

1910-006
Nansemond Co (Suffolk)

Chancery Causes: George L. Barton vs William H. Bosley et al

Skinner, Taylor, Suffolk & Carolina Railway Co I, Pruden

Folder 1 of 3

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA:

IN CHANCERY.

George L. Barton, Complainant,

VS

William H. Bosley, Thomas G. Skinner & A.H. Taylor, Defendants.

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To the Honorable Robert R. Prentiss, Judge.

The answer of Archibald H. Taylor to the Bill of Complaint of George L. Barton of Suffolk, Nansemond County, Virginia, against him and the other defendants therein named, in this Court exhibited: Your respondent answering says as follows:

That not waiving, but insisting on the manifold errors, irregularities and imperfections of said Complainant's bill of complaint, and particularly insisting that the same is without equity and ought to be dismissed, nevertheless for answer thereto, your respondent says as follows:

First. Your respondent denies generally the allegations of the said Bill of Complaint, and says that the same are untrue as therein charged, and where any portions of said allegations are true, the same are untruely stated so as to produce a false effect, and that a true statement of the facts and circumstances of the transactions referred to in said Bill of Complaint, are as follows: viz:

That the said complainant was the general manager of the Suffolk and Carolina Railway Company in the year 1902, and the said William H. Bosley was the President of said Railroad and remained its President until after the filing of this suit. That the said Thomas G. Skinner was never, according to the best knowledge of your respondent, attorney for the Suffolk and Carolina Railway Company, unless perhaps he may have so acted in a single instance by merely casual employment, of which your respondent had, and has no definite information. And further, that the said George L. Barton was, at said date referred to in his bill of complaint, Treasurer and Superintendent of the Gay Manufacturing Company, of which the said William H. Bosley was President, and further, that your respondent was the General Counsel, annually retained from year to year, of both

said Companies. That the first knowledge that your respondent had of the transactions referred to in said Bill of Complaint, came to him by virtue of his being requested to attend a meeting at the Monticello Hotel, ^{Norfolk,} where were present, William H. Bosley, George L. Barton, Thomas G. Skinner and W.D. Pruden, and the request was made to him by said William H. Bosley, as President of the Gay Manufacturing Company, and the business for which he was required, as explained to him by said Bosley, prior to said meeting and at said meeting, was to give his advice and services as counsel to the acquisition of some timber which Thomas G. Skinner then and there represented, that he had for sale in Pasquotank and Perquimans Counties, North Carolina, and for which purpose, your respondent understood that Mr W.D. Pruden, who was the local counsel of the said Gay Manufacturing Company as well as of the said Suffolk and Carolina Railway, was also summoned to attend, to assist your respondent in rendering the services of attorney and counsel. That the result of this conference, as well as of other conferences that your respondent had with the said William H. Bosley on the same subject, was a contract between the said Bosley and the said Skinner, with respect to the purchase of an interest in the timber belonging to said Skinner which contract was dated March 19, 1902, and a copy of which has been filed in this suit, and marked "Exhibit No. I", with the answer of W.H. Bosley, by which said property was purchased by said Bosley for a syndicate to be formed and to consist of such holders of the securities of the Gay Manufacturing Company and of the Suffolk and Carolina Railway Company, as might choose to contribute to the purchase money requisite, provided, however, that the Gay Manufacturing Company should have the right to acquire the timber directly and on its own account first of all, if said corporation should deem it to its advantage to do so. That at said meeting, and no where in the course of the whole transaction, up to the time of the filing of the suit, was it ever suggested that said respondent and said William H. Bosley and said Thomas G. Skinner ^{and Geo. L. Barton} should become partners in the purchase of said timber, nor did your respondent ever enter into any agreement for the joint purchase of said timber with said parties, nor into any contract to such effect, but that his sole connection with the proceeding, was as counsel to draft the papers by which the property should be purchased from said Skinner, primarily for the benefit of the Gay Manufacturing Company, as aforesaid, although your respondent ^d understood then or later, that if the Gay Manufacturing Company should decide not to acquire said timber immediately, that

a syndicate would be formed, and your respondent naturally expected to be included, if he should so desire, although there was no definite promise or undertaking to that effect, but the inference would naturally have been drawn under the circumstances, because he had been accustomed to join in the enterprises of the gentlemen interested in the said Gay Manufacturing Company, in which company at the time, however, his interest was a small one, and not a large one, as stated in the Bill of Complaint, according to the best recollection of this respondent.

Second. That your respondent is informed and alleges, that all the circumstances of the meeting at the Monticello Hotel in Norfolk, referred to, *in the Low Mainants Buy* and the acquisition of the option for said timber from said Skinner, was reported to the Board of Directors of the said Gay Manufacturing Company, and to the stockholders of said Company generally, and it was decided, that neither the said Gay Manufacturing Company, nor the Railway Company should then purchase or acquire said timber, inasmuch as it was not considered advantageous to outlay the money of either of said Companies for said purpose at the said time, and it was understood, that the individual members of the said Gay Manufacturing Company were at liberty to form a syndicate to acquire the same, with the expectation that later perhaps, the said Gay Manufacturing Company might be in a position to acquire said timber from said syndicate upon terms beneficial to itself, and the said syndicate was formed and the conveyance of said interest in said timber from the said Thomas G. Skinner to said William H. Bosley to hold for said syndicate, according to the interests of the respective members, was duly made, as appears in the deed filed in these proceedings, and your respondent became a member of said syndicate upon the payment of \$1000 in cash by him, and to the best recollection of your respondent, ten other persons making eleven in all, joined the syndicate upon the same terms. That your respondent was not informed of any application on the part of said George L. Barton, to join said syndicate, or any tender of the membership price by said Barton to any representative of the syndicate, but he has a recollection, that the said Barton was informed of all the steps and proceedings in the course of the formation of said syndicate and the completion thereof, because he himself as the attorney superintending these proceedings had occasion to come in contact with the said Barton who as Treasurer and officer of the Gay Manufacturing Company,

was necessarily informed of the proceedings. That as far as your respondent was concerned, if the said Barton had expressed any wish to him to join said syndicate, your respondent would have cordially consented, and he believes that at that time, so would all the members of said syndicate, who were then upon friendly terms with said Barton, but that said Barton never did express any such claim or wish, within the knowledge of your respondent.

Third. And your respondent further alleges, that some two years or more after the conveyance of the interest in said timber, by the said Thomas G. Skinner to the said William H. Bosley, for the benefit of the said syndicate, which conveyance was dated April 29, 1902, the subject of the acquisition of the said syndicate's interest by the Gay Manufacturing Company was taken up between the parties, and resulted in a contract which has heretofore been filed in these proceedings with the answer of said William H. Bosley, by which the said Gay Manufacturing Company acquired the interests of said syndicate, upon the terms and conditions set out in said agreement, and that it is within his knowl-

edge that the preparation for said agreement was well known to the said George L. Barton, who made no claim to an interest therein or objection thereto in any way, and your respondent particularly denies, that he himself ever had or acquired any other interest direct or indirect in said timber or the profits thereof, except his interest as a member of the syndicate hereinbefore specially set out, unless it be proper to mention here, that your respondent charged a fee for his services as counsel in superintending the proceedings for the formation of the syndicate, amounting —; according to the best of his recollection, to \$250. which was paid to your respondent.

And having fully answered all the allegations of the said Bill of Complaint, which he is advised it is proper for him to answer, your respondent prays to be hence dismissed with his costs to him allowed.

And will ever pray, etc.

Archibald H. Taylor

In the
Circuit Court of Anne-
mont County
In Chancery

George L. Barton

vs

Wm H. Bosley, A. H. Tay-
lor & Thos. G. Shuman

Answer of A. H. Taylor

THIS AGREEMENT, made this first day of November, in the year 1904, by Douglas H. Thomas, Douglas H. Gordon, John S. Gittings, Charles H. Tilghman, Archibald H. Taylor, William H. Bosley, Chas. F. Pitt, Jr., Wm. C. Seddon, John M. Denison, J. H. Cottman, & J. Wm. Middendorf & Co., the parties of the first part, and William H. Bosley, Trustee as hereinafter described, party of the second part, and the Gay Manufacturing Company, a corporation duly incorporated under the Laws of the States of Virginia and North Carolina, party of the third part.

WITNESSETH: WHEREAS by deed dated April 29th, 1902, a certain Thomas G. Skinner and Jessie P. Skinner, his wife, sold and conveyed unto William H. Bosley, hereinbefore mentioned, certain pine and cypress timber, growing and situate upon the land of the said Thomas G. Skinner, lying in Pasquotank and Perquimans County, North Carolina, and which lands were particularly described by reference in said deed, at and for the consideration of Eight Thousand Dollars, paid on account of said timber, and the further payment of One Dollar and Twenty-five Cents (\$1.25) per thousand feet for the timber to be cut and taken in accordance with the said agreement, to be paid as and when said timber should be cut and removed, after duly crediting the said \$8,000 of the purchase money with two years interest thereon, in payment and discharge of the price for timber to be cut and removed to the extent of said sum, and

WHEREAS the said purchase was made by the said William H. Bosley on account of the said parties of the first part equally, who furnished and paid the aforesaid sum of Eight Thousand Dollars, in equal proportions between and among each other and the conveyance to the said William H. Bosley, hereinbefore referred to, was made to him as agent and trustee of the parties of the first part, and the interest and rights hereby acquired were intended to be held by the said William H. Bosley for the use and benefit of the said parties of the first part, including therein his own use and interest, to the same extent as the interest of each of the others of the said parties of the first part, and

WHEREAS the said parties of the first part have agreed to assign and lease herewith, all the interest and right acquired by their trustee and agent, the said party of the second part, for the use and benefit of them, the said parties of the first part, unto the said party of the third part for the full term of five years from the date hereof, and upon the following terms and conditions, hereinafter particularly enumerated and set out, viz., the said parties of the first and second parts hereby grant and assign by way of lease for the full term of five years, in consideration of the purchase money to be paid and accounted for by the party of the third part to the parties of the first part, as hereinafter set out, all the interest of the said parties of the first and second parts in and to the timber lying upon the land conveyed by S. S. Lamb, etc., to Thomas G. Skinner, by deed dated December 11, 1901, and duly recorded among the Land Records of Pasquotank County, North Carolina, in Book 22, page 472, and among the Land Records of Perquimans County, North Carolina in Book 5, page 262, containing Fifteen Thousand Acres (15,000) more or less, and upon the following terms and conditions more particularly expressed.

First. The said party of the third part shall immediately enter upon the said lands, and by virtue of the right, title and interest and ownership heretofore vested in the said party of the second part by the deed aforesaid, and in his place, commence to cut and remove all the pine and cypress timber upon said tract heretofore conveyed to said party of the second part, being all the merchantable and sound pine and cypress timber, measuring twelve inches or more at the stump upon said tract, and shall from time to time and without unnecessary delay, cut and remove the same so that not less than Twenty-five Million (25,000,000) feet of said timber shall be cut, removed, paid and accounted for, during the term of these presents, that is, within five years from the date hereof.

Second. The said party of the third part shall make and keep an accurate account and measurement of the timber so to be cut and removed from said land, which measurement is to be made by a per-

son or persons approved as satisfactory by the said parties of the first part, the said party of the third part and the said Thomas G Skinner, hereinbefore referred to, or his legal representative, and each of said parties shall have the right to choose a measurer, which measurers shall have full power to make and adopt any method or agreement for deciding upon their measurements, or each of said parties may agree upon the same person or persons who shall act as measurer or measurers, and whose measurements shall be binding upon the parties hereto, and payment shall be made for the said timber when cut and removed, as follows:

Third. The party of the third part shall pay the full price of One Dollar and Seventy-five Cents (1.75) per thousand feet for the timber so as aforesaid to be cut and removed unto the said parties of the first part or their agent duly authorized to receive the said purchase money, until the amount of timber cut and removed shall equal Seven Million One Hundred and Sixty-eight Thousand feet (7,168,000) feet, being the amount of timber already paid for unto said Thomas G. Skinner by said parties of the first party by their agent the said party of the second part, and for which they are entitled to a credit of \$8,000 with two full years interest thereon, viz., a credit of \$8,960 in full, and when and after the said amount of Seven Millions, One Hundred and Sixty-eight Thousand feet already paid for in full unto the said Skinner, shall have been cut and removed by said party of the third part hereunder, the price or purchase money of One Dollar and Seventy-five Cents (\$1.75) per thousand feet hereby fixed shall be paid and discharged by the payment of Fifty Cents per thousand feet to the said parties of the first part or their agent, and the further sum of One Dollar and Twenty-five cents per thousand Feet to the said Thomas G. Skinner or his legal representative, being in all the sum of \$1.75, per thousand feet thus paid and accounted for by the party of the third part to the said parties of the first part.

Fifth. At the end of the period of five years from the date of these presents, the said party of the third part shall have the right to the extension and renewal of the term of the lease and

assignment herein granted, provided that said party of the third part shall three months prior to the expiration of the term of these presents, give notice to the parties of the first part of their desire and intention to have an extension of this lease and the right to cut and remove timber hereby assigned, the terms of which new lease or extension shall be settled by agreement between said parties, or by arbitrators appointed on behalf of said parties, respectively, the arbitrators appointed by said parties to choose a third, and the decision of such board of arbitrators to be binding upon said parties, as to all the terms of the extension or new lease and assignment, viz:- the price to be paid for the timber and all other terms of such extension or new lease.

Sixth. And the said party of the third part hereby agrees with the said parties of the first part, their representatives and assigns, that it will not at any time hereafter, without the consent of the said parties of the first part, make any deal or agreement or purchase of the said Thomas G. Skinner of timber upon the land in this agreement referred to.

AS WITNESS the hands and seals of the said parties of the first part, and of the said party of the second part, and the corporate seal of the said party of the third part, duly attested by its Secretary, and the signature of its Vice President in its behalf, on the day and in the year aforesaid.

WM. H. BOSLEY,

Trustee.

DOUGLAS H. THOMAS (SEAL)

DOUGLAS H. GORDON (SEAL)

JOHN S. GITTINGS (SEAL)

CHARLES H. TILGHMAN (SEAL)

ARCHIBALD H. TAYLOR (SEAL)

WM. H. BOSLEY (SEAL)

CHAS F. PITT, Jr. (SEAL)

WM. C. SEDDON (SEAL)

JOHN M. DENISON (SEA)

J. H. COTTMAN (SEAL)

J. WM. MIDDENDORF & CO. (SEAL)

AS WITNESS the seal of the said third party, affixed by its President and attested by its Secretary, and the signature of the President in its behalf, and the hand and seal of the said Second party.

GAY MANUFACTURING COMPANY,

WM. H. BOSLEY

President.

Attest:

CHAS. F. PITT, Jr.

Secretary.

In the
Circuit Court of
Hansemond County
Virginia

Geo. L. Barton

✓
W. H. Bosley
and others

"Defendants"
Exhibit C."

filed with answer
of

W. H. Bosley

THIS DEED made this twenty-ninth day of April, in the year nineteen hundred and two, by Thomas G. Skinner and Skinner, his wife, of Perquimans County, in the State of North Carolina, parties of the first part, unto William W. Bosley of Baltimore City, and State of Maryland, party of the second part,

WITNESSETH: That for and in consideration of the sum of eight Thousand Dollars (\$8000) by the parties of the first part to the party of the second part paid, at the date of these presents, and of the further payments to be made at the times and in the manner hereinafter more particularly stated, the said parties of the first part bargain and sell and convey, with general warranty, unto the said party of the second part, his heirs and assigns, all the pine and cypress timber now growing and situate upon the lands of the said parties of the first part, situate and lying in Pasquotank and Perquimans Counties, North Carolina, being the land particularly described and intended to be conveyed by the deed from S. S. Lamb etc., to said Thomas G. Skinner, dated December 11th, 1901, and duly recorded among the Land Records of Pasquotank County, North Carolina, in Book 22, page 472, and among the Land Records of Perquimans County, North Carolina, in Book 5, page 262, containing fifteen thousand acres more or less, to which deed reference is made for a more particular description of said land upon which the timber hereby conveyed, is situate, and the timber hereby conveyed being all the merchantable and sound pine and cypress timber measuring twelve inches or more at the stump, at the time the same shall be cut under the terms hereof.

TOGETHER with the right-of-way over any of the said lands for the use of the said party of the second part or his assigns and his or their agents and employees for the purpose of building railroads, tram-roads and ways of any kind, necessary and convenient for removing said timber, and the right to use and cut such smaller timber from the said land as may be necessary for the convenient removal of said timber, and the building and construction of roads

and ways for removing and transporting the same, and all other rights of ingress and egress and temporary occupation of said land by said party of the second part, or his assigns, and his or their employees, which may be necessary or convenient for the purpose of cutting and removing the timber purchased by said party of the second part from said lands in the most economical and expeditious manner:

This conveyance is made subject to the following terms and conditions, and in all respects in accordance therewith:

First. The term within which the said party of the second and his assigns shall have the right to cut and remove the timber hereby conveyed to them, and to enter upon, use and enjoy the lands of the said party of the first part for the purpose of cutting, removing and transporting said timber, shall be, and is hereby fixed at twenty-five years from the date of these presents, after which date, the said party of the second part or his assigns shall have no rights whatsoever in the said timber or the premises hereby conveyed, unless the period be extended by further agreement in writing executed between the parties hereto, or their assigns.

Second. The price of the timber hereby purchased to be cut and removed by the said party of the second part and his assigns, is fixed at one dollar and twenty-five cents (\$1.25) per thousand feet, Doyles' Rule, and is to be paid by said party of the second part or his assigns, to said parties of the first part or their assigns, immediately upon the cutting and measuring of said timber, with the exception of the sum of Eight Thousand Dollars (\$8000) advanced on account of the purchase-money of said timber by the party of the second part to the parties of the first part at the date of these presents, which advance with interest, is to be duly charged and credited out of the purchase-money or price of the timber first cut and removed, until the same is fully settled for by timber received and cut by said party of the second part at the price herein fixed. But the interest chargeable upon said advance, shall not, at the most, exceed two years interest upon said advance, and from

and after the date when the amount of said Eight Thousand Dollars advance, with interest, is duly set off and discharged by the timber cut, taken and removed by said party of the second part under the terms hereof, the said purchase price of the timber shall be payable when and as the same is cut, taken, removed and measured, as hereinbefore stated.

Third. The sale, grant and conveyance of the timber and rights herein made and granted shall be void and of none-effect as between the parties hereto and their assigns, in the event that a railroad connecting the main line of the Suffolk and Carolina Railway and the town of Elizabeth City, shall not be constructed and completed within five years from the date of these presents; and in such event, the said Eight Thousand Dollars (\$8000) hereinbefore mentioned as paid by said party of the second part to said parties of the first part on account of the purchase-money or price of said timber, shall be treated as a loan or advance charged upon the land and standing timber upon the land herein mentioned, and shall be and constitute a lien upon the same, until the said advance with interest from the date hereof, shall be repaid by the said parties of the first part to the said party of the second part and his assigns.

Fourth. It is understood between the parties hereto, that the said party of the second part and his assigns shall not be permitted to cut over any part of the land herein mentioned, more than one time unless by other and further agreement between the said parties.

AND the said parties of the first part for themselves and their assigns, covenant with the said party of the second part and his assigns, that they have good and merchantable title to the property and rights hereby conveyed, and that they will forever warrant and defend the same unto the said party of the second party and his assigns, free from encumbrance and from the claims and demands and interferences of any and all persons whatsoever.

IN WITNESS WHEREOF the said parties have hereto set

their hands and seals, the day and year first above written.

T. C. SKINNER, (Seal)

Test:

As to W. H. Bosley,

JESSIE P. SKINNER (Seal)

FELIX R. SULLIVAN.

WM. H. BOSLEY, (Seal)

In the
Circuit Court
of Nansemond County
Virginia

Geo. L. Barton

v

W. N. Bosley
and others

"Defendants'
Exhibit B."

filed with answer

of
W. N. Bosley

This Agreement made March 19, 1902, between Thomas G. Skinner, of North Carolina of the first part and W.H. Bosley of Baltimore of the second part,

WITNESSETH:- That Skinner hereby agrees and promises to sell and convey to W.H. Bosley all the pine and cypress timber which will measure as much as 12" at the stump on that land conveyed to Skinner by S. S. Lamb commissions December 11th 1901, and duly recorded in Pasquotank, N.C., book 22, page 472 and in Perquimans County, Book 5 page 262, containing 15,000 acres more or less, reference is made to said for particular description, at the price of \$1.25 per thousand feet Doyles rule, to be paid for as the same is cut and removed.

And the said Skinner further agrees to give Bosley twenty five years to complete the cutting and removal of the same, 12" inch to be the measurement at the time of cutting, and he also agrees to give Bosley the right of way over any of the said land for the purpose of building such railroads, tram road and ways of any kind necessary and convenient for removing the said timber, and to permit him to use such smaller timber from said land, as are necessary for the convenient removal of said timber and the building of the said road. It is agreed, however, that the said Bosley and his assigns shall not be permitted to cut over any part of the said land more than one time.

The said Bosley on his part, promises and agrees to loan to the said Skinner the sum of \$5,000.- which amount shall be paid to him out of the first timber cut from the said land, at the price named, with interest thereon, but if the whole of it not be paid within two years, the interest shall after that time cease.

This contract shall be null and void, however, except as to the money loan, if the Railroad from the Suffolk and Carolina main line to Elizabeth City be not built in 3 years from this time, but the said money in that event shall be re-

paid to Bosley or his assigns upon his demand and the same shall be secured if demanded by the said Bosley, upon the said land and timber and Skinner agrees to execute such papers as are necessary for that purpose.

The titles to the said property are to be examined and reported upon by W. D. Pruden, who is also to prepare the necessary deeds and papers to carry out this contract, when the same is finally directed and the said Skinner hereby agrees that he will execute such papers as are necessary and proper for the carrying out in all particulars of this contract and to have the same properly signed and executed by his wife. The timber herein conveyed by Skinner is estimated at one hundred millions feet.

In testimony of which have hereto set their hands and seals this 19th day of March, 1902.

(Signed) T. G. Skinner, (Seal)

(Signed) Wm. H. Bosley, (SEAL)

Witness

(Signed) W.D. Pruden.

In the
Circuit Court of
Nansemond County
Virginia.

Geo. L. Barton

vs

W. N. Bosley
and others

"Defendants'
Exhibit A.",
filed with Answer
of
W. N. Bosley

IN THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND

GEORGE L. BARTON

vs.

WILLIAM H. BOSLEY, ARCHIBALD H. TAYLOR and T. G. SKINNER.

This cause came on this day to be heard upon the bill of the complainant, the separate answers of William H. Bosley and Archibald H. Taylor, two of the defendants, with replications thereto, the depositions of witnesses and exhibits filed therewith, and was argued by counsel.

On consideration whereof, it is adjudged, ordered and decreed that the same be dismissed and that the plaintiff pay unto the defendants their costs by them about their defense in this behalf expended.

Enter June 6th
1910.

James L. W. Smors

Entered in Chancery Aides
Book No. 4. Page 422.

IN THE CIRCUIT COURT OF HANOVER COUNTY, VIRGINIA.

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George E. Barton, ... Complainant,
vs. In Chancery.

William E. Bosley, Thomas G. Skinner and
A. F. Taylor, ... Defendants.

To the Honorable Robert B. Francis, Judge:

The answer of William E. Bosley to the Bill of
Complaint of George E. Barton, against him and other
defendants therein named, in this Court exhibited, respect-
fully shows:

Your respondent answering says, as follows:

That not waiving, but insisting on, the manifold
errors, irregularities and imperfections of the said
complainant's bill of complaint, and particularly in-
sisting that the same is without equity, and ought to be
dismissed, nevertheless for answer thereto your respond-
ent says:

First. Your respondent denies generally the allega-
tions of the said Bill of Complaint as charged, and says
that the same are untrue, and when any portion of any
allegations are true, the same are untrue stated so as
to produce a false effect, and that a true statement of
the facts and circumstances referred to in said Bill of
Complaint are as follows:

That he admits, that in the year 1902 said complain-
ant was the General Manager of the Suffolk and Caroline
Railway Company, and states further, that he was also the
Treasurer, superintendent, in fact, of the Day Manufactur-
ing Company, a body corporate, engaged in the purchase of

timber lands and the cutting and manufacture of timber from lands adjacent to the said Suffolk & Carolina Railway, which timber is mainly transported to mill and market over the lines of said Suffolk and Carolina Railway Company. He also admits, that he, the respondent, was and still is President of the said Suffolk and Carolina Railway Company, and further states that he was at the time referred to, and now is, the President of the said Cag Manufacturing Company. He further denies that the said Thomas G. Skinner at the time referred to, or now is or ever was, attorney for the said Suffolk and Carolina Railway Company, and says further, that the said Thomas G. Skinner had no representative or confidential relations with said Railway Company, and his relations, with respect to the matters referred to in these proceedings, are clearly set out in the contract between said Thomas G. Skinner and the other parties thereto which is hereinafter made part of this answer and submitted to this Court.

And further, that prior to 1902, said Thomas G. Skinner was believed to be the possessor of considerable interest in timber and timber lands, lying in the neighborhood of the extension of the Suffolk and Carolina Railway, from its main line to Elizabeth City, North Carolina, the building of which had been under consideration for some time prior to the year 1902, as was known to the said Thomas G. Skinner, and that the said Thomas G. Skinner was in frequent communication with the said Suffolk and Carolina Railway Company and the said Cag Manufacturing Company, suggesting, that he would have such contracts with said companies or either of them, which would be a further inducement or consideration to them for extending said railway to Elizabeth City, North Carolina, as pre-

posed. That the said suggestions, propositions and negotiations, were not made to said Barton personally or to said Topley personally, or for the private profit or advantage of either of them, but were propositions made for the benefit of the said two corporations, or the persons generally having an interest in them, and that any knowledge that the said Barton acquired of the propositions, suggestions or negotiations made or tendered by the said Thomas G. Skinner, was acquired by him in his capacity as an officer of said corporations, and were not made to him personally, and that it was his duty to obtain and transmit the same upon receiving them, to his superior officers of the said corporations, of which he was the agent and employee as aforesaid, and not to use or acquire knowledge which came to him only and by reason of his being the employee of said corporations, except for the benefit and advantage of said corporations.

And particularly your respondent cannot admit, but denies that the said Barton brought to him in his personal capacity, ~~or~~ ⁺ not as the officer and agent of the said two corporations or either of them, the information respecting the holdings of the said Thomas G. Skinner in timber and lands, referred to in the bill of complaint, but on the contrary says, that the said Skinner had been in frequent communication with your respondent and other officers of the said corporations, prior to March 19, 1902, when the contract was made between the said Thomas G. Skinner and your respondent, referred to in the bill of complaint, and that an appointment for the full consideration of the subject of the contract or arrangement suggested by Thomas G. Skinner was made between your respondent and Thomas G. Skinner, before the date March 19, 1902, and the said appointment was orally used as the officer

position of the parties under the contract, and that the true meaning and intent of the transaction was as above set forth.

Second. That the fact of the negotiation of the said contract as above set forth, was immediately and fully reported and explained by said Wesley and the counsel of the two corporations, the said Taylor, to all the members of the Board of Directors of the two corporations, and, in fact, to all the stockholders and parties having an interest in the same, and without any important exception, and after free and full discussion of the same, it was decided, that neither the Railway Company nor the said timber company, the City Manufacturing Company, should take part in said contract or assume the necessary charge, expenses or liability of carrying out the same on the part and in the place of the said William F. Wesley, as it was not to their advantage to contribute the necessary cash, or to assume the liabilities arising out of the same. And it was decided on the part of said corporations, after full and free conference with the members aforesaid, that it would be for the advantage of the said corporations, if certain individual members, that were able and willing to do so, should take up said contract, thus secured in the name of said Wesley, contributing the necessary money to complete it and put it in force, and that later, the said corporations, either or both of them, would perhaps take the contract off the hands of the said parties agreeing to carry it for the present, if it should be ultimately found to be advantageous to the said corporations or either of them to do so, and upon such terms as the said corporations should see fit to stipulate and determine.

the 29th day of April, 1932, between the said Peasey and the said Skinner and wife was finally executed, a true copy of which is hereunto annexed and made a part of this answer, marked "Defendant's Exhibit B".

Third. And your respondent avers that two years after the execution of the contract Exhibit B, heretofore referred to, in the spring and summer of 1934, as had originally been contemplated between the parties, the subject of the acquisition of the contract made by said Skinner with your respondent, for the benefit of the subscribers aforementioned, was taken up between the said Peasey and the said Gay Manufacturing Company, and a contract was agreed upon, which, however, was not actually signed until several months after the agreement had been virtually concluded by which the said Gay Manufacturing Company became the assignee of the rights of the said subscribers, a copy of which contract is hereby submitted and made part of this answer, marked "Defendant's Exhibit C", and under said contract the sums of money advanced by said subscribers are to be repaid to said subscribers, and as soon as possible or contingent profit allowed to them, but that under said contract, as yet, no item of money, much less any profit, have been repaid to the subscribers, who advanced the money and assumed the liability under the contract between said Peasey and Skinner, and the benefits of said contract are altogether unrealized and indeterminate and cannot be estimated. And further that your respondent has no other interest or advantage or benefit under said contract as or any of them, than an equal share, together with the other subscribers, by reason of his subscription of \$1000 cash and assumption of the liabilities assumed by the other said subscribers, and that none, directly or indirectly, throughout the whole term of the contract

indirectly, throughout the whole transaction has your respondent received any compensation, benefit, interest or advantage, direct or indirect, over that accruing to all the other subscribers as above mentioned, but that his whole labor and services in the premises from beginning to end, were contributed, as part of his duty due by him to the two said corporations, of which he was an officer, as aforesaid, and by which he was paid a regular salary for the discharge of all his duties, and that the said George L. Barton was likewise an officer and employee of the said two corporations, throughout the whole of said transaction, and was understood by said corporations and all the officers and members thereof, and under the law ought to have been understood by said Barton himself, as merely performing the duties which ought to have been performed by him for the benefit of the two corporations aforesaid, for the regular and stated compensation which he was enjoying.

Fourth. Answer respondent further asserts that every step in the above mentioned proceedings and transactions was taken with the knowledge of the said George L. Barton, who as an officer of the said two corporations was in constant and close communication with your respondent and the other parties concerned in these negotiations during the whole period aforesaid, and that he made no objection or proposed no claim that he himself was interested in the subject matter of the contract, and entitled to contribute money and assume liabilities, and in return therefor obtain any interest in the premises, although your respondent asserts, that during this whole period, such were the confidential relations between the said George L. Barton and the officers and members of the said two corporations, that your respondent would have been perfectly willing, and no doubt expressed himself, that the

Bosley's Answer

IN THE CIRCUIT COURT OF NANCEMONT COUNTY, VIRGINIA.

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George L. Barten,.....Complainant/
vs. In Chancery.
William H. Bosley, Thomas O. Skinner and
A. F. Tayler ,.....Defendants.

To the Honorable Robert R. Prentiss, Judge:

The answer of William H. Bosley to the Bill of
Complaint of George L. Barten, against him and other
defendants therein named, in this Court exhibited, respect-
fully shows:

Your respondent answering says, as follows:

That not waiving, but insisting on, the manifold
errors, irregularities and imperfections of the said
complainant's bill of complaint, and particularly in-
sisting that the same is without equity, and ought to be
dismissed, nevertheless for answer thereto your respond-
ent says:

First. Your respondent denies generally the allega-
tions of the said Bill of Complaint as charged, and says
that the same are untrue, and when any portion of any
allegations are true, the same are untruly stated so as
to produce a false effect, and that a true statement of
the facts and circumstances referred to in said Bill of
Complaint as are follows:

That he admits, that in the year 1902 said complain-
ant was the General Manager of the Suffolk and Carolina
Railway Company, and states further, that he was also the
Treasurer, superintendent, in fact, of the Gay Manufactur-
ing Company, a body corporate, engaged in the purchase of

timber lands and the cutting and manufacture of timber from lands adjacent to the said Suffolk & Carolina Railway, which timber is mainly transported to mill and market over the lines of said Suffolk and Carolina Railway Company. He also admits, that he, the respondent, was and still is President of the said Suffolk and Carolina Railway Company, and further states that he was at the time referred to, and now is, the President of the said Gay Manufacturing Company. He further denies that the said Thomas G. Skinner at the time referred to, or now is or ever was, attorney for the said Suffolk and Carolina Railway Company, and says further, that the said Thomas G. Skinner had no representative or confidential relations with said Railway Company, and his relations, with respect to the matters referred to in these proceedings, are clearly set out in the contract between said Thomas G. Skinner and the other parties thereto, which is hereinafter made part of this answer and submitted to this Court.

And further, that prior to 1902, said Thomas G. Skinner was believed to be the possessor of considerable interest in timber and timber lands, lying in the neighborhood of the extension of the Suffolk and Carolina Railway, from its main line to Elizabeth City, North Carolina, the building of which had been under consideration for some time prior to the year 1902, as was known to the said Thomas G. Skinner, and that the said Thomas G. Skinner was in frequent communication with the said Suffolk and Carolina Railway Company and the said Gay Manufacturing Company, suggesting, that he would make such contracts with said companies or either of them, which would be a further inducement or consideration to them for extending said railway to Elizabeth City, North Carolina, as pre-

posed. That the said suggestions, propositions and negotiations, were not made to said Barton personally or to said Bosley personally, or for the private profit or advantage of either of them, but were propositions made for the benefit of the said two corporations, or the persons generally having an interest in them, and that any knowledge that the said Barton acquired of the propositions, suggestions or negotiations made or tendered by the said Thomas G. Skinner, was acquired by him in his capacity as an officer of said corporations, and were not made to him personally, and that it was his duty to obtain and transmit the same upon receiving them, to his superior officers of the said corporations, of which he was the agent and employee as aforesaid, and not to use or acquire knowledge which came to him only and by reason of his being the employee of said corporations, except for the benefit and advantage of said corporations.

And particularly your respondent cannot admit, but denies that the said Barton brought to him in his personal capacity, or not as the officer and agent of the said two corporations or either of them, the information respecting the holdings of the said Thomas G. Skinner in timber and lands, referred to in the bill of complaint, but on the contrary says, that the said Skinner had been in frequent communication with your respondent and other officers of the said corporations, prior to March 19, 1902, when the contract was made between the said Thomas G. Skinner and your respondent, referred to in the bill of complaint, and that an appointment for the full consideration of the subject of the contract or arrangement suggested by Thomas G. Skinner was made between your respondent and Thomas G. Skinner, before the date March 19, 1902, and the said plaintiff was merely used as the officer

and employee of the said to communicate with said Skinner, and requested and ordered to attend in his capacity as an officer and employee of the said two corporations above named, and at the same meeting the general counsel of the said two corporations, Archibald H. Taylor, a defendant herein named, and the local counsel, W. W. D. Pruden, were also requested to attend and did attend. That at said meeting, as a result of the negotiations between your respondent, assisted by the said other officers and employees of said two corporations, and representing said corporations, a contract was made and executed between Thomas G. Skinner of North Carolina, of the first part, and W. H. Wesley, of Baltimore, Md., of the second part, a copy of which is herewith filed as "Defendants Exhibit A", and prayed to be taken as part hereof.

That it was perfectly understood that said contract was to be for the benefit of the said Gay Manufacturing Company and the said Suffolk and Caroline Railway Company, in so far and to such extent, as either of said Companies, after and upon full consideration by the Board of Directors of said companies, might see fit to take advantage of the same, and that the rights of your respondent under said contract were, and were intended to be, altogether subject to the right of either of said corporations, and primarily the right of the said Gay Manufacturing Company, as being a privilege most likely to be suitable and valuable to it, to take the place of your said respondent and enjoy the full fruits of the same, if said corporation should deem it to their benefit and advantage so to do; and that said Burton, as the officer and employee of said two corporations, and only in such capacity, took part, or was permitted to take part, in the negotiation and transaction aforesaid, and that he necessarily knew that such was the

position of the parties under the contract, and that the true meaning and intent of the transaction was as above set forth.

Second. That the fact of the negotiation of the said contract as above set out, was immediately and fully reported and explained by said Bosley and the counsel of the two corporations, the said Taylor, to all the members of the Board of Directors of the two corporations, and, in fact, to all the stockholders and parties having an interest in the same, certainly without any important exception, and after free and full discussion of the same, it was decided, that neither the Railway Company nor the said timber company, the Gay Manufacturing Company, should then take part in said contract or assume the necessary charges, expenses or liability of carrying out the same on the part and in the place of the said William H. Bosley, as it was not to their advantage to contribute the necessary cash, or to assume the liabilities arising out of the same. And it was decided on the part of said corporations, after full and free conferences with the members aforesaid, that it would be for the advantage of the said corporations, if certain individual members, that were able and willing so to do, should take up said contract, thus secured in the name of said Bosley, contributing the necessary money to complete it and put it in force, and that later, the said corporations, either or both of them, would perhaps take the contract off the hands of the said parties agreeing to carry it for the present, if it should be ultimately found to the advantage of said corporations or either of them ~~as~~ to do, and upon such terms of reasonable profit and advantage to the parties contributing

the necessary funds to take advantage of said contract, as the said corporations and the said parties should thereafter agree upon, and that under these circumstances, certain persons hereinafter named who are members or stockholders in both corporations aforesaid, contributed each the sum of one thousand dollars ~~xxxxxx~~ cash to enable the said Bosley to complete and carry out the said contract as obtained by him, on the understanding and agreement that each subscriber or contributor should have an equal share or interest in the benefit of the contract so obtained, and that the said subscribers would act together hereafter in selling, conveying or assigning to the said Gay Manufacturing Company or the Suffolk and Carolina Ry Company, their rights and benefits under said contract upon such terms of profit as might be mutually agreed, it being clearly recognized between said parties and subscribers, that inasmuch as they themselves owned not only the majority, but almost the whole substantial interest in both said corporations, no terms would ultimately be agreed upon except such as were absolutely fair and proper and for the benefit of the said two corporations, and that under these circumstances, the money was subscribed by Douglas E. Gordon, Douglas E. Thomas, John S. Gittings, Charles H. Tilghman, Archibald E. Taylor, Wm. H. Bosley, Charles F. Pitt, Jr., Wm. C. Seddon, John H. Denison, J. H. Cottman, J. Wm. Middendorf and Company, the sum of one thousand dollars by each of said parties, and the said Bosley was directed to go on and complete the said contract by the payment of the requisite sum of \$8000. in cash, and to take a more formal deed and agreement to himself and in his own name solely, but for the benefit of the parties above named, equally and without discrimination, which was done, and the contract of

the 29th day of April, 1902, between the said Bosley and the said Skinner and wife was finally executed, a true copy of which is herewith filed and made a part of this answer, marked "Defendant's Exhibit B".

Third. And your respondent avers that two years after the execution of the contract Exhibit B., hereinbefore referred to, in the spring and summer of 1904, as had originally been contemplated between the parties, the subject of the acquisition of the contract made by said Skinner with your respondent, for the benefit of the subscribers aforementioned, was taken up between the said subscribers, and the said Gay Manufacturing Company, and a contract was agreed upon, which, however, was not actually signed and completed upon several months after the agreement had been virtually concluded by which the said Gay Manufacturing Company became the assignee of the rights of the said subscribers, a copy of which contract is hereby submitted and made part of this answer, marked "Defendant's Exhibit C", and under which contract the sums of money advanced by said subscribers are to be repaid to said subscribers, and a certain possible or contingent profit allowed to them, but that under said contract, as yet, no item of money, much less any profit, have been repaid to the subscribers, who advanced the money and assumed the liability under the contract between said Bosley and Skinner, and the benefits of which are altogether unrealized and indeterminate and can not be estimated. And further that your respondent has no other interest or advantage or benefit under said contracts or any of them, than an equal share, together with the other subscribers, by reason of his subscription of \$1000 cash and assumption of the liabilities assumed by the other said subscribers, and that nowhere, directly or indirectly, in the whole transaction has your

indirectly, throughout the whole transaction has your respondent received any compensation, benefit, interest or advantage, direct or indirect, over that accruing to all the other subscribers as above mentioned, but that his whole labor and services in the premises from beginning to end, were contributed, as part of his duty due by him to the two said corporations, of which he was an officer, as aforesaid, and by which he was paid a regular salary for the discharge of all his duties, and that the said George L. Barton was likewise an officer and employee of the said two corporations, throughout the whole of said transaction, and was understood by said corporations and all the officers and members thereof, and under the law ought to have been understood by said Barton himself, as merely performing the duties which ought to have been performed by him for the benefit of the two corporations aforesaid, for the regular and stated compensation which he was enjoying.

Fourth. And your respondent particularly asserts that every step in the above mentioned proceedings and transactions was taken with the knowledge of the said George L. Barton, who as an officer of the said two corporations was in constant and close communication with your respondent and the other parties concerned in these negotiations during the whole period aforesaid, and that he made no objection or presented no claim that he himself was interested in the subject matter of the contract, and entitled to contribute money and assume liabilities, and in return therefor obtain any interest in the premises, although your respondent asserts, that during this whole period, such were the confidential relations between the said George L. Barton and the officers and members of the said two corporations, that your respondent would have been perfectly willing, and he no doubt expressed himself, that the

said George L. Barton should, if he desired, take an equal share upon equal terms of contribution, with the other ~~members~~ subscribers to the said contract, and he believes that the other subscribers would at that time and until the recent conduct of the said ~~members~~ Barton has estranged them from him, have been willing and agreed to allow him the privilege, if deemed such, of so subscribing, but that always and ever, it would have been necessary that the said Barton should propose himself to the said subscribers or syndicate, as a member thereof, and be accepted by them, and pay his contribution and assume the liabilities of said subscribers, which said Barton never did do, and up to the date of these presents has never done.

And having fully answered all the allegations of the said Bill of Complaint, which he is advised it is proper for him to answer, your respondent says that he is advised that the said complainant's bill is without equity and ought to be dismissed, with costs, which your respondent prays.

And will ever pray,

Signed. Wm. H. Bosly.

IN THE CIRCUIT COURT OF HANSEMOND COUNTY, VIRGINIA.

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George L. Barton,

Complainant,

IN CHANCERY.

VS

William H. Bosley, Thomas H. Skinner and A. H. Taylor,

Defendants.

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To the Honorable Robert R. Prentiss, Judge:

The answer of William H. Bosley to the Bill of Complaint of George L. Barton, against him and the other defendants therein named, in this Court exhibited, respectfully shows:

Your respondent answering says, as follows:

That not waiving, but insisting on, the manifold errors, irregularities and imperfections of the said complainant's bill of complaint, and particularly insisting that the same is without equity, and ought to be dismissed, nevertheless for answer thereto your respondent says,

First. Your respondent denies generally the allegations of the said Bill of Complaint as charged, and says that the same are untrue, and when any portion of any allegations are true, the same are untruly stated so as to produce a false effect, and that a true statement of the facts and circumstances referred to in said Bill of Complaint, as are follows:

That he admits, that in the year 1902 said complainant was the General Manager of the Suffolk and Carolina Railway Company, and states further, that he was also the Treasurer, superintendent, in fact, of the Gay Manufacturing Company, a body corporate, engaged in the purchase of timber lands and the cutting and manufacture of timber from lands adjacent to the said Suffolk & Carolina Railway, which timber is mainly transported to mill and market over the lines of said Suffolk and Carolina Railway Company. He also admits, that

he, the respondent, was and still is President of the said Suffolk and Carolina Railway Company, and further states that he was at the time referred to, and now is, the President of the said Gay Manufacturing Company. He further denies that the said Thomas G. Skinner at the time referred to, or now is or ever was, attorney for the said Suffolk and Carolina Railway Company, and says further, that the said Thomas G. Skinner had no representative or confidential relations whatever with said Railway Company, and his relations, with respect to the matters referred to in these proceedings, are clearly set out in the contract between said Thomas G. Skinner and the other parties thereto, which is hereinafter made part of this answer and submitted to this Court.

And further, that prior to 1902, said Thomas G. Skinner was believed to be the possessor of considerable interest in timber and timber lands, lying in the neighborhood of the extension of the Suffolk and Carolina Railway, from its main line to Elizabeth City, North Carolina, the building of which had been under consideration for some time prior to the year 1902, ~~xxxx~~ as was known to the said Thomas G. Skinner, and that the said Thomas G. Skinner was in frequent communication with the said Suffolk and Carolina Railway Company and the said Gay Manufacturing Company, suggesting, that he would make such contracts with said Companies or either of them, which would be a further inducement or consideration to them for extending said railway to Elizabeth City, North Carolina, as proposed. That the said suggestions, propositions and negotiations, were not made to said Barton personally or to said Bosley personally, or for the private profit or advantage of either of them, but were propositions made for the benefit of the said two corporations, or the persons generally having an interest in them, and that any knowledge that the said Barton acquired of the propositions, suggestions or negotiations made or tendered by the said Thomas G. Skinner, was acquired by him in his capacity as an officer of said corporations, and were not made to him personally, and that it was his duty to obtain and transmit the same upon receiving them, to his superior officers of the said corporations, of which he was the agent and

4

employe as aforesaid, and not to use or acquire knowledge which came to him only and by reason of his being the employe of said corporations, except for the benefit and advantage of said corporations.

And particularly your respondent cannot admit, but denies that the said Barton brought to him in his personal capacity, or not as the officer and agent of the said two corporations or either of them, the information respecting the holdings of the said Thomas G. Skinner in timber and lands, referred to in the bill of complaint, but on the contrary says, that the said Skinner had been in frequent communication with your respondent and other officers of the said corporations, prior to March 19, 1902, when the contract was made between the said Thomas G. Skinner and your respondent, referred to in the bill of complaint, and that an appointment for the full consideration of the subject of the contract or arrangement suggested by Thomas G. Skinner was made between your respondent and Thomas G. Skinner, before the date March 19, 1902, and the said plaintiff was merely used as the officer and employe to communicate with said Skinner, and requested and ordered to attend in his capacity as an officer and employe of the said two corporations above named, and at the same meeting the general counsel of the said two corporations, Archibald H. Taylor, a defendant herein named, and the local counsel, Mr W.D. Pruden, were also requested to attend and did attend. That at said meeting, as a result of the negotiations between your respondent, assisted by the said other officers and employes of said two corporations, and representing said corporations, a contract was made and executed between Thomas G. Skinner of North Carolina, of the first part, and W.H. Bosley of Baltimore, Md., of the second part, a copy of which is herewith filed as " Defendants Exhibit A", and prayed to be taken as part hereof.

That it was perfectly understood that said contract was to be for the benefit of the said Gay Manufacturing Company and the said Suffolk and Carolina Railway Company, in so far and to such extent, as either of said Companies, after and upon full consideration by the Board of Directors of said companies, might see fit to

take advantage of the same, and that the rights of your respondent under said contract were, and were intended to be, altogether subject to the right of either of said corporations, and primarily the right of the said Gay Manufacturing Company, as being a privilege most likely to be suitable and valuable to it, to take the place of your said respondent and enjoy the fruits of the same, if said corporation should deem it to their benefit and advantage so to do; and that said Barton, as the officer and employe of said two corporations, and only in such capacity, took part, or was permitted to take part, in the negotiation and transaction aforesaid, and that he necessarily knew that such was the position of the parties under the contract, and that the true meaning and intent of the transaction was, as above set forth.

Second. That the fact of the negotiation of the said contract as above set out, was immediately and fully reported and explained by said Bosley and the counsel of the two corporations, the said Taylor, to all the members of the Board of Directors of the two corporations, and, in fact, to all the stockholders and parties having an interest in the same, certainly without any important exception, and after free and full discussion of the same, it was decided, that neither the Railway Company nor the said timber Company, the Gay Manufacturing Company, should then take part in said contract or assume the necessary charges, expenses or liability of carrying out the same on the part and in the place of the said William H. Bosley, as it was not to their advantage to contribute the necessary cash, or to assume the liabilities arising out of the same. And it was decided on the part of said corporations, after full and free conferences with the members aforesaid, that it would be for the advantage of the said corporations, if certain individual members, that were able and willing so to do, should take up said contract, thus secured in the name of said Bosley, contributing the necessary money to complete it and put it in force, and that later, the said corporations, either or both of them, would perhaps take the contract off the hands of the said parties agreeing to carry it for the present, if it should be ultimately found to the advantage

of said corporations or either of them so to do, and upon such terms of reasonable profit and advantage to the parties contributing the necessary funds to take advantage of said contract, as the said corporations and the said parties should thereafter agree upon, and that under these circumstances, certain persons hereinafter named who are members or stockholders in both corporations aforesaid, contributed each the sum of \$1000 cash to enable the said Bosley to complete and carry out the said contract as obtained by him, on the understanding and agreement that each subscriber or contributor should have an equal share or interest in the benefit of the contract so obtained, and that the said subscribers would act together hereafter in selling, conveying or assigning to the said Gay Manufacturing Company or the Suffolk and Carolina Railway Company, their rights and benefits under said contract upon such terms of profit as might be mutually agreed, it being clearly recognized between said parties and subscribers, that inasmuch as they themselves owned not only the majority, but almost the whole substantial interest in both said corporations, no terms would ultimately be agreed upon except such as were absolutely fair and proper and for the benefit of the said two corporations, and that under these circumstances, the money was subscribed by Douglas H. Gordon, Douglas H. Thomas, John S. Gittings, Charles E. Tilghman, Archibald H. Taylor, William H. Bosley, Charles F. Pitt, Jr., William C. Seddon, John H. Denison, J. H. Cottman, J. William Middendorf and company, the sum of \$1000 by each of said parties, and the said Bosley was directed to go on and complete the said contract by the payment of the requisite sum of \$3000 in cash, and to take a more formal deed and agreement to himself and in his own name solely, but for the benefit of the parties above named, equally and without discrimination, which was done, and the contract of the 20th day of April, 1902, between the said Bosley and the said Skinner and wife was finally executed, a true copy of which is herewith filed and made a part of this answer, marked "Defendant's Exhibit B".

Third. And your respondent avers that two years after the execution of the contract Exhibit B., hereinbefore referred to, in

the Spring and Summer of 1904, as had originally been contemplated between the parties, the subject of the acquisition of the contract made by said Skinner with your respondent, for the benefit of the subscribers aforementioned, was taken up between the said subscribers, and the said Gay Manufacturing Company, and a contract was agreed upon, which, however, was not actually signed and completed until several months after the agreement had been virtually concluded by which the said Gay Manufacturing Company became the assignee of the rights of the said subscribers, a copy of which contract is hereby submitted and made part of this answer, marked "Defendant's Exhibit C.", and under which contract the sums of money advanced by said subscribers are to be repaid to said subscribers, and a certain possible or contingent profit allowed to them, but that under said contract, as yet, no item of money, much less any profit, have been repaid to the subscribers, who advanced the money and assumed the liability under the contract between said Besley and Skinner, and the benefits of which are altogether unrealized and indeterminate and cannot be estimated. And further that your respondent has no other interest or advantage or benefit under said contracts or any of them, than an equal share, together with the other subscribers, by reason of his subscription of \$1000 cash and assumption of the liabilities assumed by the other said subscribers, and that nowhere, directly or indirectly, throughout the whole transaction has your respondent received any compensation, benefit, interest or advantage, direct or indirect, over that accruing to all the other subscribers as above mentioned, but that his whole labor and services in the premises from beginning to end, were contributed, as part of his duty due by him to the two said corporations, of which he was an officer, as aforesaid, and by which he was paid a regular salary for the discharge of all his duties, and that the said George L. Barton was likewise an officer and employé of the said two corporations, throughout the whole of said transaction, and was understood by said corporations and all the officers and members thereof, and under the law ought to have been understood by said

Barton himself, as merely performing, the duties which ought to have been performed by him for the benefit of the two corporations aforementioned, for the regular and stated compensation which he was enjoying.

Fourth. And your respondent particularly asserts that every step in the above mentioned proceedings and transactions was taken with the knowledge of the said George L. Barton, who as an officer of the said two corporations, was in constant and close communication with your respondent and the other parties concerned in these negotiations, during the whole period aforesaid, and that he made no objection or presented no claim that he himself was interested in the subject matter of the contract, and entitled to contribute money and assume liabilities, and in return therefor obtain any interest in the premises, although your respondent asserts, that during this whole period, such were the confidential relations between the said George L. Barton and the officers and members of the said two corporations, that your respondent would have been perfectly willing, and he no doubt expressed himself, that the said George L. Barton should, if he desired, take an equal share upon equal terms of contribution, with the other subscribers to the said contract, and he believes that the other subscribers would at that time and until the recent conduct of the said Barton has estranged them from him, have been willing and agreed to allow him the privilege, if deemed such, of so subscribing, but that always and ever, it would have been necessary that the said Barton should propose himself to the said subscribers or syndicate, as a member thereof, and be accepted by them, and pay his contribution and assume the liabilities of said subscribers, which said Barton never did do, and up to the date of these presents has never done.

And having fully answered all the allegations of the said Bill of Complaint, which he is advised it is proper for him to answer, your respondent says that he is advised that the said complainant's bill is without equity and ought to be dismissed, with costs, which your respondent prays;

And will ever pray.

Wm. A. Boring

C O P Y.

CIR. COURT WASHINGTON CO. VA.

HARTON,

VS

W.H. BOSLEY, ET AL .

ANSWER OF W.H. BOSLEY.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

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George L. Barton,

Complainant,

IN CHANCERY.

VS

William H. Bosley, Thomas G. Skinner and A. H. Taylor,

Defendants.

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To the Honorable Robert R. Prentiss, Judge:

The answer of William H. Bosley to the Bill of Complaint of George L. Barton, against him and the other defendants therein named, in this Court exhibited, respectfully shows:

Your respondent answering says, as follows:

That not waiving, but insisting on, the manifold errors, irregularities and imperfections of the said complainant's bill of complaint, and particularly insisting that the same is without equity, and ought to be dismissed, nevertheless for answer thereto your respondent says,

First. Your respondent denies generally the allegations of the said Bill of Complaint as charged, and says that the same are untrue, and when any portion of any allegations are true, the same are untruly stated so as to produce a false effect, and that a true statement of the facts and circumstances referred to in said Bill of Complaint as are follows:

That he admits, that in the year 1902 said complainant was the General Manager of the Suffolk and Carolina Railway Company, and states further, that he was also the Treasurer, superintendent, in fact, of the Gay Manufacturing Company, a body corporate, engaged in the purchase of timber lands and the cutting and manufacture of timber from lands adjacent to the said Suffolk & Carolina Railway, which timber is mainly transported to mill and market over the lines of said Suffolk and Carolina Railway Company. He also admits, that

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he, the respondent, was and still is President of the said Suffolk and Carolina Railway Company, and further states that he was at the time referred to, and now is, the President of the said Gay Manufacturing Company. He further denies that the said Thomas G. Skinner at the time referred to, or now is or ever was, attorney for the said Suffolk and Carolina Railway Company, and says further, that the said Thomas G. Skinner had no representative or confidential relations whatever with said Railway Company, and his relations, with respect to the matters referred to in these proceedings, are clearly set out in the contract between said Thomas G. Skinner and the other parties thereto, which is hereinafter made part of this answer and submitted to this Court.

And further, that prior to 1902, said Thomas G. Skinner was believed to be the possessor of considerable interest in timber and timber lands, lying in the neighborhood of the extension of the Suffolk and Carolina Railway, from its main line to Elizabeth City, North Carolina, the building of which had been under consideration for some time prior to the year 1902, ~~XXXX~~ as was known to the said Thomas G. Skinner, and that the said Thomas G. Skinner was in frequent communication with the said Suffolk and Carolina Railway Company and the said Gay Manufacturing Company, suggesting, that he would make such contracts with said Companies or either of them, which would be a further inducement or consideration to them for extending said railway to Elizabeth City, North Carolina, as proposed. That the said suggestions, propositions and negotiations, were not made to said Barton personally or to said Bosley personally, or for the private profit or advantage of either of them, but were propositions made for the benefit of the said two corporations, or the persons generally having an interest in them, and that any knowledge that the said Barton acquired of the propositions, suggestions or negotiations made or tendered by the said Thomas G. Skinner, was acquired by him in his capacity as an officer of said corporations, and were not made to him personally, and that it was his duty to obtain and transmit the same upon receiving them, to his superior officers of the said corporations, of which he was the agent and

employe as aforesaid, and not to use or acquire knowledge which came to him only and by reason of his being the employe of said corporations, except for the benefit and advantage of said corporations.

And particularly your respondent cannot admit, but denies that the said Barton brought to him in his personal capacity, or not as the officer and agent of the said two corporations or either of them, the information respecting the holdings of the said Thomas G. Skinner in timber and lands, referred to in the bill of complaint, but on the contrary says, that the said Skinner had been in frequent communication with your respondent and other officers of the said corporations, prior to March 19, 1902, when the contract was made between the said Thomas G. Skinner and your respondent, referred to in the bill of complaint, and that an appointment for the full consideration of the subject of the contract or arrangement suggested by Thomas G. Skinner was made between your respondent and Thomas G. Skinner, before the date March 19, 1902, and the said plaintiff was merely used as the officer and employe to communicate with said Skinner, and requested and ordered to attend in his capacity as an officer and employe of the said two corporations above named, and at the same meeting the general counsel of the said two corporations, Archibald H. Taylor, a defendant herein named, and the local counsel, Mr W.D. Pruden, were also requested to attend and did attend. That at said meeting, as a result of the negotiations between your respondent, assisted by the said other officers and employes of said two corporations, and representing said corporations, a contract was made and executed between Thomas G. Skinner of North Carolina, of the first part, and W.H. Bosley of Baltimore, Md., of the second part, a copy of which is herewith filed as "Defendants Exhibit A", and prayed to be taken as part hereof.

That it was perfectly understood that said contract was to be for the benefit of the said Gay Manufacturing Company and the said Suffolk and Carolina Railway Company, in so far and to such extent, as either of said Companies, after and upon full consideration by the Board of Directors of said companies, might see fit to

take advantage of the same, and that the rights of your respondent under said contract were, and were intended to be, altogether subject to the right of either of said corporations, and primarily the right of the said Gay Manufacturing Company, as being a privilege most likely to be suitable and valuable to it, to take the place of your said respondent and enjoy the fruits of the same, if said corporation should deem it to their benefit and advantage so to do; and that said Barton, as the officer and employe of said two corporations, and only in such capacity, took part, or was permitted to take part, in the negotiation and transaction aforesaid, and that he necessarily knew that such was the position of the parties under the contract, and that the true meaning and intent of the transaction was as above set forth.

Second. That the fact of the negotiation of the said contract as above set out, was immediately and fully reported and explained by said Bosley and the counsel of the two corporations, the said Taylor, to all the members of the Board of Directors of the two corporations, and, in fact, to all the stockholders and parties having an interest in the same, certainly without any important exception, and after free and full discussion of the same, it was decided, that neither the Railway Company nor the said timber Company, the Gay Manufacturing Company, should then take part in said contract or assume the necessary charges, expenses or liability of carrying out the same on the part and in the place of the said William H. Bosley, as it was not to their advantage to contribute the necessary cash, or to assume the liabilities arising out of the same. And it was decided on the part of said corporations, after full and free conferences with the members aforesaid, that it would be for the advantage of the said corporations, if certain individual members, that were able and willing so to do, should take up said contract, thus secured in the name of said Bosley, contributing the necessary money to complete it and put it in force, and that later, the said corporations, either or both of them, would perhaps take the contract off the hands of the said parties agreeing to carry it for the present, if it should be ultimately found to the advantage

of said corporations or either of them so to do, and upon such terms of reasonable profit and advantage to the parties contributing the necessary funds to take advantage of said contract, as the said corporations and the said parties should thereafter agree upon, and that under these circumstances, certain persons hereinafter named who are members or stockholders in both corporations aforesaid, contributed each the sum of \$1000 cash to enable the said Bosley to complete and carry out the said contract as obtained by him, on the understanding and agreement that each subscriber or contributor should have an equal share or interest in the benefit of the contract so obtained, and that the said subscribers would act together hereafter in selling, conveying or assigning to the said Gay Manufacturing Company or the Suffolk and Carolina Railway Company, their rights and benefits under said contract upon such terms of profit as might be mutually agreed, it being clearly recognized between said parties and subscribers, that inasmuch as they themselves owned not only the majority, but almost the whole substantial interest in both said corporations, no terms would ultimately be agreed upon except such as were absolutely fair and proper and for the benefit of the said two corporations, and that under these circumstances, the money was subscribed by Douglas H. Gordon, Douglas H. Thomas, John S. Gittings, Charles H. Tilghman, Archibald H. Taylor, William H. Bosley, Charles F. Pitt, Jr., William C. Seddon, John H. Denison, J. H. Cottman, J. William Middendorf and Company, the sum of \$1000 by each of said parties, and the said Bosley was directed to go on and complete the said contract by the payment of the requisite sum of \$8000 in cash, and to take a more formal deed and agreement to himself and in his own name solely, but for the benefit of the parties above named, equally and without discrimination, which was done, and the contract of the 29th day of April, 1902, between the said Bosley and the said Skinner and wife was finally executed, a true copy of which is herewith filed and made a part of this answer, marked "Defendant's Exhibit B".

Third. And your respondent avers that two years after the execution of the contract Exhibit B., hereinbefore referred to, in

the Spring and Summer of 1904, as had originally been contemplated between the parties, the subject of the acquisition of the contract made by said Skinner with your respondent, for the benefit of the subscribers aforementioned, was taken up between the said subscribers, and the said Gay Manufacturing Company, and a contract was agreed upon, which, however, was not actually signed and completed until several months after the agreement had been virtually concluded, by which the said Gay Manufacturing Company became the assignee of the rights of the said subscribers, a copy of which contract is hereby submitted and made part of this answer, marked "Defendant's Exhibit C.", and under which contract the sums of money advanced by said subscribers are to be repaid to said subscribers, and a certain possible or contingent profit allowed to them, but that under said contract, as yet, no item of money, much less any profit, have been repaid to the subscribers, who advanced the money and assumed the liability under the contract between said Bosley and Skinner, and the benefits of which are altogether unrealized and indeterminate and cannot be estimated. And further that your respondent has no other interest or advantage or benefit under said contracts or any of them, than an equal share, together with the other subscribers, by reason of his subscription of \$1000 cash and assumption of the liabilities assumed by the other said subscribers, and that nowhere, directly or indirectly, throughout the whole transaction has your respondent received any compensation, benefit, interest or advantage, direct or indirect, over that accruing to all the other subscribers as above mentioned, but that his whole labor and services in the premises from beginning to end, were contributed, as part of his duty due by him to the two said corporations, of which he was an officer, as aforesaid, and by which he was paid a regular salary for the discharge of all his duties, and that the said George L. Barton was likewise an officer and employe of the said two corporations, throughout the whole of said transaction, and was understood by said corporations and all the officers and members thereof, and under the law ought to have been understood by said

Barton himself, as merely performing the duties which ought to have been performed by him for the benefit of the two corporations aforementioned, for the regular and stated compensation which he was enjoying.

Fourth. And your respondent particularly asserts that every step in the above mentioned proceedings and transactions was taken with the knowledge of the said George L. Barton, who as an officer of the said two corporations, was in constant and close communication with your respondent and the other parties concerned in these negotiations, during the whole period aforesaid, and that he made no objection or presented no claim that he himself was interested in the subject matter of the contract, and entitled to contribute money and assume liabilities, and in return therefor obtain any interest in the premises, although your respondent asserts, that during this whole period, such were the confidential relations between the said George L. Barton and the officers and members of the said two corporations, that your respondent would have been perfectly willing, and he no doubt expressed himself, that the said George L. Barton should, if he desired, take an equal share upon equal terms of contribution, with the other subscribers to the said contract, and he believes that the other subscribers would at that time and until the recent conduct of the said Barton has estranged them from him, have been willing and agreed to allow him the privilege, if deemed such, of so subscribing, but that always and ever, it would have been necessary that the said Barton should propose himself to the said subscribers or syndicate, as a member thereof, and be accepted by them, and pay his contribution and assume the liabilities of said subscribers, which said Barton never did do, and up to the date of these presents has never done.

And having fully answered all the allegations of the said Bill of Complaint, which he is advised it is proper for him to answer, your respondent says that he is advised that the said complainant's bill is without equity and ought to be dismissed, with costs, which your respondent prays;

And will ever pray.

Wm. H. Boylston

IN THE
CIRCUIT COURT OF HANSMAND COUNTY.
VIRGINIA.

GEORGE L. BARTON,
COMPLAINANT,

VS

W.H.BOSLEY AND OTHERS.

DEFENDANTS.

ANSWER OF W. H. BOSLEY TO
BILL OF COMPLAINT.

TAYLOR & KEECH,
207 NORTH CALVERT STREET
BALTIMORE, MD.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

First March Rules 1905.

George L. Barton-----Complainant.

vs. In Chancery

William H. Bosley, Thomas G. Skinner and A. H. Taylor----Defendants.

To the Honorable Robert R. Prentis, Judge:

Humbly complaining your orator, George L. Barton, of Suffolk, Nansemond County, Virginia, sheweth unto your honor the following case:-

In the year 1902 your orator was the General Manager of the Suffolk and Carolina Railway Company, of which the defendant, William H. Bosley, was and still is the President. That at that time the officers and stockholders of the said Suffolk and Carolina Railway Company (of which William H. Bosley is one) were contemplating an extension of the line or tracks of said railroad from some point on its main line to Elizabeth City in Pasquotank County, North Carolina; that at that time the route of said proposed extension had not been definitely determined by the officers or agents having such matter in charge. That Thomas G. Skinner, sometime attorney for the Suffolk and Carolina Railway and the friend of your orator and of William H. Bosley, had acquired or was about to acquire a large tract of standing timber in the counties of Pasquotank and Perquimans, North Carolina, being the timbered land hereinafter described; that said Skinner was desirous of marketing the same, and knowing that said timber was valueless for such purpose unless contiguous or convenient ~~to~~ to a railroad, he, the said Skinner, brought to the attention of your orator the business possibilities in said timber should it be tapped by a railroad

and thus brought into the market, and requested your orator to bring said timber and its business possibilities to the attention of the president of the Suffolk and Carolina Railway, with the view that he might become interested by purchase in said timber and influence the location of the proposed Elizabeth City extension of said railroad along or through said timbered land; that accordingly your orator took up the matter with the defendant, William H. Bosley, as an individual and not as President of the Suffolk and Carolina Railroad, and recommended to him the purchase of the whole or a part interest in said timber. That afterwards your orator received a communication from the defendant, William H. Bosley, requesting your orator to ^{attend} ~~arrange~~ a meeting between himself, your orator and the said Thomas G. Skinner at the Monticello Hotel in Norfolk, Virginia, for the purpose of discussing the possible purchase of said standing timber, or an interest therein. That in accordance with this request your orator caused Thomas G. Skinner, William H. Bosley and himself to meet at the Monticello Hotel in Norfolk, Virginia, on the ----- day of April 1902; there were in attendance at said meeting beside those above mentioned Mr. A. H. Taylor, a defendant, brought to said meeting by William H. Bosley and Mr. ^{W. D.} -----Pruden an attorney at law, acting in that capacity for all the parties present and particularly for William H. Bosley.

That after a full discussion, by all parties present, of the nature and quantity of timber upon the lands hereafter described, it was agreed upon between your orator and the defendants as follows: That these four parties form a partnership or syndicate for the purpose of acquiring the standing timber hereafter described and of marketing the same and sharing equally the profits or losses in the said transaction; that Thomas G. Skinner ^{be} paid One Dollar and Twenty Five Cents (\$1.25) per thousand feet (Doyles measure) for the timber hereafter described, as soon as cut and

measured, which could be at anytime within twenty five years from date; that Thomas G. Skinner be advanced Eight Thousand (\$8,000) Dollars on account of said purchase price, which advance was to be immediately paid by William H. Bosley and he in turn was to collect from the other members of the syndicate their pro rata shares of said advance on demand; that said advance to Skinner was to bear interest but for a period not to exceed two years; that said advance was to be repaid by the first timber cut and moved at the rate above named; that the whole of this agreement was to become void and of no effect in the event that a railroad connecting the main line of the Suffolk and Carolina Railway and the town of Elizabeth City should not be constructed and completed within five years from that time and in such event the said Eight Thousand (\$8,000) Dollars hereinbefore mentioned as paid on account of the purchase money or price of said timber should be treated as a loan or advance charged upon the land and standing timber upon said land hereafter described and should be and constitute a lien upon the same until said advance with interest from date should be repaid by said Skinner to said Bosley or his associates.

The timber above mentioned is described as follows:-

All the pine and cypress timber now growing and situate upon the lands of Thomas G. Skinner and Jessie P. Skinner, his wife, containing Fifteen ^{Thousand} ~~Hundred~~ (15,000) acres, more or less, and situate, lying and being in Pasquatank and Perquimans Counties, North Carolina, being the land particularly described and intended to be conveyed by deed from S. S. Lamb etc. to Thomas G. Skinner dated December 11th, 1901, and duly recorded among the Land Records of Pasquatank County in Book 22, page 472, and among the Land Records of Perquimans County in Book 5, page 262, a copy of which deed is filed herewith as "Exhibit A" and prayed to be read as a part of this bill; the timber herein mentioned being all of the merchantable and sound pine and cypress timber measuring twelve (12) inches

or more on the stump at the time of the cutting.

It was further agreed between your orator and the defendants at the time and place aforesaid, that William H. Bosley should take and hold for the syndicate or partnership the legal title to said timber, and that the profits arising from a resale of said standing timber should be divided among the members of said partnership or syndicate.

Your orator alleges that on the 29th day of April 1902, within a few days after the agreement last mentioned Thomas G. Skinner and wife conveyed the said standing timber and all necessary or convenient rights of way over and across said land for the proper marketing of said timber to William H. Bosley upon the terms and conditions as substantially set forth in this bill and that William H. Bosley paid to said Skinner the advance payment of Eight Thousand (\$8,000) Dollars as aforesaid; that thereafter and within five years from the date of said agreement the Suffolk and Carolina Railroad completed a line of railroad connecting its main line with the town of Elizabeth City, North Carolina; and that your orator has repeatedly offered to pay to said William H. Bosley his pro rata share of said Eight Thousand (\$8,000) Dollars advanced to Thomas G. Skinner as aforesaid, but, the said William H. Bosley, craftily and subtly intending to deceive and defraud your orator of his just share of the profits from said speculation, has constantly declined and refused to accept said tender or any part thereof and has declined and refused to render an account to your orator of his just part of said advancement and any costs connected with the said transaction.

Your orator is advised and so charges that William H. Bosley, A. H. Taylor and Thomas G. Skinner are non-residents of the State of Virginia; that William H. Bosley, in whom is the legal title to said standing timber, contemplates and intends to sell

or has sold said pine standing timber to the Gay Manufacturing Company, a corporation, of which the said Bosley is President and in which both the said Bosley and the said A. H. Taylor are large stock-holders, at a price grearly below its actual market value; and that said Bosley further intends, when sold, to take and keep to himself all of the profits ensuing from this transaction. That said William H. Bosley has constantly refused though requested to render to your orator an account of the partnership transactions relating to said standing timber, and is disposed to deny your orators rights as a partner in said transaction, and unless restrained will commit a grave injustice to your orator as above setforth.

Your orator avers that there is large profit in said timber if properly handled and sold; that at the least there are one and one ^{half} ~~quarter~~ dollars profit in every thousand feet of said timber and that there are at least ^{twenty-five} ~~fifty~~ million feet of timber in said tract, the property of this syndicate; your orators interest in said probable profits amounts to something like ^{twenty-five} ~~fifteen~~ thousand dollars, which interest is threatened with complete destruction unless the said William H. Bosley, who has gained entire control and taken complete command of the partnership property, is compelled to account to his co-partners for their interest.

For as much as your orator is remediless in the premises save in a court of equity where such matters are alone cognizable, he prays that William H. Bosley, A. H. Taylor and Thomas G. Skinner may be made parties defendant to this bill and required to answer the same, though not under oath, the same being waived; that William H. Bosley be enjoined from selling, transferring or disposing of the timber above described until the further order of this court; that a decree be entered compelling the defendants and particularly William H. Boxley to render an accounting of his

partnership transactions to your orator; that a decree be entered declaring William H. Bosley holds the legal title to said standing timber in trust for his co-partners; that he be compelled to transfer to your orator and his other partners their just share of said property; that he be compelled to render an account to your orator of his just part of the Eight Thousand Dollars advanced by Bosley to Skinner, as aforesaid, together with the cost and expenses incident to the transfer of said timber from said Skinner to said Bosley and that said Bosley be compelled to accept from your orator and the other members of the said syndicate or partnership whatever sum may, upon such accounting, be found due from them to said Bosley; that said Bosley be perpetually enjoined from selling or transferring said standing timber, or any part thereof, to the Gay Manufacturing Company without the consent of all the other members of said partnership; that the interest of your orator and his co-partners be settled and established; that if said William H. Bosley has sold said timber, or any part thereof, to the Gay Manufacturing Company or any other person, that a decree be entered against him in favor of your orator for his just part of the profits of said sale; that an attachment issue against the estate of said Bosley, to satisfy any decree of this court for such sum as, on an accounting, may be found due from said William H. Bosley to your orator; that all such decrees, orders, references, publications and processes may issue and be entered as may be necessary in this suit; that a reasonable attorneys fee be decreed your orator; and that all such other, general and further relief may be granted your orator as he may be entitled to in the premises or to equity seems meet.

And your orator will ever pray etc.

Robt. H. Withers
J. U. Burges.
R. H. Rawls, p. q

Geo. L. Stanton.

State of Virginia,

County of Nansemond, to-wit:

I, R. H. Rawles, a Notary Public for the county aforesaid hereby certify that George L. Barton personally appeared before me, in my county aforesaid, and made oath that the allegations contained in the foregoing bill, which he makes of his own knowledge are true, and that all other matters therein stated he believes to be true.

Given under my hand this 21st day of March 1905.

*My term of office expires
Jan. 28. 1907.*

R. H. Rawles

Notary Public.

Bill.

Geo. L. Barton

^{2d}
W

W. H. Bosley and
others.

ROBT. W. WITHERS,

ATTORNEY AT LAW,

SUFFOLK, VA.

PRACTICING IN ALL COURTS IN
FIRST JUDICIAL CIRCUIT.

JEWELL & COMPANY, PHILADELPHIA.

George L Barton
vs } In Chancery
Wm N Bosley & others

1905- Jan'y 20th. Process issued returnable
to February Rules 3rd Mond.

" Feb'y 20th. Process returned executed
on Wm N Bosley, Wm N Bosley Pres-
of Suffolk & New Way Co. and
on Wm N Bosley Pres. of the
Gay Manufacturing Co.
Bill filed and decree
nisi against him

" March 6th. Decree nisi confirmed
and cause set for hearing
as Wm N Bosley.

Chancery Notes

Rauoles
Burger
Winters

Page 1

George L Barton
vs In Chancery
W H Bosley & others

Costs:

Jay	1.50
Clerk	9.74
Sheriff	3.80
Atty	15.00
	30.04

Printer for
Order of Pub-
Depositions

1910. June 6.
Dishman

G L Barton vs W H Bosley & others

THIS AGREEMENT, made this first day of November, in the year 1904, by Douglas H. Thomas, Douglas H. Gordon, John S. Gittings, Charles H. Tilghman, Archibald H. Taylor, William H. Bosley, Charles F. Pitt, Jr., Wm. C. Seddon, John M. Denison, J. H. Cottman and J. W. Middendorf & Company, the parties of the first part, and William H. Bosley, Trustee as hereinafter described, party of the second part, and The Gay Manufacturing Co., a corporation duly incorporated under the Laws of the States of Virginia and North Carolina, party of the third part.

WITNESSES: WHEREAS by deed dated April 29th, 1902, a certain Thomas G. Skinner and Jessie P. Skinner, his wife, sold and conveyed unto William H. Bosley, hereinbefore mentioned, certain pine and cypress timber, growing and *situate* upon the land of the said Thomas G. Skinner, lying in Pasquotank and Perquimans County, North Carolina, and which lands were particularly described by reference in said deed, at and for the consideration of Eight Thousand Dollars, paid on account of said timber, and the further payment of one dollar and twenty-five cents (\$1.25) per thousand feet for the timber to be cut and taken in accordance with the said agreement, to be paid as and when said timber should be cut and removed, after duly crediting the said \$8,000. of the purchase money with two years interest thereon, in payment and discharge of the price for timber to be cut and removed to the extent of said sum, and,

WHEREAS, the said purchase was made by the said Wm. H. Bosley on account of the said parties of the first part equally, who furnished and paid the aforesaid sum of eight thousand dollars, in equal proportions between and among each other and the conveyance to the said Wm. H. Bosley, hereinbefore referred to, was made to him

as agent and trustee of the parties of the first part, and the interest and rights hereby acquired were intended to be held by the said William H. Bosley for the use and benefit of the said parties of the first part, including therein his own use and interest, to the same extent as the interest of each of the others of the said parties of the first part, and

WHEREAS, the said parties of the first part have agreed to assign and lease herewith, all the interest and right acquired by their trustee and agent, the said party of the second part, for the use and benefit of them, the said parties of the first part, unto the said party of the third part for the full term of five years from the date hereof, and upon the following terms and conditions, hereinafter particularly enumerated and set out, viz., the said parties of the first and second parts hereby grant and assign by way of lease for the full term of five years, in consideration of the purchase money to be paid and accounted for by the party of the third part to the parties of the first part, as hereinafter set out, all the interest of the said parties of the first and second parts in and to the timber lying upon the land conveyed by S. S. Lamb, etc., to Thomas C. Skinner, by deed dated December 11, 1901, and duly recorded among the Land Records of Pasquotank County, North Carolina, in Book 22, page 472, and among the Land Records of Perquimans County, North Carolina, in Book 5, page 262, containing fifteen thousand acres, (15,000) more or less, and upon the following terms and conditions more particularly expressed.

First. The said party of the third part shall immediately enter upon the said lands, and by virtue of the right, title and interest and ownership heretofore vested in the said party of the second part by the deed aforesaid, and in his place, commence to cut and remove all the pine,

and cypress timber upon said tract heretofore conveyed to said party of the second part, ~~measuring twelve inches or more at the stump upon said tract, and shall from time to time and without unnecessary delay, cut and remove the same so that not less than twenty-five million (25,000,000) feet of said timber shall be cut, removed, paid and accounted for, during the term of these presents, that is, within five years from the date hereof.~~ being all the merchantable and sound pine and cypress timber, measuring twelve inches or more at the stump upon said tract, and shall from time to time and without unnecessary delay, cut and remove the same so that not less than twenty-five million (25,000,000) feet of said timber shall be cut, removed, paid and accounted for, during the term of these presents, that is, within five years from the date hereof.

Second. The said party of the third part shall make and keep an accurate account and measurement of the timber so to be cut and removed from said land, which measurement is to be made by a person or persons approved as satisfactory by the said parties of the first part, the said party of the third part and the said Thomas C. Skinner, hereinbefore referred to, or his legal representative, and each of said parties shall have the right to choose a measurer, which measurers shall have full power to make and adopt any method or agreement for deciding upon their measurements, or each of said parties may agree upon the same person or persons who shall act as measurer or measurers, and those measurements shall be binding upon the parties hereto, and payment shall be made for the said timber when cut and removed, as follows:

Third. The party of the third part shall pay the full price of one dollar and seventy-five cents (1.75) per thousand feet for the timber so as aforesaid to be cut and removed unto the said parties of the first part or their agent duly authorized to receive the said purchase money, until the amount of timber cut and removed shall equal seven million, one hundred and sixty-eight thousand feet (7,168,000), being the amount of timber already paid for unto said Thomas C. Skinner by said parties of

the first part by their agent the said party of the second part, and for which they are entitled to a credit of \$8000. with two full years interest thereon, viz., a credit of \$8,960. in full, and when and after the said amount of seven millions, one hundred and sixty-eight thousand feet already paid for in full unto the said Skinner, shall have been cut and removed by said party of the third part hereunder, the price or purchase money of one dollar and seventy five cents per thousand feet hereby fixed shall be paid and discharged by the payment of fifty cents per thousand feet to the said parties of the first part or their agent, and the further sum of one dollar and twenty-five cents per thousand feet to the said Thomas C. Skinner or his legal representative, being in all the sum of \$1.75 per thousand feet thus paid and accounted for by the party of the third part to the said parties of the first part.

Fifth. At the end of the period of five years from the date of these presents, the said party of the third part shall have the right to the extension and renewal of the term of the lease and assignment herein granted, provided that said party of the third part shall three months prior to the expiration of the term of these presents, give notice to the parties of the first part of their desire and intention to have an extension of this lease and the right to cut and remove timber hereby assigned, the terms of which new lease or extension shall be settled by agreement between said parties, or by arbitrators appointed on behalf of said parties, respectively, the arbitrators appointed by said parties to choose a third, and the decision of such board of arbitrators to be binding upon said parties, as to all the terms of the extension or new lease and assignment, viz., the price to be paid for the timber and all other

terms of such extension or new lease.

Sixth. And the said party of the third part hereby agrees with the said parties of the first part, their representatives and assigns, that it will not at any time hereafter, without the consent of the said parties of the first part, make any deal or agreement or purchase of the said Thomas C. Skinner of timber upon the land in this agreement referred to.

AS WITNESS the hands and seals of the said parties of the first part, and of the ~~said~~ party of the second part and the corporate seal of the said party of the third part, duly attested by the Secretary, and the signature of its Vice President in its behalf, on the day and in the year aforesaid.

William H. Bosley,
Trusted.

Douglas H. Thomas, Seals.
Douglas H. Gordon, (SEAL).
John S. Gittings, (SEAL).
Charles H. Tilgham, (SEAL).
Archibald U. Taylor, (SEAL).
Wm. H. Bosley, (SEAL).
Charles F. Pitt, Jr., (SEAL).
Wm. C. Seddon, (SEAL).
John K. Denison, (SEAL).
J. H. Cottken, (SEAL).
J. Wm. Middendorf & Co. (SEAL).

AS WITNESS the seal of the said third party, affixed by its President and attested by its Secretary, and the signature of the President in its behalf, and the hand and seal of the said Second party.

GAY MANUFACTURING COMPANY,

Wm. H. Bosley,

Attest:

President.

Charles F. Pitt, Jr.

Secretary.

Sale from
Syndicate to
Gay Cox

THIS AGREEMENT, made this first day of November, in the year 1904, by Douglas H. Thomas, Douglas H. Gordon, John S. Gittings, Charles L. Filgman, Archibald E. Taylor, William F. Bosley, Charles F. Pitt, Jr., Wm. G. Sedden, John W. Denison, J. H. Cottman and J. W. Middendorf & Company, the parties of the first part, and William F. Bosley, Trustee of hereinafter described, party of the second part, and the Gay Manufacturing Co., a corporation duly incorporated under the laws of the State of Virginia and North Carolina, party of the third part.

WITNESSES: WHEREAS by deed dated April 29th, 1902, a certain Thomas G. Skinner and Jennie P. Skinner, his wife, sold and conveyed unto William F. Bosley, hereinafter mentioned, certain pine and spruce timber, growing and **situate** upon the land of the said Thomas G. Skinner, lying in Washington and Perquimans County, North Carolina, and which lands were particularly described by reference in said deed, at and for the consideration of eight thousand dollars, paid on account of said timber, and the further payment of one dollar and twenty-five cents (\$1.25) per thousand feet for the timber to be cut and taken in accordance with the agreement, to be paid after harvest but not at such time as the timber was cut, and the said Bosley did give to the said Skinner and wife a promissory note for the sum of \$8,000.00, with two years interest thereon, in payment and discharge of the price for timber to be cut and removed to the extent of said sum, and,

WHEREAS, the said purchase was made by the said Wm. F. Bosley on account of the said parties of the first part equally, who furnished the said sum of eight thousand dollars, in equal proportions between and among each other and the convenience to the said Wm. F. Bosley, hereinafter referred to, was made to him

term of said extension or new lease.

Sixth. And the said party of the third part hereby agrees with the said parties of the first part, their representatives and assigns, that it will not at any time hereafter, without the consent of the said parties of the first part, make any deal or agreement or purchase of the said lands owned by the said party of the first part in this agreement referred to.

AS WITNESS the hands and seals of the said parties of the first part, and of the said party of the second part and the corporate seal of the said party of the third part, duly attested by the Secretary, and the signature of its Vice President in its behalf, on the day and in the year aforesaid.

William E. Bosley,
Trustee.

Douglas E. Thomas, Sec'y.
Douglas E. Gordon, (SEAL).
John B. Gittings, (SEAL).
Charles F. Tilden, (SEAL).
Archibald F. Taylor, (SEAL).
Wm. E. Bosley, (SEAL).
Charles F. Pitt, Jr., (SEAL).
Wm. G. Seddon, (SEAL).
John W. Harrison, (SEAL).
J. H. Cothran, (SEAL).
J. W. Mendenhall & Co. (SEAL).

AS WITNESS the seal of the said third party, affixed by its President and attested by its Secretary, and the signature of its Vice President in its behalf, and the hand and seal of the said second party.

WITNESSES THE HANDS AND SEALS OF THE SAID PARTIES,

Wm. E. Bosley,

President.

Attest:

Charles F. Pitt, Jr.

Secretary.

THIS AGREEMENT, made this first day of November, in the year 1904, by Douglas F. Thomas, Douglas H. Gordon, John S. Gittings, Charles H. Tilghman, Archibald H. Taylor, William H. Bosley, Charles F. Pitt, Jr., Wm. C. Seddon, John H. Denison, J. H. Cottman and J. Wm. Middendorf & Company, the parties of the first part, and William H. Bosley, Trustee as hereinafter described, party of the second part, and the Gay Manufacturing Co., a corporation duly incorporated under the Laws of the States of Virginia and North Carolina, party of the third part.

WITNESSES: WHEREAS by deed dated April 29th, 1902, a certain Thomas G. Skinner and Jessie P. Skinner, his wife, sold and conveyed unto William H. Bosley, hereinbefore mentioned, certain pine and cypress timber, growing and situate upon the land of the said Thomas G. Skinner, lying in Pasquotank and Perquimans County, North Carolina, and which lands were particularly described by reference in said deed, at and for the consideration of Eight Thousand Dollars, paid on account of said timber, and the further payment of one dollar and twenty-five cents (\$1.25) per thousand feet for the timber to be cut and taken in accordance with the said agreement, to be paid as and when said timber should be cut and removed, after duly crediting the said \$8,000. of the purchase money with two years interest thereon, in payment and discharge of the price for timber to be cut and removed to the extent of said sum, and,

WHEREAS, the said purchase was made by the said Wm. H. Bosley on account of the said parties of the first part equally, who furnished and paid the aforesaid sum of eight thousand dollars, in equal proportions between and among each other and the conveyance to the said Wm. H. Bosley, hereinbefore referred to, was made to him

as agent and trustee of the parties of the first part, and the interest and rights hereby acquired were intended to be held by the said William H. Bosley for the use and benefit of the said parties of the first part, including therein his own use and interest, to the same extent as the interest of each of the others of the said parties of the first part, and

WHEREAS, the said parties of the first part have agreed to assign and lease herewith, all the interest and right acquired by their trustee and agent, the said party of the second part, for the use and benefit of them, the said parties of the first part, unto the said party of the third part for the full term of five years from the date hereof, and upon the following terms and conditions, hereinafter particularly enumerated and set out, viz., the said parties of the first and second parts hereby grant and assign by way of lease for the full term of five years, in consideration of the purchase money to be paid and accounted for by the party of the third part to the parties of the first part, as hereinafter set out, all the interest of the said parties of the first and second parts in and to the timber lying upon the land conveyed by S. S. Jarr, etc., to Thomas G. Skinner, by deed dated December 11th 1901, and duly recorded among the Land Records of Pasquotank County, North Carolina, in Book 22, page 472, and among the Land Records of Perquimans County, North Carolina, in Book 5, page 262, containing fifteen thousand acres, (15,000) more or less, and upon the following terms and conditions more particularly expressed.

First. The said party of the third part shall immediately enter upon the said lands, and by virtue of the right, title and interest and ownership heretofore vested in the said party of the second part by the deed aforesaid, and in his place, commence to cut and remove all the pine,

and cypress timber upon said tract heretofore conveyed to said party of the second part, ~~measuring~~ ~~being~~ ~~measuring~~ ~~being~~ being all the merchantable and sound pine and cypress timber, measuring twelve inches or more at the stump upon said tract, and shall from time to time and without unnecessary delay, cut and remove the same so that not less than twenty-five million (25,000,000) feet of said timber shall be cut, removed, paid and accounted for, during the term of these presents, that is, within five years from the date hereof.

Second. The said party of the third part shall make and keep an accurate account and measurement of the timber so to be cut and removed from said land, which measurement is to be made by a person or persons approved as satisfactory by the said parties of the first part, the said party of the third part and the said Thomas G. Skinner, hereinbefore referred to, or his legal representative, and each of said parties shall have the right to choose a measurer, which measurers shall have full power to make and adopt any method or agreement for deciding upon their measurements, or each of said parties may agree upon the same person or persons who shall act as measurer or measurers, and these measurements shall be binding upon the parties hereto, and payment shall be made for the said timber when cut and removed, as follows:

Third. The party of the third part shall pay the full price of one dollar and seventy-five cents (\$1.75) per thousand feet for the timber so as aforesaid to be cut and removed unto the said parties of the first part or their agent duly authorized to receive the said purchase money, until the amount of timber cut and removed shall equal seven million, one hundred and sixty-eight thousand feet (7,168,000), being the amount of timber already paid for unto said Thomas G. Skinner by said parties of

the first part by their agent the said party of the second part, and for which they are entitled to a credit of \$8000. with two full years interest thereon, viz., a credit of \$8,960. in full, and when and after the said amount of seven millions, one hundred and sixty-eight thousand feet already paid for in full unto the said Skinner, shall have been cut and removed by said party of the third part hereunder, the price or purchase money of one dollar and seventy-five cents per thousand feet hereby fixed shall be paid and discharged by the payment of fifty cents per thousand feet to the said parties of the first part or their agent, and the further sum of one dollar and twenty-five cents per thousand feet to the said Thomas C. Skinner or his legal representative, being in all the sum of \$1.75 per thousand feet thus paid and accounted for by the party of the third part to the said parties of the first part.

Fifth. At the end of the period of five years from the date of these presents, the said party of the third part shall have the right to the extension and renewal of the term of the lease and assignment herein granted, provided that said party of the third part shall three months prior to the expiration of the term of these presents, give notice to the parties of the first part of their desire and intention to have an extension of this lease and the right to cut and remove timber hereby assigned, the terms of which new lease or extension shall be settled by agreement between said parties, or by arbitrators appointed on behalf of said parties, respectively, the arbitrators appointed by said parties to choose a third, and the decision of such board of arbitrators to be binding upon said parties, as to all the terms of the extension or new lease and assignment, viz., the price to be paid for the timber and all other

terms of such extension or new lease.

Sixth. And the said party of the third part hereby agrees with the said parties of the first part, their representatives and assigns, that it will not at any time hereafter, without the consent of the said parties of the first part, make any deal or agreement or purchase of the said Thomas C. Skinner of timber upon the land in this agreement referred to.

AS WITNESS the hands and seals of the said parties of the first part, and of the said party of the second part and the corporate seal of the said party of the third part, duly attested by the Secretary, and the signature of its Vice President in its behalf, on the day and in the year aforesaid.

William H. Bosley,
Trustee.

Douglas H. Thomas, Seals.
Douglas H. Gordon, (SEAL).
John S. Gittings, (SEAL).
Charles H. Tilgham, (SEAL).
Archibald F. Taylor, (SEAL).
Wm. H. Bosley, (SEAL).
Charles F. Pitt, Jr., (SEAL).
Wm. G. Seddon, (SEAL).
John M. Denton, (SEAL).
J. H. Cotton, (SEAL).
J. Wm. Hindendorff & Co. (SEAL).

AS WITNESS the seal of the said third party, affixed by its President and attested by its Secretary, and the signature of the President in its behalf, and the hand and seal of the said Second party.

GAY MANUFACTURING COMPANY,

Wm. H. Bosley,
President.

Attest:

Charles F. Pitt, Jr.
Secretary.

This deed made this 29th day of April in the year nineteen hundred and two, by Thomas G. Skinner and Skinner, his wife, of Perquimans County, in State of North Carolina, parties of the first part unto William H. Bosley of Baltimore City, and State of Maryland, party of the second part. Witnesseth: That for and in consideration of the sum of Eight Thousand Dollars (\$8000.) by the parties of the first part to the party of the second paid, at the date of these presents, and of the further payments to be made at the times and in the manner hereinafter more particularly stated, the said parties of the first part bargain and sell and convey, with general warranty, unto the said party of the second part, his heirs and assigns, all the pine and cypress timber now growing and situate upon the lands of the said parties of the first part, situate and lying in Pasquotank and Perquimans Counties, North Carolina, being the land particularly described and intended to be conveyed by the deed from S. S. Lamb etc. to said Thomas G. Skinner, dated December 11th, 1901, and duly recorded among the Land Records of Pasquotank County, North Carolina, in Book 22, Page 472 and among the Land Records of Perquimans County, North Carolina, in Book 5, page 262, Containing fifteen thousand acres more or less, to which deed reference is made for a more particular description of said land

upon which the timber hereby conveyed, is situate, and the timber hereby conveyed being all the merchantable and sound pine and cypress timber measuring twelve inches or more at the stump, at the time the same shall be cut under the terms hereof, Together with the right-of-way over any of the said lands for the use of the said party of the second part or his assigns and his or their agents and employees for the purpose of building railroads, tram-roads and ways of any kind, necessary and convenient for removing said timber, and the right to use and cut such smaller timber from the said land as may be necessary for the convenient removal of said timber, and the building and construction of roads and ways for removing and transporting the same, and all other rights of ingress and egress and temporary occupation of said land by said party of the second part, or his assigns, and his or their employees, which may be necessary or convenient for the purpose of cutting and removing the timber purchased by said party of the second part from said lands in the most economical and expeditious manner, This conveyance is made subject to the following terms and conditions, and in all respects in accordance therewith; First, The term within which the said party of the second and his assigns shall have the right to cut and remove the timber hereby conveyed to them,

and to enter upon, use and enjoy the lands of the said party of the first part, for the purpose of cutting, removing and transporting said timber, shall be, and is hereby fixed at twenty five years from the date of these presents, after which date, the said party of the second part or his assigns shall have no rights whatsoever, in the said timber on the premises hereby conveyed, unless the period be extended by further agreement in writing executed between the parties hereto, or their assigns, Second, The price of the timber hereby purchased to be cut and removed by the said party of the second part and his assigns, is fixed at one dollar and twenty five cents (\$1.25) per thousand feet, Doyle's Rule, and is to be paid by said party of the second part or his assigns, to said parties of the first part or their assigns, immediately upon the cutting and measuring of said timber, with the exception of the sum of Eight Thousand Dollars (\$8000.) advanced on account of the purchase money of said timber by the party of the second part to the parties of the first part at the date of these presents, which advance with interest, is to be duly charged and credited out of the purchase money or price of the timber first cut, and removed, until the same is fully settled for by timber received and cut by said party of the second part

at the price herein fixed, But the interest chargeable upon said advance, shall not at the most, exceed two years interest upon said advance, and from and after the date when the amount of said Eight Thousand Dollars advance, with interest, is duly set off and discharged by the timber cut, taken and removed by said party of the second part under the terms hereof, the said purchase price of the timber shall be payable when and as the same is cut, taken, removed and measured, as hereinbefore stated, Third, The sale, grant and conveyance of the timber and rights herein made and granted shall be void and of none effect as between the parties hereto and their assigns, in the event that a railroad connecting the main line of the Suffolk and Carolina Railway and the town of Elizabeth City, shall not be constructed and completed within five years from the date of these presents; and in such event, the said Eight Thousand Dollars (\$8000. hereinbefore mentioned as paid by said party of the second part to said parties of the first part on account of the purchase money or price of said timber, shall be treated as a loan or advance charged upon the land and standing timber upon the land herein mentioned, and shall be and constitute a lien upon the same, until the said advance with interest from the date hereof, shall be repaid by the said parties of the first part

to the said party of the second part and his assigns, Fourth, It is understood between the parties hereto, that the said party of the second part and his assigns shall not be permitted to cut over any part of the land herein mentioned, more than one time unless by other and further agreement between the said parties, And the said parties of the first part for themselves and their assigns, covenant with the said party of the second part and his assigns, that they have good and merchantable title to the property and rights hereby conveyed, and that they will forever warrant and defend the same unto the said party of the second part and his assigns, free from incumbrance and from the claims and demands and interference of any and all persons whatsoever, In witness whereof, the said parties have hereto set their hands and seals, the day and year first above written.

Test:

as to W. H. Bosley }
Felix Sullivan }

J. G. Skinner
Jessie P. Skinner
Wm. H. Bosley

Seal
Seal
Seal

State of North Carolina }
County of Perquimans } to-wit:

I, E. V. Perry C. S. C.
do hereby certify that Thomas G. Skinner and
Jessie P. Skinner, his wife, personally appeared
before me this day and acknowledged the
due execution of the foregoing instrument
and the said Jessie P. Skinner, ^{wife of said Thomas G. Skinner} being by
me privately examined, separate and apart

from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily without fear or compulsion of her said husband or any other person, and that she doth still voluntarily assent thereto.

Witness my hand and official seal this 29th day of April 1902.

Seal

E. V. Perry
Clerk Superior Court
Perquimans County N.C.

State of Maryland }
Baltimore City, to wit: } I hereby certify that
William H. Bosley, the party of the second
part to the foregoing instrument named,
personally appeared before me this day, and
acknowledged the due execution of the
foregoing instrument, and his signature
thereto is in his own proper hand-
writing, Given under my hand and official
seal this first day of May 1902.

Seal

Felix R. Sullivan
Notary Public

Felix R. Sullivan
No. 25 South Street
Baltimore, Md.

North Carolina }
Perquimans County } The foregoing cer-
tificate of Felix R. Sullivan a Notary
Public of Baltimore, Md. attested by
his official seal, is adjudged to be
correct, Let the deed with the certificate,
be Registered, This May 6th 1902. E. V. Perry -
Registered May 17th 1902. Clerk Supr. Court.
R. L. Knowles, Reg. of Deeds

L. G. Skinner & wife
to
W. H. Bosley

Copy
2
Exhibits

STENOGRAPHER'S MINUTES.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

GEORGE L. BARTON,

vs.

WILLIAM H. BOSLEY, A. H. TAYLOR and
THOMAS G. SKINNER.

Before

Emma King, Notary Public.

In Chancery.

Suffolk, Virginia, May 19th, 1906.

INDEX.

WITNESSES.	DIRECT.	CROSS.	RE-DIRECT.	RE-CROSS.
William H. Bosley,	1	--	--	--

MONTROSS, CLARKE & EMMONS, 51 NASSAU ST., N. Y.

D. S. PHLEGAR,
SHORTHAND REPORTER,
NORFOLK, VA.

1 IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA.

2 ----- *

3 GEORGE L. BARTON, *

4 vs. * In Chancery.

5 WILLIAM H. BOSLEY, A. H. TAYLOR and *

6 THOMAS G. SKINNER. *

7 ----- *

8
9 Continuation of depositions taken before Emma
10 King, Notary Public for the County of Nansemond, Virginia,
11 pursuant to adjournment and by consent of all parties, at
12 the office of R. H. Rawles, Suffolk, Virginia, May 19th,
13 1906, to be read as evidence on behalf of the plaintiff
14 in the above entitled suit pending in the Circuit Court
15 of Nansemond County, Virginia.

16 PRESENT:

17 J. E. Burgess, R. W. Withers and R. H. Rawles,
18 for the plaintiff.

19 E. E. Holland and A. H. Taylor for the defendants.

20 -----oOo-----

21
22 WILLIAM H. BOSLEY, being duly sworn, testified as
23 follows:

24 Examined by Mr. Withers:

25 Q. Please state your name, age, residence, and occupation,
26 and if you know the parties to this suit?

1 A. William H. Bosley; fifty-six; Baltimore, Maryland;
2 occupation, of the firm of John S. Gittings, Bankers;
3 I know the parties to this suit.

4 Q. Please state what is your relation to the Gay Manufacturing
5 Company, and what was your relation up to September, 1905
6 to the Suffolk & Carolina Railroad Company?

7 A. I was and am President of the Gay Manufacturing Company,
8 and was President of the Suffolk & Carolina Railroad up
9 to September 1905.

10 Q. Please state who were the directors of the Gay Company
11 in 1905?

12 A. General John M. Dennison,
13 John S. Gittings, Charles H. Tilghman, A. H. Rutherford and
14 myself.

15 Q. Was not Charles F. Pitt, Jr., Secretary and Director?

16 A. Yes, I think he was director at the same time. Some
17 changes were made from time to time in the last two years,
18 Mr. Seddon going out and Mr. Pitt coming in.

19 Q. Can you, and will you file a certified copy from
20 the minutes of the Gay Company showing who were the
21 officers and directors of that company for the years 1901,
22 1902, 1903, 1904 and 1905?

23 A. Yes, sir.

24 Q. Will you also file a like statement showing the officers
25 and directors for the same years of the Suffolk & Carolina
26 Railway?

A. I will if I can get
access to the minutes, because they have now been passed over

1 to the new parties now in charge.

2 Q. Will you make an effort to procure this statement?

3 A. I will make an effort to get that information for you.

4 Q. At what time was the route of the Suffolk & Carolina
5 extension to Elizabeth City definitely settled upon?

6 A. I can't recollect that date.

7 Q. Can you approximate it? A. I would
8 have to depend upon the record to show that.

9 Q. Can you file an extract of your minutes to show this
10 fact?

11 A. I can procure you such
12 data as will satisfy you about the time sufficiently,
13 the time we commenced the extension, and about the time
14 we decided that the proper thing to do.

15 Q. Who procured the rights of way of the Suffolk & Carolina
16 into Elizabeth City?

17 A. I really don't know. That matter was left entirely
18 to Mr. Barton, the details. Those details, while I might
19 have been consulted at the time, I dismissed them.

20 Q. Do you not recall the attorney who acted for that
21 corporation in that matter?

22 A. Mr. Pruden, of Edenton, was the attorney. How much
23 labor he performed I am not able to say.

24 Q. Was not Mr. Thomas G. Skinner also interested in pro-
25 curing the extension of the S. & C. to Elizabeth City?

26 A. Mr. Skinner seemed right much interested in the extension,
as he had some property which he thought would be improved.

1 Q. Did he not enter into a compact with you or the S. & C.
2 Railroad by which he undertook to secure certain rights and
3 certain privileges and concessions, or bonuses, from Elizabeth
4 City conditioned upon the railroad entering that town?

5 A. He made, I think, a good many promises, but he did
6 not succeed in carrying them out.

7 Q. Did he not execute a note for some amount to the rail-
8 road based upon the agreement that the S. & C. should enter
9 Elizabeth City along a certain route?

10 A. I do not think I ever saw this note. The only thing
11 I know about the note is that Mr. Barton had it in charge,
12 and under my instructions it was turned over to my son.
13 This note, as I understand, was to make good his promises
14 to pay us so much in the right of way of terminals, and
15 after he did not succeed in doing it or failed to do it,
16 he remonstrated very much, and it was a note under those
17 circumstances which we did not feel we should press
18 against Mr. Skinner, and he finally made an agreement, I
19 think somewhere in the neighborhood of \$9,000 or \$10,000,
20 that he would finally settle if we would make it half,
21 about \$5,000 and he would undertake to settle it. Under
22 that arrangement we let it go. Counsel advised us not
23 to sue Mr. Skinner or take any steps under the circumstances.
24 Also he agreed to give us rights of way, whether verbal or
25 written I don't know, through some property located near or
26 adjacent to, which he did not do, and we condemned it, and

1 were stuck pretty badly. Mr. Skinner, I understand, is
2 a large stockholder in what we condemned.

3 Q. I understand from your answer that Mr. Skinner
4 desired the S. & C. Railway to go along a certain route
5 and to reach a certain terminus, and he undertook to
6 acquire these terminal facilities, and if he failed to
7 do so he should pay \$10,000, or some such sum, to
8 the S. & C. Railroad. He failed to acquire the terminal
9 rights which he agreed to, and his obligation was forfeited,
10 and his note for \$10,000, or some such sum, became
11 due and payable to the railroad company. Owing to the
12 hardship upon Mr. Skinner in having to pay this large
13 sum, it was agreed that he could compromise it for 50%,
14 or therabouts; is that correct?

15 BY MR. TAYLOR: I just want to note an objection
16 to the question as irrelevant to the matters
17 at issue.

18 A. Mr. Skinner made the proposition, and we accepted it.
19 The terminals were not designated by Mr. Skinner, but they
20 were the best and the only terminals in the town. There
21 were no other terminals to be had that were accessible.

22 By Mr. Withers:

23 Q. Your answer is not responsive. I will ask the
24 stenographer to read it to you again.

25 BY MR. TAYLOR: Note again the same objection
26 as before.

1
2 NOTE: The question is read.

3 A. It is about correct.

4 By Mr. Withers:

5 Q. Who acted for the railroad company in this compromise
6 settlement with Mr. Skinner?

7 BY MR. TAYLOR: The same objection as before.

8 A. I do not clearly recollect whether - - (Pause)

9 Q. (By Mr. Withers) Whether it was whom, you started to
10 say?

11 A. I can't recollect whether
12 it was done through the office, or direct with me. It
13 was one of the details I dismissed.

14 Q. Done through which office? A. Suffolk.

15 Q. You mean the general offices of the Suffolk & Carolina
16 Railroad, at Suffolk? A. Yes.

17 Q. You mentioned having turned over this note to your son;
18 who turned over the note to your son?

19 BY MR. TAYLOR: Note the same objection as before,
20 as irrelevant.

21 A. If I recollect aright, I gave Mr. Barton an order to
22 turn it over to my son.

23 By Mr. Withers:

24 Q. Do you know what your son did with it?

25 BY MR. TAYLOR: Note the same objection.

26 A. He returned it to Mr. Skinner.

By Mr. Withers:

Q. For what consideration?

1 BY MR. TAYLOR: Note the same objection.

2 A. Mr. Skinner said he was unable to pay that note, the
3 second note, but if we would take in consideration of that
4 a certain interest in some timber land he owned down there,
5 he would be very glad to turn them over. Without consulting
6 our attorney and our people, we decided we had even better
7 do that than to press him for the cash, so you will find
8 the deed on record in that County, and probably in both counties,
9 deeding to him a certain interest in that land.

10 By Mr. Withers:

11 Q. I here hand you an attested copy of a deed Made the 2nd
12 day of September, 1904, between Thomas G. Skinner and wife
13 to William H. Bosley, Jr., conveying his interest or share
14 in fee simple in certain lands of the said Skinner in North
15 Carolina, being the lands described and conveyed by a deed
16 from S. S. Lamb, and so forth, to Thomas G. Skinner, dated
17 December 11th, 1901, containing 15,000 acres, more or less.
18 Is this the deed to which you refer?

19 BY MR. TAYLOR: Note an objection to the admission of
20 the deed as irrelevant to the issue.

21 A. I have never seen this deed, but from the language of
22 it I should not be surprised if it is not the property
23 referred to.

24 By Mr. Withers:

25 Q. You have the deed in your hand, and we will give you
26 an opportunity to examine it, if you desire, so as to enable

1 you to state positively whether this is the deed to which
2 you refer, or not?

3 A. I am not sufficiently familiar with the deeds and this
4 property to state this as a fact, though I believe it to
5 be the deed.

6 Q. Is not the land here described the land upon which the
7 timber grows which is the subject of this controversy?

8 BY MR. TAYLOR: Just note the same objection, that
9 it is irrelevant, and that the deed itself ought
10 to identify the land, and is the best evidence?

11 A. I believe it is the same property.

12 By Mr. Withers:

13 Q. Did Mr. Skinner own this tract of land before the location
14 of the proposed S. & C. extension to Elizabeth City was
15 determined or settled upon?

16 BY MR. TAYLOR: The same objection.

17 A. I could not answer that question because his titles were
18 very bad, and are not good today, and it is very difficult
19 to tell how much he does own. A large part of it is in
20 litigation.

21 By Mr. Withers:

22 Q. You mean the title to the 15,000 acres we are speaking of?

23 A. Yes.

24 Q. How do you know that this title is defective?

25 BY MR. TAYLOR: Objected to as irrelevant.
26

1 A. The only evidence I have is that it is in litigation.

2 By Mr. Withers:

3 Q. Did you ever have this title examined by an attorney?

4 A. Yes, we have had it examined by Mr. Pruden.

5 Q. Please state at what time Mr. Pruden made this examination?

6 BY MR. TAYLOR: Note the same objection to all these
7 questions as irrelevant.

8 A. It was made prior to the deed of April 29th to me.

9 By Mr. Withers:

10 Q. Do you recall how long prior to April 29th, 1902, Mr.
11 Pruden examined the title to this land?

12 BY MR. TAYLOR: Note the same objection.

13 A. I can't say whether it was one month or three months.
14 It was sometime prior to it.

15 By Mr. Withers:

16 Q. Is it not true that Mr. Barton reported to you Mr. Pruden's
17 abstract, or report, upon the title to this land, accompanied
18 by a letter from Mr. Barton?

19 BY MR. TAYLOR: Note an objection, that the letter
20 from Mr. Barton ought to be identified and called
21 to the witness' attention.

22 A. I have no recollection whether made direct to me,
23 or whether through Mr. Barton, but very likely it was made
24 through him.

25 By Mr. Withers:

26 Q. In what way did Mr. Pruden communicate to you the defects

1 in the title to this land? A. In the report which
2 he made just referred to, and we had several conversations
3 about it.

4 BY MR. TAYLOR: Note the same objection to the
5 question and answer.

6 By Mr. Withers:

7 Q. Will you please file this report from Mr. Pruden, or
8 an attested copy thereof, with this deposition?

9 BY MR. TAYLOR: Just note the objection to the
10 question and the answer, and to the filing of
11 the report of Mr. Pruden, as a confidential
12 communication from the attorney of the Gay Manu-
13 facturing Company, as I understand it, to an
14 officer, or the attorney of a railroad to an
15 officer, and it ought not to be produced here.

16 A. If it is proper and right I will do so.

17 By Mr. Withers:

18 Q. Was this report from Mr. Pruden a communication from
19 an attorney of the Gay Company to you as the President
20 of the Gay Company?

21 A. I don't recollect how it was addressed, but it was
22 for me as President and for the benefit of the Gay Company.
23 He was not my attorney, but the attorney of the Gay Manu-
24 facturing Company.

25 Q. Then I understand that Mr. Pruden made an examination
26

1 of the title to this land for the Gay Company prior to
2 April 1902?

3 A. That is my recollection.

4 Q. Who acted upon this report for the Gay Company?

5 A. I acted for the Gay Company after discussing the
6 matter over with people interested. We have what we call
7 a close corporation, and our meetings of the Board of
8 Directors are few and far between. We can get together
9 most any time in a few minutes, and discuss things, and
10 talk over the policy.

11 Q. And in the absence of action by the Board of Directors,
12 I suppose the executive officers of the corporation act
13 for them?

14 A. I generally acted for the Board
15 of Directors when necessary.

16 Q. For what object was this examination by Mr. Pruden made?

17 BY MR. TAYLOR: Note the objection as irrelevant,
18 the same as before.

19 A. To see if he had a good title.

20 By Mr. Withers:

21 Q. I presume then that the Gay Company contemplated
22 having some transactions with this land based upon the
23 title?

24 A. I did not care to buy or
25 recommend a piece of property until I had some idea of
26 the title.

Q. Mr. Skinner had offered the timber on the land for sale
to the Gay Company, and the Gay Company very properly

1 was having the title examined by Mr. Pruden, who made report
2 to you as an officer of the company; is this correct?

3 A. I don't know whether he made a report to me as an
4 officer of the company, or whether he addressed me individuall
5 or how it was done. He wanted to sell the property, and it
6 did not interest Mr. Skinner whether he sold it to one
7 person or another, and how much detail he went into I don't
8 know, but in order to recommend the piece of property to
9 my people I had to have the title examined, and I did not
10 accept the title, and I did not buy the property upon the
11 title which Mr. Pruden reported, and I did not deal with
12 him until he gave me guarantee of title in every possible
13 way.

14 Q. Then the Gay Company refused to buy the timber because
15 of defects in the title?

16 A. No.

17 Q. You mean by your answer that they did refuse?

18 A. No, I do not. I mean to say that I declined to take
19 that property from Mr. Skinner until he had given me his
20 guarantee. I was the judge of that, and I would not have
21 recommended my people to go in and buy this property had
22 he not done so.

23 Q. You have just stated in an answer preceding that you
24 declined to recommend the purchase of this timber by the
25 Gay Company because of the defects in title. I wish you
26 would tell me if this is not the action you took as President

1 of the Gay Company upon the report of Mr. Pruden?

2 BY MR. TAYLOR: Note an objection to that, that

3 I do not understand the witness so stated.

4 A. I recommended this to the syndicate, who were the owners
5 of the Gay Manufacturing Company, when Mr. Skinner agreed to
6 guarantee the title, and had he not guaranteed the title
7 I should not have recommended it.

8 By Mr. Withers:

9 Q. Then I understand you recommended the purchase to a
10 syndicate but not to the Gay Company?

11 A. They bought the property for the Gay Company. They were
12 the holders of the Gay Manufacturing Company's stock,
13 and some of them were very largely interested in that
14 railroad. We were working for two things. I was paid
15 as the President of the Suffolk & Carolina Railroad and the
16 President of the Gay Manufacturing Company, as Mr. Barton was
17 paid as General Manager of both, to acquire tonnage for the
18 Suffolk & Carolina Railroad and to get lumber for the Gay
19 Manufacturing Company.

20 Q. If it should develop that the examination made by Mr.
21 Pruden of the title to this timber looking to a purchase by
22 the Gay Company transpired sometime more than four months
23 prior to April 1902, would this enable you to answer specifically
24 what action was taken by you at that time upon the proposition
25 of Mr. Skinner to sell to the Gay Company the timber on this
26 land?

A. I can't tell when I got it, and

1 how long after I got it that I agreed to take it from Mr.
2 Skinner at that price. There was a great deal of talk
3 going on about this timber, running over a period of a long
4 time, with Skinner a good many years ago. The thing that
5 impresses me more is the fact that Mr. Skinner come into
6 my house way prior to that time when I was sick in bed, ac-
7 companied by Mr. Weekins, who is now the postmaster at Elizabeth
8 City, and tried to sell me the whole of this 15,000 acres
9 of land. That is impressed upon me by the fact that I was
10 in bed, and we had a conversation about it.

11 Q. That offer, as I understand, was the first offer made by
12 Mr. Skinner of the timber when you were in bed?

13 A. That is the first I can recollect, because this circum-
14 stance impressed it upon me when others would not. It has
15 been five or six years, and the multiplicity of business
16 and corporations I have to deal with, I must depend upon
17 the records.

18 Q. The offer of Mr. Skinner I understood from your former
19 answer was first made to the Gay Company?

20 A. I don't know what Mr. Skinner thinks was done, but when he
21 was talking to me about selling lumber he could not talk except
22 about the Gay Company. That was the only corporation I was
23 interested in, and the only corporation that paid me to
24 get timber for it.

25 Q. Then his offer was made to the Gay Company through you
26 to sell this timber? acting for the Gay Company you had Mr.

1 Pruden to examine the title, upon which he reported adversely?

2 A. No, I beg your pardon, he did not report adversely. I
3 did not like his report; that is all. He gave a statement
4 of facts as I understood them, but they were not sufficient to
5 warrant me in recommending it without Mr. Skinner's personal
6 guarantee.

7 Q. Recommending it to whom? A. Recommend it
8 to the people who bought it, or the syndicate that bought the
9 timber for the Gay Manufacturing Company - the people
10 who owned the company and the railroad.

11 Q. Do I understand that Mr. Pruden's report was made to you
12 as the member of a proposed syndicate, or as the President
13 of the Gay Company?

14 A. It did not interest Mr. Skinner whether talking to me
15 as an individual, corporation or syndicate, and I did not
16 have to explain that part of the business, and what I wanted
17 to know was, whether the title could be made so perfect that
18 I could recommend to my people to buy it. I did not sit
19 down and tell Mr. Skinner my business affairs.

20 Q. Then you were acting for your people or your company?

21 A. I mean at that time I turned it over and had it paid
22 for by a syndicate who owned the Gay Manufacturing Company
23 with the understanding that it should be ultimately worked up
24 by the Gay Company.

25 Q. We are evidently speaking of a different occasion it seems.
26

1 You have repeatedly stated that Mr. Skinner made this proposi-
2 tion to sell the timber to the Gay Company through you;
3 that the Gay Company employed Mr. Pruden to make an examination
4 of the title; that Mr. Pruden reported on the title to the
5 Gay Company. Now, I want to know what action the Gay Company,
6 acting through you or any of its officers or agents, did
7 upon that report with the offer of Mr. Skinner?

8 BY MR. HOLLAND: The question is excepted to
9 as it does not properly contain facts as stated
10 in Mr. Bosley's answers.

11 A. I don't know whether Mr. Skinner wrote to me personally,
12 or whether he wrote to me officially, but I was to get the
13 information to satisfy myself before I could recommend these
14 people to buy this property, and we were buying the property,
15 the timber to be cut by the Gay Manufacturing Company, which
16 we all owned.

17 By Mr. Withers:

18 Q. You have not answered my question. Again I must ask
19 the stenographer to re-read it?

20 BY MR. TAYLOR: Note the same objection.

21 A. Acting upon that report and Mr. Skinner's agreement to
22 guarantee the title to that property and to that timber,
23 I recommended that to the syndicate who purchased that
24 timber (the members of that syndicate were the owners
25 of the Gay Manufacturing Company), and it was bought for the
26 purpose of being cut ultimately by the Gay Company.

1 By Mr. Withers:

2 Q. Do I understand you to say that the offer of Mr. Skinner
3 to the Gay Company was not acted upon at all by the Gay
4 Company, but was accepted by an independent syndicate?

5 A. That timber was purchased, as you will see by the
6 records, by a syndicate. That syndicate was the owner of
7 the Gay Manufacturing Company, and probably a very large
8 majority of the Suffolk & Carolina Railroad stock. Neither
9 one of those companies at that time were in a position,
10 for a good many reasons, to buy, and it was necessary to
11 save that tonnage to the railroad and save it to the Gay
12 Company that we should get together and contribute a small
13 amount each to hold it. Whether Mr. Skinner knew what he
14 was writing to, or what he was writing about, I don't know.
15 I don't know whether he made it and I accepted it, or whether
16 I made the offer and he accepted it.

17 Q. You have already stated that Mr. Skinner could not talk about
18 selling timber to you except as a representative of the Gay
19 Company, but without regard to what Mr. Skinner thought, you
20 at least know what you and the Gay Company did with his first
21 offer to the Gay Company. Please state what action
22 the Gay Company took on Mr. Skinner's offer and Mr. Pruden's
23 report?

24 A. The Gay Manufacturing Company, as a
25 corporation, took no action officially until they had entered
26 into the agreement to take over this timber from the syndicate,
as seen by the contract which I think is on file with my

1 answer.

2 Q. You are still President of the Gay Company?

3 A. Yes.

4 Q. You have access to their files? A. Yes.

5 Q. Will you please file Mr. Pruden's report and Mr. Barton's
6 letter accompanying it with this deposition?

7 BY MR. TAYLOR: We make the same objection. He

8 object to the introduction of that as not relevant
9 to this proceeding, but we will have it subject to
10 the determination of the Court at the hearing.

11 A. I believe Mr. Pruden's opinion on the title is in existence,
12 but I have no recollection of seeing the letter from Mr.
13 Barton accompanying it, but I will search for it.

14 By Mr. Withers:

15 Q. Did Mr. Skinner ever offer this timber for sale to a syn-
16 dicate composed of the gentlemen whose names are signed to
17 the deed of November 1st, 1904, to the Gay Company?

18 A. I don't think Mr. Skinner knew the syndicate at all.

19 Q. Your answer on page 7, section 4, states that "every
20 step in these proceedings was known to Barton, who, as an
21 officer of the two corporations, was in close and constant
22 communication with you and other parties concerned in these
23 negotiations during the whole period". Please state what
24 other parties you there refer to?

25 A. I refer to Mr. Skinner and myself, as the representative of
26 the Gay Manufacturing Company.

1 Q. Then no other parties were concerned in these negotiations
2 except Mr. Skinner and yourself, as the representative of
3 the Gay Company?

4 A. There were no secrets about it. Mr. Barton could have
5 had and did have access to everything. He was kept informed.
6 I had to consult him about everything. I had to consult him
7 about the price that the Gay Manufacturing Company could
8 offer to pay this syndicate for it, and went over everything
9 carefully with him. I did not accept his suggestions because
10 I found the quality and quantity of that timber was a great
11 disappointment in every way, and after I come to an agreement
12 I went back and got them to take less, after I was satisfied
13 as to quantity and quality, and it was a very sad disappoint-
14 ment.
15

16 Q. You did not respond to my former question. I will ask
17 the stenographer to re-read it.

18 NOTE: The question is read.

19 BY MR. HOLLAND: The question is excepted to except
20 so far as it may relate or refer to Mr. Barton's
21 connection with this matter.

22 A. They were not concerned with the negotiations because
23 I carried on those negotiations, but they were interested
24 in seeing that the title was in good shape.

25 By Mr. Withers:

26 Q. Your answer states that there were communications with

1 you and other parties concerned in these negotiations about
2 this timber. I want to ask you to file with your deposition
3 any and all letters from Mr. Barton or from Mr. Skinner or Mr.
4 Pruden to the Gay Company, or to you, or to any other
5 parties concerned, about the purchasing of this timber?

6 A. I will do so.

7 Q. Your answer on page 3 states that Mr. Skinner had been
8 in frequent communication with you and the other officers
9 of the said corporations prior to March 19th, 1902, about
10 this timber. I will ask you especially to file those com-
11 munications.

12 A. I will send you all the letters I can find.

13 Q. Do you recall the date upon which you requested Mr.
14 Barton to communicate with Mr. Skinner and arrange a meeting
15 between you and Mr. Skinner and Mr. Taylor and himself in Norfolk?

16 A. No, I cannot fix that date, though I think I can find
17 data enough to satisfy you.

18 Q. I have a communication from the Monticello Hotel which
19 fixes the day on which you met as being the 9th of January,
20 1902. Is this correct, or not?

21 A. I can't recollect whether that is the date, or not, but
22 I can fix that date because the agreement temporarily entered
23 into is as of March 19th, 1902.

24 Q. That is the date borne by the agreement filed as Exhibit A
25 with your answer in which Skinner agreed to sell to you. Do
26

1 you understand that that agreement bears the date on which
2 you held the meeting at the Monticello Hotel, or as being
3 the date on which the agreement was written and executed?
4

5 A. That is the date we met at the Monticello Hotel, and
6 that paper was prepared and dictated downstairs to a type-
7 writer, by Mr. Pruden, and you will find his interlineation
8 that Skinner had guaranteed there was 100,000,000 of timber.

9 Q. I do not find such an interlineation in the copy filed
10 with your answer. Can you point it out?

11 A. The last line before the subscribing clause.

12 Q. I find no guaranty by Mr. Skinner in that clause. Do
13 you?

14 A. No, I did not undertake to enforce it.
I was disappointed to find so little timber there.

15 Q. Please state why the meeting alluded to in the Monticello
16 Hotel was had?

17 A. The object of the meeting
18 was to discuss the matter fully with Mr. Skinner and myself
19 and Mr. Barton and our counsel, Mr. Taylor, and Mr. Pruden, and
20 if we could come to an agreement, sign the necessary papers
and close up the deal, which we did.

21 Q. Please state why Mr. Barton was asked to be present at this
22 meeting?

23 A. Mr. Barton was the General
24 Manager of the Gay Manufacturing Company and the General
25 Manager of the Suffolk & Carolina Railroad, and Mr. Barton
26 was always a party to our business transactions, and was
always invited. The responsibility of this property depended

1 on him, and he was left almost entirely to the management
2 of the property here, and he was very seldom interfered
3 with in any way.
4

5 Q. Please state for whom you bought this timber from Mr.
6 Skinner on this day, whether for yourself or for a syndicate,
7 or for the Gay Company?

8 A. I bought it for these gentlemen named in the syndicate
9 agreement.

10 By Mr. Taylor:

11 Q. What agreement are you referring to?

12 A. The agreement between the syndicate and the Gay Manufacturing
13 Company finally.

14 By Mr. Withers:

15 Q. Then I understand you were not acting for the Gay Company
16 at that meeting?

17 A. Yes, I was acting decidedly
18 for the Gay Company. I was getting possession of the property
19 for the Gay Company, and tonnage for the railroad, which I
20 could not have gotten otherwise.

21 Q. If you were acting for the Gay Company, why did not you
22 have the contract in the Gay Company's name?

23 A. Because the Gay Company did not have the money to pay
24 for it.

25 Q. Was that the only reason you did not buy this timber in the
26 name of the Gay Company? A. If the Gay Company had been
in such financial condition, or if our people had thought so,

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we would have bought it direct for the Gay Company.

Q. State how much cash would have been required of the Gay Company to pay for that?

A. About \$8,000 with the interest.

Q. Do you mean to say that the Gay Company could not at that time raise \$8,000, or that it could not float a loan for \$10,000?

A. I do not think at that time that the Gay Manufacturing Company's credit would have stood \$8,000. Our people had been very much demoralized. Things had gotten in very bad shape down there, and you could not hardly make our people believe there was anything in buying that timber, and there was no disposition on the part of the stockholders and those interested to put the company in debt. I do not believe that we could have borrowed that money unless we had all individually endorsed some paper to do it.

Q. Do I understand you acted as agent for the syndicate at that time?

A. I made up my mind if we could get this property at a fair price it would be a good thing for the railroad and for the Gay Company, as we had at that time decided to build that extension because I did not like to see that tonnage get away. After I saw Mr. Skinner, I went around and it took some time to get enough men to put up \$800 or \$1,000. It is easier to get eight or ten men to put up \$800 or \$1,000 than a corporation whose

1 affairs were not in very good shape, and that seemed to
2 be the only way out of it. Whether it was the right way,
3 the profitable way, it was the only way out of it.

4 Q. At what time did you make these solicitations for sub-
5 scriptions to this syndicate?

6 A. Of course I made them prior to that meeting at Norfolk,
7 because I had to have a personal guarantee of the individuals
8 that if I succeeded in getting this property they would put
9 up their money in payment of it. It was not a particularly
10 easy job then to get \$800 or \$1,000 apiece from these people.

11 Q. Then I understand that at the Norfolk meeting you were
12 acting for the syndicate?

13 A. At the Norfolk meeting, when I bought that property,
14 I expected the syndicate to come in and assist me, and when
15 that syndicate took it they knew why they bought it, so as
16 to ultimately turn it over to the Gay Company and furnish
17 tonnage for the Suffolk & Carolina, because they were stock-
18 holders.

19 Q. Then I understand that the syndicate was acting as
20 trustees for the two corporations?

21 BY MR. TAYLOR: I object. The question of the
22 counsel's understanding is not material or
23 relevant to this cause. The witness ought not
24 to be required to speak about it.

25 A. The syndicate was gotten together to benefit the Gay
26

1 Company and the Suffolk & Carolina Railroad, and that syndi-
2 cate owns both corporations, or a large majority of it, and
3 without that inducement it never would have been done.

4 By Mr. Withers:

5 Q. What do you mean by the words "to benefit the Gay Company
6 and the Suffolk & Carolina"?

7 BY MR. TAYLOR: I object. The words are very simple,
8 and speak for themselves.

9 A. To furnish tonnage for the road and furnish lumber for
10 the Gay Manufacturing Company's mill to keep it in operation
11 and to keep it going.

12 By Mr. Withers:

13 Q. You mean then that they bought it for the Gay Company?

14 A. I mean that they bought that knowing that the Gay Manufactu-
15 ring Company would cut it and get the benefit of it.

16 Q. How did they know it? A. For the reason that we
17 had agreed that it should be turned over to them to be cut,
18 before we bought it. Utherwise we would not have bought
19 that property.

20 Q. You have stated that this syndicate was composed of the
21 directors of the two corporations?

22 A. I said the stockholders. There were some directors
23 and some stockholders. They represented most all the stock
24 in both corporations.

25 Q. Who acted for the Gay Company when it was understood that
26 the Gay Company should acquire this timber from the syndicate

1 before you purchased it from Mr. Skinner?

2 A. I simply explained the transaction to the stockholders
3 who were the syndicate, and we agreed that we would take
4 this property over on that basis, and finally we would
5 turn it over to the Gay Company to be out and save the
6 tonnage for the railroad. That tonnage and timber both
7 could have been carried out in other directions, and the
8 Gay Company would not only have lost that timber, which
9 kept the mill in operation and going, but the railroad
10 would have lost it. We simply worked along those lines to
11 protect those two companies the best we could.

12 Q. Then the same gentlemen acted for the syndicate and
13 for the two corporations?

14 A. Those gentlemen put their money in to create tonnage
15 and lumber for these companies, and for the reason that
16 they were interested in both.

17 Q. Did it not require a greater expenditure to extend the
18 tracks of the Suffolk & Carolina through this timber than
19 it required for the Gay Company to buy the timber from Mr.
20 Skinner?

21 BY MR. HOLLAND: The question is excepted to
22 as irrelevant.
23

24 A. I did not quite catch your idea in your question. It
25 cost us a great deal of money to broad gauge this road and
26 extend it to Elizabeth City.

1 By Mr. Withers:

2 Q. Please state definitely when and where this syndicate
3 was formed?

4 BY MR. HOLLAND: The question is excepted to
5 unless counsel refers to some syndicate that
6 the bill alleges to have been formed.

7 A. The members lived in Baltimore, and I saw them more
8 or less every day, or every two or three days, and I
9 saw them and we discussed it.

10 By Mr. Withers:

11 Q. Then it was formed in Baltimore?

12 A. In Baltimore.

13 Q. When? A. Prior to that meeting at Norfolk.

14 Q. How long prior? A. I can't tell, but we had been
15 talking about it for quite a time.

16 Q. Can you not more definitely fix the time at which
17 this syndicate was formed?

18 A. No, for the reason that we did not call the syndicate
19 together and have a meeting. We talked over it individually,
20 and we got the opinion from A and B whether it would be
21 satisfactory. I took their words for it, and we knew each
22 other, and when we got the timber right, I called on them
23 for the money, and they gave it to me.

24 Q. Have you any evidence in writing to show the formation
25 of this syndicate? A. None whatever except

26 the memorandum of the checks that they sent me. Of course

1 the cancelled checks have been returned to the owners.

2 BY MR. HOLLAND: The question is excepted to as
3 irrelevant.

4 By Mr. Withers:

5 Q. You say you have a memorandum of their checks?

6 A. Yes, sir.

7 Q. Were those checks paid to you before or after you visited
8 Norfolk on the day of the meeting alluded to?

9 BY MR. HOLLAND: The question is excepted to
10 as irrelevant.

11 A. I think they were all paid to me afterwards. I am not
12 positive about that.

13 By Mr. Withers:

14 Q. Will you file a statement with your testimony showing
15 the dates upon which you received those checks?

16 BY MR. HOLLAND: Such statement will be produced
17 provided the court requires it.

18 By Mr. Withers:

19 Q. Please give me in detail what was the agreement of the
20 syndicate at or before the purchase of the timber by you from
21 Skinner with reference to the ultimate sale to the Gay Company?

22 BY MR. TAYLOR: The question is excepted to for
23 the reason that it appears in the papers already
24 filed with the witness' answer exactly what was
25 the position and rights of every member of the
26 syndicate with reference thereto.

1 BY MR. HOLLAND: And for the further reason that
2 the plaintiff contends that there was no other
3 syndicate formed in which his client, according
4 to the bill of complaint, was interested, and
5 evidence as to that syndicate is alone relevant
6 in this connection.
7

8 A. We just agreed that we would buy this timber to benefit
9 the Gay Company and the railroad, and when the time came
10 we would fix what we thought was a fair and equitable price
11 for it. We fixed a price after I talked to Mr. Barton
12 and went back myself to get further information, and I went
13 and got them even to reduce the price on the small quantity
14 of timber and the very bad quality of it.

15 By Mr. Withers:

16 Q. Then the syndicate bought the timber to benefit the Gay
17 Company with the understanding that they were to make a
18 profit out of the Gay Company in the subsequent sale?

19 BY MR. TAYLOR: The question is excepted to as having
20 no relevancy to the case set up in the plaintiffs
21 bill.

22 A. Yes, and the syndicate has not up to this time gotten
23 their money back, and the only profits that they could
24 possibly have would be a question of 50 cents per thousand
25 on an estimate of probably 12,000,000 or 15,000,000 of
26 timber, and if litigation should continue they would run
over a period of twenty years to get this profit, when

1 their contract would expire, in which they would have to cut it.

2 Q. The contract of the Gay Company goes for only five years
3 in which to cut it, as I understand?

4 BY MR. TAYLOR: Objected to for the reason that
5 no contract with the Gay Company is designated
6 by counsel, and this question of the time it has
7 to cut under any contract at all is not relevant
8 to the issues raised by the plaintiff's bill.

9 A. The syndicate has twenty-two years more in which to
10 cut this timber. The Gay Manufacturing Company's agreement
11 was only for five years.

12 BY MR. TAYLOR: The answer is excepted to as
13 the contract speaks for itself, whatever contract
14 is referred to.

15 By Mr. Withers:

16 Q. After you, Mr. Taylor, Mr. Skinner, Mr. Pruden and Mr. Barton
17 met in the Monticello Hotel, in Norfolk, to discuss the
18 purchase of this timber, please state if you, at that time,
19 made any mention of the syndicate referred to by you in
20 this testimony?

21 A. I don't know whether or not I mentioned the members of
22 the syndicate, or that there was any particular occasion
23 for it, but there was no secret about it, and no disposition
24 not to tell it. It is one of those things in business you
25 do not voluntarily give your business away unless some one
26

1 is inquisitive or voluntarily asks about it.

2 Q. Did you not state at that time that those present con-
3 stituted a sufficient number to compose a syndicate (I am
4 alluding to the meeting at the Monticello Hotel)?

5 A. I made no proposition whatever to anyone there that
6 day to make up a syndicate. Mr. Skinner was selling us some
7 timber. Mr. Pruden was our attorney, and Mr. Taylor was our
8 attorney, and Mr. Barton and myself were there as the repre-
9 sentatives of these two corporations, whose duty it was to
10 do the best we could for our two companies.

11 Q. Mr. Taylor is general counsel of these two corporations,
12 is he not? A. He was.

13 Q. And Mr. Pruden is local counsel for one or both of them?

14 A. He was for both at that time.

15 Q. And you and Mr. Barton were officers of the two companies
16 also? A. Yes, sir.

17 Q. Did you not remark at that time and at that meeting
18 that a syndicate should be formed to acquire this timber,
19 and then and there state that there were a sufficient number
20 present to make up such a syndicate, or words to that effect?

21 A. I do not recollect making any such statement, but I say
22 this much: Mr. Skinner was the seller of the timber, but
23 outside of Mr. Skinner, either Mr. Pruden or Mr. Barton, had
24 they wished at that time, or requested it, it would have
25 given me pleasure to get them into the syndicate. I had not
26

1 any objection in the world, but I did not bring up that
2 proposition to ask to make any agreement, but I was like
3 the rest of them, I wanted to make long division.
4

5 Q. Did you not state at that time and place that it was
6 agreeable for Mr. Barton to become a member of a syndicate
7 to be made up for the purchase of this timber, and appealed
8 to those present, except Mr. Pruden, to know if Mr. Barton's
9 admission to such a syndicate was acceptable, and all present
10 said yes?

11 A. I have no recollection of it. I repeat again, if
12 Mr. Barton had signified his desire to become a member of that
13 syndicate, I should have used my efforts to put him there,
14 and I do not believe at that time anybody would have objected.
15 If he did wish to, it would be his own fault, because for
16 two years I have no recollection that he referred to it -
17 two years after that.

18 Q. Did you not, after this suit, and after the deed of
19 April 29th between Mr. Skinner and yourself, verbally report
20 the fact of the execution of the deed to Mr. Barton?

21 A. I have no recollection of it, but I should not have
22 hesitated to do it if I had thought of it, or if he had
23 asked me the question.

24 Q. Did you make any other communication to Mr. Barton between
25 April 1902 and June 1904 with reference to the purchase of
26 this timber?

A. I can't answer that question

1 because I can't recollect the many conversations I had with
2 Mr. Barton and the many letters that passed between us on
3 different subjects; it would be impossible for me to recollect

4 it. I only know if Mr. Barton had wanted to become a
5 member of that syndicate at that time, it would have been
6 a great pleasure to have accepted him. We had the kindest
7 feelings in the world towards him.

8 Q. After this time please state when you communicated to
9 Mr. Barton the sale of the timber to the Gay Company?

10 A. I can't tell you exactly when that was, but about
11 the time we got ready to fix the price I discussed it with
12 him, because I had to have his opinion. We had to find
13 out the cost of logging and consider the transportation,
14 and in the meantime I had gone out to find out the quantity
15 and quality of it and those things all had to be taken into
16 consideration, and we did not pay the syndicate as much
17 as we expected to pay them in consequence of the inferior
18 quality of that timber, and there being such a great dis-
19 appointment as to quantity.

20 Q. You say we did not pay the syndicate as much as we
21 expected. Who do you mean by "we"?

22 A. The Gay Manufacturing Company.

23 Q. Then, prior to the actual sale to the Gay Company,
24 there was an agreement between the Gay Company and the
25 syndicate in which a selling price larger than the 50% margin
26

1 was set forth? A. We thought at one time,
2 after discussing it, that we could pay more than we did pay.
3 The one item I bear in mind that Mr. Barton was under the
4 impression that we could do the logging for \$4.00 a thousand;
5 when we got down to the making of the contract we had to
6 pay \$4.50. That was 50 cents in one item alone, and I
7 succeeded in getting the syndicate to reduce their profit
8 for labor on that timber. That was one argument I used.

9 Q. What was the original selling price to the Gay Company?
10

11 BY MR. TAYLOR: The question and answer are excepted
12 to as immaterial and irrelevant to the issue.

13 A. The first price we considered would net the syndicate 75
14 cents per thousand. I succeeded in getting them to reduce
15 it to 50.

16 By Mr. Withers:

17 Q. Will you file with your deposition a statement of the
18 stockholders of the Gay Company in 1901, 1902, 1903 and 1904,
19 together with the amount of their respective holdings?

20 BY MR. TAYLOR: We except to the question as
21 irrelevant and immaterial, but will have the
22 information ready for counsel if the court shall
23 deem it proper?

24 A. I will if the court so orders.

25 By Mr. Withers:

26 Q. When Mr. Barton learned of the sale from you, who held

1 the legal title to the syndicate, and their sale to the Gay
2 Company, in the fall of 1904, did he not protest in a written
3 letter to you?

4 A. I have no recollection of any such letter. I have, however,
5 a recollection of one letter which Mr. Barton sent me only a
6 short time before he left the employment of the Gay Manufacturing
7 Company, in which he said something about a syndicate. That
8 was over two years after it had been signed. It was an utter
9 surprise to me, and I recollect taking a pencil and writing
10 on the back of it, or the margin of it, - I can't quote
11 the words, but the idea was that the matter had passed entirely
12 out of my hands, and that he should have come to me sooner.
13 If he has the letter it will show just exactly. That was a
14 couple of years after the property had been sold.

15 Q. Was not this communication from Mr. Barton about November
16 4th, 1904, or about four days after the sale from the syndicate
17 to the Gay Company?

18 BY MR. TAYLOR: Note the objection that the witness
19 should not be examined about the contents of a
20 communication without its being shown to him and
21 his attention specially directed to any portion in it
22 about which his testimony is required.
23

24 A. I can't recollect the date, but the letter will doubtless
25 speak for itself. I have written Mr. Barton so many hundreds of
26 letters and so many weeks and hours have been spent in conver-

1 sation with him during my life I could not from memory
2 recollect all these things.

3
4 -----oOo-----

5 An adjournment of one hour is taken for dinner.
6

7 -----oOo-----

8 AFTERNOON SESSION,
9

10 May 19th, 1906.

11 W. H. BOSLEY, takes the stand for further examination.

12 By Mr. Withers:

13 Q. In a former part of your testimony you stated that
14 the Gay Company decided at that time that it was not advisable
15 for it to purchase this timber on account of its financial
16 embarrassment. Will you indicate when this decision was
17 arrived at by the Gay Company?

18 A. I can't name any particular date for it, but of course
19 I was in touch with it and in conversation with my Board
20 of Directors and the owner of this property most every day.
21 I had opportunity of meeting them most every day and dis-
22 cussing this matter, and I know our company did not have
23 a great deal of credit at that time, and our people did not
24 think very well of it.

25 Q. It was not at a formal meeting of the Board of Directors
26 that the Gay Company refused this purchase?

1 A. We may have discussed it at some meeting, but it was not
2 necessary to call a meeting for that purpose. We did not
3 have a particular meeting for that, but it may have been
4 talked over at a regular meeting.

5 Q. Was it at a meeting of the Directors that the Company
6 declined at that time to buy that timber on account of
7 finances?

8 A. No, it was not brought up to my
9 recollection formally, but just a discussion of the Board
10 of Directors and the stockholders as we met day after day and
11 talked over these matters. We had very few meetings of the
12 Board, and would only meet when it was absolutely necessary
13 to pass upon questions.

14 Q. To whom did you refer the proposition to buy the timber,
15 and who authorized you, as President, to decline the purchase
16 for the Gay Company?

17 A. I did not formally
18 decline it with Mr. Skinner. I talked with my Board of
19 Directors, and talked with my people, and we came to the
20 conclusion that we were not in position to buy the timber,
21 and we then formed the syndicate.

22 Q. To whom did you talk? A. To the stockholders
23 and Board of Directors, and talked principally to those which
24 were the largest stockholders.

25 Q. Will you indicate what stockholders who were not
26 Directors of the Gay Company? A. I think all the large
stockholders were Directors. It was a very close corporation,

1 and there may be a few scattering shares here and there.

2 Six or eight men owned it all.

3 Q. And those were the gentlemen with whom you discussed it
4 to whom you refer? A. Yes.

5 Q. And those were the same people who afterwards formed
6 the syndicate, were they not?

7 A. Yes, I think you will find the syndicate represents
8 a very large majority or pretty near all the stock in both
9 companies.

10 Q. What is the capital stock of the Gay Manufacturing Company?

11 A. \$225,000.

12 Q. How much paid in? A. I could not tell you.

13 I did not organize the company, but we have assets today
14 to represent it. I don't know how much was paid in. I
15 know that we have assets today to fully cover the capital stock.

16 Q. How much is the bonded and floating indebtedness of the
17 Company? A. Our floating indebtedness if made

18 up today would be about \$12,000. Available quick assets
19 would pay off probably more than half the bonds covering
20 about \$12,000 or \$15,000.

21 Q. What do you mean by available quick assets?

22 A. I owe \$30,000 bonds, and if I would sell all the lumber
23 on hand paid for and collect all the bills due, I would be
24 able to pay all the bills and bonds, and would leave about
25 \$12,000 or \$15,000 short. Of course my stock, representing
26

1 about 35,000,000 of timber is bought and paid for, and my
2 contract with Skinner represents about 15,000,000 more.
3 I think the mills and the real estate and the engines and
4 cars show we have about \$300,000 or \$400,000 of assets.

5 (No cross examination).
6

7 -----o0o----

8 The further taking of depositions in this case is
9 adjourned by consent of parties until Tuesday, June 12th,
10 1906, at the same place.
11

12 -----o0o-----
13
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STENOGRAPHER'S TRANSCRIPT.

190

In the Circuit Court of Nausemond County, Virginia
Second ~~First~~ February Rules 1905.

The clerk of this court will issue
summons in the following Chancery
suit;

George L. Barton ————— Complainant.

vs

William A. Bosley, Thomas G. Skinner,
A. H. Taylor, Gay Manufacturing
Company, a corporation and Suffolk
and Carolina Railway Company,
a corporation.

To answer complainants bill
at ^{Second} ~~First~~ February Rules 1905.

Rawles
Burge
Withers

p. 9

Geo L Barton
vs
W H Bosley & others.

suffolk, va., Feb. 27, 1909.

Robert W. Withers,

to H. V. Williams, Dr:

Oct. 1908. for taking and writing out 19 pages of depositions
(with carbons) at 20 cts. per page----- \$3.80

IN THE CASE OF BARTON vs. BOSLEY.

STATE OF VIRGINIA,

CIRCUIT COURT OF HANSEMOND COUNTY, To-wit:

In vacation.

George L. Barton,.....Plaintiff.

vs.

William H. Bosley, Thomas G. Skinner,

and A. H. Taylor,.....Defendants.

The general object of this suit is to establish a partnership and to compel an accounting between plaintiff and defendants relative to the sale of certain standing timber situated upon the lands of Thomas G. Skinner and wife, containing fifteen thousand acres, more or less, and situated, lying and being in Pasquotank and Perquimans counties, in North Carolina, and being the land conveyed by deed from E. S. Lamb, etc., to Thomas G. Skinner duly recorded among the land records in Pasquotank county in Book No. 22, page 472, and among the land records in Perquimans county in Book No. 5 page 262. And it appearing by affidavit that the said defendants are non-residents of this state, it is ordered that the said defendants, William H. Bosley, Thomas G. Skinner and A. H. Taylor appear within fifteen days after due publication of this notice in the Clerk's Office of our Circuit Court and do what is necessary to protect their interests.

J. M. Burgess
R. H. Rawley
R. W. Winters
} H. G.

Teste:

A. J. Gomer D.C.

I A. J. Gomer Deputy-Clerk of the Circuit Court of Hansemond County do hereby Certify that a Copy of the above Order of publication was posted at the front door of the Court house of Hansemond County on this the 27th day of February 1906 A. J. Gomer D.C.

Geo. L. Barton
vs } Order of
Publication
W. H. Bosley & others

The Commonwealth of Virginia: To the Sheriff of the County of Nansemond, Greeting:
Whereas George L. Barton plaintiff, has instituted in our Circuit Court of the County of Nansemond, a certain suit in chancery against William H. Bosley, Thomas G. Skinner, A. H. Taylor, Gay Manfg. Co., and the Suffolk and Carolina Railway Co., defendants, which suit is now pending in our said court; and Robt. W. Withers, attorney for George L. Barton, having this day made oath before me A. P. Gomer, Deputy for R. R. Smith, Clerk of our said court, that he believes the plaintiff entitled to and ought to recover of the defendant in said action at least Ten Thousand dollars and with interest thereon to be computed after the rate of 6 per centum per annum from the day of till payment; that the said claim is just, and that to the best of the said affiant's belief, the said defendant William H. Bosley is not a resident of this State, and has estate or debts owing to him within the County of Nansemond, and is sued with a defendant residing therein.

Therefore we command that you attach the estate of the said William H. Bosley for the amount of the said claim, with interest thereon as aforesaid, and the costs, and that you secure such estate so attached in your hands, and, so provide that the same may be forthcoming and liable to further proceedings thereon to be had before our said Circuit Court of the County of Nansemond, at the March term, 1905, and that you have this writ before the said Court, on the second Monday in March, 1905, and then and there make known how you have executed the same. Witness, R. R. Smith, Clerk of our said Court, at his office, this 20 day of Jany., 1905, in the 129 year of the Commonwealth.

A. P. Gomer D.C.

The plaintiff designates The Gay Manufacturing Company and the Suffolk and Carolina Railway as being in possession of effects of or being indebted to the Defendant.

George L. Barton,
By Counsel.

A copy

Teste:

Teste:

A. P. Gomer D.C.

A. P. Gomer D.C.

The Gay Manufacturing Company and the Suffolk and Carolina Railway Co., designated as being in possession of effects of, or being indebted to the defendant Wm. H. Bosley are required to appear before our Circuit court of the County of Nansemond on the first day of the March Term, 1905, and disclose on oath in what sum they are indebted to the defendant and what effects of the defendant they have in their hands.

Teste:

A Copy Teste: A. D. Boney de

*A copy for
Thomas G. Skinner*

*not found
at Baker
Shuff*

1000 Boney de

1000 Boney de

1000 Boney de

1000 Boney de

1000 Boney de

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

William H Bosley
Thomas G Skinner A H Baylor
Gay Manufacturing Company a
Corporation and Suffolk and Carolina
Railway Company a Corporation

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 1905*, to answer
a Bill in Chancery, exhibited against *them*
in the said Court by *George L Boulton*

and have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *20th* day of
January, 190*5*, in the *129*th year of the Commonwealth.

A copy—Teste:

Teste:

A J Gomer }
CLERK.

A J Gomer }
CLERK.

Rawles }
Burgess } p. q.
Wheeler }

A copy for
Thomas G. Skinner

vs.

In Chancery.

not found
of 1905
February 1905
Thurs. Monday.

Nansemond Circuit Court

Process Book No. 21

Page 262

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

William H Bosley
Thomas G Skinner & N Taylor
Gay Manufacturing Company a
Corporation and Suffolk and
Carolina Railway Company
a Corporation

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 1905*, to answer
 a Bill in Chancery, exhibited against *them*
 in the said Court by *George L Barton*

and have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *20th* day of
January, 190*5*, in the 1*29*th year of the Commonwealth.

A copy—Teste:

Teste:

R R Smith }
 CLERK.

R R Smith }
 CLERK.

Rawles }
Burgess } p. q.
Winters }

A copy for
A H Taylor

vs.

In Chancery.

Not found
at the
1905 Sheriff

February Rules.

Sherd Monday.

Nansemond Circuit Court

Process Book No. 2

Page 262

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

William H Bosley
Thomas G Skinner A H Taylor
Gay Manufacturing Company a
Corporation and Suffolk and Carolina
Railway Company a Corporation

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 1905*, to answer

a Bill in Chancery, exhibited against *them*
 in the said Court by *George L Barton*

and have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *20th* day of
January, 190*5*, in the 1*29*-th year of the Commonwealth.

A copy—Teste:

CLERK.

Teste:

CLERK

Rawles }
Burgess } p. q.
Wickers }

George L Barton

vs.

In Chancery.

William H Bosley
and others

1905

February Rules.

Third Monday.

Nansemond Circuit Court

Process Book No. 2

Page 262

filed on Bosley

I have executed the within process by delivering a
true copy thereof to Mr. H. Bosley, in person, and to
Mr. H. Bosley, President of Buffalo and Carolina Railway Company,
and to Mr. H. Bosley, President of the Bay Manufacturing Company,
in my county of Nansemond this 20th day of January
1905. Wm. Taylor and Thomas G. Skinner not found.
Wm. Taylor
Thomas G. Skinner

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON

William H Bosley

Emma King a Notary Public in Suffolk Virginia

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the

9th day of *April 1906*

, to testify and the truth to say on behalf of

George L Barton

in a certain matter of controversy in our said Court depending and undetermined between

Said George L Barton Complainant
and *William H Bosley Thomas H Skinner*
and others

Defendant *S*

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

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *20th* day of *March*
190*6*, in the 13*0*th year of the Commonwealth.

R R Smith Clerk
CLERK.

By L. P. Gomey Deputy Clerk

Eye cuticle at two or days of march
1904 by ordering a Gun City of the
with the for ever to W. H. Bradley
in person. A. W. Baker Sheriff

Geo. L. Barton
vs} Spva

Wm H Bosley
and others

Nansemond
Circuit Court.

In the Circuit Court of the County of Nammond

George L. Barton

Plaintiff

Against

William H. Bostley

Defendant

IN Chancery

Wm. H. Bostley, attorney for Geo. L. Barton maketh oath and saith, that he believes the claim, for which the above entitled action is instituted, to be just; that he, the affiant, believes that George L. Barton entitled to and ought to recover in said action \$ 10,000 (at the least), with interest thereon, to be computed at the rate of six per centum per annum, from the — day of —, 189 —, till paid; and that to the best of his belief the said defendant :

1. Is a foreign corporation, or Is not a resident of this State, and has estate or debts owing to said defendant within the County of Nammond in which the action is, or is sued with a defendant residing therein;

2. removing or about to remove out of this State, with intent to change domicile;

3. removing, or intend to remove, or has removed

own estate, or the proceeds of the sale of property, or a material part of such estate or proceeds, out of this State, so that process of execution on a judgment, when obtained in said action, will be unavailing;

4. converting, or about to convert, or has converted property or some part thereof into money, securities, or evidences of debt, with intent to hinder, delay or defraud creditors;

5. Has assigned or disposed of, or about to assign or dispose of estate, or some part thereof, with intent to hinder, delay, or defraud creditors.

Wm. H. Bostley

Subscribed and sworn to before me this

20

day of

January

189

1905

W. H. Bostley, D.C.

Geo L Barton

vs. {

AFFIDAVIT FOR
ATTACHMENT.

Wm H Bosley & Co

Filed the *20th* day of *Janry.* 19*05*.

In the Circuit Court of Lawrence County;

George L. Borton -

Complainant

^{vs}
W. H. Bosley, and others

Defendants

On motion of the defendant, W. H. Bosley, leave is given him to file his answer to the bill in this cause -

Geo L Barton
257 Cherry
Wm Bosley &c

Entered May 11, 1905
Robert R. Hunt

Entered in Chy.
Order Book No. 3. Page 653

TO WILLIAM H. BOOLEY,

TAKE NOTICE that on the 9th day of April, 1906, at the office of R. H. Rawles, in the town of Suffolk, between the hours of nine A. M. and six P. M. of that day, I shall proceed to take the deposition~~d~~ of yourself, Thomas G. Skinner, George L. Barton and others to be read as evidence in my behalf in a certain suit in equity depending in the Circuit Court for the county of Hansemond, wherein I am plaintiff and you^{and others} are defendant, and if from any reason the taking of said depositions be not commenced, or if commenced, be not concluded on that day the taking thereof will be adjourned from day to day, at the same place, and between the same hours until the same be completed. You are further notified that should you refuse to testify I shall move the court to strike out and disregard your pleas and answers in pursuance of section 3350 of the Code of Virginia.

Respectfully,

George L. Barton,

By Counsel

Ex entered this 21 day
March 1904 by delivering
a true copy of the written
process to Wm H. Bussey
in person. A. W. Barker
Shuff

To Counsel:

I beg to hand you certified copy of conveyance to Wm. H. Bosley, Jr., from T. G. Skinner.

The consideration named and passed, \$5,217.00, was the property of the Suffolk & Carolina Railway, being one-half of a note of \$9,400.00 ^{given by Skinner to said Railway} together with twenty-two months interest amounting to \$1,034.00 or a total of \$10,434.00. By collateral agreement entered into when this note was made, Skinner's liability was limited to one-half.

In consideration of the surrender of this note, and consequent retirement of a liability of \$5,217.00 against him, Skinner conveyed to Wm. H. Bosley, Jr., a one-half interest in the land as well as an equal interest in the trade of Skinner with the syndicate.

This property, acquired by Bosley's direction, and with S. & C. funds, has never been conveyed to the S. & C. nor its successor.

All through the defendant's answer he prates incessantly about his allegiance to his two Companies and the pure and unviolated discharge ^{of the duties} of his stewardship, yet he is found in an alliance with his directors, all equally interested personally, trading with themselves officially at a large profit individually, having no concern whatever for the small stockholders who greatly outnumbered those who were admitted to this partnership for obvious reasons.

Plaintiff cannot prove by his own testimony, but firmly believes and therefore avers, that no meeting of the Board of Directors was ever held at which the proposition of purchase of this timber right was declined. But a step further, and, during the progress of the negotiations of sale from the syndicate to the Gay Company, this defendant is found using the S. & C. securities for the acquisition of property in his son's name.

July 19th, 1909,

Geo. L. Barton, Esq.,

City.

Dear Sir:-

I beg to transmit to you a letter from Col. E. E. Holland in re Barton vs. Bosley. Kindly advise me of your wishes in this matter and return Col. Holland's letter.

Very truly yours,

Enclosure.

W/D.

May 4, 1908.

E. E. Holland, Esq.,
Suffolk, Va.

Dear Colonel:-

Mr. Barton agrees to have his testimony taken at an early date, provided you will agree that Mr. Taylor is to take the cross-examination and give his own testimony prior to the July term of our court. Let me know what day next week will suit you to take Barton's deposition in chief.

Please advise me what the Seaboard Air Line and Virginian Railways intend doing about the matter of the extension of Clay Street. Is it the wish of these Railroads that the Town institute condemnation proceedings, or will they consent to granting the right of way? An early reply will greatly oblige,

Yours very truly,

RWW/W.

Hertford, N. C., Jan 14th 1906

Wm Burtin &

DL

I hope I have been able
to send you a sufficient by the
22^d - Mr. Skinner is in
little better today but I hope he
will be up by that day -

My friend it must be better
to adjourn your hearing to
the place in the Canaan

After Canaan you are
Canaan. in the S. O. C. R. in
St. Mary - take the S. O. C. R. in
and when you are away - and I
could go there and stay just
long enough to help you and when
in the way to my wife.

With your kind wishes I am

Yours
T. G. Skinner

T. S. Skinner,
Attorney-at-Law,

Canaan, N. C., June 12 1906

Dear Brother

Dear

My wife is a bad - very
sick - with Typhoid fever. She is just
suffering from me - set to suffer - I hope
- I have been at her bedside - actually
for 4 days. When I will take - 20 min
- and I will be - trouble for me
as long as Hartford. While she is sick
- I can give her my deepest love
- here - in Hartford - a full day
until it will ~~be~~ ^{be} enough for
me to be with her.

Only some very lovely - and in
my opinion in some solid love -
But they will not work at Brook
and I fear he is going to Castle
Hill.
Yours truly
T. S. Skinner

EDWARD E. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VA.

BOTH PHONES

BOOTH BUILDING

July 16, 1909

Robert W. Withers, Esq.,
Suffolk, Va.

Dear Sir:-

I am in receipt of a letter from Wm. H. Bosley in which he writes as follows: "Both Mr. Taylor and Mr. Pruden are away on their vacations. As soon as they return I will arrange to have them come to Suffolk to testify in the Barton case. If I cannot do this, it may be necessary to get the court to appoint a commissioner to go to Edenton and take Mr. Pruden's testimony."

Yours very truly,

E. E. Holland

GEO. L. BARTON
PRESIDENT

E. R. ROBERTS
SECRETARY & TREASURER

Warwick Lumber Co.

INCORPORATED

NORTH CAROLINA PINE

SUFFOLK, VA. May 25, 1910.

Robert W. Withers, Esq.,

Suffolk, Va.

Dear Sir:-----I desire to emphasize my testimony touching the formation of the timber syndicate, from the breach of the provisions of which springs my suit against Wm. H. Bosley.

When agreement had been reached, after protracted discussion, as to the details of the acquisition of timber of Mr. T. G. Skinner, Mr. W. D. Pruden was seated at the table, in the room of the Monticello Hotel which we had all the while been using, engaged in completing the draft of notes or memoranda to be used in the preparation of the necessary legal papers.

While so engaged Mr. Bosley proposed drinks which Mr. Pruden declined and continued his writing at the table.

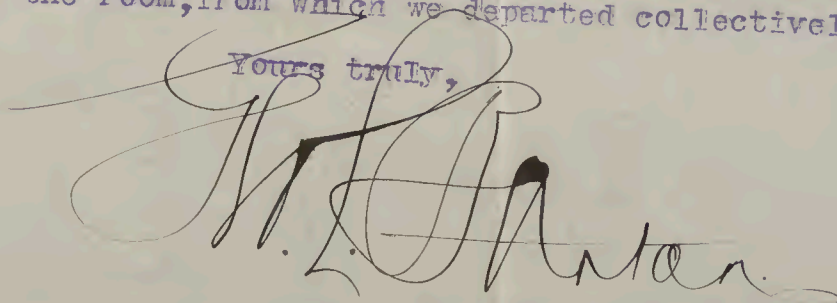
Mr. Taylor, Mr. Skinner, Mr. Bosley and myself had ~~xxx~~ one round of drinks, from the only glass in the room, poured from a quart bottle which Mr. Bosley produced from his travelling bag.

During the drink ceremony the conversation as to the composition of the syndicate took place as described in my deposition.

The brand of whiskey was either "Hunter Rye" or "High Spire," the first named I think.

Conversation on this and current topics resulted until Mr. Pruden was ready to leave the room, from which we departed collectively.

Yours truly,



To Counsel:

I beg to hand you certified copy of conveyance to Wm. H. Bosley, Jr., from T. G. Skinner.

The consideration named and passed, \$5,217.00, was the property of the Suffolk & Carolina Railway, being one-half of a note of \$9,400.00 ^{given by Skinner to said Railway} together with twenty-two months interest amounting to \$1,034.00 or a total of \$10,434.00. By collateral agreement entered into when this note was made, Skinner's liability was limited to one-half.

In consideration of the surrender of this note, and consequent retirement of a liability of \$5,217.00 against him, Skinner conveyed to Wm. H. Bosley, Jr., a one-half interest in the land as well as an equal interest in the trade of Skinner with the syndicate.

This property, acquired by Bosley's direction, and with S. & C. funds, has never been conveyed to the S. & C. nor its successor.

All through the defendant's answer he prates incessantly about his allegiance to his two Companies and the pure and unviolated discharge ^{of the duties} of his stewardship, yet he is found in an alliance with his directors, all equally interested personally, trading with themselves officially at a large profit individually, having no concern whatever for the small stockholders who greatly outnumbered those who were admitted to this partnership for obvious reasons.

Plaintiff cannot prove by his own testimony, but firmly believes and therefore avers, that no meeting of the Board of Directors was ever held at which the proposition of purchase of this timber right was declined. But a step further, and, during the progress of the negotiations of sale from the syndicate to the Gay Company, this defendant is found using the S. & C. securities for the acquisition of property in his son's name.

If the syndicate members, conspired with themselves as directors against the minority stockholders of their Company, and the defendant, as a sole conspirator, against all of them, to ^{degrade} what of mendacity and dishonesty would he stoop to deprive plaintiff of his rights?

It should be borne in mind that at this time relations between plaintiff and defendant were daily becoming more strained.

The S. & C. Road did not change ownership until early in September, 1905, yet, during all this while, title to one-half of the Skinner land vested in Wm. H. Bosley, Jr. and so far as the S. & C. or its successor is concerned, does so to this day.

Copy of conveyance alluded to
enclosed to Attorney Wickers.

July 19", 1909,

Col. E. E. Holland,
Suffolk, Va.

Dear Sir:-

I referred your letter of the 16th inst relative to the matter of Barton vs. Bosley to my client.

I am instructed to say to you, and through you to your clients, that we desire your depositions taken as speedily as possible. Unless the same are taken before the October term we will ask for judgement, or take such other necessary steps to secure a judgement as we are advised will be proper.

Very truly yours,

w/d.

In interrogatories to be propounded to Mr. W. D. Pruden, by consent of parties, to be answered under oath and to be read in evidence as a cross-examination in the suit of Bosley v. Barton et als., now pending in the circuit court of Nansemond County, Virginia.

Q. 1. Do you recall that at the meeting in the Monticello Hotel in Norfolk, referred to in your statement, at one time during that meeting, all of the gentlemen present except yourself, repaired to a stationary wash-stand in one corner of the room and mixed and drank a toddy made of whiskey Mr. Bosley took from his grip, whilst you were engaged in writing at a table in another part of the room?

Q. 2. Could you swear that you then distinctly heard and now distinctly remember all of the conversation between those gentlemen at that particular time and place, that is, while they were mixing and taking this drink?

Q. 3. If Mr. Barton positively swears that the agreement between Mr. Bosley and others stated in his deposition, occurred at that particular time and place, are you prepared, on your oath, to deny the truth of Mr. Barton's statement?

Q. 4. If the Gay Manufacturing Co. had already rejected this timber and the gentlemen present at the Norfolk meeting were officers and attorneys for that company and perfectly familiar with that fact, and these gentlemen had been assembled for the purpose of buying this timber for somebody, will you please assign some other reason than claimed by him, why Mr. Barton should have been invited to this meeting?

Q. 5. If Mr. Barton was not active for any of the corporations of which he was an officer, who was he acting for, and what was he doing at this meeting?

W. D. Pruden being duly sworn in answer to interrogatories propounded to him by the plaintiff in the case of George L. Barton against W. H. Bosley and others pending in the Court of Nansemond County, Virginia, says:

In answer to interrogatory One: I do not definitely recall the episode named; it is probable the gentlemen referred to indulged, as stated, and it is possible this affiant did not and that he continued writing at the table while they were thus engaged.

In answer to Interrogatory Two: I cannot swear that I distinctly remember all of the conversation between the gentlemen named while engaged as stated at the washstand, if they were so engaged. The room was a small one and I feel quite sure, that I heard everything that was said about the business matter, which had called us there, indeed I do not believe I could ^{have} failed to ~~have heard~~ anything spoken about it, unless spoken in an undertone and that would have attracted my attention.

In answer to the Third Interrogatory: If Mr. Barton positively swears, that the agreement between Mr. Bosley and others stated in his deposition occurred at that particular time and place, I should believe that he thinks it is true; at the same time, I should doubt the correctness of his memory about the matter and I again state that I have not the slightest recollection myself of hearing Mr. ~~Barton~~'s name or Mr. Skinner's mentioned in connection with the Syndicate, which was to buy the timber named, and I am quite sure that ~~no~~ such statement was made in my hearing.

In answer to Fourth Interrogatory: I am unable to give any reason for Mr. Barton's presence at the meeting; I assumed, although I do not now remember, that the matter was mentioned, that the Gay Company, which had mills convenient, ~~would~~ to cut the timber then purchased. I do not recall now whether I learned before going to Norfolk, or after I got there, that the Gay Company would not purchase the timber from Mr. Skinner, but that the Syndicate would purchase it at so much per thousand. I was myself requested to go to Norfolk upon that occasion, as I now

remember it, by letter or wire both from Mr. Barton and from Mr. Bosley.

In answer to Interrogatory Five: I do not know for whom Mr. Barton was acting in the meeting, nor why he was present other than I have stated above and in my previous affidavit. But as I now remember the matter, most of the talking upon that occasion was done by Mr. Skinner and by Mr. Bosley and I remember but little that was said either by Mr. Taylor or by Mr. Barton. I was present simply to prepare the paper and to advise about any legal questions which should be found important and desirable, affected by the North Carolina law.

Sworn to and subscribed before me
this 9th day of May 1910.

Sworn to at

J. H. Pruden
Notary Public
my commission expires
May 16-1912
J. H. P.

W. D. Pruden

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, Virginia.

FIRST MARCH RULES, 1905.

George L. Barton, Plaintiff,

against

W. H. Bosley, T. G. Skinner and A. H. Taylor, Defendants.

))))

I, W. D. Pruden do make the following statement under oath:

Prior to April 1902 for many years, I was attorney for the Gay Manufacturing Company under regular retainer, I had also generally represented the Suffolk & Carolina Railroad Company and W. H. Bosley in all litigation in which they were interested in North Carolina. Sometime in the winter of 1901 and 1902, I received a letter from the Gay Manufacturing Company addressed to me, or to my law firm Pruden & Pruden, which was signed by ^{Mr.} George L. Barton as General Manager or Treasurer of that Company, asking that I investigate the title to the tract of land described in the bill in this case claimed by Thomas G. Skinner, deceased, under deed from Samuel S. Lamb Administrator, etc. This work was for a while delayed and we had other letters from Mr. Barton and from Mr. W. H. Bosley upon the same subject, urging that the matter be attended to as promptly as possible. I understood that the Gay Manufacturing Company was considering the purchase of this land or the timber upon it. Sometime during the early part of 1902 and before the meeting held at the Monticello Hotel in Norfolk referred to in the said bill, I completed the investigation and gave a written opinion as to the title, signing the same myself or in the name of my firm. After this opinion was given and shortly before the meeting in Norfolk above named, I was informed by Mr. W. H. Bosley that upon consideration it was deemed best not to buy the timber for the Gay Manufacturing Company, but that he thought he would make some arrangements to purchase it of Mr. Skinner by the thousand and that he was then negotiating with Mr. Skinner, but did not state then for whom he was making the purchase. A day or two before the meeting at the Monticello Hotel at Norfolk, referred to in the bill, I was requested by wire or letter, I do not now remember which, to meet Mr. Bosley in Norfolk about the Skinner timber, at a time named by him and accordingly went to Norfolk.

This meeting was held in April at the Monticello Hotel and Mr. George L. Barton, Mr. W. H. Bosley, Sr., Mr. A. H. Taylor, Mr. T. G. Skinner and myself were present. I was told by Mr. Bosley at the meeting in the presence of all the parties that an agreement had about been reached between Mr. Skinner and Mr. Bosley for the purchase of the timber upon the lands named at a rate per thousand feet and that he wanted me to advise about the matter and especially about the preparation of the contract so as to comport with the North Carolina law. In this meeting, there was much chaffering about the details of the contract. Mr. Bosley stated that the Gay Company would not purchase the timber as had been once contemplated, but that a number of gentlemen had agreed to unite with him in the purchase and have the conveyance made to him by Mr. Skinner, if they could agree upon the terms. I did not learn the name of any person interested with Mr. Bosley, except Mr. A. H. Taylor who was present, but from what occurred and was said at this meeting I got the impression that these persons were Baltimoreans and that there were nine or ten of them, besides Mr. Bosley. During the meeting Mr. Skinner stated that he would have to have eight thousand dollars advanced to him upon the purchase, because in the purchase and examination of the property, ^{he} had been compelled to pay about that sum. Mr. Bosley hesitated about this saying, that he did not know how his associates would think about it; Mr. Skinner insisted upon it and finally Mr. Bosley yielded saying that the amount for each would be small and he thought that he could get them to agree to it. Neither Mr. Skinner or Mr. George L. Barton was mentioned at that meeting as in any way connected with or interested in the purchase of this timber in my hearing. I never heard of Mr. Barton's connection with the matter in the manner named until after or just before this bill was filed, when I was informed of the claim by Mr. W. H. Bosley.

I was present at the meeting from the beginning to its end and attentive to what passed. I was sitting at a table with writing materials, taking notes so that I might prepare the paper.

Shortly after this time I made a draft of the contract as I understood it from my notes of the meeting and sent it to Mr. W. H. Bosley in Baltimore and I think the draft which I sent was practically adopted by the

3rd page.

parties and signed by them.

T. G. Skinner lived in Hertford, N.C., about twelve miles from me until early in 1906 when he lost his mind and was removed to a hospital near Baltimore. Mr. Skinner and I had been intimate for many years and frequently met and talked during this period about this timber transaction. I never heard him at any time claim or suggest that he had any interest in it.

W. D. Pruden

Sworn to and subscribed
before me April 25th 1910

J. M. Pruden

Notary Public

my commission expires Jan. 16th 1912
J. M. P.

PRESENT:

MR. ROBERT W. WITHERS, for Mr. Barton

COL. E. H. HOLLAND, for Mr. Bosley.

GEORGE L. BARTON, being duly sworn, deposes as follows:

Examined by Mr. withers.

Q. Please state your name, age, residence and occupation and what interest you have in this suit?

A. George L. Barton, 45 years old. Residence, Suffolk. Occupation, lumber manufacturer, and I am the plaintiff in this suit.

Q. Please state your business connection with Mr. H. Bosley from January, 1902 to October, 1904?

A. I was general manager of the Suffolk & Carolina Railroad and Lumber Manufacturing Company, each of which companies Mr. Bosley was president.

Q. Was he your superior officer in these companies?

A. Yes.

Q. Did you receive instructions from him relative to the business of these corporations?

A. I did.

Q. It is a fact, I believe, that the principal stock-holders of these corporations during this period lived in Baltimore, did they not?

A. They did.

Q. Should these stock-holders or the general officers of these companies desire to transact any important business of the companies in this locality, to whom would the orders and instructions be given?

(BY MR HOLLAND: Question excepted to unless the

witness can state of his own knowledge, and for the further reason that the records of the company can best show.)

A. To the president.

Q. To whom would the president transmit these instructions?

A. To me.

Q. Please state if you received a communication from Wm. H. Bosley in January, 1902 with reference to arranging a meeting between Mr. Bosley and Mr. Skinner, looking to the possible purchase of a line of standing timber which is the subject of this controversy, giving a brief history of your acquaintance with this line of timber from the beginning?

(BY MR HOLLAND: counsel for W. H. Bosley asks for the production of any communication received, as above stated.)

A. I did. Prior to the meeting above mentioned in January, 1902, this timber had been offered to the company, to the Gay Manufacturing company, through me, as one of its officers, ~~to~~ ^{to} offer communication to Mr. Bosley, the president, who afterwards directed me to decline its acquisition because of an imperfect title.

Q. Do you recall at what price this timber was offered the Gay company at that time?

A. I do not.

Q. At the time of this offer, please state if the line of the S. & C. Railway reached this timber?

A. It did not.

Q. This timber lies on the Elizabeth city extension, does it not?

A. It does.

Q. Was the Elizabeth City extension at the time of this first offer to the day company fixed upon, or definitely settled?

A. It was not.

Q. You say Mr. Bosley communicated with you, asking you to arrange a meeting with Mr. Skinner. Did he in this communication indicate who was to acquire Mr. Skinner's timber rights, whether the S. & C. Railway, the day company, or himself individually?

(BY MR. HOLLAND: question excepted to because if there is any such communication in writing it is the best evidence and ought to be produced.)

A. I am confident no mention or indication was given in the communication as to who was intended as a purchaser, and I did not know positively until after we had convened at Norfolk on the occasion above mentioned.

(BY MR. HOLLAND: answer excepted to because the written evidence is best, and if such communication is in possession of Mr. Barton and there has been nothing to show that it is not, it is the best evidence.)

Q. In what way was this message communicated to you from Mr. Bosley?

A. I am unable to recall whether it was a telegram or a pencil written note, the last of which was many times employed as a medium of communication from Mr. Bosley to me.

Q. In either event, where is this communication now?

A. In the files of either the day company or the Suffolk and Carolina Railway. For the reason that at the time of its receipt, as above stated, it was not known to be a personal matter.

Q. At the time you delivered this paper and others connected with this transaction to the day company or the S. & C. Railway company, and after you had left their employment, please state whether or not Mr. Bosley continued as president of these companies for some time and if he continued to have access to this paper and other papers connected with this matter?

(BY MR. HOLLAND: question excepted to because it has not been definitely established whether the paper in question was of a personal character or addressed to Mr. Barton as an official of these companies. If of a personal character, it should be in Mr. Barton's possession if in the files of either of these companies, then it must be clear that Mr. Barton considered it an official paper.)

A. He did continue as president of both companies for some time after the severance of my connection therewith and must, therefore, have had access to all files and papers of these companies.

Q. Did you comply with his request, and if so state when and where you assembled this party and who composed this party?

A. I did. I think the latter part of January, 1902, in Norfolk at the Monticello Hotel, as designated by the above mentioned communication. There were present Mr. Bosley, Mr. A. H. Taylor, Mr. T. G. Skinner, Mr. W. D. Pruden and myself.

Q. Please state what occurred between you gentlemen at that time, with reference to the acquisition of this timber?

A. As a result of this interview the basis of agreement between Mr. Skinner and Mr. Bosley, as evidenced by the paper filed in this case in the testimony of Mr. Bosley, was reached.

Q. By this agreement, it appears that under certain terms, Mr. Skinner was to convey to Mr. Bosley the timber which is the

subject of this controversy. Please state if, at the time this agreement was signed, it was known by Mr. Bosley and Mr. Skinner and others that Mr. Bosley was acting in this matter as a representative for a syndicate?

A. ^{The} Until he disclosed the fact, at this time of the interview, I did not know that Mr. Bosley was acting for any one other than the two companies with which we were respectively connected. After practically agreeing upon the details as set forth in the agreement of March 19th, 1902, a copy of which is filed as 'Exhibit A' with Wm. H. Bosley's answer, Mr. Bosley remarked that this timber would be acquired by a syndicate and that those present, with the exception of Mr. Pruden, who was there in the capacity of counsel, would be a sufficient number to compose said syndicate. Mr. Bosley then appealed to Mr. Taylor first and afterwards to Mr. Skinner to know if my admission to this syndicate would be acceptable and agreeable, to each of which questions an affirmative answer was returned.

Q. Then it was thoroughly understood and agreed between Bosley, Taylor, Skinner and Barton that these four form a syndicate to acquire this timber upon the terms and conditions set forth in 'Exhibit A' filed with Bosley's answer, is that correct?

A. It is.

Q. Then the agreement of March 19th, 1902 was subsequently drawn up and executed between Skinner and Bosley, is that correct?

A. It was, Of which I received verbal advice in one of my meetings with Mr. Bosley subsequent thereto.

Q. Why was this contract of March 19th, entered into between Skinner and Bosley alone?

A. It was understood that Mr. Bosley was to make the advance

to Mr. Skinner of eight thousand dollars (\$8,000.00) as called for by said agreement, for which, pending the completion of the Elizabeth City extension, a condition on which the final determination of this agreement hinged, Mr. Skinner was to give Mr. Bosley an interest-bearing note of like amount, which it was understood was to be null and void should the extension of said railway then in contemplation be not made.

Q. Since Bosley was to make this advance, did I understand you to mean that the agreement of the subsequent conveyance was made to him to secure his \$8,000.00?

A. Partly so, and further because the agreement fell through of its own weight if the extension of the railroad proposed did not materialize.

Q. Were you advised by Mr. Bosley when the deed of the 29th of April, 1902, from Thomas G. Skinner and wife to Wm. H. Bosley was executed and delivered? (Said deed being filed as 'Exhibit B' with Wm. H. Bosley's answer.)

A. I was verbally advised by Mr. Bosley at different times that the agreement had been executed by both Mr. Skinner and himself, that the conveyance of the timber contemplated by said agreement had been executed, payment made, and the transaction closed ^{do} ~~as~~ far as it could be until after the completion of the Elizabeth City extension of the Suffolk & Carolina railway.

Q. At what time was the Elizabeth City extension completed?

A. In the latter part of April, 1904. I think the first regular train to pass over this new part of the road was on the 25th of April of that year.

Q. Between January, 1902, and April, 1904, please state if Mr. Bosley indicated in any way that he did not consider you a member of this syndicate and entitled to equal rights with the others interested?

A. we no doubt frequently mentioned the acquisition of this timber, and while the word syndicate may not have been a part of the conversations it was at no time denied that I was to be one of the participators. In fact, because of my relations with the president, and the directors as well, of the two companies I had no reason or cause to question my expectancy in the matter.

Q. Your relations at this time were perfectly friendly, were they not?

A. They were.

Q. As I understand you, after the deed of April 29th, 1902 had been executed and delivered and Mr. Bosley had paid Mr. Skinner the \$8,000.00 and received Mr. Skinner's note therefor, that nothing else was, under the agreement, to be done until after the Elizabeth City extension had been completed, is that correct?

A. That was my understanding at the time and under the terms of the agreement. I do not think the rights acquired could have been exercised and enjoyed by the grantee except upon the expressed consent of Mr. Skinner.

Q. The Elizabeth City extension being completed in April, 1904, please state what should have been done by the syndicate after that time to complete the transaction?

A. Without having seen, at that time, either the agreement of March 19th, 1902 or a copy thereof, or the conveyance of April 29th, 1902 or a copy thereof, it was my understanding that the syndicate members, when the said agreement became operative by its terms, would be called upon for their pro rata share, including interest, for the consideration which had been paid to Mr. Skinner in the first instance by Mr. Bosley.

Q. were you called upon by Mr. Bosley for your prorata share of the purchase price of this timber?

A. I was not. During the latter part of June or early in July, 1904, a conversation took place between Mr. Bosley and myself, in which the intention to convey this timber to the Gay Manufacturing Company was made known to me. During that summer and until the final conveyance to that company took place, this subject was mentioned to me a number of times, and the consideration which the Gay company could afford to stand therefor was likewise a matter of discussion.

Q. How much did Mr. Bosley say the Gay company could afford to pay for this timber at that time?

A. The figure originally discussed was, I think, \$1.87 1/2 per thousand feet, stumpage.

Q. What was the estimated quantity of timber the Gay company would buy from this tract at this price?

A. By reference to the conveyance of November 1st, 1904, 25,000,000 feet were to be cut during a period of five years from this date.

Q. Would you have responded to the call for your quota of this purchase price if it had been made by Mr. Bosley?

A. I would, and could easily have paid such sum at that time.

Q. At what time did you leave the employment of these companies?

A. On the first of January, 1905.

Q. At what time did the relation between you and Mr. Bosley become strained, and he refuse to recognize you as one of the syndicate?

A. There was no open disagreement between Mr. Bosley and myself until late in October, 1904, the 25th, I think.

Q. When did he first indicate that he did not consider you a member of the syndicate?

A. After being notified of the sale of this timber to the Gay company on November 1st, 1904, I called attention on the 4th of November by letter, to my syndicate right in the matter.

Q. Were you consulted by Mr. Bosley in disposing of this timber to the Gay company?

A. Frequently during the summer and fall of 1904 and up to the time of the disagreement above mentioned, I, as a syndicate member, would have agreed to any sale to the Gay company which the other members might have desired, provided it did not involve actual loss to me.

Q. Did he consult with you at the time he made the sale to the Gay company?

A. We had numerous conferences prior thereto, but during the two weeks preceeding November 1904, this matter was not mentioned.

Q. When this sale to the Gay company, so far as you are concerned, was a secret transaction?

A. In so far as I have described it in the foregoing answer^s-

Q. Have you a copy of the letter you wrote Bosley in November 1904, asserting your rights as a member of the syndicate?

A. I have not the copy retained, but turned it over to Mr. Withers, one of my counsel, along with some other papers.

Q. Did Mr. Bosley make any answer to this communication, if so state what it was?

A. We replied on the back of my letter, in substance, that he had no recollection of any such relationship on my part to the syndicate, but there would have been no objection to my admission if I had made it known sooner.

(BY MR. HOLLAND: answer objected to because the letter is the best evidence.)

MEMORANDUM: Mr. Withers, of counsel for complainant, states that if such letter was given him, it has become misplaced and that he will search for the same, and when found will file it with Mr. Barton's testimony as an exhibit marked "#2".

Q. Please state what this timber was reasonably worth per thousand feet, stumpage?

A. Sold in the manner in which it was disposed of to the Gay Manufacturing company, it would, at the time, in my opinion, have easily commanded the price of \$5.00 per thousand feet, stumpage.

Q. What was the estimated quantity of timber held by the syndicate?

A. A detailed estimate of this body of timber had, at that time, never been made by the Gay company or any of its agents or representatives.

Q. Do you know if it has since been estimated, and if so, what was the estimate?

A. I could not say.

CROSS EXAMINATION

By Mr. Holland:

Q. As I understand it, Mr. Barton, your first information as to the desire on the part of Mr. Skinner to sell some standing timber came to you as an officer of the Gay Manufacturing company, am I right in it?

A. You are.

Q. This information, as I further understand you, you communicated to Mr. Bosley as an officer of the Gay Manufacturing company, am I right in this?

A. You are.

Q. Later on, if I understood you correctly, at Mr. Bosley's request you assembled certain parties at the Monticello hotel in Norfolk, Virginia, am I right in this?

A. You are.

Q. Until that time, if I understand you, there was no intimation on the part of Mr. Bosley or any one else that this timber, if purchased, would be purchased for the Gay Manufacturing Company?

A. The acquisition of this timber ~~at~~ some time before had been declined by the Gay Manufacturing company because of an adverse report on the title.

Q. Will you tell us what the purpose of the meeting in Norfolk, as you understood it, was to be?

A. Looking to the acquisition of this very tract of timber, Mr. Skinner being of the opinion that during the lapse of time some of the defects of the title had been cured.

Q. Then, if I understand you, your understanding of the purpose of the meeting was that if Mr. Skinner had cured the defects in the title that the property then might be purchased by the Gay Manufacturing company, is that true?

A. I did not know positively until late in the meeting at the Monticello hotel above referred to, who, if any one, would undertake the purchase of this timber.

Q. Did you not attend that meeting as an officer of the Gay Manufacturing company and at the request of the president?

A. I attended at the request of Mr. Bosley and as an officer of the Gay Manufacturing company, if they so desired it. You will understand that many of such communications as to meetings and other matters were addressed to me, in pencil often times and signed "W.H.B."

Q. But Mr. Bosley, at that time, was president of the Gay

manufacturing company, was he not?

A. He was.

Q. As I understand you, you complied with Mr. Bosley's request and assembled the parties at the Monticello hotel, Norfolk, and that these parties consisted of Mr. Skinner, Mr. Bosley, Mr. Taylor, Mr. Pruden and yourself, am I right in this?

A. You are.

Q. What was the first thing done after that conference met?

A. A presentation of the timber on the part of Mr. Skinner to Mr. Bosley in which Mr. Skinner's idea of the value and desirability were made known and the discussion of other details incident to such matters.

Q. Were the details of an agreement for the purchase of this timber agreed on between Mess. Skinner and Bosley?

A. They were, Mr. Pruden being present to make note of such details from which he was to prepare the agreement.

Q. Were you consulted with reference to the details of this agreement at that meeting?

A. I was.

Q. Were you consulted as an officer of the Gay company with reference to the details of the agreement?

A. That it is impossible for me to say. I was there to represent the two companies, to which I bore an official relation to the exclusion of everything personal.

Q. Then until after the details of the agreement had been agreed upon between Mess. Skinner and Bosley you were not supposed to be interested in the same otherwise than as the representative of the two companies as stated?

A. I was not.

Q. What took place after the details of this agreement had been agreed on?

A. Just what I have stated in my examination in chief.

Q. You have said something in your examination in chief with reference to a syndicate agreement, please state fully and definitely the terms of this so called syndicate agreement?

A. It was simply as set forth in the agreement between Mr. Skinner and Mr. Bosley of March 19th, 1902, filed herewith. It was further understood, as I have before stated, that Mr. Bosley was to make the payment pending the act on which the agreement was made complete, after which the syndicate members were to reimburse him and to succeed to their rights as originally intended.

Q. Then, if I understand you correctly, the only syndicate agreement is the one agreed upon between Mess. Bosley and Skinner, am I right in this?

A. If you refer to the agreement between Bosley and Skinner as entered into at the Monticello hotel at the meeting above referred to.

Q. Was there any written agreement between the members of the alleged syndicate?

A. There was none, so far as I have been advised.

Q. Mr. Bosley in his agreement with Mr. Skinner had already agreed to pay the purchase price of the standing timber upon certain conditions. Was there any understanding that any other or further consideration should be paid therefor by the alleged syndicate?

A. The payment of the consideration in excess of \$8,000.00 was provided for in the agreement of March 19th, 1902, or the conveyance of April 29th, 1902, or in both.

Q. What consideration, if any, was to be paid by the individual members of the alleged syndicate in order to become a member thereof?

A. No payment on the part of the individual members of the syndicate proposed at the Monticello hotel was at that time discussed.

Q. When if ever, was such payments discussed?

A. After the agreement had been executed, probably after the conveyance had been signed and delivered and the consideration passed.

Q. What was that consideration?

A. \$8,000.00.

Q. But this amount Mr. Bosley in his agreement with Mr. Skinner had agreed to pay, had he not?

A. He had and after the execution of the papers told me the payment had been made.

Q. Then, if I understand you, no consideration other than the consideration named in the timber deal from Skinner to Bosley was agreed upon by the alleged syndicate members in order to become a member?

A. No consideration other than that of close business relationship and association, all of which at that time existed between the four mentioned, with the exception of Mr. Skinner, who, it was thought, would be of service to the railroad co., in matters connected with its extension to Elizabeth City.

Q. Who were to be the members of this alleged syndicate?

A. Mr. Bosley, Mr. Taylor, Mr. Skinner and myself, as I have previously stated.

Q. What was to be the respective interest of each of the parties therein?

A. Equal parts, in absence of an agreement to the contrary.

Q. Was anything said at that meeting with reference to the respective interests that each party in the alleged syndicate should have?

A. There was not.

Q. Then there was not then, and has not since been any agreement as to the respective interests of each of the alleged parties in this so called syndicate?

A. There has been no agreement so far as has been made known to me expressed or implied, except that as understood at the meeting above referred to at the Monticello hotel.

Q. What was the agreement at the Monticello Hotel as to the respective interests of the parties in this so called syndicate?

A. In the absence of any specific understanding to the contrary, I always thought that each should share equally, bearing equal burdens and responsibilities.

Q. Was there any agreement entered into at the Monticello hotel that each of the members of this so called syndicate should bear the burdens and responsibilities equally?

A. You can well understand that people bearing the relations to each other that we bore at that time, would not exact everything in writing with the same scrutiny and care that they would had they been dealing with out-siders. The matters, so far as my opinion and understanding will sustain me, were as thoroughly understood as if they had been reduced to writing.

Q. Mr. Bosley, as I understand you, was to advance the sum of \$3,000.00. In the event there should have been a loss by reason of this advance, was Mr. Bosley to bear it entirely or was it agreed that the members of the so called syndicate should pay any part thereof?

A. With the information at hand, Mr. Bosley, Mr. Pruden and myself thought there would be no risk in advancing Mr. Skinner the sum of \$8,000.00, in the manner provided for in said agreement. I am not sure that Mr. Taylor knew as much about the financial condition of Mr. Skinner as the others

mentioned. Had we been mistaken in our opinion and a loss sustained by reason of the advance of this \$8,000.00 aside from the legal phase of the question, I should have been perfectly willing to have stood my portion of the loss, which I considered a moral obligation. The expression of this view is merely in keeping with my sincere belief, with the thoroughness of the understanding between the four members of the syndicate.

Q. Then if I understand you, the only liability you assumed in order to become a member of this so called syndicate was a moral liability?

A. By no means. The idea intended to be conveyed by my preceding answer was that the loss, if any, occasioned by such advance would be regarded by me not only as a legal obligation but as a moral one as well.

Q. What liability did you assume?

A. I assumed the same liability as any other syndicate member with the exception of Mr. Bosley who was committed to Mr. Skinner in writing.

Q. I understood you to say that after the agreement had been agreed upon between Mess. Bosley and Skinner that Mr. Bosley remarked that this timber would be acquired by a syndicate, did he state upon what terms?

A. We did not, but remarked that four of us were a sufficient number to constitute such syndicate, and appealed, as I said before, to Mr. Skinner and Mr. Taylor to know if my membership would be agreeable, each of whom returned an affirmative answer, upon which I then gave my acceptance.

Q. What was your acceptance?

A. That I would be glad to join.

Q. Upon what terms?

A. Upon the same terms that the others entered.

Q. Then, if I understand you, Mr. Barton, Mr. Bosley remarked that this timber would be acquired by a syndicate and made an offer to you, Mr. Taylor and Mr. Skinner to become interested with him as members of some syndicate, is that right?

A. It is.

Q. And that, as I understand you, constitutes the only agreement or understanding at that time with reference to the formation of a syndicate for the purchase of this timber, am I right?

A. You are.

Q. Then, if I understand you, the matters of detail with reference to the formation of the syndicate and the terms upon which it should be formed were to be matters for subsequent consideration, am I right?

A. You are not.

Q. In what respect am I not right?

A. All of the details incident to the acquisition of this timber ~~were~~, the manner in which the consideration was to be paid, ~~which was~~ ^{were} agreed upon at the Monticello Hotel. The only point not covered at that meeting was when the syndicate members should refund with interest their pro rata share of the cash consideration contemplated. I then understood that none of the members would be called upon for such share until the agreement became operative, after the completion of the Elizabeth City extension of the Suffolk and Carolina Railway.

Q. Then, if I understand you, the so called agreement for the formation of a syndicate was merely a tentative one and was not to become effective at that time, am I right?

A. I do not think that my testimony could be so construed; if such is a proper construction, I have no objection to its being so regarded.

Q. Is it not true, Mr. Barton, that there was, at that meeting no completed agreement with reference to the formation of a syndicate?

A. There was a completed arrangement so far as I have described it in the foregoing answers.

Q. At what time, according to your understanding, would the completed agreement for the formation of a syndicate become effective?

A. The agreement, as entered into, could not become operative until after the completion of the Elizabeth City extension of the Suffolk and Carolina railroad.

Q. When was the deed made by Mr. Bosley to the members of the present syndicate?

A. I can't say.

Q. When did you first know that Mr. Bosley had conveyed this timber to a syndicate?

A. I did not know that this timber had been conveyed to a syndicate until about the first time it was conveyed to the Ray Manufacturing Company by a syndicate.

Q. Was there any meeting of the members of the so called Monticello syndicate between the meeting at the Monticello Hotel and November 1st, 1904?

A. No specific meeting of only these four, yet the four individual members were together on numerous occasions.

Q. Was there any other or further understanding with reference to the formation of the Monticello syndicate, except that had at the meeting at the Monticello Hotel?

A. Not so far as I know.

Q. Then, if I understand you, during a period of about two years, there was no further discussion or understanding of the matter by the members of this alleged syndicate other than

that had at the Monticello hotel?

A. There were many conversations and discussions relative to the acquisition of this timber, but nothing tending to change or modify anything which had been done at the Monticello meeting.

COPY

" Baltimore, Md. Apr.24th,1902.

RECEIVED of A.H.Taylor, the sum of One Thousand Dollars, being on account of his interest in the DISMAL SWAMP TIMBER SYNDICATE, for standing timber purchased from Thomas G. Skinner and others.

WmH. Bosley.

EXHIBIT A.H.T. No.1

STATE OF MARYLAND,
to wit:-
BALTIMORE CITY,

I hereby certify that before me, a Notary Public of the State of Maryland, in and for the City aforesaid personally appeared Archibald H. Taylor, and being by me duly sworn according to law, made affidavit and stated as follows:

I understand that a statement is desired from me as to my knowledge and recollections of the issues involved in this case, and that the same is to be subject to cross-examination, but I want to say, that I understand that cross-examination, if desired, is to be conducted here in Baltimore, and I am very willing to answer all questions here at any time convenient to the counsel, or to answer written interrogatories in the nature of cross-examination, in the same informal way in which I am making this statement, if counsel shall determine to send them to me, but that I cannot engage to come to Suffolk, at any definite time in the near future, for cross-examination, because of the pressure of my own business upon me here.

I also think it is due to the Court and the parties to these proceedings and to myself, to say, that my answer filed in this case was made at a time nearer to the transaction which is the subject of investigation here, and that I would prefer to adopt it as the best general statement that I can make on the subject. I have just re-read that answer, and there is nothing in it that I desire to correct, as I am at present informed. Further than that, I do not know ~~that~~ there is occasion for me to speak. But in order to see whether there was anything suggested by the testimony already given, I have read the testimony in chief of Mr Geo. L. Barton, the complainant from page 1 to 18, which is all that is contained in my typewritten copy of his testimony. There may have been more, as there is no formal closing to this. I have also read the testimony of Mr William H. Bosley, taken May 19, 1906, from page 1 to 39, which is all of his testimony that I have before me; and I have read the statement made by Mr Pruden ^{That} I understood was filed, or to be filed in this case, under the same conditions that my own statement is to be used.

Referring to Mr Barton's testimony, particularly on page 3 and page 5 of his testimony, I ^{state} will ~~my~~ recollection is the same as Mr Barton's to the effect, that up to the time of the meeting with Mr Skinner at the

Monticello Hotel, I did not understand that this timber was to be acquired for a syndicate, and as the Court will see from ~~that~~ ^{the} ~~statement~~ ^{hereafter}, I did not understand it, then, at that meeting. I had accompanied Mr Bosley from Baltimore, as general counsel of the Gay Manufacturing Company and the Suffolk & Carolina Railway Company, to confer with Mr Skinner on the subject of this timber, which had been offered by Mr Skinner, as I understood, to the Gay Manufacturing Company, and as to which, there had been previous interviews between Mr Bosley and Mr Skinner, and also some correspondence with or through Mr Barton the General Manager of the Company. I understood Mr Pruden would meet us in the same capacity as myself, viz: as counsel representing these two companies, and Mr Barton, another officer of the Company, and that we officers and counsel of these two companies would possibly be needed to draw up a contract, with Mr Skinner, which was ^{to be} for the benefit of the Gay Manufacturing Company. I mean, that my recollection differs from Mr Bosley in this particular, that whereas his testimony, particularly on pages 23 and 24 of his examination, is to the effect, that prior to that meeting at Norfolk, it had been decided that the Gay Manufacturing Company would not purchase this timber, but if the result of the conference with Mr Skinner as to terms should turn out satisfactorily, it might be purchased by a Syndicate of people, more or less interested in the Gay Manufacturing Company and the Suffolk and Carolina Railway, that I did not understand, prior to that meeting, that it ^{had} been definitely decided, that the Gay Manufacturing Company would not purchase the timber, but that I understood at the time of that meeting, that the contract when made was to be primarily for the benefit of the Gay Manufacturing Company, and that it was only in the event of the Gay Manufacturing Company deciding not to purchase the timber, that a resort was to be had to individual subscribers, to subscribe the necessary money to take it, but even ⁱⁿ this latter event, the railroad would have the benefit of the freights, and the Gay Manufacturing Company the privilege of cutting and manufacturing it, on terms mutually profitable to themselves and the subscribers. Mr Bosley's statement comes nearer to my recollection on page 37, when he says in answer to the question "Who authorized you as President to decline the purchase for the Gay Company" "I did not formally decline it with Mr Skinner. I talked with my Board of Directors and talked with my people and we came to the conclusion, that we

were not in position to buy the timber and we then formed the syndicate".

My recollection is distinct, that the formation of the syndicate was subsequent to the meeting with Mr Skinner, when the contract of March 19th was sketched by Mr Pruden, amended by myself and drawn up to be signed, and that after we returned (i.e. Mr Bosley and myself) from the meeting at the Monticello Hotel in Norfolk, the question was put up to the Gay Manufacturing Company, fully and with great detail, just as Mr Bosley describes the method on page 38, "just a discussion of the Board of Directors and the stockholders, as we met day after day and talked over these matters," and that it was only after a number of talks and conferences, that the unanimous decision of all parties interested in the Gay Manufacturing Company ^{was reached.} that it was out of the power of the Company to pay the cash required to purchase this timber, and inadvisable for it to borrow money to ^{be} paid back at any definite time. It must ^{be} remembered, as Mr Barton says, that the Suffolk and Carolina road was not then constructed, nobody knew how long ^{a time for} its construction would be required, or if it could be certainly constructed, and the timber company, if it borrowed money, might be called on to pay it at a very inconvenient moment, and suffer, as it had done before, from sudden exigencies. Consequently, it was determined, that any of us who had the money to advance, were free to purchase it on our own account, and that ultimately both the railroad and the timber company would get a certain advantage ^{out} of it, because friends would control the cutting and transportation of it, and throw these items to the two companies. But when I come to Mr Barton's statement on page 5 of his testimony, that "Mr Bosley remarked, at the meeting at the Monticello Hotel, that this timber would be acquired by a syndicate, and that those present with the exception of Mr Pruden, who was there in the capacity of counsel, would be sufficient to compose such syndicate, Mr Bosley then appealed to Mr Taylor first and afterwards to Mr Skinner, to know if my admission to this syndicate would be acceptable and agreeable to each of which answers an affirmative answer was returned", I am bound to say I have no such recollection, nor to any such effect. And further when ^{and am sure, he Mr Barton is mistaken} I read from the same page, the question "Then it was thoroughly understood and agreed between Bosley, Taylor, Skinner and Barton that this four form a syndi-

cate to acquire this timber upon the terms and conditions set forth in Exhibit "A", filed with Bosley's answer, is that correct", and Mr Barton's answer to the question " It is" , I am bound to say, that no such understanding or agreement was reached there in my presence or to which I became a party.

Certainly I can say for myself, that I did not understand, that I had any right to become a party to a syndicate, until some time later, after various discussions and meetings as described by Mr Bosley, of the people interested in the railroad company and the timber company, after our return to Baltimore, and that I did not consider, that I obtained any interest in such syndicate, until I subscribed and paid my money, as shown by the original receipt that I possess, which is of course subject to the inspection of the Court for comparison with this copy, which I file as an Exhibit "A.H.T.No.1" and which is dated April 24th, 1902. This was the only evidence I ever had, or that any body ever had, of a right in this timber or participation in any syndicate, until some years later, when a formal deed was executed between Mr Bosley , whom we constituted our trustee and agent, by virtue of these payments, with the Gay Manufacturing Company, in which deed , filed as an exhibit in these proceedings, I think, our respective interests were set out and put on record among the Land Records of Perquimans and Pasquotank Counties. So far from \$8000 being all the money needed for this syndicate, I recollect, that there were eleven subscriptions of \$1000 each, and the payment of \$8000 to Mr Skinner which had been advanced by Mr Bosley before the syndicate was completely formed, was only one item of expense. The timber was examined and inspected and had to be further examined, inspected and protected, and taxes paid on it, for years, as we well knew, before any use could be made of it. There was the expenses of counsel with regard to drawing all the deeds and conveying the title , and I myself at some time prior to the deal ^{or lease} which was made ^{later} with the Gay Manufacturing Company received a fee of \$250 which was charged to syndicate expenses , for drawing various papers connected with the syndicate purposes and assisting Mr Pruden in passing upon the titles and other services. I might as well say that Mr Barton^{'s} participation in the syndicate ^{if it ever had been proposed} would have been perfectly agreeable to all the members and that we would have been glad especially to have had him contribute his

share of the subscription money, for I do not think that it was considered a privilege to put up this money, but that it was subscribed largely out of sentiment on the part of individual members of the two companies, because it was thought, that it must result in a certain benefit to those companies.

At the meeting at Norfolk I never heard or understood anything about Mr Skinner. becoming a member ~~xxxxxxx~~ of this syndicate, or expressing any wish to become such, and I do know, that he was not among the eleven who did form the syndicate, and subscribe to it, and no claim was ever made by him or any one on his behalf that he was an member of the syndicate, or had any other interest in the property than that he retained after his sale to Mr Bosley, who was adopted as the representative of the syndicate . It is , however, within my knowledge, that Mr Skinner after the sale of this timber which he then owned, proposed to Mr Bosley and myself and possibly to Mr Barton, though of that I have no certain knowledge, to allow him to purchase timber for us on joint account, and that he did make a few purchases of timber on joint account with ^{Mr Bosley and myself} ~~xx,~~ with whom Mr D.H. Gordon was also joined and subscribed ~~a~~ share towards to the purchases, which purchases Mr Skinner resold for our joint benefit, before his death and before his mental trouble came upon him, as far as I know.

The foregoing circumstances together with my answer filed in this case constitute my best recollections of the circumstances which apply to issues raised in this case.

It may perhaps also be proper for me to state, that Mr Barton was in such constant association and correspondence with Mr Bosley , myself and all others interested in the management of the Gay Manufacturing Company and everything related to it, and to the railroad company, that I do not see, how he could have failed to have known all about the formation of this syndicate and the subscription of the money to it and the disposition of the timber owned by it and afterwards disposed of, just as each event took place, and I never heard of his application to join the syndicate or any complaint, that he was excluded, until just prior to the filing of the bill in this case.

Signed Archibald H. Taylor

Subscribed and sworn to before me this 28th day of April, 1910.

My commission expires May 2/10

Edward L. Pash Notary Public