

1895-030
Nansemond Co. (Suffolk) Chancery Causes: James H. Boyett vs Mingo L. Savage et al

Hoffheimer, Dickinson, Byrd, Woodward, Woodard

Always Bring This Book!



M. J. H. B.
IN ACCOUNT WITH

**FINE GROCERIES,
FLOUR OF ALL GRADES,**

Selected Teas, Pure Coffees and Spices, Butter
and Cheese from the Best Dairies, Choice
Syrup and Molasses, Foreign and
Domestic Fruits, Canned
Fruits in Variety.

Also, a Complete Assortment of Goods usually kept
in a First-Class Store.

GOODS DELIVERED PROMPTLY FREE OF EXPENSE.

Mr. John T. Howell cents

flour 20 ct
money 3 1/2 10 ct
money 3 3/4 50 ct
money 1 5 ct

money = 5 ct
money = 3 1/2 10 ct
money = 9 1/2 10 ct
money = 1 5 ct
money = 1 50 ct
money 25

money 25
money 25
money 40
money 50

money 50
money 25
money 31

money 30
money 47
money 28

100

75

50

50

27

50

J L Howell

17
25
4
1

50

10

10

10

10

10

10

10

10

10

10

10

~~Howell~~
~~money~~

J L Howell

~~Howell~~

|||||

|||||

|||||

|||||

|||||

John P Howell

|||||

|||||

|||||

2723

217

100 11111

100

~~J. J. Howell~~
~~planning up~~
~~30~~
~~100~~
~~100~~

John F. Howell
 for planning up
 near ute 40 Cents
 money 15 Cents
 selling 75 Cents
 money 5
 money 10
 money 10
 Bag 10 cents
 money 15 cents
 Bag 10 cents
 money 15 cents
 money 15 cents
 14
 30

Ellor. Butter arost
 horse harp 150
 Emma Capeland
 500

John F. Howell
 plus
 Cash

100

Paid to Robert Copeland 70
30
Cash 48

~~Paid to J. F. Howell 75~~

Account of Peanuts
4 368 pounds \$11.75

4 577 pounds \$17.31

3 285 pounds \$8.55

5 475 pounds \$14.54

3 284 pounds \$8.51

3 298 peanuts \$8.68

2 peanuts \$5.17

2 peanuts \$4.96

1 peanuts \$2.65

4 378 pounds peanuts \$10.87

3 280 pounds peanuts \$7.70

235 ft Weather Boards \$2.94

214 ft of lumber \$2.14

72 ft one Sil \$1.00

Blocks 25¢

3200 pieces 4.4 35

25 feet of lumber 20

fire wood 15

20 feet of lumber 20

100 feet of weather Boards 181 40

32.00

20.00

22.00

11.00

20.00

13.00

Learn

Received of
Ming & Co

Part Payment
of Mackinac Island
Jan 7 1892 \$28.04

Received \$25.00
March 14 "

Received
April 21 \$25.00

Received \$10.00
April 24 "

April 22 Paid
\$2.00 on Building

4

4

2

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

4

Account of
Account of

~~John L. Wood~~

411

Alfred Norfet 600
John Holmes 700
John Boone 200
Isaac Porter 326

~~Account of~~

~~Account of~~

~~Account of~~

75-41

5-45-9

13000

in Account of
Mingo & Savages

Nails	\$1.30
locks	\$1.30
hinges	50
Screws	10
662 ft of lumber	\$10.00
126 ft of lumber	\$12.00
4 windows	\$4.00
4 pounds of nails	16
48 ft of lumber	98
for delivering 449 ft	
of lumber	7.50 to

7291

in Account of
~~Mingo & Savages~~

~~to the~~
~~house~~
~~mail~~

2 barrels of Apples
\$4.50

Extra Work done
on said building
\$10.00

Account of A. J. Leo Leo
\$5.55

~~Mingo L. Sarges~~
~~Account of Round of.~~
~~mail 4 etc.~~

~~2 pieces of lumber~~

~~4x4x18 feet long 48 feet~~

~~2 pieces 8x7x16 feet long~~

~~56 feet 3 pieces 4x4~~

~~3 pieces 1x4 16 feet long 16 feet~~

for dressing & unled

	i. potatoes	25	¢
	millon	10	¢
25	i. potatoes	25	¢
64	bringing flour	25	¢
38	apples	9	¢
62	~~i. potatoes~~	25	¢
65	~~apples~~	30	¢
60	~~i. potatoes~~	25	¢
57	~~bringing corn~~	35	¢
20	~~bringing corn~~	25	¢
55			
84			
94			

2804

2500

2500

1000

~~8804~~

2095

W. L. Boyett 33
44
51
26

L. H. Boyett 32
43
47
43

M. S. Boyett 24
34
23

Sale of apples

\$21.46 cts

75

25

15

of Sister M. Boyett
Member of

Martha Boyett
Boyett - Dottie
- E. T.

|||||

|||||

James M. Boyett
against the 2^d 1st 90



Faint, illegible handwritten text, possibly a title or author's name.

Costs

\$85.77

Purchase Price 250.00

Costs 85.77

164.23

Building

98.52

Land

65.69

Boyett

86.46

201

88.47

Hoffmann 75.76

\$164.23

A. P. Gomer \$ 5.77

~~Bayett~~ Bayett 91.47

Lee with acc 32.50

Hoffmann 75.76

R. L. Prater 20.00

J. E. Barker 22.00

Hosier 23.50

250.00

75.76

174.24

Bayett \$ 1.50

" 50

50

50

3.00

88.47

91.47

75.76

96.56

00.01

Lee with 15.00

Coms 12.50

Klead 5.00

32.50

00.00

76.96

44.88

44.88

Hoffmann

Bayett

Coms

DEPOSITED WITH
THE FARMERS BANK OF NANSEMOND

BY
Le Burt Spencer
Bazett H. Savage 3/12, 1895:

	Dollars.	Cents.
Currency, ...		
Gold, ...		
Silver, ...		
Checks and Drafts, ...		
(Entered Separately.)		

100⁰⁰ >

Wm H Jones

100 >

Costs in Chapman Suit
of James H. Boyette against
Wm. L. Garage & Co.
A. P. Gomer Clerk

Sergeant of Ports -

" " Norfolk

City's Tax

City's Tax

Support Herald's printing

R. R. Prentiss Comr.

5.77

1.00

.50

1.50

15.00

22.00

20.00

\$ 65.77

A. P. Gomer
Clerk

65.77

12.50

520

83.27

260.00

83.27

166.73

3

1550019

100000

Remitted

\$ 100.04

Land

66.69

166.73

Ones fee 52.50

Alli. Honor 32.50

Comm. Printer 20.00

J. S. Books 22.00

Clock of Court 5.77

Bayeth 91.47

Hoffheimer 75.76

8250.00

85.77

18/476 N.Y.B. Woodward & Co
to
Mingo L. Savage.

79 a.

Mingo L. Savage
to

Robert C. Dickenson Trustee for
Alexander Hoffheimer.

#375-

375- Int. from 8 May 1891

8 Mar / R. 9 July 1891

COUNTY OFFICERS.

HON. WILBUR J. KILBY, County Court Judge.
R. R. SMITH, Clerk County Court.
A. P. GOMER, Clerk Circuit Court.
E. E. HOLLAND, Commonwealth's Attorney.
A. H. BAKER, Sheriff.
H. E. SMITH, County Treasurer.

CLERK'S OFFICE

NANSEMOND COUNTY.

Suffolk, Va.,

1844.

Leamy, Runtin P 38.450 / D ho 2
227

DEPOSITED WITH
THE FARMERS BANK OF NANSEMOND

⁸⁹
L. Britt & Co
in Buytt vs Soray et al
-----, 1895:
April 15

	Dollars.	Cents.
Currency, ...		
Gold, ...		
Silver, ...		
Checks and Drafts, ...		
(Entered Separately.)		
	74	24

James H. [Signature]
74 24

4
 31
 30
 31
 20

4 #
 41
 52

11 6

1.6

6066

 6891
 6811

To A. P. Gomer Esq,
Clerk of Circuit Ct,

James H. Boyett
vs

Plaintiff

Mingo L. Savage,

Alexander Hoffheimer
R. C. Nicholson Trustee

Defendant

Issue summons in
Chancery to November
Rules 1892.

20th Oct-92,

Pay 150

Lee Pratt
W. G.

CHANCERY SUMMONS.

The Commonwealth of Virginia,
Sergeant The City of Norfolk
TO THE ~~SHERIFF OF NANSEMOND COUNTY~~—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

*Mingo L. Savage,
Alexander Hoffhelmer and R. C.
Dickerson Trustee.*

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

a Bill in Chancery, exhibited against
them in the said Court by *James N. Boyett*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *20th* day of
October 189*2* in the 11th year of the Commonwealth.

Teste:

A. P. Gomer Clerk.

A Copy for
Alexander Hofheimer

(on Bank St) Conce
Non resident

CHANCERY SUMMONS.

The Commonwealth of Virginia, *The City of Norfolk*
Sergt. ~~SHERIFF~~ OF ~~NANSEMOND COUNTY~~ GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Mingo L. Savage,*
Alexander Hoffheimer and R. C.
Dickerson Trustee,

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*, to answer
a Bill in Chancery, exhibited against
them in the said Court by *James H. Boyett*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *20th* day of
October 189*2*, in the 11*7*th year of the Commonwealth.

Teste:

A. P. Gomer Clerk.

A Copy for
Mingo L. Savage

(Swiss near Velline)
Soap Factory

(erase)

Harriet Leventy

CHANCERY SUMMONS.

The Commonwealth of Virginia, *Serjt. The City of Norfolk*
TO THE ~~SHERIFF~~ *^* OF ~~NANSEMOND COUNTY~~ — GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Mingo L. Savage,*
Alexander Hoffheimer and R. C.
Dickerson Trustee

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*, to answer
a Bill in Chancery, exhibited against
them in the said Court by *James H. Boyett*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *20th* day of
October 189*2*, in the 11*7*th year of the Commonwealth.

Teste:

A. P. Gomer Clerk.

A Copy for
R. C. Dickerson Trustee

Inquire of Mr. Hoffman
where a like Case

CHANCERY SUMMONS.

The Commonwealth of Virginia,
TO THE ~~SHERIFF~~ ^{Serjt} ~~OF NANSEMOND COUNTY~~ ^{The City of Norfolk} GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Mingo L Savage*
Alexander Hoffheimer and R
C Dickenson Trustee

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*, to answer
a Bill in Chancery, exhibited against
them in the said Court by *James H Boyett*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *20th* day of
October 1892, in the 11⁷th year of the Commonwealth.

Teste:

A. P. Gomer Clerk.

Lee Britt pg.
James H. Boyett
vs } In Chancery
Mingo L. Savage
Alexander Hoffheimer
R. C. Dickerson Trustee

R. C. Dickerson Tr.
Alexander Hoffheimer and
Mingo L. Savage
Not found

V. R. Tenth Defult
for J. L. Dorwin Sept 1892
Springfield 1892

November Rules
First Monday

Nansemond
Circuit Court
Process Book No 2 Page 74

CHANCERY SUMMONS.

The Commonwealth of Virginia,
Sergeant the City of Portsmouth
TO THE ~~SHERIFF~~ ^{CLERK} OF ~~NANSEMOND COUNTY~~—GREETING:

YOU ARE HEREBY COMMANDED ~~TO SUMMON~~ *as at another time*
you have been commanded to summon
Mingo L Savage, Alexander Hoffhei-
mer and R. C. Dickerson Trustee

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 *March 1894*, to answer
a Bill in Chancery, exhibited against
them in the said Court by *James*
A Boyett

and have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this *27th* day of
February 189*4*, in the *118*th year of the Commonwealth.

Teste:

A. P. Gomer Clerk.

Lee Britt p.gj

James H. Boyett
vs } Alias Summons
in Chancery
Mingo L. Savage &als

1894

March Rules

First Monday

Executed this 28 day of
February 1894 by delivering
a copy of within summons
to Mingo L. Savage in person
Wm. Smith sgt City of
Portsmouth Va

Rec'd of Lee Britt, atty for
James H. Boyett fifty cents in
payment of fee for service
of this process on Mingo L.
Savage. Feb 28th 1894

(W. Smith)
Wm. Smith sgt
Portsmouth

Circuit Court

Process Book

No. 2, Page 74.

Virginia,

Nansemond County, To wit:-

This day James H. Boyett appeared in person before me, a notary public, in and for the County and State aforesaid, and made oath that Alexander Hoffheimer and R. C. Dickerson Trustee, against whom he has instituted a suit in chancery in the Circuit Court of the said County, are non-residents of the State of Virginia.

Given under my hand this 24th day of February 1894.

Lee Pratt
Notary Public

James H. Royett

VS In Equity.

Mingo L. Savage et als.

Affidavit of Non-residence

STATE OF VIRGINIA.—NANSEMOND
County Circuit Court (in vacation), to
wit:

James H. Boyett.....Plaintiff,
vs.

Mingo L. Savage, Alexander Hoffheimer,
and R. C. Dickinson, trustee..Defendants.

The object of this suit is to recover of the said Mingo L. Savage, defendant, the sum of seventy-five dollars and forty-one cents, with interest thereon from the 21st day of May, 1892, till paid, and costs, and to enforce a mechanic's lien, filed in Nansmond County Clerk's office, and perfected according to the statute in such case made and provided, on that certain two story building, with ell thereto attached, erected and now standing on that certain tract of land containing seventy-nine acres, more or less, situate on the South Quay county road, in Holy Neck Magisterial district, in said county and State, the property of the said Mingo L. Savage, upon which there is a deed of trust executed to said R. C. Dickinson, trustee, for the benefit of said Alexander Hoffheimer, and so much land connected with said building as shall be necessary for the convenient use and enjoyment of the premises, for the work done and materials furnished.

And it appearing by affidavit that the said Alexander Hoffheimer and R. C. Dickinson, trustee, are non-residents of this State, it is therefore ordered that the said Alexander Hoffheimer and R. C. Dickinson, trustee, appear here within fifteen days after due publication of this notice and do what is necessary to protect their interests.

A. P. GOMER,

LEE BRITT, p. q.
Feb. 28, 1894.

Clerk.
mh2-4t

Office of The Herald.

Suffolk, Va., Mar 23rd 1894

I hereby certify that the order of which the annexed is a copy has been published in THE SUFFOLK HERALD in the manner prescribed by law==once a week for four successive weeks.

J. E. Booker

Editor Herald.

COUNTY OFFICERS.

HON. WILBUR J. KILBY, County Court Judge.
R. R. SMITH, Clerk County Court.
A. P. GOMER, Clerk Circuit Court.
E. F. HOLLAND, Commonwealth's Attorney.
A. H. BAKER, Sheriff.
H. E. SMITH, County Treasurer.

CLERK'S OFFICE

NANSEMOND COUNTY.

Suffolk, Va.,

189

STATE OF VIRGINIA.—NANSEMOND
County Circuit Court (in vacation), to
wit:

James H. Boyett.....Plaintiff,
vs.

Mingo L. Savage, Alexander Hoffheimer,
and R. C. Dickinson, trustee..Defendants.

The object of this suit is to recover of
the said Mingo L. Savage, defendant, the
sum of seventy-five dollars and forty-one
cents, with interest thereon from the 21st
day of May, 1892, till paid, and costs, and
to enforce a mechanic's lien, filed in Nan-
semond County Clerk's office, and per-
fected according to the statute in such
case made and provided, on that certain
two-story building, with ell thereto at-
tached, erected and now standing on that
certain tract of land containing seventy-
nine acres, more or less, situate on the
South Quay county road, in Holy Neck
Magisterial district, in said county and
State, the property of the said Mingo L.
Savage, upon which there is a deed of
trust executed to said R. C. Dickinson,
trustee, for the benefit of said Alexander
Hoffheimer, and so much land connected
with said building as shall be necessary for
the convenient use and enjoyment of the
premises, for the work done and materials
furnished.

And it appearing by affidavit that the
said Alexander Hoffheimer and R. C.
Dickinson, trustee, are non-residents of
this State, it is therefore ordered that the
said Alexander Hoffheimer and R. C.
Dickinson, trustee, appear here within
fifteen days after due publication of this
notice and do what is necessary to protect
their interests.

A. P. GOMER,

LEE BRITT, p. q.
Feb. 23, 1894.

Clerk.
mh2-4t

I A. P. Gomer Clerk of the Circuit Court
of Nansemond County do hereby Certify that
the above order of Publication was posted at the
front door of the Court house of Nansemond
County on the first day of the March Term of the
County Court of said County.

Mar 13th 1894.

Teste:

A. P. Gomer clerk

Chancery cause of James A. Boyett &
against
Mingo L. Savage & others.
Received of Lee Britt Special
Commissioner in above cause the
Sum of Five dollars and Seventy
Seven cents for payment in full
of fees due me as Clerk of the
Circuit Court.
April 20th 1895 A. G. Gomer Clerk

Received of Lee Britt, Special Commissioner
in above cause, \$2.⁵⁰ in payment of fee
due me, as Clerk of Sale of land
under decree in said cause.

J. M. Galtman, Clerk.
Buffalo, N.Y. Apr 20th 1895

1895 April 24. Received of Lee Britt Special
Commr in Boyett v. Savage & Twenty
dollars fee for Report as Commis-
sioner in Chancery in said case.
\$20.— Robert R. Mentis, Commr.

Recd of Lee Britt, Special Commissioner the
sum of twenty dollars due me as ^{attys} ~~work~~ fee to
plaintiffs attorney & fee for writing
deed from Special Commissioner to
purchaser.
1895 Apr 24

Lee Britt
attys

TRANSIENT ADVERTISEMENTS and SUB-
SCRIPTIONS PAYABLE in Advance.
ANNUAL ADVERTISERS Required to Set-
tle Quarterly.
JOB WORK, Cash on Delivery.

Suffolk, Va., *April 20* 1895

THE SUFFOLK HERALD

BOOK AND JOB PRINTING ESTABLISHMENT

J. E. BOOKER, Proprietor

Printed for

Lee Britt Special Court,

1894 March 2 To Pub'g Notice Boyitt vs Savage &c \$ 7.00
4 in 4 w

1895 Jan 18 " Advg Sale of Land - in case
Boyitt vs. Savage 4 1/2 in 4 weeks 8.00

July 22 " Advg Same Land for Sale
5 1/2 in 3 weeks 7.00

\$ 22.00

Rec'd Payment

J. E. Booker
Prop

J. E. Booken

\$12.00

James H Boyett Lee Britt pg

A. P. Gomer

Circuit

1892

To ~~R. R. SMITH~~, Clerk of Nansemond County Court, Dr.

Oct. 20th

Tax and Recording Fee on Chancery Sub

Boyett vs R. C. Dickerson Trustee

\$ } \$ 1.50

May 23/193

Paid A. P. Gomer

Clerk.

Rec'd of Lee Brith, Special Commissioner
in Chancery, Cause of James H.
Bayett vs Whingo Savage & others
^{attorney for J. H. Bayett}
~~being the~~ the sum of eighty eight
& 4/100 dollars in payment of
debt due said Bayett by said
Savage under mechanic's lien
for \$75⁴¹ with interest from
May 21, 1893 making the sum
of \$88⁴⁷, also the sum of
three dollars in payment of
amount advanced by me for
writ tax on suit & fees to
Sergeants of Norfolk & Portsmouth
for services in serving process
in said chancery cause.

Apr 20, 1895 James H. Bayett
Witness
Wiley Knight

Jas H. Boyett \$300
" " " 88.47

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page.]

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page.]

Rec'd of Lee Britt, Special Commissioner
in Chancery Cause of James H. Boyett vs
Mingo L. Savage others the sum of Seventy
Five & 76/100 Dollars (\$75⁷⁶/₁₀₀) in part payment
of debt due to Alexander Hoffheimer by
Mingo L. Savage as reported by Special
Commissioner Prentiss & directed by decree of
Monmouth County Circuit Court entered Apr.
13, 1895 which amt of \$75⁷⁶/₁₀₀ has been credited
on the bond executed by Savage to said
Hoffheimer in evidence of the said debt in part
which receipt here given in under power of attorney from A. Hoffheimer
at New York

April 15 1895

at New York
by Henry Hoffheimer attorney in fact.

Alex. Hoffmann

\$ 73.76

James H. Boyett-----Plaintiff-

VS

Mingo L. Savage and others -----Defendants-

To the Honorable Robert R. Prentiss, Judge of the Circuit Court of the County of Nansemond:-

The undersigned, your Commissioner, begs to report that, pursuant to decree entered in this cause on the 13 day of April 1895, he collected the remainder of the purchase money, to wit, the sum of one hundred and fifty dollars, from the purchaser, Alexander Hoffheimer, for the sale of the land mentioned in these proceedings, and withdrew from the Farmers Bank the sum of one hundred dollars on deposit therein to the credit of this cause, aggregating the sum of two hundred and fifty dollars which he has disbursed, in accordance with said decree, as follows:-

1st-The payment of all costs and legal expenses of this cause:-

To A.P. Gomer, Clerk of Circuit Court, voucher,	\$5.77
" Jas. H. Boyett for costs advanced,	" 3.00
" Robert R. Prentiss, Commissioner, for report,	" 20.00
" J.E. Booker, for advertisements,	" 22.00
" Lee Britt, p.q., atty's tax,	" 15.00
" Lee Britt, atty, for writing Com deed,	" 5.00
" " " , Commissioner, coms. on ^{\$250 proceeds of} sale at 5 per cent	~~12.50~~ 2.50
" J.W. Hosier, Crier, for services, voucher,	2.50

	\$85.77

2nd-The payment of the debts, in whole or in part according to their priority:-

1st-To James H. Boyett, amount of claim by mechanic's lien, per voucher, 88.47

2nd-To Alex. Hoffheimer, amount of being in part payment of his claim secured by lien of deed of trust on the land sold, per voucher, 75.76
paid to Henry Hoffheimer atty in fact for Alex. Hoffheimer

Vouchers in support of which disbursements ----- \$250.00

are herewith filed. Your Commissioner further reports
that he has conveyed ,by deed with special warranty,
the land with buildings thereon described in ~~the~~ bill
in this cause to Alexander Hoffheimer, the purchaser.

October 3, 1895. Respectfully Submitted,

Lee Pratt
Commissioner.

James H. Boyett
vs

Mingo L. Savage
and others

Report of disbursements
re by Commissioner

Filed October 3, 1895
A. G. Gomer Clerk

DIRECTIONS.—Elevate the metal points—attach the manuscript—then bend the points down flat—dampen the gummed flap and stick it down—this fastens the papers and hides the metal.

By authority of a decree of the Circuit Court of Nansemond county entered on the 16th day of October, 1894, in the chancery cause of James H. Boyett vs. Mingo L. Savage and others, pending in said court, I shall proceed to sell at public auction, to the highest bidder, in front of the Courthouse of Nansemond county, Va.,

ON MONDAY, FEBRUARY 11, 1895,

at 12 o'clock M. (court day), that certain tract of land, containing seventy-nine acres, more or less, situate in Holy Neck Magisterial district, in said county, and bounded by the lands of John Byrd, Mills H. Holland, Sr., and W. V. B. Woodward, and the South Quay county road, being the tract of land purchased by said Mingo L. Savage from said W. V. B. Woodward.

TERMS.—One-half of the purchase money to be paid in cash, and the residue in two equal instalments, at six and twelve months from the day of sale, the credit instalments carrying interest from the day of sale and the purchaser giving his bonds for the credit instalments, the title to the property to be retained until the full purchase money is paid and a conveyance directed by the Court; or if the purchaser so elect he may pay the purchase money in cash.

LEE BRITT,

Special Commissioner.

January 8, 1895.

ja18-4t

I, Azra P. Gomer, Clerk of the Circuit Court of Nansemond county, Virginia, do certify that the bond required of Lee Britt as Special Commissioner under the decree of said Court made on the 16th day of October, 1894, in the chancery cause pending in said court between James H. Boyett, complainant, and Mingo L. Savage, and others, defendants, has been executed with security deemed sufficient by me.

Given under my hand this 7th day of January, 1895.

A. P. GOMER, Clerk.

The sale of the above described property has been postponed to March 11, 1895, at 12 M. at the place above mentioned.

LEE BRITT,

Special Commissioner.

fe22-3t

Office of The Herald.

Suffolk, Va., *April* 7 185

I hereby certify that the order of which the annexed is a copy has been published in THE SUFFOLK HERALD in the manner prescribed by law==once a week for four successive weeks.

and the notice of the Post-poned Sale in Connection with the said order was published once a week for three successive weeks thereafter

J. E. Booker
Editor Herald.

J. E. Booker

All who are looking for
BARGAINS in every line o

James H. Boyett

Plaintiff-

VS

- In Chancery -

Mingo L. Savage and others

Defendants

To the Honorable Robert R. Prentiss, Judge of the
Circuit Court of Nansemond County:-

The undersigned Commissioner, one of the Commissioners appointed by decree made in the above cause and entered on the 16 day of October 1894, under authority of said decree, proceeded to execute the duties thereby enjoined upon them, or either of them. As required by said decree, after advertising the time, place and terms of sale in the "Suffolk Herald", a newspaper published in the Town of Suffolk, Virginia, once a week for four successive weeks as shown by certificate of J. E. Booker publisher of said newspaper, hereto attached, your Commissioner offered for sale, at public auction, to the highest bidder, before the Court-house door of the said County of Nansemond at Suffolk, on Monday, February 11, 1895 (Court-day) at 12 o'clock M., the real estate in the bill and proceedings mentioned, and there being no bidder for the said real estate at the said time and place, the said sale was postponed by public proclamation thereupon made, to Monday, March 11, 1895, at 12 M., at the said place, and notice thereof published in connection with the original publication in the said "Suffolk Herald" once a week for three successive weeks as shown by certificate of said J. E. Booker, publisher of said newspaper, hereto attached, at which time and place

1
pursuant to said postponement, your Commissioner proceeded to sell, at public auction, to the highest bidder, before the Court-house door of the said County of Nansemond, at Suffolk, the said real estate in the said bill and proceedings mentioned, at which sale Alexander Hoffheimer made the highest bid and became the purchaser at two hundred and fifty (250) dollars. Your Commissioner reports that the said purchaser has paid to him the sum of one hundred dollars on the purchase price which amount has been deposited in the *as shown by certificate of deposit filed herewith* Farmers Bank to the credit of this cause, and that the said Hoffheimer is ready to pay the remainder of the purchase money upon the execution of a proper deed conveying the said real estate to him. Your Commissioner recommends to the Court that the said sale be confirmed. Your Commissioner further reports that he has given the bond required by the decree directing the sale.

March 30, 1895

Respectfully submitted

Lee Pratt
Commissioner

James H. Boyett
vs
Mingo L. Savage & others

Report of Sale
by Commissioners

Filed Mar 30th 1895
A. P. Gomez clerk

Account I.

An Account of the liens and the amounts thereof against the real estate of the defendant, Mingo L. Savage, referred to in the bill, with their order of priority.

The defendant, Mingo L. Savage, is seised and possessed of the following real estate, being the land in the Bill in this cause, mentioned and described; ~~a~~ certain tract of land in Holy Neck Magisterial District, Nansemond County, Virginia, containing ~~seventy~~ twenty-nine acres, more or less; bounded by the lands of John W. Byrd, Mills H. Holland Sr., and W. V. B. Woodward ^{and} ~~at~~ the South Quay County Road.

The liens ~~are~~ as follows:

- A. Deed of Trust in favor of Alexander Hoffheimer dated the 8th. day of May 1891 and recorded July 9th. 1891
Amount secured \$750.00
Int. May 8. 1891 to Nov. 1. 1894 156.25
\$906.25

This constitutes the first lien on the land exclusive of the unfinished dwelling referred to in the proceedings.

Memorandum: Included in the above mentioned Deed of Trust is another tract of land in Nansemond County upon which the said Deed of Trust is the second lien, and a parcel of land in Norfolk County, Virginia.

- B. Mechanic's Lien in favor of the Complainant, James H. Boyett, dated and filed in the Clerk's Office of Nansemond County Court on the 21st. day of May 1892.
Amount of Lien \$75.41
Int. May 21. 1892 to Nov. 1st. 1894 11.05
\$86.46

This constitutes the first lien on the unfinished dwelling referred to in the proceedings.

Grand total of liens \$992.71

Account II.

The fee simple and annual value of the said real estate; and separately the value of the building situate on said land.

Under this head your Commissioner reports as follows:

The fee simple value of said land including building \$500.

The fee simple value of said land ~~exclusive~~ of the building referred to \$200.

The value of the unfinished dwelling referred to \$300.

The annual value of the property in its unfinished condition is nominal; if completed say \$50.

Account III.

Whether the rents and profits ~~from~~ the said land will in five years pay off the said liens.

The rents and profits from the said land will not pay off the said liens in five years.

Respectfully submitted,
Robert R. Huntis,
Commissioner in Chancery

Fee \$20.

1

The depositions of James H. Boyett and others taken before Robert H. Dennis Commissioner in Chancery of the Circuit Court of Hantsworth County, pursuant to the notice hereto annexed to be read as evidence in behalf of the complainant in the chancery cause of James H. Boyett v. Mingo L. Savage & others pending in the Circuit Court of Hantsworth County.

September 24, 1894.

Present:

Lee Britt, Counsel for Complainant
Charles M. Costen, Counsel for the defendants.

James H. Boyett being first duly sworn in answer to questions, deposes and says:

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

A. I am 42 years old live in Hantsworth County, I only know Mr. Savage.

2Q. Please state if you made a contract with Mr. Savage to do the work and perform the labor in constructing a

2

two story building with
all attached referred to in
the bill? If so when it
was made and whether
you fulfilled it? -

Q. I made the contract in
January 1892 (the exact
date I do not remember)
Mr. Savage gave me the
number of windows and
doors he wanted and a
description of the house
and asked me to make an
estimate on the work.
I did so, offering to do
it for \$140, and he accep-
ted my proposition verbally.
There was no written
contract. Some of the
materials were on the
ground and he was to
furnish and pay for the
remainder. - I ran out of
materials several times
and at last I wrote to
him to furnish the
balance of the ^{materials} necessary
to finish the contract.

but he did not answer
my several letters. Then
I went to see him at
Lambert's Point. He
said that he could
not furnish the balance
of the materials at that
time. - I then deducted
\$10. from my bill for
the unfurnished work
and told him that I
would finish the job at
any time within twelve
months if he would
furnish the materials,
or he might use the
\$10. to get some one
else to finish the work,
and this arrangement
he agreed to.
At that time ~~the~~ we
modified the previous
contract so as to make
the price \$130. for the
work already finished. -

3. Q. Did Savage make any payment to you at that time - If so, how much?

A. He owed me \$77.⁴¹ at that time. He then & there paid me \$2. leaving \$75.⁴¹ still due. He promised to pay this debt as soon as he could raise the money. He said that he had been sick and that this was the reason he had not paid me any faster.

4. Q. Have you seen him since that time on the subject?

A. Yes Sir - I saw him on July ^{29th} 1892. Our settlement above referred to was on April 22nd ¹⁸⁹². I carried the lien which I had filed with me, and asked for settlement. He said that he could not then, but that he would pretty soon.

He has never paid any part
of the \$75.⁴¹

I completed the work
according to our con-
tract at that time. Mr.
Savage was there after
we had the settlement
April 22nd. 1892, and saw
the house, and I have
never heard any objection
about the work, while I
was doing it or since
it was completed.

I think the land would
bring \$100. - without the
building at public auction
for cash. I do not think
it would bring more than
\$125 to \$150. sold on credit.

I suppose the building
which I put there is
worth \$300. - now. I
suppose the entire property
would bring \$400. - to \$450.

There are no chimneys to
the house and it would be
hard to rent it.

Cross-Examined.

1. Q. Are you a general contractor -
Is that your business?

A. I farm, and do carpenter's
work too. - I make general
contracts. - Have done so
before and since the
contract with Savage.

2. Q. When you made this contract
with Savage was any
agreement made as to
the time within which
the house was to be
finished?

A. I do not know that there
was any specified time
within which the house
was to be finished. -

3. Q. How many years have you
been building houses as a
general contractor?

A. I have been contracting for
work for about eleven years.
It has been that long since
I used to work under some
one else. -

4. Q. Have you in the course of your eleven years experience as a contractor built houses of or near the size of house you built for Savage?

A. Yes. I built a two story house just about the size of the one I built for Mr. B. C. Duke, of Suffolk.

5. Q. Was the contract which you had with Mr. Duke a similar contract to the one made with Savage?

A. Yes.

6. Q. How long did it take you to finish Mr. Duke's house?

A. I do not know. It had been seven years ago. I think I commenced Duke's house about the middle of September and finished it after Christmas, I believe that was the longest period on the part of Savage in neglecting to furnish materials for the house under his contract after he was

7. Q.

notified by you that you needed material?

A. I think the last time I was ~~was~~ out of material it might have been two or three weeks possibly.

Q. 8. Was it ~~more~~ than three weeks?

A. I am not going to answer that question positively. - It might have been two or three weeks. -

Q. 9. On how many other occasions except the one above mentioned were you out of materials, and have to discontinue your work?

A. I do not recollect the exact number of times. I think as much as three times. -

Q. 10. Can you state ~~it~~ as near as possible the time or the length of time of each of the three times you were out of material

that you were delayed with your work?

A. I cannot tell you. - I could not undertake to carry that in my memory. -

Q. 11. Was it one day? -

A. It might have been one day, it might have been three or four days, I cannot remember. -

Q. 12. Was that in the first case or in all the cases. -

A. In all the cases except the time I was delayed two or three weeks, I think -

Q. 13. Was the four days the total period of your delay last referred to?

A. So far as my memory serves me.

Q. 14. Was the three weeks delay and the three delays referred to the total number of delays during the contract?

A. Those are about all the delays I can now remember, but there might have been others.

Q. 15 After you made the contract with Savage did you employ your entire time on Savage's work ~~and~~ in completion of the contract?

A. Principally so, after I commenced the work I do not remember the day of the month I commenced.

Q. 16 Did you commence the work immediately after the contract was made with Savage in January 1892?

A. A short time afterwards I do not remember exactly.

Q. 17 Has it within a week?

A. It was a short time. I am not positive whether it was in a week or not.

Q. 18 Has it more than a week?

A. I do not think it was as well as my memory serves me.

Q. 19 Did you continue uninterruptedly on this work (except the four delays above mentioned) after you commenced work under the contract with Savage?

A. I do not know that anything was done to interrupt me except as above explained.

Q. 20. Were you engaged in farming while the construction of the Savage house was ~~taken~~ in progress?

A. I was having farming done, by a hired man, and by my two sons. -

Q. 21. Did you not assist in any way on the farm, during this time?

A. I instructed them what to do. - This building is very near my home near enough to be called from my house. - I went backward & forward to my meals. - I staid at my meals say from ^{an} hour to an hour and a half, that is at dinner.

Q. 22. Did you at any time neglect to go to work on Savage's house for a period of one hour, one day, or one week during the time of work on the house, and use the time or times mentioned or any of them, in working for yourself on your farm? -

A. I sometimes worked there in the

mornings on the farm, and told my hands what to do. - I could not give you the exact number of hours I worked on the farm. - I was not working for Mr. Savage by the day, if I had been I would have kept an account of it. If it was a rainy day I did not work on the house before it was covered in. - I worked some on the farm, but it is impossible for me to carry the time in my memory. -

Q 23. Are you a trucker?
I am not - I sometimes plant a few Irish potatoes.

Q 24 What is the busiest time on your farm?
A. From the last of March to the last of July. -

Q 25 Did you assist on the farm during the month of April 1892?
A. I assisted by instructing them about the work. - Of course I worked on the farm after I went down and saw Savage April 22, 1892.

~~Q 26~~

Q. 26. Do you remember the date when you saw him at Lamberts Point?

A. April 22nd 1892.

Q. 27. Was that the date that you and Savage agreed to a settlement for the work that you had performed on the house for him under the contract made in January 1892?

A. Yes. —

Q. 28. Did you consider that your responsibility under the contract had ceased and this was a final settlement?

A. Yes. I did.

Q. 29. ~~Did~~ Did you go to see him July 29, 1892?

A. I went to get the money he had promised to pay me.

Q. 30. Why did you state to Savage that you would finish the job at any time within twelve months, if he would

furnish the materials, if you considered the work completed under the contract?

Q 31 A Because I knew he was not a carpenter, and I wanted to show him that I did not want to take any advantage of him. - I did not feel bound to finish it any time ^{after the settlement} he could have employed somebody else to do it after our settlement. - When did you say this settlement took place -

A April 22, 1892.

Q. 32 How do you know?

A Because he had credit for \$2. he paid me that day. - He wrote it down in my account book. - I carried the date in my memory because I was thinking of filing the lien.

Q. 33 Have you possession of that account book -

A. I have it at home.

Memo: The defendants call for the production of the account book above referred to before the hearing of this case. -

Q. 34. Is there any other memorandum or occurrence except the credit of the \$2 mentioned that would cause you to say positively that the date of the settlement was April 22, 1892?

A. Not that I know of.

Q. 35. Was the final settlement for the full sum of \$130. or more or less?

A. \$130. was the amount agreed on then and there. — The final settlement was \$130. but he owed me \$77.⁴¹ before he paid the \$2. —

Q. 36. How much had he paid you on the contract price before he paid you the last amount \$2. —

A. \$52.⁵⁹ I gave him credit for the \$2. and that made \$54.⁵⁹

Q. 37. Did he pay you the above amount at one time, or at different times?

A. At different times. —

Q. 38 Give a detailed statement, as near as you can, of how much he paid you at different times, and the times of payment?

A. I have no memorandum with me. Sometimes he would leave three or four dollars to pay for ^{certain} material with me, and tell me to take what was left over and credit him with it. - I think the last two payments he made were credited in the book in his own handwriting. I think that my book shows the whole credit of \$54.⁵⁹/₁₀₀. - I cannot recollect the number of payments he made. - I cannot trust my memory but suppose that there are four or five different payments.

Q. 39 What is the largest amount that Savage ever paid at one time?

A. \$10. as well as my memory serves me. -

Q. 40. Did he pay you \$10. or more or less, at each successive payment?

A. I cannot answer positively I think the book will show.

Q. 41. Then you cannot say, from your own recollection, of the facts in the case, that Savage did not pay you after including the \$2. more than the sum of \$54.59 on the contract?

A. I can say that he paid me \$54.59 on the \$130. contract, and that he paid me \$10. for some extra work, which was not in the contract, he did not pay me any more, ~~and~~

Memorandum: The defendants call for the production of the memorandum book above referred to, before the trial of the case. -

Q. 42. Was your memorandum book referred to as containing a detailed statement of the

payments, made by Savage
in your handwriting, Savage's
handwriting, or some one
else's?

~~Exception~~ ^{III} The complainant's Counsel
excepts to the question ^{because}
the memorandum book is the
best evidence of its contents.

A. They were in Savage's hand-
writing. -

43. Q. Are you familiar with and
do you know the number
of acres in the Savage
farm?

A. Twenty-nine acres more or
less is what the record
says. -

44. Q. ~~What~~ Do you know what
is the value of land per
acre next to this farm?

A. A good deal of it is not
worth a dollar an acre.

45. Q. Did you say that you owned
a farm within calling
distance of Savage's house?

A. I live on a place that near
where I have been living
for nineteen years. -

46 Q. What do you estimate the value of the farm on which you live to be worth per acre?

A. It is worth about \$3 per acre ^{without timber}. It is valuable for its timber, which is now being cut. - Savages place has no timber. -

47 Q. Does this farm abut against the line of Savages' farm?

A. They are on opposite sides of the road. -

48 Q. You said in your examination in chief that you supposed the building you put upon the farm is ^{now} worth \$300. in its unfinished condition. If the building was finished, what would you estimate its value to be?

A. It will take \$250. to lather & plaster it, build the chimneys, and paint it in my opinion. -

49 Q. If the house put in a habitable condition what do you think the house and farm would rent for?

Q. \$25. to \$30. per year I think - There is only about two acres of cleared land there. -

50 Q. Do you know the rental charged for farms in that neighborhood except your own?

A. I do of one or two places. Mrs. Holladay has two places, she rents for \$30. a year each. - Another place there is rented for part of the crop. -

51. Q. Give number of acres, as near as you can, of each of the Holladay farms, and say whether they have residences on them, or not?

A. About 8 acres of cleared land in one, and 12 to 15 acres of cleared land in the other. - They both have residences on them. These houses are worth from \$200 to \$250. each.

Re-examined

Q. In your settlement with Mingo L. Savage on the 22nd day of April 1892 did you have an accounting showing the payments made

amounting to \$54.19 and did
you then agree that the
balance due you on the said
contract amounted to \$75.41 after
the payment to you of \$21.00 by
Mingo Savage

note The Defendants Counsel object to
the question.

A 1 yes sir.

Q 2 Were your work and employ-
ment in the erection of this said
building confined to Carpenter's
work

A 2 My contract was to do Carpenter's
work.

and further this deponent said not

James H. Boyett

John W. Byrd, being first duly sworn depose and says:

Q 1. State your name, age residence and occupation

A. 1 John W. Byrd, 69 years, Nausumond County, farmer.

Q 2 Do you know the parties to this suit

A. 2 I know James H. Boyett and Mingo L. Savage.

Q 3 Do you know any thing of the alleged contract between James H. Boyett and Mingo L. Savage mentioned in this suit

A. 3 no sir.

Q 4 were you present on any occasion when Mingo L. Savage and James H. Boyett had a conversation relative to the claim of said Boyett against said Mingo Savage for money claimed to be due him on account of building the house referred to in these proceedings, if so state what was said on that occasion

Note The Defendants object, by Counsel
A. 4 I went with him to Lambert, Point
Set by and heard their settlement

Seemed to be all satisfactory
they had papers and went over
their affairs.

Q. 5.

He fell in debt to Jimmie
Boyle \$77.41 according to their
Calculation. He then took \$20⁰⁰ out
of his pocket and gave to Jimmie
Boyle and said he would pay
him more when he was able.
Nothing more was paid while we
were there.

Q. 5.

Have you been present at any
other time when said Boyle and
Savage talked about this said
balance

Note.

No Sir.

Q. 6

Please give your judgment as
to the fair market value of the tract
of land mentioned in these
proceedings exclusive of ^{the} buildings
in question. The value of the land
with the building thereon and the
value of the building alone if you are
familiar with the said property in question.

A. 6.

\$50. or \$75. I consider the fair market
value. The land and building is
worth between 3 and 4 hundred
Dollars. The building if it could
be used when it is around be
worth from \$250. to \$300.

Q. 7.

Do you remember the date of the
meeting between Mingo Savage and
James S. Boyle to which you have

above referred.

It was two years ago this last spring I don't remember the exact date.

Cross-Examination

Q. 1 Mr. Byrd how long have you known James H. Boyett

I have been knowing him twenty or twenty-one years.

Q. 2 How far does James H. Boyett live from you

Not quite a mile

Q. 3 How long has James H. Boyett been living at his present place of abode

I reckon about 19 years

Q. 4 Have you been on intimate terms with Boyett during the whole time that he has been living at his present place of abode

We are friendly we visit each other's house we have visited each other when we felt like it during the whole time

Q. 5 Why did you go to Lambert's Point on the day that the conversation relative to the claim of said Boyett against Savage for money

Claimed to be due him on account of building the house referred to, ~~to~~ took place.

Because Jimmie Boyett wanted me to go to hear what he had to say I did not know that any settlement was going to take place.

Q. 6. Did Boyett and Savage mention in your presence the amount charged for building the house?

I think they did. Of course they did. they went over the paper together.

Q 7 How much was the price charged.

\$130.⁰⁰ is what they agreed on. After knocking off some for the work that was not finished.

Q 8 Did they mention the original price charged.

I think as well as I remember they did \$140.⁰⁰

Q 9 Did they state or did Boyett state in the course of the conversation the amount that Savage had paid him on the price of building the house.

Of course I must have heard it, I would not have known what was done if I hadn't.

Q 10

Can you state any of the amount of any of the items that was mentioned in the course of the conversation as having been paid by Savage.

No. I don't remember them they had bills, which they went over.

Q 11

Do you know the total amount of money mentioned in the course of the conversation as having been paid by Savage for building the house.

I don't remember the items, I much have heard it. I don't remember the total amount that they said was paid.

Q 12

Then how can you say that Savage fell in debt to J. J. Boyett \$77.41

that is what they said right then together.

Q 13

where did this conversation take place.

At Laurens Point on some billets of timber in a yard.

Q 14

How far were you sitting apart from them.

About 1, 2 or 3 feet

Q 15 Did you see the papers that they had before them.

I certainly did.

Q. 16 Did you see all the items on these papers

I did not.

Q 17 How do you know that these papers had reference to the building of the house by Boyett for Savage

The Great God give me ears to hear with and I set by and heard ~~what~~ what was said.

Q 18 How long before ~~was it~~ this conversation was it that Boyett asked you to go to Lambert's Point to see Savage about building this house

It might have been one, two, three or four days.

Q 19 When he made the request did he state to you the nature of his business with Savage.
Of course he did in a measure.

- Q 20 Did he state to you when he made the request above referred to the amount that Savage owed him for building the house
No sir, he did not know himself.
- Q 21 Did he state that Savage was indebted to him or not
He did, but he didn't say how much.
- Q 22 Have you had any conversation at any time with Mr. Boyett about this matter.
We might have said something about it I don't know, we did not talk on any particular point about I don't think we talked about anything that would hurt anybody.
- Q 23 Did Mr. Boyett ever tell you at any time he wanted you as a witness in this case.
He didn't until he said he wanted me to come to attend the trial.
- Q 24 Were you ever summoned in this case
No sir.

Re examination

- Q 1 Did you volunteer or were you requested to give testimony in this case.
I came on a message from Mr. Britt, delivered to me by Jimmie Boyett.

29.

Mr. Pitt is the Complainant's
Counsel.

and further this deponent saith
not. John W. Byrd

Q. 1

W. V. B. Woodward being first
duly sworn deposes and says:
State your name, age, residence
and occupation.

Q. 2

W. V. B. Woodward, 63 years,
Nauman and County, farmer.

Do you know the parties to
this suit.

I know Mr. Byrd & Mingo L.
Savage. The other parties I know
nothing about.

Q. 3.

In the Bill in this cause it
is alleged that James H. Byrd
entered into a contract with Mingo
L. Savage to erect a house on the
property of the said Savage. State if
anything you ^{may} know about said
alleged contract, its execution or any
facts connected therewith.

Objection by defendant's Counsel.

I don't know anything about the
contract at all.
All I know about Mingo L.

Savage owes me for the piece
 of land adjoining the land
 this house is built on. I
 met Mr. Boyett and he and I
 went to Lambert's Point to see Mingo
 Savage in July 1842 (the 29th) I
 wanted to see Savage myself
 we went together on that day
 Mr. Boyett informed Savage that
 he had filed this lien and he,
 Boyett, wanted to know if he
 would take it up without going
 any further in Court with ^{it} this
 is what I recollect
 Savage said he would, he said he
 would try and be ^{at support} ~~there~~ about
 Sept 1st and make some arrange-
 ments to pay it off. I think he
 asked Mr. Boyett if he had given
 him credit for the two Dollars he
 paid him, he showed him the
 book and showed him where
 he had credited it himself.
 He left the amount of \$75.44 balance
 Savage said due Mr. Boyett on
 account. Nothing more was said that
 day, he did not pay him a cent.
 Savage told me Monday after Christmas
 1842 that if I would lift the
 Boyett lien, ^{of \$75.44} ~~he~~ would give me
 a lien on the other piece of land

Memo:

Defendants Counsel objects to the above evidence and moves that it be stricken out in part and as a whole.

Cross Examination

Q. 1 Mr. Woodward when you went to Lambert's Point did you not go on your own business and did you not see Savage about your business with him.

I certainly went to see him on my own business and saw him.

Q 2 Did you have any interest in the Boyitt matter

Not a bit in the world.

Q 3 How far did you stand from them during the course of their conversation

About three or four feet from them, I was not paying much attention to their business but I heard what passed between them.

Q 4 Then you have a very limited recollection of what was said I recollect ~~very~~ ^{well} what he said about the debt of Boyett and what he said about coming up here.

Q. 5. Are you positive about Savage asking Boyett if he had given him credit for \$2.00

I certainly am.

Q 6 In whose possession was the book referred to in your answer, and which was produced when this conversation took place.

Mr. Boyett produced the book to him.

Q 7 Can you describe the book

It was a little account book

Mr Boyett had in his pocket

It was about five or six inches long and about four inches wide he had it in his breast coat pocket he took it out of his pocket.

Do not recollect its color.

And further this deponent saith not.

W & B Woodard

The further taking of these depositions is continued until Friday the 28th day of September 1894.

Present: Charles M. Coston Esquire
Counsel for the Defendants.

Mingo L. Savage a witness introduced in behalf of the Defendants being first duly sworn, in answer to questions depose and say:-

Q. 1. State your name, age and residence and do you know the parties to this suit

A. 1. Mingo L. Savage, 32 years, Norfolk County, Va I know all the parties, I am one of the Defendants.

Q. 2. Please state if you made a contract with James H. Boyett to do the work and perform the labor in constructing a two story building on a farm owned by you in the County of Nauseland near the town of Suffolk, if so, what was the contract and whether he has fulfilled the same or not, and what was the date of the same?

A. 2. There was no contract made, we were not building by contract, I mean that there was no written contract. It offered to build the house and as he was a farmer he was to build

it at his leisure and I was to pay him at my convenience. It was certainly prior to April the 5th 1889 and I think some 10 or 12 months before that date. He has not fulfilled his part of the contract. The price I was to pay for the work complete except the chimneys, was \$130. He was so long building I told him to have the house completed by Christmas ¹⁸⁹¹ and he said he would, but he failed to do it. He only worked two days from March 1891 to the end of the year. I told him I would furnish him with what money he needed to buy lumber and would pay him when he completed the work. Some time in the spring 1891 his fence got burned he said then that he could not haul any more lumber or do any more work as he had to work out for his crops.

I told him that as I had given him the work and if he could not do it, to get some body else to finish it and I would settle up with him. And he has failed to finish his work as yet. He told me that some of the lumber was at Suffolk to go in house, he has some of the doors and a transom for my house in his possession.

I have told him since he stopped work that if he would finish the house I would pay him for his work and

and would furnish him with the money to buy what lumber he needed, and he has failed to do that.

Q. 3.

Stah who was to furnish the material for the house including the doors, windows and lumber, and how it was to be furnished.

A. 3.

He came to Suffolk with me and I bought all the doors and windows, he carried them home for me and I paid him for hauling them. The lumber was furnished from the land ~~and Mr. Boyett was to cut the logs and haul them to the saw mill and take out the bill of lumber for the house~~ ~~part of~~ ~~cut~~ some of the house bill was used to build a kitchen. To make up this shortage Mr Boyett was to cut logs and haul them to the saw mill and have them cut for which I have paid him. Just as he needed the lumber he was to have it cut and I was to pay him and I have paid him for every bill he has presented for lumber.

Q. 4.

Did Boyett ever notify you in writing that ^{he} was out of lumber and request you to furnish the balance of the material to finish the contract.

A. 4.

No sir. Because some of the lumber is in Suffolk which he failed to haul he told me. He stopped work

in May 1891, he told me since then, that ^{some} the lumber was in Suffolk

Q. 5.

Have you ever examined the dwelling that Byrd was to build for you recently, if so state when

A. 5.

Very soon after he stopped work I examined the building and I find that the stairway was not run according to the agreement the window was in the stairway which I told him not to let conflict with the stairway. The windows are all in but the doors are not, he put in four doors and left out five those five doors are in his possession. Nine doors were furnished him altogether.

Q. 6.

Did he ever see you at Lambert's Point about the furnishing of the material for this building and did you, or not, at that time have any conversation in reference to your contract with him, above referred to.

A. 6.

He came to see me ^{twice} at Lambert's Point with Mr. Byrd once and with Mr. Woodward once. He wanted to see about the building he said that I had built over in Norfolk and he said that he would not work any more for he did not see any safety of getting his money. I told him that it made no difference when I

had built, but to go ahead and complete the work and I would pay him his money and he said that he would not do it.

The next time he came he wanted me to go to see Mr. Hoffmann to see if he would be responsible for his (Boyett's) bill I told him to go ahead and complete the work I would pay him any way. And he said that he would not do it. The second time he came I paid him two dollars I did not pay him anything the first time he came.

Q. 7

✓

Did Boyett during either of the above mentioned visits to you at Lambert's Point offer to reduce his bill because of the unfinished condition of the dwelling house referred to.

A. 7

He didn't at the "Point." I have been to his house since and he did there.

Q. 8.

State when, if you can the date of Boyett's first visit to you at Lambert's Point.

A. 8.

I can't just state the time of the first or the second visit positively and I think the first visit was in the Spring of 1892. The second visit I think was in the Summer of 1892.

Q

- Q. 9 Did you pay him any money on the contract referred to on either of these visits.
- A. 9 I paid him two dollars on the second visit.
- Q. 10 are you positive that it was the second visit.
- A. 10 I am.
- Q. 11 Did he during either of these visits show you a copy of a Mechanic's Lien that he had filed against your property.
- A. 11 He did, on his last visit.
- Q. 12 Are you positive that he showed you a copy of the lien on his last visit.
- A. 12 I am.
- Q. 13 Did Boyett ever present to you an itemized account or any account or statement of the work and labor done on ~~the~~ your house with the amounts charged.
- A. 13 He has not.
- Q. 14 Did Boyett ever show you a memorandum of your indebtedness to him during either of his visits to you at Lambert's Point.

A. 14 He has not.

Q. 15 Have you ever had any settlement with Boyett and made an agreement with him that he was not to finish your house.

A. 15 No sir, I never have, I have always told him that if he would finish the house I would pay him.

Q. 16 Do you consider that Mr. Boyett should now complete your house and do you still hold him responsible to complete it under his contract made with you.

A. 16 Yes sir, I do, although he has caused my house to be damaged right much by delay in not building.

Q. 17 Have you seen Boyett in reference to this contract lately and state when and where you last saw him.

A. 17 The last time I saw Mr. Boyett was in November 1893 at his house and I told him to complete the building and I would pay him. Mr. Boyett said no he would not do it.

Q. 18 Have you ever made subsequent to the year 1889 any contract with Boyett to build a dwelling house for you on your farm in Nausumond County near the town of Suffolk

A. 18.

140

No sir, I have not

Q. 19.

How many acres is contained in your farm which you own and upon which is situated the house that Boyett contracted to build for you.

A. 19

The Deed calls for 79 acres more or less

Q. 20

What price do you value this farm unimproved.

A. 20.

\$400.

Q. 21.

When did you buy this farm, and how much did you pay for it.

A. 21.

I am not positive when I bought the farm, I think it was in 1887 I paid \$300. for the farm.

Q. 22

What do you value the house and houses situated on the said farm at in their present condition

A. 22

The Barn, the Kitchen and the dwelling I value at \$450.

Q. 23

What do you value the farm and the houses at, at the present time

A. 23.

\$850.

Received of
M^r L. L. L. L.

2500 Twenty Five
Dollars Part
Payment for
Building Dwelling
house

April 5th 1883
J. B. Boyett

1312 3/4001

Exhibit No. 1.

with deposition
of Mingo L. Savage
Sept 28. 1894.

395 feet of weather Board
214 feet of Lumber = $\$4.92$
 $\$8.24$

one rail 72 feet = 90 cent

Blocks = ' = 25 cent

32 one piece = 4 by 4 = 27 cent

25 feet = lumber = ' = 20 cent

25 pound of nails = ' = 87 cent

for delivering = lumber \$10.3 cent

Received of Mingo L. Savage

2500 Twenty five

Dollars March 14 1891

For Payment on Building
Dwelling house.

James S. Bayliff

Exhibit No. 2
with deposition
of Mingo L. Savage
Sept. 28. 1894.

201
62
22
27
52
06

Q 24 What do you think the farm and houses thereon would rent for in their present condition.

A. 24 On account of the unfinished condition of the house it would be hard to say, people who rent farms want a house on the farm.

Q. 25 What do you think the farm with the house thereon would rent for if the house was completed

A. 25 I think it should rent for \$84. a year.

Q 26 Have you ever made any payments to Boyett for work performed on your dwelling house under his contract with you.

26. Yes sir. I have paid him fifty-two dollars on this account therewith file two receipts for twenty-five dollars each (marked Exhibit No. 1 and Exhibit No. 2.) for the other two dollars he did not give me a receipt. I paid him small amounts from time to time to get lumber as he demanded it, I do not know whether it was used for that purpose or not.

Question by the Commissioner
Were the two payments of twenty-five Dollars each

for which you have just filed two receipts paid on just two separate occasions or do they represent the aggregate of a number of payments.

A. 1 Just two separate payments.

Q. 2. How much would it cost to complete Mr Boyett's work in your judgment.

A. 2 It would cost about 60 or 75 Dollars.

Q. 3 To do what

A. 3 To finish the floor and remove the stairway and to fix the porch.

Q. 4 How much do you include in your estimate for removing the stairway.

A. 4. I am not a Carpenter but estimate that it would be about \$20.00

Q. 5. Do you include anything else besides Carpenter work in your estimate of 60 to 75 Dollars

A. 5. Yes Sir. I include the lumber and nails for the floor upstairs and the floors in two rooms downstairs and materials for the porch also.

Q 6 What I want to know is how much of the sixty or seventy-five dollars you estimate the Carpenter work would cost.

A. 6 The Carpenter work would cost about fifty Dollars.

Q 7 Did Mr. Boyett ever offer to do it for ten Dollars.

A. 7 No sir, he has not.

Q. 8 Was your contract the subject of the conversation between Boyett and yourself in the presence of Mr. Byrd in the Spring of 1892 at Lambert's Point.

A. 8. ~~Q. 8~~ It was not, Mr. Byrd heard a little of our conversation but not much.

Q. 9. State the substance of the conversation on that occasion so far as it refers to this contract.

A. 9. I told Mr. Boyett I had been waiting for him very long to complete the building and I had been prepared to pay him. And told him to go ahead and complete it and I would pay him, and he would not do it. Mr. Byrd was present when I spoke these words above stated.

Q 10 State how many rooms there were to be in the house referred to.

A. 10. There were to be five rooms, in the main body of the house there were to be three rooms and the hall and there were to be two rooms in the ell with a long ~~porch~~ porch.

Q. 11. Can you state the aggregate amount of money you have paid Mr. Boynt on account of labor and materials for the house referred to.

A. 11 No. Sir I cannot.

And further this deponent saith not.

Mingo L. Savage

Taken, sworn to and subscribed before me at the times mentioned therein.

Robert H. Curtis,
Commissioner in Chancery.

September 28, 1894

Commissioner's Office,

Suffolk, Va Sept 18th 1894

To James H. Boyett Complainant
against
Mingo L. Savage, Alexander Hoffheimer and
R. C. Dickenson, Trustees Defendants
In Chancery

You are hereby notified that I have fixed upon the 24 day of September 1894 next,

following
if fair, if not, on the next fair day thereafter (Sunday excepted), to take and settle at my office, the accounts:

1. an account of the liens and amounts thereof against the real estate of the defendant Mingo L. Savage, referred to in the bill, with their order of priority.
2. The present and annual value of the said real estate, and separately the value of the building situated on said land.
3. Whether the rents and profits from the said land will in five years pay off the said liens.
4. Any other matter deemed pertinent by me or any party in interest.

required to be taken by a decree of the Circuit Court of the County of Hanover

rendered on the 11th day of April 1894, in a suit in chancery depending in said

court, between you

at which time and place you are required to attend.

Given under my hand, as Commissioner in chancery of the said court, the day and year first aforesaid.

Robert H. Hunt
Commissioner

James H. Boyer

vs.

COMMISSIONER'S NOTICE.

Mingo L. Savage &c

Sept. 24. 1894

Executed this 21st day
of September. 1894 by
delivering to Mingo L.
Savage a copy of the
within notice in person
Wynfon Smith sgt of
The City of Portsmouth Va

Rec^d fee for service
Wynfon Smith sgt.

Commissioner's Office,

Suffolk, Va. Sept. 18th 1894

To James H. Boyett Complainant
against -
Mingo L. Savage, Alexander Hoffheimer
and R. C. Dickinson, Trustees. Defendants
In Chancery

You are hereby notified that I have fixed upon the 24th day of

September 1894

if fair, if not, on the next fair day thereafter (Sunday excepted), to take and settle at my office, the account ^{following}

1. An Account of the liens and amounts thereof against the ^{referred to in the title} real estate of the defendant Mingo L. Savage with their order of priority.
2. The fee simple and annual value of the said real estate, and separately the value of the building situate on said land.
3. Whether the rents and profits from the said land will in five years pay off the said liens.
4. Any other matter deemed pertinent by me or any party in interest.

required to be taken by a decree of the Circuit Court of the County of Handerson

rendered on the 11th day of April 1894 in a suit in chancery depending in said

court, between you

at which time and place you are required to attend.

Given under my hand, as Commissioner in chancery of the said court, the day and year first aforesaid.

Robert H. Huntis
Commissioner

Service accepted this
the 19th day of September
in the year 1894 for
Mingo L. Savage, Alex
ander Hoffmann and
R. C. Dickinson Trust

Chas. W. Boston
Atty for the above
named persons.

Form No. 400.

James H. Boyett

vs.

COMMISSIONER'S NOTICE.

Mingo L. Savage & Co

Sept. 24, 1894

Executed by delivering
a copy of the within
notice to Charles W.
Boston, Counsel for
Mingo L. Savage,
Alexander Hoffmann
and R. C. Dickinson
Trusts Sep^r 19th 1894 and at the same
time the said Chas. W.
Boston accepted service
for the defendants. See also
affidavit hereon endorsed
Sept. 24th 1894 paid
C. L. Quinn Deputy
for J. E. Burke Register

I acknowledge legal and
sufficient service of this
notice.

Lee Smith
atty for J. H. Boyett

Commissioner's Office,

Suffolk, Va., September 29. 1894

James H. Boyett

vs:-: In Chancery

Mingo L. Savage and others.

To the Circuit Court of Nansemond County:

The undersigned, one of the Commissioners of this Court, at the request of counsel for the Complainant, has executed the decree for accounts pronounced in the above entitled cause on the 11th. day of April 1894, Notice was issued September 18th. 1894 fixing September 24th. 1894 as the date for taking the accounts and making the enquiries referred to. The said notice, duly executed upon Mingo L. Savage and and acknowledged by counsel for the other parties is herewith returned.

cause has been continued from time to time until this day when the report is completed.

In making the enquiries which were directed, the depositions of James H. Boyett, John W. Byrd, W. V. B. Woodward and Mingo L. Savage were taken and they are herewith returned.

The result of the enquiries are herewith returned as Accounts I., II., and III., and need no further explanation.

James H. Boyett

Report of
Comm.
R.R. Dentis.

Mingo L. Savage
Jr

Dated Sept. 29. 1894

1894 Sept 29th Filed
A. P. Comer clerk

James H. Boyett

Plaintiff-

VS

Mingo L. Savage and others

Defendants-

In the Circuit Court of Nansemond County.

This cause came on this day to be further heard on the papers formerly read and on the report of Special Commissioner, Lee Britt, pursuant to decree entered herein on the 16 day of October 1894, showing that the Savage tract of land described in the bill in this cause has been sold to Alexander Hoffheimer for the sum of two hundred and fifty (250) dollars and that he has paid one hundred dollars in cash and is ready to pay the remainder of the purchase money upon the execution of a deed conveying the said land to him and that the said sum of one hundred and fifty dollars has been deposited in the Farmers Bank of Nansemond, Suffolk, Virginia, to the credit of said Lee Britt, Commissioner in this cause, to which report no exceptions have been taken, and was argued by counsel. On consideration whereof the court doth in all respects ratify, approve and confirm, the said report and the said sale of real estate made by said Commissioner Britt, and doth adjudge order and decree that the said Special Commissioner, Lee Britt, collect the remainder of the purchase money, to wit, the sum of one hundred and fifty dollars, from the said purchaser, Alexander Hoffheimer, and to withdraw from the said Farmers Bank the said sum of one hundred dollars now on

deposit as aforesaid, for which purpose he is hereby authorized to withdraw the said certificate of deposit from the papers in this cause, and that the funds coming into the hands of the said Lee Britt, Special Commissioner, shall be distributed by him as follows:-

1st-The payment of all costs and legal expenses of this cause.

2nd-The payment of the debts, in whole or in part, according to their priority, embraced in the report of Commissioner Prentiss, hereinbefore mentioned, regard being had to the value of the building and the value of the land proportioned to the purchase money received less the amount of costs and legal expenses aforesaid as follows:-

1st-The payment of the mechanic's lien in favor of the complainant, James H. Boyett, amounting to \$88.47 to Lee Britt, attorney for said Boyett, and the remainder, the sum of \$75.76, on the debt in favor of Alexander Hoffheimer secured by deed of trust on the land, and constituting the first lien on the said land exclusive of the said building, referred to in the proceedings in this cause, to be paid to the said Alexander Hoffheimer, his duly authorized agent or attorney. And the said Lee Britt, who is hereby appointed a special commissioner for the purpose, is directed to convey the said Savage land with buildings thereon to the said Alexander Hoffheimer by deed with special warranty so soon as he shall pay

the balance of the purchase price due therefor.
And the said Lee Britt, special commissioner is
directed to make report to court of his proceed-
ings under this decree.

James H. Bayett
vs & In Chancery
Wingo L. Savage ^{Debt}

Decease to be
entered.

Robert J. Mullis

April 13, 1895

Entered in Chancery
Order Book No. 2.
Page 633. -

James H. Boyett-----Plaintiff.

VS -----In Chancery-----

Mingo L. Savage and others -----Defendants----

In the Circuit Court of Nansemond County.

This cause came on this day to be farther heard on the papers formerly read, and on the report of Special Commissioner, R. R. Prentiss, filed on the 29th day of September 1894, to which no exception has been filed. On consideration whereof the Court doth approve and confirm the said report, and doth adjudge, order and decree that ^{Charles W. Costen and} Lee Britt, who ~~are~~ hereby appointed ~~Special Commissioners~~ *either one or both of whom may act* for the purpose, do expose to sale at public auction, to the highest bidder, in front of the Court-house of the County Court of Nansemond County, the tract of land with buildings thereon, in the proceedings mentioned, after first advertising the time, place and terms of sale in some newspaper published in the Town of Suffolk, Virginia, once a week for four successive weeks, upon the following terms:-

One half of the purchase money to be paid in cash and the residue in two equal instalments at six and twelve months from the day of sale, the credit instalments carrying interest from the day of sale, and the purchaser giving his bonds for the credit instalments, the title to the property to be retained until the full purchase money is paid and a conveyance directed

by the Court *or if the purchaser elect he may pay the purchase money in cash and the said Commissioner deposit the same in Bank to the credit of this cause.* And the said Commissioners, Lee Britt, ~~or~~ directed

to report ^{this} ~~his~~ proceedings hereunder to the Court
But the said Commissioners shall not receive
any money from the purchaser at such sale or
under this decree until ^{or one of them if one only shall act} they shall enter into
bond, with sufficient security, in the Clerk's
Office of this Court, payable to the Commonwealth
of Virginia, in the penalty of \$-800-- and con-
ditioned for the faithful discharge of his duties
as such Commissioner.

12/2/94

Bayett
vs Chancery
Savage & Co

Decreed for Sale

To be entered
CMB

Oct 16. 1894

00 54.50
00 00

10 6.00
44
23

Entered in Chancery
Order Book No. 2
Page 596.-

In the Circuit Court for the County of Nansemond:-

James H. Boyett

VS

Mingo I. Savage and others.

This cause came on this day to be heard on the bill taken for confessed as to the defendant, Mingo I. Savage, upon whom process has been duly served, and it appearing to the Court that the plaintiff has proceeded in the mode prescribed by law against the non-resident defendants, Alexander Hoffheimer and R.C. Dickinson, Trustee, the said defendants still failing to appear and answer, plead and demur to the said bill, and was argued by counsel. On consideration whereof the Court doth adjudge, order and decree, that the papers in this cause and the matters therein involved, be referred to one of the Commissioners of this Court, who is directed to enquire into and report to this Court-

An account of

(1) The liens, and amounts thereof, against the real estate of the said defendant, Mingo I. Savage, with their order of priority.

(2) The fee simple and annual value of the said real estate; and separately the value of the said building situate on said land.

(3) Whether the rents and profits from the said land will in five years pay off the said liens.

(4) Any other matter deemed pertinent by the Commissioner, or any party in interest.

James H. Boyett

vs

Mingo L. Savage et als.

Decree referring the
cause to a Commissioner

Nansemond Co. Cir. Court
April Term 1894.

To be entered this //
day of April 1894.

C. M. J.

1894

*Entered in Chancery
Order Book
No. 2. Page 541.*

James H. Boyett-----Plaintiff,

VS

Mingo L. Savage and others -----Defendants.
In the Circuit Court of Nansemond County, October Term
1895.

This cause came on this day to be finally heard on the papers formerly read and on the report of Commissioner, Lee Britt, filed on the 3 day of October 1895, showing that the said Commissioner, in accordance with decree entered in this cause on the 13 day of April 1895, has collected from the purchaser, Alexander Hoffheimer, the balance of the purchase money, to wit, the sum of one hundred and fifty dollars, due from the sale of the land mentioned therein, withdrawn the sum of one hundred dollars from deposit in the Farmers Bank to the credit of this cause, and properly disbursed the said sums of money, as attested by proper vouchers filed therewith, and further showing that he has conveyed by deed, with special warranty, the land with buildings thereon described in the bill in this cause to the said purchaser, to which report there is no exception, and was argued by counsel.

On consideration whereof the Court doth approve, ratify and confirm the said report. And there being nothing farther to dispose of in this cause it is ordered that it be struck from the docket.

James N. Boyett

vs.

{ Find Heere

Mingo L. Savage & others

To be entered

Octo. 15, 1895

Robert R. Harris

Entered in Chancery
Order Book No. 2
Page 658.

An account showing the amount and character of the work and labor done
by James H. Boyett, Contractor, the prices charged therefor and the
amount due. Misses L. Savage

Mingo L. Savage		To James H. Boyett Cr.	
1892	To amt of work & labor done by Jas H. Boyett in building dwelling house for Mingo L. Savage under contract		\$130.00
	By amt cash rec'd	54 59	
	" " bal due Jas H. Boyett	75 41	
		\$130.00	\$130.00

1892	May 21	To amt bal due Jas H. Boyett by Mingo L. Savage on said work	\$75.41
------	--------	---	---------

Virginia,

Virginia,
County of Nausmond, to wit:
I, Lee Smith, a Commissioner in Chancery of the Circuit
Court of said County, do certify that James H. Boyett
personally appeared before me in my County aforesaid, and made oath to the
correctness of the foregoing account.

Given under my hand, this 21 day of May, 1892

May 18 93
Lee Will
Commissioner Chancery

~~and materials furnished, viz :~~

Witness my hand, this 21 day of

James M. Boyette

Leo Tritt
Commissioner in Charge

Teste :

R R Smith Clerk.

ap 22/92

Form No. 37.

James N. Bagitt

vs.

ACCOUNT AND
CLAIM OF MECHANIC'S
LIEN.

Wingo L. Savage

Filed in the Clerk's Office of the
County Court of the County
of Kanawha, the 21st
day of May, 1892
4²⁰ o'clock P. M., and recorded in
Mechanic's Lien Record No. 1, P. 178

Teste:

R. B. Smith Clerk.

Examined and verified
R. B. Smith Clerk

"Exhibit A"

Lat
For

Part

30
125
155

To the Honorable Chandler W. Hill, Judge of the Circuit Court of the County of Nansemond:-

Complaining sheweth to the Court your orator, James H. Boyett, that, sometime prior to the 21 day of May 1892 ^{by Mingo L. Savage} ~~that~~ he was employed, to do the work and perform the labor in constructing and erecting a two story building with ell thereto attached on the land belonging to Mingo L. Savage situate on the South Quay County Road in Holy Neck Magisterial District, in the County of Nansemond and State of Virginia, that in accordance with said employment he did do the work and perform the labor necessary in erecting and constructing the said building ^{for which he was employed,} and thereafter presented his account to the said Mingo L. Savage for the sum of one hundred and thirty dollars, it being the sum which the said Mingo L. Savage agreed to pay to him for the said work and labor done, upon which account the said Savage paid your orator the sum of fifty four dollars and fifty nine cents in part payment thereof, and promised to pay the balance, but the said Mingo L. Savage has not yet paid the balance of said account to wit: the sum of seventy five dollars and forty one cents, or any part thereof although often requested so to do. That your orator, in accordance with the statute in such case made and provided, filed in the Clerk's Office of the County Court of the County of Nansemond on the 21 day of May 1892 a mechanic's lien against the said building and the piece of ground and curtilage appurtenant, or so much thereof as shall

be necessary for the convenient use and enjoyment of the premises, for the work done and labor performed, ^{the original} ~~a copy~~ of which lien is herewith filed marked "exhibit A", and prayed to be read as a part of this bill, by which lien filed in the said Clerk's Office within thirty days from ~~and~~ after the completion of the said work done and labor performed ~~for~~ the said Mingo L. Savage by your orator under agreement, he claims a lien under the statute for the said sum of seventy five dollars and forty one cents with interest thereon from the 21 day of May 1892 till paid, ^{and cost of filing said lien} on the said building situate on the land aforesaid, which tract of land contains seventy nine acres, more or less, and is bounded by the lands of John W. Byrd, Mills H. Holland, Sr., and W. V. B. Woodward, and the South Quay County Road, and the piece of ground and curtilage appurtenant, or so much thereof as shall be necessary for the convenient use and enjoyment of the said building and premises, for the said work done and labor performed. That the records of the said Clerk's Office show that there is now ~~is~~ upon the said tract of land alien by deed of trust made to R. C. Dickinson trustee to secure the payment of a certain debt therein named to Alexander Hoffheimer. Your orator is advised and therefore avers that the rents and profits from the said land and building will not in five years satisfy the liens upon the said property, and that he is entitled to enforce his lien on the same by

a sale of the said property. In consideration ~~your~~
whereof your orator prays that Mingo L. Savage ,
Alexander Hoffheimer and R. C. Dickinson Trustee, be
made defendants to this bill, and required to ans-
wer the same (answer under oath being waived); that
proper process issue; that all proper accounts
and orders be directed and taken; that a Commis-
sioner of this Court be directed to ascertain
and report to Court the liens against the said
real estate of the said Mingo L. Savage, and the
amounts thereof and their order of priority;
the fee simple and annual value of the said real
estate; and separately the value of the said build-
ing the said land; that a personal decree be ren-
dered against the said Mingo L. Savage for such
amount as may be deemed proper; and that the real
estate with said building thereon be sold and the
proceeds thereof be applied to the payment of the
costs of this suit, the liens thereon in order of
priority, and the cost of filing the said mechan-
ic's lien, and that all such other, further and
general relief may be given as in the premises is
just and right. And your orator will ever pray &c.

Lee Britt *James M. Bayett*
W. G.

See Smith

James N. Boyett

vs.

In Equity

Mingo L. Savage

Bill. des. libit

James A Boyett
Against } In Chancery
Mingo L Savage & others
Chancery Notes.

1892. Octo. 20th. Process issued returnable November Rules First Monday.

" Nov. 2nd. Process return unexecuted, none of the defendants are found.

1894 Feb. 24th. Affidavit on non-residence filed

" " 27th Order of Publication vs Alexander Hofheimer and R L Dickerson

" " " Alias Summons vs Mingo L Savage. returnable March Rules first Monday.

" March 5. Process returned executed on Mingo L. Savage
Bill filed with exhibits and decree nisi as to him.

" " 19. Decree nisi confirmed and cause set for on order of publication.

Chancery Notes.
