

1901 021
Nansemond Co (Suffolk) Chancery Causes: Mary B Buck vs Reps Williamson et al

Thompson, Williamson, Matthews, Robertson, Artis, Sullivan, Folder 1 of 2 plat
Hicks, Bunting, Hichs, Booker, Holland, Ames,
Thomson, Cowling, Bell, Jordan, Bower, Baker,
CARR, Towns, Bowers, Steel, Dean

Feb 6
Suffolk, Virginia, ~~January 26th~~, 1901

TO Mr. Reps Williamson, Oyster Inspector Nansemond County:

Please take notice that I hereby apply for an assignment to me of the following oyster grounds to be used exclusively by me and now occupied by me, for said purpose. *for the purpose of propagating oysters & p.c. the same* The name of the applicant is May B. Buck; the probable number of acres to be applied for is *10* acres; the name of the waters where the same is located is the *Western* branch of Nansemond River, *so called that runs by Buck Farm* at or near the mouth thereof; the xsaid grounds are near the mouth of said branch of said river and are now occupied by me as planting grounds; the names of one or more prominent points convenient to said grounds are the Steele farm and the Buck farm, one of said farms being on one side of said river and the other on the other side thereof; the said grounds are now occupied by me, and have been for a number of years, and prior to this time have not been considered assignable ground but private property of the owners of the land on each side of said branch of said river; the said grounds do not include any natural oyster beds or rocks. *I desire to the*

request that you will immediately & before the 8th of this month cause the same to be accurately designated and surveyed by the proper authority in person myself & have tender you rent for the same for the time

Notice of the above application which was made on the 26th day of January 1901 is hereby given.

regard of law. But you will please take notice that in making this application I do not claim any legal right. I do & have as a riparian owner or otherwise

THIS DEED, Made this 28th. day of January, in the year one thousand nine hundred and one, between E. E. Holland, Administrator of the estate of John Edward Booker, deceased, of Nansemond county, Virginia, of the first part,

Mr N S P
Athens
PO Box 531

Mary B. Buck

vs

In Chancery

T. J. Thompson, and Reps Williamson Oyster Inspector.

This cause came on this day to be heard on the Bill of the complainant, the separate answers of T. J. Thompson, and Reps Willaimson Oyster Inspector, the depositions of T. J. Thompson, George E. Bunting and others, taken by consent, and was argued by counsel.

On consideration whereof, the court being of the opinion from the evidence in the case, that the plaintiff Mary B. Buck is an actual occupant of the oyster grounds in controversy, and has oysters actually planted thereon, and that she has given the oyster inspector proper notice of her desire to continue to hold the same, and to have the use thereof, and to occupy the same; and being further of the opinion that the defendant T. J. Thompson is not entitled to have the said grounds or any part thereof assigned to him, doth order adjudge and decree that the injunction heretofore granted the plaintiff against the said T. J. Thompson and Reps Williamson Oyster Inspector in this case, be, and the same is hereby made perpetual; and doth further order adjudge and decree that that the plaintiff recover of the said T. J. Thompson her costs by her in this behalf expended; and nothing further remaining to be done in this cause it is ordered that the same be ^{stricken} ~~removed~~ from the docket.

and he received them in good order.

nothing further remaining to be done in this cause it is ordered that the
the said T. J. Thompson pay costs by her in this behalf expended; and
and doth further order adjudge and decree that that the plaintiff recover of
Oyster Inspector in this case he and the same in heretofore made perpetual;

Final Decree
Entered: April, 17,
1901.
White Plains
Entered in Chancery
Order Book No 3 Page 359

Entered in Chancery
Order Book No 3 Page 359

the deposition of W. J. Thompson, George B. Buntline and others taken separately answers of W. J. Thompson and Zepa Willalson OysterInspector, This cause came on this day to be heard on the Bill of the complainant, the

T. J. Trubson and John W. Miller, Obit., Inhabitant.

11

In General,

1213 B. Book

IN THE CIRCUIT COURT OF NANSEMOND COUNTY: NANSEMOND COUNTY, TO-WIT,
2nd. FEBRUARY RULES, 1901.

PEPS WILLIAMSON, OYSTER INSPECTOR
ETC. AND T.J. THOMPSON, -----RESPONDENTS.

ADS. IN CHANCERY.

MARY B. BUCK, -----COMPLAINANT.

The separate answer of T.J. Thompson, one of the defendants to a bill of complaint filed against him and another in the Circuit Court of the County of Nansemond, by Mary B. Buck, Complainant.

This respondent reserving to himself the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as he is advised that it is material he should answer, answers and says that:

True it is that the complainant, Mary B. Buck is the sole owner in fee simple of the large tract of land containing some four hundred (400) or five hundred (500) acres, situated on the Northern or Northwestern side of what is usually called the Western Branch of Nansemond River; that she is a citizen of Nansemond County and the State of Virginia; that the bottom of the said Western Branch of Nansemond River, adjoining the lands of the complainant as aforesaid, are suitable for the planting and propagation of oysters, and that said bottom is not within the "Bailor Survey". It is also true that on the 8th. day of January, 1901, your respondent made application to Peps Williamson Oyster Inspector for Nansemond County, to assign to him, the said T.J. Thompson, Five acres of the oyster planting ground at the mouth of said Western Branch of Nansemond River, and duly posted his notices of said application at the Court House door and at two prominent places or points near said ground, on the same day, according to law.

Your respondent denies:-

1. That the said Western Branch of Nansemond River is less than one hundred (100) yards wide.

2. That said Western Branch is used little for purposes of navigation, but, on the contrary, alleges and avers that said stream is navigable water and is and has for time immemorial, been used for navigation and purposes of commerce.

3. That the bottom of the mouth of said Western Branch has never been looked upon as assignable oyster planting ground or that no oyster inspector for Nansemond County has ever assigned or attempted to assign said grounds.

4. That said oyster grounds are ^{not} a "Natural Rock", that is to say, your respondent does not deny that said ground is not within the "Pailor Survey" and hence is assignable ground, but your respondent clearly charges and avers that said grounds yield oysters naturally and that the spawn of the oyster, by virtue of the suitability of the ground, naturally strikes, grows and propagates thereon; and by reason of this fact, oysters may at all times be found on said grounds whether planted thereon or not.

5. That the complainant has for a long time been using from seven (7) to ten (10) acres of said ground immediately adjoining her said land and being a part of her water front as described in her said bill.

6. Your respondent specifically denies that the complainant is now using or occupying said seven or ten acres of ground or that she now has the same well planted with oysters which have been put thereon by her own labor; but, on the contrary, your respondent avers that what, if any, oysters are upon said ground are the result of nature and nature's growth, and that the complainant seeks to reap ~~the~~ ^{the} fruits of this natural growth to the detriment and injury of your respondent's rights as the first applicant for said grounds.

7. Your respondent particularly denies that he had any knowledge whatever of the complainant's claims, either as owner of the said oyster planting ground or as an occupant thereof, and expressly does he deny that at any time has he been upon said ground and taken or removed any of complainant's oysters, but, on the contrary, he has refrained from going ~~upon~~ ^{upon} said ground and has been careful to keep on the opposite or Eastward side of said river.

8. Your respondent denies that the complainant made application to the inspector of oysters for Nansemond County and posted proper notices thereof, within 30 days after your respondent's application had been filed with said inspector as aforesaid, and your respondent requires strict proof thereof.

9. Your respondent further denies that within 30 days after his application had been filed for an assignment by the Oyster Inspector to him of said 5 acres of said ground, the complainant had the grounds, claimed to be occupied by her, ascertained ~~or~~ ^{and} designated and surveyed and rent paid, as is required by the statute in such case made and provided.

10. Your respondent denies that the complainant will be irretrievably damaged if the application of your respondent to the said Inspector for the assignment to him of the 5 acres of oyster planting ground as aforesaid, is granted him.

11. In fine, your respondent denies that the complainant has any title or right to the oyster planting ground at the mouth of the Western Branch of Nansemond River and adjoining her lands, by reason of her ownership of said lands, except that, as a riparian owner, she is entitled to have assigned her by the Oyster Inspector of Nansemond County, one-half an acre of oyster planting ground contiguous to her said lands; the respondent further denies that the complainant is an occupant of said oyster planting grounds, or any part thereof, within the meaning of the statute in such case made and provided; your respondent avers that he is the first applicant for 5 acres of said oyster planting ground, has fully complied with all the requirements of law as to such application, and is best entitled to an assignment of said grounds from the Oyster Inspector of Nansemond County.

And this respondent denies all fraud, unlawful combination and confederacy; and having fully answered the complainant's bill, prays to be hence dismissed with his reasonable costs by him in this behalf expended, and he will ever pray etc.

Robt. W. Hitchens p.d.

J. J. Thompson
by Robt. W. Hitchens,
his attorney,
Respondent.

Reps. Williamson, Cypher
Inspector of Haverford Co.
and Thos. J. Thompson

ads } In Chancery

Mary B. Buck.

Answer of T. J.
Thompson

2d February Rules
1901.

Robt. H. Witter, p.d.

In the Circuit Court of Nansemond County ;to-wit;

Reps Williamson Oyster Inspector &

T. J. Thompson

ads

Mary B. Buck.

In Chancery .

The separate answer of Reps Williamson Oyster inspector of Nansemond county, one of the defendants to a bill in chancery filed against him and another, in the Circuit court of Nansemond county, by Mary B. Buck complainant .

This respondent reserving to himself the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as he is advised that it is material that he should answer, answers and says :

It is true he is the oyster inspector for the district comprising Nansemond county and the Nansemond river, and the western branch thereof; that Mary B. Buck is the sole owner of a large tract of land situated on the bank of the said western branch of said Nansemond river, as set forth in her bill and opposite the oyster grounds in controversy; it is also true that T. J. Thompson made application to this defendant on or about the 8th day of January 1901, for an assignment to him of five acres of oyster planting grounds in the said western branch of said river; said application was made in the mode prescribed by law as far as this defendant is informed. It is also true that within thirty days from the time of the aforesaid application of the said T. J. Thompson, the said Mary B. Buck made application for an assignment to her of ten acres of oyster planting grounds in said western branch, as set forth in her bill and exhibit, which said ten acres embraced the five acres applied for by the said T. J. Thompson, the said Mary B. Buck claiming that she was an occupant of the said grounds and had oysters actually planted thereon; the said application came to my hands about twenty nine days after the application of said Thompson was filed, and the time left of the thirty days mentioned in the statute was so limited that this defendant found it impossible to reach the county surveyor (who lives many miles from him) and have the said ground surveyed for the said Mary B. Buck within the thirty days. This defendant had before this been informed that Mary B. Buck had oysters planted on the grounds in dispute.

He further says that some two weeks before the said T. J. Thompson made his application as aforesaid, N. S. Buck the father and agent of the said Mary B. Buck, made verbal application to him for said grounds, and said to this defendant, that if the said grounds were State property he wanted to make application for them according to law, and if they were private property, he wanted them for the said Mary B. Buck, that in fact he would prefer paying taxes on them as State property, and this defendant advised him that he was informed, and had always considered and treated said grounds in said western branch as non-assignable grounds; that he had never assigned any grounds in that water, and so far as he knew or was informed no predecessor of his had ever done so, all them regarding the said grounds as belonging to the riparian owners, but he told the said Buck that he would look into the matter and let him know how it stood, and in the meantime that he would consider his application in case he discovered it was assignable ground. This defendant also says that while it is true the law requires all applications to be made in writing and posted, yet it is a fact in common practice for many applications to be made verbally only, when the ground is staked off and surveyed for the verbal applicant. This defendant has no personal interest in this controversy and is only anxious that the law be carried out, and the ground assigned to the true and proper party; that he has had and now has some doubts as to whom it should be assigned, and he feels relieved to think that this honorable court will consider the case in all its bearings, and decide it for him. * And having fully answered he prays to be hence dismissed with his reasonable costs in this behalf expended and he will ever pray & .

Reps. Williamson
Oyster Inspector

* This defendant also says that it is true he never gave the said Mary B. Buck thirty days notice to comply with the law, to pay rent, to remove stakes or to do anything as required by sub section 7 of section 2153 of the code of Virginia as amended but this defendant is of opinion that if he had given such notice to her as required by law she would have promptly and gladly paid the rent and had the ground duly assigned to her, and he believes this from the fact that she had by her agent already offered to rent said grounds provided they were assignable grounds in contemplation of law.

consolidation of law.
offered to read said grounds believing that were admissible grounds in
and he believed that from the fact that the law is not meant to be
travelling and to go all over the world and that the law is not meant to be
it is not given them advice to put on anything at law the world have
of the ends of justice is to be maintained but this defendant is of opinion that
should be to be satisfied as to the law, it is not the law of the land, the law
which things have justice is to be satisfied with the law, so long as justice
This defendant also says that it is true he never saw the said land B.

able courts in this behalf exercised and he will ever keep a

and having fully matured he says to be given dismissed with his reasons
court will consider the case in all its bearings and decide it for him.
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true and proper judge; that has had and he has some doubts as to when it
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it is a fact in common practice. This defendt also says that while it is true
the matter that he would consider his application in case he discovered
that it should look into themselves and let him know how it stood and in
said grounds as belonging to the riparian owners but before the said land
in the presence of his law over done as all then regarding the
newly assigned any grounds in that water and so far as he knew or was
grounds in said western prairie as an assignable grounds; that he had

Answer of
Refs. Williamson

him first he was informed and had always considered and treated said

for paying taxes on them as State property and this defendant advised
only he wanted them for the said land B. Bank, that in fact he would pre-
to make application for them according to law and if they were private pr-
this defendant that in the said grounds were State property he wanted

land B. Bank made verbal application to him for said grounds and said to
his application as if it were N. B. Bank the father and agent of the said
he further says that some two weeks before the said T. J. Thompson made

Suffolk, Va. February 6th, 1901.,

To Mr. Reps Williamson, Oyster Inspector Nansemond County:

Please take notice that I hereby apply for an assignment to me of the following oyster grounds to be used exclusively by me and now occupied by me, for the said purpose, and for the purpose of propagating oysters and planting and cultivating the same. The name of the applicant is Mary B. Buck; the probable number of acres to be applied for is 10 acres; the name of the waters where same is located is the Western Branch of Nansemond River, so called that runs by Reid's Ferry at or near the mouth of said branch thereof; the said grounds are near the mouth of said branch of said river and are now occupied by me as planting grounds; the names of one or more prominent points convenient to said grounds are the Steele farm and the Buck farm, one of said farms being on one side of said river and the other on the other side thereof; the said grounds are now occupied by me, and have been for a number of years, and prior to this time have not been considered assignable ground but private property of the owners of the land on each side of said branch of said river; the said grounds do not include any natural oyster beds. I desire and request that you will immediately and before the 8th day of this month cause the same to be ascertained, designated and surveyed by the proper authorities in person and I hereby tender you rent for the same for the time required by law. But you will please take notice that in making this application I do not waive any legal right that I have ^{may have} as riparian owner or otherwise.

Mary B. Buck

RH Rawley

att'y

Notice of the above applica-
tion is hereby given.

Mary B. Buck

by RH Rawley att'y

To the Honorable Robert R. Prentis, Judge of the Circuit Court of Nansemond County.

Your petitioner, Mary B. Buck respectfully shows to your Honor the following case;

That she is the owner in fee simple of the large tract of land containing some four hundred (400) or five hundred (500) acres, situated on the northern or north-western side of what is usually called the Western Branch of Nansemond river, and small stream that runs by Reid's Ferry in Nansemond County, Virginia.

That your petitioner is herself a citizen and resident of said County and State; that her said land borders on the said stream which is a very narrow one, less than one hundred (100) yards in width, and used but little if any for the purposes of navigation; that while the beds of said stream are suitable in some respects for planting oysters, they have never been looked upon by the authorities or by any other person as assignable oyster grounds within the meaning and purview of the statute; that the oyster inspector of this county nor any of his predecessors have ~~never~~ ^{attempted} heretofore assigned or appointed to ~~be~~ assigned any of the said grounds for the purpose of planting, cultivating or propogating oysters, and especially the water front along your petitioner's land; but that on the contrary, all of the beds of this stream have always heretofore been looked upon, treated and considered as the private property of the riparian owner of the land bordering on said stream; that the said grounds are not included in the "Baylor survey" and are therefore not ^{natural} oyster beds or rocks. That following the usual custom which has always obtained as to these grounds, your petitioner has for a long time past been using from seven(7) to ten (10) acres of said ground immediately adjoining her said land and being a part of her water front; said ground so occupied by her being located in what is known as Western Branch of Nansemond River and near the mouth thereof, and that one or more prominent points convenient to said grounds are the Steele farm and the Buck farm.

Your petitioner further says that she is now occupying and using the said tract of 7 or 10 acres of said oyster grounds for the purpose of planting oysters thereon; that she has said grounds now well

planted with oysters which were put there by her own labors and which she considers as her private property.

Your petitioner further says that notwithstanding this well known fact, one T. J. Thompson on or about the 10th day of Jan. 1901 filed with Reps. Williamson who is the present oyster inspector for the district including Nansemond county and Nansemond river, an application for this very ground, praying that they be assigned to him; notwithstanding the fact that he well knew of the above facts and that the said grounds were occupied by your petitioner who had oysters actually planted thereon, and that without waiting for said assignment to be made to him, the said T. J. Thompson has now and has for sometime been taking removing and carrying off ~~here~~, said oysters planted on your petitioner's grounds.

Your petitioner further says that after the said application had been made by the said T. J. Thompson to the said inspector for an assignment of said grounds, your petitioner while she had always been informed and considered the said grounds as her private property, nevertheless not wishing to lose possession of them by any laches on her part, did within 30 days after the said T. J. Thompson had filed his said petition to wit;

1901

On the 6th day of Feb. ^ file her petition and application with the said Reps Williamson inspector as aforesaid for an assignment to her of said grounds and did ask that they be staked off, surveyed, a plat made of the same and duly assigned to her as one having the first legal right to hold and claim the same as a actual occupant, and did tender to the said Reps Williamson, inspector the rent for said grounds for one year in advance as prescribed by law, a copy of which said application so made by her is herewith filed and marked Exhibit "A" and prayed to be read as a part of this bill.

She further says that notwithstanding these facts, she is informed that the said inspector Reps Williamson has had the said ground surveyed for the said T. J. Thompson and is now about to assign the same to him, the said T. J. Thompson, under his application, thus ignoring your petitioner and all her legal rights which she has by virtue of her occupancy ^{and application.} Your petitioner admits that she has never paid any rent

heretofore for said grounds because it has never been considered by the proper authorities as public ground, and that being the occupant and having oysters actually planted thereon, she is now ready and willing to pay the said rent thereon for the said tract of 7 or 10 acres.

She further says that the said inspector has never served notice on her as a occupant, giving her 30 days to comply with the law or giving her an opportunity to rent the said grounds if she so desired; that he has never notified her to remove any stakes or land marks, marking her land as ~~he~~ ^{she} is required by law to do, and she is informed and believes and therefore charges that in-as-much as she is an occupant of said ground, the said inspector has no right under the law to assign the said grounds so occupied by her to any other person without first giving her due and legal notice to comply with the law according to the statute in such case made and provided.

Your petitioner further states that she will be irretrievably damaged, and caused and made to sustain great loss if she is now deprived of said ground and her oysters thereon by the act of the said inspector in assigning the same to the said T. J. Thompson.

She further says that when she filed her said application with the oyster inspector for the said ground, she posted a copy of the same at the front door of the court house of Nansemond county and also at two conspicuous places near said grounds.

She is further informed that unless prevented by your writ of injunction the said Reps. Williamson will set apart, designate and assign the aforesaid oyster planting grounds to the said T. J. Thompson in total disregard of the petitioner's rights and contrary to the law in such case made and provided ~~for~~. ⁱⁿ As much therefore as your petitioner is remediless

in the premises save by aid of a court of equity where all such matters are alone and properly cognizable, your petitioner prays that your Honor will issue your writ of injunction directed to the said Reps Williamson inspector of the oysters, enjoining and restraining him and all of his deputies, agents, servants or other persons from assigning or attempting to assign the above described oyster planting ground or any part thereof to T. J. Thompson, his agents, assigns or to any other person not lawfully entitled thereto, and ^{to} the said T. J. Thompson restraining him from using, occupying or removing any oysters from said grounds or in any manner

Defendant to this writ and is under an answer merely

Reps Williamson opter Inspector, and T. J. Thompson may

made further defendant to answer to

trespassing on the same or interfering with the same until the further order of the Circuit Court of Nansemond County or the Judge thereof in *and for all such general relief as her case may require* vacation, and your petitioner will ever pray &c.

Mary B. Buck.

RA Rawles Jg.

Virginia, Nansemond County, to wit;

I *RA Rawles in said State* a Notary Public for the county aforesaid do hereby certify that Mary B. Buck whose name is signed to the writing above this day appeared before me in my county aforesaid and being sworn, makes oath and says that the statements made in the above writing, which she states as coming of her own knowledge, are true, and that all other statements made on knowledge or information obtained from others she believes to be true.

Witness my hand this *15th* day of Feb. 1901.

RA Rawles
N.D.

Mary B Buck
against In Chancery
Reps Williamson & others

1901 Feby 16th. Process issued returnable to
Gebruons rules Third Monday

" " 28th Process returned executed on
defendants

Bill filed and decree^{nise} against
said defendants

" March 4th. Decree^{nise} confirmed and cause
set for hearing.

Chancery
Notes

May 10 Duck

vs. In Chancery

Reps Williamson Cyster

Inspector and others

1901

April 17th

Final Decree

Costs

Clerk \$6.13

Shuff \$2.00

Tax \$1.50

Atty \$5.00

\$14.63

To the Clerk of the Circuit
Court of Nassau County
County:

May B. Buck

Plff

^{vs}
Reps William
Oyster Inspector &
T. J. Thompson

Defts

Issue summons in chancery
to 2nd Feb. rule (3rd Monday)
1901 for plaintiff or defendants
to answer a Bill in chancery.
Issue injunction order.
With tax \$1.50 paid.

RH Rawls

Per

Memo.

Feb 16,

Mr. Garner:-

Please file this
suit in chancery and cause
injunctions vs Rife Williamson
Oyster Inspector, & J. J. Thompson.
Mrs Buck was for the
mit try \$150 and
give the bond with J. A.
Little as surety. She owns
farm worth \$4000.⁰⁰ she
owns considerable real estate.
I am forer today.

Tax \$150 pd.

Yours truly
R H Rawles

COMMONWEALTH OF VIRGINIA;)

To A.H.Baker, Sheriff of the County of Nansemond, Greeting:

We command you to summon Ned Hicks, if he be found in the County of Nansemond, to appear at the office of R.H.Rawles in Suffolk in said County at the hour of 10:30 A.M. on the 27th day of March, 1901 before me a Notary Public for said County and there to testify in behalf of T.J.Thompson in a certain suit pending in our Circuit court wherein Mary P.Fuck is Complainant and T.J.Thompson and other are defendants. And that you then and there make return of this summons.

Given under my hand this 25th day of March, 1901.

A Copy: Teste.

Robt. W. Withers

Notary Public.

Execution by delivering a true copy hereof to
the wife of Neil Hicks, he not being at his
usual place of abode, let she was then
and I explained its purport to her, on
the 26 day of March 1801 in my County
of record.

TO THE HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES:
IN SENATE CHAMBERS, WASHINGTON, D. C., JANUARY 1, 1901.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS

Paterson Jones
Benjamin Buck, Henry Booker, Ned
Hicks, John Bowers

RA Rawls Notary Public; his office in Suffolk
to appear before the Judge of the County Court of Nansemond County, at the Courthouse of said County, on the
day of *March* 1891, to testify and the truth to say on behalf of.....

Many B. Buck
in Circuit
in a certain matter of controversy in our said Court depending and undetermined between.....

Many B. Buck
and *J. J. Thompson & Ruf Williamson* Plaintiff...,
Defendant.

And this the witness shall in no wise omit, under the penalty of \$100 each. And have then and there this summons.

WITNESS, *RA Rawls N.P.*
in the 12 year of the Commonwealth, this *9* day of *March* 1891.

RA Rawls N.P.
Clerk

Original

Executed the 11th day
of March 1901 by Sealing
a true Copy of the
within Subpoena on
Patron Thomas Henry
Brooker & Ned Hicks
in person

R. E. Noyes
To Attn. Clerk

Nansemond
County Court

In The Circuit Court of Nansemond
County, To Wit:

In Vacation, February 15th. 1901.

Mary B. Buck

vs } In Chancery
Reps. Williamson Oyster Inspector
+ J. J. Thompson

On motion of the petitioner an injunction is awarded her, enjoining and restraining the said Reps. Williamson, Oyster Inspector, for Nansemond County, and all his deputies, servants, agents and other persons from assigning or attempting to assign the oyster grounds comprising from 7 to 10 acres situated in what is called the Western Branch of the Nansemond river, opposite the land of Mary B. Buck and near the mouth of the said branch of said river, being the same land or ground mentioned in the bill in this case, or any part thereof, to J. J. Thompson, his agents, assigns or any other person not lawfully entitled thereto, and restraining the said J. J. Thompson, his agents or servants from taking or removing any oysters from said ground or

any part thereof, or in any manner trespassing on said ground or interfering with the same until the further order of the Circuit Court of Nansemond County or the Judge thereof in vacation. But before the petitioner shall have benefit of this injunction order, she or some one for her shall enter into a bond in the penal sum of \$150. - payable to the Commonwealth and conditioned to pay all such costs as may be awarded against her, and all such damages as may be incurred in case this injunction shall be dissolved, and the said petitioner shall give security in the said bond, deemed sufficient by the clerk of this court.

Robert R. Prentiss

To the Clerk of the Circuit
Court of Nansemond County.

A Copy Teste

A. P. Gomer Clerk

I A. P. Gomer Clerk of the Circuit Court for the County of Nansemond do hereby certify that the bond required by the above injunction order has been given with security deemed sufficient by me.

February the 16th 1901

Teste: A. P. Gomer Clerk

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Keps Williamson
Oyster Inspector & T. J. Thompson

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 *Third* Monday in *February 1901*, to answer

a Bill in Chancery, exhibited against *them*
in the said Court by *Mary B. Buck*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *16th* day of
February, *1901*, in the 125th year of the Commonwealth.

A copy—Teste:

CLERK.

Teste:

CLERK.

R N Rawles p. q.

Mary B Buck

vs. } In Chancery.
Reps Williamson
Oyster Inspector &
S J Thompson

1901

February Rules.

Third Monday.

Nansemond Circuit Court.

Process Book No. 21

Page 205

Executed this 16th day of February, 1901, by delivering a true copy
of the within process, to Reps Williamson and S J Thompson
with a view of inflicting a lien, in person.
J E Norplant. Atty
For Atty Baker. 5/14/01

Know All Men by These Presents, That we, Mary B Buck
and J Frank Little

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full
sum of One hundred and fifty DOLLARS,
to the payment whereof, well and truly to be made to the said Commonwealth, we bind ourselves,
and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly
by these presents.

And we waive the benefit of our exemption as to this obligation, and also waive any claim or
right to discharge any liability to the said Commonwealth arising under this bond, or by virtue of
the office, post or trust herein mentioned, with coupons detached from bonds of said Commonwealth.

Sealed with our seals, and dated this 16th day of February in the year
of our Lord one thousand ~~eight~~ ^{nine} hundred and one, and in the 125th year
of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas an

injunction is awarded in a bill in chancery filed in vacation in the
Circuit Court of Nansemond County in the case of Mary B Buck Complainant
against Reps Williamson Cyster Inspector and J Thompson defendants; the said
defendants Reps Williamson Cyster Inspector as aforesaid and all his deputies
servants agents or other persons are enjoined from assigning or attempting
to assign the Cyster grounds comprising from 7 to 10 acres situated in what
is called the Western Branch of Nansemond river opposite the land of Mary
B Buck near the mouth of the said branch being the same ground mentioned in
the bill in this case or any part thereof J Thompson his agents assigns
or any other person not lawfully entitled thereto and restraining the said
J Thompson his agents or assigns or any other person not lawfully entitled
thereto and restraining the said J Thompson his agents or servants from
taking or removing any cyster from said ground or any part thereof
or in any manner trespassing on said ground or any part thereof and
from interfering with the same until the further order of the Circuit Court
of Nansemond County or the judge thereof in vacation
But before the petitioner shall have the benefit of this injunction can
she or some one for her shall enter into a bond in the penal sum
of \$500 payable to the Commonwealth and conditioned to pay all such
costs as may be awarded against her and all such damages as
may be incurred in case this injunction shall be dissolved and
the said petitioner shall give security in the bond deemed sufficient
by the Clerk of this Court and to pay all such costs and damages as
may be incurred in case this injunction shall be dissolved then
this obligation is to be void otherwise to remain in full force and
effect

Mary B Buck
J F Little

SEAL

SEAL

SEAL

SEAL

SEAL

In the office of the Clerk of the Circuit Court of Nansemond County, on the
16th day of February 1901 1890

The above bond was executed and acknowledged by the obligors (the surety Y justifying
on oath as to his sufficiency) and recorded.

Teste:

A copy

Teste:

A P Gomez
clerk

A P Gomez

CLERK.

Mary B Buck
To Injunction Bond
The Commonwealth.

1901

Feb 16th

Recorded in Bond
Book No 1 Page 238

Attest

R. H. RAWLES,
ATTORNEY AT LAW AND NOTARY PUBLIC,
SUFFOLK, VA.

BELL PHONE NO. 88.

PRACTICES IN ALL STATE AND
FEDERAL COURTS.

April - 17 - 1901.

Hon. R R. Prentiss :-

Dear Sir :-

I submitted this document to Mr. Wickes in his office. He said he had no suggestions or amendments to make, and thought it was in proper form. I will thank you to enter same.

Very Respectfully

R. H. Rawles.

Hon. R. R. Prentiss,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY TO WIT;

In vacation, February 15th. 1901.

Mary B. Buck

vs

In Chancery

Reps Williamson oyster inspector &
T. J. Thompson.

On motion of the petitioner an injunction is awarded her, en-
joining and restraining the said Reps Williamson, oyster inspector, for
Nansemond County and all his deputies, servants, agents and other persons
from assigning or attempting to assign the oyster grounds comprising from
7 to 10 acres situated in what is called the Western Branch of the Nanse-
mond river, opposite the land of Mary B. Buck and near the mouth of the
said branch of said river, being the same land or ground mentioned in the
bill in this case, or any part thereof, to T. J. Thompson, his agents, as-
signs or any other person not lawfully entitled thereto, and restraining
the said T. J. Thompson, his agents or servants from ^{taking} ~~cultivating~~ or re-
moving any oysters from said ground or any part thereof, or in any manner
trespassing on said ground or interfering with the same until the further
order of the Circuit court of Nansemond County or the Judge thereof in
vacation. But before the petitioner shall have benefit of this in-
junction order, she or someone for her shall enter into a bond in ~~which~~
the penal sum of \$150. — payable to the Commonwealth and conditioned
to pay all such costs as ^{may} ~~shall~~ be awarded against her, and all such
damages as ^{may} ~~shall~~ be incurred by ~~any one by reason of this injunction~~
^{in case} ~~should~~ this injunction ^{shall} be dissolved, and the said petitioner shall give
security in the said bond, deemed sufficient by the clerk of this court.

To the Clerk of the
Circuit Court of
Nansemond County:

Robert R. Phillips

Bur we claim more than this .

Under the 3rd section she ought to have been given notice by the Inspector . Until this notice is given and she refuses to rent it cannot be rented to another .

The defendant never planted an oyster there .

Tries to prove planted oysters will not live yet ask for this as oyster planting ground.

Who tried to protect this ground ? Who led the men all in ; hos witnesses

Always applies for grounds already occupied and improved .

Baylor's survey conclusive testimony as to whether any ground is natural rock or or .

Acts 1891--2 .Page 817

All the Acts as to assignment approved same day.

1893-4 778 842.

NOTES /

The condition of affairs as to this ground for several years past.

Always considered private ground and not assignable. Why so ?

The old law as to 100 yards wide.

All the people as well as all the officers seemed to think the old law still in force and acted accordingly.

The people kept out ; the officers refused to assign.

Is she a bona fide occupant? Has she established her right to priority of assignment ?

How she came in possession of it . From Ben Buck ?

Been staked in for 6 or 7 years. Planted oysters there repeatedly. Ned Hicks 26 ; Patson Townes 30 . Furman 76; Self from Hicks 215; other scattering amounts at different times.

The 200 bushel jag were bought with her money.

Deans staked in but gave up on her account. Old Daniel Bell ; never had 400 bushels . Could not prove by a single witness this fact.

Neither Bunting nor Steele knew of it and Steele does not believe

TIS ESTABLISHES SHE WAS AN OCCUPANT/

Her applications .

Verbal to Williamson in 1900 ; Verbal to Ames .

Verbal to Williamson two weeks before Defendant.

Made to E. E. Holland . Did all she could.

Did all the law require her to do .

THE DIFFERENT SECTIONS.

The Duty of the Inspector to have this work done

EVIDENCE.

Thompson ; It may have been used or claimed by land owners . Ben Buck had some planted there . After the Baylor survey all parties stopped working there as the land owners claimed the ground. I never planted any oysters there . I did not within four months after the Baylor survey seek to have it declared natural rock . The officers thought it belonged to the land owners . The Bucks staked off the ground when the 76 bushels were planted . Page 5 .

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX X

Bunting ; Ben Buck staked it off 5 or 6 years ago and it has been staked off ever since . I have never seen any one else put stakes there . Never knew any one else to put oysters there but Buck . It is 64 yards wide at the mouth from low water to low water . Oysters will live there ; but probably not two or three miles up the river .

Booker ; Buck has been occupying these grounds for 5 or 6 years . ; Ben Buck staked it in 6 or 7 years ago . I helped Buck plant 20 bushels there . Furman planted about 76 tubs there for Buck . Some of the oysters I took up were plants . I have taken up 198 bushels from this ground . The oysters that I sold I got from below these grounds . I warned people to keep off these grounds . I did not tell Matthews to get all he wanted from here .

Townes ; I helped to plant 30 bushels there about 6 years ago . Helped Buck plant these .

Bowers ; The oysters I took up from there were some of them plants . It is sometimes difficult to tell a natural rock from a plant .

Steele ; Buck had it staked in 5 or 6 years ago . I never knew Bell to plant any there and I do not believe he did plant any there . I gave Buck my permission to use my side of the creek . Always considered it private ground .

Ben Buck

Ben Buck;

I represented my sister . I gave my sister all my interest in the oysters when I went west. The 200 bushel plant were hers because they were bought with her money. I have staked in this ground 5 or 6 times and have kept it staked in for the last 5 or 6 years. There were in the Furman plant 76 bushels ; 25 bushels in the Booker plant ; about 25v in the Ned Hicks plant; about 215 in the Plant bought of Ned Hicks;nearly 350 I made verbal application in September 1900 to Reps Williamson he said he would look into the matter and if it was assignable ground he would consider my application. My father made verbal application to him about two weeks before Thompson made his application and was told same thing .. Also made application formerly to John Wesley Ames ;he said same thing . That he could not assign it ; it belonged to the adjoining land owners.

ADMISSION OF WILLIAMSON

He applied to me verbally for the grounds ; told him I would look into the matter and if assignable ground I would consider his application. He said he would rather rent and pay for it than to hold on other grounds.

Testimony of George Matthews and others taken with consent of all parties at the office of R. H. Rawles in Suffolk, Va. to be read as evidence in behalf of the defendant, T. J. Thompson in the suit pending in the Circuit Court of Nansemond County, wherein Mary B. Buck is complainant, and T. J. Thompson and others are defendants, notice of time and place for taking said depositions being waved by all parties, as are also the signatures of the several witnesses present.

R. H. Rawles, Counsel for Complainant.

R. W. Withers, Counsel for Defendant.

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George Matthews being duly sworn, depose and says.

Ques. 1- What is your name, age, residence, occupation, and do you know the parties in this suit?

Ans. George Matthews, age 18, residence Suffolk, oysterman, yes.

Ques. 2- Have you ever oystered in the Western Branch of Nansemond River, if so when.

Ans. In the last three weeks.

Ques. 3- Can you tell a natural oyster from a planted oyster?

Ans. I can sir.

Ques. 4- How long in your life have you been oystering?

Ans. Between 11 and 12 years.

Ques. 5- What kind of oysters were those caught by you in the Western Branch?

Ans. Natural strikes or rocks.

Ques. 6- Did you find any plants there at all?

Ans. I did not.

Ques. 7- Did you see Henry Booker oystering on this ground?

Ans. Yes sir.

Ques. 8- Was he in the creek or in the river?

Ans. He was in Western Branch creek.

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Cross Examination.

Ques. Had you not heard that many oysters had been planted on that particular ground?

Ans. Well sir I have heard that they were planted there by Furman. I didn't see any or didn't catch any of them.

Ques. Did you ever see T. J. Johnson oystering on these grounds?

Ans. No sir I have not.

Ques. Do you know whether he has oystered there this year?

Ans. No sir, I do not, to my knowledge.

Ques. Had you not heard him say that he had been oystering there.

Ans. Yes sir.

Ques. Did he tell you why he stopped?

Ans. No sir he did not, if he did he didn't tell me.

Ques. Was he not encouraging the public generally to go upon these grounds and oyster, and did he not tell many oystermen that they had as much right to oyster there as any one else did?

Ans. I never did sir.

Charlie H. Mathews.

Ques. 1- What is your name, age, residence, occupation, and do you know the parties in this suit.

Ans. Chas. H. Matthews, 22, Suffolk, oysterman, yes.

Ques. 2- Have you ever caught any oysters in the Western Branch of Nansemond River?

Ans. Yes sir.

Ques. 3- Who was with you?

Ans. Willie Robinson.

Ques. 4- How long have you been oystering in your life?

Ans. I have been oystering about 15 years, off and on.

Ques. 5- Can you tell a planted oyster from a natural strike oyster?

Ans. I certainly can.

Ques. 6- What kind were the oysters you caught in this branch?

Ans. All rocks.

Ques. 7- As an expert do you think that oysters planted in this branch which had been caught in James River ~~are put~~ ^{or on} in the Nansemond Ridge would live in this water?

Ans. I know they would not live.

Ques. 8- Why would they not live?

Ans. The water is too fresh.

Ques. 9- Did you ever catch in this branch any planted oysters or shells of any planted oysters?

Ans. I struck a patch of shells there, they, I suppose had been planted there and died.

Ques. 10- Could you tell about where this patch of shells ^{was} ~~were~~?

Ans. I could show anybody where it was, it was in Mr. Bucks ground on the right hand side going in.

Ques. 11- When you first went upon this ground with Willie Robertson did you see Henry Booker, if so please state what Henry Booker said to you at that time.

Ans. He come in and he said, "look here you God damn fellows, I am getting tired of you coming in here" and I said "Look here negro, if I am violating the law, go and have me arrested, but you don't cuss at me."

Then he went ashore and went to Mr. Steele's. Mr. Steele came down. Don't recollect what he said, it didn't amount to much, and went back, and Booker came aboard my boat. He came down in the cabin, says, "Mr. Matthews, I am put here to scare everybody out I can, but I see I cant scare you out, and so you all go ahead and go to work and make out like you're going to give me one half of the oysters, and keep the rest of the sons of bitches out of here!" He went ashore to get his gun, and he come down and told Ben Jackson if he dropped his tongs overboard there, he would kill him, but Ben didn't believe it and dropped them over. So then he sent his boy to Reid's Ferry and got a pint of whiskey and gave all the boys a drink. ~~He~~ told ^{us} ~~them~~ that ^{Buck} ~~Booker~~ had'nt planted a tub full of oysters there, and then says "Boys do like I am doing, go ahead and catch every damn one you can, but don't bring no bigger crowd down than you can help, just get them yourselves."

Ques. I2- Did Booker tell you how he was oystering?

Ans. He told me that the oysters were his, what was there.

Ques. I3- Who was with you at this time.

Ans. ~~Mr. Willie Robertson~~

Ques. I4- Did you ever see ^{Mr. Buck} ~~Henry Booker~~ plant any oysters here?

Ans. I did not.

Ques. I5- Was Henry Booker in the creek at this time?

Ans. Yes sir, he was working there.

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Cross Examination.

Ques. Did you ever experiment in taking up James River oysters and planting them in the Western Branch.

Ans. Mr. George Bunting or his father planted one hundred bushels right in the neighborhood of this ground, and they did not live six months. Capt. Pete Smith planted some close there in the river, and they did not live.

Ques. Did you see Mr. Bunting plant the oysters there?

Ans. Mr. George Bunting says his father planted them.

Ques. Do you know what caused them to die?

Ans. Yes sir, fresh water. They have freshets in there and it will certainly kill them, but if they are natural strike oysters then they will live.

Ques. When you told Henry Booker to have you arrested, did he have you arrested?

Ans. No, He did not do it.

Ques. Did anyone have you arrested?

Ans. No one had me arrested.

Ques. Did they have the Capt. of the boat arrested?

Ans. They had him up for working on Mr. Steele's ground. That is also in Western Branch. They had a warrant from Mr. Buck, but did not do anything with it.

Ques. Was the Capt. of the boat this Willie Robertson you spoke of and was he fined?

Ans. Yes, \$17.50 but he refused to pay it.

The last four preceeding questions are objected to by counsel for defendant upon the ground that it is res inter alios acta.

Ques. Did he have anybody else arrested?

Ans. Yes sir, he had Daniel Jordan arrested and Daniel Bell. This was also on Mr. Steele's ground.

Ques. Is it not a fact that you all were warned to keep off all this ground in the Western Branch.

Ans. I was not.

Ques. When did you begin to oyster in Western Branch?

Ans. Do not remember, but it was something like three weeks ago.

Ques. Why was it that you and the others made a rush for this ground about three weeks ago, when for years you had been keeping off it.

Ans. There had'nt been anybody working there for so long that it is good working now.

~~Ques.~~ Is it natural rock, you can catch a stone as big as your head with four or five or six oysters stuck on it?

Ans. *This* ~~It~~ indicates natural ^{rock} ~~Such~~ ^{oysters} ~~has~~ never been know to be planted.

Ques. Did not the same state of affairs exist there last year.

Ans. I did not know it and did not go there last year.

Ques. Why?

ans. Well I did'nt think it was worth while.

Ques. It is not a fact that Mr. T. J. Thompson within the last three weeks has encouraged you and many other oystermen to go into this Western Branch and get all of the oysters you could?

Ans. No Sir.

Ques. Did he not tell you that you had as much right there as any one.

Ans. Yes Sir.

Ques. Was not this incouraging you to go there.

Ans. No sir.

Ques. Did you think of going there until he had told you that there were fine oysters there?

Ans. Yes sir, I was in there long before he told me.

Ques. Have you ever seen him in there oystering?

Ans. I have not.

Ques. Have you ever seen any of his men in there oystering?

Ans. No sir I have not.

Ques. Do you know why he stopped oystering there?

Ans. I heard there was a reason.

Ques. Do you not know that Mr. or Miss Buck have within the last ^{few} year planted or caused to be planted ^{oysters} on this ground by Furman, Hicks, himself, and others.

Ans. No I didn't know it.

Ques. Have you not heard?

Ans. I have heard it, I heard that statement that George just made.

Ques. Did you have any reason to doubt it?

Ans. Not at all.

Ques. Is it not a fact that the oystermen in this section have not been oystering in the Western Branch until this year?

Ans. I don't know of any one that has worked there till recently?

Ques. Is it not a fact that the said oystermen have for the last few years generally considered the Western Branch as private grounds.

Ans. I have not heard it before, until we commenced working there last week.

Ques. Then why was it that you all stayed out of these waters during all these years.

Ans. Well we just didn't know that oysters had stuck there like they had.

Ques. When did you first find this out?

Ans. Well they commenced bringing them here, and commenced telling me about it.

Willie Robertson.

Ques. 12 What is your name, age residence, occupation, and do you

know the parties in this suit.

Ans. Willie Robertson, 22, Suffolk, oysterman, I know Mr. T. J. Thompson and Mr. Reps Williamson, do not know Miss Buck.

Ques. 2- Have you ever oystered in the Western Branch of Nansemond River, if so ~~which~~?whom?

Ans. Yes Sir, with Mr. Charlie Matthews.

Ques. 3- How long have you been oystering in your life?

Ans. About eight years.

Ques. 4- Do you know a natural strike oyster from a plant?

Ans. Yes sir.

Ques. 5- What kind were the oysters you caught in this branch?

Ans. Natural growth.

Ques. 6- Did you see Henry Booker when you and Mr. Matthews were oystering in this branch, if so please state what occurred between you?

Ans. Well I dont know any more than what Mr. Matthews just told about that. When he came in the creek he rowed up there to us and said, "Look here I am getting God damn tired of you fellows going in here and carrying them oysters away;" and then Mr. Matthews said, "Look here negro dont you be cussing at me" and he said "if I am violating the law, go and have me arrested." Then he went up close to the marsh and went to Mr. Steele's, and he and Mr. Steele came down. Could not remember what Mr. Steele said. Then Mr. Steele went back home and Henry came aboard and told us to "go ahead and catch these oysters, that we had as much right to catch them as he did." He told us not to tell no one else, and he said that he was going to drive all the rest out, after he found that he could not scare us away. Then he went up to the house to get his gun to scare old man Daniel Bell out of the oyster and as he came down the creek old man Daniel asked him if he had come to shoot him. He said, "I mean business, and

old man Jackson was coming on, and he rowed up there and asked him where he was coming. He said that he was coming up there to catch oysters, and he told him that if he dropped his tongs overboard he would kill him. Jackson didn't believe that he would do it and threw his tongs overboard. Then he said, "Go ahead boys and catch them? You have perfect right to catch them as I have." He sent to Reid's Ferry to get a pint of whiskey and gave us all some of it? That's all I know.

Ques. 7- Did Booker say who he was catching oysters for?

Ans. He told us that he was catching them for himself.

Ques. 8- Did Booker say whether or not Mr. Buck had planted oysters there.

Ans. He said he did not.

Ques. 9- Did you see the dead oysters or shells Mr. Matthews spoke of.

Ans. Yes sir.

Ques. 10- Have you ever know Mr. Buck or any of his people to plant any oysters in this Branch?

Ans. No sir.

Ques. 11- Was Booker oystering in this creek when you were.

Ans. Yes sir.

-----O-----

Cross Examination.

Ques. How long have you been oystering in the Western Branch?

Ans. I only oystered there part of two days this year.

Ques. Why is it you did not oyster there last year and year before last?

Ans. because I was working for other firms.

Ques. Please tell us why it was that a few weeks ago that you all made up your minds that you would swarm down on this Western Branch for the first time.

Ans. I just knew that the rock was there.

Ques. When did you find out it was there.

Ans. When I went there to work. Mr. Matthews told me it was there and other oystermen.

Ques. But all of you including Mr. Matthews had kept off this ground in former years, had you not?

Ans. Yes Sir, I kept off of it because I didn't know that it was there, and because I was working for other firms.

Ques. Do you know anything about the Baylor survey?

Ans. Yes sir.

Ques. You say that when you first went on this ground that Booker warned you off, is this true?

Ans. No he did not.

Ques. Did he not ask you when you first came on the boat, and what you were doing there.

Ans. Well he said that he was getting tired of our oystering there

Ques. Then if I understand you correctly Booker first tried to frighten you off, and failing in this he gave you free licence to take all the oysters you wanted, is that correct?

Ans. That is what he told me.

Ques. You mean that is what he told you and Matthews?

Ans. Yes sir.

Ques. But he said that he did not want anybody else to find this out, did he not?

Ans. Yes sir.

Ques. But still he afterwards told Bell and Jackson the same thing?

Ans. Yes sir.

Ques. You say he threatened to shoot Jackson?

Ans. Yes.

Ques. You say that Jackson did not believe he would shoot him?

Ans. Yes.

Ques. Did you hear Jackson say this?

Ans. Yes.

Ques. Were you arrested in any part of Western Branch?

Ans. Yes sir.

Ques. Were you fined?

Ans. Yes Sir.

Ques. How much?

Ans. \$17.50

Ques. Did the boat belong to you?

Ans. No sir.

Ques. Did the officer try to collect the fine?

Ans. Yes sir, I didn't have it.

Ques. Is that the reason you didn't pay?

Ans. Yes.

Ques. What is the number of your oyster license?

Ans. I don't know exactly what is the number, I could tell you when I go home and get them.

Ques. Have you an oyster lisence?

Ans. Yes sir.

-----O-----
Read Direct Examination.

Ques. When you were arrested and fined for oystering on what ground was it imposed.

Ans. Mr. Steele's.

Ques. Then it was not for oystering upon any ground claimed by the Buck's?

Ans. No sir.

Ques. When Booker told you and Matthews and Bell and Jackson and others that he did not want you oystering on that ground, did he tell you why he did not want you?

Ans. He said because they were his lysters.

Ques. Did any one because of his threats leave the ground?

Ans. Yes sir.

Ques. Who?

Ans. Old man Daniel Bell.

Ques. Is not Mr. Steele's farm on one side of this creek, and Miss Buck's farm on the other side?

Ans. I do not know whose farm it is.

Ques. Then how do you know that you were on Mr. Steele's ground?

Ans. That is what he told me.

Ques. Is there not a warrant now standing against you for oystering on Miss Buck's ground.

Ans. Not as I know of.

John Parsons.

Ques. 1- What is your name, age residence, occupation, and do you know the parties in this suit?

Ans. John Parsons, 37, Reid's Ferry, engineer, I do not know Miss Buck, I know Mr. Thompson.

Ques. Did you reside at Reid's Ferry during the last winter and fall?

Ans. Yes sir.

Ques. What was your occupation there?

Ans. Engineer and machinest.^f for Nansemond Brick & Tile Co.

Ques. Do you know Henry Booker?

Ans. Yes sir.

Ques. Have you ever bought oysters from Henry Booker?

Ans. Yes sir.

Ques. How many?

Ans. Well I could not say, I only bought them for my table, some weeks a quart, some weeks two, some weeks a bushel, and some weeks one half a bushel.

Ques. In all how many would you estimate that you bought from him?

Ans. All told I don't think I bought over ten bushels or in the neighborhood thereof.

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Cross Examination.

Ques. Do you know whether he got these oysters in the Western Branch or just at the mouth of the Branch where it enters Nansemond River?

Ans. I do not know.

Charles Artis.

Ques. What is your name, age, residence, occupation, and do you know the parties in this suit?

Ans. Charles Artis, 21, Reids Ferry, farming and boating together know the parties.

Ques. Can you tell a natural oyster from a palnt?

Ans. Yes, I suppose I can.

Ques. Did you ever catch any oysters or help to catch any in the Western Branch of Nansemond River?

Ans. I helped to catch some there.

Ques. What kind were they?

Ans. As far as I can see and tell they were natural rock.

Cross Examination.

Ques. Did I understand you to say that you are engaged in ~~farming~~.

Ans. Yes sir, and boating together.

Ques. What do you mean by boating.?

Ans. I farm in the summer and go on the river in the fall.

Ques. What is the difference between a natural rock and a planted oyster?

Ans. The difference is ^{plants} ~~they~~ are pretty much singular, the natural rock sticks about on shells, rocks, and anything at the bottom of the river.

Ques. What is the number of your license?

Ans. I have none sir, I was only oystering on wages, I never have bought any.

Ques. For whom?

Ans. For different people.

Ques. About how many oysters would you catch at a time in the Western Branch?

Ans. I could not tell.

The depositions of W. J. Sullivan and others taken at the office of R. H. Rawles in Suffolk Virginia on the 28th day of March, 1901 by consent of all parties to be read as evidence in behalf of Mary B. Buck in a chancery suit depending in the circuit court of Nansemond county, wherein Mary B. Buck is complainant and T. J. Thompson and others are defendants.

R. H. Rawles, counsel for complainant.

Present:-

R. W. Withers, counsel for defendant.

W. J. Sullivan being duly sworn, deposes and says as follows;

Q. 1- What is your name, age, residence, occupation and do you know the parties to this suit?

Ans. W. J. Sullivan, 38 years, Suffolk, Va. I have been an oysterman and Capt. of an oyster boat nearly all my life, and I know the parties to this suit.

Q. 2- Do you know the sloop called the Edna B?

Ans. I do.

Q. 3- Do you know the waters known as the Western Branch of the Nansemond river?

Ans. I do.

Q. 4- Will you state whether or not you have ever seen the sloop Edna B. anchored in this water and if so, what those on board of her appeared to be doing?

Ans. I have seen her anchored in there and they were shoveling something, oysters or shells over-board. That was about 3 years ago or perhaps longer.

Q. 5- To whom did the Edna B. belong at that time?

Ans. I think to Mr. N. S. Buck.

Q. 6- Will you please state anything you may know in reference to Mr. B. W. Buck having brought this sloop up to Suffolk and delivered her to you, and if so, whether it was loaded or empty, and what appeared to be its condition?

Ans. The boat was empty when she came to Suffolk and was muddy on the inside.

Q. 7- What did that fact, that she was muddy on the inside indicate as to her recent cargo?

Ans. That there had been oysters in there recently before she arrived at Suffolk.

Q. 8- Have the public for the last few years been operating on the grounds in question until within the last month or so?

Ans. Not to my knowledge.

Q. 9- It has been testified in this case that oysters taken from else-where and planted in this ground will not live, owing to the freshness of the water, please tell us whether this is true if the season when they are planted and for 2 or 3 following are what are known as dry seasons and good for oyster planting? (question and any answer that may be made thereto, excepted to by counsel for defendant upon the ground that such hypothetical question is irrelevant to the issue and for the further reason that no foundation has been laid for such a question by showing that at the time it is claimed that these oysters were planted that season and that 2 or 3 subsequent seasons were dry seasons).

Ans. They will live if the seasons are like they have been for the last 4 or 5 years, but in a heavy freshet or wet season they will not live.

Q. 10- Has there been a heavy freshet for the last 4 or 5 years to your knowledge?

Ans. Not enough to kill oysters up there, not to my knowledge.

Q. 11- When oysters have been planted on a natural rock and have lived there for 5 or 6 years and grown, can you tell the difference then between the plants and the natural oyster?

Ans. Yes.

Q. 12- How long would they have to be planted before it would become impossible to tell the difference if at all?

Ans. That depends upon the size of the oysters when they are planted; lots more would work on to them during the winter.

Q. 13- Do you remember anything of a heavy strike there during the last 2 or 3 years or about 3 years ago?

Ans. I could not tell; I have not tinned a bushel in 3 years.

Q. 14- Can you remember whether there was a heavy strike of oysters

about 4 or 5 years ago?

Ans. I cannot remember.

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CROSS EXAMINATION.

Q. 1- How long has it been since you oystered for a living?

Ans. Going on 4 years.

Q. 2- Where were you when you saw the Edna B. in this creek?

Ans. I was on board the M. C. Richardson in Nansemond river bound for Suffolk.

Q. 3- How far was the Richardson from the Edna B?

Ans. I can't well tell, I judge about 300 or 400 yards.

Q. 4- Did you recognize any body on the Edna B?

Ans. I did not. There was a man in the hole shoveling but I did n't pay much attention to it.

Q. 5- Do you know how many oysters the Edna B. had on board?

Ans. I do not.

Q. 6- Is it not a natural rock in Western Branch?

Ans. There has been a piece of natural rock called natural rock there, but it is very scattering and very soft, I only consider one piece hard, but I have never oystered on this; all I know about it is that I have seen vessels stock on it.

Q. 7- You stated in your direct testimony that if oysters had been planted in this creek and a freshet had come, the oysters would have died; do you know whether or not such a freshet has visited these waters since you saw the Edna B. there?

Ans. There has not.

Q. 8- How do you know?

Ans. I know by oysters planted next to them which did not die, and I see no reason why these should have died?

Q. 9- If a pile of oyster shells which had seemingly died in these waters had been found, would you not say that the fresh water had killed planted oysters?

- Ans. It depends on circumstances; whether they were shells or oysters when planted.
- Q. 10- If oysters had been planted there and no shells had been planted, and a few years afterwards this pile of shells was found on the ground, would you not say that the planted oysters had died from fresh water?
- Ans. I would not say that on that authority alone, because if oysters are kept in a boat too long before planted they will die, I don't care where you plant them.
- Q. 11- Do you know anything about old man Bunting planting oysters in this creek and their dying?
- Ans. I do not.
- Q. 12- What year did you see the Edna B. in there?
- Ans. I think it was about '97, but I am not positive whether it was '97 or '98.
- Q. 13- You have not oystered since '97, have you?
- Ans. I think it was in '98 that I stopped in the fall.
- Q. 14- Could you testify on oath that since you stopped oystering, there has not been enough fresh water in the Western Branch to kill planted oysters?
- Ans. I certainly could testify to it; not at the lower part of the Branch there has not been enough to kill any; of course way up at Everetts Bridge there might be.
- Q. 15- Your answer is based upon an opinion, is it not?
- Ans. Yes, it is my opinion, just as I stated.
- Q. 16- You have not during this time been visiting these waters, have you?
- Ans. No.
- Q. 17- Then you do not know the quality of water from actual experience, but form an opinion from what you have heard about the adjoining oyster grounds, is this not a fact?
- Ans. Yes.
- Q. 18- How did you remember seeing the Edna B. in the Western Branch 3 or 4 years ago; did you remember it or was your memory refreshed by some one, if so, by whom?

Ans. I remember seeing her there myself.

Q. 19- Has not some one refreshed your memory on this point?

Ans. No-sir.

Q. 20- Could you swear that the Edna B. was planting oysters when you saw her?

Ans. No-sir, they were planting something, but I could n't swear they were oysters.

And further this deponent saith not.

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Ned Hicks, being duly sworn, deposes and says as follows;

Q. 1- What is your name, age, residence, occupation and do you know the parties to this suit?

Ans. Ned Hicks, 38 years, oysterman, and I know the parties to this suit.

Q. 2- Do you know anything about the location of the Western Branch of Nansemond river?

Ans. Yes, I know where it is.

Q. 3- Tell us anything you may know about oysters having been planted in there by Mr. Buck?

Ans. I worked with Mr. Buck awhile myself in James river and planted a couple of jags for Capt. Wilkerson and the third jag I sold to Mr. Buck.

Q. 4- How many oysters were in the 3rd jag?

Ans. I think there was about 200 bushels of oysters as near as I can come to it.

Q. 5- Do you know what he did with these oysters?

Ans. No-sir, I do not.

Q. 6- Did he tell you what he was buying them for?

(Question objected to because Mr. Buck has already testified to this).

Ans. Yes, he said he was going to plant them in the Western Branch.

Q. 7- In addition to these oysters do you know of any others, a small jag, that was planted in there by Mr. Buck?

Ans. Yes, I recollect one; one day we were going down the river to

work, and it got to blowing so we stopped off there by Capp's Creek where the old ground was, and we took up a few oysters in the sciff and threw them in the Western Branch; I think there was about 21 or 22 tubs or bushels.

Q. 8- Who do you mean by "we"?

Ans. I mean Mr. Ben Buck and myself.

Q. 9- What do you mean by the old ground that you took them from?

Ans. I mean Mr. Buck's old ground.

Q. 10- Can you remember any freshet in the last 3 or 4 years that would kill oysters in the Western Branch?

Ans. No, I do not.

Q. 11- After an oyster has been taken up and planted on a natural rock, and remained there for 4 or 5 years, can you tell the plants from the natural rock oyster?

Ans. I really don't know, sir.

Q. 12- Have you had any conversation with Mr. T. J. Thompson in reference to this case?

Ans. Yes-sir, a little.

Q. 14- Please state when and where it was and what he said?

Ans. When I was over here to your office on last Wednesday, I was going home and stopped at Reed's ferry and he drove up to the other side of the bridge and I pushed my wheel across the bridge and started up the hill and he called me and asked me if I knew Ned Hicks, and I told him I did that I was Ned Hicks, then he began a conversation and asked me if Mr. Buck had been to see me and I told him he had, and he asked me if Mr. Buck had offered me any money, and I told him no-sir. He spoke something about \$10.00, and I told him I would n't tell nothing wrong for no amount of money and he said he had one or two fair questions to ask me and he called 2 men to him and asked me did I know anything about the Branch Creek and had I sold Mr. Buck any oysters and I told him what I knew I would keep to myself. That was about the conversation.

Q. 15- Was he about to offer you \$10 to testify for him, or did you so understand it?

Ans. Well, really, no-sir, he did not really offer me \$10 right up

and down.

Q. 16- At the time that you sold the jag of about 200 bushels to Mr. Ben Buck, did you help him to get under way?

Ans. Yes-sir.

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CROSS EXAMINATION.

Q. 1- Do you mean to say that you understood Mr. Thompson to offer you \$10.00 to testify for him?

Ans. No-sir.

Q. 2- Did you not understand from his mentioning \$10.00 that he was trying to find out from you whether or not Mr. Buck had paid you to testify for him?

Ans. Yes-sir.

Q. 3- When Mr. Buck saw you on the day of Mr. James Sullivan's funeral, had you not forgotten all about planting or selling these oysters

Ans. No I had not forgotten that I let him have the oysters.

Q. 4- Is it not a fact that he refreshed your memory on this point, and that you talked the matter over?

Ans. Yes-sir.

Q. 5- Do you know what Mr. Buck did with the oysters you let him have?

Ans. No, I really don't know what he did with them.

Q. 6- When is the last time you did any oystering in the Western Branch?

Ans. Nearly 20 years ago.

Q. 7- How then can you testify that there have been no freshets in this branch sufficient to kill planted oysters?

Ans. I could n't tell you Mr. Withers, whether there has been any or not.

Q. 8- Is it not a fact that the planted oysters in this creek are sometimes killed by fresh water?

Ans. Sometimes they will be killed if the water is too fresh.

Q. 9- If you were oystering in this creek and were to strike a pile

of dead oyster shells, what would this indicate to your mind?

Ans. I would think that some one must have thrown them out there.

Q. 10- Do you mean by "them", oyster shells or oysters?

Ans. I would have thought that there had been thrown out oyster shells or oysters one; if oysters had been thrown out and dies, they would have come to shells.

Q. 11- If these shells appeared to be the shells of oysters known as plants, and other oysters were caught close by these shells which were alive and in good condition and were natural strike oysters, would you not think that these shells were plants which had been thrown out there and dies?

Ans. Dies.

Q. 12- Is not the bottom of the Western Branch natural rock?

Ans. There are some hard lumps there; these lumps I reckon are natural rock.

Q. 13- Do you remember the year when you let Mr. Buck have the jag of oysters?

Ans. No, I don't remember directly.

Q. 14- Was it 6 or 7 years ago?

Ans. Somewhere thereabout.

Q. 15- Was it not as a fact 3 years ago?

Ans. I really could n't tell.

Q. 16- Do you remember what month it was?

Ans. No-sir, I don't know ecactly what month it was.

Q. 17- Where did you leave the boat after helping Mr. Buck to get under way?

Ans. Abrest of Campbell's Creek; that was opposite Capt. Tom Gaskin's Wharf.

Q. 18- How many oysters will the Edna B. carry when loaded?

Ans. About 300 tubs.

Q. 19- How much free-board did the Edna B. have on this occasion?

Ans. Near 3 streaks or better out of the water.

Q. 20- How many streaks has she above water line when light?

Ans. She has her whole bends out; this is somewhere about 8 or 9 streaks.

- Q. 21- Is it not a fact that in loading vessels the last streaks which are submerged require a great deal heavier burden than the first streaks?
- Ans. Yes-sir; The lower she goes down the more she will bear.
- Q. 22- When this boat is loaded, do you not put her decks almost under the water?
- Ans. You can load her scuppers to the water.
- Q. 23- Did you have any oysters on deck?
- Ans. Yes.
- Q. 24- Was the hole full?
- Ans. Not exactly.
- Q. 25- How did you arrive at the number of bushels in this load?
- Ans. Just guessed at it.
- Q. 26- Were you paid for them by the bushel?
- Ans. Yes.
- Q. 27- How much per bushel?
- Ans. 10 cts.
- Q. 28- How many dollars did you get?
- Ans. \$20.

And further this deponent saith not.

George E. Bunting being recalled, testifies as follows;

Q. 1- Do you know the width of the Western Branch of the Nansemond river at its mouth where it enters Nansemond River?

Ans. Yes, I measured it 4 or 5 days ago and found it to be 64 yards wide from low water on Sack's Point side to low water on Hill's Point side.

Q. 2- State whether or not you measured directly across said Branch at the point that you have always considered tis mouth?

Ans. I measured straight across from what I considered to be the mouth.

Q. 3- Who helped you to make this measurment?

Ans. Henry Booker rowed the boat for me.

Q. 4- What did you measure with?

Ans. I measured with a copper or brass wire and then measured the wire afterwards.

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CROSS EXAMINATION.

Q. 1- As I understand your testimony, you measured this branch at its narrowest point, is this a fact?

Ans. I measured what I considered the mouth of the branch; I think it is a little narrower at the mouth, however.

Q. 2- As a matter of fact, is it not over 100 yards wide at the point where the main body of this oyster planting ground lies?

Ans. It is not more than 100 if that.

Q. 3- Is it not a fact that the Government of the United States has placed in the mouth of this branch an obstruction known as a dyking to prevent the mouth of this branch from filling up entirely?

Ans. The Government has put a dyking at the mouth of this creek that separates this creek from the other, and it keep it from filling up; I don't know whether this is in the mouth of the creek or not, in fact a part of it runs up in the creek.

Q. 4- Do you know whether or not your father or grandfather ever planted any oysters in this creek which dies from fresh water?

Ans. Yes, my father planted some oysters in this creek which were supposed to have dies from fresh water.

Q. 5- Do you know of your own knowledge whether or not there have been a sufficient quantity of fresh water in this creek during the last 5 or 6 years to kill planted oysters, which might have been planted therein?

Ans. That would depend on where they were planted. If they were planted at the mouth or near the mouth, I don't think there has been enough fresh water in the last 3 or 4 years to kill them. I consider the land between the Buck farm and the Steel farm at or near the mouth; I mean oysters would be killed if they were planted 2 or 3 miles further up.

Q. 6- When was the last freshet sufficient to kill oysters in this creek?

Ans. I might say right now, the rain we have had in the last 2 or 3 days is sufficient to kill them. I do not think we have had any other rain in the last 3 or 4 years sufficient to kill oysters there, though I cannot say positively. I don't think this present freshet would kill natural strikes.

And further this deponent saith not.

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Henry Booker being recalled testifies as follows;

Q. 1- Did you help Mr. Bunting make this measurment?

Ahs. Yes-sir, I rowed the boat for him.

Q. 2- Charles H. Mathews in his testimony a few days ago, stated that while you had first objected to his oystering on these grounds, that you afterwards, when you found you could not frighten him off, went aboard his boat and told him to oyster there all he pleased, and to take as many oysters as he wanted, did you tell him this?

Ans. No-sir, I did not.

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CROSS EXAMINATION.

Q. 1- If you did not tell Mr. Mathews the statement above written, why was it that he remained on the ground and oystered?

Ans. Well, I guess by his own persuasion.

Q. 2- You have testified that these grounds belonged to the Bucks'; that you were placed there as a watchman with instructions to keep off the trespassers'; if as a fact this be true, why did you not keep them off?

Ans. Well, I did all I could, I then applied to Miss Mary Buck and she said she would attend to it, and she got Mr. Steel to get out a warrent for her.

Q. 3- Why did she not get a warrent herself?

Ans. She did not have time then, so she got him to do so for her.

Q. 4- She took time to get out this injunction, did she not?

Ans. I don't know anything about the injunction.

And further this deponent saith not.

Statement of E.E.Holland, attorney at law, which by consent of counsel is to be read as evidence in behalf of Mary B.Buck in the chancery cause of Mary B.Buck vs T.J.Thompson and others, now pending in the Circuit Court of Nansemond County:

My name is E.E.Holland; I am an attorney at law, and Commonwealth's attorney for Nansemond County. Miss Mary B.Buck came to me about the middle of January, 1901, to file an application to Reps Williamson oyster inspector of Nansemond County for an assignment to her of about ten acres of oyster planting grounds in the Western branch of Nansemond river. She claimed the grounds as an occupant. I expected ^{to} file the application for her, and so promised her, but ^I was informed soon after by other parties that the grounds were claimed to be natural rock, and fearing that on this account, some questions might arise which might, under the circumstances embarrass me to some extent, as attorney for the Commonwealth, I decided it would be best for me not to represent her, and suggested to her when I saw her again that I preferred that she employ other counsel and this I am informed she has done. I think this probably delayed her a few days in getting her application in the hands of the Inspector. Given under my hand this the 22nd day of March, 1901.

E. E. Holland

Statement of John W. Ames Sr, former oyster inspector of Nansemond county, which it is agreed may be read as evidence in behalf of Mary B. Buck in the chancery cause of Mary B. Buck vs T. J. Thompson et al now pending in the Circuit court of said county.

My name is John W. Ames Sr. I am 79 years of age and was for many years *sch* oyster inspector of Nansemond county. While I was acting as such Mr. B. W. Buck did ^{verbally} apply to me for an assignment of the oyster ground in controversy, being the grounds located in the western branch of the Nansemond river opposite of, adjacent to, and adjoining the land of the Bucks. He made this ^{verbal} application at the time he paid me the rent for his other oyster grounds about six or seven years ago. I would not assign it to him because ^{I thought} the creek or branch in question was less than 100 ~~year~~ yards in width at the mouth, ^{therefore} and I did not consider that I had a right to assign it, as in my opinion it belonged, or rather the privilege of planting oysters thereon belonged to the said adjacent land owners bordering on the said stream, ^{because of this fact.} If it had been assignable ground I would certainly have assigned it to him as he was the first applicant, ~~and I knew he had planted oysters thereon and was an occupant thereof.~~ Given under my hand this 23rd day of March 1901.

John W. Ames Sr

The depositions of T.J. Thomson and others taken by consent of all parties plaintiff and defendant, at the office of R.H. Rawles in Suffolk, Va., on the 25th day of February, 1901, to be read as evidence in behalf of T.J. Thomson in a certain suit depending in The Circuit Court of Nansemond County, wherein Mary B. Buck is plaintiff, and T.J. Thomson is defendant.

Present.

R.W. Withers, Counsel for Defendant, and R.H. Rawles, Counsel for Plaintiff.

T.J. Thomson.

Being duly sworn deposes and says:

Q. What is your name, age, residence, occupation, and do you know the parties to this suit? A. T.J. Thomson, 30 years, Nansemond County, farming and oysterman, I am defendant in this suit and know the plaintiff.

Q. Are you a resident of this state? A. I am. Q. Did you make application for oyster planting ground at the Mouth of Western Branch of Nansemond River to Reps Williamson oyster inspector of this County?

A. I did. Q. Did you post notices of this application? A. I did.

Q. When was the application filed? A. On the 8th of January, 1901.

(Please file copy of application and notices) (Copies herewith filed marked exhibit "A".) Q. When this application was made had the ground

already assigned to others to your knowledge? A. No. Q. Where there

any oysters on this ground? A. Yes. Q. Was the ground occupied by

oysters planted by Mary B. Buck? A. No. Q. How came oysters on this

ground? A. This ground is natural rock and has been so for years. When

the Baylor survey was made this land was left out of it and oysters

as natural struck and grewed on this ground. Q. How had this ground

been used if at all since the Baylor survey? A. May have been used

or claimed by land owners. Q. Which do you mean, claimed or used? A.

I mean claimed by them. Q. Did the public generally believe this ground

was owned by the adjoining land owners, because of the fact their farm-

ing land adjoined? A. They did. Q. How far does the farming lands

of the adjoining owners extend?

A. To low water mark. (I hereby make reference to the deeds of parties as recorded by parties in the County Clerk's office) Q. Do you know whether or not Mary B. Buck has ever planted oysters on this ground since it has been hers? A. I don't know from my own knowledge of her planting any. Q. In her bill Miss Buck claims to have filed within 30 days ^{after your} application a petition with Reps Williamson, inspector to have the said ground assigned to her as an occupant. State whether or not of your own knowledge what you know of this? A. I saw her notice sticking up, it seemed to me on the 6th or 7th day of February on John Branch's store. Q. How close do you live to this ground? A. Ah About a mile. Q. How often do you pass this oyster ground? A. I don't pass it very often, but go up there to a fyke very often. Q. About how often do you go to see this ground? Some weeks 4 or 5 times a week, and others I do not see it at all. When I have no fyke up there I don't see it. Q. About how often have you seen this ground between the 8th day of January and 8th day of February last? A. About every other day. Q. Please state if at all between the two last mentioned dates if Mary B. Buck staked off any oyster ground at the mouth of Western Branch in Nansemond River? A. She has never staked off any to my knowledge. Q. Have you seen between these two dates the oyster inspector, or the surveyor for Nansemond County go upon said grounds and lay off, designate and survey any part thereof for Mary B. Buck? A. I have not. Q. Have you taken up any oysters from any portion of this ground, if so please state the facts. A. I have taken up oysters from the middle of the creek extending over of the Hill Point side. Q. When? A. Week before last. Q. Please state what kind of oysters you got there, whether plants or strikes? A. They were strike oysters. Q. Can you tell the difference between a strike and plant by looking at them. A. I can. Q. How long have you been oystering? A. 20 years off and on. Q. Is the difference between a plant oyster and a natural growth so marked that an oysterman of experience can tell the difference. A. it is.

Q. State the name of any other persons you may know who had an opportunity of seeing these oysters and of telling their character. A. Captain John Bower, Daniel Jordan, Ben Jackson, Daniel Bell, Edmond Otis, John Cowling, and John Jordan. Q. Can you state about what should be the increase obtained from planting oysters? A. In some instances they don't get many as they plant, and they consider doing well when they get twice as much as they plant. Q. Please state if you know about how many bushels have been removed from this ground by N.S. Buck, Bennie Buck, Mary B. Buck, or any of their agents servants, or employees within the last 7 years since the ^{Baylor} bill of survey? A. About 300 tubs. Q. To reap as many as 300 tubs how many bushels would have to be planted? A. I would judge it to be about 200 tubs. Q. Has Mamie Buck taken up any oysters from this ground from your knowledge? A. She never has. Q. About what is the average width of this stream at or near its mouth? A. About 110 yards.

Cross examination.

Q. This ground of which we are speaking is situated on the Western Branch of Nansenond River is it not? A. It is. Q. Has the oyster ~~ins~~ inspector of this county or any of his predecessors to your knowledge have made any assignment of any ground in this stream to any applicant? A. (Question and answer that may be made thereto excepted to by defendants Counsel upon the ground that it is ~~is~~ irrelevant that is such a question tends to show a legal proposition which has no bearing upon the case.) He said he would make my survey but ^{was} would stop by an injunction. Q. Has he heretofore attempted to assign the ground to anybody? A. He has never had an application. Q. I understand you to admit that this ground is not included in the Baylor survey A. I did. Q. Is it not a fact that Mr. Ben Buck planted oysters on this ground within the last few years. A. (Question and answer excepted to as irrelevant as Ben Buck has no interest in this land.) He had some planted there. Q. About how many and when?

A. 76 tubs 5 years ago. Q. Has he not or has not Miss Mary Buck planted or caused to be planted oysters within last three years? A. Not to my knowledge. Q. Has this ground joining the land of Mary B. Buck been staked off or in for many years? A. Yes and by several persons. Q. Did not Miss Mary Buck or some of her servants agents or employees have it staked off. A. Yes Q. About when was that done? A. The first stakes were stuck by Daniel Bell, the second by Henry Booker and N.S. Buck. I think George Dean stuck some but I didn't see him do it. I heard of it but don't know. Q. Was not Henry Booker acting for Buck and not himself? A. I think he was acting for himself. Q. Is it not a fact that he is now employed by Buck? A. I do not know. Q. Is it not a fact that he has been for some years in the employ of Buck? A. I don't know. Q. Do I understand you to say in your examination in chief that this ground was not occupied by oysters planted by Buck? A. The 76 tubs planted by Buck was to the right hand going in on the Buck side of the creek. Q. What became of them? A. There was a mess of them taken up by Henry Booker, as I have not seen any one else work on that side. Q. You have stated that Captain George Dean put stakes in that ground, did he not abandon them when requested so to do by the Bucks? A. Not to my knowledge? Q. Has he ever worked there since he put the stakes there? A. I have never seen Dean work there. Q. Did not Daniel who you say put stakes there abandon the ground? A. All of the people stopped working there after the Baylor survey as the land owners claimed the ground. Q. How about that time that you made your application for the assignment of this ground did you not know that Miss Mamie Buck claimed the exclusive right to use this ground? A. I did not. Q. About how many years has it been since the Baylor survey? A. About 7 or 8 years. Q. Did you in company with others in this commonwealth within four months after this survey file application to have the same excluded as natural rock. A. No sir. Q. If it was natural rock why did you not within four months after said survey file application to have it included as same? A. Just didn't pay any attention to it. Q. Have you ever planted any oysters on this ground?

A. No sir. Q. How do you know that the Bucks have removed 300 tubs of oysters since they planted the 76 tubs? A. I have been keeping a record of what goes aboard Captain Bower's boat and to what he sold to a man in Windsor, and to Edmond Otis and others. Q. Is it not a fact that oysters propagate ~~more~~ faster when planted on natural rock than those planted in other places? A. No sir. Q. How do you know this stream is 110 yards wide? A. Mr. Cowling measured it at the nearest point and he made 75 or 80 yards wide and then he measured it at main entrance and it was 115 yards wide. Q. What is the width of this stream at the particular ground of which we are speaking? A. Over 100 yards.

Re-direct examination.

Q. You stated in your cross examination that to your own knowledge the oyster inspector for Nansemond County had never assigned or attempted to assign any of the oyster planting ground in this creek, and you gave as a reason for this that no application had been made for it. Will you please state why no application were made for this ground? A. They thought it belonged to land owners. Q. Did you think it belonged to ~~the~~ land owners before you made your application? A. Up to a few days before I made it I did. Q. Why then did you make the application. A. I learned it did not belong to the land owners. Q. Then as I understand you, you learned that it did not legally belong to the land owners and you made the application? Is this correct? A. It is. Q. Please state if you know how long after the Baylor survey was it that the Bucks staked off a part of this ground? A. They staked the ground off when the 76 tubs of oysters were planted. Q. Did they stake it off because that they believed the ground was legally theirs. A. They put stakes there because people kept working on this ground or on this rock. To bluff them off. Q. Did Daniel Bell or George Dean stake off this same ground? A. They did. Q. Did they do so for themselves or miss Buck? A. I suppose for themselves, I can't say to my own knowledge. Q. When did Booker stake off these grounds? A. He staked them off directly after George Dean did. Q. Was this more than 3 years ago? A. It has been less. Q. Were the 76 bushels planted by Ben Buck 5 years ago planted on a natural rock?

A. Yes I suppose they were.

Recross examination.

Q. Is it not a factt that Mr? Ames the former inspector of this county gave to land owners adjacent to this ground the privelege of the exclusive use of this ground and allowed them to stake it off? A. No sir I heard Daniel Bellsay that he planted oysters on this creek and Mr. Ames received his money and promised to assign it to him.

Further the deponent sayeth not.

John Cowling.

Being duly sworn deposes and says:

What is your name, age, residence, occupation, and do you know the parties to this suit? A. John Phillip Cowling, 53 years, Suffolk, surveyor and contractor, I do. Q. Did you measure the width of Western Branch of Nansemond River at or near its mouth, if so please state the circumstances under which the measurement was made and state the result of your investigation? A. Some three weeks ago I reckon I measured it by Mr. Buck's request, Mr. Nat Buck had me to go there and measure it at its narrowest point at or near the mouth, which I did, and found it to be 71 yards wide from the fourth posts of the apex of the dyking to the nearest point of Sacque Point shore to low water mark on that side, and I also measured it from the dyking down the river at its mouth proper and found it to be 110 or 115 yards. Q. Do you know the location of the oyster groun involved in this suit. A. Yes I surveyed them once for Daniel Bell. Q. How wide is the Branch, and what is the average at the point these grounds occupy? A. I have not measured it above its mouth but I suppose it to be averaged above a 100 yards. Q. You say you surveyed this ground for Daniel Bell, please state the circumstances under which it was done? A. Daniel Bell applied to me to survey some land for him which Mr. John Wesley Ames oyster inspector was to rent him. I made the survey. Q. Can you recall about what time this was? A. I cannot, between 5 and 7 years ago. Q. About where correctly speaking were the 3 acres located. A. Inside of the mouth of the branch on the

Sacque Point side and on Steel's side. Q. How long have you been a resident in Nansemond County. A. Nearly all my life. I have been absent only two and one-half years. Q. Are you familiar with oyster culture? A. Not very. Q. Can you tell on investigation an oyster that has been planted from an oyster that is a natural strike? A. I could not tell if they were single, but if I were to see a quantity of each I could tell the difference. Q. Have you seen any oysters that have been moved from this ground of which we are speaking? A. I saw some 8 or 10 bushels in Booker's skiff or boat while down there, and I saw some Daniel Bell had which he said came from that place. Q. Were the oysters that you saw plants or natural strikes? A. I should take them for natural strike as they were not long oyster but short size oysters. Q. Do you know of your own knowledge whether or not May B. Buck, or any of her servant agents or employees have ever planted any oysters on this ground? A. I don't know. Q. Please state the conditions of this creek the day you measured it relevant to stakes being planted thereon? A. There were a great many stakes on the ground but I didn't pay any attention to them as I was on the shore. Q. Did it seem that there were two or three persons claiming this ground from the position of the stakes? A. I couldn't tell as I was a good distance from them on the left hand shore.

Cross examination.

At the time that you made the survey for Daniel Bell were you County surveyor or deputy? A. Neither. Q. By making this measurement at the mouth of the creek did you measure from shore to shore or quite diagonally? A. The nearest point I could find.

Further the deponent sayeth not.

Daniel Jordan.

Being sworn deposes and says as follows:

Q. What is your name, age, residence, occupation, and do you know the parties to this suit? A. Daniel Jordan, 45, Suffolk, oyster dealer, I do.

Q. How long have you been oystering? A. About nearly 35 years. Q. In what waters have you oystered most? A. For the last 20 years I have done most of oystering between Sleepy Hole and Dumpling Island up to Western Branch. Q. Can you tell an oyster that is a plant from one that is a strike or natural rock? A. I can sir. Q. Have you ever investigated oysters that were caught at the mouth of Western Branch of Nansemond River? A. I should think so I have caught many a one there. Q. Have you seen any of them within the last two months? A. Yes, ^{was} within the last two days. A. Please state what ~~were~~ the character of the oysters from that place? A. They were natural growth oysters or natural rock oysters. Q. Are you familiar with the bottom of the Western Branch at or near its mouth? A. Yes Sir. Q. Please state if this bottom is of a character that the oyster's spawn will naturally lodge, grow strike, and propagate there? A. Yes sir the mouth of the Branch from 22 feet of water up is natural rock. In some places it is broken and rocky bottom and in other places it is ~~broken~~ solid. Q. Then I understand you this bottom will naturally yield strike oysters? A. The whole of it is natural rock and will yield natural strike oysters or strikes. Q. If no oysters has been planted on this ground state whether or not the oysters could have been found there? A. I have caught 20 bushels a day there before I have ever heard of oysters being planted there by anyone. Q. Is not this bottom included within the Baylor survey. A. I don't think so. Q. Since the Baylor survey was made, in 1891, have the people at large been oystering upon this ground? A. Yes sir, I have oystered there since myself. Q. Please state whether or not you have seen anyone plant oysters on this ground since the Baylor survey? A. Ben Buck was oystering and I think Jake Furman was captain at the time and I was laying alongside and Ben Buck was on there at the same time. I went alongside to buy some oysters. I didn't see them but I asked how many he had, and he said about 50 or 60 tubs. I went up to the Branch and the next morning he was throwing them out. Q. Who did these oysters belong to? A. I don't know. Q. About what time was ~~the~~

this 5x

A. About 5 or 6 years ago. Q. Do you know whether or not Ben Buck has ever taken up any of these oysters from this ground? A. I don't know whether or not Ben Buck has ever taken any up or not, but Booker has taken up some as I have bought some of them myself. Q. About how many has he taken up from this place? A. I do not know. Q. Have you been upon this ground between the 8th day of January and 8th day of February? A. Yes sir, I have been there last week. Q. State condition of the stakes on the ground? A. Well I tell you the stakes were scattered all over the ground from where we passed down to the mouth of the Branch. Q. Could you tell from these stakes what ground was intended to be staked, its course, distances, or the amount therein? A. No sir, they seem to be in a jumbled up way run cat-a-comb to each other. Q. Please give the names of other parties who used this ground? A. George Randall, I could not tell as there were so many that went along there.

Cross Examination.

Q. Have you ever talked with T.J. Thomson in reference to these grounds? A. Not particular as I know of, I have talked to several about them. Q. Have you not been recently arrested for oystering on these grounds? (Question and answer excepted to as Counsel has no right to ask such a question, and if he wishes to prove ^{the} ~~the~~ crime, he must use the records of the County to make the evidence admissible.) A. No sir. Q. Do you now own public oyster ground in Nansemond County by assignment? A. I have ground bought and paid for. Q. Have you ever applied to have any of these grounds in the Western Branch assigned to you? A. No sir. Q. Have you used them or desired to use them for oystering purposes not applying for assignment? A. I had no ^{need} ~~to~~ to apply as I run a licensed boat. Q. Do you not know that this ground is not included in the Baylor survey and is therefore not a natural rock? A. I know it was not in Baylor survey because I asked Mr. Eley. Q. Did you not know that the Baylor survey included all of the natural rock? A. It did not take in all of

the natural rock. Q. Is it not a fact that for the last 2 or 3 years up to 2 or 3 weeks ago that people were kept off of this ground? ~~by~~ by the land owners on that stream? A. Have not been in there as I have seen for the last 2 or 3 years but they did work there for 12 months after the Baylor survey. Q. Why did they stop working in their at that time? A. I do not know sir? Q. Did they not stop because the owners of the land bordering on this stream claimed this ground? Well I tell you just- I dont know. Used to have a lot of talk about it. I heard it was not bought legal. Q. Did you not stop oystering on these grounds after the said 12 months after the Baylor survey? A. I had already stopped before. Q. Is it not a fact that you have not been oystering on these grounds for recent years unti about a week ago? A. I did not oyster on any rock at all, yes it is a fact. Q. What caused you to be oystering upon these grounds about a week ago? A. Beacuse I saw the rest of the boats working there. ~~After~~ After Mr. Cowling measured the mouth the impression left me was that a stream measuring over 100 yards across at it mouth was navigable and could be oystered upon when the bottom was natural rock. Q. Did not Miss Mary Buck or some of her agents servants, or employees protest against you oystering on these grounds and forbid you to do so? A. They did not. I saw Henry Booker in there and asked him what was in there. He said "There is nothing in here but says I think there ought to be something in here for no one has been in here for a long time. I said to him. I am going to work in here unless the bottom falls out. ^Q Did he not forbid you to do so? A. No sir he did not say anything to me and I worked. Q. Did he tell you that the ground belonged to Mary B. Buck. A. No sir. Q. Did you hear him forbid any ne else? A. I did not. Q. How many have you taken up from this ground in last three weeks? A. 28 bushels. Q. How many acres do you think are in this ground? A. I dont know. About one acre wide from rock to rock. I suppose 8 or 10 acres. Q. Is it very well set set with oysters? A. No sir. Q. did you ever know of any one planting

any oysters there? A. I never saw anyone plant any there, but heard Daniel Bell planted some. Q. When you took those 28 bushels can you say whether or not these were any of the oysters Ben Buck planted there? A. I do not know, I was in ten yards of where they were planted. Q. Did you not know that Henry Booker was employed by Miss Buck and is engaged in looking after her grounds? A. No sir, he told me he wanted the ground surveyed for himself and had been waiting for Reps Williamson to come up there and survey it for him. Q. After the Baylor survey was made did you have a claim to the County Court of this County that it should be included in the Baylor survey as natural rock? A. No sir. Q. Have you ever planted oysters? A. I have sir. Q. Does oysters yield more by being on natural rock or on other grounds? A. It depends on circumstances if you throw a oyster out and he is large he will not yield much but if he is small the yield is liable to be very much. Q. In conclusion is it not a fact for the last two or three years the people have refrained from working on this ground until the last week or two? A. I know they had stopped but did not know what caused them to do so.

Further the deponent saith not.

J.W. Bell.

Being sworn deposes and says:

Q. What is your name age, residence, occupation, and do you know the parties to this suit? A. J.W. Bell, 41, Nansemond County, farming, yes sir. Q. Have you ever oystered for a living? A. All my life ever since I was 5 years old. Q. On what water did you do most of your oystering? A. Nansemond River. Q. Can you tell by inspection the difference between a oyster that is a strike and one that is a plant? A. Yes sir, it depends upon how long the oyster has been planted. Q. Are you familiar with the bottom at the mouth of Western Branch whether or not it is natural rock or not? A. It is natural rock as I have worked on it for eight years. Q. Please state the condition of the bottom at or near the mouth of Western Branch of Nansemond River? A. In most places

it was in a broken condition but in one place it was hard bottom for a good distance. Q. Do you know from your own knowledge whether or not Miss Mary Buck has ever planted oysters on this ground? A. No sir I do not. Q. Is this stream used for the purpose of navigation? A. Yes sir .

Further the deponent sayeth not.

John Jordan.

Being duly sworn deposes and says:

Q. What is your name age, residence, occupation, and do you know the parties to this suit? A. John Jordan, age 42, Nansemond County, farming, I know Mr. Thomson but not Miss Buck. Q. How far do you live from mouth of Western Branch? A. Two and half to three miles. Q. Have you ever oystered in your life? A. Yes sir. Q. About in what year? A. About 5 or 6 years ago. Q. Are you familiar with the character of the bottom of the Western Branch at or near its mouth? A. Know all of it between its mouth and Steel's cove. Q. What kind of oysters do you catch there? A. Natural rock oysters. Q. About when was this? A. 5 or 6 years ago. Q. Did anyone plant any oysters on this ground to your knowledge? A. I do not know but I heard Mr. Buck planted some there. Q. When? A. I think I heard that Mr. Buck planted them about 12 months. I know I heard it in last 12 months not less I know. Q. When did he plant them? A. I could not say. Q. Have you seen any oysters taken from this ground within the past 2 or 3 months? A. I saw some but I could not tell anything about them as I didn't pay any attention to them. Q. Did you not have to give license to Mr. Johnnie Butning when you oystered on this ground? A. No sir, I got them from Mr. Ames, one of the Ames's in your town.

Cross examination.

Q. Did I understand you to say that you got oysters on this ground 5 or 6 years ago? A. Yes sir. Q. Did anyone else oyster there at same

time? A. I could not say, I did not see anyone else there. Q. Did you stop because the adjoining land owners objected? A. No sir I stopped because I was going into other business for myself. Further the deponent sayeth not.

John Bower.

Being duly sworn deposes and says:

What is your name, age, residence, occupation, and do you know the parties

to this suit? A. John Bower, 51, Nansemond County, Oystering and boating,

yes sir. Q. How long have you been oystering Captain Bower? A. I have

been oystering ever since I was 13 years old. Q. How long in Nanse-

mond River? A. All my life in Nansemond River and James River, 35 or 40

years. Q. Are you familiar with the bottom at the mouth of Western Bran-

ch? A. I am pretty well acquainted with the bottom but have never put

a tong over there in my life. Q. Please state whether or not you have

ever seen Miss Mary Buck plant oysters at or near the mouth of Western

Branch? A. No sir I never did. Q. How far is your oyster ground from

the mouth of Western Branch? A. Well I reckon within 100 or 150 yards

maybe. Q. Do you constantly work your ground? A. I do ~~every~~ fall except

last winter. Q. Have you seen any oysters taken from the ground at the

mouth of Western Branch in the last 2 or 3 months? Yes sir I have been

buying them ever since last winter from Booker and some from Tommie

Thomson. Q. Please state what kind of oysters were these? A. They were

natural growth oysters. Q. Is it not a matter of common knowledge which

every oysterman possesses that there is a marked difference between a

plant oyster and a natural strike? A. There is on some bottoms but others

you cant tell the difference. I have gotten oysters from my ground that

were planted from the broken part of the ridge that you cant tell them

apart. Q. This is somewhat unusual? A. Yes sir. ^a Please state if there ^{are}

stakes in the Western Branch and what they indicate. A. There are sev-

eral stakes stuck but what direction they take, and what they indicate

I cant tell. Q. From your experience please state what yield oysters

that are planted will make. A. Some time they will yield very well and

sometimes they do not. Q. planted 1900 bushels on my ground and I have not got a thousand bushels out of them. How far is your ground from the Western Branch? A. About 1/4 of a mile. Q. Have you seen or known Booker to take oysters from this ground? A. I have bought oysters from Booker and I asked him were they Mr. Buck's oysters as I thought he had planted some there. He said he was taking up oysters from the Steel side of the creek and had begun to take up Buck's oysters yet. Q. Where did Buck plant oysters? A. Could not tell you. Q. heard Furman say that he was going to plant some for him. Q. Were not the oysters which Booker took from the Steel side natural rocks? A. They looked as if they were. Q. Do you know whether anyone has ever planted oysters on the Steel side? A. Never heard of anyone planting there. Q. Have you ever heard of anyone else planting oysters called the Buck(s? A. No sir.

Cross examination.

Is it not a fact that the public generally have refrained from oyster-ing on this particular ground for the last 3 or 4 years? A. Yes sir. Q. Mr. Steel's ground you say is on opposite side of river? A. Yes sir. Q. And Booker had been taking oysters on his own account from Steel's side? A. Yes sir. Q. Is it not a fact that the land owners have been claiming this ground for last 3 or 4 years? A. Yes to my best knowledge. Q. I understand you to say that Miss Buck or her father or brother planted oysters upon this ground? A. A. Mr. Furman said he was going to plant some there for her. Q. Is it not a fact that an oyster after being planted upon natural rock for 12 months after remaining there that time will appear to be natural rock oyster? A. Yes sir. Q. Then oysters planted on this ground would look like natural rocks? A. Yes sir, that is, if they were planted from certain bottoms. The James River oyster will never change its shape.

Further the deponent sayeth not.

Daniel Bell

Being duly sworn deposes and says:

Q. What is your name age residence, occupation, and do you know the parties to this suit? A. Daniel Bell, 67, Nansemond County, oysterman, Yes sir.

Q. How long have you been oystering in this river? A. About 35 years.

Q. Please state if the Western Branch of Nansemond River is used for the purposes of navigation? A. Yes sir. Q. Do you know the character of the bottom of Western Branch at or near its mouth? A. I do. Q. Please state what kind of bottom is there? A. The bottom first was hard 15 or 20 years ago, but since it has softened considerably, but still it is a natural rock. Q. Please state whether or not you have made application for an assignment of any part of this ground? A. About 6 years ago I made application to Mr. Ames for a piece of ground and have it surveyed. I came to get Mr. Wilson but he was very busy with his school and could not survey it, so I had to get Mr. Cowling to do the surveying for me. It was three and one-half acres. I paid Mr. Ames for his duty and a dollar per acre for the ground. I planted as well as I can think between 300 and 400 bushels on this ground. Q. Mr. Ames moved down to Norfolk after that. He came up and told me that Mr. Cowling's survey was no good, and I would have to get Mr. Wilson to go down. Mr. Wilson went down. Mr. Ames said he would give me a receipt in full when Mr. Wilson went down and surveyed. It was a little while before I saw him again. I told him that I would take the plats to Norfolk to Mr. Ames. They are not recorded yet because Mr. Gomer when Mr. Ames informed him that the amount due on them had not been paid. Q. Did you take up the oyster that you planted there? A. No sir, Mr. Ames said he was going to give it to the land owners. Q. Did you see Mr. Buck plant any oysters there? A. No sir. Mr. Buck told me he was going to plant some there, and when I spoke of taking the oysters up that I had planted there he talked of using violence if I did. Q. Have you ever known of Mr. Buck planting oysters on this ground? A. I never have. I have passed there often and have never seen anyone plant oysters there. Q. Will this ground naturally yield oysters? A. Yes sir, will yield very good if the water is salt.

Cross examination.

Do you know anything of the oysters planted there by Mr. Furman before Mr. Buck? A. No sir. Q. How is it you know something of other things

and do not know about this? A. It is very funny but I do not know.

Q. When did you put your 300 or 400 bushels of oysters there? A.

About 6 years ago. How can you account for the fact that none other of these witnesses saw you plant those oysters there? A. I do not know.

Q. Did you put them there at night? A. I put them there anytime not in

secret? Q. Is it not a fact that you never planted 400 bushels there

in your life? A. I would not tell you a lie. Q. Is it not a fact that

after investigation Mr. Ames refused to assign this ground to you? A.

Yes sir it is a fact. Q. Then you never did have a proper assignment?

A. No sir, they were in Clerk's office but were never recorded as Mr.

Gomer had ^{not} been paid the amount due on them. Q. And that is the reason

you have never taken up your oysters? A. No sir, I did not take them

up as Mr. Buck told me if I did he would give me trouble.

Re-direct examination.

Q. Can you tell how about how much ground it would take to plant

76 bushels of oysters on? A. Oysters will grow better if they spread

out and I would think 3-1/2 acres would be enough ground to plant that

many on.

Further the deponent sayeth not.

/ *and others*

The depositions of Beverly P. Baker, ^{and others} taken by consent of all parties and notice of taking said deposition being waived, at the office of R.H. Rawles in Suffolk, Va. on Wednesday March 6th, 1901, to be read in evidence in behalf of the defendant T.J. Thompson, in the suit pending in our Circuit Court of Nansemond County, wherein Mary P. Buck is Complainant, and T.J. Thompson and Rebs Williamson are Defendants. *Signatures of witnesses waived.*

R.H. Rawles, Counsel for Complainant.

Present:-

----- R.W. Withers, Counsel for Defendants.

Q. 1- What is your name age occupation, and do you know the parties to this suit?

A. Beverly P. Baker, 61, County Surveyor for Nansemond County; yes I know the parties to this suit.

Q. 2- As County surveyor have you ever made a survey of the oyster planting grounds or any part thereof, in the Western Branch of Nansemond River?

A. No sir.

Q. 3- Did you ever ascertain, designate, or survey any of this oyster ground after January 8th, 1901 to any person whatsoever?

A. No Sir, nor before either.

Further the Deponent sayeth not.

Henry Wellons.

My name is Henry Wellons, 40 years old, reside in Isle of Wight County, I knew Henry Booker by favor. I bought oysters from him, during October and December and January. They were not shipped to me. I came after them myself, sometime in cart, sometimes in buggy. I never

kept account of how many I got. I think I got about 40 bushels, neither over nor under. The largest quantity I ever got at one time was 10 bushels on Christmas eve. At other times I would get 3 or 4 bushels, sometimes one or two bushels. I do not remember the number of trips I made.

I am not an oyster dealer but bought them for my own consumption, and chiefly for the shells. I saw Mr. Thompson this morning and we talked over the matter.

The depositions of T.J. Thomson and others taken by consent of all parties plaintiff and defendant, at the office of R.H. Rawles in Suffolk, Va., on the 25th day of February, 1901, to be read as evidence in behalf of T.J. Thomson in a certain suit depending in The Circuit Court of Nansemond County, wherein Mary B. Buck is plaintiff, and T.J. Thomson is defendant.

Present.

R.W. Withers, Counsel for Defendant, and R.H. Rawles, Counsel for Plaintiff.

T.J. Thomson.

Being duly sworn deposes and says:

Q. What is your name, age, residence, occupation, and do you know the parties to this suit? A. T.J. Thomson, 30 years, Nansemond County, farming and oysterman, I am defendant in this suit and know the plaintiff.

Q. Are you a resident of this state? A. I am. Q. Did you make application for oyster planting ground at the Mouth of Western Branch of Nansemond River to Reps Williamson oyster inspector of this County?

A. I did. Q. Did you post notices of this application? A. I did.

Q. When was the application filed? A. On the 8th of January, 1901.

(Please file copy of application and notices) (Copies herewith filed marked exhibit "A".) Q. When this application was made had the ground

already assigned to others to your knowledge? A. No. Q. Were there

any oysters on this ground? A. Yes. Q. Was the ground occupied by

oysters planted by Mary B. Buck? A. No. Q. How came oysters on this

ground? A. This ground is natural rock and has been so for years. When

the Baylor survey was made this land was left out of it and oysters

as natural struck and grew on this ground. Q. How had this ground

been used if at all since the Baylor survey? A. May have been used

or claimed by land owners. Q. Which do you mean, claimed or used? A.

I mean claimed by them. Q. Did the public generally believe this ground

was owned by the adjoining land owners, because of the fact their farm-

ing land adjoined? A. They did. Q. How far does the farming lands

of the adjoining owners extend?

A. To low water mark. (I hereby make reference to the deeds of parties as recorded by parties in the County Clerk's office) Q. Do you know whether or not Mary B. Buck has ever planted oysters on this ground since it has been hers? A. I don't know from my own knowledge of her planting any. Q. In her bill Miss Buck claims to have filed within 30 days application a petition with Reps Williamson, inspector to have the said ground assigned to her as an occupant. State whether or not of your own knowledge what you know of this? A. I saw her notice sticking up, it seems to me on the 6th or 7th day of February on John Branch's store. Q. How close do you live to this ground? A. About a mile. Q. How often do you pass this oyster ground? A. I don't pass it very often, but go up there to a fyke very often. Q. About how often do you go to see this ground? Some weeks 4 or 5 times a week, and others I do not see it at all. When I have no fyke up there I don't see it. Q. About how often have you seen this ground between the 8th day of January and 8th day of February last? A. About every other day. Q. Please state if at all between the two last mentioned dates if Mary B. Buck staked off any oyster ground at the mouth of Western Branch in Nansemond River? A. She has never staked off any to my knowledge. Q. Have you seen between these two dates the oyster inspector, or the surveyor for Nansemond County go upon said grounds and lay off, designate and survey any part thereof for Mary B. Buck? A. I have not. Q. Have you taken up any oysters from any portion of this ground, if so please state the facts. A. I have taken up oysters from the middle of the creek extending over off the Hill Point side. Q. When? A. Week before last. Q. Please state what kind of oysters you got there, whether plants or strikes? A. They were strike oysters. Q. Can you tell the difference between a strike and plant by looking at them. A. I can. Q. How long have you been oystering? A. 20 years off and on. Q. Is the difference between a plant oyster and a natural growth so marked that an oysterman of experience can tell the difference. A. It is.

Taken of 300 tubs

3

Q. State the name of any other persons you may know who had an opportunity of seeing these oysters and of telling their character. A.

Captain John Bower, Daniel Jordan, Ben Jackson, Daniel Bell, Edmond Otis, John Cowling, and John Jordan. Q. Can you state about what should be

the increase obtained from planting oysters? A. In some instances they don't get many as they plant, and they consider doing well when they get

twice as much as they plant. Q. Please state if you know about how many bushels have been removed from this ground by N.S. Buck, Bennie

Buck, Mary B. Buck, or any of their agents servants, or employees within the last 7 years since the bill of survey? A. About 300 tubs. Q.

To reap as many as 300 tubs how many bushels would have to be planted

A. I would judge it to be about 200 tubs. Q. Has Mamie Buck taken up

any oysters from this ground from your knowledge? A. She never has.

Q. About what is the average width of this stream at or near its mouth? A. About 110 yards.

Cross examination.

Q. This ground of which we are speaking is situated on the Western Branch of Nansmond River is it not? A. It is. Q. Has the oyster ~~ins~~

inspector of this county or any of his predecessors to your knowledge have made any assignment of any ground in this stream to any applicant?

A. (Question and answer that may be made thereto excepted to by defendants Counsel upon the ground that it is ~~also~~ irrelevant that

is such a question tends to show a legal proposition which has no bearing upon the case.) He said he would make my survey but would

stop by an injunction. Q. Has he heretofore attempted to assign the

ground to anybody? A. He has never had an application. Q. I understand

you to admit that this ground is not included in the Baylor survey

A. I did. Q. Is it not a fact that Mr. Ben Buck planted oysters on

this ground within the last few years. A. (Question and answer excepted to as irrelevant as Ben Buck has no interest in this land.)

He had some planted there. Q. About how many and when?

70 tubs 5 years ago
Gen. Dean staked it

A. 76 tubs 5 years ago. Q. Has he not or has not Miss Mary Buck planted or caused to be planted oysters within last three years? A. Not to my knowledge. Q. Has this ground joining the land of Mary B. Buck been staked off or in for many years? A. Yes and by several persons. Q. Did not Miss Mary Buck or some of her servants agents or employees have it staked off. A. Yes Q. About when was that done? A. The first stakes were stuck by Daniel Bell, the second by Henry Booker and N.S. Buck. I think George Dean stuck some but I didn't see him do it. I heard of it but don't know. Q. Was not Henry Booker acting for Buck and not himself? A. I think he was acting for himself. Q. Is it not a fact that he is now employed by Buck? A. I do not know. Q. Is it not a fact that he has been for some years in the employ of Buck? A. I don't know. Q. Do I understand you to say in your examination in chief that this ground was not occupied by oysters planted by Buck? A. The 76 tubs planted by Buck was to the right hand going in on the Buck side of the creek. Q. What became of them? A. There was a mess of them taken up by Henry Booker, as I have not seen any one else work on that side. Q. You have stated that Captain George Dean put stakes in that ground, did he not abandon them when requested so to do by the Bucks? A. Not to my knowledge? Q. Has he ever worked there since he put the stakes there? A. I have never seen Dean work there. Q. Did not Daniel who you say put stakes there abandon the ground? A. All of the people stopped working there after the Baylor survey as the land owners claimed the ground. Q. How about that time that you made your application for the assignment of this ground did you not know that Miss Mamie Buck claimed the exclusive right to use this ground? A. I did not. Q. About how many years has it been since the Baylor survey? A. About 7 or 8 years. Q. Did you in company with others in this commonwealth within four months after this survey file application to have the same excluded as natural rock. A. No sir. Q. If it was natural rock why did you not within four months after said survey file application to have it included as same? A. Just didn't pay any attention to it. Q. Have you ever planted any oysters on this ground?

Buck staked it off when he
planted 76 tubs.

5

A. No sir. Q. How do you know that the Bucks have removed 300 tubs of oysters since they planted the 76 tubs? A. I have been keeping a record of what goes aboard Captain Bower's boat and to what he sold to a man in Windsor, and to Edmond Otis and others. Q. Is it not a fact that oysters propagate more faster when planted on natural rock than those planted in other places? A. No sir. Q. How do you know this stream is 110 yards wide? A. Mr. Cowling measured it at the nearest point and he made 75 or 80 yards wide and then he measured it at main entrance and it was 115 yards wide. Q. What is the width of this stream at the particular ground of which we are speaking? A. Over 100 yards.

Re-direct examination.

Q. You stated in your cross examination that to your own knowledge the oyster inspector for Nansemond County had never assigned or attempted to assign any of the oyster planting ground in this creek, and you gave as a reason for this that no application had been made for it. Will you please state why no application were made for this ground? A. They thought it belonged to land owners. Q. Did you think it belonged to ~~the~~ land owners before you made your application? A. Up to a few days before I made it I did. Q. Why then did you make the application. A. I learned it did not belong to the land owners. Q. Then as I understand you, you learned that it did not legally belong to the land owners and you made the application? Is this correct? A. It is. Q. Please state if you know how long after the Baylor survey was it that the Bucks staked off a part of this ground? A. They staked the ground off when the 76 tubs of oysters were planted. Q. Did they stake it off because that they believed the ground was legally theirs. They put stakes there because people kept working on this ground or on this rock. To bluff them off. Q. Did Daniel Bell or George Dean stake off this same ground? A. They did. Q. Did they do so for themselves or miss Buck? A. I suppose for themselves, I can't say to my own knowledge. Q. When did Booker stake off these grounds? A. He staked them off directly after George Dean did. Q. Was this more than 3 years ago? A. It has been less. Q. Were the 76 bushels planted by Ben Buck 5 years ago planted on a natural rock?

A. Yes I suppose they were.

Recross examination.

Q. Is it not a factt that Mr? Ames the former inspector of this county gave to land owners adjacent to this ground the privelege of the exclusive use of this ground and allowed them to stake it off? A. No sir I heard Daniel Bellsay that he planted oysters on this creek and Mr. Ames received his money and promised to assign it to hom.

Further the deponent sayeth not.

John Cowling.

Being duly sworn deposes and says:

What is your name, age, residence, occupation, and do you know the parties to this suit? A. John Phillip Cowling, 53 years, Suffolk, surveyor and contractor, I do. Q. Did you measure the width of Western Branch of Nansemond River at or near its mouth, if so please state the circumstances under which the measurement was made and state the result of your investigation? A. Some three weeks ago I reckon I measured it by Mr. Buck's request, Mr. Nat Buck had me to go there and measure it at its narrowest point at or near the mouth, which I did, and found it to be 71 yards wide from the fourth posts of the apex of the dyking to the nearest point of Sacque Point shore to low water mark on that side, and I also measured it from the dyking down the river at its mouth proper and found it to be 110 or 115 yards. Q. Do you know the location of the oyster groun involved in this suit. A. Yes I surveyed them once for Daniel Bell. Q. How wide is the Branch, and what is the average at the point these grounds occupy? A. I have not measured it above its mouth but I suppose it to be averaged above a 100 yards. Q. You say you surveyed this ground for Daniel Bell, please state the circumstances under which it was done? A. Daniel Bell applied to me to survey some land for him which Mr. John Wesley Ames oyster inspector was to rent him. I made the survey. Q. Can you recall about what time this was? A. I cannot, between 5 and 7 years ago. Q. About where correctly speaking were the 3 acres located. A. Inside of the mouth of the branch on the

Sacque Point side and on Steel's side. Q. How long have you been a resident in Nansemond County. A. Nearly all my life. I have been absent only two and one-half years. Q. Are you familiar with oyster culture? A. Not very. Q. Can you tell on investigation an oyster that has been planted from an oyster that is a natural strike? A. I could not tell if they were single, but if I were to see a quantity of each I could tell the difference. Q. Have you seen any oysters that have been moved from this ground of which we are speaking? A. I saw some 8 or 10 bushels in Booker's skiff or boat while down there, and I saw some Daniel Bell had which he said came from that place. Q. Were the oysters that you saw plants or natural strikes? A. I should take them for natural strikes as they were not long oyster but short size oysters. Q. Do you know of your own knowledge whether or not May B. Buck, or any of her servant agents or employees have ever planted any oysters on this ground? A. I don't know. Q. Please state the conditions of this creek the day you measured it relevant to stakes being planted thereon? A. There were a great many stakes on the ground but I didn't pay any attention to them as I was on the shore. Q. Did it seem that there were two or three persons claiming this ground from the position of the stakes? A. I couldn't tell as I was a good distance from them on the left hand shore.

Cross examination.

At the time that you made the survey for Daniel Bell were you County surveyor or deputy? A. Neither. Q. By making this measurement at the mouth of the creek did you measure from shore to shore or quite diagonally? A. The nearest point I could find.

Further the deponent sayeth not.

Daniel Jordan.

Being sworn deposes and says as follows:

Q. What is your name, age, residence, occupation, and do you know the parties to this suit? A. Daniel Jordan, 45, Suffolk, oyster dealer, I do.

Q. How long have you been oystering? A. About nearly 35 years. Q. In what waters have you oystered most? A. For the last 20 years I have done most of oystering between Sleepy Hole and Damppling Island up to Western Branch. Q. Can you tell an oyster that is a plant from one that is a strike or natural rock? A. I can sir. Q. Have you ever investigated oysters that were caught at the mouth of Western Branch of Nansemond River? A. I should think so I have caught many a one ther. Q. Have you seen any of them within the last two months? A. Yes, eithin the last two days. A. Please state what were the character of the ysters from that place? A. They were natural growth oysters or natural rock oysters. Are you familiar with the bottom of the Western Branch at or near its mouth? A. Yes Sir. Q. Please state if this bottom is of a character that the oysters spawn will naturally lodge, grow strike, and propagate there? A. Yes sir the mouth of the Branch from 22 feet of water up is natural rock. In some places it is broken and rocky bottom and in other places it is ~~broken~~ solid. Q. Then I understand you this bottom will naturally yeild strike oysters? A. The whole of it is natural rock and will yeild n tural strike oysters or strikes. Q. If no oysters has been planted on this ground state whether or not the oysters could have been found there? A. I have caught 20 bushels a da there before I have ever heard of oysters being planted there by anyone. Is not this bottom included within the Baylor survey. A. I don't think so. Q. Since the Baylor survey was made in 1891 have the people at large been oystering upon this ground? A. Yes sir, I have oystered there since myself. Q. Please state whether or not you have seen anyone plant oysters on this ground since the Baylor survey? A. In Ben Buck was oystering and and I think Jake Furman was captain a t the time and I was laying alongside and Ben Buck was on there at the same time. I went alongside to buy some oysters. I did't see them but I asked how many he had, and he said about 50 or 60 tubs. I went yp to the Branch and the next mornhing he was throwing them outa. Q. Who did these oysters belong to? A. I don't know. Q. About what time was ~~at~~

this?

A. About 5 or 6 years ago. Q. Do you know whether or not Ben Buck has ever taken up any of these oysters from this ground? A. I don't know whether or not Ben Buck has ever taken any up or not, but Booker has taken up some as I have bought some of them myself. Q. About how many has he taken up from this place? A. I do not know. Q. Have you been upon this ground between the 8th day of January and 8th day of February? A. Yes sir, I have been there last week. Q. State condition of the stakes on the ground? A. Well I tell you the stakes were scattered all over the ground from where we passed down to the mouth of the Branch. Q. Could you tell from these stakes what ground was intended to be staked, its course distances, or the amount therein? A. No sir, they seem to be in a jumbled up way run catcomb to each other. Q. Please give the names of other parties who used this ground? A. George Randall, I could not tell as there were so many that went along there.

Cross Examination.

Q. Have you ever talked with T.J. Thomson in reference to these grounds? A. Not particular as I know of, I have talked to several about them. Q. Have you not been recently arrested for oystering on these grounds? (Question and answer excepted to as Counsel has no right to ask such a question, and if he wishes to prove the crime, he must use the record of the County to make the evidence admissible.) A. No sir. Q. Do you now own public oyster ground in Nansemond County by assignment? A. I have ground bought and paid for. Q. Have you ever applied to have any of these grounds in the Western Branch assigned to you? A. No sir. Q. Have you used them or desired to use them for oystering purposes not applying for assignment? A. I had no to apply as I run a licensed boat. Q. Do you not know that this ground is not included in the Baylor survey and is therefore not a natural rock? A. I know it was not in Baylor survey because I asked Mr. Eley. Q. Did you not know that the Baylor survey included all of the natural rock? A. It did not take in all of

8 or 10 acres here

10.

the natural rock. Q. Is it not a fact that for the last 2 or 3 years up to 2 or 3 weeks ago that people were kept off of this ground? A. by the land owners on that stream? A. Have not been in there as I have seen for the last 2 or 3 years but they did work there for 12 months after the Baylor survey. Q. Why did they stop working in their at that time? A. I do not know sir? Q. Did they not stop because the owners of the land bordering on this stream claimed this ground? Well I tell you just- I dont know. Used to have a lot of talk about it. I heard it was not bought legal. Q. Did you not stop oystering on these grounds after the said 12 months after the Baylor survey? A. I had already stopped before. Q. Is it not a fact that you have not been oystering on these grounds for recent years until about a week ago? A. I did not oyster on any rock at all, yes it is a fact. Q. What caused you to be oystering upon these grounds about a week ago? A. Beacuse I saw the rest of the boats working there. Q. After Mr. Cowling measured the mouth the impression left me was that a stream measuring over 100 yards across at it mouth was navigable and could be oystered upon when the bottom was natural rock. Q. Did not Miss Mary Buck or some of her agents servants, or employees protest against you oystering on these grounds and forbid you to do so? A. They did not. I saw Henry Booker in there and asked him what was in there. He said "There is nothing in here but says I think there ought to be something in here for no one has been in here for a long time. I said to him. I am going to work in here unless the bottom falls out. Did he not forbid you to do so? A. No sir he did not say anything to me and I worked. Q. Did he tell you that the ground belonged to Mary B. Buck. A. No sir. Q. Did you hear him forbid any ne else? A. I did not. Q. How many have you taken up from this ground in last three weeks? A. 28 bushels. Q. How many acres do you think are in this ground? A. I dont know. About one acre wide from rock to rock. I suppose 8 or 10 acres. Q. Is it very well set with oysters? A. No sir. Q. did you ever know of any one planting

any oysters there? A. I never saw anyone plant any there, but heard Daniel Bell planted some. Q. When you took those 28 bushels can you say whether or not these were any of the oysters Ben Buck planted there? A. I do not know, I was in ten yards of where they were planted. Q. Did you not know that Henry Booker was employed by Miss Buck and is engaged in looking after her grounds? A. No sir, he told me he wanted the ground surveyed for himself and had been waiting for Reps Williamson to come up there and survey it for him. Q. After the Baylor survey was made did you have a claim to the County Court of this County that it should be included in the Baylor survey as natural rock? A. No sir. Q. Have you ever planted oysters? A. I have sir. Q. Does oysters yield more by being on natural rock or on other grounds? A. It depends on circumstances if you throw a oyster out and he is large he will not yield much but if he is small the yield is liable to be very much. Q. In conclusion is it not a fact for the last two or three years the people have refrained from working on this ground until the last week or two? A. I know they had stopped but did not know what caused them to do so. Further the deponent saith not.

J.W. Bell.

Being sworn deposes and says:

Q. What is your name age, residence, occupation, and do you know the parties to this suit? A. J.W. Bell, 41, Nansemond County, farming, yes sir. Q. Have you ever oystered for a living? A. All my life ever since I was 5 years old. Q. On what water did you do most of your oystering? A. Nansemond River. Q. Can you tell by inspection the difference between a oyster that is a strike and one that is a plant? A. Yes sir, it depends upon how long the oyster has been planted. Q. Are you familiar with the bottom at the mouth of Western Branch whether or not it is natural rock or not? A. It is natural rock as I have worked on it for eight years. Q. Please state the condition of the bottom at or near the mouth of Western Branch of Nansemond River? A. In most places

it was in a broken condition but in one place it was hard bottom for a good distance. Q. Do you know from your own knowledge whether or not Miss Mary Buck has ever planted oysters on this ground? A. No sir I do not. Q. Is this stream used for the purpose of navigation? A. Yes sir.

Further the deponent sayeth not.

John Jordan.

Being duly sworn deposes and says:

Q. What is your name age, residence, occupation, and do you know the parties to this suit? A. John Jordan, age 42, Nansemond County, farming, I know Mr. Thomson but not Miss Buck. Q. How far do you live from mouth of Western Branch? A. Two and half to three miles. Q. Have you ever oystered in your life? A. Yes sir. Q. About in what year? A. About 5 or 6 years ago. Q. Are you familiar with the character of the bottom of the Western Branch at or near its mouth? A. Know all of it between its mouth and Steel's cove. Q. What kind of oysters do you catch there? A. Natural rock oysters. Q. About when was this? A. 5 or 6 years ago. Q. Did anyone plant any oysters on this ground to your knowledge? A. I do not know but I heard Mr. Buck planted some there. Q. When? A. I think I heard that Mr. Buck planted them about 12 months. I know I heard it in last 12 months not less I know. Q. When did he plant them? A. I could not say. Q. Have you seen any oysters taken from this ground within the past 2 or 3 months? A. I saw some but I could not tell anything about them as I did not pay any attention to them. Q. Did you not have to give license to Mr. Johnnie Butning when you oystered on this ground? A. No sir, I got them from Mr. Ames, one of the Ames's in your town.

Cross examination.

Q. Did I understand you to say that you got oysters on this ground 5 or 6 years ago? A. Yes sir. Q. Did anyone else oyster there at same

not easy to tell
difference

13.

time? A. I could not say, I did not see anyone else there. Q. Did you stop because the adjoining land owners objected? A. No sir I stopped because I was going into other business for myself. Further the deponent sayeth not.

John Bower.

Being duly sworn deposes and says:

What is your name, age, residence, occupation, and do you know the parties to this suit? A. John Bower, 51, Nansemond County, Oystering and boating, yes sir. Q. How long have you been oystering Captain Bower? A. I have been oystering ever since I was 13 years old. Q. How long in Nansemond River? A. All my life in Nansemond River and James River, 35 or 40 years. Q. Are you familiar with the bottom at the mouth of Western Branch? A. I am pretty well acquainted with the bottom but have never put a tong over there in my life. Q. Please state whether or not you have ever seen Miss Mary Buck plant oysters at or near the mouth of Western Branch? A. No sir I never did. Q. How far is your oyster ground from the mouth of Western Branch? A. Well I reckon within 100 or 150 yards maybe. Q. Do you constantly work your ground? A. I do every fall except last winter. Q. Have you seen any oysters taken from the ground at the mouth of Western Branch in the last 2 or 3 months? Yes sir I have been buying them ever since last winter from Booker and some from Tommie Thomson. Q. Please state what kind of oysters were these? A. They were natural growth oysters. Q. Is it not a matter of common knowledge which every oysterman possesses that there is a marked difference between a plant oyster and a natural strike? A. There is on some bottoms but others you cant tell the difference. I have gotten oysters from my ground that were planted from the broken part of the ridge that you cant tell them apart. Q. This is somewhat unusual? A. Yes sir. Please state if there stakes in the Western Branch and what they indicate. A. There are several stakes stuck but what direction they take, and what they indicate I cant tell. Q. From your experience please state what yield oysters that are planted will make. A. Some time they will yield very well and

*Never heard of any one
planting oyster beds*

Planted them for her

14.

sometimes they do not. Q. planted 1000 bushels on my ground and I have not got a thousand bushels out of them. How far is your ground from the Western Branch? A. About 1/4 of a mile. Q. Have you seen or known Booker to take oysters from this ground? A. I have bought oysters from Booker and I asked him were they Mr. Buck's oysters as I thought he had planted some there. He said he was taking up oysters from the Steel side of the creek and had begun to take up Buck's oysters yet. Q. Where did Buck plant oysters? A. Could not tell you. Q. heard Furman say that he was going to plant some for him. Q. Were not the oysters which Booker took from the Steel side natural rocks? A. They looked as if they were. Q. Do you know whether anyone has ever planted oysters on the Steel side? A. Never heard of anyone planting there. Q. Have you ever heard of anyone else planting oysters called the Buck(s? A. No sir.

Cross examination.

Is it not a fact that the public generally have refrained from oyster-ing on this particular ground for the last 3 or 4 years? A. Yes sir. Q. Mr. Steel's ground you say is on opposite side of river? A. Yes sir. Q. And Booker had been taking oysters on his own account from Steel's side? A. Yes sir. Q. Is it not a fact that the land owners have been claiming this ground for last 3 or 4 years? A. Yes to my best knowledge. Q. I understand you to say that Miss Buck or her father or brother planted oysters on this ground? A. A. Mr. Furman said he was going to plant some there for her. Is it not a fact that an oyster after being planted upon natural rock for 12 months after remaining there that time will appear to be natural rock oyster? A. Yes sir. Q. Then oysters planted on this ground would look like natural rocks? A. Yes sir, that is, if they were planted from certain bottoms. The James River oyster will never change its shape.

Further the deponent sayeth not.

Daniel Bell

Being duly sworn deposes and says:

Q. What is your name age residence, occupation, and do you know the parties to this suit? A. Daniel Bell, 67, Nansemond County, oysterman, Yes sir.

Q. How long have you been oystering in this river? A. About 35 years.

Q. Please state if the Western Branch of Nansemond River is used for the purposes of navigation? A. Yes sir. Q. Do you know the character of the bottom of Western Branch at or near its mouth? A. I do. Q. Please state what kind of bottom is there? A. The bottom first was hard 15 or 20 years ago, but since it has softened considerably, but still it is a natural rock. Q. Please state whether or not you have made application for an assignment of any part of this ground? A. About 6 years ago I made application to Mr. Ames for a piece of ground and have it surveyed. I came to get Mr. Wilson but he was very busy with his school and could not survey it, so I had to get Mr. Cowling to do the surveying for me. It was three and one-half acres. I paid Mr. Ames for his duty and a dollar per acre for the ground. I planted as well as I can think between 300 and 400 bushels on this ground. Q. Mr. Ames moved down to Norfolk after that. He came up and told me that Mr. Cowling's survey was no good, and I would have to get Mr. Wilson to go down. Mr. Wilson went down. Mr. Ames said he would give me a receipt in full when Mr. Wilson went down and surveyed. It was a little while before I saw him again. I told him that I would take the plats to Norfolk to Mr. Ames. They are not recorded yet because Mr. Gomer when Mr. Ames informed him that the amount due on them had not been paid. Q. Did you take up the oyster that you planted there? A. No sir, Mr. Ames said he was going to give it to the land owners. Q. Did you see Mr. Buck plant any oysters there? A. No sir. Mr. Buck told me he was going to plant some there, and when I spoke of taking the oysters up that I had planted there he talked of using violence if I did. Have you ever known of Mr. Buck planting oysters on this ground? A. I never have. I have passed there often and have never seen anyone plant oysters there. Q. Will this ground naturally yield oysters? A. Yes sir, will yield very good if the water is salt.

Cross examination.

Do you know anything of the oysters planted there by Mr. Furman or Mr. Buck? A. No sir. Q. How is it you know something of other things

Buck claims oysters

76 bush 3 1/2 acy

16.

and do not know about this? A. It is very funny but I do not know.

Q. When did you put your 300 or 400 bushels of oysters there? A.

About 6 years ago. How can you account for the fact that none other of these witnesses saw you plant those oysters there? A. I do not know.

Q. Did you put them there at night? A. I put them there anytime not in

secret? Q. Is it not a fact that you never planted 400 bushels there

in your life? A. I would not tell you a lie. Q. Is it not a fact that

after investigation Mr. Ames refused to assign this ground to you? A.

Yes sir it is a fact. Q. Then you never did have a proper assignment?

A. No sir, they were in Clerk's office but were never recorded as Mr.

Gomer had been paid the amount due on them. Q. And that is the reason

you have never taken up your oysters? A. No sir, I did not take them

up as Mr. Buck told me if I did he would give me trouble.

Re-direct examination.

Q. Can you tell how about how much ground it would take to plant

76 bushels of oysters on? A. Oysters will grow better if they spread

out and I would think 3-1/2 acres would be enough ground to plant that many on.

Further the deponent sayeth not.

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The depositions of Beverly P. Baker, ^{to this} taken by consent of all parties and notice of taking said deposition being waived, at the office of R.H. Rawles in Suffolk, Va. on Wednesday March 6th, 1901, to be read in evidence in behalf of the defendant T.J. Thompson, in the suit pending in the Circuit Court of Hansemond County, wherein Mary E. Buck is Complainant, and T.J. Thompson and Reps Williamson are Defendants. *Signatures of witnesses waived.*

R.H. Rawles, Counsel for Complainant.

Present:-

----- R.W. Withers, Counsel for Defendants.

Q. 1- What is your name age occupation, and do you know the parties to this suit?

A. Beverly P. Baker, 31, County Surveyor for Hansemond County; yes I know the parties to this suit.

Q. 2- As County surveyor have you ever made a survey of the oyster planting grounds or any part thereof, in the Western Branch of Hansemond River?

A. No sir.

Q. 3- Did you ever ascertain, designate, or survey any of this oyster ground after January 8th, 1901 to any person whatsoever?

A. No Sir, nor before either.

Further the Deponent saith not.

Henry Wellons.

My name is Henry Wellons, 40 years old, reside in Isle of Wight County, I knew Henry Booker by favor. I bought oysters from him, during October and December and January. They were not shipped to me. I came after them my self, sometime in cart, sometimes in buggy. I never

kept account of how many I got. I think I got about 40 bushels, neither over nor under. The largest quantity I ever got at one time was 10 bushels on Christmas eve. At other times I would get 3 or 4 bushels, sometimes one or two bushels. I do not remember the number of trips I made.

I am not an oyster dealer but bought them for my own consumption, and chiefly for the shells. I saw Mr. Thompson this morning and we talked over the matter.

The depositions of Mary B. Buck taken at office of R.H. Rawles in Suffolk, Va. on April 5th, 1901. Notice of time, place, of taking of said depositions and signature of the witness being waived by all parties, to be read as evidence in behalf of the defendant in that certain suit depending in the Circuit Court of Nansemond County wherein Mary B. Buck is Complainant and T.J. Thompson and others are Defendants.

R.H. Rawles, Counsel for Complainant.

Present:-

R.W. Withers, Counsel for Defendant.

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Mary B. Buck being sworn as an adverse party, deposes and says as follows:

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

A. Mary B. Buck, age 28 years, Suffolk, housekeeper, I know the parties to this suit, and am the Complainant.

Q. 2- How did you acquire title to the Sacque Point farm and when?

A. I did it by purchase, I don't know the exact date, I make reference to the deed. I do not remember the date. To secure me of money I had lent my father.

Q. 3-

Q. 3- How far does your farm land extend to or in the Western Branch of Nansemond River?

A. We claimed to own the oyster ground as a part of the farm as Riparian owners.

Q. 4- Is it not a fact that the deed for this land calls for the Western Branch as being a boundary line?

A. I believe it does.

- Q. 5- Then by virtue of your deed your farm extends only to the low water mark of Western Branch?
- A. I don't understand the deed. According to the deed this would be a fact.
- Q. 6- Then you do not own the oyster ground in controversy by virtue of your deed?
- A. We suppose that we own it.
- Q. 7- Is it not supposed that your claim to this land rests upon the claim of a Reparian owners of the adjoining land? and not by virtue of your deed extending to the land under the water?
- A. That we claim.
- Q. 8- Now as I understand you one of your claims to this oyster ground is that of a Reparian owner. Is this correct?
- A. One of the claims; yes.
- Q. 9- Did you ever apply in writing to the inspector of oysters for this County or any of his predecessors for an assignment of this oyster planting ground, if so when?
- A. I did through Judge Rawles, but I don't remember the date. The paper is filed in this suit.
- Q. 10- Is it by virtue of this application that you claim this land as an assignee?
- A. Well that was the only application that was made except verbal application. I made application over the phone to Mr. Williamson and discovered that Mr. Thompson had made

application on 8th day of January, it was about two days before this that he had made application and I immediately saw Mr. R.H. Holland as to whether I would have to make an application to hold this ground by assignment or whether I could hold it as an occupant. Mr. Holland said he would get me an application but failed to do so for some reason and, I waited and when I saw him again he said he had not got an application. I went to Norfolk and when I returned from Norfolk in the evening on the 4.45 P.M. train he had done nothing towards getting an application and so I turned it over to Mr. Rowles and he made application that night.

Q. 11- As I understand you your application in writing for this oyster ground was filed after the application of T.J. Thompson and based your claim for said assignment upon your right as an occupant, am I correct?

A. Yes this and the right of Reparian owners.

Q. 12- The Reparian owners rights extend only to one-half acre does it not?

A. Well I don't know . On that side of Channel next to the farm my father made application to Ames the inspector and he was informed that one-half of the ground adjoining this farm belonged to the owner of the farm. This was based on the idea that it was supposed that the creek was less than 100 yards in width. In my application to Mr. William-
the right of a reparian on
son for an assignment of this ground is based partly upon

X The right I contend extends to all of the ground we have staked in this branch. I also claim partly as an occupant.

Q. 13- Miss Buck have you any writings, deeds, assignments, bills of sale or memoranda from your brother Benjamin Buck conveying, assigning, giving or selling to you any or all of his rights in any or all of these grounds?

A. I have not. When he made his residence in Ohio he didn't expect to have his residence in Virginia again. And he thought that probably I had more interest in the grounds than he did, and he gave the grounds to me.

Q. 14- When was this conversation?

A. I could'ent tell you that. He went in the Livery business in Ohio, and I don't know whether it was before he located or after he located there.

Q. 15- Was it in 1901 or in 1900?

A. It was not this year, I don't know whether in 1900 or not; it might have been in the latter part of 1899. It was just before the war with Spain. I think therefore it was in 1899.

Q. 16- Please recall the language used in making this gift?

A. He said "That his residence would be in Virginia no more" which it has not been since he went away. He said "That as he would be here no more the few oysters there would do him no good and as long as you expect to make Virginia your home, and would own the farm, it will be of more service to you than anyone else. I will just turn it over to you".

Q. 17- How many oysters did you plant on these grounds?

A. I planted or had planted there about 200 bushels from Ned Hicks. I bought them from him.

- Q. 18- How do you know the number of bushels in this lot?
- A. I don't know except what my brother told me. He was acting as agent for me.
- Q. 19- Is this lot all that you caused to be planted there?
- A. Yes that is all that I caused to be planted.
- Q. 20- Were the oysters planted by your brother planted before or after the Hicks lot?
- A. Well Sir, I can't say I don't know.
- Q. 21- Of your knowledge do you know of any other oysters having been planted either by yourself, your brother or any agents of your brother?
- A. I know what my brother said.
- Q. 22- Do you own the Edna B.?
- A. No, my father did, but he gave me the proceeds of it.
- Q. 23- Do you know how many oysters have been removed from this ground since the oysters were planted therein by yourself?
- A. I had some removed by Henry Booker and he gave me account of 108 bushels removed before this controversy and 12 bushels and 3 pecks since, making a total of 210 bushels and 3 pecks. We have used some for family use from 1/2 bushel to a bushel at a time. I guess we have used ten bushels for family use.
- Q. 24- How many oysters had Booker removed from this ground?
- A. I don't know. He has taken some and sold them.

- Q. 25- Evidence has been introduced in this case showing that Booker did not bring the correct account to you of the oysters taken up, are you prepared to question the truth of this testimony?
- A. I am not sir, as I always thought Booker honest and he was authorized to take up the oysters and sell them and bring the returns to me.
- Q/ 26- Do you know how many oysters have been removed from this ground by other persons than Henry Booker since you planted oysters there?
- A. By my authority, none.
- Q. 27- Are you prepared to state whether or not there is a single oyster which you planted on that ground remaining there now?
- A. Indeed I could not say. Everybody in Nansmond County might have been oystering there for all that I know.
- Q. 28- Is it not a fact that plant oysters will be killed by fresh water or freshets?
- A. I do not know, I am not familiar with the oyster industry.
- Q. 29- Do you know whether or not the oysters planted in this creek at Western Branch lived?
- A. I don't know, but I suppose they did from the appearance of those we used for family purposes.
- Q. 30- Is it not a fact that the grounds are natural rock?
- A. I never heard of it being so until this controversy arose, but it may be in some places.

Q. 31- Directing your attention now to the fact surrounding your written application to Mr. Williamson, your application was dated the 6th day of February, the 30 days yet to run for Thompson's application expired on the 8th of February. Now then after you had made your application, did you have the grounds designated, surveyed, ascertained and rent paid before the 8th of February?

A. The application was in Mr. Williamson's hand on the 6th day of January, the money tendered him and it laid with him whether or not the survey was made.

Q/ 32- How do you know this money had been tendered him?

A. I told Judge Rawles to do so and he told me he had.

Q. 33- Did you supply this money?

A. I saw Judge Rawles on the street and gave him \$5.00 cash all the change I had. I did not know exactly what it would take.

Q. 34- Did you give him a check?

A. I gave it to him in cash. \$5.00 is the amount.

Q. 35- Why was this not received by Williamson?

A. I don't why he did not receive it.

Q. 36- Did you have this ground staked before the 8th of February?

A. It was staked off 6 years ago and has been kept up to the best of my knowledge. I paid to have it done whether it was done or not.

Q. 37- Was any plat or survey made of this ground before the 8th of February?

A/ No sir.

-:7:-

Q. 38- As I understand your testimony in this case it would be as follows: Your application was made on the 6th of february two days before the time for T.J. Thompson's assignment. That Mr. Judge Rawles was told to pay the rent. You did not know whether or not it was offered William-son and if offered why it was not received. You did not place any new or special stakes upon this ground between the 8th of January and the 8th of February. You had no plat made of this ground between these dates. You had no survey made of these grounds between theses dates. You have not as a fact paid the rent between these dates. You have not had the grounds designated between these dates. Am I correct.

A. Mr. Rawles told me that he had tendered him the money but did not know whether he had received it or not. I only had the one-half acre staked off; I have not paid the rent; No Sir, I have not had it designated I asked Mr. Williamson to do so.

(~~Counsel for Defendant objects to leading questions by~~

CROSS EXAMINED.

(Counsel for Defendant objects to leading questions by Counsel for Complainant upon the ground that while the witness was called as an adverse party to testimony in behalf of Defendant subject to the rule of the cross examination, as a fact the witness is a party to the suit and should not be led by her counsel through leading questions.) (To which objection Counsel for Complainant replies, that the witness was called as a witness for defendant and as such is subject to cross examination.

Q. 1- Do I understand you to claim this ground as an occupant?

A/ Yes Sir.

Q. 2- You have testified that your father gave you the proceeds of the sloop, is this true?

A. Yes Sir.

Q. 3- And that on one occasion the proceeds of the sloop were enough to purchase 200 bushels of oysters, is it true?

A. It is true.

Q. 4- You say that this ground has been continuously staked in? Is this true?

A. I paid for it to be done.

Q. 5- You say that within two days after Thompson filed his application that you saw Counsel to get him to file an application for you? Is it true?

A. Yes Sir.

Q. 6- That Mr. Holland informed you that any time within 30 days would do?

A. Yes Sir.

Q. 7- That you went to Norfolk and when you came back you found out that he had not filed an application?

A. Yes Sir.

Q. 8- And then you came to see your Counsel to file an application for you. You handed him \$5.00 in cash and told him to give it to Mr. Williamson and to file her application. Your Counsel then got application that night after you came from Norfolk? Is this true?

A. It is true.

Q. 9- When you got the application did you ask Mr. Williamson to immediately have these grounds designated, surveyed and a plat made?

A. I did.

Q. 10- Then why did he not do so?

A. I do not know.

Q. 11- Did Mr. T.J. Thompson ever approach you to find out as to your claims to this ground?

A. Never did.

Q. 12- Was he not living on your farm on this creek?

A. He lived on my farm about 1/2 mile from grounds.

(Counsel for defendant objects to last two questions on the ground that it is irrelevant and immaterial, it is certainly not required of an applicant to apply to any other than the inspector for an assignment of oyster grounds)

Q. 14- What was it that you did not have the ground at time you made application?

A. It had already been staked off before and if they had needed any more stakes I would have had them put up. Further the Deponent sayeth not.

T.J. Thompson, recalled.

Q. 1- Do you know Pat Townes?

A. I do.

Q. 2- Did you have a conversation with Pat Townes relevant to planting oysters at the mouth of Western Branch?

A. Yes Sir.

Q. 3- Please state your conversation and tell when and where it was carried on?

A. Directly after John Bower had been testified for Complainant, he showed me a summons and I saw Pat Townes name on it. I saw Pat at Reeds Ferry and said "Pat let me see your summons" and he said "I have 'ent any". I said "What do you know in regard to Bennie Jack planting oysters at the mouth of Western Branch of Hensmond River"? He told me that he had cut some stakes once for Ben Buck, and helped him to throw out about 10 tubs of oysters. He carried them to Suffolk but could not sell them. He said "I saw Ned Hicks have some." I asked "How many oysters were in the Ned Hicks lot". He said "I don't hardly know." Well I said "You can have some idea how many there was" He said "There were about 10 or 15 tubs." That all I heard Pat say.

Q. 4- Did you have a conversation with Ned Hicks?

A. I did.

Q. 5- Please state this conversation?

A. The same day that Ned Hicks came to Judge Rawles office as a witness for Miss Buck, Charlie Matthews told me he saw him going up town. When I got to Reeds Ferry I saw a man that had a wheel in front of Gale's store. I asked him if he came from Sandy Bottom. He said he did. I asked him if he knew Ned Hicks. He said "I am Ned Hicks". I said "I suppose you have been to town to testify". He said he had. I asked him if he gave in testimony. He said he had not. I asked him why. He said that Judge Rawles told him that he did not need him that day, and would send for him when he needed him. I said "Ned have you ever got any oysters from

Western Branch of Nansemond River, and did you term it a natural rock?" He said he had worked there years ago and he thought it was a natural rock. I asked him if he had ever planted any oysters there for Bennie Buck. He said he had not. I said "Ned didn't Bennie Buck come to your house the same Sunday that Jimmie Sullivan was buried, and asked you to come to Suffolk and testify that you had helped him plant oysters there." He said he had. I asked him if he had ever planted any oysters in the Western Branch of Nansemond River and he said "I worked the Edna B. a little and Ben Buck came and took her away from him. He said he had a few oysters on her then. I asked how many was on her. He said he could't hardly tell. I asked him if it was 50 tubs, or 100 or 200 tubs. He said he didn't like to tell. I said "Was it ten tubs"? He said it was more than ten tubs. When he told me that he had never planted any oysters for Bennie Buck I said "You are not a man that could be bought for ten dollars are you?" He said "No" I said "I didn't think you were a man to do such a thing."

Q. 6- Did you ever offer him ten dollar to testify for you?

A. I did not.

Q. 7- Why was ten dollars mentioned?

A. Because he acknowledged that Ben Buck had come to his house to get him to testify that he had helped him plant oysters there when he had not.

Q. 8- Then as I understand you it was to find out whether Ben Buck had offered him money or not.

A. Yes sir.

CROSS EXAMINED.

- Q. 1- At the time did you know Pat Townes had been summoned?
- A. Yes Sir, for I had seen the summons that Captain John Bower showed me.
- Q. 2- Why was it that you approached a witness to cross examine him?
- A. Because I was surprised to know that he knew anything about the matter.

John Carr.

Being duly sworn deposes and says as follows:

- Q. 1- What is your name, age, residence, occupation, and do know the parties to this suit?
- A. J.H. Carr, 24 years, Reads Ferry, Blacks with and Wheelwright, I do.
- Q. 2- Please state if you heard a conversation between Pat Townes and W.J. Thompson and if so state what you heard?
- A. Yes Sir I did. I was in my shop when Captain Townes came up and asked Pascal Townes if he had a summons, and he said he had not. Then he told him there was one for him. Then he asked him what he knew about Western Branch. He said he had cut some stakes for Mr. Bennie Back, and he asked him if he had helped him throw out oysters. He said "About 10 or 15 bushels. He then asked him if he had ever helped Ned Hicks throw out any. He said that he had not but saw him throw out some. He then asked him if he had ever an idea of how many were thrown out, or could he tell as near as possible how many there was. He said He thought there was 10 tubs or 15 tubs. That is about all that I can remember.

Q. 3- Please state if you heard a conversation between Ned Hicks and Mr. Thompson?

A. Well I heard a part of it but all I don't exactly remeber. I went to talk with Mr. Gale and did not hear it all. I heard Captain Tommie ask him if he knew Ned Hicks of Sandy Bottom. He said "I am Ned Hicks". Then he asked him if he had been giving in his state ments. He said he had not but he came to town for that purpose. Then he asked him if Bennie Buck had come over on that Sunday that Jimmie Sullivan was buried to get him to testify in this oyster case that he had helped him to throw out oysters. He said he had. He asked him if he would tell a lie. He s said that he would not. lie about anything in Court. Capt. Tommie then asked "No, I did'ent think you would tell a lie for ten dollars. Then he asked him how many oysters had he sold to Bennie Buck. He said I don't like to talk to much. Then Capt. Tommie asked him if he had helped Bennie Buck plant oysters and he said he never had. And he said it best for he not to say to much " If I cant do you no good I won't do you no harm.

Further the Deponent sayeth not.

The depositions of Mary B. Buck taken at office of R.H. Rawles in Suffolk, Va. on April 5th, 1901. Notice of time, place, of taking of said depositions and signature of the witness being waived by all parties, to be read as evidence in behalf of the defendant in that certain suit depending in the Circuit Court of Hansemond County wherein Mary B. Buck is Complainant and T.J. Thompson and others are Defendants.

R.H. Rawles, Counsel for Complainant.

Present:-

R.W. Withers, Counsel for Defendant.

-----O-----
Mary B. Buck being sworn as an adverse party, deposes and says as follows:

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

A. Mary B. Buck, age 28 years, Suffolk, housekeeper, I know the parties to this suit, and am the Complainant.

Q. 2- How did you acquire title to the Sacque Point farm and when?

A. I did it by purchase, I don't know the exact date, I make reference to the deed. I do not remember the date. To secure me of money I had lent my father.

Q. 3-

Q. 3- How far does your farm land extend to or in the Western Branch of Hansemond River?

A. We claimed to own the oyster ground as a part of the farm as Riparian owners.

Q. 4- Is it not a fact that the deed for this land calls for the Western Branch as being a boundary line?

A. I believe it does.

Q. 5- Then by virtue of your deed your farm extends only to the low water mark of Western Pranch?

A. I don't understand the deed. According to the deed this would be a fact.

Q. 6- Then you do not own the oyster ground in controversy by virtue of your deed?

A. We suppose that we own it.

Q. 7- Is it not supposed that your claim to this land rests upon the claim of a Reparian owners of the adjoining land? and not by virtue of your deed extending to the land under the water?

A. That we claim.

Q.8- Now as I understand you one of your claims to this oyster ground is that of a Reparian owner. Is this correct?

A. One of the claims; yes.

Q. 9- Did you ever apply in writing to the inspector of oysters for this County or any of his predecessors for an assignment of this oyster planting ground, if so when?

A. I did through Judge Rawles, but I don't remember the date. The paper is filed in this suit.

Q. 10- Is it by virtue of this application that you claim this land as an assignee?

A. Well that was the only application that was made except verbal application. I made application over the phone to Mr. Williamson and discovered that Mr. Thompson had made

application on 8th day of January, it was about two days before this that he had made application and I immediately saw Mr. E.M. Holland as to whether I would have to make an application to hold this ground by assignment or whether I could hold it as an occupant. Mr. Holland said he would get me an application but failed to do so for some reason and, I waited and when I saw him again he said he had not got an application. I went to Norfolk and when I returned from Norfolk in the evening on the 4.45 P.M. train he had done nothing towards getting an application and so I turned it over to Mr. Rawles and he made application that night.

Q. 11- As I understand you your application in writing for this oyster ground was filed after the application of T.J. Thompson and based your claim for said assignment upon your right as an occupant, am I correct?

A. Yes this and the right of Reparian owners.

Q. 12- The Reparian owners rights extend only to one-half acre does it not?

A. Well I don't know . On that side of Channel next to the farm my father made application to Ames the inspector and he was informed that one-half of the ground adjoining this farm belonged to the owner of the farm. This was based on the idea that it was supposed that the creek was less than 100 yards in width. In my application to Mr. William-
the right of a reparian on
son for an assignment of this ground is based partly upon

X The right I contend extends to all of the ground we have staked in this branch. I also claim partly as an occupant.

Q. 13- Miss Buck have you any writings, deeds, assignments, bills of sale or memoranda from your brother Benjamin Buck conveying, assigning, giving or selling to you any or all of his rights in any or all of these grounds?

A. I have not. When he made his residence in Ohio he didn't expect to have his residence in Virginia again. And he thought that probably I had more interest in the grounds than he did, and he gave the grounds to me.

Q. 14- When was this conversation?

A. I couldn't tell you that. He went in the Livery business in Ohio, and I don't know whether it was before he located or after he located there.

Q. 15- Was it in 1901 or in 1900?

A. It was not this year, I don't know whether in 1900 or not; it might have been in the latter part of 1899. It was just before the war with Spain. I think therefore it was in 1899.

Q. 16- Please recall the language used in making this gift?

A. He said "That his residence would be in Virginia no more" which it has not been since he went away. He said "That as he would be here no more the few oysters there would do him no good and as long as you expect to make Virginia your home, and would own the farm, it will be of more service to you than anyone else. I will just turn it over to you".

Q. 17- How many oysters did you plant on these grounds?

A. I planted or had planted there about 200 bushels from Ned Hicks. I bought them from him.

- Q. 18- How do you know the number of bushels in this lot?
A. I don't know except what my brother told me. He was acting as agent for me.
- Q. 19- Is this lot all that you caused to be planted there?
A. Yes that is all that I caused to be planted.
- Q. 20- Were the oysters planted by your brother planted before or after the Hicks lot?
A. Well Sir, I can't say I don't know.
- Q. 21- Of your knowledge do you know of any other oysters having been planted either by yourself, your brother or any agents of your brother?
A. I know what my brother said.
- Q. 22- Do you own the Edna B.?
A. No, my father did, but he gave me the proceeds of it.
- Q. 23- Do you know how many oysters have been removed from this ground since the oysters were planted therein by yourself?
A. I had some removed by Henry Booker and he gave me account of 198 bushels removed before this controversy and 12 bushels and 3 pecks since, making a total of 210 bushels and 3 pecks. We have used some for family use from 1/2 bushel to a bushel at a time. I guess we have used ten bushels for family use.
- Q. 24- How many oysters had Booker removed from this ground?
A. I don't know. He has taken some and sold them.

Q. 25- Evidence has been introduced in this case showing that Booker did not bring the correct account to you of the oysters taken up, are you prepared to question the truth of this testimony?

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Q/ 26- Do you know how many oysters have been removed from this ground by other persons than Henry Booker since you planted oysters there?

A. By my authority, none.

Q. 27- Are you prepared to state whether or not there is a single oyster which you planted on that ground remaining there now

A. Indeed I could not say. Everybody in Nansemond County might have been oystering there for all that I know.

Q. 28- Is it not a fact that plant oysters will be killed by fresh water or freshets?

A. I do not know, I am not familiar with the oyster industry.

Q. 29- Do you know whether or not the oysters planted in this creek at Western Branch lived?

A. I don't know, but I suppose they did from the appearance of those we used for family purposes.

Q. 30- Is it not a fact that the grounds are natural rock?

A. I never heard of it being so until this controversy arose, but it may be in some places.

Q. 31- Directing your attention now to the fact surrounding your written application to Mr. Williamson, your application was dated the 6th day of February, the 30 days yet to run for Thompson's application expired on the 8th of February. Now then after you had made your application, did you have the grounds designated, surveyed, ascertained and rent paid before the 8th of February?

A. The application was in Mr. Williamson's hand on the 6th day of January, the money tendered him and it laid with him whether or not the survey was made.

Q/ 32- How do you know this money had been tendered him?

A. I told Judge Rawles to do so and he told me he had.

Q. 33- Did you supply this money?

A. I saw Judge Rawles on the street and gave him \$5.00 cash all the change I had. I did not know exactly what it would take.

Q. 34- Did you give him a check?

A. I gave it to him in cash. \$5.00 is the amount.

Q. 35- Why was this not received by Williamson?

A. I don't why he did not receive it.

Q. 36- Did you have this ground staked before the 8th of February?

A. It was staked off 6 years ago and has been kept up to the best of my knowledge. I paid to have it done whether it was done or not.

Q. 37- Was any plat or survey made of this ground before the 8th of February?

A/ No sir.

Q. 38-

As I understand your testimony in this case it would be as follows: Your application was made on the 6th of february two days before the time for T.J. Thompson's assignment. That Mr. Judge Rawles was told to pay the rent. You did not know whether or not it was offered William-son and if offered why it was not received. You did not place any new or special stakes upon this ground between the 8th of January and the 8th of February. You had no plat made of this ground between these dates. You had no survey made of these grounds between theses dates. You have not as a fact paid the rent between these dates. You have not had the grounds desiganted between these dates. Am I correct

A.

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~~(Counsel for Defendant objects to leading questions by~~

CROSS EXAMINED.

(Counsel for Defendant objects to leading questions by Counsel for Complainant upon the ground that while the witness was called as an adverse party to testimony in behalf of Defendant subject to the rule of the cross examination, as a fact the witness is a party to the suit and should not be led by her counsel through leading questions.) (To which objection Counsel for Complainant replies, that the witness was called as a witness for defendant and as such is subject to cross examination.

Q. 1-

Do I understand you to claim this ground as an occupant?

A/

Yes Sir.

Q. 2-

You have testified that your father gave you the proceeds of the sloop, is this true?

A.

Yes Sir.

Q. 3- And that on one occasion the proceeds of the sloop were enough to purchase 200 bushels of oysters, is it true?

A. It is true.

Q. 4- You say that this ground has been continuously staked in? Is this true?

A. I paid for it to be done.

Q. 5- You say that within two days after Thompson filed his application that you saw Counsel to get him to file an application for you? Is it true?

A. Yes Sir.

Q. 6- That Mr. Holland informed you that any time within 30 days would do?

A. Yes Sir.

Q. 7- That you went to Norfolk and when you came back you found out that he had not filed an application?

A. Yes Sir.

Q. 8- And then you came to see your Counsel to file an application for you. You handed him \$5.00 in cash and told him to give it to Mr. Willaimson and to file her application. Your Counsel then got application that night after you came fr on Norfolk? Is this true?

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Q. 11- Did Mr. T.J. Thompson ever approach you to find out as to your claims to this ground?

A. Never did.

Q. 12- Was he not living on your farm on this creek?

A. He lived on my farm about 1/2 mile from grounds.

(Counsel for defendant objects to last two questions on the ground that it is irrelevant and immaterial, it is certainty not required of an applicant to apply to any other than the inspector for an assignment of oyster grounds)

Q. 14- Why was it that you did not have the ground at time you made application?

A. It had already been staked off before and if they had needed any more stakes I would have had them put up. Further the Deponent sayeth not.

T.J. Thompson, recalled.

Q. 1- Do you know Pat Townes?

A. I do.

Q. 2- Did you have a conversation with Pat Townes relevant to planting oysters at the mouth of Western Branch?

A. Yes Sir.

Q. 3- Please state your conversation and tell when and where it was carried on?

A. Directly after John Bower had ~~been~~ testified for Complainant, he showed me a summons and I saw Pat Townes name on it. I saw Pat at Reeds Ferry and said "Pat let me see your summons" and he said "I have'nt any". I said "What do you know in regard to Bennie Buck planting oysters at the mouth of Western Branch of Nansemond River"? He told me that he had cut some stakes once for Ben Buck, and helped him to throw out about 10 tubs of oysters. He carried them to Suffolk but could not sell them. He said "I saw Ned Hicks have some." I asked "How many oysters were in the Ned Hicks lot". He said "I don't hardly know." Well I said "You can have some idea how many there was" He said "There were about 10 or 15 tubs." That all I heard Pat say.

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Q. 5- Please state this conversation?

A. The same day that Ned Hicks came to Judge Rawles office as a witness for Miss Buck, Charlie Matthews told me he saw him going up town. When I got to Reeds Ferry I saw a man that had a wheel in front of Gale's store. I asked him if he came from Sandy Bottom. He said he did. I asked him if he knew Ned Hicks. He said "I am Ned Hicks". I said "I suppose you have been to town to testify". He said he had. I asked him if he gave in testimony. He said he had not. I asked him why. He said that Judge Rawles told him that he did not need him that day, and would send for him when he needed him. I said "Ned have you ever got any oysters from

Western Branch of Nansemond River, and did you term it a natural rock?" He said he had worked there years ago and he thought it was a natural rock. I asked him if he had ever planted any oysters there for Bennie Buck. He said he had not. I said "Ned didn't Bennie Buck come to your house the same Sunday that Jimmie Sullivan was buried, and asked you to come to Suffolk and testify that you had helped him plant oysters there."? He said he had. I asked him if he had ever planted any oysters in the Western Branch of Nansemond River and he said "I worked the Edna B. a little and Ben Buck came and took her away from him. He said he had a few oysters on her then. I asked how many was on her. He said he couldn't hardly tell. I asked him if it was 50 tubs, or 100 or 200 tubs. He said he didn't like to tell. I said "Was it ten tubs"? He said it was more than ten tubs. When he told me that he had never planted any oysters for Bennie Buck I said "You are not a man that could be bought for ten dollars are you?" He said "No" I said "I didn't think you were a man to do such a thing."

Q. 6- Did you ever offer him ten dollar to testify for you?

A. I did not.

Q. 7- Why was ten dollars mentioned?

A. Because he acknowledged that Ben Buck had come to his house to get him to testify that he had helped him plant oysters there when he had not.

Q. 8- Then as I understand you it was to find out whether Ben Buck had offered him money or not.

A. Yes sir.

CROSS EXAMINED.

- Q. 1- At the time did you know Pat Townes had been summoned?
A. Yes Sir, for I had seen the summons that Captain John Bower showed me.
- Q. 2- Why was it that you approached a witness to cross examine him?
A. Because I was surprised to know that he knew anything about the matter.

John Carr.

Being duly sworn deposes and says as follows:

- Q. 1- What is your name, age, residence, occupation, and do you know the parties to this suit?
A. J.H. Carr, 24 years, Reeds Ferry, Blacks mith and Wheelwright, I do.
- Q. 2- Please state if you heard a conversation between Pat Townes and T.J. Thompson and if so state what you heard?
A. Yes Sir I did. I was in my shop when Captain Townie came up and asked Pascal Townes if he had a summons, and he said he had not. Then he told him there was one for him. Then he asked him what he knew about Western Branch. He said he had cut some stakes for Mr. Bennie Buck, and he asked him if he had helped him throw out oysters. He said "About 10 or 15 bushels. He then asked him if he had ever helped Ned Hicks throw out any. He said that he had not but saw him throw out some. He then asked him if he had ever an idea of how many were thrown out, or could he tell as near as possible how many there was. He said He thought there was 10 tubs or 15 tubs. That is about all that I can remember.

Q. 3- Please state if you heard a conversation between Ned Hicks and Mr. Thompson?

A. Well I heard a part of it but all I don't exactly remeber. I went to talk with Mr. Gale and did not hear it all. I heard Captain Tommie ask him if he knew Ned Hicks of Sandy Bottom. He said "I am Ned Hicks". Then he asked him if he had been giving in his state ments. He said he had not but he came to town for that purpose. Then he asked him if Bennie Buck had come over on that Sunday that Jimmie Sullivan was buried to get him to testify in this oyster case that he had helped him to throw out oysters. He said he had. He asked him if he would tell a lie. He s said that he would not. lie about anything in Court. Capt. Tommie then asked "No, I did'ent think you would tell a lie for ten dollars. Then he asked him how many oysters had he sold to Bennie Buck. He sad I don't like to talk to much. Then Capt. Tommie asked him if he had helped Bennie Buck plant oysters and he said he never had. And he said it best for me not to say to much " If I cant do you no good I won't do you no harm.

Further the Deponent sayeth not.

The depositions of Geo. E. Bunting and others taken at the office of R. H. Rawles in Suffolk, Va. on the 14th day of March, 1901 by consent of all parties to be read as evidence in behalf of Mary B. Buck in a certain suit in equity, depending in the Circuit Court of Nansemond County, wherein the said Mary B. Buck is complainant and T. J. Thompson and others are defendants.

R. H. Rawles, Counsel for Complainant.

Present:-

R. W. Withers, Counsel for Defendant.

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George E. Bunting, being duly sworn, deposes and says as follows;

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

Ans. George E. Bunting, 29 years old, Nansemond County, farmer, and I know the parties to this suit.

Ques. 2- Are you acquainted with, and how far do you live from the oyster grounds in controversy in this case?

Ans. I am acquainted with them, and live $3/4$ of a mile in full view of them.

Ques. 3- How long have you lived there?

Ans. All my life.

Ques. 4- Do you know who has been claiming or occupying these grounds for the last 6 or 7 years?

Ans. Mr. Buck has. He was the first one to claim it, and when he gave his farm to his daughter, I suppose the oyster grounds were given with it. At that time it was supposed that this Creek belonged to the adjoining land owners, and at that time I think there was a law that all creeks, coves or inlets, less

than 100 yards in width belonged to the adjoining land owners.

Q. 5 - Will you state whether this oyster ground had been staked off, and if so, by whom?

Ans. Yes, it had been staked off, and I saw Mr. Benjamin Buck putting up the stakes; that was some 5 or 6 years ago.

Q. 6- Has it been kept staked in ever since?

Ans. There have been stakes there ever since, more or less, but whether they were the old ones or some new ones put there, I can't say.

Q. 7- Has the public been oystering on these grounds until very recently?

Ans. Before Mr. Buck had this piece of land staked in, it was supposed to be natural rock, and after he had it staked in, no one oystered on it until the last month, since which time they have been oystering there.

Q. 8- Did you ever see or know Daniel Bell to plant any oysters there?

Ans. No.

Q. 9- He claims to have put some 300 or 400 bushels there, would you not have been likely to have known this if it were a fact?

Ans. I cannot answer that exactly; I was away at school sometime, and he might have put them there at that time in the fall.

Q. 10- Have you ever known any body to plant oysters there except Mr. Buck of your own knowledge?

Ans. No, I never have.

Q. 11- Did you ever know these grounds to be legally assigned to any person as public grounds?

Ans. No, I never have.

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CROSS EXAMINATION.

Q.1- As I understand your testimony, you state that Miss Buck became entitled to this ground by virtue of a deed of bargain & sale

from her father for the farm land adjoining this creek, is this correct?

Ans. I said I supposed she became the owner of the grounds because at that time it was thought the creek belonged to the adjoining land owners.

Q. 2- You state that this ground was staked off 5 or 6 or perhaps 7 years ago by Mr. Ben Buck, was Mr. Ben Buck ever the owner of the land?

Ans. I can't say that he was, but at that time his father owned the land.

Q. 3- Did he stake it off for himself or his father?

Ans. I can't say, I don't know whether he staked it off for himself or for his father.

Q. 4- Was this staking after the Baylor survey?

Ans: I think it was after the Baylor survey.

Q. 5- Did not the public oyster upon these grounds after the Baylor survey, and before Mr. Buck staked it in?

Ans. They oystered before he staked it in.

Q. 6- Why did they stop?

Ans. Well, after Mr. Buck had this ground staked in, it was supposed to belong to the land owner.

Q. 7- Did Mr. Buck stake in and claim this ground by virtue of an assignment of it to him, or because his farm land adjoined it?

Ans. Well, I think at the time this was staked in he claimed it because his farm adjoined it. I cannot say positively whether this was the reason or not. Before the Baylor survey, this oyster ground was supposed to be natural rock and the public used it. After the Baylor survey was made and Mr. Buck found it did not belong to the public, he therefore had it staked off for himself.

Q. 8- You say Mr. Buck found that it did not belong to the public after the Baylor survey, do you not mean that because it was

not included within the Baylor survey that he thought it could no longer be considered a natural rock?

Ans. I mean to say that after this Baylor survey was made, that this piece of ground went to the land owners.

Q. 9- If this public opinion is erroneous, and the land in reality belongs to the state, then according to your previous answers, Mr. Buck's or Miss Buck's title to it would be gone, would it not?

Ans:- Well that depends upon whether there was a law or not, if I am not mistaken there was a law which entitled them to it, if there was not, of course it did not.

Q. 10- Since the stakes stuck by Mr. Ben Buck 5 or 7 years ago, have not other parties also planted stakes on this ground?

Ans: If any one has, I have never seen them.

Q. 11- Are you prepared to deny that George Dean, Daniel Bell or Henry Booker have staked in some or all of this ground?

Ans: If they have I know nothing about it.

Q. 12- Who have you seen plant oysters on this ground?

Ans: I have never seen any one plant oysters on this ground.

Q. 13- Did you not state that you helped Mr. Ben Buck stake in this ground 5 or 7 years ago?

Ans. No.

Q. 14- Do you not know that the purpose of Mr. Buck in staking in this ground was to secure to himself the fruits of this natural rock and to prevent the public from reaping the benefits which nature had here deposited?

Ans:- I think it was his legally, and he staked it to keep others off.

Q. 15- To keep others off what?

Ans. Off the oyster ground.

Q. 16- Do you mean by this that it was to keep others from gathering the natural oysters on this ground?

Ans: This whole thing was supposed to be natural rock, but really

there were oysters only about in spots, I think he staked it off to keep the public from gathering these oysters.

Q. 17- Are you prepared to deny that Daniel Bell planted 300 or 400 bushels of oysters on this ground?

Ans. I have never seen him plant any.

Q. 18- Do you know anything of an application of an assignment of this ground to Daniel Bell made to John W. Ames, Sr.?

Ans: Only what I heard Daniel Bell say.

Q. 19- Between the 8th day of Jan. and the 8th day of Feb. 1901, please state if you can, the condition of these grounds in regard to stakes?

Ans. I don't know.

Q. 20- Who have you seen oystering on this ground since Mr. Buck first staked it in?

Ans. Until recently I have never seen any one; recently I have seen Henry Booker, Bill Roberson, George Mathews, Ben Jackson, Daniel Bell and others.

Q. 21- How many oysters have been removed from this ground by the parties you have seen there?

Ans. I could not say, because I have not been near enough to the boats.

Q. 22- Has not Henry Booker been oystering regularly upon this ground in oystering time?

Ans. If I am not mistaken, he has until the last fall and winter.

Q. 23- About how many oysters can an oysterman catch upon this ground in a day?

Ans. I am no oysterman, but I have heard them say they can catch 25 to 30 bushels per day.

Q. 24- At 25 bushels per day, how many days would be required to remove 500 bushels of oysters?

Ans. 20 days.

Q. 25- Have not 20 days working time been expended upon this ground by Henry Booker during last fall and winter?

Ans. I cannot say whether there have or not. I should suppose he

had worked out there 20 days in all.

Q. 26- You state that from the 8th of Jan. to the 8th of Feb. 1901, that many people oystered upon this ground, do you think it improbable that the aggregate number of bushels removed by all of these people would amount to 500 or 600 bushels?

Ans. I think not; it is hard for a farmer to estimate oysters.

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And further this deponent saith not.
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Henry Booker, being duly sworn, deposes and says as follows;

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

Ans. Henry Booker, 31 years, Nansemond County, farmer and oysterman, I know the parties to this suit.

Q. 2- Are you well acquainted with the oyster grounds in controversy?

Ans. I am, I have known them 5 years.

Q. 3- Will you state whether *any* body has been using or occupying them during that time, and if so, whom?

Ans. Mr. Ben Buck.

Q. 4- Did he have them staked in during this period?

Ans. Yes-sir.

Q. 5- For whom are you working now?

Ans. For Mr. Ben Buck and Miss Mary Buck.

Q. 6- Will you state anything you may know in regard to whether any oysters were planted on this ground by any person for the Buck's?

Ans. I helped Mr. Ben Buck throw out 20 bushels there myself; Mr. Geo. Furman also threw out some there for him. Pat Towns also threw out some for him, and also Ned Hicks.

Q. 7- Do you know whether or not any body else has planted oysters on this ground for the last 5 or 6 years?

Ans. No-sir.

Q. 8- Has the public been oystering on these grounds until very recently?

Ans. No, they have not.

- Q. 9- Did you ever know Daniel Bell to plant any oysters there?
Ans. No-sir.
- Q. 10- About when did the public commence recently to use these grounds?
Ans. About one month ago.
- Q. 11- When Daniel Jordan and others went in there about a month ago, did you forbid them to take oysters from this ground?
Ans. Yes-sir.
- Q. 12- Why did you forbid them?
Ans. Because Miss Mary Buck and Mr. Ben Buck authorized me to look out for their ground and tell them if any one came there to oyster, and to forbid them oystering, and I have heard Mr. Buck forbid them also.
- Q. 13- Did Mr. Ben Buck have this ground staked in?
Ans. Yes-sir.
- Q. 14- How long has it been staked in?
Ans. About 6 years.
- Q. 15- Have you been working there during that time for the Bucks?
Ans. Yes, for the last 7 years.
- Q. 16- How do you work for them, shares or otherwise?
Ans. I work for them on shares, and also work by the job sometimes.
- Q. 17- Have you taken up oysters from this ground for them?
Ans. Yes-sir.
- Q. 18- How did you work?
Ans. I was working on halves.
- Q. 19- Explain who sold the oysters which you took up and how you settled?
Ans. I sold the oysters, and settled with Mr. Ben Buck, giving him one half.
- Q. 20- Is this ground natural rock as a matter of fact all the way over?
Ans. No, it is not all rock, a little of it is natural rock in my opinion.
- Q. 21- How many oysters have you taken from this ground in the last

few years for the Buck's?

Ans. 198 bushels.

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CROSS EXAMINATION.

Q. 1- Where were you born?

Ans. In Prince Edward County, Va.

Q. 2- How long have you been in Nansemond County?

Ans. 12 years.

Q. 3- How long have you been working on the Buck land?

Ans. 7 years.

Q. 4- What were you doing?

Ans. When I first went down there I went to hauling wood, then I did odd jobs on the farm for about 2 years, then I went to working for myself.

Q. 5- From whom did you rent the land?

Ans. From Mr. Buck and Miss Buck.

Q. 6- How long have you been farming on your rented land?

Ans. 5 years.

Q. 7- Are you an oysterman?

Ans. Yes-sir.

Q. 8- Did you oyster in Prince Edward County?

Ans. No.

Q. 9- When did you first oyster?

Ans. About 10 years ago.

Q. 10- When did you first oyster after you came to Mr. Buck's?

Ans. About 5 years ago.

Q. 11- Do you oyster as your regular occupation in the winter, and have you been doing so for the past 5 years?

Ans. No-sir, not altogether.

Q. 12- You state that Mr. Buck staked in this ground 6 years ago, did you help him?

- Ans. Yes-sir.
- Q. 13- Did he plant any oysters there since?
- Ans. Yes-sir.
- Q. 14- How many and who planted them?
- Ans. Mr. Furman planted some there for him.
- Q. 15- Were these the first plants put upon this ground by Mr. Buck?
- Ans. I do not know whether they were the first ones or not.
- Q. 16- How many did Mr. Furman plant?
- Ans. I think it was 76 tubs.
- Q. 17- You say that Pat. Towns planted some for Mr. Buck, when was this and how many?
- Ans. That was done in the 6 years, but I don't know how many.
- Q. 18- Was it not 20 bushels?
- Ans. I do not know.
- Q. 19- Were they planted by Paskell Towns before or after you planted the 20 bushels?
- Ans. After.
- Q. 20- How long after?
- Ans. During the same season.
- Q. 21- How many did Ned Hicks plant and when?
- Ans. I don't remember exactly how many bushels, but he planted them about 6 years ago.
- Q. 22- Did you see him plant them?
- Ans. I saw the sloop, and I saw them throw them out, but I don't know how many.
- Q. 23- What Slopp?
- Ans. I don't know.
- Q. 24- Could you not state about the size of the Sloop, her capacity?
- Ans. It was about the size of the Richard Rhodes, I think; I was some distance from it.
- Q. 25- Is it not a fact that Ned Hicks planted less than 30 bushels?
- Ans. He planted more than 30 bushels.

Q. 26- How do you know?

Ans. Because he was up there quite a while, and it does not take a man but a very little while to throw out 30 bushels.

Q. 27- Is that the only basis of your answer?

Ans. The reason I say that is because I don't know how many bushels he did throw out.

Q. 28- Is it not a fact that the 20 bushels that were thrown over by you were oysters which had been taken from other grounds by Mr. Buck, carried to Suffolk and brought back because there was no sale for oysters on that day?

Ans. No-sir.

Q. 29- Where did he get them from?

Ans. He got them from his other oyster grounds, known as the Lower grounds in New Channel.

Q. 30- You state that these grounds are not a natural rock, how long have you been working upon these grounds and what is the extent of your investigation for making this statement?

Ans. Because it is gravelly bottom and I don't see why gravelly bottom or broken rock should be natural rock. This fall is the only time I have taken any time in it; I have been messing around there, bringing in a few for the family use for about 5 years.

Q. 31- Is it not a fact that oysters actually strike and grow upon the bottom of this ground?

Ans. I do not know.

I now put you on your guard as to the answer you shall make to the next question.

Q. 32- How many oysters have you taken from this ground and sold to Capt. John Bower ?

Ans. 198 bushels.

Q. 33- Have you not sold oysters from this ground to parties in Windsor, Va?

Ans. Not from this ground, but from the outside of it.

Q. 34- What do you mean by the outside of this ground?

Ans. I mean the ground which is below the boundary of this ground.

Q. 35- Were they caught in the Western Branch?

Ans. No, at the mouth of the Western Branch of Nansemond River.

Q. 36- On the right-hand or on the left-hand side coming in?

Ans. On the left hand side coming in the creek.

Q. 37- Who was with you when you caught them?

Ans. George Johnson was with me a while, but I caught some by myself.

Q. 38- Did you not sell some oysters from this ground to Edmond Otis?

Ans. Yes, they were from the same place.

Q. 39- Were these caught at the same time as those which you shipped to Windsor?

Ans. No, it was before.

Q. 40- When were these caught?

Ans. Before last Christmas.

Q. 41- Who was with you when you caught them?

Ans. George Johnson was with me some of the time, and I was myself some of the time.

Q. 42- Have you not sold oysters from this ground to the employees of the Brick Kilns at Ried's Ferry?

Ans. No-sir.

Q. 43- Where did you get them?

Ans. I got them below the grounds there.

Q. 44- How far do these grounds of Miss Buck extend?

Ans. From the mouth of the creek it comes up about 5 or 6 acres.

Q. 45- Does it extend to the western or Steel side of the creek?

Ans. All of it is her ground.

Q. 46- Then you did take up oysters from her ground?

Ans. No, I did not, because I was below her ground.

Q. 47- Did you not say that you took up oysters inside the mouth of the Western Branch of Nansemond river and sold them, and did you not also say that all of this ground belongs to Miss Buck?

Ans. Where the line commences it belongs to her.

Q. 48- Did you not say that her line extended from the mouth of the

branch up so as to take in about 5 or 10 acres?

Ans. Where her line starts it goes up the creek about 5 acres inside the mouth.

Q. 49- How many acres is Miss Buck claiming in that creek?

Ans. About 5 or 6 acres.

Q. 50- Does not her application ask to have assigned to her 10 or 12 acres?

Ans. I do not know.

Q. 51- Are there more than 12 acres in this ground?

Ans. Not to my judgment, but there may be more.

Q. 52- How many oysters did you sell to Edmond Otis?

Ans. 4 bushels.

Q. 53- How many did you send to Windsor?

Ans. 5 bushels.

Q. 54- How many did you sell at the brick yards?

Ans. 2 bushels.

Q. 55- How many did you sell to Ben Jackson?

Ans. I do not know, that was in the 198 bushels, I think it was about one bushel.

Q. 56- Have not other parties than yourself oystered on this ground between the first of Jan. up to the present time?

Ans. Yes-sir.

Q. 57 - About how many oystermen were there?

Ans. Ben Jackson, Daniel Bell, Daniel Jordan, Capt. T. J. Thompson, Mr. Charlie Mathews and Mr. Geo. Mathews.

Q. 58- About how long did these parties oyster there?

Ans. T. J. Thompson 7 days -- Daniel Jordan 3 days -- Ben Jackson 4 days -- Charles Mathews 2 days -- Geo. Mathews 4 days-- Daniel Bell 5 days.

Q. 59- About how many bushels does an oysterman catch in a days work?

Ans. About 10 bushels.

Q. 60- How many oysters did you sell Daniel Jordan from this ground?

Ans. I have not sold him any.

Q. 61- From your statement it would seem there have been planted on

this ground about 150 bushels of oysters, and that there have been removed therefrom about 400 bushels, would you say now that there are any plants upon this ground?

Ans. Yes-sir.

Q. 62- How do you account for their presence?

Ans. Because of the oysters that were thrown over there; you know they are bound to produce and those that I tonged , some of them were planted oysters.

Q. 63- You say some are planted, what are the others?

Ans. After planted oysters lay a certain length of time they assume the shape of the natural growth oyster.

Q. 64- Have you sold ~~or~~ taken up any oysters from either Miss Buck's grounds or the grounds below, other than those you have above mentioned, if so please state how many and when they were taken up?

Ans. I have sold oysters to Mr. Geo. Bunting and J. H. Gall and these were taken below Miss Buck's ground. There were 10 bushels.

And further this deponent saith not.

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Paskell Towns, being duly sworn, deposes and says as follows;

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

Ans. Paskell Towns, age 53, farmer, Nansemond county, and I know the parties to this suit.

Q. 2- How near do you live to the grounds in controversy?

Ans. I live in sight of them; about 1/2 mile.

Q. 3- How long have you been living there?

Ans. I have been there about 2 years.

Q. 4- How long have you been knowing these grounds?

Ans. For about 18 years.

Q. 5- Do you know whether any body has planted oysters on these grounds and if so, whom?

Ans. I know of no body planting there except Mr. Buck; I helped him to plant about 30 bushels there about 6 years ago.

Q. 6- Are the grounds now staked in?

Ans. I do not know, I have not been in the creek for 12 months.

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CROSS EXAMINATION.

Q. 1- Were you present when Ned Hicks planted oysters on this ground for Mr. Ben Buck?

Ans. I saw the boat out there.

Q. 2- Do you know how many he planted?

Ans. No.

Q. 3- Did you not on last Saturday state to Mr. Carr and Mr. T. J. Thompson that you had planted about 10 or 15 bushels there and that Ned Hicks had planted about 10 or 15 bushels there?

Ans. Mr. Thompson asked me how many oysters did I throw out there, and I told him I could not tell exactly, and he said I ought to have some estimation about it, then I said I reckon there was about 25 or 30 bushels.

Q. 4- Was not Mr. Carr present?

Ans. Mr. Carr was in the shop and Mr. Thompson was standing outside of the door.

Q. 5- Did you not tell Mr. Thompson that you had helped Ned Hicks throw out about 10 or 15 bushels?

Ans. No, I have never told him that.

Q. 6- Who have you talked with about the testimony that you should give in this case?

Ans. No one.

Q. 7- Do you know of Mr. Buck having planted any other oysters in this ground besides those you mentioned?

Ans. No, I do not.

Q. 8- Who have you seen oystering on this ground?

Ans. I have seen different people out there, but I don't know who

they were. I saw them there about 2 weeks ago.
And further this deponent saith not.

Capt. John Bowers, being duly sworn, deposes and says as follows;

Q. 1- Capt. Bowers, are you the same gentleman that testified in this case a few days ago?

Ans. Yes.

Q. 2- Will you please tell me what you may know as to the character of the oysters to be found on the grounds in controversy; that is are they plants, or are they natural rock oysters?

Ans. To the best of my judgment, the greater part of the oysters I caught were natural planted oysters; if they were not, the bottom that I took them from had neither shells nor rocks nor anything for them to strike on, but a portion of the ground you might claim to be natural rock.

Q. 3- Then if I understand you, there is some natural rock in this Western Branch, and it is equally true that there are some planted oysters?

Ans. Yes, that is right.

Q. 4- Will you please state whether the oysters which you saw taken from this ground were all of uniform size or not?

Ans. They were nearly uniform size; there was no young growth among them.

Q. 5- Will you state whether you found any specially large oysters there or not?

Ans. Yes, there were some large ones, some would do for barrel oysters -- out of 10 bushels, you might cull a bushel.

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CROSS EXAMINATION.

Q. 1- Do you remember the date upon which you testified in this case before as witness for T. J. Thompson?

Ans. The 25th of Feb.

Q. 2- In your testimony given at that time, you stated that you had bought from Henry Booker one hundred odd bushels of oysters, and that in your opinion these oysters which had come from the Buck grounds were natural strikes, do you wish now to deny your former statement?

Ans. I wish to deny saying they were natural strikes.

Q. 3- You stated at that time that you had never wet a pair of tongs in this creek?

Ans. I did.

Q. 4- When you have just stated that you took up some oysters and that they appeared to be plants?

Ans. I said there were plants among them; some were natural strikes, and some were plants.

Q. 5- Where did you get these oysters from which you took up?

Ans. Out of Mr. Steel's 1/2 acre.

Q. 6- Then they did not come from any part of the Buck ground?

Ans. I don't know about that, I know they came from Mr. Steel's 1/2 acre; I don't know whether Mr. Buck claimed this or not.

Q. 7- Is it not a fact that at the time you gave in your testimony on the 25th of Feb. that you had no interest directly or indirectly in this case, or in the oyster grounds in or near the Western Branch or any part thereof?

Ans. Yes, that is right.

Q. 8- Is it not a fact that since that date you have made some arrangements with Mr. Steel, whereby you oyster in these grounds?

Ans. Yes.

Q. 9- Please state the substance of your agreement with Mr. Steel?

Ans. Here is the agreement:-

Hillo Point Farm,

Feb. 29, 1901.

Capt. John Bowers, go and get out of my half acker of oyster ground, staked in and with a peice of read cloth tied on each corner stake or pole, whatever good oysters you may find on

same and warn all others to keeps of the same.

Respe. Yours,

W. J. & Nancy Steel.

Q.-10- Is it not a fact that within the last week, some part of this oyster ground in the Western Branch of Nansemond River extending out into and including a part of Nansemond river has been by the inspector of oysters for Nansemond County, either promised or actually assigned nominally to Henry Booker, and at the same time there is a mutual understanding between parties that this ground is in reality for you.?

Ans. A piece of ground has been assigned to Henry Booker in Nansemond river but not in Western Branch. It goes to the mouth of Western Branch at the south corner stake. It was taken up for himself and not for me. If I had wanted it myself, I would have taken it in my own name.

Q. 11- When was Mr. Steel's half acre assigned him by the inspector?

Ans. On the 12th inst.

Q. 12- How did you know what ground to oyster upon?

Ans. Well, I did not except that he had the 1/2 acre measured off, and I worked where he had ~~it~~ staked off.

Q. 13- Do you wish to deny now any of the former statements you made in your testimony taken on the 25th of Feb.?

Ans. I have not denied any of them, except that you said I said all of them were natural strikes and I do not recollect saying that.

Q. 14- The result of your present statement as I understand it, is simply this; that since your last testimoy, you have been upon this ground and find what you believe to be some plants among the rocks; that these oysters of which you speak were taken from Mr. Steel's 1/2 acre; that you do not know whether Mr. Buck claims this piece of ground or not, is this correct?

Ans. Yes.

And further this deponent saith not.

W. J. Steel, being duly sworn, deposes and says as follows;

Q. 1- What is your name, age, residence occupation and do you know the parties to this suit?

Ans. W. J. Steel, 70 years, Nansemond County, farmer and I know the parties to this suit.

Q. 2- Are you an adjoining land-owner of the grounds in controversy?

Ans. Yes.

Q. 3- How long have you owned this ground?

Ans. Since 1876.

Q. 4- Will you state who has been occupied claiming or using these oyster grounds in controversy for the last 5 or 6 years?

Ans. Parties who owned the adjoining lands. Mr. Buck on one side and myself on the other.

Q. 5- Do you know whether Mr. Buck has ever had this ground or any part of it staked in?

Ans. I now think Mr. Ben Buck had. It must have been 6 or 7 years ago.

Q. 6- Do you know of any one else who has had oysters planted on this ground in that time except the Bucks?

Ans. I never heard of any one else until lately.

Q. 7- Will you state what if any privileges you have granted the Bucks as to this ground?

Ans. I gave Mr. Ben Buck the whole privilege of going ahead and making what he could out of it and giving me a part of the profit.

Q. 8- Did he agree to pay you out of the first oysters that were sent to market?

Ans. There was no agreement about what he was to pay me or what he was to do with them.

Q. 9- Has any body else ever applied to you for any part of this ground?

Ans. A year ago last spring, Mr. Dean asked me if I would not give him my interest in that part of the creek; I told him that I

had already given it to Mr. Buck, and I did n't know whether he still held the exclusive right or not, but if he had given it up Mr. Dean could have it.

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CROSS EXAMINATION.

Q. 1- Do you know anything about Daniel Bell having staked in a part of this ground, made an application to the inspector and planted 300 or 400 bushels of oysters on it?

Ans. Never until 2 or 3 weeks ago, and then I did n't believe it.

Q. 2- Have you ever seen any one plant any oysters in this ground, if so, who and when?

Ans. No one except Mr. Buck.

Q. 3- How do you know he planted there?

Ans. By hearsay. I never saw him.

Q. 4- When did the inspector assign the 1/2 acre to you to which riparian owners are entitled?

Ans. The 12th of March.

Q. 5- Does this piece of ground take in any part of the ground claimed by Mr. Buck?

Ans. It was all claimed by Mr. Buck and myself; I claimed my own 1/2 of the river up to the first of last month.

Q. 6- On your side of the river then, you have now 1/2 acre, who claimed the balance of your side of the river?

Ans. I do not know; that is in controversy.

And further this deponent saith not.

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Capt. George W. Dean, being duly sworn, deposes and says as follows;

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

Ans. George W. Dean, 44 years, Nansemond county, Pilot and I know the parties to this suit.

Q. 2- It has been testified in this case that you once staked off a

part of the ground in controversy, but did not occupy or use it, will you please state why you abandoned it?

Ans. I saw Mr. Steel when Mr. Buck went west to buy horses, and I did n't know whether he had any use for that ground or not.

I was under the impression that anything under a hundred yards belonged to the land owners so I applied to Mr Steel for his half. Mr. Steel said that if Miss Buck had abandoned it I was welcome to it, so I went and staked it off. Henry Booker came down through the marsh and asked me what I was doing, and I told him I was staking that ground. I stuck stakes up to Mr. Steel's line and let it go at that. About a week afterwards Mr. Ben Buck met me on the street down town and asked me what business I had to stake that ground off, I gave him my authority. He said he had nothing to do with it personally, but it was his sisters' property, and he said he was going to see her out of it, and that if Mr. Steel wanted that ground, he had to give him a reasonable time to get his oysters off; that is why I abandoned it.

Q. 3- Have you ever attempted to use it since?

Ans. No.

Q. 4- Have you ever seen any one planting oysters for Mr. Buck?

Ans. Yes, I have seen Furman in the Sloop Edna B.

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CROSS EXAMINATION.

Q. 1- As I understand your testimony it amounts to this; that you thought that ground belonged to Mr. Steel and Mr. Buck and not to the state, and that under the agreement with Mr. Steel you readily resigned when it was made known to you that Mr. Buck had not abandoned?

Ans. No-sir, it is not.

Q. 2- State wherein it is incorrect?

Ans. Just as soon as Mr. Buck told me his reason, I readily gave up the ground.

And further this deponent saith not.

Mr. Benjamin W. Buck, being duly sworn, deposes and says as follows;

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

Ans. Benjamin W. Buck, age 26, Athens County, Ohio and I know the parties to this suit.

Q. 2- Do you personally own or claim any oyster grounds or other lands in Western Branch of Nansmond river?

Ans. No an inch nor an oyster.

Q. 3- Will you state in all your acts and dealings in the grounds in controversy, whose interest you represented?

Ans. My sister.

Q. 4- It is true that she is now the owner of the farms adjoining these grounds?

Ans. It is.

Q. 5- Who owned the grounds before she did?

Ans. My father.

Q. 6- Do you know the width of the creek opposite your farm?

Ans. I know 2 widths made by 2 different surveyors; one was Capt. P. St. Julian Wilson whose survey was 76 ^{years} ~~years~~ to the best of my memory; the other was made by John Cowling and was 72 years to the best of my memory.

Q. 7- Will you state who has been using or occupying this oyster ground for the purpose of planting oysters for the past 6 or 7 years?

Ans. Even longer than that, about 7 years ago I applied to John W. Ames Sr. then oyster inspector, who informed me that he had no power over that ground, that it was the property of the land owners on each side the creek being less than 100 yards at the mouth. I then applied to Mr. Steel in person for the use of his $1/2$ acre, offered to buy or rent it. At that time the farm belonged to my father, and when it was made over to my sisters, I gave her my interest in it, and I only had an agreement with my father similar to the one with Mr. Steel.

Q. 8- Please state what oysters you have planted there or caused to

be planted there since you were representing either yourself, your father or your sister?

Ans. The first that were planted to any amount was 76 bushels and 3 pecks which I bought from John Furman who was at that time captain of the slopp Edna B.. That has been 4 or 5 years ago; he also helped to plant these. The next that I planted was a ~~ship~~ load that I took up out of our lower staked known as the Old Gaskins stakes; there was between 25 and 30 bushels of stuff which was large enough for market, they were scattered over between 3 and 5 acres, Henry Booker helped to plant these. The next that were planted were between 17 and 25 bushels that Ned Hicks helped me to take up out of the lower stakes, as it was too windy to work at anything else. We threw these in the stakes rather than go to town against the tide. The next Ned Hicks was oystering using the Edna B. , he took up 3 loads and sold 2 to the oyster planters, gave me the money with which I bought his share of the 3rd load and he helped me to get the boat on the way, and I sailed to Western Branch, anchored there and threw out a part of them myself, then went to Reed's Ferry, got Patshell Towns to help finish throwing them on the ground. There was 2 ~~ship~~ loads and nearly a third load that he helped me to throw out, making in all to the best of my judgment from 180 to 215 bushels in that one lot. There were a few planted there before the Furman oysters, but I do not remember who helped me plant them or how many there was. The last lot of oysters that were planted, my sister Mary paid for with money coming from the boats share, I was acting as her agent. The 2 small quantities were between 17 and 25 bushels .

Q. 9- Please state if you have ever staked off this ground, and if so, when?

Ans. I have staked it off about 5 or 6 times; it is staked off from the mouth of the branch to Reed's Ferry. I staked it so often, because sometimes the stakes would be carried away by ice and other things, and a good many of my corner stakes were either

broken down or drawn up.

Q. 10- Have you kept it staked all the time?

Ans. Yes, I have kept it staked all the time, and when I was n't here my sister paid a man to keep it staked off.

Q. 11- Then I understand you to say that in your acts as to this ground you represented your sister?

Ans. Yes.

Q. 12- Did you ever apply to the present inspector Mr. Williamson for these grounds?

Ans. I have on or about the 15th of September, 1900. Mr. Williamson, who is now the oyster inspector said that he did not know whether or not it was assignable ground, but in case it was, he would look into the matter, and that my application would be considered. I was acting as my sister's agent, which was stated to him. In addition to that, 2 weeks prior to Thompson application, my father made verbal application for the same piece of ground for my sister, and he also told him that he was under the impression he had no right or jurisdiction over the piece of ground, but in case such should become State property his or my application should be considered.

Q. 13- Did Mr. T. J. Thompson know before he filed his application of your father's claim to this ground?

Ans. Yes.

Q. 14- Do you know whether he ever approached him in reference to his application for this ground?

Ans. I do not.

Q. 15- Did he ever inform you he was going to apply for it?

Ans. He never did.

Q. 16- Does he not live on her farm?

Ans. Yes, he is a renter thereon.

Q. 17- From the very nature of the case must he not have known that she was occupying this ground?

Ans. He did. I told him myself to keep out of it as my sister was a woman, and I would see that he nor any one else imposed on

her, and especially you.

Q. 18- About how many oysters have you caused to be taken from this ground since you have been using it as agent?

Ans. Never a bushel except for family use, which was less than a bushel and 1/2.

Q. 19- Do you know how many Henry Booker has taken from this ground?

Ans. I do not. I know that my sister has received money for oysters that he had taken up and sold for her. The amount I don't know.

Q. 20- Will you state whether or not she is still occupying this ground with oysters planted thereon?

Ans. She is. While Thompson was living on one of the Ferry fields, he and I had some words about me hauling oyster stakes across his peanut patch. While planting oysters in the mouth of Western Branch creek, John Mathews passed sailing a small sloop, and I tried to hire him to help me finish throwing them out, he said he could n't, as he could not save the tide to Suffolk.

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CROSS EXAMINATION.

Q. 1- Please state whether you or your sister claim this ground as riparian owner, present occupant, or assignee from the inspector?

Ans. I claim it by riparian right and as an occupant.

Q. 2- If you are mistaken as to your right to claim this land as riparian owner, then as I understand you your only other claim is by reason of occupancy?

Ans. No, my other claim is that we first applied for the ground before any other application had been made.

Q. 3- You have made contradictory statements, please state which you mean; that you claim this ground as riparian owner and as first assignee, or that you claim it only by virtue of the first 2?

Ans. By change of law I claim it as land owner and having made the first application, which gives me a double claim.

Q. 4- As I understand you now, you claim it as an adjoining land owner and as a first applicant and not by reason of former occupancy?

Ans. No.

Q. 5- Please explain wherein I am mistaken.

Ans. I claim it by all three.

Q. 6- Then I understand you to say that you claim it first as an adjoining land owner, second, as an occupant and third, as having made the first application for it?

Ans. Yes, that is right. I claim it for my sister.

Q. 7- When did your sister first become the owner of this adjoining land?

Ans. I don't remember; the deed will show.

Q. 8- You state that Furman planted the 76 tubs and 3 pecks of oysters about 5 years ago, you also state that at this time about 5 years ago and prior thereto, you in your own right, were using this ground, and that it had been given or rented you by Mr. Steel and your father, are these statements correct?

Ans. They are.

Q. 9- At the time the balance of the oysters which you state have been placed in this ground were placed thereon, who was the owner of the farm land?

Ans. At that time my father owned it, then when it was made to my sisters, as I was going West to live, I gave it to them.

Q. 10- At the time you gave this land to your sisters, were they the owners of the farm land?

Ans. At the time I gave my right to them they were the owners of the farm land.

Q. 11- Did you give it to them or either of the, by deed or other writing or by word of mouth?

Ans. By word of mouth, just as I have given them a \$5.00 bill many a time.

Q. 12- Then according to your statement, the oyster planting has for a number of years been separate and looked upon as distinct property from the farm land?

Ans. No, only the Steel and Bunting part of it.

Q. 13- Did you not state that your father gave you the same right on his side of the creek that Mr. Steel gave you on his side?

Ans. He gave me a similar right. One I was to pay for and the other I was n't.

Q. 14- Did your father give you the farm land at the ~~same~~ time?

Ans. No, but he had a right to give me the use of any field or woods or water land or marsh that he saw fit to.

Q. 15- Then ~~there~~ was a separation made as to the use and occupancy of these 2 pieces of property?

Ans. There was, as I only asked him for the oyster ground.

Q. 16- Did the oyster land pass to your sister or sisters by virtue of a deed from your father?

Ans. It did.

Q. 17- Then why should you give it to them if they already had it from your father?

Ans. I only gave her my right to the oysters thereon.

Q. 18- Then as I understand you, the right to the land on your father's side of the creek passed to your sister by virtue of her deed.

Ans. It did.

Q. 19- Then what did you give her by your gift?

Ans. The claim I had to the oysters planted on the ground.

Q. 20- As I understand your testimony, you state that there have been planted on this ground 346 bushels of oysters and that these oysters were given by you to your sister, please state whether or not these oysters or any part of them were planted on the Steel side of the creek?

Ans. I claim that they were scattered all over this piece of ground including the Buck and Steel ground.

Q. 21- You stated that the 25 or 30 bushels gotten from the lower stakes by yourself and Booker and also the 17 or 25 bushels planted by Ned Hicks and yourself were large marketable oysters?

Ans. I did not say they were large, I only said they were marketable stuff.

Q. 22- Are you sufficiently familiar with oyster culture to state the proportion of increase of oysters of marketable stock?

Ans. I am not, and don't think any one else is unless they have been oystermen a number of years.

- Q. 23- It has been given in testimony here by experienced oystermen that large oysters when planted will not yield any more if as many bushels as when planted. Are you prepared to deny or affirm this?
- Ans. I do not lay claim to having planted any large oysters; the largest I planted were oysters that would not bring over 40 cts. in the Suffolk market at that time.
- Q. 24- Do you know how far down towards the mouth of the Branch your oyster claim extends?
- Ans. I do; it extends to corner stakes and I think they are within a few yards of Nansemond river.
- Q. 25- As I understand you your claim extends to your lower corner stakes up how far?
- Ans. I staked in from the mouth of the Branch to the rocks.
- Q. 26- Could you tell about how many acres there are in this creek, other than those claimed by you or your sister; I mean below or towards the mouth of the creek from Mr. Steel's cove?
- Ans. None, except Mr. Steel's 1/2 acre which I formerly claimed.
- Q. 27- Mr. Steel's 1/2 acre is near his cove, is it not?
- Ans. I could n't tell you.
- Q. 28- Do you know how many bushels of oysters have been removed from this ground before the 8th day of Feb.?
- Ans. I do not.
- Q. 29- You are not prepared to say that as many as 446 bushels of oysters have been removed from this ground prior to the 8th day of Feb. are you?
- Ans. I am not.
- Q. 30- If as a fact there have been removed from this ground as many as 450 tubs of oysters, while your testimony shows that there have been planted only 346 bushels, could you now testify that there are now any planted oysters on this ground?
- Ans. No, I could not testify that there is even a shell there today.
- Q. 31- In your direct testimony you stated that you made a verbal application to Reps Williamson for this ground sometime in September and that the assignment was not made; that some time

about 2 weeks before T. J. Thompson's application, your father made verbal application for the same ground, please state if there have been any more applications made by you or your father or your sister for this ground?

Ans. My sister made application before, but I do not know when.

Q. 32- Do you mean the written application made through Judge Rawles?

Ans. I do.

Q. 33- Do you know whether or not between the 8th day of Jan. and the 8th day of Feb. 1901 your sister had the grounds claimed by her, designated, surveyed, located and rent paid?

Ans. I do not.

And further this deponent saith not.