

1906-025

Nansemond Co (Suffolk)

Chancery Causes: Norfolk & Western Railroad Co vs Atlantic & Danville Railway Co

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Chancery Summons

The Commonwealth of Virginia -

To The Sheriff of Hanseman County, Greeting:

You are hereby Comanded to Summon the Atlantic and Danville Railway Company to appear at the Clerk's Office of the Circuit Court of Hanseman County, at the Rules to be held for the said Court, on the first Monday, in January next, to answer a bill in Chancery exhibited against it in said Court by the Norfolk and Western Railroad Company, and have them and then, this summons.

Witness, Peter B. Preater, Clerk of our said Court, at his Office, this 29<sup>th</sup> day of October, 1887, in the 112<sup>th</sup> year of the Commonwealth.

Teste:

Peter B. Preater, Clerk

Geo. S. Barnard and Wm. H. Mann, p.g

Injunction Order

Memo: The Atlantic and Danville Railway Company, its Officers, Agents and Servants, and all other persons are enjoined from entering upon the right of way of the Norfolk and Western Railway Company, at any point along its line in Hanseman County, and especially, at the point about one mile East of Suffolk, in the County of Hanseman, and to which the Atlantic and Danville Railway Company has graded its track, for the purpose of constructing at grade, a crossing over the track of the Norfolk and Western Railroad for the passage of the trains of the Atlantic and Danville Railway Company, or for any purpose whatever, until the further order of the Circuit Court of Hanseman.

But before the Norfolk and Western Railroad Company, shall have the benefit of this decree, the said Company or some one for it, shall execute before the Clerk of the Circuit Court of Hanseman County, a bond in the penalty of \$5000 with security to be approved by the said Clerk, and conditioned according to law

Teste:

Peter B. Prentiss, Clerk.

To the Clerk of the Circuit  
Court of Hanseman County

Certificate

The bond of \$5,000, required under order of the Judge granting the injunction, in this case, has been duly executed and filed.

Teste:

Peter B. Prentiss, Clerk.

Object of Suit

In the Clerk's Office of the Circuit Court of the County of Hanseman, Suffolk, Va. October 30. 1887.

The Object of the Suit commenced by the Summons, whereof the foregoing is a copy, is to obtain an injunction restraining the defendant Corporation, its Officers, agents and servants, from constructing a track at grade across the track of the Plaintiff Corporation, at any point along the line of the Plaintiff Corporation, and, especially, at any point within the County of Hanseman, and from entering upon the right of way of the Plaintiff Corporation, for said purpose, and for general relief.

Affidavit having been made before me, as Clerk of said Court, in the Clerk's Office thereof, that there is no Officer or agent of the defendant Corporation, in said County of Hanseman where the said Summons, and the foregoing injunction order and certificate thereto annexed, can be served, it is therefore ordered to be published, once a week, for four successive weeks, in the Suffolk Herald, a Newspaper printed in this State.

Teste:

Peter B. Prentiss, Clerk.

The Norfolk & Western Railroad  
Company  
100  
Order of Publication  
The Atlantic & Danville Railway Company

1887  
Octo: 30th: awarded

In the Clerk's Office of the Circuit Court of Nassau and  
County, the 29th day of October, 1887.

The Norfolk & Western Railroad Company . . . Plaintiff  
against } In Chancery.

The Atlantic and Danville Railway Company . . . Defendant

George S. Bernard, Esq. This day, personally appeared  
before me, and made oath, that, there is, to the best of his  
knowledge and belief, no Officer or Agent of the defendant  
corporation, in the above entitled Chancery Cause, in the said  
County of Nassau and, upon whom, the summons and the  
injunction order and Certificate thereon, endorsed, which  
I issued this day, in said Cause, could be served.

Teste

Peter B. Pentecost, Clerk

The Norfolk and Western Railroad  
Company.

to *aff. clerk* to obtain  
an order of Publication  
The Atlantic and Danville Railway Company

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *The Atlantic &  
Danville Railway Company*

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for  
the said Court, on the first Monday in *January* next, to answer a  
Bill in Chancery, exhibited against it  
in the said Court by *The Norfolk and  
Western Railroad Company*

and have then and there this summons.

Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, this *29<sup>th</sup>* day of  
*October* 1887, in the 112<sup>th</sup> year of the Commonwealth.

Teste:

*Peter B. Prentis* Clerk.

Memo. The Atlantic & Danville Railway  
Company, its Officers, Agents and  
Servants, and all other persons are  
enjoined from entering upon the right  
of way of the Norfolk & Western  
Railroad Company at any point  
along its line in Newsum County  
and especially at the point about one  
mile east of Duffield in the County  
of Newsum and to which  
the Atlantic & Danville Railway  
Company has graded its ~~road~~  
for the purpose of constructing at  
grade, a crossing over the track  
of the Norfolk and Western Railroad  
for the passage of the <sup>trains of the</sup> Atlantic & Danville  
Railway Company or for any purpose  
whatever until the further order of the Circuit  
Court of Newsum.

Teste

Peter B. Pentecost, Clerk

The sum of \$5000 is again  
made order of the Judge  
gratifying the expenditure  
in this case has been  
fully executed to the

Teste

Peter B. Pentecost, Clerk

CHANCERY SUMMONS.

The Commonwealth of Virginia,

*Sergeant of the City of Portsmouth*  
TO THE ~~SHERIFF OF NANSEMOND COUNTY~~ GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *The Atlantic and Danville*  
*Railway Company,* ~

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

Bill in Chancery, exhibited against *it*  
in the said Court by *The Norfolk and Western*  
*Rail Road Company,*

and have then and there this summons.

Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, this *27th* day of  
*October* 1887, in the 112<sup>th</sup> year of the Commonwealth.

Teste:

*Peter B. Prentis* Clerk.

Memo. The Atlantic & Danville Railway Company  
 its Officers Agents and Servants, and all  
 other persons are enjoined from entering  
 upon the right of way of the Norfolk & Western  
 Railroad Company at any point along  
 its line in Newsummed County, and especially  
 at the point about one mile east of Suffolk  
 in the County of Newsummed and to which  
 the Atlantic & Danville Railway Company  
 has graded its road, for the purpose of  
 constructing at grade, a crossing over  
 the track of the Norfolk and Western Railroad  
 for the passage of the trains of the Atlantic  
 & Danville <sup>Railway</sup> Company or for any purpose  
 whatever until the further order of the Circuit  
 Court of Newsummed.

Teste: Peter B. Prentiss, Clerk

Rec'd S. B. Bennett &  
 W. H. Mann J. P. 9

The Norfolk and Western  
 Rail Road Company

vs. E. Sumner, Ch. &c

The Atlantic and Danville  
 Railway Company

To January Rules, 1888

The bond of \$5000 required  
 under order of the Judge  
 granting the injunction  
 in this case, has been  
 duly executed & filed

Teste

Peter B. Prentiss, Clerk

1887 Oct 31.

Executed by serving copies  
 of the within on ~~Edw. Peck~~  
 General Manager of the Atlantic  
 & Danville Railroad &  
 Noyes Spicer Auditor  
 of the Atlantic & Danville  
 Railroad each in person

E. H. Maupien  
 Sergeant

Pro. B. N. P. page 200.  
 Civil Co.

October 31st 1887

Executed by serving copies of the within  
 on Genl E. B. Peck, General Manager of the  
 Atlantic and Danville Rail Road Company and  
 Noyes Spicer Auditor of the Atlantic & Danville  
 Rail Road Company each in person

E. H. Maupien

Legal Service of the within summons and  
 in junction order thereon is hereby acknowledged by  
 the Atlantic & Danville Railway Co.  
 Nov 25/1887 By W. G. Elliott its Atty.

CHANCERY SUMMONS.

The Commonwealth of Virginia,

*Sheriff of the City of Norfolk*  
TO THE ~~SHERIFF OF NANSEMOND COUNTY~~—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *The Atlantic and Danville*  
*Railroad Company*

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

*Bill in Chancery, exhibited against it,*  
in the said Court by *The Norfolk and Western*  
*Rail Road Company,*

and have then and there this summons.

Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, this *27th* day of  
*October* 1887, in the 11<sup>th</sup> year of the Commonwealth.

Teste:

*Peter B. Prentis* Clerk.

Memo. The Atlantic & Danville Railway Company  
its Officers, Agents and Servants and  
all other persons are informed from entering  
upon the right of way of the Norfolk & Western  
Railroad Company at any point along its  
line in Hanover County, and especially  
at the point about one mile east of Suffolk, in  
the County of Hanover, and to which  
the Atlantic & Danville Railway Company  
has graded its road, for the purpose of constructing  
at grade a crossing over the track of the  
Norfolk and Western Railroad Company,  
for the passage of the trains of the Atlantic  
& Danville <sup>Railway</sup> Company, ~~or~~ for any purpose  
whatever until the further order of the Circuit  
Court of Hanover.

Dele.

John B. Bent's Clerk

42015 Bond Street  
Box 4. New York  
The Norfolk and Western  
Rail Road Company  
to E. S. Smith, Esq.  
The Atlantic and Danville  
Railway Company.  
No. January Rules, 1888.

The price of \$5000 required  
in the order of the Society  
granting the information  
in this case has been  
only recent. I find

Best

Deventer. N. N.

Decreted this 2nd day of  
November a D 1887 by serv-  
ing a copy here of writte  
like order of injunction then  
on endorsed on J. D. Prince  
for the the Atlantic and  
Danville Railway Company  
the said J. D. Prince being  
the Vice President of  
said the Atlantic and  
Danville Railway Com-  
pany. And the said  
J. D. Prince 250  
C. J. C.

J. D. Pringle being the  
Chief Officer of said  
Company, we but not  
a resident of the City  
of Norfolk at the time  
of such service.

To the Norfolk & Western  
Rail road company

Take Notice That  
the Atlantic & Danville  
Railway Company by counsel  
will on the 9<sup>th</sup> day of February,  
1888, at 3½ o'clock P.M., at the  
office of Warren G. Elliott in the  
city of Norfolk, Va. move Hon.  
C. W. Hill, the judge of the  
Circuit court of the county  
of ~~Norfolk~~ <sup>Norfolk</sup>, in vacation, to  
make an order dissolving  
the injunction granted  
by said judge in vacation  
on the 29<sup>th</sup> day of October,  
1888, on the chancery  
suit pending in said

Court wherein said Norfolk  
& Western Railroad Company  
is the plaintiff and said  
Atlantic & Danville Railway  
Company is the defendant.

Norfolk, Va.  
Jan 9, 1888.

J.B. Prince vs. G. Elliott  
Attys for A. & D. Ry. Co.

Cir. Cl. Hancock

Norfolk & Western  
R.R. Co.

Notice to dis-  
continue injunction  
vs

Atlantic & Danville  
R.R. Co.

The Plaintiff. Acknowledged:  
Edgers Legal Service of the  
Notary Public  
The Norfolk & Western R.R.  
Co. by Geo. S. Beem and  
Jan. 30, 1888

**Know All Men by These Presents,** That we, *George S. Bernard*  
and *William H. Mann,*

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full  
sum of *Five thousand* DOLLARS,  
to the payment whereof, well and truly to be made to the said Commonwealth, we bind ourselves, and  
each of us, our, and each of our heirs, executors and administrators, jointly and severally, firmly by  
these presents. Sealed with our seals, and dated this *29th* day of *October*,  
in the year one thousand eight hundred and eighty-*seven*, and in the *112th*  
year of the Commonwealth. The obligors herein hereby waive all benefit of the homestead exemp-  
tion as to the obligation of this bond, and also waive any claim, right or privilege to discharge any  
liability arising under said bond in any currency, funds, counter claims or offsets other than legal tender  
currency of the United States.

THE CONDITION OF THIS OBLIGATION IS SUCH, That if ~~the above bound~~  
~~whereas, in a certain suit in Chancery, depending in the Circuit Court of the County of Nansemond~~  
~~this day commenced wherein the Norfolk and Western Rail Road Company, a Corporation, is the~~  
~~Plaintiff, and the Atlantic and Danville Railway Company, a Corporation, is the Defendant, an injunction~~  
~~has been awarded by the Judge of said Court, enjoining and restraining said Defendant, its officers,~~  
~~agents and servants from doing certain acts in the order awarded said injunction, and for the~~  
~~whereas, by said order it is provided, that said Plaintiff shall not have the benefit thereof~~  
~~until said Plaintiff or some one for it shall execute before the Clerk of said Court a~~  
~~bond in the penalty of Five thousand dollars, with security to be approved by and~~  
~~who has this day qualified before the~~ Court of Nansemond County,  
Clark and conditioned according to law: Now if the said Plaintiff or  
the said *George S. Bernard* for said Plaintiff shall pay to the said Defendant  
all costs and damages, which said Defendant may incur by reason of said  
injunction, in case the same shall be dissolved

~~shall faithfully discharge the duties of his said trust,~~ then the above obligation to be void, or else to  
remain in full force and virtue.

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

*Geo. S. Bernard*  
*W. H. Mann*



The Norfolk Western Rail  
Road Company

vs { Supreme in Bond

The Atlantic and Danville  
Railway Company

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Octo: 29<sup>th</sup> 1887 Executed Filed

Virginia

*In the* Circuit Court ~~continued and held~~ for the County of  
Hansemond *in Vacation, Feb'y 9, 1888.*

~~Before Judge G. H. Hill~~

The Norfolk and Western Railroad Company

vs.

The Atlantic and Danville Railway Company.

On this *ninth* day of *February*, 1888, came the  
parties to this cause before the Judge of this Court in vacation,  
the defendant having given to the plaintiff notice to dissolve the  
Injunction awarded by the Judge of this Court in vacation, on the  
*29<sup>th</sup>* day of *October*, 1887, whereupon this cause came  
on this day to be heard upon the bill of the plaintiff, upon the  
said notice and upon a certain agreement entered into between said  
parties subject to the approval of the said court, which agreement  
being dated *January 20<sup>th</sup>, 1888*, and duly acknowledged by  
said parties is this day filed with the papers in said cause, and  
was ~~argued~~ *argued* by counsel.

On consideration whereof it appears to the Court from  
said agreement, which is in words and figures as follows, to wit:

(Here insert said agreement with the certificates  
thereto — the same to be spread upon the order book)

X

that the plaintiff consents to the crossing of its right of way within the County of Nansemond by the defendant at the place and upon the terms and conditions in said agreement set forth, and the Judge of this Court, being of opinion that the said agreement is in all respects reasonable and proper to be entered into by the parties, doth approve and adopt the same, and doth accordingly order that the operation of said Injunction, as provided by the terms of said agreement and no further, be, and the same is hereby, suspended till the further order of this Court, power being now and hereby accorded to the Court to make any order deemed necessary to carry the provisions of the said agreement into full force and effect and to perpetuate this Injunction at the next or any subsequent term of the Court.

It is further ordered that said original agreement be withdrawn by the Clerk of this Court ~~from~~ the papers in this cause that the same with a ~~Certified~~ Copy of this decree and be admitted to record in the Clerk's Office of the <sup>County</sup> ~~Circuit~~ Court of said County, and that, after being so admitted <sup>to</sup> ~~of~~ record, it be returned by him and filed with the papers in this cause.

It is further ordered that upon any breach of the terms and conditions of said agreement by either party, the other party may apply to ~~this~~ Court, or to its Judge in vacation, for the proper relief in the premises.

Consent of  
This order is entered by the counsel of both parties.  
^

Cur: A. C. Nausemond

Norfolk & Western R.R. Co.

vs } Note for decree  
to be entered on  
Vacation

Atlantic & Danville R.R. Co.

We consent that the within  
decree may be entered

Wm. S. Bernard

Wm. H. Mann

L. B. Ramey

W. G. Elliott

} Counsel for  
the pff.

} Counsel  
for Defts.

To be entered  
July 9<sup>th</sup> 1888

To the Clerk of the  
Circuit Court of the  
County of Nausemond

Entered O. B. W. Q. 176 Chap

C. Notice

Indorse

Subject

# Norfolk & Western Railroad Company

A.M. OSBORNE  
Superintendent.

Office Superintendent Eastern Division.

Norfolk, Va. Feb 9, 1888.

Mr Peter B. Prentiss

clerk

~~Mr. C. W. Hammon~~  
Suffolk  
Va

Dear Sir:—

Mr. Safford will hand you the papers in the Crofton case. I received from him afternoon with the following additional papers:—

1<sup>st</sup> Note for decree signed by Judge Hill.

2<sup>d</sup> Agreement referred to in decree to be executed at the proper place as indicated in note for decree. You will copy the whole <sup>papers</sup> including anticipations of acknowledgment.

3<sup>d</sup> A copy of the agreement. I enclose anticipations, which I wish you to whitley in preparation for the solution of the N.W.R.R.

a certified copy of the decree. I have inserted blank pages for this purpose upon which you can write out the decree, a part of which precedes and the balance of which follows the agreement.

4<sup>th</sup> Notice of motion to dissolve.

Please have agreement admitted to record as soon as practicable, & with it (at its foot) an ~~original~~ copy of the decree (See decree)

At foot of the certified copy of the decree you are to prepare & attach a certificate or ~~certificate~~ of filing it showing that the agreement & original copy have been admitted to record.

Mail me the copy  
or give as preferred

Send me memos of all  
costs in the car up to  
date -

In haste

Yrs very respectfully

J S Beamed

(F.)

Norfolk & Western Railroad Co.

Clerk Circuit Court

Nansemond Co Va

Suffolk

of Mr J McSheppers Agt

THIS AGREEMENT, made and entered into this  
20<sup>th</sup> day of January A.D. Eighteen hundred and Eighty-  
eight (1888), BETWEEN the NORFOLK AND WESTERN RAILROAD COMPANY  
of the First Part, and the ATLANTIC AND DANVILLE RAILWAY COM-  
PANY, of the Second Part;

WITNESSETH.

WHEREAS, the Atlantic and Danville Railway Company de-  
sires in the construction of its railroad to cross the road of  
the Norfolk and Western Railroad Company at a point in Nanse-  
mond County near the town of Suffolk;

AND WHEREAS, in certain proceedings instituted and pend-  
ing in the Circuit Court of Nansemond County, Virginia, upon  
Bill filed by the Norfolk and Western Railroad Company as  
Plaintiff against the Atlantic and Danville Railway Company as  
Defendant, the said Court did award an injunction against the  
Defendant according to the prayer of the Bill, enjoining and  
restraining the Atlantic and Danville Railway Company, its  
officers, agents and servants, and all other persons, from  
entering upon the right of way of the Norfolk and Western  
Railroad Company at any point along its line in Nansemond  
County, and especially at the point about one mile east of  
Suffolk in the County of Nansemond, and to which the Atlantic  
and Danville Railway Company has graded its road for the pur-  
pose of constructing at grade a crossing over the track of the  
Norfolk and Western Railroad Company, for the passage of the

trains of the Atlantic and Danville Railway Company, or for any purpose whatever, until the further order of the said Court; and the Norfolk and Western Railroad Company having complied with the terms of said order and given the bond required thereby, process carrying into effect the said order was issued and served upon the said Atlantic and Danville Railway Company and its officers, agents and servants, and the said injunction order is still in full force and effect.

AND WHEREAS, the Atlantic and Danville Railway Company is willing to erect and complete within six months from the time of the completion of its road to Danville, Virginia, should the said road be so completed within two years and six months from the date hereof, and whether the said road within that period be completed to Danville or not, to erect and complete within three years from the date hereof an overhead crossing in such manner as not to impair the safety or impede or endanger the operation of the road of the party of the First Part; and that said bridge shall be otherwise supported by such permanent and proper structures and fixtures as will best make safe life and property passing upon the same, and shall be satisfactory to the Norfolk and Western Railroad Company; and is willing to pay all immediate, and to fully indemnify against all future or prospective damages.

AND WHEREAS, until the expiration of the period aforesaid and upon the condition that such overhead crossing shall

within said period be completed according to the terms and conditions hereof, the Norfolk and Western Railroad Company is willing to permit the Atlantic and Danville Railway Company to make a temporary crossing at grade at a point within twenty (20) feet of the grade crossing of the Suffolk and Carolina Railroad Company near the town of Suffolk;

AND WHEREAS, as a condition precedent to the enjoyment of the privileges sought to be obtained by the said party of the Second Part, it is essential to the public safety and to the convenience of the said party of the First Part, that the construction and use, or employment of the proposed crossings by the party of the Second Part, in the passage of trains or otherwise, should be so regulated and governed as in no manner to endanger the one or impair the other;

AND WHEREAS, Justice to the interest of the said party of the First Part, demands that proper guarantees of indemnity should be given for all losses, injuries or damages which it may sustain by reason of such crossing, and which do not result from any negligence or omission on the part of the agents and employes of the said party of the First Part;

NOW THEREFORE, the Norfolk and Western Railroad Company in consideration of the premises, does hereby grant to the Atlantic and Danville Railway Company its successors and assigns the right to cross the road of the Norfolk and Western Railroad Company at the point aforesaid about one mile west

of Suffolk upon the conditions hereinafter specified and only so long as the said conditions are complied with by the Atlantic and Danville Railway Company, its successors and assigns; the said conditions being as follows:-

I.

FIRST:- That the crossing shall be made and effected at the cost and expense of the Atlantic and Danville Railway Company by an iron bridge or overhead crossing and constructed in such manner as not to impair the safety or impede or endanger the operation of the Norfolk and Western Railroad Company and shall be supported by such permanent and proper structures and fixtures as will best make safe life and property passing upon the Norfolk and Western Railroad and as shall be satisfactory to the General Manager of the Norfolk and Western Railroad Company; that such overhead crossing or bridge shall be so erected and completed within six months from the time of the completion of its road to Danville, Virginia, should the road be so completed to Danville within two years and six months from the date hereof, and in any event, within three years from the date hereof, whether the said road within said period of two years and six months shall be so completed to Danville, or not.

SECOND:- That such overhead crossing or bridge shall be at an elevation of at least twenty feet in the clear between the top of the rails of the Norfolk and Western Railroad Company and the lowest point of the overhead crossing; shall be

of a span sufficient to allow two tracks of the Norfolk and Western Railroad Company to pass thereunder; shall be supported on stone abutments, and in the clear between the abutments at right angles with the centre line of track on Norfolk and Western as now constructed there shall be at least thirty-two feet; that the general plans thereof and the construction of the same shall be satisfactory to and approved by the General Manager of the Norfolk and Western Railroad Company, and shall be submitted to him within one year from the date hereof.

THIRD:- That the location of the overhead crossing or bridge shall be made under the supervision of the Chief Engineer of the Norfolk and Western Railroad Company, and in such manner and at such time as he shall direct, such direction to be given within a period of twenty (20) days after demand by the party of the Second Part. That the entire expense for material and work shall be paid by the party of the Second Part, and the work and materials to be used shall be approved by the said Chief Engineer. It is understood, however, that he may act in the premises through his duly authorized agent.

FOURTH:- That the said overhead crossing or bridge shall be kept in good condition, and the expense of repairing and renewing the same or any part thereof shall be borne by the party of the Second Part. That the Chief Engineer of the Norfolk and Western Railroad Company, or his duly authorized

agent, shall have the right, from time to time, to inspect the said bridge, and to say when and in what manner, or to what extent repairs or renewals shall be made, and may at his option have the said repairs and renewals done at the expense of the party of the Second Part; and that in such case the party of the Second Part shall on request pay to the Norfolk and Western Railroad Company the expense thus incurred; and if at any time, in his opinion, the same be in such condition as to endanger the traffic and operation of the Norfolk and Western Railroad Company, and he shall notify the party of the Second Part to strengthen and repair the same, which work shall be promptly done by the party of the Second Part at their own cost, and if said bridge shall not be so strengthened and repaired after receiving reasonable notice from the said Chief Engineer, the parties of the First Part shall have the right to take down and remove the said bridge at the expense of the party of the Second Part, without further notice, or it may strengthen and repair the same at the expense of the party of the Second Part.

FIFTH:- That in case the party of the First Part shall at any time determine to add another track or other tracks to its said railroad, the said overhead crossing or bridge shall not prevent their doing so, and all additional expense incurred in consequence of the existence of the said overhead crossing or bridge shall on request be forthwith paid to the party of the First Part by the party of the Second Part.

## II.

That until the expiration of the period aforesaid and upon the express condition that such overhead crossing or bridge shall within such period be erected and completed according to the terms and conditions hereof, the Norfolk and Western Railroad Company is willing to permit the Atlantic and Danville Railway Company to make a temporary crossing at grade at a point within twenty (20) feet of and along the grade crossing of the Suffolk and Carolina Railroad Company near the town of Suffolk on the conditions as follows:-

FIRST:- That the crossing at grade herein specified is confined to the main line track of the Atlantic and Danville Railway Company and that the same, shall be made in such manner as not to obstruct the drainage of the Norfolk and Western Railroad Company's roadway.

SECOND:- That the plans for such crossing and the material employed for its construction and the culverts which may be necessary to provide for the proper drainage of the said party of the First Part's roadway shall be submitted to and in all respects be acceptable to its Chief Engineer.

THIRD:- That every item of expense attending the construction of such crossing, and the repairs and renewals of the same, shall be borne and paid by the said party of the Second Part, whether incurred directly by its agent or by the

proper officers of the said party of the First Part, and the construction of said crossing, and the repairs and renewals of same shall be so arranged as not to interfere with the regular movements of the trains of the party of the First Part.

FOURTH:- That it shall be the duty of the party of the Second Part to keep and maintain said crossing in every part and particular including grading, culverts, cross-ties, rail crossing and planking in a condition and state of repair at all times acceptable to the Chief Engineer of the party of the First Part. That the said crossing shall not be constructed, nor shall any alteration or repair thereof be at any time made, which shall in any way affect the integrity of the track or tracks of the party of the First Part, except under the supervision of the proper officer or agent of the party of the First Part. And when such crossing is to be constructed, altered or repaired as aforesaid, the party of the Second Part shall notify the party of the First Part who shall promptly direct its officer or agent to superintend the work.

FIFTH:- That it shall be the duty of the said party of the Second Part to provide promptly at its own expense steel rail crossing for any additional tracks which may hereafter be constructed at the point of crossing by the party of the First Part and all additional expense incurred in consequence of the existence of said crossing shall on request be forthwith paid to the party of the First Part by the party of the Second Part

SIXTH:- That no part of the track of the said party of the Second Part embraced within the limits of the roadway or right of way of the party of the First Part shall be occupied by standing locomotives or cars, or by halting trains of the said party of the Second Part or other party operating over or in connection therewith.

SEVENTH:- That in order to enable the said party of the Second Part to exercise successfully the privilege herein granted without imposing any hindrance or delay to the movement of trains of and over the tracks of said party of the First Part, and without injury or detriment to the same by interference or otherwise with its operations, it shall be the duty of the said party of the Second Part to provide and erect a suitable signal tower with an interlocking arrangement of home and distance signals for day and night use and at its own proper and exclusive cost and subject exclusively to its orders to maintain at all times at said crossing, without exception as to days and hours, a Watchman or Flagman, whose duty it shall be to give such signals to trains and locomotives approaching said crossing, and carry out such other rules and regulations as the transportation department of said party of the First Part, shall now and may hereafter by notice to the party of the Second Part prescribe for the guidance of the said Watchman or Flagman.

EIGHTH:- That in order to insure the public safety it shall be the imperative duty of the said party of the Second

Part, or of any party or parties who may operate their road to cause all of the trains, whether regular or irregular, or locomotives and cars to approach said crossing with caution, and at a rate of speed not exceeding five (5) miles per hour, and to require its conductors, engineers and other persons having charge of its trains, locomotives or cars not to cross the roadway and tracks of the said party of the First Part, until they have first positively stopped such train, locomotive or cars, within sound of the Watchman or Flagman's voice and have been told by such Watchman or Flagman that the track is clear and that they can proceed to cross, and have satisfied themselves beyond a doubt that the signal on the signal post has been placed in accordance with the prescribed rules so as to permit the passage of the trains of the said party of the Second Part. It being understood that when trains on both tracks are approaching the said crossing at the same time, that the trains of the party of the First Part, whether passenger or freight, shall be entitled to precedence, and the train or trains of the party of the Second Part shall remain standing until the crossing is passed by the train or trains of the party of the First Part.

NINTH:- That upon the expiration of six months from the time of the completion of the road of the Atlantic and Danville Railway Company to Danville, should the said road be so completed within two years and six months from the date hereof, or upon the expiration of the three years from the date hereof if the said road should not within the said two years and six months be completed to Danville, the license hereby granted by the Norfolk and Western Railroad Company to the Atlantic and Danville Railway Company to make the temporary crossing at grade shall forthwith without any further act or action on the part of the Norfolk and Western Railroad Company ipso facto cease and determine as though this contract had never been made, whether the said overhead crossing or bridge shall at that time be completed or not, and thereupon with such force as may be necessary the Norfolk and Western Railroad Company may remove from its right of way all tracks, ties, rails and other structures or fixtures used by the Atlantic and Danville Railway Company in making the temporary crossing.

### III.

It is further made a condition of the rights and privileges hereby granted to the Atlantic and Danville Railway Company:-

FIRST:- That it shall be the duty of the said party of

the Second Part and it does hereby undertake and agree to provide promptly and at its own proper cost such other things as the Chief Engineer of the party of the First Part may require or experience may hereafter suggest to be promotive of the public safety or the interest of the said party of the First Part in connection with said overhead crossing or crossing at grade.

SECOND:- That it shall be the duty of the said party of the Second Part, and it does hereby fully agree and undertake upon the demand of the party of the First Part to pay, make good and fully indemnify the party of the First Part against all proper claims for loss, injury or damage which it or any of its employes' or passengers may sustain, by accidents, collisions, delay, or hindrances, or from any other cause arising from or growing out of the acts or omissions of the said party of the Second Part or its agents or employes' in the construction, use or employment of said overhead crossing or crossing at grade or in the exercise of any of the rights and privileges granted to it hereunder.

THIRD:- In case the Atlantic and Danville Railway Company shall fail to complete the said overhead bridge and crossing within three years from this date, or within six months from the completion of its road to Danville, if so completed within two years and six months from the date hereof, or shall fail to pay at any time the expense incurred on its behalf by

the party of the First Part, or shall fail to keep and perform any other of the conditions, covenants or stipulations on its part to be kept and performed, and such default shall exist for a period of twenty (20) days, or in case this contract, or any of the rights and privileges of the Atlantic and Danville Railway Company shall cease hereunder, then and in any or either of such events, it shall be lawful for the Norfolk and Western Railroad Company:-

1. To proceed by proper action or actions in the proper Courts, either at law or in equity, to enforce performance of such covenants by the Atlantic and Danville Railway Company, and to recover damages for the breach thereof, either with or without determining this contract.

2. Or, it shall be lawful for the Norfolk and Western Railroad Company by notice in writing to the Atlantic & Danville Railway Company, to determine this contract and all rights of the Atlantic and Danville Railway Company, and thereupon forthwith in such manner and by such means as may be necessary to remove the ties, rails, bridge or other structures by which the crossing may at that time be effected; and thereupon all the right and interest of the Atlantic and Danville Railway Company in and to the same shall absolutely cease and determine as though this contract had never been made.

FOURTH:- It is expressly understood and agreed that this contract shall be of no effect unless and until it has been presented to the Circuit Court of Nansemond County by petition

or otherwise in the said suit of the Norfolk and Western Railroad Company against the Atlantic and Danville Railway Company for an injunction, and the said Court has, by decree, approved it and declared its effect to be not to vacate, annul or dissolve but merely to suspend the operation of the injunction heretofore granted in the said suit, until the Atlantic and Danville Railway Company shall fail to keep and perform the conditions, covenants and stipulations of this contract on its part to be kept and performed and the Norfolk and Western Railroad Company shall give the notice and exercise the remedy provided in Section 2 of the preceding paragraph (THIRD) and no longer; and that thereupon the said injunction shall have the same force as if this contract had never been made.

FIFTH:- It is expressly understood and agreed, that the rights and privileges hereby granted to the Atlantic and Danville Railway Company, its successors and assigns, shall exist and continue only so long as the conditions, covenants and stipulations on its and their part to be kept and performed are fully kept and performed, that the Atlantic and Danville Railway Company expressly covenants and agrees, and its successors and assigns, to perform all the conditions and stipulations hereby imposed and that all the preceding covenants, agreements and stipulations shall be binding upon and inure to the benefit of the parties hereto respectively, their respective successors and assigns.

IN TESTIMONY WHEREOF, the corporate seals of the parties

hereto have been severally affixed by the respective Presidents, and duly attested by their respective Secretaries, on the day and year above written.

NORFOLK AND WESTERN RAILROAD COMPANY,

By,

*M. L. Doman*

President.

*pro tem*

Attest,

*A. J. Kempf*

Secretary.

ATLANTIC AND DANVILLE RAILWAY COMPANY,

By,

*Thomas Ewing*

President.

Attest,

*Bessie L. Larchild*

Secretary.

State of Pennsylvania, )  
)  
City & County of Philadelphia.)

I, *James A. Pearson* —

*W.S.*  
a Notary Public for the Commonwealth of Pennsylvania, residing  
in the City of Philadelphia, do certify that *Joseph J. Doran*  
~~F. J. Kimball~~,

*pro tem.*  
President of the Norfolk and Western Railroad Company, whose  
name is signed to the foregoing contract dated *January 20<sup>th</sup>*  
*1888* — has acknowledged the same before me in my

County aforesaid, and has further acknowledged and declared  
that he executed the same as President *pro tem.* of the Norfolk and  
Western Railroad Company, and for and on behalf of the said  
Company as its act and deed, having as such President *pro tem.* signed  
his name thereto and affixed the corporate seal of said Com-  
pany, and that he has caused the same to be duly attested by  
A. J. Hemphill, the Secretary of said Company, all of which  
has been done by him under and pursuant to the authority con-  
ferred on him by the Board of Directors of said Company.

And I do further certify that A. J. Hemphill, the Secre-  
tary of the Norfolk and Western Railroad Company whose name is  
also signed to the contract dated *January 20<sup>th</sup> 1888.*

as hereinbefore referred to, has also this day personally ap-  
peared before me in my said County and has acknowledged the

*W.S.*  
same and has declared that by the direction of *Joseph J. Doran*  
~~F. J. Kimball~~  
*pro tem.*  
as President of the said Company and under and pursuant to the  
authority conferred by the Board of Directors of said Company,  
he has duly attested the said contract and has signed his

name to said attestation.

GIVEN under my hand and Notarial Seal, this *twenty third*  
day of *January* A. D., 1888.

*James Pearson*

Notary Public.

*New York*  
State of ~~Pennsylvania~~,  
*New York*  
City & County of ~~Philadelphia~~.

I, *Wm. E. Ruger*  
*City County State of New York*  
a Notary Public for the ~~Commonwealth of Pennsylvania~~, residing  
in the City of ~~Philadelphia~~, do certify that *Thomas Ewing*

President of the Atlantic and Danville Railway Company whose

name is signed to the foregoing contract, dated *January 20/1888*  
has acknowledged the same before me in my County aforesaid,

and has further acknowledged and declared that he executed  
the same as President of the Atlantic and Danville Railway  
Company, and for and on behalf of the said Company as its act  
and deed, having as such President signed his name thereto and  
affixed the corporate seal of said Company, and that he has

caused the same to be duly attested by *Ben. L. Fairchild*  
the Secretary of the said Company, all of which has been done  
by him under and pursuant to the authority conferred on him by  
the Board of Directors of said Company.

And I do further certify that

*Ben. L. Fairchild*

the Secretary of the Atlantic and Danville Railway Company whose name is also signed to the contract dated *January 20/1888* as hereinbefore referred to, has also this day personally appeared before me in my said County, and has acknowledged the same, and has declared that by the direction of *Thomas Ewing* as President of the said Company and under and pursuant to the authority conferred by the Board of Directors of said Company, he has duly attested the said contract and has signed his name to said attestation.

GIVEN under my hand and notarial seal, this *Twentieth* day of *January* A.D., 1888.

*Wm. E. Stiger*  
.....

Notary Public.

*Virginia*

*In the Circuit Court for the County of Hanover, in  
Vacation, February the 7th: 1888.*

*The Norfolk and Western Railroad Company. Plaintiff.*

*against*

*The Atlantic and Danville Railway Company. Defendants.*

*xxx " It is further ordered, that said Original Agreement be withdrawn by the Clerk of this Court from the papers in this Cause, and that the same with an extract copy of this decree be admitted to record in the Clerk's Office of the County Court of said County, and that after being so admitted to record, it be returned by him and filed with the papers in this Cause."*

*An Extract:*

*Teste:*

*Peter B. Pentecost, Clerk*

In The Clerk's Office of Nassau and County Court, the 24th day of  
February, 1888.

This Agreement with the Certificates annexed, was presented  
and admitted to record.

Teste: Peter B. Peritt, Clerk.

Car: Cl Nausemond

Norfolk & Western R.R.

Agreement be-  
ween the parties  
dated Jan'y 20. 1888.

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Al Lamb & Danville R.R.

1888  
Feby: 24<sup>th</sup>: Presented in the  
Clerk's Office of Nausemond County  
Court and with the Particulars  
annexed. A.R.

Recorded - Genl Book 4:19.  
Page 557.

Norfolk & Western Railroad

v.

The Atlantic & Danville  
R.R. Co. —

It appearing that there has  
been no order or proceeding  
for more than five years  
in this case, except as continued  
it, it is ordered that it  
be stricken from the  
docket. —

Norfolk & Western

W.  
Thomas Danville

Entered Jan'y 8 1906

Robert M. Mott

Entered in Chy. Order  
Book No. 4. Page 27.

To the Honorable C. W. Hill, Judge of the Circuit Court for  
the County of Nansemond,

In Chancery Sitting,

Humbly Complaining, sheweth unto your Honor the NORFOLK AND  
WESTERN RAILROAD COMPANY, a corporation existing under the laws of  
Virginia:

FIRST. That it is the owner, occupier and user of a certain  
railroad in the State of Virginia, its main line running from the  
city of Norfolk, in the State of Virginia, a distance of 408 miles  
to the town of Bristol, in the State of Tennessee, and its New  
River Division extending from Radford, in Montgomery County, to  
Pocahontas, in Tazewell County, a distance of 75 miles, and from  
Pulaski, Pulaski County, to Foster Falls, in Wythe County, a dis-  
tance of about 25 miles.

SECOND. That at Bristol the line of the Norfolk and Western  
Railroad Company connects with the line of the East Tennessee,  
Virginia and Georgia Railway Company, which owns, operates and  
controls railroads aggregating about 1,500 miles in length, extend-  
ing into the Southern Cotton Fields, reaching either directly or  
by immediate connection Memphis, New Orleans and other important  
trade centres. That the New River Division at Pocahontas reaches  
the Pocahontas Flat Top Coal region, and by the extension or  
branch from Pulaski reaches the Iron Ore fields of South-West

## Virginia.

THIRD. That its passenger travel is very great, it having carried between the years 1880 and 1887 the number of passengers as follows:

|           | Local   | Through | Total   |
|-----------|---------|---------|---------|
| 1881..... | 203,098 | 12,806  | 215,904 |
| 1882..... | 248,513 | 14,834  | 263,347 |
| 1883..... | 289,511 | 18,416  | 307,927 |
| 1884..... | 396,199 | 16,253  | 412,452 |
| 1885..... | 365,896 | 22,191  | 388,087 |
| 1886..... | 382,082 | 18,187  | 400,269 |

and its passenger travel for the year 1887 will be largely in excess of that for the year 1886. That its freight traffic is also very great, it having carried between the years 1880 and 1887 tons of freight as follows:

|           | Local     | Through | Total     |
|-----------|-----------|---------|-----------|
| 1881..... | 359,262   | 178,840 | 538,102   |
| 1882..... | 417,140   | 192,587 | 609,727   |
| 1883..... | 539,906   | 257,349 | 797,255   |
| 1884..... | 660,871   | 231,641 | 892,512   |
| 1885..... | 957,709   | 242,081 | 1,199,790 |
| 1886..... | 1,266,601 | 289,266 | 1,555,867 |

and the freight carried for the year 1887 will be largely in excess of that for the year 1886.

FOURTH. That a material increase has taken place, not only in the local, but the foreign trade of Norfolk, greatly increasing the business of your complainant's line; that the mineral traffic of your complainant has increased from 28,521 tons in 1882 to 943,753 tons in 1886; that it is now constructing a road from Graham Station, on the New River Division of its road, which will connect the line with the Railroad Systems of the Northwest and its almost boundless resources, and make the road of your complainant not only a great cotton, iron and coal, but also a grain carrying road, and, with the development of the local enterprises along its line, so increase its business, both as a carrier of passengers and freight, that it will be compelled, in order to transact its business, to very greatly increase the number of its trains, and it is therefore of the greatest importance, as well as absolutely necessary for public interests with which it has to deal, and for the safety of the passengers it transports, and its own employes and property, that its track shall be always free and unobstructed.

FIFTH. That the line of your complainant runs through the county of Nansemond in the State of Virginia, and the whole of its traffic to and from Norfolk passes over this part of its line; that every day <sup>on an average</sup> *twelve* freight trains in one or more sections and four passenger trains pass over its tracks in Nansemond county.

SIXTH. That some time since, the Atlantic and Danville Railway Company, a corporation of this State, authorized to construct and operate a line of railroad running from some point on the James River in Surry county, via Waverly in Sussex county, thence via Belfield in Greenville county, and thence via Boydton in Mecklenburg county, to a point at or near Danville in Pittsylvania county, constructed and is now operating as part of its main line a railroad running from Claremont on the James River in Surry county to Belfield in Greenville county, a distance of about 54 miles; and at Waverly, greatly to the inconvenience of your complainant, it crosses the track of your complainant at grade.

SEVENTH. That since the main line of the Atlantic and Danville Railway Company was constructed between Claremont and Belfield, the said Atlantic and Danville Railway Company has undertaken to construct a road of standard gauge from the city of Portsmouth, through Norfolk and Nansemond counties, to a point at or near Belfield, and proposes to cross the right of way, road-bed and track of your complainant about one mile east of the town of Suffolk in the last-named county, running almost alongside of the Seaboard and Roanoke Railroad from its eastern terminus until the county of Southampton is reached, when it turns a little to the north, leaving the Seaboard and Roanoke Railroad, and reaches the town of Belfield, Virginia; and the Atlantic and Danville Railway Company claims the right to construct the said road from Portsmouth under an amendment to its charter by an Act approved May

5th, 1887.

EIGHTH. That the grading on the proposed road of the Atlantic and Danville Railway Company between Portsmouth and Belfield commenced in June, 1887, and the road-bed for its track has lately been graded up to and beyond the track of your complainant and touching its right of way on each side; and that the said Atlantic and Danville Railway Company has a large number of hands laying its track in the direction of Suffolk and is now preparing to cross the track of your complainant at grade at the point named - to wit: about one mile east of Suffolk, in the County of Nansemond without the consent of your complainant and Virginia, without having complied with any of the provisions of the Act of the General Assembly of Virginia approved February 2nd, 1875, entitled "An Act to amend and re-enact Section 25, Chapter 56, of Code of Virginia 1873, in relation to the alteration of roads, canals and streams", which is as follows - to wit: "Section 25. If any railroad, turnpike or canal company deem it necessary, in the construction of their works, to cross any other railroad, turnpike or canal, or any State or county road, it may do so: Provided, the work be so constructed as not to impair the safety, or impede or endanger the operation of the work to be crossed; and that such crossing be otherwise effected by such permanent and proper structures and fixtures as will best make safe life and property passing upon the same, and as shall be satisfactory to the company whose work shall be crossed. If any such company desire that the course of any other railroad, turnpike, canal or

State road should be altered to avoid the necessity of any crossing, or of frequent crossing of the same, or to facilitate the crossing thereof, the alterations may be made on such terms and in such manner as may be agreed to by the company whose work it is desired to alter, or by the Board of Public Works in case of any State work: And if any such crossing or alteration as is allowed by this Section shall cause damage, or shall be likely to do so, to any company, or to the owner of any lands, the railroad, turnpike or canal company exercising the privileges hereof shall pay all immediate, and shall fully indemnify against all future or prospective damages."

NINTH. And your complainant charges that the main line of the Atlantic and Danville Railway Company commences at Claremont in the county of Surry, and passes through or near the town of Waverly, Sussex county; thence by the most direct and practicable route to a point at or near Belfield, Greenville county; thence by the most practicable route to a point at or near Boydton in Mecklenburg county; thence by the most practicable route to a point at or near the city of Danville. And by the terms of said charter, as amended by Act approved May 5th, 1887, the said Atlantic and Danville Railway Company cannot build any branch or acquire the right of way for such branch until after its main line has been constructed and is ready for the running of trains. And your complainant says that the said main line has not been constructed further than Belfield in Greenville county, and that its

trains can only run from Claremont in Surry county to that point, and that the road now being built from Portsmouth in the direction of the town of Suffolk is a branch line, and that the Atlantic and Danville Railway Company has no right to construct the same, and that the Atlantic and Danville Railway Company has no right to cross the track of the Norfolk and Western Railroad Company at or near Suffolk.

TENTH. Your complainant further shows to your Honor that within one mile of the city of Norfolk its track is crossed at grade by the Norfolk Southern Railroad, which is 4'8½" gauge, and runs from Berkley, Virginia, to Edenton, North Carolina, a distance of about 74 miles; that about four hundred and fifty feet west of the point where the Atlantic and Danville Railway Company proposes to cross, the track of your complainant is now crossed, at grade, by the Suffolk and Carolina Railroad, which is a narrow-gauge road about 30 miles in length; and about five hundred feet further west the Suffolk Lumber Company own a narrow-gauge road which passes under the road of your complainant, as also does the Seaboard and Roanoke Railroad at a point about three miles west of Suffolk. That, in addition to the roads already named, crossing the track of your complainant at grade, your complainant has to cross the East and South Branches of the Elizabeth River and the Dismal Swamp Canal, all of which are crossed upon bridges having draws. And your complainant charges that its business and operations are already greatly impeded and endangered and its safety impaired by

the roads which now cross its track at grade.

ELEVENTH. That if the Atlantic and Danville Railway Company shall be permitted to cross its track at grade where the track of the said Company is now graded, the operations and business of your complainant will be so greatly impeded, and its safety impaired, that the interests of the public, as well as its own, will be greatly affected, damaged and injured. Your complainant represents to your Honor that each one of these roads will conduct its business and move its trains according to its own schedules and as will best conduce to its own convenience, and that injury to life and property, in consequence, upon the track of your complainant, from the town of Suffolk to the city of Norfolk, will be almost unavoidable.

TWELFTH. As your complainant has before stated, its business has greatly increased; it has sought to foster and develop the local interests along its line, and thus, while securing business for itself, has greatly increased the wealth and added to the resources of the counties in Virginia through which it passes; that this traffic, with the increased business which it expects to receive, will tax its carrying capacity to its utmost limit; and in these times of progress, when the public demand and must have rapid transportation of passengers and freight, your complainant will find it impossible to safely and efficiently conduct its business and discharge those duties which, as common carrier, it owes to the

public, if the Atlantic and Danville Railway Company is permitted to cross its track as it now proposes and threatens to do. Your complainant believes, and now charges, that such a crossing would inflict injury upon it which cannot be compensated in damages, and that there is no standard or method by which the immediate damages can be computed; nor is there any by which indemnity against future loss can be given by the said Atlantic and Danville Railway Company.

THIRTEENTH. And your complainant further believes, and now so distinctly charges, that the crossing of its track by the Atlantic and Danville Railway is altogether unreasonable and unnecessary at grade; that a crossing above or below grade can be effected without very much expense, and certainly will be most conducive to the interests of both corporations, and be more in accord with the spirit and demands of a well regulated public policy, which, while demanding rapid transportation, does not forget the safety of the passengers or of the freights to be carried, and is adverse to railroads crossing each other at grade.

FOURTEENTH. Your complainant charges that, although it will be so greatly damaged at present and hereafter, the said Atlantic and Danville Railway Company has not paid the immediate damages to your complainant, or indemnified it against future loss, as required by Section 25, Chapter 56, Code of 1873, as amended by Act approved February 2nd, 1875.

FIFTEENTH. Your complainant believes and charges that said Atlantic and Danville Railway Company proposes and intends, without the consent of your complainant and in disregard of your complainant's rights and the rights of the public in the premises, to enter upon the right of way of your complainant and construct its track across the track of your complainant at grade at the point <sup>about one mile east of the town of Suffolk</sup> in the county of Nansemond hereinbefore mentioned, unless your Honor's court will, by the aid of an injunction, interfere and restrain said Atlantic and Danville Railway Company from so doing, and your complainant further charges that there is imminent danger of said Atlantic and Danville Railway Company carrying out said purpose and intention.

SIXTEENTH. Inasmuch, therefore, as your complainant is without remedy save in a court of equity, where matters of this kind are properly returnable, it prays that the Atlantic and Danville Railway Company may be made a party defendant to this bill and required to answer the same; but an answer under oath is now and hereby expressly waived. That your Honor will enjoin and restrict the said Atlantic and Danville Railway Company from constructing its track at grade across the track of your complainant; that, in any case, your Honor will compel the said Atlantic and Danville Railway Company to fully comply with the terms of the Act of Assembly quoted in your complainant's bill, and grant to it such other further and general relief as equity shall declare and the nature of the case require, that all proper process may issue.

And, as in duty bound, your complainant will ever pray etc.

NORFOLK AND WESTERN RAILROAD COMPANY.

*W. H. Mann*  
*Per S. Bernard* *f.c.*

STATE OF VIRGINIA:

: to-wit:  
 CITY OF NORFOLK :

I, *G. M. Dillard*, a Notary Public in and for the City of Norfolk and State of Virginia, do hereby certify that Edmund L. DuBarry this day personally appeared before me in my City aforesaid, and made oath that so far as the statements contained in the bill of the Norfolk and Western Railroad Company against the Atlantic and Danville Railway Company are based on his own knowledge, he knows them to be true, and so far as they are based on information derived from others, he believes them to be true.

Given under my hand this 28th day of October, A. D., 1887.

*G. M. Dillard*  
 Notary Public.

October 29th, 1887

THE NORFOLK AND WESTERN RAILROAD CO. :  
vs. : In Vacation.  
THE ATLANTIC AND DANVILLE RAILWAY CO.:

An injunction is awarded according to the prayer of the plaintiffs' bill, enjoining and restraining the Atlantic and Danville Railway Company, its officers, agents and servants, and all other persons, from entering upon the right of way of the Norfolk and Western Railroad Company at any point along its line in Nansemond County, and especially at the point about one mile east of Suffolk in the County of Nansemond, and to which the Atlantic and Danville Railway Company has graded its road, for the purpose of constructing at grade a crossing over the track of the Norfolk and Western Railroad Company, for the passage of the trains of the Atlantic and Danville Railway Company, or for any purpose whatever until the further order of this Court.

But before the Norfolk and Western Railroad Company shall have the benefit of this decree, the said Company, or some one for it, shall execute before the Clerk of the Circuit Court of Nansemond County a bond in the penalty of \$ 5000. — with security to be approved by the said Clerk and conditioned according to law.

To the Clerk of the Circuit Court  
of Nansemond County.

*C. W. Hill*  
*Judge*

Ans: At Comr of Naval Arm  
W. H. Ham  
P. Sprague & Co.

The Norfolk & Western R.R. Co.

Bill

The Atlantic & Danville  
Railroad Company

Octo. 29th: 1887  
F.R.A.

THE ATLANTIC & DANVILLE RAILROAD CO.  
AT DANVILLE, VA.  
THE NORFOLK AND WESTERN RAILROAD CO.  
AT NORFOLK, VA.

October 29th 1887

The Norfolk & Western Railroad Company Plaintiff  
vs Chy. Notes

The Atlantic & Danville Railway Company Defendant

1887. Octo: 29<sup>th</sup>: Injunction order awarded

" " " Injunction Bond, executed and filed

" " " Sum. in Chy. with restraining order & Certificate  
entered thereon, opened to Jan'y: 1888.

" " " Affidavit made & filed, that there is no Officer  
or Agent of the Defendant Corporation, in the  
County of Harrison, and, upon whom the said  
Summons, and the Injunction order & Certificate  
annexed, could be served

" " 30<sup>th</sup>: Order of Publication awarded  
(County Court day)

" Nov: 14<sup>th</sup>: Order of Publication posted at the Co. Ho. Door.

1888. Jan'y: 2<sup>nd</sup>: Bill filed - Decree nisi

" Feb'y: 6<sup>th</sup>: Decree nisi Confirmed, and Cause set for hearing,  
on motion of Plaintiff's Counsel

" " 9<sup>th</sup>: Vacation Decree

" March 30<sup>th</sup>: Acquiescence with settlement. The Bill & Decree  
filed for Court: having date, 20<sup>th</sup> Jan'y 1888.)

The Norfolk and Western  
Railroad Company

to J. Chy. Notes

The Atlantic and Danville Railroad  
Company.