sir. I have not

Ques 22 Did the John L Roper
Co object to your commencing
operations on the Suffolk side of

the swamp or assert any claim to have the right exclusively to cut the timber therein.

Ans:- No sir and they asserted no claim until we could not agree to the price.

Ques 23. Were you or were you not induced to believe from this action of the John L. Roper Co that if they ever had any right to cut the timber on the Suffolk side they had surrendered it?

Ans:- Yes, sir.

Ques 24 Did you rely upon their action in this matter in making your contract

Ans:- Yes, sir.

Ques: 25 Have you, relying upon their conduct in the matter spent large sums of money, in preparing for your work on the Suffolk side

Ans:- I have

Ques 26. Are you using any

of the plaintiff's roads, ditches
or canals.

Ans:- No sir

Quo 27 Have you fully accounted
to the Dismal Swamp Land Co
for the lumber you have cut on
the Suffolk side of the swamp?

Ans:- I have

Quo 28. Are you ready and pre-
pared to fulfill your contract?

Ans:- I am.

Quo 29. Have you received notice
from the John L. Roper Co to
quit the Suffolk side of the swamp
or if so when?

Ans:- They notified me to stop
about ten days after we failed
to agree about the price of timber

Quo 30. Could you have quit
the property at that time without
great loss

Ans:- My loss would have been
considerable

Office of R H Rawles Esq
Suffolk, Va.
11th Nov. 1886

Present

R. H. Rawles & E. E. Holland
attorneys for Defendant

Robt H Herring being duly sworn
deposes and saith as follows

Ques 1. State your age, residence
occupation & do you know the
parties to this suit?

Ans:- 39. Nansemond Co. Section
master Seaboard & Roanoke Rail
Road. Yes sir.

Ques 2. State whether you have ever
occupied the position of agent
of the Dismal Swamp Land Co
of which Mr. B. P. Lyall is pre-
sident, and if so when you left
their employment, and how long
you were so employed?

Ans:- Yes sir I have been agent
for about ten years and still
hold the place in addition to
my other employment. I have a

a man to attend to the duties
of agent.

Ques 3. State whether you were
acquainted with Mr Norman
Williams + if so how long have
you known him

Ans:- Yes sir, known him about
seven years

Ques: 4 State what position he oc-
cupies?

Ans:- Agent of John L Roper &
Co.

Ques 5 State whether you have or
had a conversation with him with
regard to what is known as
the Suffolk side of the Dismal
Swamp?

Ans:- Yes sir, he came to me
& told me ~~and~~ ^{that} I told me Capt
Roper had ordered him to turn
the Suffolk side over to me, that
he was done with it and had
cut it out and I notified Mr
Lyall the president of the
Swamp Co by letter and I

went to see him in person also
& he authorized me to sell the
lumber, all access to the best
advantage I could in that part
of the swamp the Suffolk side.

Quer. 6. After having said conver-
sation with you, did Mr Norman
Williams actually leave the Suf-
folk side of the swamp taking
with him all lighters & stiff track
and other property?

Ans:- Yes sir he took the lighters
and carried them down to Deep
Creek and took the stiff track over
the other side of the lake to that
patch and took up all the track
except one small piece of track
which he turned over to me for
the use of my track, over which
to haul some dead lumber and
he took all his team & hands
over the lake and gave this
side of the swamp up entirely
having stopped cutting on this side
last fall.

Quer 7. What is your impression

at that time that he had openly and notoriously abandoned the Suffolk side of the swamp?
Ans:- Yes sir.

Quo 8. State what you did with the swamp after that, or whether you had any conversation with Mr Bruce in regard to it or if so what ^{the} conversation was?

Ans:- I went to work in the swamp; had a few hands in there cutting the Swamp lumber before he gave it up. I went to Mr. Bruce and saw him about selling him the lumber & told him I would sell him the lumber if it was agreeable to Mr Loyall. I went to see Mr Loyall & he told me ^{Mr Bruce} he could cut lumber and I was told by him that Mr Bruce had a contract with him to cut and to see after the lumber; see there was a true count and to carry the report in to him.

Quo 9. Did you do this?
Ans: Yes sir

Ques 31. Are you being injured
sacrificed and made to suffer
as by reason of the restraining
order in this case

Ans:- I am, about fifty (50)
dollars a day

Ques 32. Had you any notice of
the different cases exhibited
by the plaintiffs until the
filing of their bill?

Ans:- I had not

Ans further This Dependent
saith not

D. M. Allen,

Archibald Ellis being duly
sworn Dependent. and saith.

1st Ques:- State your age, res-
idence, occupation and do you
know the parties to this suit?

Ans:- 68. Hannum County.
Farmer. I do.

Ques 2. Do you know Mr Mr-

man Williams

Ans:- I have known him for
the last 7 years

Ques 3. Can you state what
~~position~~ ^{station} he occupies or what
~~position~~ he fills

Ans:- John L. Roper's agent

Ques 4 Has he been openly &
notoriously known as such?

Ans Yes sir

Ques 5 What statements have
you heard him make in regard
to this transaction?

Ans: He told me they had given
up this part of the swamp to
Robert H Herring. I mean the
Duffolk side and he told me
~~that~~ ~~was~~ so in the last spring.

Ques 6. What position does Robt
H Herring hold?

Ans:- He is the of the Dismal
Swamp Land Co.

Ques 7 Is he openly and notoriously

ly known as such.

Ans:- Yes, he has been their agent for the last ten years.

Ques 8. Did Norman Williams ever tell you that the timber on the Suffolk side was cut out and if so state all that he said in regard thereto?

Ans:- Yes sir he told me so. He said what timber was left was not worth making to, & that he was going over the Lake and I remarked to him Mr Williams are you going to carry your skiffs? and he said "Yes sir but I am not going to carry them for a week or two." Has then come back and had all his woods torn up except a short piece of track he let Rolt Herring have, and moved all the scantling skiffs and all away. He moved his muds, lands and everything all his property.

Ques 9. Did he fully abandon

The Suffolk side

Ans: Yes sir. In a short time after this they came up Shingle Creek with two barges and cleaned up everything at the yard. When they left with the barges they took the creek lighters and carried them off

And further this Deponent saith not.

Archibald ^{his} Ellis
mark.

Joseph J. Wilson being duly sworn deposeseth and saith

1st Ques. State your age residence occupation & do you know the parties to this suit.

Ans. 29 years Waleysville Hancock Co. Carpenter. Yes sir I know the defendant Mr Bruce and the agents of the company.

Ques 2. Do you know Norman Williams & the position he occupies?

(6)

Ans:- I do and he is known
as John L Roper's agent

Ques 3, Has he made any state-
ments to you or in your hearing
in regard to this case?

Ans:- He has in my presence
to Rott H Herring who is the
agent of Diemal Swamp Land
Co. He came up three or four
times in last Spring to see
Rott H Herring and Herring
was not at the store either
time but finally he saw him
in my presence and he stated
to Rott H Herring that John
L Roper had authorized him
to give ^{up} this side of the swamp
the Suffolk side to Rott H.
Herring that he was through
with it and that there was
nothing which would pay him
to stay to.

Ques 4 Did the plaintiffs of your
knowledge abandon this side
of the Swamp & remove their
skiffs lighters logs and other

properties

Ans:- Yes sir, They did

Ques 5: Do you know how long it has been since the plain-tiffs cut lumber on the Suffolk side of the swamp?

Ans:- I think they quit in July 1885, as well as my recollection goes.

And further This Dependent saith not.

Joseph^d Wilson

No other witness appearing, The further taking of These Depositions is continued until to-morrow at the same place and between the hours of 6 A.M and 6 P.M.

John B. Pinner
Notary Public

Depositions.

The John L. Raper Lumber Co

vs.
B M Bruce

Does 10 Has Mr Bruce or any of
his agents interfered with you
or attempted to interfere with you
in the inspection of the books?
Ans: No sir they have not.

And further This Dependent saith
not. Q. H. Fleming

State of Virginia }
County of Hanover } So-wit

I John B. Pinner a Notary Pub-
lic for the County of Hanover
in the State of Virginia do
herely certify that the foregoing
depositions were duly taken sworn
to and subscribed before me at the
time and place named therein
Given under my hand this 11th
day of November 1886.

John B. Pinner
Notary Public

Fees \$2.25

Paid by B M Bruce

J B Pinner AP

Depositions

The John L. Roper
Lumber Co

vs

B. M. Bruce

1889.

Nov: 11th Filed

clx

B. M. Bruce

Archibald Ellis

Jos. Y. Wilson

R. H. Herring

Norfolk, Virginia, Nov 9 1886

Richard H Rawles, Esq
Norfolk Va.
Dear Sir,

As we have just telegraphed, Mr. White, who is attending to the Bruce matter, has been suddenly called from the City to be absent some days.

This will render it impossible for us to take the depositions tomorrow and we ask that the 20th be set as the day.

Your letter, which was received and answered by Mr. Garnett on Oct. 26th, has remained unanswered by Mr. White as promised for the reason, that he has at no time been sure that he could be present on the 10th.

Awaiting your reply
We are

Very truly yours
(White & Garnett)

S.
J.

Norfolk, Virginia, Nov. 11th 1886.

Messrs R. A. Rawley, and
E. E. Holland.

Atty.

Gentlemen,

We are very
much surprised at your letter
of the 10th just received this
moment. 10. a.m.

In reply - we telegraph you
at once as follows:

"We object to your taking
the depositions, and insist upon
legal notice. Notary will please
file this and our telegram of
ninth with the papers. White
is absent and Garnett is
detained here as a witness."

You acknowledge receipt of
our telegram and letter of the
9th. and yet you did not
answer our telegram, and the
writer presumed you had
carried out your original
agreement to fix such day as
would allow us to be present,
and that you would not proceed
to take the depositions.

W. White being absent and
W. Garnett being detained
here under a summons as a
witness in the case of M. S.
vs. John B. Whitehead, you

Norfolk, Virginia, 188

can easily understand that it is impossible for us to attend the taking of the depositions in Suffolk.

You notify us that you will conclude the taking today - 11th inst.

We object most positively to your taking any depositions under such a state of facts - and require you to give us the usual and legal notice of the time and place of taking.

We shall resist the reading of the depositions you have taken in the cause.

Your letter of the 10th just received, came too late for me, (the writer) even if at liberty to leave the U.S. Court, to get to the train for Suffolk, and too late to make any arrangement to be represented by counsel.

Respy. Yrs.
White & Garnett
by J. J. Garnett

WHITE & GARNETT,
ATTORNEYS AND COUNSELORS AT LAW,
82 MAIN STREET.

WM. H. WHITE.
THEO. S. GARNETT, JR.

NORFOLK, VA.

Oct 27 1886

Messrs R. A. Rawls &
E. E. Holland
Suffolk Va.
Gentlemen

Yours of 26th

just received.

As far as I can now see,
the 10th Nov^r will suit us
for taking the depos^{ns} in the
Lumber Co. case. Mr. White
is now absent from home. As
soon as he returns, in two or
three days, I will get him to
write you, as he will have
charge of the matter.

Very truly Yrs.

White & Garnett
by T. S. G.

William H. White.
Theodore S. Garnett Jr.

White & Garnett,

82 Main Street,

Norfolk, Virginia, Nov 20th 1886.

Mess R. H. Rawles &
J. S. Halland.

Atty for B. M. Bruce.

Suffolk Va.

Gentlemen.

We have this A. M. sent

You the following telegram viz: "Will take depo-
sition of Mr. Roper and others Tuesday next. at
our office Suffolk Va. in Roper Lumber Co
vs Bruce." Please attend.

The writer Mr. White who has the case in charge
having just returned from an absence of some
days, learned from Mr. J. S. Garnett that one of
you had told him that you had fixed the 23rd
instant, to move for a dissolution of the injunc-
tion in the case of Roper Lumber Co vs B. M. Bruce.
In view that we might have an opportunity
to take our depositions, we trust therefore that
you may attend on the 23rd that day being the
only one we could select which would enable us
to give you notice & complete the testimony by the 25th
We also send you copy of notice for your acceptance.
Very truly M^{rs}.
White & Garnett.

Suffolk Va. Nov. 19th 1886.
Messrs White & Garnett

Suffolk Va:-

Gentlemen:-

We herewith send
you the papers in the Roper Bence case.
We will have our witnesses at our
office any day you may name - giving
us a day or two in which to get them
here - for you to cross examine as if you
had been present at the examination.

You may also except to any question we
have asked in the depositions for ~~impeaching~~
leading &c - but not except to the depositions
as a whole matter, nor to the taking of them
in your absence. Please let us hear as
speedily as possible. Very truly

W. H. Rawles

J. E. Holland

Please file this letter with papers
and return papers to us as soon as
possible.

Lecture to Miss White
& Garnett.

JOHN L. ROPER LUMBER CO.

-----}---In chancery.
vs.

B.M. BRUCE.

This cause came on this day to be heard upon the plaintiff's bill and exhibits therewith filed, the answer of the defendant, with general replications thereto, and the depositions of witnesses, and was argued by counsel.

On consideration whereof the court doth adjudge, order and decree that the injunction heretofore awarded the plaintiff in this cause be made perpetual, but with the right of the defendant B.M. Bruce to remove from the lands in the bill and proceedings mentioned all the timber which he had cut thereon prior to the 14th day of August, 1886,

that being the date on which he received notice from ^{The Dismal Swamp Land} said company ^{the court being of opinion that the agreement under which the said} ^{defendant claimed was revocable at the will of the said Dismal Swamp Land Co} to cease cutting timber on said lands. And that the plaintiff recover from the said defendant its costs about its suit in this behalf expended.

The defendant, by his counsel, desiring to present a petition for an appeal from this decree, it is ordered that the execution of this decree be suspended for a period of sixty ^{days} from the 19th day of April 1888, when the defendant shall give bond before the Clerk of this Court, in the penalty of Six hundred (\$600) dollars with condition reciting this decree and the intention of said defendant to present such petition, and providing for the payment of all such damages as any person may sustain by reason of said suspension in case a supersedeas to this decree should not be allowed and be effectual within the period above specified.

The John L. Roper Lumber Co.

vs.

L. M. Bruce

Final Decree.

*Filed
April 13, 1908
C. M. Hall*

*Entered City Order Book
No. 2. P. 198*

The Jno. L. Roper Lumber Company

vs.

B. M. Bruce.

This day came William H. White, who being duly sworn testifies and says as follows, viz:

I am a member of the firm of White and Garnett, residing in the City of Norfolk, Va., and as such was and am in active professional control of the above entitled cause.

On or about the twenty-fifth day of last October, I received a letter from R. H. Rawles, Esq., counsel for B. M. Bruce, enclosing a notice to take his depositions and requesting us to insert the day, accept service and return to him: all of which will more fully appear by reference to said letter herewith filed as a part of this affidavit and marked Exhibit No. 1.

Having inserted the eighth day of November 1886, in said notice, I accepted service of the same and returned it October 25th. 1886, in a letter of which the following is a copy;-

"R.H.Rawls, Esq., Atty. &c.
Suffolk, Va.

Dear sir,

Enclosed we send you acceptance of your notice to take depositions in Jno. L. R. Lumber Co. vs. Bruce. We have inserted the 8th. day of November as the day which will best suit us. If however we find that we can be with you on some earlier day, we will telegraph you and fix the day accordingly.

W h i t e & G a r n e t t ,
Yours truly,

On the 27th. of October 1886, a letter was received from Messrs. R. H. Rawles and E. E. Holland suggesting that as the 8th. of November was the day for the assembling of their county court, they would prefer for the tenth of November to be selected as the appointed time, all of which will more fully appear on reference to the said letter, herewith filed as a part of this affidavit, marked Exhibit No. 2.

Thereupon and in reply thereto and in my absence Judge Garnett wrote the following letter, viz:-

"Messrs. R. H. Rawls and E. E. Holland,
Suffolk, Va.,
Gentlemen,

Yours of 26th. inst. just received. As far as I can now see the 10th. Novr. will suit us for taking the depositions in the Lumber Co. case. Mr White is now absent from home. As soon as he returns, in two or three days, I will get him to write you as he will have charge of the matter.

very truly yours,
White and Garnett
by T. S. G. "

Owing to my absence from the city and state, I did not see the above letter until a few days before the 9th. of Nov., and when I did see it I was in anticipation of being called away from the City about the 10th. inst., therefore I did not confirm the 10th. inst. as the day agreed on.

Being advised on the 9th. inst. that I could not be present on the next day in consequence of a telegram calling me to Philadelphia I at once telegraphed to Mr. Rawles that I could not be present and asking that the 20th. inst. be agreed on. The said telegram was as follows-

Nov. 9th. 1886.

R. H. Rawles,
Suffolk, Va.,
Suddenly called from city. Impossible to take depositions to-morrow. Please fix them for 20th. Answer.
White & Garnett.

I also wrote Mr. Rawles the same day, confirming my said telegram and fully explaining my absence and Judge Garnett's detention here as a witness in the U. S. Court. The said letter is as follows:-

Richard H. Rawles. Esq.,
Suffolk, Va.,
Dear sir,

As we have just telegraphed, Mr. White, who is attending to the Bruce matter, has been suddenly called from the City to be absent some days. This will render it impossible for us to take the depositions to-morrow, and we ask that the 20th. be set as the day.

Your letter which was received and answered by Mr. Garnett on Oct. 26th., has remained unanswered by Mr. White as promised, for the reason that he has at no time been sure that he could be present on the 10th. Awaiting your reply, we are very truly yours

White & Garnett

Relying on an answer to said telegram and receiving none, I left the City late on the evening of the 9th., in the full conviction that the depositions would not be taken on the next day. Had Mr. Rawles even answered said dispatch informing me that he would go on on the next dayx anyway, I should have employed some one to represent me and to have protested before the Notary who actually took said depositions against the sufficiency of said notice.

On the morning of the 11th. of November 1886, at ten o'clock a.m. a letter was received from Messrs. Holland and Rawles informing us that said telegram and letter had been duly received and that they were proceeding with the depositions and would conclude the same on the 11th. inst. This letter is herewith filed marked Exhibit No. 3.

To this letter a telegram was immediately sent protesting against the whole proceeding and requesting that the Notary would file said telegram with said depositions. A copy of this telegram is also herewith filed and is marked Exhibit No. 4.

On the same day to-wit: the 11th. of November 1886, a letter was written and sent to Messrs. Holland and Rawles, confirming said telegram and explaining in full our said protest. This letter was as follows:

Messrs. R. H. Rawles and E. E. Holland, Attys.,
Gentlemen,

We are very much surprised at your letter of the 10th just received this moment 10 a. m. In reply we telegraph you at once as follows: - "We object to your taking the depositions and insist upon legal notice. Notary will please file this and our telegram of 9th. with the papers. White is absent and Garnett is detained here as a witness."

You acknowledge receipt of our telegram and letter of the 9th. and yet you did not answer our telegram and the writer presumed you had carried out your original agreement to fix such day as would allow us to be present and that you would not proceed to take the depositions. Mr White being absent and Mr. Garnett being detained here under a summons as a witness in the case of U. S. vs. John B. Whitehead you can easily understand that it is impossible for us to attend the &

taking of the depositions in Suffolk. You notify us that you will conclude the taking to-day-11th. inst. We object most positively to your taking any depositions under such a state of facts and require you to give us the usual and legal notice of the time and place of taking.

We shall resist the reading of the depositions you have taken in the cause. Your letter of the 10th. just received came too late for me (the writer) even if at liberty to leave the U. S. Court, to get to the train for Suffolk and too late to make any arrangement to be represented by counsel.

Respy. Yrs.

White and Garnett

by T. S. Garnett.

And on the same day they sent us a notice that they would on the 25th. of November move the Court to dissolve the injunction heretofore granted in said cause.

I further assert that for the reasons given above no day was agreed ^{upon} after the time had been changed from the 8th. day of November and that I was misled by the failure of defendant's counsel to answer the telegram of the 9th. inst. and in consequence thereof did not and ~~xxx~~ could not have notice of the taking of the depositions of B. M. Bruce and others, begun on the 10th. of Nov 1886 and concluded on the 11th. of same month and filed with the papers in said cause on the 11th. day of November 1886 and contend that the same are not admissible as evidence in said cause for any purpose.

Wm H. White

Subscribed and sworn to before me this

25th day of Nov. 1886.

Peter X Smith

Notary Public.

COURTS:

Nansemond, Isle of Wight and Southampton
Counties, and United States District
Court at Norfolk, Va.

OFFICE OF RICHARD H. RAWLES,
Attorney at Law,

Suffolk, Va., Oct. 25th 1886.

Messrs. White & Garnett :-

Norfolk Va :-

Gentlemen :-

I herewith enclose blank notice for taking dispositions in the Roper Company case, which you will please fill out to suit your convenience, accept notice ~~thereof~~ thereof in writing, and return to me. Friday the 29th inst. will suit us, if it will suit you: if not, you had better say about the 4th or 5th of November, not later than that. Mr. E. E. Holland, my associate counsel, said that Judge Garnett told him he would accept notice.

Very Respectfully

Richard H. Rawles

RH Rawls
Suffolk Va
Oct 25/86

2 No. 1

Service accepted
for Nov. 8th 1886
at Suffolk.
-officer R.H.R.

Oct 25/86

COURTS:

Nansemond, Isle of Wight and Southampton
Counties, and United States District
Court at Norfolk, Va.

OFFICE OF RICHARD H. RAWLES,
Attorney at Law,

Suffolk, Va., Oct 26th 1886.

Messrs White & Garnett :-

• Attys at Law :-

Suffolk Va :-

• Gentlemen :-

Yours rec'd, fixing the 8th
of November as the day for the Prince
depositions. This would suit us very well
but for one fact which you probably over-
looked - the 8th is our County Court
day and we will both be necessarily
engaged that day and perhaps the next -
so if agreeable to you, we will say the
10th of November. Let us hear from you.

Very Respectfully
R. H. Rawles

E. E. Holland

Rawls &
Holland
Suffolk
Oct 28/86

L. H. 2

Fixing Nov 10th
for taking dep^o
in the case
of J. R. L. Co

4
Bruce

answered
Oct 27. 1886

M. 3.

Suffolk Va. Nov. 10th 1886.
Messrs. White & Garnett

Gentlemen:-

Your telegram and letter duly rec'd. All our witnesses are here, many from a long distance and our client Mr. Bruce is unwilling to wait longer - hence we are proceeding with the depositions and will conclude tomorrow the 11th inst.

Respectfully

E. E. Holland

R. H. Rawles

M. 4.

Nov. 11th 1886. Rec'd. this letter at 10. am.

and sent reply by telegram

"We object to your taking the
"depositions and insist upon legal
"notice. Notary will please file this
"and our telegram of ninth with the
"papers. White is absent and
"Garnett detained here as a witness"

Also wrote letter more fully.

J. H. G.

E E Holland &
R H Rawls.
Atty for Prince

Nov 11 - 86 - 293

Recd. 10. am
Nov. 11th 1886

answered by
telegram and
letter.

Nov. 11th 1886
10. ¹⁵

Jno. L. Roper
Lumber Co.
vs } In Equity
B. M. Bruce

~ ~ ~

Affidavit of
Wm. H. White Atty
and Exhibits

The answer of B. M. Bruce to a bill in Equity exhibited against him in the Circuit Court of Kansas and County by The John L. Roper Lumber Company, the complainant.

This defendant now and at all times reserving unto himself the benefit and advantage of ^{exception to} all errors in said bill contained, for answer thereto, on unto so much and such parts thereof as he is advised it is material for him to answer, answers and says -

First. That the allegations made in the first section of said bill may be true for anything he knows to the contrary.

Second. That said alleged lease was renewed and extended as pretended in the second section of said bill, that this defendant had no knowledge or information of the same until the filing of said bill.

Third. That the statements made in the third section of said bill may be true, but if true, were matters of private arrangement between the parties and this defendant had no notice of the same until said bill was filed.

Fourth. This defendant denies that the said complainant was in the open and notorious possession of the surface side of

said property, as alleged in the fourth section of said bill, and alleges that the said complainant, on the contrary, had suspended all work on said side, and had long since abandoned and surrendered possession of the same to its owner, The Dismal Swamp Land Company. This defendant also denies that the said complainant had any right, as alleged, to cut and remove timber on said side, and alleges, that, on the contrary, this defendant, under a contract made with the Dismal Swamp Land Company, with the free knowledge and consent of said complainant, which said contract, marked Exhibit "1" is herewith filed as a part of this answer, had the exclusive right to cut and remove timber therefrom. This defendant further says that he has complied strictly with the terms of his said contract and has in no respect forfeited the same, and that the Dismal Swamp Land Company could not legally and in justice to this defendant, at the time mentioned in said section, convey and lease to said complainant the rights and privileges therein alleged to have been conveyed. And this defendant further

says that the said Complainant, having actual notice of the said Contract made to him as aforesaid and of his rights under said Contract came only to see the property subject to such assumed rights.

Fifth. This defendant claims that the said Complainant was in the possession and enjoyment of the Suffolk side of said property, cutting and removing timber therefrom, or operating any canals, roads, ditches or tramways as mentioned in the fifth section of said Act, and alleges that, on the contrary, the said Complainant had long since suspended all work on said side and entirely abandoned and surrendered possession of the same to its owner, The Dismal Swamp Land Company. This defendant further says that it was after such abandonment and surrender of said property, and after he had, with the free knowledge, consent and encouragement of said Complainant, secured from its owner, The Dismal Swamp Land Company, the aforementioned Contract that he entered upon said property, and commenced to cut and remove timber therefrom, and that he has done nothing not allowed and permitted by his said Contract. This defendant denies that the said Complainant is being in any manner

injured, damaged or impeded by him, and alleges
that on the contrary, this defendant, who made
said contract with the consent of said Complain-
ant, entered upon said property with the en-
couragement of said Complainant, and without
objection or notice ^{of claims} on the part of it spent large
sums of money in his preparations for said
work, is now being greatly and wrongfully
injured, damaged and impeded in his
work by said Complainant. This defendant
denies that he is using said Complainant's
roads, ditches and canals, and as to his rail-
roads and tramways says that said Com-
plainant removed them when it suspended
work on said side. This defendant
✓ admits that he has hired a road to a large
body of timber for the purpose of removing
and cutting the same, as he has a right to
do under his said contract. As to the timber
already cut and removed by said defen-
dant, he says that he has accounted to the
Dismal Swamp Land Company for the same,
as under his contract he was required to
do, and has fully paid said Company for the
same, as will appear by his checks to said
Company, marked Exhibit '2' and hereunto
filed as a part of this answer.

Sixth. This dependant denies the statements made in the sixth section of said bill; And further says that he was induced by said Complainant to believe that it had abandoned said Suffolk side of said property; that, under said belief, he made, with the free knowledge and consent of said Complainant his aforesaid contract, that said Complainant, without objection, allowed him to enter upon said property, and commence work; and that said Complainant, without notice of its alleged claim, has allowed him to spend large sums of money in preparing successfully to execute his said work. These being facts, this dependant says that the said Complainant, by its own silence and misconduct, is now estopped from asserting the claim ~~that it~~ ^{has} the exclusive right to cut and remove said timber, or denying that said Complainant has such right.

Seventh. This dependant admits that he received from said Complainant notice to quit said property, ^{not until} ~~but only~~ after he had made his aforesaid contract, with the knowledge and consent of said Complainant, and had without objection on the part of said Complainant or notice of its pretended claims, entered

up on said property and, at great expense,
prepared ^{for} and commenced his work therein.
This defendant admits that he refused to
comply with said notice, and says, that when
it was given, he could not comply without
great loss, and this loss he was not willing
to bear. And besides, this defendant cannot
believe that the said Complainant has a
right to become the beneficiary of its own
misconduct, or to define time of the rights
and privileges under a contract to which
it has consented. This defendant says that
he has a right to cut and remove said tim-
ber from said Suffolk side.

Eighth. This defendant admits that he has
cut and removed timber on said Suffolk side
of said Swamp, and says that under his afore-
said contract he had a right to do so. This
defendant further says that he has also cut
large quantities of timber which he has not
removed, and contends that he ought not to
be deprived of the right to remove the same.
This defendant denies that the said Complain-
ant has or can sustain any damage ~~by~~
~~resulting from~~ ~~his~~ ~~of his~~ ~~said~~ ~~contract~~, and
says that if the said defendant is allowed
to comply with his said contract; and further

says that he will sustain irreparable damage and injury, if he is not allowed to remove the timber he has cut and to continue to cut and remove timber from said land, for which, at great cost, he has prepared.

+ And this defendant further answering says that he entered upon said property, under a contract made with the free consent and knowledge of said Complainant; that he has complied strictly with the terms of said contract and confined his work to the Suffolk side of said Swamp, which he was induced to believe had been abandoned by said Complainant; that the said Complainant with free knowledge of his entering upon said land and being at work, has lain by, and with out objection or notice of any claim on the part of said Complainant, allowed him to prosecute said work and spend large sums of money in preparing, carrying out said work and actually, encouraged him in the same by offering to purchase the timber cut by him on said land; and that the said Complainant is now in possession of said property, remaining the timber already cut by him, and engaged in cutting and removing the timber on said land, which with the free consent of the plaintiff, was sold to him, this defendant; and that this defendant is therefore being, daily greatly damaged

by the injunction awarded in this cause.
Wherefore this defendant asks that the injunc-
tion awarded in this cause be dissolved,
the damages he has sustained by its award
be decreed to be paid to him, and the complain-
ants be dismissed.

And read having fully answered this de-
fendant prays to be hence dismissed with
his reasonable costs &c.

P. R. Randle
E. E. Halland

N. M. Bruce

p. d.

Answer of
N. M. Bruce—

Nov. 22. 1886
S. W.
C. H.

WHEREAS the Dismal Swamp Land Company by its deed dated the 29th day of December, 1881, did lease unto John L. Roper and Wilson Godfrey, partners trading under the name and style of John L. Roper & Co., the right to cut and remove certain lumber and timber from the lands of said Company, situated in the County of Nansemond, Va., (except a small portion thereof in the County of Norfolk Va.), the terms and conditions of which said lease are set out in said deed; and

WHEREAS the said lease has been renewed by said Dismal Swamp Land Company by resolution, on or about March 20th 1884 for three years from May 1st 1884, subject to certain modifications then understood and agreed upon; and

WHEREAS since the said last named renewal the business and affairs of the said John L. Roper & Co. have passed to and become incorporated in the joint stock company known and chartered by the name of "The John L. Roper Lumber Company"; and

WHEREAS it has been agreed upon that the said original lease to the said John L. Roper and Co as modified on or about the said 20th day of March, 1884, shall be made or continued in favor of the said "The John L. Roper Lumber Company" for the period of three years from the said first day of May, 1887, upon the same terms as contained in said original lease as so modified, with the exceptions hereinafter contained:-

NOW THEREFORE, This Instrument, made this 7th day of August, 1886, between the said Dismal Swamp Land Company, of the one part, and The John L. Roper Lumber Company of the other part, WITNESSETH, That the said Dismal Swamp Land Company doth hereby grant and convey unto the said The John L. Roper Lumber Company, for three years from May 1st 1887, all of the rights privileges and property conveyed to and enjoyed by the said John L. Roper & Co. by the

said original and modified lease, with the following exceptions as to prices for said lumber, viz: That the said The John L. Roper Lumber Company, from the said 1st day of May 1887, shall pay unto the said party of the first part eight-tenths of one cent per foot for each log of nine inches and upwards in diameter, instead of one cent per foot as heretofore; and five cents for each railroad tie eight and eight and one half feet long; and instead of paying for cypress shingles exclusively by the thousand as heretofore, it shall pay also for cypress blocks as follows, viz: forty five cents per cord for such blocks as are twenty one inches long, and sixty cents per cord for such thereof as are twenty five inches long; such cords to be eight feet long, four feet high, and twenty one or twenty five inches wide, according as the length of the blocks shall be twenty one or twenty five inches long.

The said party of the first part for and in consideration of the premises and of the prices to be paid by said The John L. Roper Lumber Company for said lumber hereby further expressly agrees that the said last named Company shall from this date and during the continuation of the said term beginning May 1st 1887, have the exclusive right to cut and remove the lumber from said land, and that if the said party of the first part shall and will forthwith revoke, annul and cancel any privileges heretofore given to any person or persons to cut and remove any timber from said land.

The said The John L. Roper Lumber Company hereby covenants and agrees on its part to keep and perform all the covenants conditions and requirements contained in the said original and modified lease and all such as are herein contained. Witness the following signatures and seals of the said Dismal Swamp ^{Company} Land and

of the said The John L. Roper Lumber Company.



B. P. Loyall
Pres. D. S. Land Co.
John L. Roper Lumber Co
John L. Roper Pres

Corporation of the City of Norfolk, to wit:-

I, *Wm. H. White* a Notary Public for the Corporation aforesaid, in the State of Virginia, do certify that Benjamin P. Loyall, President of the Dismal Swamp Land ^{Company,} and John L. Roper, President of The John L. Roper Lumber Company, whose names are signed to the writing above bearing date on the *7th* day of August, 1886, have acknowledged the same before me, in my Corporation aforesaid.

Given under my hand this *9th* day of August, 1886.

Wm. H. White
Notary Public.

In The Clerk's Office of Henric County Court,
the 10th day of August, 1886.

This, the foregoing instrument of writing was presented with the Certificate annexed, and admitted to record.

Teste: Peter B. Prentiss, Clerk

7. 3
The Disposal Swamp
Land Company

In } Instrument in
Writing

The John L. Roper Lumber
Company.

~~~~~  
1886  
Aug. 10th: Presented in  
the Clerk's Office with  
the Certificate annexed  
LAR.  
(Examined and verified)

"Exhibit 3"  
~~~~~

Recorded Deed Book
No. 17. page 34.

Exhibit No. 2

T. S. L. Company
Renewal of Lease
for three (3) years
from May 1st 1884

Office of the
Daniel Samp Land Co.
Norfolk, Va.

March 20, 1884

Messrs. John L. Roper & Co.
Norfolk.

Gentlemen:

A meeting of the
Managers of the D. S. Land Co.
was held today for the pur-
-pose of considering your letter
of the 14th. February last,
in which you present certain
considerations in favor of
extending the period of Contract,
for stipulated prices, to three
years from May 1st. 1884.

Upon this point the Managers
instruct me to say that they
agree to your proposition for
your accommodation, and with
the hope that it may prove

to be of mutual benefit.
You also ask for a reduction
in the price of 24 in. Cypress
Shingles from \$1.80 per ~~th~~ to
\$1.00 per ~~th~~, to which the
Managers agree, on condition
that in getting out shingles
of that size, you will en-
-deavor to utilize the re-
-mainder of the trees, cut
for those shingles, to the best
advantage in the manu-
-facture of other lumber.
in other words, that there may
be as little waste as possible.
I will add a codicil, embody-
-ing the above terms, to the
old Contract, which can be
signed at your convenience.

Yours truly,
D. D. Royall.
President &c

1
This Contract and Agreement, made and entered into this
the Twenty ninth day of December, in the year Eight hundred
and eighty one, by and between the President and Managers of
the Dismal Swamp Land Company, Parties of the First Part, and
John L. Roper, and doing business under
the name and style of John L. Roper & Co, residing in the City of
Norfolk, and State of Virginia, Parties of the Second Part: Witness
eth. that the said Parties of the First Part, for and in consideration
of the Price, Covenants and Conditions, hereinafter reserved
and stipulated, which, by and on the part of the said Parties of the
Second Part, are to be paid, kept and observed; do hereby covenant
agree and stipulate, that the said Parties of the Second Part,
shall for the term of Sixteen Months, from the Second day
of January 1882, commencing the Second day of January 1882
and terminating the first day of May 1883, have the right to cut
and carry off such lumber as is hereinafter described, and
none other, from their Swamp Lands, containing a body of
land supposed to exceed Forty thousand acres, lying chiefly in
the County of Nansemond, in the State of Virginia, a smaller
part thereof lying in the County of Norfolk, and the boundaries of
which are well known and defined; but it is understood and
agreed by and between the said Parties hereto that this right to
cut and carry off lumber shall not extend to or embrace any
land that may be acquired by the said Dismal Swamp Land Com-
pany, subsequent to the execution of this Contract and during its
continuance.

That the said Parties of the Second Part, shall have the right to
enter upon the lands of the said Company, for the purpose of cutting
and carrying off the said lumber, for the term of Sixteen Months,

from the Second day of January 1882, fully to be completed and ended,
quitting and passing to the Said Parties of the First Part, for the
lumber so cut and carried off, the following prices; to wit:
For Six (6) feet ties, 3 cents each; for Seven (7) feet ties 4 cents each; for
Eight (8) feet ties, 5 cents each; for Eight and a half (8½) feet ties, 7 cents
each; for Nine (9) feet ties 8 cents each; For Merchantable logs 9 inches
and upwards in diameter one cent per foot in length; for logs under
9 inches in diameter, down to 7 inches in diameter 2½ cent per running
foot; for logs, not merchantable by reason of knots, under 9 inches
in diameter (over 9 inches being made into ties) ¼ cent per running
foot; for Rails Five $\frac{50}{100}$ (\$5 $\frac{50}{100}$) Dollars per thousand; for Round Poles,
from 5½ to 7 inches in diameter and 11 feet long, one cent each; for
Telegraph Poles ½ cent per foot; for Cypress Board Staves \$1 $\frac{50}{100}$ per
thousand; for Cypress Shingles, 20 inches, 6 cents per thousand;
for Cypress Shingles, 24 inches, \$1 $\frac{50}{100}$ per thousand; for Cooper
Staves \$2 per thousand. The above stated prices to be paid to the
Said Parties of the First Part, Quarterly, during the said term of
Sixteen months, and in consideration thereof the said Parties
of the Second Part shall have the privilege of cutting any of the
above named lumber in the said Swamp, and of removing the
same therefrom, during that time, under the following restrictions
and conditions, to wit:

1st That the Said Parties of the Second Part, hereby agree to make to
the Said Parties of the First Part, Quarterly Statements, of the
production of lumber, as shown by their Pay Rolls, and they further
stipulate not to use any machinery for manufacturing lumber
on the Company's lands.

2nd That the Said Parties of the Second Part shall be allowed to
cut no more trees of Five (5) inches or less in diameter, than may

be necessary to construct their Road Ways, and such as may be
necessarily killed in getting out lumber; and due allowance
being made for the indifference or carelessness of the workmen
employed.

3rd That the said Parties of the First Part shall not sustain any
loss by reason of destruction by fire of any lumber cut and re-
maining on their lands during the said Sixteen months.

4th That the Jerico Canal, belonging to the said Company and
embraced in their Swamp Lands, shall be kept in working
order by the said Parties of the Second Part, at their own expense.

X 5th That the said Parties of the Second Part shall not assign their
Rights under this Agreement, to any other party or parties, in whole
or in part, without the formal consent in writing of the said
Company, first had and obtained.

6th That the said Parties of the First Part shall have the right ^{to} cul-
tivate or rent out any arable lands, belonging to said Company,
which is hereby excepted from this Contract and Agreement.

7th That at the expiration of the said Sixteen Months, the said
Company shall not be liable to pay for any improvements, which
may be made on their said lands, by the Parties of the Second Part.
And the said Parties of the Second Part hereby covenant with
the said Parties of the First Part, as follows: That they will pay
to the said Parties of the First Part, or to their assigns, Quarterly
during the said Sixteen Months, the above named price for
the lumber cut by them as herein before specified, and that
they will well and truly keep and comply with all the other
covenants and conditions of this Contract and Agreement,
according to the true intent and meaning thereof; permission
being hereby given and reserved to the said Parties of the

Second Part to remove from the said lands of the Company, at the end of the said Sixteen Months, all the timber or lumber that may be then cut and remaining on the said lands; and in order to make such removal they shall be allowed Sixty Days, and all necessary and reasonable access to and egress from the said lands, as well as the use of the Company's Canal during the said Sixty Days.

And it is further covenanted and agreed by and between the said Parties hereto, that the said Parties of the Second Part, shall have the privilege of cutting ditches and making roads in or through the said Company's Swamp lands, such as may be deemed necessary to facilitate their operations in the said Swamp, but at their own cost and expense; the benefits of such ditches and roads to enure to the said Company at the expiration of the said Sixteen Months.

And the said Parties of the First Part hereby covenant with the said Parties of the Second Part, for the quiet and peaceable enjoyment of all their Rights and Privileges under this Contract and Agreement; provided that the said Parties of the First Part shall have the right to cancel and annul the terms of this Contract and Agreement, for a default of Thirty Days, in the Quarterly payments, to be made of the prices for the lumber, heretofore specified, at the times when the same shall become due and payable; or for a breach of any of the other covenants herein contained.

In Testimony whereof, Benjamin P. Lyall, the President of the said Disposal Swamp Land Company has subscribed his name as such President, and all the Corporators

Seals of the said Company hereto, duly
authorized thereto by the Managers of the
said Company, and the said John L
Roper & Co, have subscribed their names
and set their seals hereto this 29th day
of December 1881.

B. D. Loyall (Seal)
President D. S. L. Co.

John L Roper & Co (Seal)

Corporation of the City of Norfolk, to wit:

I, George Loyall, a Notary Public, for the
Corporation aforesaid in the State of Virginia, do certify that
B. D. Loyall, President of the Normal School Land Company, and
John L Roper, whose names are assigned as such President and Com-
missioner of John L Roper & Co, to the writing above, bearing date
the 29th day of December 1881, and also to the Memorandum
on the next page hereof, of the same date, have acknowledged the
same before me, in the Corporation aforesaid.

Given under my hand, this 29th day of December 1881.

George Loyall.

Notary Public.

Memorandum.

It is not the intention of the above Contract and Agreement to impair in any way the permission granted to the said John L. Reppe Co, by the said Company, by their letter, dated April 19th 1881, to run a road from the Lake, through the said Company's Swamp; but the privilege so granted is continued in accordance with the said letter.

And it is also understood and agreed by and between the parties to the above Contract, that no third party or parties shall have the right to cut any of the lumber or timber specified in the said Contract, during its continuance, from the lands of the said Company.

Witness our hands and seals this 29th day of December, 1881.

B. P. Loyall (Seal)

Pres't. D. S. L. Co.

John L. Reppe (Seal)

1
1
Norfolk, Va.
April 26. 1883.

It is hereby mutually agreed
between B. P. Loyall President
of the Bristol Iron and Steel Co.
and J. L. Roper & Co. of Norfolk
Va. that the conditions and covenants
of the within written
instrument be, and are hereby,
continued for the space of one
year from the first day of May
1883.

B. P. Loyall.
President B. I. S. Co.
John L. Roper Recd

Norfolk. Va.

April 21. 1884

It is hereby mutually agreed between
B. P. Loyall President of the Oriental
Swamp Land Company and John
L. Roper & Co. of Norfolk. Va. that
the covenants and agreements of the
within written instrument be, and
are hereby, continued for the space
of three years from the 1st. day of
May, 1884, with the exception of the
price of 24 in. Cypress shingles,
which shall be \$1.⁰⁰ per thousand instead
of \$1.⁸⁰ per thousand as heretofore.

B. P. Loyall

President O. S. L. Co.

John L. Roper & Co

Dismal Swamp Land Co
with } Contract.
John L. Rogers & Co:

Exhibit No 1.

(To the HONORABLE GEORGE BLOW,
(
(JUDGE of the CIRCUIT COURT of
(
(
(NANSEMOND COUNTY.

Humbly complaining, your orator The John L. Roper Lumber Company(a company duly incorporated under the laws of the States of Virginia and North Carolina,) shows unto your honor the following case:

FIRST:.....

That on the 29th. day of December 1881, The Dismal Swamp Land Company, by its deed of that date, leased unto John L. Roper and Wilson Godfrey then partners trading under the firm name and style of John L. Roper and Company the exclusive right to, and possession of, that certain tract of swamp land belonging to said Dismal Swamp Land Company, containing, what was supposed to exceed 40.000 acres and lying in the county of Nansemond, Va., with the exception of a small part thereof in Norfolk Co., Va., for the purpose of cutting and removing therefrom the timber growing thereon, which said lease was for the period of sixteen months from date of said deed: all of which will appear more fully and in detail from said deed which is herewith filed as a part of this bill marked Exhibit No. I.

SECOND.....

That the said lease was renewed and extended by the said Dismal Swamp Land Company for three years from May 1st. 1884, with certain stated modifications as to the prices for certain kinds of timber. All of which will more fully appear from the written memorandum thereof, signed by the president of said company, dated March 20th. 1884, herewith filed as a part of this bill marked Exhibit No. 2.

THIRD.....That on the *1st* day of *May* 1885, the business of the said John L. Roper & Co. was merged into your complainant corporation by acts of the Legislatures of the States of North Carolina and Virginia and thereupon the said John L. Roper and Wilson Godfrey trading as aforesaid with the knowledge and approval of the Dismal Swamp Land Company, assigned and conveyed unto your orator the said lease together with all their rights, privileges and properties thereunder.

FOURTH..... That your orator thus succeeding the said John L. Roper & Co. in the open and notorious possession of said land and of the exclusive right to cut and remove timber therefrom; continuing in such possession and in the work of cutting and removing said timber therefrom, under the said several contracts until the 7th. day of August 1886, when the said Dismal Swamp Land Company made and executed to your orator its deed reciting the above named contracts and facts, and conveying and leasing unto it all of the said land with the sole and exclusive right to cut and remove the said timber therefrom for the period of three years from May 1st. 1887, and especially conveying to your orator all of the rights, privileges and property theretofore conveyed to and ~~enjoyed by the said John L. Roper & Co.~~ enjoyed by the said John L. Roper & Co. including the right to build and construct roads, ditches, canals and generally to do whatever might be meet and proper to enable your orator to cut and remove the said timber from said land, all of which will appear by reference to said deed, which is herewith filed as a part of this bill, marked Exhibit No. 3.

FIFTH.....That your orator being thus in the possession and enjoyment of said property and engaged in cutting and removing the timber therefrom, in the long continued, open and notorious manner above described, and operating the numerous canals, ditches, roads,

tram-ways and rail roads built and constructed by it and its predecessors the said John L. Roper & Co. has been recently seriously and greatly injured and disturbed and is now being greatly injured, annoyed, impeded and damnified in its said possession and work by one B. M. ~~Bre~~ Bruce, who has entered upon said property and has cut and removed therefrom great quantities of the said timber, and has taken possession of, and is using some of your orator's said ditches, canals and roads for the removal of the timber so cut by him. That the said Bruce has also built a road on said property leading to a large body of valuable timber growing on said property for the purpose of thereby removing the said body of timber when cut; and that he is cutting or is about to cut said timber and to remove it together with other large quantities of timber already cut by him on said land and will do so unless prevented.

SIXTH..... That the said B. M. Bruce had full notice of the fact that your orator as the successor of the said John L. Roper & Co. was the sole tenant of said property and had the exclusive right to cut and remove the timber therefrom and to use and operate the said ~~xx~~ roads, ditches and canals.

SEVENTH..... That your orator has notified the said B. M. Bruce to desist from his said acts and doings, ~~to~~ to leave the said land; and he not only refuses to do so, but defies your orator and asserts that he will use the said land and property and cut and remove said timber therefrom when and as he pleases.

EIGHTH..... That the said B. M. Bruce is about to cut the said large body of timber growing on said land and to remove it from said land and also other large quantities already cut by him, and to continue the use of said canals and roads of your orator, whereby your orator will be irreparably damaged unless this Court interposes to prevent it by its restraining order.

NINTH.....That the said B. M. Bruce is a man of small pecu-
niary means and entirely unable to pay your orator for the damage it
will sustain if he is not enjoined according to the prayer of this bill

Wm H. White Notary Public

The Jno L. Roper Lumber Co.

...VS...

B M. Bruce.

Deft.

Upon the complainant, THE JOHN L. ROPER LUMBER CO.
entering into and acknowledging a bond, with good security, in the ~~xxx~~
clerk's office of the circuit court of Nansemond county, before the
clerk of said court, in the penalty of *One thousand* dollars
conditioned to pay all costs and damages which shall be awarded against
it in case the injunction herein mentioned shall be dissolved, an ~~injunction~~
injunction is granted in pursuance of the prayer of the bill within
contained, to restrain and prohibit the said B M. Bruce, his agents and
attorneys from further cutting any timber from the said land of the ~~x~~
Dismal Swamp Land Co. in the bill and proceedings mentioned consisting
of a tract of 40,000 acres, situated in the county of Nansemond Va. with
the exception of a small part thereof in Norfolk Co. and from further
removing from said land any timber already cut therefrom by the said
Bruce and also from further building or constructing any roads, ditches
or canals on said land and from using any of those already constructed,
and from further impeding or disturbing your orator in its business
and operations on said land until the further order of the Court.

To the Clerk of the Circuit Court of
Nansemond County.

Stephen Brooke
Judge Corp & Clerk of the City of Norfolk
JUDGE &c.

The John L. Roper Lumber Co.

...vs...

B. H. Bruce.

Deft.

.....

Bill, Exhibits &c.

✓
Supplement order

White & Garrett. P.O.

The John L. Roper Lumber Company
25th & Chy. Notes

13. M. Bruce.

1886. Sept: 30th: Order awarding injunction

" Octo: 4th: Injunction Bond executed & filed

" " " Injunction Chy: & Inj: filed to New: Hdg: 1886

" Nov 1 Bill de filed - Dece nisi

" 3 answer filed: explain later for hearing

" 4 Dece: filed per deff

" 1886 December 23rd de: filed for Pl: & deff

Why: Notes

White p²

Chancery Papers

John L. Cooper

Subscriber company

vs

B. M. Bruce

1895-

April 12th
Removed
from Docket

John L Roper Lumber Co

vs

B M Bruce

Costs in Current Ct of Naud

Accty Man

16.50

Shpp J L H

50

Serpt Nud Acty

1.00

Depos

20.00

Clk

15.00

53.00

appelles Costs PC

22.94

Damages

3.00

\$10 5.94

37 2
 37 2
 37 2
 37 2
 37 2
 37 2
 37 2
 37 2
 37 2

78

78

5 7 5
 5 2 5

5 2 5

5 5 - 2

75 -

37 -

5 2 5

2 2 5

37 -

2 8 . 1

14. 06 17

Not to be opened

To B M. Bruce Esq

Take Notice, That *we* shall proceed on the 23^d day of November 1886. and between the rising and setting of the sun, at the office of White, Thorne & Norfolk Va.

to take the deposition of Jno L. Roper and others.

to be read as evidence in the suit now depending in the Circuit Court of the County of Stafford

in which you are

and the Jno L. Roper Lumber Co is

defendant
~~plaintiff~~
plaintiff
~~defendant~~

And if, from any cause. the said deposition should not be 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.

Jno L. Roper Lumber Co.
by White & Thorne
attys

Service accepted

COURTS:

Nansemond, Isle of Wight and Southampton
Counties, and United States District
Court at Norfolk, Va.

OFFICE OF RICHARD H. RAWLES,
Attorney at Law,

Suffolk, Va., Nov 22nd 1886.

Messrs. White & Garbutt

Attys at Law

Norfolk Va :-

Gentlemen:- Yours rec'd.
We will be on hand tomorrow - be ready to begin
at 10 o'clock A.M. sharp - but wait for us if Train
should be detained or otherwise delayed. We expect
to be there by that time.

Respectfully Yours
Rawles
Holland.

To the John L. Roper Lumber Company
Take notice that we shall on the 8th day of February 1887 at the office of R.H. Rawles in the Town of Suffolk, Nansemond County Virginia, between the hours of 6 a.m. and 6 P.M. of that day proceed to take the depositions of B.M. Bruce and others to be read as evidence in our behalf in a certain suit in equity depending in the Circuit Court for the County of Nansemond wherein you are ~~respectfully~~ Plaintiff and B.M. Bruce is defendant: 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.

Jan 27th: 1887.

Respectfully

B. M. Bruce

By R.H. Rawles &

E.E. Holland

Counsel.

Endorsed — Executed this ~~28th~~ 28th day of January ^{a.d.} 1887. by serving a copy hereof on John L. Roper President of the John L. Roper Lumber Company.

J. A. Brimmer Jr. Sergt.
by W. R. Vieth Deputy

To the John L. Roper Lumber Company

Take notice that we shall on the 8.th day of February 1887 ~~in the D.~~ at the office of R. H. Rawles in the Town of Suffolk, Nansemond County Virginia, between the hours of 6 a.m. and 6 p.m. of that day proceed to take the depositions of B. M. Bruce and others to be read as evidence in our behalf in a certain suit in equity depending in the Circuit Court for the county of Nansemond wherein you are plaintiff and B. M. Bruce is defendant: 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,
Jan 27th 1887.

Respectfully

B. M. Bruce

By R. H. Rawles &
E. E. Holland
Counsel

Executed this 28th day
of January A.D. 1887
by serving a copy
thereon Jno. L. Roper
President of the Jno. L. Roper Lumber Company
J. A. Sumner Jr. Surg.
by W. R. Veith Deputy

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *B. M. Bruce.*

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the first Monday in *November* next, to answer a

Bill in Chancery, exhibited against *him*

in the said Court by *The John L. Roper Lumber Company* (a company duly incorporated under the laws of the States of Virginia and North Carolina)

and have then and there this summons.

Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, this *4th* day of *October* 1886, in the 11th year of the Commonwealth.

Teste:

Peter B. Prentis Clerk.

Memo.

The Defendant B. M. Bruce his agents and Attorneys are hereby restrained and prohibited from further cutting any timber from the land of the Dismal swamp land Company, in the bill and proceedings mentioned consisting of a tract of 40,000 acres situated in the County of Nansemond Va: with the exception of a small part thereof in Norfolk County, and from further removing from said ^{land} any timber already cut therefrom by the said Bruce and also from further building or constructing any road, ditches or canals on said land and from using any of those already constructed, and from further impeding or disturbing in the Plaintiff the said John L. Roper Lumber Company in its business and operations on said land until the further order of the Circuit Court of Nansemond County, Virginia

Teste: Peter B. Prentiss. Clerk.

White & Garrett p. 9

The John L. Roper Lumber
Company.

vs
J. Sum. & Co. & Co.

B. M. Bruce.

To November Rules, 1886

Bo. B. M. 1. p. 9.
C. C. Co.

Executed, October 5th. 1886, and a true copy of this process together with the memo: thereon, delivered to the within B. M. Bruce in person.

J. L. Leggett Stff

To B.M. Bruce Esq

Take notice, that we shall proceed on the 23^d day of November 1886 and between the rising and setting of the sun, at the office of White & Garnett Norfolk Va. to take the deposition of Jno L. Roper and others, to be read as evidence in the suit now depending in the Circuit Court of the County of Nansemond in which you are defendant and the Jno. L. Roper Lumber Co is plaintiff. And if, from any cause, the said depositions should not be 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.

Jno. L. Roper Lumber Co
by White & Garnett
attys.

Endorsed - - service accepted

To the John L. Roper Lumber Com-
pany:

Take notice that we shall on the
3rd day of November 1887 at the
Court House of Naussemond County
in the County of Naussemond and
State of Virginia between the hours
of 9 o'clock A.M. and 9 o'clock
P.M. of that day move the Court
(the Hon. C. W. Hill presiding) to wholly
dissolve the injunction now pending
and in force in the case of the
John L. Roper Lumber Company vs
~~Bruce~~ M. Bruce now pending in our
Circuit Court of Naussemond County,
and to grant us such further relief as
the Court thinks properly and to
equity may seem meet. This notice
to hold good as long as the
Court is in session on that
occasion.

Respectfully Yours

R. H. Rawles

E. C. Hollcomb

for B. M. Bruce

J L Roper & Co

v

B M Bruce

PETER B. PRENTIS,
CLERK OF THE

CIRCUIT AND COUNTY COURTS OF NANSEMOND COUNTY.

Paper No 1

Suffolk, Va.,

1888

John F. Roper Lumber Company
vs. In Equity

B. M. Bruce

Reply of Counsel for Plaintiff
to the brief of Defendant.

Paper No 2

John F. Roper Lumber Co.

vs. {

B. M. Bruce

Note of White & Gamett

Pencil note on back
of Brief.

To B. M. Bruce Esq

Take Notice, That ~~he~~ shall proceed on the 23^d day of November
1886 and between the rising and setting of the sun, at the office of White,
& Garnett. Norfolk Va.

to take the deposition of

John. L. Roper and others.

to be read as evidence in the suit now depending in the Circuit Court of the
County of Lancaster.

in which you are plaintiff
and the Jno L. Roper Lumber Co. is defendant.

And if, from any cause. the said deposition should not be 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.

Jno L. Roper Lumber Co.
by White & Garnett
Atty.

To the John L. Roper Lumber Co:

Gentlemen:-

Take notice that on the 25th day of November 1886 at the City of Norfolk I shall move the Hon. Geo. Blesso, Judge of the Circuit Court for Hanover County, in vacation, to wholly dissolve the injunction and restraining order, heretofore granted by the Hon. D. Tucker Brooke Judge of the Corporation Court of the City of Norfolk in the Chancery cause of "The John L. Roper Lumber Co. vs B.M. Brown" now pending in the Circuit Court of Hanover County, whereby I am prohibited, restrained and enjoined from doing and performing certain acts and things therein mentioned.

Respectfully

B.M. Brown

By R.H. Lawler S.C. Holland
Counsel

Executed by serving a copy of the within
notice on Jno. L. Roper, the said Jno
L Roper being president of the Jno L Roper Lumber
company in and a Resident of the city of Norfolk at time of
this 12 day of November 1886. Such Service

Jno. A. Brimmer Jr. Sergt
by F. R. Henry Deputy

To The John L. Roper Lumber Company

Take notice that on Wednesday the 26th day
of January 1887 at Eleven o'clock A.M.
at the Circuit Court room in the
City of Norfolk, I shall, before the
Hon. C. W. Hill Judge &c, move that
the injunction now in force in the
chancery cause of The John L. Roper Lum-
ber Company vs B. M. Bruce now pend-
ing in the Circuit Court of Nansee-
mund County, be wholly dissolved.
Suffolk Va. Jan. 14th 1887.

Very Respectfully

B. M. Bruce

By Counsel

~~To the city register - serve the other copy on~~
~~John L. Roper President of the John L. Roper Lumber~~
~~Company, or in the usual way. I enclose 50^{cts} in stamps.~~

~~make your return to me,~~
~~on the back of this.~~

R. H. Rawles
Suffolk Va.

Executed this 15th day
of January A D 1887,
by delivering a copy
here of to John L Roper,
for the John L Roper
Lumber Company, the
said John L Roper
being President of
said Company, and
the said John L Roper
being in and a resident
of the City of Norfolk
at the time of such
service

C. L. Quinn Deputy
for J. A. Brimmer Jr. Sergh
50 cts paid

C. L. Quinn Deputy Sergh

42 2nd April 1896
Norwich 6

R. H. Rawles
Suffolk Va
Suddenly

Called from City.
Impossible to take
depositions tomorrow
Please fix them
for 20th. Yours
John J. Farrell

THE WESTERN UNION TELEGRAPH COMPANY.

This Company **TRANSMITS** and **DELIVERS** messages only on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message back to the sending station for comparison, and the company will not hold itself liable for errors or delays in transmission or delivery of **Unrepeated Messages**, beyond the amount of tolls paid thereon, nor in any case where the claim is not presented in writing within sixty days after sending the message. This is an **UNREPEATED MESSAGE**, and is delivered by request of the sender, under the conditions named above.

THOS. T. ECKERT, General Manager.

NORVIN GREEN, President.

NUMBER	SENT BY	REC'D BY	CHECK
5 CV	X	Jo	35 Paid

Received at 10519 CV CV 11 1886

Dated, CV CV CV 11

To R H Rawley & E E Halland

Attys

We object to your taking the depositions
& insist upon legal notice notary will
please file this & our telegram of ninth
with papers. White is absent & Garnett is
detained here as a witness
White & Garnett

Black Black Black

13 ct B Jo 17 Paid 39

358⁰

Nov 1 1886

S
Carpenter 29⁹
R. V. Rawles

Quadrant Called from City impossible
to take depositions tomorrow noon
get them per 20th and over
White & Garrett

Know All Men by These Presents, That we, *B. M. Bruce*
and *Robert W. Nelson,*

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of *Three hundred and fifty - (350)* 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. Sealed with our seals, and dated this *27th* day of *September*, in the year one thousand eight hundred and eighty- *eight*, and in the *113th* year of the Commonwealth. The obligors herein hereby waive all benefit of the homestead exemption as to the obligation of this bond, and also waive any claim, right or privilege to discharge any liability arising under said bond in any currency, funds, counter claims or offsets other than legal tender currency of the United States.

THE CONDITION OF THIS OBLIGATION IS SUCH, That ~~if the above bound~~
Whereas the Clerk of the Supreme Court of Appeals, has issued a writ of
Supersedeas, in the name of the Commonwealth of Virginia to the Sheriff of
County, directed, commanding the said Sheriff, from all further
proceedings in a certain decree, pronounced by the Circuit Court of the County
of Nansemond, on the 13th day of April 1888, in a Suits in Chancery, wherein
The John L. Roper Lumber Company, was Plaintiff, and B. M.
who on this day qualified before the Court of Nansemond County,
Bruce, was Defendant, be altogether, supersede: but in said writ, the said Clerk
of said Court of Appeals has endorsed that it is not to be effectual until the Petitioner or some
one for it shall enter into bond with sufficient security, in the Clerk's Office of the said
Circuit Court, in the penalty of Three hundred and fifty (350) dollars, conditioned as the law
directs, and a Certificate of the execution thereof together with the name or names of the security or
securities endorsed thereon, by the Clerk of the said Circuit Court: Now, if the said B. M. Bruce shall
execute the said writ with effect or shall will and truly pay the amount of the decree of said
the said Circuit Court, and all such costs and damages, as shall be awarded, in case the said
Decree shall be affirmed
~~shall faithfully discharge the duties of his said trust, then the above obligation to be void, or else to~~
remain in full force and virtue.

Executed in presence }
of the Court.
Peter B. Prentiss, Clerk
of the Circuit Court of
Nansemond County

B. M. Bruce
Nelson



Bruce

vs { Sups: Bond

The John L. Raker Lumber
Company:



1888
Sept: 29th

Know All Men by these presents, that we, The John L. Reper Lumber Company and John L. Reper are held and firmly bound unto B. M. Bruce, in the sum of One Thousand Dollars, to the payment whereof well and truly to be made to the said B. M. Bruce, his heirs, executors, administrators or assigns, we bind ourselves and each of us, jointly and severally, firmly by these presents. And we hereby waive our Homestead Exemption, as to this obligation. Sealed with our seals and dated this 4th day of October, AD. 1886.

The Condition of the above obligation is such that whereas the above bound, the John L. Reper Lumber Company, Complainant, on its Bill in Chancery against the said B. M. Bruce, Defendant, addressed to the Honorable George Bloer, Judge of the Circuit Court of Hanseman County, has obtained from the Honorable B. Tucker Brooke Judge of the Corporation Court of the City of Norfolk, an injunction to restrain and prohibit the said B. M. Bruce, his agents and attorneys from further cutting any timber from the Land of the Wismah Swamp Land Company, in the Bill and proceedings mentioned, consisting of a tract of 40,000 acres, situated in the County of Hanseman, Va.; with the exception of a small part thereof, in Norfolk County, Va. and from further removing from said land, any timber already cut therefrom by the said Bruce, and also, from further building or constructing any roads, ditches or canals on said land and from using any of those already constructed, and from further impeding or disturbing the said, the John L. Reper Lumber Company, in its business and operations on said land, until the further order of the said Circuit Court of Hanseman County: And Whereas it is provided by the order of the

Said Judge, granting the said injunction, that the said Complainant shall not have the benefit thereof, until it enters into and acknowledge a bond with good security - in the Clerk's Office of the Circuit Court of Hanseman County, before the Clerk of said Court, in the penalty - of One thousand Dollars, conditioned to pay all costs and damages which shall be awarded against it, in case the said injunction shall be dissolved:

Now therefore, in the said, the John L. Roper Company, the said Complainant, shall pay all such costs as may be awarded against it, and all such damages as may be recovered against it, in case the said injunction be dissolved, then, this obligation shall be void or otherwise remain in full force and virtue.

John L. Roper
Sealed
In presence of

John L. Roper Lumber Company
By John F. Starnat, V. Pres.

John L. Roper (Sealed)
By John F. Starnat, Attorney in fact.

Executed and acknowledged
before me, in my Office,
the day and date above.

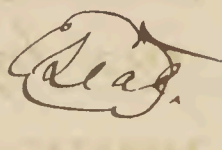
Peter B. Bontis, Clerk of the Circuit Court for
Hanseman County, Virginia

The John L. Reber Lumber
Company
25 } Station: Board
B. M. Bruce

1886
Octo: 14th: Executed, no-
knowledge & filed.

Know all men by these presents: that
I John L. Roper of the City of Norfolk
Virginia do hereby appoint John
F. Stewart. my true and lawful Attor-
ney. for me and in my name and
stead to Sign execute and deliver
the injunction bond required by the
order of Judge D. Tucker Brooke entered
Sept 30th 1886 in the Chancery Suit
of The John L. Roper Lumber Co. vs B.M.
Price. pending in the Circuit Court
of Nansemond Co. Va. Said bond being
for the sum of One thousand Dollars
and conditioned as in said order pro-
vided.

Witness my hand & Seal. This 30th
day of September 1886.

John L. Roper 

State of Virginia,

Reorganization of the City of Norfolk to wit:

I, R. D. Parrott, a Notary Public for the Corporation
aforesaid in the State of Virginia, do certify that John L. Roper
whose name is signed to the writing above, bearing date on
the 30th day of September, in the year One thousand Eight hundred
and eighty six, has acknowledged the same before me in my Corpora-
-tion aforesaid. Given under my hand, this 2^d day of October 1886.
R. D. Parrott Notary Public

Mrs L. Roper
to 3 Penna of Ag.
Mrs F. Stewart

1886
Oct: 4th: Filed

The deposition of Jno. L. Roper was taken before me Peter K. Smith, a Notary Public for the Corporation of the City of Norfolk, pursuant to notice hereto annexed at the office of Messrs. White & Garnett, 82 Main Street in the City of Norfolk Virginia, beginning on the 23rd day of November 1886 at 12 m., to be read as evidence on behalf of the plaintiff in a certain suit in Equity now depending in the Circuit Court of Causement County wherein The Jno. L. Roper Lumber Co is Plaintiff and B. M. Bruce is Defendant.

Present. Jno. L. Roper

Present. B. M. Bruce

Present: Of counsel for Defendant
Richard H. Rawley &
E. E. Holland

Of counsel for Plaintiff
Wm H. White

George C. Intosh for D. S. Land Co.

Jno L. Roper a witness for plaintiff
being duly sworn deposes and says.
by Wm H. White Esq of counsel for Plaintiff.

Ques 1. Are you the President of the John-
L Roper Lumber Co., the plaintiff in
this suit?

Ans. Yes Sir.

Ques 2. Please state ^{when} ~~whether~~ that company
was organized.

Ans. About January 1st. 1885.

Ques 3. State whether it is the lease of
the Drumal Swamp Land Company
of that tract of swamp land supposed
to exceed 40 000 acres lying princi-
pally in Chancery County, Va.,

Objected to by Defendant's counsel
on the ground that the lease
itself if there be one, would
be the best testimony.

Ans. It is.

Ques 4. Please state when and under what circumstances the said Jas L. Roper Lumber Co. became the lessee of the said land?

Objected to by Defendant's Counsel for the same reason.

Ans. I am unable to give the date of the first lease. The first lease was to Baird and Roper and then with the change of firm by the death of Mr. Baird it was leased to John L. Roper & Co. And at the organization of the Jas L. Roper Lumber Company it was assigned to that company with the knowledge and approval of the Drummond Swamp Land Co.

Ques 5. Please examine the paper now handed you, filed with the bill in this cause, marked Exhibit C to 1, and the memoranda to the same undertaken and appended and say if it is the lease to John L. Roper & Co, referred to by you in the preceding answer.

Ans. Yes sir.

Ques 6. Please look ^{at the papers} now handed you filed with said bill marked Exhibit

No 3, and say if it is the original of the lease now subsisting between the John L. Roper Lumber Company and the Drusmal Swamp Land Company?

Ans. Yes Sir.

Ques 7. I observe that the memorandum to the first of said leases marked Exhibit No 1, which memorandum is dated 29th day of December 1881, ^{states} that the said Drusmal Swamp Land Company covenants "that no third party or parties shall have the right to cut any of the lumber or timber specified in the said Contract during its continuance," please state whether John L. Roper & Company before the assignment of the said lease to the John L. Roper Lumber Company or the said John L. Roper Lumber Co. after such assignment, ever consented that the Drusmal Swamp Land Co. should make a lease or agreement, to B. M. Bruce, to cut any of the timber on said land ~~in violation~~ contrary to said covenant?

Ans. No Sir.

Ques 8. Please look at paper now handed you marked Exhibit No 1 and filed with the answer of B. M. Bruce,

Ans. say, whether you individually or as President of the John L. Roper Lumber Co. ever gave your consent or approval to the same?

Ans. No sir, I never did.

Ques 9. When did you first see or hear of said writing or agreement?

Ans. I think it was in August, ^{last} some time.

Ques 10. State, if you can recall them, how you came to see or know of this particular paper.

Ans. I think the first intimation I had that there was a lease or written agreement was after having notified Mr. Bruce, ^{last August} to stop work, and I was then informed by him that he had a lease. I then made application to the President of the Drumal Swamp Land Co, Mr. B. F. Loyall, to know whether such lease had been given, and then learned that a paper of some kind had been given by the President.

Ques 11. Please look at the paper now handed you and say if it is a copy of the notice given by the John L. Roper

Lumber Company to B. M. Bruce?

Ans. That is the notice to the best of my recollection.

(The paper is handed to witness, marked by the Notary Exhibit "A" and filed with these depositions.)

Ques. 12. Look at the paper now handed you dated Aug. 12 - 1886, and say if it is the reply which you received from B. M. Bruce through his counsel, to the notice, just above referred to.

Ans. Yes sir, I believe it is.

(This paper is handed to witness, marked by the Notary Exhibit B. and filed with this deposition.)

Ques 13. Did, or did not the Dismal Swamp Land Co, through its President Mr. Loyall, when you complained to him that Mr. Bruce was interfering with your rights under your Contract, say to you, that his Company would notify said Bruce to desist from ~~from~~ all operations on the Company's land?

Excepted to by defendant's Counsel on the ground that it is a leading question and on the ground that

Nothing has been said about
the plaintiff's complaint.

Ans. I don't remember whether it was
in those words, but it was to that
effect.

Ques. 14. Did not Mr. Loyall afterwards
send you a copy of the notice given
by him to said Bruce, and of the
reply of said Bruce there to, and
are not the papers now handed
you such copy and reply?

Objected to. because if there
be any such notice ~~itself~~
in existence, said notice it-
self should be produced,
or its non-production account-
ed for
Attorney for Plaintiff calls for the production
of said notice here and at the trial.

Ans. I am not quite clear, my impression
is that he did but I am not positive,
The papers handed me, ~~was given me~~
~~by~~ were in my possession.

Papers handed to witness, marked
by notary "C" & "D" respectively
and filed with this deposition.

Ques 15. The defendant B. M. Bruce has in
his answer and elsewhere, stated that he
informed you, that he had made the contract with

the Desmar Swamp Land Co, filed with his answer as Exhibit No 1, and that you recognized his right to cut the timber on said Company's land according to said Contract, please state if this is true and also state the substance and time of any interview you ever had with B. M. Bruce concerning said Company's land.

Ans. That is not true so far as notifying me of a contract and my recognizing any right to cut timber. but I got from him the impression that he had obtained permission from the President of the Desmar Swamp Land Company to cut ^{the} down ~~and~~ the refuse timber on that portion of the swamp near Suffolk over which we had cut.

Ques 16. When was this interview had with B. M. Bruce?

Ans. It was some time during April ¹⁸⁶⁶
I am not clear as to the date.

Ques 17. Mr. Bruce has also asserted, that ~~you did not notify him~~ when he notified you that he had made the contract referred to, that you treated with him for the purchase from him of such lumber as he might cut from

the Company's land, say if this is true?

Ans. It is not true so far as the purchasing of timber is concerned. I will explain what he did do. With the impression that he had permission which was given with my consent to cut down ~~timber~~ and refuse timber on land over which I had cut, I informed Mr. Bince that we claimed all the timber on the swamp under our lease and would not consent to his cutting any jumper, standing timber, except for us. I expressed a willingness to allow him to cut timber for us upon the same conditions that Mr. Williams & C. Williams, one of our contractors had cut on the same swamp, which was five dollars and a half per cord, we of course accounting to the Dismal Swamp Land Co. under our lease.

Ques 18. Then do I understand you correctly, that he talked with you and you with him, not about purchasing ^{logs} ~~the timber~~ from him which he had bought from the Dismal Swamp Land Company, but with him as a proposed contractor, to cut for you the timber which you were entitled to under your lease with the Dis

Mal Swamp Land Company? Am I right?

Ans. That was the ground upon which I talked with him, as my offer for the logs bones indicate.

Ques 19. Did you ever have any other interview with Mr. Bruce?

Ans. One other, very short interview. My impression is that it was a few days after the first, at which I informed Mr. Bruce that we could not see our way clear to make any arrangements for employing him to cut timber at that time, a words to that effect.

Ques 20. Did you, about the 21st of April 1886, write to B. M. Bruce, concerning his proposition made to you to cut timber for you from the lands that you had leased from the Desual Swamp Land Company? if so state whether the paper handed you now is a copy of said letter. [The original of said letter is now called for to be produced by the defendant.]

Ans. Yes sir, it is.

Paper handed witness, marked

Exhibit E. and filed with this deposition.

Ques 21, You stated that you were talking to Mr. Bruce about making with him the same arrangements about cutting timber that you had made with C. C. Williams, did he or not understand that Williams was merely cutting timber for your company and not for himself under any contract with the Dismal Swamp Company?

Ans. I presume he understood so. I informed him on that occasion what I was paying Mr. Williams for getting it out.

Ques. 22 Mr. Bruce has stated in his answer or elsewhere in the record that he has the exclusive right to cut any and all timber from the "Suffolk side" and that he acquired such right, with your knowledge and approval, is it true that you or your company ever gave such approval.

Ans. We did not except as before stated, to cut down and remove timber ~~on~~^{on} land near Suffolk over which we had already cut.

Ques 23 Had you or not actually cut

over all the land on the Suffolk side?

Ans. I can't say that we have, it is very hard to say that of a peeper swamp. But we understand the "Suffolk side" to be that portion of the swamp lying between Suffolk and Jericho Canal.

Ques. 24. Mr. Bruce has admitted in his answer, that he has opened or is opening a road to a large body of standing timber on said Company's land, did you or your Company ever give him permission, or consent that the Drumal Swamp Land Company should give him permission to open roads to and cut such or any standing timber.

Ans. No, Sir.

Ques 25. If he is permitted to do so, will it not seriously impede your Company and damage and injure it?

Ans. He will to the extent of depriving us of that quantity of available timber of whatever value it may be to us.

Ques 26. You have spoken of the

permission to Bruce to cut down and
refuse timber on the Swamp land
near Suffolk, over which you had
actually cut, was this privilege
a permanent one or temporary and
at your company's pleasure?

Ans. There was no ^{permission} given
directly to Mr. Bruce. Mr. Loyall
called upon me and stated that
Mr. Bruce had applied to him for
permission to cut lumber on the
Suffolk side of the Swamp at the
time he stated said I don't remember
the character of the timber, but I
got the impression that he was
to cut down and refuse timber
and consented that he might cut
~~the~~ such down and refuse timber
on the ground already cut over by
us, as long as he did not interfere
with our operations. But I gave him
to understand that this permission
would not be extended to standing
juniper. Hence Mr. Loyall's send-
ing Mr. Bruce to us to arrange for
that class of lumber. As near
as I can remember that was the
conversation with Mr. Loyall.

Ques 27. Had you a not permanently
abandoned and given up the Suffolk
side of said Swamp?

Ans. Not as I understand what is meant by 'Suffolk side' of the Swamp. Our Contractors have several times abandoned portions of the Swamp and upon examination, ~~and~~ other timber ^{being} found ~~and~~ operations have been resumed.

Ques. 28. That's just what I mean, did you ever give up your right to resume work on any part of the "Suffolk side" of the Swamp if you should see fit to resume work there?

Ans. No sir.

Cross Examination

x Ques 1 By Richard H Rawles Esq of Council for Defendants.

Examine Exhibit No 1 filed by yourself and say if it has ever been recorded?

Ans. It has not.

x Ques 2 Has you up to the time of the making of the contract between Bruce and Loyall marked Exhibit No 1 for Bruce, ever given Mr. Bruce notice of these leases?

Ans. I never gave him notice. I well say however, that Mr. Bruce must have

been aware of our having such lease as he had on more than one occasion offered to have timber growing on these lands shown to us, and proposed to work it for us.

X Ques 3. Then you cannot say positively that he had notice of these leases and the terms and conditions thereof?

Ans. I cannot.

X Ques 4. Examine Exhibit No 3 filed by yourself and say if it was not recorded after the ~~lease~~^{contract} given by said Dis-
mal Swamp Land Co to Bruce and not recorded before said contract was made?

Ans. It was recorded after the date of the paper shown me as Mr. Bruce's Contract.

X Ques 5. When did your contract made in 1881 expire and when was it renewed?

Objected to by Plaintiffs Counsel on ground that Contract has already been introduced and speaks for itself

Ans. By reference to the Contract Exhibit No 1 it expires May 1st 1883, and was re-

renewed April 26th for one year from the first day of May 1883, then renewed April 21st 1884 for the space of three years from the first day of May 1884.

X Ques 6. Did the Jno L. Roper Lumber Co. have any lease of the said property until the 7th of August 1886?

* Ans. None except the assignment from Jno L. Roper & Co.

X Ques 7. When was this assignment made?

Ans. Some time about the 1st of Jan. 1885.

(Counsel for plaintiffs here offers to produce said assignment or a certified copy thereof if it be desired.)

X Ques 8. ~~You have stated~~ Did Mr. Bruce ever have any notice of this assignment?

Ans. Not to my knowledge, but the deed of transfer was made by Jno L. Roper & Co to Jno L. Roper Lumber Company, it is my impression that it was recorded.

X Ques 9. ~~You have stated~~ What was your object in ^{securing} ~~making~~ a new lease

On the 7th day of August 1886, from the Drismal Swamp Land Co. of the land in question? and having the same recorded; when according to your claim, the renewal of your original lease did not expire until May 1st. 1887.

(Question objected to by Plaintiffs Counsel, first because it is irrelevant, secondly because the paper itself discloses the object for which it was made and shows that it was a new and distinct contract for a different rental and not a ^{simple} renewal.)

Ans. Before I ~~signed~~ signed the appeal bond of the Drismal Swamp Land Co. for \$60,000, I required a new lease covering that time, ^(i.e. time named in new lease) and the reductions in rents. I recorded it as a matter of precaution and to give notice that we had such a lease.

x Ques. 10. You have stated that you had a conversation with Mr. Loyall the President of the Drismal Swamp Land Co. in regard to Bruce's cutting timber on the "Suffolk side," did you not have several conversations with him in regard to that subject?

Ans. Do you mean before my conversation with Mr. Bruce?

X Ques 11 I mean at any time

Ans. Not to my recollection before the conversation with Mr. Bruce. I have had others since

X Ques 12 Did you not have such conversation about the 16 or 17 of April 1886.

Ans. I don't remember the date

X Ques 13 Did you then object to his making a contract with Bruce to cut this ~~the~~ timber under any circumstances or ~~was~~ was not your objection, if made at all, based upon the fact, that you wanted the timber at lower rates than he has agreed to sell it to Bruce, stating as your reason therefor that you were the largest Wholesale customer the Osage Swamp Land Co. had and that you could not come into competition to B. M. Bruce?

Ans. In the conversation that I allude to as taking place between Mr. Loyall and me, I did not understand that a contract or lease was contemplated, and in consenting to ^(Mr. Loyall) ~~him~~ cutting down and remove timber on the ground that I

has cut over, I gave him to understand that we could not consent to his cutting standing pumper timber. I could not have claimed to have been the Company's largest customer as we had exclusive lease and control of the swamps, for many years past and there were no others in competition, and I have no recollection whatever of any conversation such as is alluded to in the question.

X Ques 14 Did not Mr Loyall on that occasion mention to you the terms on which he had sold to Mr Bruce the lumber growing on the "Suffolk side" of the said swamp and the prices which were to be put to the said Bruce for said timber?

Ans. He did not. I feel very sure

X Ques 15. Did he do so at any subsequent time?

Ans. Not to my recollection, except since August when I learned that there was such contract.

X Ques 16 When did you first learn that there was such a contract.

Ans. I think it was during August
after giving Bruce notice to stop
work.

X Ques 17 Did you see the said Contract or
a copy of it at that time.

Ans. I think not at that time.

X Ques 18. When did you first see the
Contract or a copy thereof.

Ans. I am unable to say. I don't
know that I ever saw a copy of it
until Today. Mr. Loyall informed me
of it after this notice was sent to
~~X Ques 19~~ Mr. Bruce.

X Ques 19. Were you not made substantially
acquainted with the contents of
said Contract in August, 1886?

Ans. I am not certain as to date
but was at the conversation with
Mr. Loyall after having served that
notice and having received Mr. Bruce's
reply.

X Ques 20. Did you then immediately go
to Mr. Loyall, president of Osmeal
Swamp Land Co. and tell him that
he had no right to make such a
Contract with B. M. Bruce and that

You would not on any ground's affirm
of the same?

Ans. When?

* Ques 21 At the time that you had
the first conversation ^{with him} after you
had heard about the contents of
this contract which Mr. Loyall
has undertaken to make and has
made?

Ans. I was present with Mr. Loyall and
learned from him first that a contract
of some kind had been made and
insisted that notice should be given
him to stop work.

* Ques 22. Examine Exhibit No 3 filed
by Mr. Bruce (Handing a paper)
and state whether you have ever
seen it or a copy of it before?
Please read it over carefully.

Plaintiff's Counsel here desires to
note the fact that the Exhibit
referred to in the above question
is a part of the deposition of
B. M. Bruce, which deposition
we contend and shall con-
tend have been taken upon
insufficient notice and is not
evidence in this cause and

that without raising said objection to
said deposition for the reasons
above given, we further and par-
ticularly object to the admission
of the said letter referred to in
said question, because it has
not been proven to be the letter
of the President of the Dixie
Swamp Land Co., and if it
has been so proven it cannot
not be competent evidence against
the plaintiff in this case.

The question is withdrawn for the
present for the purpose of asking
another one first.

X Ques 23. Mr. Roper, please examine Exhibit
it ~~is~~ No 1 filed with the answer of
Mr. Bruce, and Exhibit No 2, I call
your particular attention to the
signatures only now to these two
^{to the best of your knowledge, information & belief on each}
papers and ask you say, whether
the ~~two~~ signatures to the first is
not the same as the signature
to the second, and if the signature
to the first is the signature of
B. P. Loyall is not the signature to
the second the signature of B. P. Loyall?

Question objected to for reasons given
to question immediately above and
for the further reason that it

is incompetent to prove handwriting in this case, by comparison or in any other manner than by establishing the identity of the papers referred to by the person who wrote them if available and if such person is not available, then by some other person who first swears that he is familiar with the handwriting of the party.

Ans. To the best of my judgment they are the same.

X Ques 24. Mr Roper are you acquainted with the handwriting of Mr B. P. Loyall the President of the Deseret Swamp Land Co.?

Ans. Well I have seen a number of letters written by him but I don't know that I could distinguish his handwriting from another somewhat like it.

X Ques 25. Is it not a fact in a general and business sense that you know ~~that~~ B. P. Loyall's handwriting from that of any of your other customers and cannot you readily distinguish a letter written by him from letters received from any of ^{your} other corres-

pondents.)

(Questions objected to for reasons
Assigned to previous question.)

Ans. I can't say that I can, from
my many correspondents I would
be unable to recognize the handwriting
as Mr. Loyall's without seeing the
heading ^{and signature also.} I am a very poor hand
at remembering handwritings anyhow.

X Ques 26 Examine Exhibit No. 3
filed by Mr Bruce read it carefully
and say to the best of your know-
ledge, information and belief on oath
after examining the heading and
signature, whether that is not the
letter of Mr B. P. Loyall?

Objected to for the reasons assigned
to questions 22 and 23

Ans. I am inclined to think it is.

X Ques 27. That letter as you see refers to
yourself, state whether the statements
therein made with reference to your-
self are true or not true.

Question objected to for the reason
that no evidence can be given
of the contents of that letter

until its identity is established by competent evidence, or until it is established that the witness a plaintiff were parties or privies to it.)

Ans. I have no recollection of any such conversation.

* Ques 28. Examine Exhibit No 2 filed by Mr. Bruce, read it carefully, examine the heading and the signature and say if you believe that that is in the hand writing of B. P. Loyall, president of the Annual Swamp Company.

Question objected to for reasons given to foregoing questions And for the further reason - that it is incompetent to prove hand writing by the belief of a witness it must be by his knowledge, and the witness has already stated that he did not know Mr Loyall's hand writing well enough to identify it.

~~* Ques 29~~

Ans. I am inclined to think it is.

* Ques 29. Are the facts stated in this letter relative to yourself correctly stated or not?

Ans. They are not

x Ques 30 State in what particular they are not.

Question objected to and all others which seek to prove the contents of a letter which has not been identified and the plaintiff connected therewith as a party a priori and for the further reason that the question seeks to bring an answer not responsive to any question brought out in the Examination in Chief.

Ans. They are not correct. In the conversation with Mr Loyall heretofore referred to and I presume here alluded to, I consented to Mr. Bruce working down and remove timber on that portion of the Swamp I had cut over, insisting that the ^{standing} pumper timber must be cut for us, we claiming it, and not bought by us as his.

x Ques 31 Then you had such a conversation with Mr Loyall at that time?

Ans. I had one conversation with Mr.

Loyall as before stated

X Ques 32 Is Mr Norman Williams your agent

Ans. He is not.

X Ques 33 Has he ever been?

Ans. He has not,

X Ques 34. Does he work the Swamp under your orders.

Ans. He cuts the timber as Contractor for us

X Ques 35 As such Contractor does he work subject to your orders?

Questions last three, objected to as irrelevant and having nothing to do with the Controversy.

Ans. Yes, as to what number and where he should cut it.

X Ques 36 Do the mules, skiffs, tramways and other property used by him in getting the lumber out of the "Suffolk Side" of the Swamp belong to you or to him

Same objection by plaintiffs counsel.

Ans. Tramways are owned by Mr Williams, the mules such as are not owned by him are hired from us; the skiffs belong to Jno L. Roper Lumber Co or Druml Swamp Land Co. We furnish the skiffs

X Ques 37 Did Mr. Williams ever inform you that that part of the Swamp known as the Suffolk side had been "cut out" that is to say that all the available timber to which it would pay to make tramways had been cut out and taken away?

(Objection, the question seeking to elicit information independent, affirmative and not responsive to the bill is objected to unless the defendant proposes to make the witness his own.)

Ans. Mr Williams claimed that he had cut all the timber that he could find, but that was not conclusive evidence that the timber had all been cut off that portion of the Swamp. A former contractor Jno F. Stewart, had abandoned that same part of the Swamp, after which Mr W.C. Williams found timber and worked several years.

X Ques 38. Did you then order Mr N.C. Williams a permit him to leave the "Suffolk Side" of the Swamp and to remove the mules and other property to any other portion of said Swamp?

Ans. I did.

X Ques 39. Did you order a permit him?

Ans. I permitted him, he reporting that he had found timber elsewhere that he could work to better advantage and more suitable timber for us.

X Ques 40. What do you mean by refuse timber?

Ans. Timber unfit for our purposes by reason of unsoundness or in size. Some timber is that portion of timber not cut up and left on the ground tops of trees &c.

X Ques 41. Has Mr Bruce ever cut in any portion of the Swamp except that which was abandoned by your first Contractor Mr. Stewart and your second Contractor Mr N.C. Williams?

Ans. Yes sir.

X Ques 41 1/2 Will you state where he has cut
at except at places abandoned
by those two gentlemen. Locate
the place exactly or as nearly as
you can.

Ans. On that portion of the Swamp
lying between Jericho Canal and
Harrison Westons land known
as Bear Quarter lying near the
Orsmaal Swamp Canal, a portion
of the swamp over which neither
Mr Williams nor Mr. Stewart had
operated.

X Ques 42 This was in the territory assigned
to Mr Stewart and Mr Williams?

Ans. It was not.

X Ques 43. Well sir, does not this body
of timber of which you are speaking
taking Norfolk as a stand point,
does it not lie on the other side
of Jericho Canal, or the Suffolk
side?

Ans. It does not.

X Ques 44. When did you first learn that
Mr Bruce was cutting timber in the
Swamp?

Ans. I am unable to say, some time, ^{about} ~~the time of~~
giving that notice in August last.

X Ques 45. Did you not know that Mr Bruce was cutting timber in the Swamp and making his monthly reports to B. T. Loyall Rest of Drusmal Swamp Land Co and that he was making his regular monthly payments to the same gentleman?

Ans. I did not, until the conversation alluded to with Mr. Loyall, after hearing from Mr Bruce in August last after the notification to Mr Bruce.

~ Re-Direct Examination ~

Ques 1 by Wm H White, of counsel for Plaintiff.

You have been asked in your cross-examination, whether you gave notice to B. T. Bruce of the leases you have referred to with your company. In this connection, please state whether you had any notice or knowledge whatever of the written agreement filed by Bruce with his answer ^{marked} ~~signed~~ Exhibit No. 1, prior to the execution of the lease to your company dated Aug 7 1886, and marked Exhibit No 3.

Ans. I did not.

Ques 2. You have also been asked whether

15 *

Ans. Yes Sir, some fourteen a fifteen
Years

Ques 3. As soon as you heard that Bruce
claimed to cut standing timber on
Sard Swamp, did not you forbid the
same.

Ans. I did.

Lines 4. According to your understanding of what is meant by the "Suffolk side" of this 40000 acres of swamp land, what proportion of the whole is embraced within said "Suffolk side"?

Ans. About a ~~half~~ quarter.

Ques 5. Did you ever have any conversa-
tion with Bruce, about ten days prior
to your notification to him ^{last August} to cease
cutting upon said Swamp?

Ans. I did not

And further this deponent saith not.
John L. Boppe

The taking of these depositions is
adjourned until tomorrow mor-
ning at eleven o'clock at the
same place.

Nov 24th 1886
Office of White & Garnett

No further witness appearing, the
taking of these depositions is ad-
journed until tomorrow morning
at same place and hour.

Nov. 25th. 1886
Office of White & Garnett
A. C. Williams and Herring
witnesses for Plaintiff not ap-
pearing, the taking of these
depositions is further adjourned
until tomorrow morning at the
same place and hour
P. X. Smith
C. J. P.

Nov 25th. 1886 5. P. M.
Office of White & Garnett.
Parties by Counsel appearing

the above adjournment by consent
of parties is set aside.

Present W^m H. White, of Counsel for Plff
R. H. Rawles & E. E. Holland
Of Counsel for Deft
B. M. Bruce

x
Counsel for Deft's states that in res-
ponse to question 7 in the cross exam-
ination, Counsel for plaintiff in a
note filed by them offered to produce
said assignment or a certified copy
thereof; Counsel for defendant now
calls for said assignment or a certified
copy thereof.

The Counsel for plaintiff desires the
following note to be made - viz: without
waiving the right of the plaintiff now
and at all times to except to the
deposition of R. H. Herring heretofore
taken for the defense; upon the ground
among others that the same was taken
without proper notice and with
the purpose and understanding that the
said Herring is to be examined ex-
clusively under and according to
the provisions of Sec. 24. Chap. 172 Code
of Va. Edition of 1873, his examination
is begun by plaintiff.

R. H. Herring, being duly sworn
deposes and says:

Ques 1 by Wm H. White of counsel for Plaintiff.
Please state your name, age, residence
and occupation

Ans. R. H. Herring, 39, on Seaboard & Roa-
noke R.R. near Bower's Hill I am
Section Master on that road, and
also look after the lands and busi-
ness of the Dismal Swamp Land Co.

Ques 2 Is it not a fact that you re-
ceive ten per cent on the amount
of lumber cut by Mr. Bruce from
the Dismal Swamp Land Co's lands?

Question objected to because it
is wholly irrelevant and has
nothing to do with the contro-
versy on the matters in issue.

Ans. The Company gives me 10 per cent
on all the lumber ~~on all~~ that I
sell from the Dismal Swamp Land
Co's lands

Ques 2 Is it not a fact that you receive
ten per cent on the amount of lum-
ber cut by Mr. Bruce from the Dismal
Swamp Land Co's lands?

Ans. I have not yet.

Ques 4 But don't you claim that you are entitled to receive it?

Ans Yes sir, I think I am, I am to get 10 per cent on all the lumber I sell, that's what Mr. Loyall told me.

Ques 5 Then you regard yourself as entitled to receive 10 per cent on all the lumber already cut and to be cut by Mr Bruce?

Ans. Yes sir

Ques 6. Please look at the paper now handed you, and say if the signature thereto is yours.

Ans Yes sir

Paper handed witness, marked Exhibit No 1 R. H. H. and filed with this deposition.

Ques 7. Please read it and say whether the facts therein contained and sworn to by you, are true?

X Ans. Yes sir, but I hadn't seen Mr. Bruce's contract when I signed it and I hadn't heard it read.

Ques 8 The facts however stated in your said affidavit, were as I understand you, true, were they not?

Ans. Yes. Sir

Counsel for defence wish to make the following note in regard to testimony this day given by Mr. Robert H. Herring, that while it is true that he was first their witness, and was examined by them as shown by the paper filed in this case, upon what we shall contend was legal and sufficient notice to the plffs in the case, yet we afterwards offered to reproduce Mr. Herring in a way that the plffs might have an opportunity of cross-examining him at any time they might suggest and before they had taken any depositions themselves, ~~that we the~~ ~~coun~~ which offer they declined, and they now having summoned him as their own independent witness to appear at their office in the City of Norfolk, we do not regard him in any manner as a witness coming under Sec. 24 Chap 172 Code of Va, but we regard him as their own witness, and that we have a right to cross-examine him.

Wm. H. Moore
Summer
Philadelphia

X Ques 6 State the circumstances under which you signed this Affidavit, whether it was fully explained a read to you or whether you were in a hurry and it was hurriedly obtained from you?

Question objected to for the reason that ^{the} Affidavit is not only authentic in itself as of its date, but the facts therein stated have just been repeated as true and correct and cannot be impeached by the witness who has already testified for the defendant and who is now on the stand being examined as an adverse witness under the statute referred to.

Ans. Yes sir it was read to me, but of course I was in a hurry to get off to take the train.

X Ques 7 How long have you been agent for the Desmal Swamp Land Co.?

Ans Ten years and upward.

X Ques 8 Have you dealt principally or largely in that part of the

Swamp known as the "Suffolk Side"?

Ans. Yes sir

+ Ques 9. Please state the boundaries of what is known as the "Suffolk side of that swamp."

Ans. From the head of the Washington ditch, down the ditch to the Joricks Locks, and thence around the Lake to Douglas' Corner. Douglas' Corner is on North East side of Lake Drummond.
Most of the lumber near Douglas' Corner is nearest the Dismal Swamp Canal.

X Ques 10 ~~Isn't all the~~ ^{Do I understand you to mean} ~~land in your charge~~
~~now~~ As an expert that all that region of the swamp just described is known as the "Suffolk Side" and has been so known for a considerable time?

Question objected to for the reason that it has been nowhere proved that defendant is an expert.

Ans. ~~That what I have always thought~~
Yes sir, ever since I knew any thing about it that has been called the "Suffolk Side"

X Ques 11 Have you or have you not traversed and been through all that section of the Swamp and has surveys made of the same and are you or are you not as familiar with the locations thereof as any man to be found in that community?

Question objected to.

Ans. Yes sir, I think I know as much as any man around there. I have been with the surveyors all around it. I think I know every particle of the Company's land.

X Ques 12. Did or did not Mr Loyall order you to count and generally overlook the work that was being done by Mr. Bruce under his Contract heretofore mentioned?

Question objected to

Ans. Yes sir.

X Ques 13. State whether or not Mr. Bruce has cut or attempted to cut in any part of the Swamp which has not been abandoned by Mr Stewart and Mr Norman Williams the agents of the Jno L. Roper Lumber Co?

Question objected to for the reasons among others that it has not where been stated or proven

that Mr. Stewart & Mr. Williams are agents of Jno L. Roper Lumber Co.

Ans. No sir, he ~~has~~^{is} cutting on the same old ground where they had cut. He ~~has~~^{is} ^{cutting} on the Enoch road, the old Stewart road, and the old Sam Knight's road.

X Ques. 14 State whether Mr. Bruce has at any time cut, anywhere else except on the ground that had heretofore been cut over by Norman Williams or Jno F Stewart and Sam Knight as so called Contractors of Jno L. Roper Lumber Co. and whether the body of timber to which Mr Bruce is now loading is not within the limits of the territory known as the Suffolk Side, and which has already been abandoned by the Jno L. Roper Lumber Co. and turned over to you as the agent of the Arsenal Swamp Land Co. ?

Ans. He ^{has} cut nowhere except on the same old ground where they had cut. ~~It~~ I call it the same ground because it runs right along by the old road and I suppose the growth ^{of timber} has ~~come~~^{arisen} since it was cut over. I suppose more than

Half of the timber cut by Mr. Bruce is dead timber.

To the second portion of the question I answer, that's just where he is cutting.

X Ques 15 Did a did not Mr. Thomas C.

Williams the so called contractor of the Geo L. Roper Lumber Co. turn over the Suffolk side of the Swamp to you, with a statement made to you that he had cut all the lumber in that portion of the Swamp known as the Suffolk side and that he had left nothing there but refuse timber?

Question objected to because it seeks to elicit hearsay testimony. Mr. Williams is in existence and can be brought here as a witness if the defense desires it.

Ans. He turned the Suffolk side of the Swamp over to me, he certainly did, and said he had cut it out and was done with it.

Answer objected to upon the ground that it is hearsay testimony

X Ques 16 Did you not report as agent of the Dismal Swamp Land Co. to Mr Loyall, the president of the Co., the fact that the Suffolk Side has been surrendered and turned over to you and if so, by whom?

~~Ans.~~ Question objected to, because it seeks to elicit hearsay testimony, a testimony to which the plaintiff was neither party nor privy

Ans. Yes sir I wrote him that he had orders from Capt Roper to turn it over to me. and had been looking for me one or two days. I also saw him

X Ques 17 What were then your instructions from Mr Loyall?

Ans. Told me to go on selling timber to the best ^{advantage} I could.

X Ques 18. Did you make a sale of it?

Ans. Yes sir. Mr Bruce went down and saw him and made a contract with him

X Ques 19 Had you not previous to this made a written agreement

with B M Bruce yourself as agent
for the D.S.L. Co

Question objected to unless
the contract referred to
is produced, or it is shown
that it is not in their
possession and that it
has been called for and
not produced.

The counsel for defendant
here calls upon the plain-
tiff's counsel to produce
said contract if it is in
their possession

Ans Yes sir, I have, I carried it
to Mr Loyall, it was a lease.
Mr Loyall said he couldn't make
a lease but to send Mr Bruce
down and he would make a
contract with him. Mr Bruce
went down I didn't go with
him and he gave him a contract
to cut.

X Ques 20 Examine this paper marked
Exhibit No 1, signed by B. P. Loyall
President of the Dismal Swamp Land Co
with seal attached
and B M Bruce, read it and say
if it is the contract given by
Mr Loyall to Mr. Bruce.

Ans. That's what it is, Sir.

~~X Tues 21~~

The taking of these depositions
is adjourned until tomorrow
~~morning~~ ^{afternoon} at one o'clock.

Nov 26th 1886
Office of White & Garnett

Present Wm H White for Plaintiff
R. H. Rawles X
C. E. Holland for Deft.
B. M. Bruce

Cross Examination of R. H. Herring resumed

X Tues 21 In your examination yesterday you
stated that you had not read the affi-
davit marked Exhibit "C" No 1 R. H. H.
filed with your deposition by the
plaintiff but that it was read to
you, state now whether it was
not then stated to you by B. P.
Loyall president that a suit was
then in progress against the Drusial
Swamp Land Co. by a third party not
party to this suit for a large sum
of money and that if the third
party won the case, in that event
both the Drusial Swamp Land Co.
and the Jno L. Roper Lumber Co. would
~~both~~ have to leave the Swamp?

Question objected to for the following among other reasons, first, it is hearsay, second it is irrelevant and third, responsive to nothing elicited in the previous examination of the witness. and fourth, because it is leading.

Ans. ~~Yes~~ Mr. Loyall wrote it and read it to me, and I signed it and Mr. Bruce was not to trouble Capt Roper in his works, that's how I understood it. If that suit went against ~~the~~ ^{the Company} Mr Bruce and Capt Roper would both have to leave the Swamp and have to stop.

X Ques 22. Was he not then referring to a suit brought against the Company by a third party for a large sum, for which Capt Roper has already testified he had gone security for the Company for \$60,000?

Question objected to because ~~because~~ it is leading and irrelevant.

Ans. Yes Sir, that was the suit.

X Ques 23 Was not the Original Swamp Land Co through Mr Loyall to pay this ten per cent spoken of themselves,

and was it not an old custom
as you have already testified

Question is objected to for reasons
above given.

Ans. Yes Sir, the President of the
Desmal Swamp Land Co paid me
my percentage.

* ~~24~~ 24

Re Direct Examination

Ques 1 by Wm H White of Plffs Counsel.
Last night when you were on the
stand, you swore that your affida-
vit filed with your deposition, marked
Exhibit 1 R.H.H. contained the
truth, do I understand you
now, or in your answers given
above to say that it is untrue in
any respect?

Question objected to because depts Counsel
contend that the Plaintiff have no right to cross examine
or to ask the witness leading questions, and for the purpose
reason that this question has already been asked in chief examination.
Ans. Yes Sir that's true as far as I
understood, just as I have talked
it, that's all I know about it.

Ques 2. In that affidavit you allude to
an agreement between B. & A. Bruce and
the Desmal Swamp Land Co made in
the month of April 1886, and in your
examination by defendants Counsel
you have also alluded to a con-

tract made between the said parties in the said month of April, please say if it was one and the same contract?

Questions objected to for same reasons as above given and for other reasons.

* Ans. It is the contract Mr Loyall wrote Mr Bruce, not the contract I brought down, that was a lease, Mr Loyall could not give him a lease, but gave him a contract.

Ques 3 Then the contract referred to in your affidavit was the written contract made by Mr Loyall here shown you marked Exhibit No 1 with the answer of Bruce?

Objected to generally

Ans. Yes Sir.

Ques 4 You have stated in your affidavit that Mr Bruce understood that the permission given him in the contract just referred to was temporary and at the discretion of the Company, referring to said affidavit please state if such was not the fact?

Question objected to generally

Ans. That's my signature, Mr Loyall wrote it and read it to me.

Que 5 Question 4 repeated.

Question objected to generally

Ans. Well I thought I stated that.

Que 6 Question 4 repeated.

Ans. Well I've told you the best I understood it.

Que 7. Did you understand it then and did Bruce so understand it ^{viz} that such permission was temporary and at the discretion of the Company?

Objected to generally.

Ans. No sir, I didn't understand it then.

Que 8. Then did you swear in your Affidavit last June, that such fact was true, viz: that all parties to the contract referred to understood the permission to Bruce to be temporary and at the discretion of the Company, when you did not understand it to be true.

Question objected to because the Affidavit speaks for itself and secondly general objection.

Ans. That is the way I understood I told you, as I said awhile ago. That's what I swore to and that's the way I understood it.

Ques 9. Then please say exactly how you ^{& Bruce} understood it, that is, as to whether the said permission to cut was temporary and at the discretion of the Company or otherwise?

~~Ans.~~ Objected to because parole evidence is not competent when both the contract and the affidavit are here with the papers in evidence.

Ans. I don't know how Bruce understood it. I understood that he was not to interfere with Capt. Roper's cutting and if that suit went against us both were to stop.

Ques 10 Now state what suit you mean and who were the parties to it, where it was brought and when?

Ans. I don't know where the suit was. All I know is that a widow woman in Washington sued the Company for \$60,000. That's what I heard of course.

Ques 11. Has not Mr. Bruce been cutting

Standing timber, pumper and cypress
on the Dismal Swamp Land Co's land?

Ans. Yes sir. ^{Objected to because leading and for other reasons}

Ques 12 Has not Mr. Bruce extended
the road in said Swamp, known
as the road Norman Williams opened,
if so, state how far he has ex-
tended it and in what direction?

Objected to, same reason.

Ans. He has extended it a South East
Course, very near a quarter of a
mile.

X Ques 13 You mean he has built a
new road for that distance do you
not?

Objected to because leading and
for other reasons.

Ans. Yes sir.

X Ques 14 Is he extending that road to
a large body of standing, green tim-
ber with a view to cutting the same?

Objected to for same reason

Ans. No sir, it is a large body of lumber
but it is all dead, there has been a

fire there.

- X Ques 15. Mr Bruce has in his answer stated, that he had built a road to a large body of timber, in said Swamp for the purpose of cutting ^{removing} the same, is or is not said large body of timber valuable?

Objected to for the same reason.

Ans. That dead lumber, sir, will make fence rails and posts.

- X Ques 16 Then if I understand you correctly Mr Bruce has built a road to a large body of timber, which timber had not been cut by the ~~firm~~ L. Roper Lumber Co. nor by Stewart ^{and} Williams?

Objected to for same reason.

Ans. No sir it has not been cut or it wouldn't have been there now.

- X Ques 17 And you were to receive ten per cent on all of said timber to be cut by Bruce, do I understand you to so state?

Objected to because the question has been asked and answered twice before and for other reasons.

Ans. I was to get 10 per cent on all the lumber I sold, Mr Loyall gave me ten per cent.

Ques 18 Then you claim do you not that you sold said lumber to Bruce?

Ans. Yes sir, with Mr Loyall's consent I did -

Ques 19. Do you get any percentage on lumber cut by the Jno L. Roper Lumber Co?

Question objected to because it has been asked and answered.

Ans. No sir.

Ans further this deponent saith not

R. - H. - Gearing

At this point no further witness for the plaintiff appearing, the depositions for the plaintiff are continued until such time as shall be appointed by due notice of time and place to defendant's counsel and thereupon at the instance of counsel for defendant, a subpoena was issued for B. P. Loyall, to appear and testify in behalf of defendant; and the said B. P. Loyall, appearing and counsel for defendant being desirous of returning to their homes at Suffolk this evening, at their request, the taking of his deposition is adjourned until Dec. 1st. 1886 at 11 A.M.

Commonwealth of Virginia

We Command you that you summon Benjamin P. Loyall to appear at the Office of White and Garnett No 82 Main Street to ~~testify on be-~~ Norfolk Va, on the 26th day of November 1886 at 4.30 P.M. to testify on behalf of the defendant in a certain matter in Chancery depending in the Circuit Court of Chancery County wherein Jno. L. Roper Lumber Co is plaintiff and B.M. Bruce is defendant and thus he shall not omit under a penalty of twenty dollars. And have there this and

Ralphe
Hollans Attyys }

Peter X. Smith
Notary Public

James A. Bayliff
Dr. Lyman

Office of White & Garnett
Norfolk Va, Dec 1

Present for Plaintiff
White & Garnett of counsel
George M. Intosh
for Defendant)
R. H. Rawles,
E. E. Hollam of counsel

Benj P. Loyall a witness for Defendant being duly sworn, deposes and says:

Question by R. H. Rawles, of counsel for Defendant

Counsel for Defendant proposes to examine Mr. B. P. Loyall as an adverse witness under the provisions of Sec 24 Ch 172 Code of Va Edition of 1873, because George M. Intosh Esq, who says he is the Counsel for the Dismal Swamp Land Co. has been present during the taking of these depositions at the invitation of Mr. Wm. H. White the atty for the Jno L. Roper Lumber Co and also because Mr Jno L. Roper president of the Roper Co. has here testified that he is now surety on a bond for \$60,000 for the Dismal Swamp Land Co., of which Mr Loyall is

Presl, and also because the whole transaction as here revealed shows that the interests of these two gentlemen and presl Jno L. Roper & B.P. Loyall are closely identical and for other reasons.

The witness ~~L. L. L.~~ denies that he has an adverse interest to the defendant in this cause but is perfectly willing to make a statement of the entire transaction in reference to the rights of both the Jno L. Roper Lumber Co. and the rights if any he have of the defendant B. M. Bruce. He says further that the fact that the said Jno L. Roper is surety upon the appeal bond of the Lano Co has nothing whatever to do with this case and that the rights of the Lano Co and the Roper Lumber Co., so far from being identical under their contract, are adverse.

Mr Loyall were you or were you not on the 16 day of April 1886, President of the Drumal Swamp Co?

Ans. I was

Ques 2. Have you or have you not
been continuously from that time
the president of said Company and
are you or are you not still
its president?

Ans Yes.

Ques 3 Examine Exhibit No 1. filed
with answer of deft. and state
if you made such a contract
with the defendant, whether this
is in your handwriting, and whether
it is the original contract?

Counsel for plaintiff here
states that if counsel intends
by said question to introduce
said Exhibit No 1 as evidence
in this cause, ^{he objects} for the reason
that the plaintiff is neither
a party nor a party to said
paper and for other reasons

Ans. I recognize the paper, as being
in my handwriting and signed by
me. It is an agreement more in
the shape of a memorandum as
to prices of timber, which I agreed
should be cut on the Company's
property.

Ques 4. This Contract and Covenant is

under the seal of the Company is it not?

Ans. Yes sir, but it exhibits only in part my agreement with B M Bruce. The agreement was had with him clearly and distinctly by me and others, ~~as to~~ ^{on} conditions that were plainly put before him.

Ques 5. In this Contract and Covenant, you contract to sell to the said B M Bruce, the timber standing in your Swamp at the prices laid down in this Contract? Is this true or not true?

Ans. Judge Rawles calls that the Contract and Covenant in his question which I do not agree to. The agreement that I made with Mr Bruce was that he could have at the prices named the timber that was down and standing but no green timber no growing timber: and in that regard, I meant by the word "standing" specifically what the Jno. L. Roper Lumber Co. has left there. I preferred to give to the word "standing" the ^{meaning} ~~same~~ "remaining".

Ques. 6 Examine again Exhibit No 1
pleas ~~with~~ ^{by} defendant in his answer
and see if you can find any
language to that effect?

Ans. I have already said, that the
specific conditions between Bth.
Bruce and the Desual Swamp Land
Co. were completely understood
in conversations with him, before
this paper was written.

Ques. 7 In this Contract marked Exhibit
No 1, have you not named three
specific conditions ~~have you not~~
~~named three specific conditions~~
under which Mr. Bruce was
to take? Please examine this
Contract and see if you can
find therein any language as
contained in your last answer?

Ans. Not knowing the financial status
of Mr. Bruce, the object I had, in fix-
ing these prices in writing, and
following the prices with conditions
as to payment for the timber, was
as far as possible to secure payment
for said timber.

Ques. 8. At the time you made this Con-
tract marked Exhibit No 1, on 16 April
1886, state whether you did or did not

as President have the right to make the said contract?

Ans. I have never during my administration made a contract with regard to general cutting of timber growing in the swamp, or anything embracing the sale of growing timber except ^{pine} cypress, some poplar, and other than cypress and juniper, without the knowledge, consent and agreement of the Board of Managers.

Ques 9. Then I understand you to say that you have a right to make this contract. Marked Exhibit No. 1? Am I correct or not?

~~Ans.~~ Counsel for Plaintiff objects to the question for the reason that the witness has distinctly said that the paper Exhibit 1 referred to in above question did not contain all the terms of the contract which he made with Bruce was in the nature of a memorandum of prices and mode of payment.

Ans. Under the general privileges belonging to the office, which I believe

to exist generally in similar positions, I sold Mr. Bruce the timber before spoken of.

Ques 10. The body of the Contract marked Exhibit No. 1, is wholly in your handwriting is it not?

Ans. I answered before, that I recognized the handwriting and the signature to be mine.

Ques. 11. Please examine Exhibit No 3 herewith handed you and say if it is in ^{your} handwriting, contains your signature and whether the facts therein stated are true or not.

The paper is objected to for the reasons (1) that the plaintiff is neither a party nor a privy to the same and (2) for other reasons: and ^{questions and answers} all ~~testimony~~ concerning said paper are also objected to.

Ans. I recognize the paper to be in my handwriting, ^{the} first point as to a third party being present I believe it was a Mr. Beaman, I think that was his name; as to the point, "I did not think proper

to speak of your business in his presence" I meant to signify that I supposed he did not wish the prices for which he bought the timber to be generally known. In the few conversations that I had with Mr. Roper, he held the position, that he should be the party to get the benefit of the timber that was cut by any person in the Swamp whatever. Those are the specific points I see. Tues. 12.

In this letter you state that Mr. Roper was not willing to consent that you should give to Bruce exactly the same prices, that you gave to him Roper and you further state in said letter that Roper contended that he was the largest wholesale customer that your Company had or could have hereabouts, and you further state that he, Roper, said that he could not come into competition with Bruce, did you have any such conversations with Mr. Roper?

It is understood between Counsel that all questions and answers concerning that letter are to be considered as objected to by Plaintiffs

Counsel on grounds above given.

Ans. The complexity of the meaning of that part of that letter, as far as I could indicate it, was to endeavor, to show to Mr. Bruce, with the previous understandings that I had had with him, that I could not and did not intend to sell him timber except it was understood that he was to cut timber that I have already indicated and pay for it on the conditions as indicated in that letter.

Ques. 13. I call your particular attention, not to Mr. Bruce in regard to this letter but to Mr. Roper, did you or did you not have the conversations with him as stated in this letter and did he have the conversations with you which you in your letter to Mr. Bruce state he had with you?

Ans. I do not pretend to quote Mr. Roper, nor can I say that Mr. Roper, at this distant day, made any other contention than what I have already said he did, that he claimed to get the benefit, of any body's cutting timber in the Swamp.

Ques. 14 You say that you did not
intend to quote Mr. Roper, & state,
What you mean when in the said
letter you write as follows "that
Mr. Roper was not willing to consent
that we should give you exactly
the same prices that we gave him
and he contends that he is the
largest wholesale customer our
company has or can have hereabout,
and as such I concluded he
had a right to claim that much.[#]
What do you also mean when
in the said letter you say "He says,
that he cannot come into compe-
tition with you" Did Mr. Roper
say these things or not?

Ans. I wrote in a general commer-
cial sense, to endeavor to convey
to Mr. Bruce, that the prices he
was to pay the Company must
be higher than if he could cut
timber in a general way, as I
did not believe that he could find
much, as understood between
us in conversation. Mr. Roper
in the general tenor and burden
of his conversation, on the two occa-
sions only which I had with him,
in connection with selling timber
to Mr. Bruce never deviated from
the position that he was to get

the pecuniary benefit from any
timber cut in the swamp and
that is the sense in which I
recollect was the understanding
in which I ~~understand~~ wrote
that letter to him. The words whole-
sale and retail were introduced
entirely by me as explanatory
and I do not recollect nor believe
that they were used in any
conversation I had with Mr.
Roper.

Ques. 15. What do you also mean
when in the said letter you say:
"He says that he cannot come into
competition with you." Did Mr.
Roper say these things or not?

Ans. To the best of my recollection
it was my way of trying to
convey to Mr. Bruce the central
fact, that the profits of cutting tim-
ber he ^(Roper) could not concede to any-
body.

Ques 16 Did or did not Mr. Roper
make to you the statements ~~con-
tained~~ (which in this your letter
you say he made)?

Ans. I have answered the question to
the best of my recollection as to mean

ing and intent. As to quoting language I am unable to do it.

Ques 16. Examine the last sentence in this letter, and say whether or not Mr Roper made that statement to you?

Ans. I have made no quotation marks in this letter, and I have conveyed in my answers all that is clear in my recollection of the conversation bearing upon this Exhibit marked No. 3.

Ques 17 Did a did not, to the best of your recollection, Mr. Roper make this statement to you? Answer categorically if you can, Yes - or No!

Ans. I cannot answer categorically, but I will state distinctly that in the whole letter I meant to convey to Mr. Bruce that Mr. Roper by his conversation with me claimed the profits to be made from the cutting of timber in the Company's Swamp.

Ques. 18 Examine Exhibit No. 2 filed by defendant Bruce, state whether

It is in your handwriting under your signature, whether the facts stated therein are true, whether you had seen Mr. Roper at that time and whether you had with him the conversation you state therein you had?

Counsel for plaintiff objects to this question for the reasons assigned as ground of objection to the introduction of the last Exhibit and it is understood that the same agreement exists between Counsel as to the questions and answers connected therewith.

Ans. I wrote and signed the letter and I remember that Mr. Roper told me that whatever juniper lumber was cut in the swamp by anyone he would pay for it. If I am not mistaken no reference was made to prices nor do I know what price was paid, and I will add that it was in connection with a conversation bearing upon an agreement that I had made to sell Mr. Bruce timber.

Ques 19. Mr Jno L Roper in his Cross Examination in answer to ques 29 asking him whether the statements in this letter relative to himself are correctly stated or not, has answered "They are not," Are you correct or is he correct?

Ans. If you will interpret the words therein contained that he would "buy it" to mean that he would pay for certain timber cut by anybody in the swamp, it is my recollection.

Ques 20 Your Contract with Mr. Bruce marker Exhibit No 1 alludes to his cutting timber standing in your company's swamp, what did you mean by "standing in your company's swamp." I do not mean what kind of timber, but what do you mean by "standing in your swamp?"

Question objection for reasons given as objection to first question to said Exhibit and for others

Ans. Down and dead timber remaining on that portion which had been cut over by the Roper Co.

Ques 21 Examined certain checks -

drawn by B. M. Bruce payable to
yourself, marked respectively "A"
"B" "C" & "D," and state whether
or not you accepted them and
have obtained the money on them

The introduction of said
Checks is objected to by Plff.
because the plaintiff
is neither a party nor a
privy to them and the
same understanding
exists with regard to them
as the questions and answers
touching Exhibit 2 & 3.

Ans to.

Ques 21. I recognize Checks marked
"A" "B" & "C" as having been remitted
to me by B. M. Bruce and I ob-
tained the money for them. Check
marked "D" is probably one that
I refused to receive in Septem-
ber last.

Ques 22. State whether or not they were
for money due you under your con-
tract with B. M. Bruce marked
Exhibit C to 1?

Ans. They were in payment for
timber that he alleged to have
cut under our clear understand-
ing and according to the prices

Car down in Exhibit No 1.

~~Examined~~

Cross Examination

X Ques 1 By Wm N White of Counsel for Plff
Please state whether you have
read the bill of the Jno L. Roper Lumber
Co filed in this cause?

Ans. I have

X Ques 2. State whether the allegations
therein contained concerning the
manner in which said Company
acquired the exclusive right to
cut and remove timber from the
Swamp of the Dismal Swamp Land
Co, are true?
- Question excepted to generally by Deft's counsel.

Ans. They are, to the best of my
knowledge and belief.

X Ques. 3. You have alleged in your
Examination in Chief, ^{to the facts} that you made
about the 16 day of last April
a clear and distinct arrangement
with B. M. Bruce to cut down and
remove timber from such part of
your Company's lands as the Jno.
L. Roper Lumber Co had actually
cut-over, please state whether it
was distinctly understood by
B M Bruce that the said Jno L.

(Roper Lumber Co were the sole lessees
of the entire Swamp of your company?)

Question objected to because
the contract itself speaks
for ~~itself~~ and no parol
testimony can be given
by the party who wrote it
himself to contradict or
vary its terms.

Ans. I did my best to make it clear
to Mr. Bruce, and referred him to
Mr. Roper on the subject.

X Ques & Was it also a part of your
agreement and understanding with
Mr. Bruce, that the privilege granted
him to cut the kind of timber
and on the part of the Swamp
referred to, was subject to the
pleasure of the Dismal Swamp
Land Co, and that it should cease
and terminate upon notice from
the company?

Ans. It was as far as I could make
it understood to terminate when I
did not believe it to be of sufficient
income or profit to the company
to make it of any advantage to
continue it.

X Ques 5 Was it not also a part of said agreement with Bruce, that the said Jno L. Roper Lumber Co, was not in anywise to be disturbed, impeded or annoyed by him, or his operations?

Ans. I tried to make it perfectly clear.

X Ques 6 With reference to Bruce's understanding of the contract or privilege which you granted him, did he not about Apr. 19. 1886, ~~the~~ write you a letter recognizing the fact that he merely had the right ~~to~~ to cut timber on that part of the Swamp "recently cut over" by Roper?

Counsel for defendant objects to question generally.

Ans. I did.

X Ques 7. Please produce said letter and file with your deposition.

Counsel for defence objects to the introduction of said letter because it is a matter between B. M. Bruce and the Drusmal Swamp Land

C. and the defendant
is not a party nor privy
thereto, that the said letter
is irrelevant to the question
at issue here and for
other reasons.

~~Ans.~~ Letter is produced, marked
by Notary Exhibit No 1
B.P.L. and filed with this
deposition

Ans. I here produced said letter.

X Ques. 8 Did you notify the said
Bruce, some time last August,
that your company terminated
the said privilege to cut timber
on its land. If Yea, look at
the paper marked Exhibit C. and
say whether that is said notice?

Ans. Yes Sir, the company gave
such notice and that is the
notice.

X Ques 9 In answer to question 8 in your
examination in chief, you stated
that the Contract made with
Bruce was made under the
general authority ~~made~~ conferred
on you by the Board of Managers,
do you mean simply the paper

Dated April 16 1886, marked Exhibit No. 1 with Bruce's answer was authorized by your Company, or did you mean that by virtue of your general powers as president of the company, you gave him the permission temporarily to cut the kind of timber and from the localities that you have mentioned?

Question excepted to by defendant's Counsel for the reason that there was no such answer to Ques. 8.

Ans. The transactions that I had with B. M. Bruce was in pursuance of what I believed to be the limited discretion commonly exercised by one in the position I occupied.

X Ques. 8. Then was the transaction you had with Bruce, fully contained and expressed in the paper writing marked Exhibit No. 1 or was it the temporary privilege that you have referred to in your deposition.

Ans. It was the latter

Plaintiff Counsel desires to say
in response to said note that the
offer to afford plaintiff an oppor-
tunity to cross-examine the
witness R. H. Herring, was not
made until after notice had
been served upon the plaintiff
that a motion to dissolve the
injunction in this cause would
be made upon the 25th of
Nov. 1886, and that on the day
before yesterday, prior to commene-
ing the testimony for the plaintiffs
we offered to Counsel for defendant
that if they would postpone
their motion to dissolve till
such a day as would enable us
to cross-examine their witnesses
and then examine on our own we
would pursue that course, but
that we could not do so after
we had once entered upon tak-
ing the plaintiffs' testimony. As
to the legality of the depositions
taken for the defendant, and the
plaintiffs' right to examine R.
H. Herring under Sec. 24 Chap 172
Code of Va., they involve questions
of law, which the plaintiff con-
fidently submits to the decision
of the Court, and utterly denies
the right of the defense to examine
the said witness otherwise than

* It is also noted that the witness Herring did not come in response to any summons to testify as a witness for the Plaintiff, but in response to a letter from the D. S. Small Swamp Land Company, and without having answered said letter. He has appeared in this office in the Company of the Defendant and has the Defendant's Counsel, and after consultation with the Defendant looking into the fact of his being a witness in this case.

According to the Said Section.

The Counsel for the defense desire to note the fact that on day before yesterday when we were taking depositions here upon the plaintiffs ~~themselves~~ notice, the plaintiffs themselves sent for R. H. Herring by and through the agency of B. P. Loyall the President of Donald Swamp Land Co., with instructions ~~from~~ to Mr B. P. Loyall to telegraph the Defendant's counsel to telegraph whenever he should be able to come and after notice to defendant's to defendant's counsel that they would examine R. H. Herring if they could get him here. And we desire to note the fact that he did not come on the same train with us and that we did not see him in Norfolk until he appeared in this office.

Counsel for Plaintiff has announced that if Counsel
for ~~Defendant~~ ^{since he knew he had been sent for by plaintiff} will state that he has not conversed
with witness ^{else where than in Norfolk}, he will not
draw said note. -

Counsel for the defence wishes to note the fact that on yesterday
before I left Suffolk and between the hours of 11 & 12 o'clock
as near as I can guess, Mr. Herring appeared at my office
without any summons or call of any kind from me,
that I was as much surprised to see him there as
Gov. Lee was. I was in doubt as to who he was
thought he was in Norfolk, that he was certainly
expected in Norfolk at that day and hour. I said
that we had none of the papers in the matter
up there in Suffolk. I do not remember speaking
to him about his affidavit. I did not know what
it contained, I had never seen it and I do not
think he remembered what it contained as it has
not been shown him. He left on the 12 o'clock train
for Norfolk. I left on the 2 1/2 train on the other road for
Norfolk. Nothing at all improper was said. I think Mr. White
has spoken in confidence to the witness for a longer time than I have

Cross Examination

X Ques 1. By Mr Rawles of Counsel for Deft.
Mr Herring, when this affidavit
marked Exhibit 1 R. H. H. was made
was Mr. Bruce present

Ans. No Sir.

X Ques 2. In whose office was it
made?

Ans. In Mr. ^{B.P.} Loyall's store.

X Ques 3. At whose suggestion was
it made?

Ans. Mr. Loyall.

X Ques 4. Is it in your handwriting
or that of Mr. Loyall?

Ans. Mr. Loyall's I think.

X Ques 5. You have stated that
at time you has never seen
the contract between Mr. Loyall
and Mr. Bruce, did Mr. Loyall
offer to show you the contract
or did he show it to you?

Ans. No Sir.

Plaintiffs Counsel desires to say
in response to said note that the
offer to afford plaintiff an oppor-
tunity to cross-examine the
witness R. H. Herring, was not
made until after notice had
been served upon the plaintiff
that a motion to dissolve the
injunction in this cause would
be made upon the 25th of
Nov. 1886, and that on the day
before yesterday, prior to commene-
ing the testimony for the plaintiffs
we offered to Counsel for defendant
that if they would postpone
their motion to dissolve till
such a day as would enable us
to cross-examine their witnesses
and then examine on our own we
would pursue that course, but
that we could not do so after
we had once entered upon tak-
ing the plaintiffs' testimony. As
to the legality of the depositions
taken for the defendant, and the
plaintiffs' right to examine R.
H. Herring under Sec. 24 Chap 172
Code of Va., they involve questions
of law, which the plaintiff con-
fidently submits to the decision
of the Court, and utterly denies
the right of the defense to examine
the said witness otherwise than

X Ques. 9. Counsel for Plaintiff here states that without waiving objections heretofore made to the paper alluded to in the examination in Chief as Exhibit No 2 being the letter of B. P. Loyall West to B. M. Bruce dated April 15/1886, propounded the following question:

In answer to question in Chief 19, you partially explained what you meant by the words "buy it" contained in said letter of Apr. 15. 1886, do I understand you by said answer to state that you understood Mr. Roper to say that if Bruce came across, any juniper timber, that he Roper would pay said Bruce for cutting the same just as he would any other person who might contract with him to cut timber for him Roper, from said Swamp?

Ans. My recollection is, that he said he would pay Bruce for any juniper timber "just like he would any body else" Those are the words I remember I think.

X Ques 10 You have referred in your examination in Chief to the fact that the Check dated Sept 23/86 for \$4994

Cents, was not collected by you
but returned and for the reasons
given in said examination, please
examine the letter now handed
you filed with defendant's so-
called deposition of himself
marked Exhibit No. 7, and say
if that is the letter written
to the defendant and enclosing
the said check and if it gives
correctly your reasons for refusing
the said check?

Ans. It is.

And further this deponent saith,
not

The witness here signs
the deposition but here
reserves the right in the
presence of Counsel, to
make such corrections as
may appear necessary

D. A. Loyall

State of Virginia
City of Norfolk, to wit:

I, Peter X. Smith, a Notary
Public for the Corporation of the City
of Norfolk in the State of Virginia
do hereby certify that the foregoing
depositions of John L. Roper and
others were duly taken, sworn
to and subscribed before me
at the times and places, and
for the purpose mentioned in the
Caption hereto annexed.

Given under my hand this
6th day of December A.D. 1886

Peter X. Smith
(Notary Public)

Notary's Fee \$20⁰⁰/₁₀₀ Paid J. L. R. & Co.

Ino 2. Roper & Co
r } Chauncery
B. M. Bruce

Depositions for
Plaintiff
TC.

1886
Decr: 13th: Came to hand,
under cover, sealed.
Clark

Circuit Court
of
Massachusetts Co.
~~~~~



The John L. Roper Lumber Company

vs.

B.M. Bruce.

On the 16 day of April 1886, Bruce made a contract with the Dismal Swamp Land Company, which was reduced to writing and is as follows:-

"This agreement made and entered into between the Dismal Swamp Land Company and B.M. Bruce of Suffolk, Va. Witnesseth, that the Dismal Swamp Land Company contracts to sell to the said B.M. Bruce the timber standing in their swamp at the following prices to-wit:-

|                      |              |
|----------------------|--------------|
| For 6 feet R.R. ties | 4 cents each |
| " 7 " " " "          | 5 " "        |
| " 8 " " " " "        | 7 " " " "    |
| " 8 & 1-2 " " " "    | 7 & 1-2 " "  |
| " 9 feet " " "       | 9 cents each |

Merchantable logs 9 in. and upward in diam. 1 & 1-2 per foot in length  
Merchantable logs under 9 in. down to 7 in. 3-4 cent per foot.

Rails \$6 per thousand.

Telegraph poles 3-4 cent each per foot.

Cypress bbl. staves \$2 per thousand

" shingles 20 in. 70 cents per thousand

" " " "24 " \$2 " "

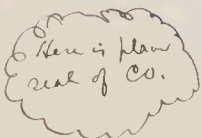
Cooper staves \$2.50 per thousand

1<sup>st</sup> Under the following conditions viz: B.M. Bruce hereby agrees to make to the President of the Dismal Swamp Land Company a monthly statement in writing sworn to before a notary public of the quantities of each kind of timber cut by him - said statement to be made by the 15 of each month of the work done the previous month.

2<sup>nd</sup> Payment for the timber must be made monthly, and in the event that no payment shall be made in 30 days after the expiration of any month for the timber cut the preceding month then this agreement shall cease

3<sup>rd</sup> The Company's officers and agents shall have the right at any and all times to inspect the work that is being carried on by B.M. Bruce.

Signed and sealed this 16 day in April 1886



B.P. Loyall Pres. D.S.L. Co. (Seal)

B.M. Bruce (Seal)

(Here is placed the corporate seal of the Co)

"See Ex. No 1 for B.M. Bruce"

Under this contract Bruce began operations on the Suffolk side of the swamp and continued the same until he was enjoined at the instance of the plaintiffs.

He now asks that the injunction be wholly dissolved and he be allowed to proceed with his work.

I call the attention of the Court to the latter part of the printed brief of Messrs White and Garnett and especially to what they term the "three vital inquiries" in this cause.

1st. "Was the John L. Roper Lumber Company the sole lessee and occupant



of the Dismal Swamp Land Company's property?"

I will here state that not one of all the parties referred to in this cause ever had a lease-there has never been a lease given. All of the agreements are simply contracts to sell the right to cut timber out of the said swamp. See Ex. No 1 filed by the plaintiffs but made with John L. Roper & Co: that is nothing but a contract to sell growing timber and if this be true, all extensions of the same are also contracts only for the sale of growing timber.

The same is true of the last contract Ex. No 3 made on the 7 of August 1886 between the plaintiffs and the Dismal Swamp Co: and so is our contract.

So that all the agreements stand on exactly the same footing in this particular .

Hence the plaintiffs never had any lease. Did they have any contract or claim for the growing timber in the swamp until Aug. 7, 1886?

If not, then they must go out of Court-the injunction must be dissolved. We assert they had no such contract. If so where is it? Search the record. It will not be found there. It is not there. It is not in existence-nor has it ever been.

The Court will observe that John L. Roper & Co as a private firm had such a contract, See Ex. No 1, with several continuances of the same-the last beginning May 1st, 1884 and ending May 1st. 1887.

But John L. Roper & Co has ceased to exist. At any rate they are not before the Court.

The plaintiffs in this bill trace up their title <sup>by</sup> of repeated references to Ex No. 1 and extensions written at bottom of same.

They claim under this instrument, and claiming under it they can not seek to invalidate it or any part of it.

The fifth section of Ex. No 1 says: "that the said party shall

not assign their rights under this agreement to any other party or parties in whole or in part without the formal consent in writing of the said Company ( meaning the D.S.L.Co) first had and obtained" If the plaintiffs do not claim under John L.Roper & Co., then <sup>this</sup> bill is false and they have no standing in Court. If they do claim under John L.Roper & Co by assignment, then that assignment must be in writing. Where is that writing? If the Court please, not in this record.

They, the John L.Roper Lumber Company, have no written assignment. They are without the corner stone, upon which they hope to build their whole superstructure, and hence can not succeed. They have indeed built upon the sand and must fall with the dash of the first wave.

Has the Court observed how they sought to supply this important missing link in the chain of their title? Why, sir, by simply whistling while passing through a cemetery.

They say "We simply got together and fixed up these small matters ourselves. It was nobody's business but ours, and we did it in a most secretive private manner, considering ourselves the only parties interested. The public had nothing to do with it.

Mark the contract! Assignment must be formal and in writing: not private and by parole.

And yet what was required of them by their own Exhibit they have most willfully and with utter disregard set at naught.

But, say they, it was nobody's else's business how we did it.

It concerned everybody else with whom they left their dark secretive room to deal with, in regard to the subject matter of their so-called "arrangement"

It concerned and now concerns us deeply. The record does not <sup>show</sup> any right given the John L.Roper Lumber Co. to cut growing timber in the



Dismal Swamp until Aug 7, 1886. We had then been there several months under contract and hence we stand prior to them.

But while admitting nothing, suppose for arguments sake we concede they once had a right. Had they not fully abandoned the Suffolk side of the swamp, where Bruce has always operated or intended to operate? And this too includes the body of green timber to which Bruce was building a rail-road for that is on the Suffolk side-which extends <sup>to</sup> from Washington Ditch to Douglass corner. We say they had fully cut over and abandoned the Suffolk side. They had even formally turned <sup>it over</sup> by their agent to the agent of the Dismal Swamp Land Company; they had removed all their ~~lights~~ lighters, skiffs, torn up their bogy tracks, and with their mules men and everything else, they left and went over the "Lake" to the other side, which was not the Suffolk side. It was a full and complete abandonment and was so considered by their witness, Mr. Loyall, President of the Dismal Swamp Land Co-who at once entered into a bargain with us to cut timber standing in the said swamp. They surrendered all their rights, notified him-and he bargained with us. See his testimony. It was a complete case of abandonment, conceding for the moment that the plain-tiffs ever had any right. See also letters of Loyall, their witness. So, we say, the plaintiffs never had a right by assignment, or if they did they solemnly abandoned it. And their consent was no longer necessary.

This answers Messrs White and Garnett's first question.

The John L. Roper Lumber Company was not the sole lessee of the swamp, nor were they the occupants of the part wherein Bruce operated. They had not a man, boat, skiff, instrument or track in there. It was literally abandoned. "See Ex No. 2 J.B.P." filed with defendant's depositions.

Their second vital inquiry

"Did Bruce know of their prior rights, and that the Dismal Swamp L. Co

could not contract except with the approval of the Roper Lumber Co.?"  
A most startling question-for its absurdity. Absolutely alarming!  
I reply did you know that you neither had nor could have any prior rights or any rights except an assignment in writing with the formal consent of John L. Roper & Co? Now show to the Court by this record any such thing. Show here how you came by so many prior rights. Show how you, the Roper Lumber Co, became possessed of any right. The Legislature of Virginia gave you none. It simply incorporated you, nothing more. But even if you imagined you had rights, you first fully abandoned them and returned them to the Dismal Swamp Land Co -and then you acquiesced in and approved of our contract. See Roper's evidence.

Their third vital inquiry..

"Did the Lumber Co. give its consent to the contract set up by the defendant?"

It had no interest in the matter and its consent was unnecessary. But if the Roper Lumber Co. ever had an interest, it had abandoned it. And its President, Roper, had agreed to our cutting. They reply that Bruce knew of their rights and would not contract without seeing Roper. Now all these several contracts with Roper and Godfrey; and John L Roper & Co; and the Roper Lumber Co, had never been <sup>seen</sup> or heard of by Mr, Bruce. So far as he is concerned they might as well been locked in King Solomon's Mines. They were never recorded and he was ignorant of them and their many changes. But he did know that Roper had dealt in the swamp as John L. Roper & Co. and he also well knew that the Suffolk side of the swamp had been abandoned, so as a prudent man he thought it best to see Roper before making any bargain. Roper raised no objection, but wanted to buy the juniper logs at a less figure than Bruce was willing to sell for. Thus ends "the three vital inquiries"



Our contract.

It is here .Filed with the record..Marked "Ex No.1" for defendant..It speaks for itself.It shows our rights clear and well defined.It has never been hidden from sight.John L.Roper President knew of it as soon as made ;could have had a copy either from Bruce or from his own witness Loyall at any time,but failed to call for oneCould have known of all its contents by simple inquiry, but neglected or did not even care to investigate.In fact, knowing that he never had a right to the swamp as the Roper Lumber Company, or if he had , that he had abandoned it certainly on the Suffolk side of the Lake he no doubt felt utterly indifferent about the matter and hence acted in accordance with his feelings. But they vainly strive to contradict and vary its terms by parole testimony. It cannot be contradicted by parole testimony. Nor can they vary its terms by such testimony..

The law would <sup>not</sup> allow it to be <sup>contradicted or varied</sup> explained by contemporaneous parole testimony, ~~but in no other way.~~ See 77 Va. Reports page 442 Shirley vs. Rice et al.

Mr Loyall in answer to Question 6 says the entire subject matter had been talked over between him and Bruce and everything pertaining there -to had been agreed upon before it was reduced to writing..In fact Mr. Bruce left Norfolk before it was reduced to writing, and Loyall wrote the entire contract himself after Bruce's departure, and sent it to Bruce by mail. See letter "Ex. No 2 J.B.P."

Now a written instrument must always be taken most strongly against the party who actually <sup>i</sup>writes it .When Mr. Loyall wrote that contract he knew what he was doing. He knew that the Roper Co. had no right which had not been fully abandoned and so he gives Bruce a contract not for the tops of dead trees and down trees -the contract says nothing about these-it says the timber standing in the swamp .

In nearly all trades and occupations, technical terms are used. In this

controversy we have the two terms refuse timber and merchantable timber. Does it require an argument to prove to the Court that the two terms are as opposite in meaning as the poles?

Our contract calls for merchantable logs and yet Mr Loyall, their witness says he tried to impress upon Mr. Bruce that only refuse timber was to be cut. Read the contract prepared by Loyall and then read how Loyall in his depositions tries to twist out of it. It is true Mr Bruce was cutting over territory that had several times been cut over with in the last 15 years but he was willing to take his chance under his contract even there and hence hunted diligently for what timber was left. Loyall says our contract was only a memorandum of prices. It is more. It is a solemn covenant under seal: it states the parties: the object of the contract: the subject matter: the prices, and lastly all the conditions.

They rely greatly on Herring's affidavit. How was it obtained and what does it amount to?

Herring is the agent of Loyall, the President of the Dismal Swamp Land Co. He is their witness".

The affidavit contains three statements: it is dated June 13, 1886, long after our contract. It first states that Bruce was to cut on ground already cut over by Roper Lumber Co, 2nd. that Bruce knew Roper had a lease, 3rd, that Bruce's contract was temporary and at the discretion of the Dismal Swamp Land Co.

This precious document was prepared by Loyall in Loyall's store and Herring, his agent, was sent for and asked to sign it. Loyall never even showed him the contract with Bruce. Herring says in his deposition in answer to Question 7 "I hadn't seen Mr. Bruce's contract when I signed it (the affidavit) and I hadn't heard it read (the contract)". In answer to Question 6 on cross examination Herring says "It was simply



read to me and I was in a hurry to get off on train".

In his re-direct examination in answer to Question 7 Herring says that he did not then understand it., and in answer to Question 9 he says "Idont know how Bruce understood it".

In fact the whole of Herring's testimony shows very clearly how the affidavit was "obtained".

As to Bruce's letter "Ex.No B.P.L."

It is straightforward and manly. After making a contract he says he shall stick to it and not agree to pay more to please Mr. Roper or any one else. Admirable when contrasted with the letter of Loyall asking that his solemn compact be violated, broken, and thrown to the winds. Read Loyall's letter. "Capt. Roper is not willing that we should give you exactly the same prices we gave him. He is our largest wholesale customer and I thought he had a right to claim that much". Yet Roper to whom Loyall was so loyal says he never said any such thing and was not a wholesale customer at all. See Roper's reply to Ques. 13 and Ex. I could multiply quotations at large to the advantage of our cause but the Court will read all the depositions and satisfy itself. But Bruce was building a rail-road. This is simply customary. It only meant a tram-way. Lumber can not be hauled or gotten out of the swamp without such means. There is nothing in this. Bruce never interfered with the Roper Lumber Company or its agents during his operations. But Bruce was heading for a body of green timber! and this seems to have excited the wrath of the Roper Lumber Co.

What is there in Bruce's contract which prevented him from doing this? Let the Court search the contract and see. It will find nothing. He was only exercising his right by agreement, by solemn compact.

Mr. Roper seems to enter into this contest with one view only "he was

to have the pecuniary benefit". If he at the first interview with Bruce could have purchased Bruce's lumber at \$5 & 1-2 per thousand, as he offered, then in all probability this case would have never been on docket. The conduct of Bruce has been that of a fair dealing man all through this controversy. The agent of the Roper Lumber Company notified the agent of the Dismal Swamp Land Co. that he had cut over the Suffolk side of the swamp and was ready to deliver up to the Swamp Co. Upon receiving this information the Dismal Swamp Co notify their agent to make another contract for them (See Herring's testimony) Their agent Herring approaches Bruce, and Bruce goes to Norfolk to see Loyall. He talks over the matter and then Loyall himself prepares our present contract. Bruce commences operations under it. Roper, President of the Lumber Co. tries to buy Bruce's lumber at \$5.50. Bruce refuses to sell at these figures. He then enjoins Bruce at great damages to Bruce. Bruce has traced out lumber at great cost, built roads and now has an immense quantity of lumber on hand in swamp. This by equity is surely his. It was cut before injunction. It is his by contract and he ought to be allowed to remove it. He invokes the aid of this Honorable Court to grant to him his rights in the premises, to dissolve the injunction and to allow him to proceed.

Respectfully submitted.

*R. H. Rawles.*



The Jno. L. Roper Lumber Co

is

B. M. Bruce.

Note of R. H. Rawles.

VIRGINIA:

In the Supreme Court of Appeals, held at the State Court-  
House in the City of Richmond on Thursday  
the 22<sup>d</sup> day of January 1891.

B. M. Bruce

appellant

against

The John L. Roper Lumber Company appellee

} upon an appeal from a  
decree pronounced by the  
circuit court of the county of Hansemond, on the 13<sup>d</sup> day of  
April, 1888.

This day came again the parties by their counsel, and the court  
having maturely considered the transcript of the record of the  
decree aforesaid and the arguments of counsel, is of opinion,  
for reasons stated in writing and filed with the record, that  
there is no error in the said decree. It is therefore decreed  
and ordered that the same be affirmed and that the ap-  
pellant pay to the appellee thirty dollars damages, and  
also its costs by it about its defence herein expended.

Which is ordered to be certified to the said circuit court  
of the county of Hansemond.

Appellee's costs in the  
Supreme Court of Appeals

{ \$22.94

A Copy

Teste, Geo. N. Taylor, C.C.



Bruce

} copy decree

John L. Roper Lumber Company

Recorded in Chancery  
Order Book No 2 Page 365.

Wm. L. Roper & Co

vs

Bm Bruce.

This day came the parties  
affidavit before the Court in vacation  
and pursuant to the notice of the defen-  
dant to the plaintiff, fixing this day for  
the hearing of a motion to dissolve the  
injunction heretofore granted in this Cause.  
and the plaintiff moved the Court to re-  
ject the deposition of Bm Bruce, Archi-  
bald Ellis, Jos T. Wilcox and R H Herring, filed  
in the Clerk's office of the Circuit Court of  
Harrison Co. on the 11<sup>th</sup> day of November  
1886. upon the ground that said depositions  
had been taken without sufficient notice.  
On consideration whereof the Court with  
adjudication & decree that said deposi-  
tions were not taken with proper notice  
and cannot be read as such, but offered  
to allow said depositions to be read as Ex-  
parte Affidavits upon said motion to  
dissolve, and thereupon the defendant  
by counsel declined to proceed with his  
motion to dissolve said injunction, and  
asked leave to withdraw the same and  
to take further testimony. Which leave  
being granted the said motion was according-  
ly withdrawn.

To the Clerk of the Circuit Court of  
Harrison County.

Entered this  
C. W. Shick  
Jan 26<sup>th</sup> 1887 JWS

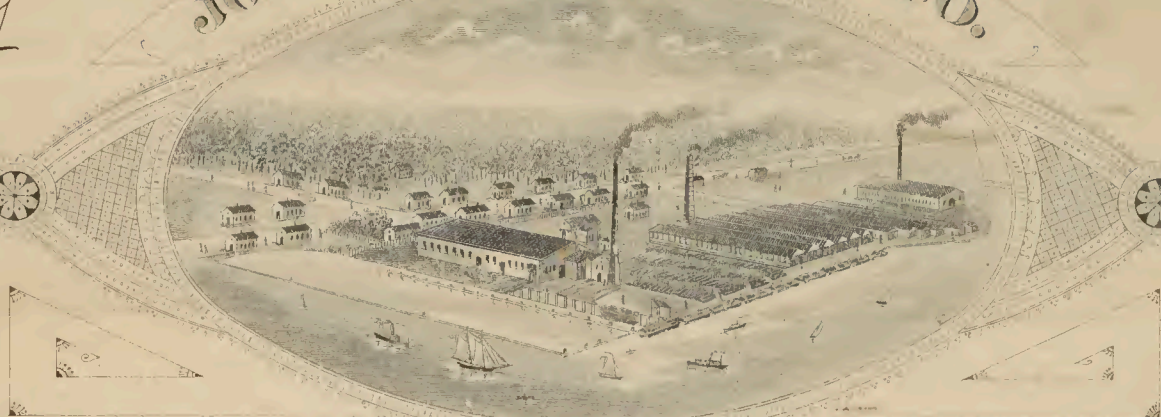


They began now near behind until  
the 15th: after 1888. and 1889

Copy

JOHN L. ROPER LUMBER CO.

SHINGLE MILLS - DEEP CREEK, VA.



THE PATENT LITHO. CO.

OFFICE

Norfolk, Va. April 21<sup>st</sup> 1886

P. M. Ponce Esq.  
Suffolk, Va.

Dear Sir-

Our Mr Roper has been quite busily engaged since your interview with him last week; and has not had time to give the matter about which you and he talked, the attention he proposed and which you doubtless expected. For this reason he did not write you on Monday last. We come now to say that, as we view the matter at present, it would be injudicious and unwise in us to begin operations on the Jericho Canal or in that section. Indeed we are seriously contemplating a reduction of force at our other places in consequence of over production. After a short time we hope to work off our present surplus somewhat, and with



anything like fair business demand, we shall be able to start up again with renewed life and vigor. Then, we shall most probably want you to get the lumber of which we have spoken, and will only advise you -

But until that time, we do not wish to have any Juniper or Cypress cut. No Juniper, because as stated, we are now overstocked. No Cypress; because we find we are now producing quite as much as the market will take - perhaps more - and may have to shut down or that soon after we close, (or reduce) on Juniper.

Yours truly

John L. Roper-Lumber Co

Stewart

With Deposition of  
Geo L. Roper

Exhibit E.

**COURTS:**

Nansemond, Isle of Wight and Southampton  
Counties, and United States District  
Court at Norfolk, Va.

OFFICE OF RICHARD H. RAWLES,  
**Attorney at Law,**

Suffolk, Va., Aug. 16<sup>th</sup> 1886.

B. P. Lyall Esq:-  
Dear Sir:-

Yours of the 14<sup>th</sup> inst. rec'd. If you will carefully read the Contract of your Company with me, you will find no such language as you interject into your letter of June 15<sup>th</sup> or your recent letters. I stand by the Contract, not by after-written letters. If I am interfered with, I will make some one sing for damages for breach of contract. I dislike law, and hate a fight, but shall protect my legal rights at all hazards. I ~~do~~ only ask that you will do what you have said under your hand and seal, you would do. If you do not do this, I will know the reason why. I consider your "notice" of today as outside our Contract, utterly illegal and shall pay no attention to the same. If you have made two irreconcilable contracts with the Jm. L. Roper Co, and with me, then it will be for you to explain why you did so. You may crack your whip and proceed.

Yours &c B. M. Bruce  
R. H. Rawles atty.



Exhibit D.  
Filed with deposition  
of Jas L. Roper

Copy

Office of the D. S. L. Co.  
Suffolk. Va.

Aug. 14. 1886

P. M. Pucci

Suffolk. Va.

Dear Sir: (Your letter of the 12th.  
inst. is received.)

Referring to my letter <sup>to you</sup> of the  
15th. June 1886, events which I then  
anticipated have transpired, and  
as I have the right, after giving  
you reasonable notice, to ter-  
-minate the agreement with you  
to sell you the timber on the  
company's land, I hereby  
notify you to stop cutting  
any more from this date.

Yours Resp<sup>tly</sup>.

D. D. Lyman

Pt. D. S. L. Co.



September 14 1886

My all

To

Grace

{ Notice to Stop  
Cutting.

E. Hunt ©  
plus with deposition  
of Geo L. Roper



**COURTS:**

Nansemond, Isle of Wight and Southampton  
Counties, and United States District  
Court at Norfolk, Va.

OFFICE OF RICHARD H. RAWLES,  
**Attorney at Law,**

Suffolk, Va., August 12<sup>th</sup> 1886.

The John L. Roper Lumber Co:-

Suffolk Va:-

Gentlemen:-

Yours of the 11<sup>th</sup> inst rec'd, and  
through courtesy we reply. We do not recognize  
any of the pretended claims set up by you.  
You are not the sole lessees of the Dismal Swamp Land  
Co: we hold a lease for that part of the Swamp  
we are working - in fact for the whole Swamp -  
signed by the President of the Company and  
attested by its Official Seal. Our contract is in-  
definite as to time and includes all timber.  
We shall not discontinue our legitimate operations  
until forced to do so, by law.  
We shall be glad to have you "Take proper legal steps"  
in the matter as we have been greatly annoyed  
by your agent here, and would prefer more  
action and less noise. With much respect,  
we remain

B. M. Bruce by  
R. H. Rawles Attorney.

Exhibit "B."  
Filed with the depo-  
sition of  
Geo L. Roper



Roanoke Va, Aug 11 1886.

O. M. Bruce Esq: Suffolk Va:-

Dear Sir:-

Please take notice that  
we are the sole lessees of the  
lands of the Dismal Swamp  
Land Co; and that under the  
terms of our lease we have  
the Exclusive right to cut and  
remove the Timber from said  
lands. You will therefore from  
and after this date discontinue  
any and all operations in  
Juniper and Cypress Timber  
on said lands which you may  
have been heretofore engaged in  
or which you may have purposed  
in the future. We shall take  
proper legal steps to enforce the  
object of this notice if same  
is disregarded.

Signed

Yours Truly  
John L. Roper Lumber Co  
Steward

Recd Aug 11-1872  
Roper & Co. Notice to discontinue  
to discontinue  
Bureau

Exhibit A  
4  
with deposition  
of John L.  
Roper for Plff



# JOHN L. ROPER LUMBER CO.

SHINGLE MILLS - DEEP CREEK VA.



THE BALTIMORE LITHO CO.

OFFICE

Norfolk, Va. April 21<sup>st</sup> 1886

P. M. Bruce Esq -  
Suffolk, Va -  
Dear Sir.

Our Mr Roper has been quite busily engaged since your interview with him last week, and has not had time to give the matter about which you and he talked, the attention he proposed and which you doubtless expected. For this reason he did not write you on Monday last. We come now to say that, as we view the matter at present, it would be injudicious and unwise in us to begin operations on the Jericho Canal or in that section. Indeed we are seriously contemplating a reduction of force at our ~~other~~ places in consequence of over production. After a short time we hope to work off our present surplus somewhat, and with

any thing like fair business demand, we shall be able to start up again with renewed life and vigor. Then, we shall most probably want you to get the lumber of which we have spoken, and will duly advise you--

~~But until that time~~, we do not wish to have any Juniper or Cypress cut. No Juniper; because as stated, we are now overstocked. No Cypress; because we find we are now producing quite as much as the market will take -- perhaps more -- and may have to shut down on that soon after we close (or reduce) on Juniper--

Yours truly,

John L. Roper Lumber Co  
Stewart

John L. Roper Lumber Co  
1887

Marked E by Notary.

"E"



\$49 <sup>94</sup>/<sub>100</sub>

Suffolk, Va. Sept 23 1886

# The Farmers Bank of Nansemond

Pay to the order of N B P Logall  
Forty nine <sup>94</sup>/<sub>100</sub> ————— Dollars

No. 114

A B M. A. Bruce

Exhibit D

J.B.P.

NP

Feb 8

187.



\$43<sup>13</sup>/<sub>100</sub>

Suffolk, Va. Aug 23 1886

# The Farmers Bank of Nansemond

Pay to the order of R P Lazzell

Forty three & <sup>13</sup>/<sub>100</sub> ————— 100 Dollars

No. 8

B M Bruce

Exhibit - "C"

J.B.P.  
M.P.

Feb 8 87

P. H. Lynam  
Credit - D. S. L. Co.

FOR COLLECTION,  
For Credit,  
THE MARINE BANK,  
Norfolk, Va.



\$11<sup>50</sup>/<sub>100</sub>

Suffolk, Va. July 19 1886

# The Farmers Bank & Nansmond

Pay to the order of B. P. Loyall.

Eleven & <sup>50</sup>/<sub>100</sub>

<sup>100</sup> Dollars

No. 229

B. M. Brown

Exhibit - "B"  
JRP  
NR  
Feb 8

P. R. Lopez

FOR COLLECTION,  
For Credit,  
THE MARINE BANK,  
Norfolk, Va.



No 105-

Suffolk, Va June 12 1886

The Farmers Bank

Pay to B. R. Loyd of Farmington.

For the sum of

\$44<sup>xx</sup><sub>100</sub>

or bearer

100  
Dollars

B. M. Bruce.

Exhibit - "a" J.B.P.  
MA.  
Feb 8  
1889

D. A. Lyall

FOR COLLECTION,  
For Credit,  
THE MARINE BANK,  
Norfolk, Va.



Suffolk Va April 19/86

P. P. Logall Esq. Pres.  
Dear Sir

I confess to some surprise at the receipt of your favor of the 16<sup>th</sup> when I left you Friday I considered the contract closed and you had signed it and put the seal of the Dismal Swamp Land company thereto. I have also signed the same in the presence of two witnesses as directed. I do not see why the company under the circumstances should want to charge me more than it does Capt Roper. If I were going to cut on land not recently over there might be some reason for charging me more than you do him; but as I am going on land which Capt Roper has been cutting on for years and has now abandoned as you I think if any discount is made it should be to me. I am taking what he refused and paying you the same what he pays for his choice. Nor do I think Capt Roper has any cause to complain. I insist that our contract shall remain as made and am unwilling to concede

the advance which you now claim  
in consideration for Capt Roper.  
I retain the original contract as  
you have a copy. I have arranged  
to begin work in a few days and  
propose to comply strictly with  
the contract between us

Very Respectfully  
D. M. Bruce

Exhibit No. 1  
J. D. P. 2

Exhibit No. 1  
J. D. P. 2

Exhibit No. 1  
J. D. P. 2



Suffolk, Va.

June 18. 1886

I, R. A. Herring, of the County of  
Nauvumund, State of Va. do  
hereby certify that B. M. Price  
of Suffolk Va. Nauvumund Co.,  
did <sup>in the month of April 1886</sup> agree, in friendly and various  
conversations with the President  
of the Daniel Hump Land Co.  
and with me as their Agent,  
to cut timber in their Swamp  
only on the Express and clear  
condition that it was on  
such land as the John L  
Roper Land Co. had ceased  
to cut on, or had temporarily  
abandoned, and that said John  
L. Roper Land Co. was not  
in any way to be hindered  
in their work - and moreover  
said Price understood well  
that said John L. Roper Land  
Co. had a Contract with the  
Daniel Hump Land Co.,  
which gave them prior claim  
to the privilege of cutting  
timber in the Company's

Exhibit No. 1  
R. H. H.  
files into depositions  
of R. H. Hering.

Whereof, and on all occasions  
subsequent to the permission  
granted said Prince to  
cut timber, he has so  
understood the agreement  
with the D. S. Land Co.  
and now. Also it has been  
understood by all parties  
that the permission to  
cut is temporary, and at  
the discretion of the Company  
R. H. Hering

State of Va }  
City of Norfolk } to wit

This day appeared before me  
Hugh N. Page a notary public  
in my corporation aforesaid  
R. H. Hering whose name is signed  
to the above writing & acknowledged  
the same to be his signature given  
under my hand this 18<sup>th</sup> day of June 1886  
Hugh N. Page  
Notary Public

Witness my hand  
affixed at 10 PM



B. M. B. No 6. Office of the D. S. Land Co.  
Suffolk, Va.

marked "6" B. M. B. Pinner  
Feb 9 1889 J. B. Pinner  
N.P.

August 14, 1886

D. M. Bruce

Suffolk, Va.

Dear Sir: Your letter of the 12th.  
inst. is received.

Referring to my letter to you  
of the 15th. June 1886, Events  
which I then anticipated have  
transpired, and, as I have  
the right, after giving you rea-  
-sonable notice, to terminate  
the agreement with you to  
sell <sup>you</sup> the timber on the Company's  
land, I hereby notify you  
to stop cutting any more  
from this date.

Yours Respectfully,  
D. S. Loyall  
Presdt. D. S. L. Co.

S. W. M. R.

JOHN L. ROOPER LUMBER CO.

SHINGLE MILLS - DEEP CREEK, VA.

Marked "S" JMB  
Oct. 9 1887  
J. B. Farmer  
M.P.

THE BALTIMORE LITHO. CO.

OFFICE

Norfolk, Va. Aug 11<sup>th</sup> - 1886

B. M. Bruce Esq.  
Suffolk. Va.

Dear Sir,

Please take notice that we are the sole lessees of the lands of the Dismal Swamp Land Co; and that under the terms of our lease we have the exclusive right to cut and remove the timber from said lands. You will therefore, from and after this date, discontinue any, and all operations, in white and lypress timber on said lands, which you may have been heretofore engaged in, or which you may have purposed for the future.

We shall take proper legal steps to enforce the object of this notice if same is disregarded.

Yours truly

John L. Rooper-Lumber Co

Stewart



Answer.

(5-)

B.M.13

The John L. Roper Lumber Co.

Amherst Ma

Gentlemen:-

Yours of the 11<sup>th</sup> inst recd, and though  
erroneous we reply. We do not recognize any of  
the ~~fraud~~ pretended claims set up by you.  
You are not the sole lessee of the Bismal Swamp  
Land Co: we hold a lease for that part  
of the Swamp we are working - in fact for  
the whole Swamp signed by the President  
of the Co and attested by its official seal  
Our Contract is indefinite as to time and  
includes all timber. We shall not discon-  
tinue our legitimate operations until forced  
to do so by law.

We shall be glad to have you take proper  
legal steps in the matter or we have been  
greatly annoyed by your agents here  
and would prefer your action and loud  
noise. With much respect we remain

B. M. Brown by  
Att. R. A. R. Attorney

Office of the D. S. Land Co.  
Norfolk, Va.  
Sept. 25. 1886.

P. M. Price  
Dorchester.

Sir: Yours of the 23<sup>rd</sup> inst.  
Enclosing statement of  
timber cut and check for  
\$49<sup>94</sup>, is at hand.

I decline to receive  
the check and herewith  
return it to you, for the  
reason that I am in-  
formed by the John L. Roper  
Lumber Co. that you are  
cutting timber outside of,  
and beyond the limits of  
that portion expressly un-  
derstood by you and by me,



as embraced by our Contract, some  
of this timber you report may  
have been cut upon part  
of this Company's Swamp,  
which said J. L. Roper Lumber  
Co. may not have abandoned.

I have given you notice  
to bring your operations  
on this Company's land  
to a close, as, in my jud-  
-gment, you have had  
time to carry out your  
original idea.

Yours to  
D. P. Loyall  
Presdt.

No 5

"Exhibit No 4"

Exhibit No 4

J.P.P.

No.

Feb 8 '87



No return  
to me, and I will sign  
with the Seal of the Co.

Yours &c  
D. A. Lyne  
Presd

Mr. D. M. Price.

Office D. S. Lamb Co.  
Norfolk, Va.  
April 16. 86

Dear Sir: As you were in compa-  
-ny with a third party, when I  
spoke with you this evening, I did  
not think proper "to give your  
business away", so to speak,  
by mentioning, in connection  
with the contract I propo-  
-sed, that Mr. Roper was not  
willing to consent that we  
should give you exactly the  
same price that we gave  
him. The matter was argued  
for some time, & he contends  
that he is the largest whole-  
-sale customer our Co:  
has, or can have, hereabouts,  
and as such, I conce-  
-ded that he had a  
right to claim that much.  
I then promised to hunt

"Exhibit No 3."

Exhibit No 3

Feb 8 '87



the prices on timber to you  
from 5% to 7 1/2% more than  
his schedule, which amounts  
to a very large sum every  
year.

I tell you this before you  
commence operations, in  
order that you may de-  
-cide you can best judg-  
-ment in the matter, and  
if you think it best not  
to work, I will not hold  
you to it. But I have  
fairly explained to you  
that Roper is a very old  
customer of the Co. - has  
paid us very large amounts  
of money, & will continue  
to do so - He says that he cannot  
come into competition with you.

D. P. & Son  
Presidents.

D. M. Prince.

Office of the D. S. Land Co.  
Norfolk, Va. Apr. 15/86

Dear Sir: I have seen Mr.  
Roper and he has no objection  
to your doing work in that  
part of the Swamp that he  
has left. He says that,  
if you come across any  
juniper timber, he will  
buy it from you.

If you agree to the con-  
-ditions of the enclosed  
Contract, sign it before  
two witnesses & return it  
to me, and I will sign  
with the Seal of the Co.

Yours &c  
D. S. Land Co.  
Presd

Mr. D. M. Price.



Paper notes

1000

No 1

" " ~~Exhibit No. 2~~

Exhibit No 2

J.D.P.  
Feb 8 1887. N.O.

This agreement made and entered  
into, between the Drumil Swamp  
Land Co. and B. M. Price of  
Suffolk, Va. witnesseth, that the  
Drumil Swamp Land Co. contracts  
to sell to said B. M. Price the  
timber standing in their Swamp  
at the following prices to wit:

For 6 ft. R. R. ties 4 cents each

" 7 ft. do do 5 cents each

" 8 ft. do do 7 cents each

" 8½ ft. do do 7½ cents each

" 9 ft. do do 9 cents each

Merchantable Logs 9 in. & upward in diam. 1½ cent per ft. <sup>in length.</sup>

" " under 9 in. down to 7 in. ¾ cent " "

Rails \$6.00 per Thousand

Telegraph Poles ¾ cent each.

Cypress Bldg. Staves \$2.00 per Thousand

Cypress Shingles, 20 in. 70 cents per Thousand.

do do 24 in. \$2.00 " "

Cooper Staves \$2.50 per Thousand.

under the following conditions, viz:



1<sup>st</sup> P. M. Bruce hereby agrees to  
make to the President of the Dismal  
Swamp Land Co. a monthly state-  
ment in writing, sworn to before  
a Notary Public, of the quantities  
of each kind of timber cut by  
him. Said statement to be rendered  
by the 15<sup>th</sup> day of each month, of  
the work done the previous month.

2<sup>nd</sup> Payment for the timber must be  
made monthly, and in the event  
that no payment shall be made  
in thirty days after the expira-  
tion of any month, for the timber  
cut the preceding month, then  
this agreement shall cease.

3<sup>rd</sup> The Company's officers and Agents  
shall have the right, at any and  
all times, to inspect the work,  
that is being carried on by P. M. Bruce.

Signed and sealed this 16<sup>th</sup> day of  
April 1886 - J. P. Loyall, Presdt.  
D. S. L. Co.

P. M. Bruce (Seal)

Witness  
N. Beaman,  
Jus. H. Wright.

"Exhibit No 1"

For B.M. Bruce

322