

1882 - 01

Southampton County Chancery

Albemarle Steam Navigation Co vs. Holley, A. et al

"Injunction"

Holley, A.
Wool, Jacob owner
of Steamer "Lipsy"
+

Jester, Charles W.
Master + Captain of
said Steamer

Albemarle Steam No 6.

v } Papers

Holly &c

In the Circuit Court of South-
ampton County:-
"The Albemarle Steam Navi-
-gation Company"- Plaintiff

against-
A. Holly & Jacob. Wool
owners of Steamer "Gipsy"
and Charles W. Tester, the
Master & Captain of said
Steamer- Defendants

In Chancery
By the Hon George Blane, the judge
of said Court:-

Humblly complain-
ing, your orator "the Albemarle
Steam Navigation Company" the
Plaintiff above named - pre-
sents the following case:-

1. The said "The Albemarle Steam
Navigation Company" is a
corporation duly established
as such by the Laws of the
State of North Carolina:-
2. The said Company is the owner
of certain Steamboats which
ply regularly upon the waters
of the Blackwater, Chowan & Roa-
noke rivers and Albemarle Sound

from the town of Franklin in the County of Southampton in the State of Virginia, to the town of Plymouth in the State of North Carolina - touching at various intermediate points

3. That prior to the 26th day of September A.D. 1868, the said "The Albemarle Steam Navigation Company" was in the occupation use and possession of a certain wharf and landing upon the lands of one Richard Barrett (now deceased) bordering upon the Blackwater River, and running from the lands then owned by A. W. Appleck, on the western bank of said river, thence running westerly along the bank of the river to a marsh or swamp - which wharf and landing the said Company held and used under a lease agreement with said Richard Barrett:

4. That after the death of the said Richard Barrett, prior to the 26th day of September A.D. 1868, his widow Mary R. Barrett, in her own right

and as executrix of said Richard
Barnett as she had the legal
right to do, entered into a certain
indenture of lease - a duly authen-
ticated copy of which is filed as
a part of this Bill marked
"Exhibit A" - whereby, in considera-
tion of the sum of one hun-
dred Dollars per annum -
she leased to the said Company
for the period of twenty years
commencing from the 1-day
of January, 1869, renewable
for other twenty years at the
pleasure of said Company
"the wharf and landing on
the Black Water river in the
County of Southampton near
Franklin Depot (then) now
occupied by said Company -
and which wharf and landing
was embraced within the
boundaries above named:

5. That since that time the said
Company has been in the quiet
and undisturbed possession of
all of said property - paying regu-
larly thereon the stipulated

annual rental, as provided in the said lease:

6. That on the second day of August proximo, the said defendants & the owners and managers of a certain steamer called the "Kipsy" under a pretended contract with the said Mary R. Barrett - which gave them the right to land upon her property, to the detriment of that leased as aforesaid to this Company - and disputing the true northern boundary of the property leased to the said Company - unlawfully and forcibly moved their said steamer ^{wharf and landing} to the lands now occupied by said Company - and they claim the right to continue to land and move their said steamer upon the wharf and landing of the said Company against its most solemn protest - And your orator avers that if the said defendants shall persist in forcing their landings upon the wharf and landing aforesaid

that it will entail great and
incalculable damage to said Com-
pany, that it will greatly in-
convene the said Company
in their business and in the
proper navigation of their own
steamers - and will result in
endangering the lives of passen-
gers upon their steamers by rea-
son of unavoidable collision =
That such conduct on the part
of the said defendants is a vexa-
tious and malicious trespass
and a most flagrant violation
of the legal rights of your orator =

Your orator therefore
desires that your Honor would
award a writ of injunction
to inhibit and restrain the
said defendants - the said
Dr. Healy and Jacob W. W. the
owners of said Steamer "Cape"
and the said Charles W. Foster the
master & captain thereof - or
any agent or employee of
them from landing or moving
the said Steamer, or any other
steamer or vessel owned by

them to the wharf or landing
aforesaid, embraced within the
boundaries aforesaid -

In tender consideration
to the end therefore and inas-
much as your nation has
no sufficient adequate and
suitable remedy at law -
it prays that the said A. Hall
& Jacob Wool and the said
Charles W. Deter may be
made parties defendant to
this suit, and under their
respective several oaths, full
true and perfect answer
make to this Bill - that your
honor would award, a writ
& injunction to restrain the
said A. Hall & Jacob Wool
the owners of said Steamer "Gipsy"
and the said Charles W. Deter
the master and captain &
said Steamer ^{and their agents or employees} from landing
or attempting to land their said
Steamer, or any other steamer
or vessel at the wharf and landing
now used and occupied ^{by your nation} by the
said the Alhambra Steamer

Navigation Company, and
embraced within the 'bounda-
ries above mentioned - to wit
the land formerly owned by
A. W. Inflek on the South and
the marsh or swamp on the
North - for from interfering in
any manner whatsoever
with your water in the peace-
ful and uninterrupted use
possession and enjoyment of
the said wharf and landing.

And your water ways
for all such other general
and further relief in the prem-
ises which the circumstances
of this case requires & equity
can give may a summons
issue & — J. H. Bogart
Supt. Alb. S. Nav. Co.

County of Southampton
State of Virginia, to wit
I, A. M. Mendenhall the
Mayor of the Town of
Franklin do officiate
Judge of the Peace of
said County, do certify
that John H. Bogart

whose name is signed
above formally appeared
before me and made
oath that the matters
stated are true
to the best of his knowl-
edge & belief - Given
under my hand this
3^d day of August 1880:
A. M. Brownley Mayor

Albionville Steam

Navigation Co

23

Holly & others

Bill &

Sullivan & Co

of Gauley

W. H.

1880 Aug 4th bill filed

bond to give satisfaction

In the Circuit Court of
Southampton County.

The "Albemarle Steam
Navigation Company" - Plffs
against

A. Hally & Co. & Co. & Co. & Co.
owners of the Steamer
"Ciprey", and also John
the master and Captain
of said Steamer. - Defts.

In Chancery
Do Now Recd. Below, Judge of Court
Our complainant, the
plaintiff above named, respectfully presents the following
case.

1. Therefore, to wit, on the day of
1880 it instituted suit
in this Court against the
defendants above named, &
at the Rules filed its
original Bill, which for the
purpose of here setting forth all
the matters contained therein
it prays may be considered
back and parcel of this Amen-
ded and Supplemental Bill
and of the same were here
fully set forth and repeated:

answers have been filed and no
as yet no proceedings have been
had under the said Bill, save
an order of injunction which
was granted according to the
prayer of the Bill, as well as
near of record.

2. By way of amendment and
a supplemental Bill and
original Bill, the plaintiff
sets forth the following:

(a). Your complainant was
constituted a body politic and
corporate, by an Act of the General
Assembly of North Carolina
passed on the 6th day of February
1866. And a copy of the said
Act, constituting it, charter has
been filed with the deposition

which has
been taken by the plaintiff
it is prayed that the same be
also as a part of this Amend-
ed and Supplemental Bill.

(b.) Prior to the 21st day of April
A. D. 1858, there were two steam-
boats owned by Thos. S. Warren
& L. Skinner abrain Riddick
Augustus Kelly and Robert Dick

son, named respectively "The
Builder" and "The Stag", which
plied regularly up and down
the Blackwater River - hav-
ing their landing on the East
Bank of said river near the
village of Franklin.

(c) Various citizens, among them
Richard Barrett and William
Mumpee were owners of real
estate in the village of Frank-
lin on the West Side of
said Blackwater river and
near thereof. The said Richard
Barrett owned all the land
forming the west bank of
said river from the mouth where
the track of the Seaboard and
Roanoke Rail Road branch
crossed said river. The land
of said William Mumpee, a
distance of a quarter of a
mile or more - but all of this
river bank was swampy &
marshy except a small tract
adjoining Mumpee's line, and
not more than one hundred
& thirty (or fifty) feet in extent.

The said William Mumpe owned the land on the west bank of said River from the line of said Richard Barrett to a point considerably distant down the river.

(d). The said Barrett & Mumpe and others who owned property and were doing business in the village of Franklin, and particularly Barrett who kept a Hotel there, used every effort and inducement to prevail upon the owners of the aforesaid steam boats to change the landing place of said boat from the Eastern to the Western, (or Franklin) side of said River. And on the 20th day of April 1858 the said Richard Barrett and Mary R. his wife executed their certain deed, a copy of which marked "X X" has been filed with the deposition of Wm. E. Rawls taken in this suit, and which your complainant prays may be taken as part of this amended & Supple-

mental Bill: It will be seen
 by reference to the said deed that
 the said Richard Barnett and Mary
 R. his wife "in consideration of the
 sum of five dollars" & "for divers
 other good and lawful consid-
 erations" that they granted to the
 above named Thos. A. Mearns
 Robt. Dickson and others above
 named "the right and privilege
 of a landing or easement for the
 landing of the Steamer Carlene
 & Shag and any and all steam-
 ers that may be run by said
 parties of the second rank on
 their assigns on the Black Water
 River at the old landing place
 of Franklin Wharf on said river
 together with the exclusive and
 full right to control and pre-
 vent the landing of any other
 Steamer or vessel whose landing
 may in their opinion conflict
 with the interest as navigators
 and common carriers on Black-
 water River at or on the landing
 wharves and river banks of said
 river now in possession of the
 said parties of the first rank

" from the line of the Seaboard and
" Roanoke Road Road to the land
" of William. Mumple" x x x x x x
" "and also the use and privilege
" of as much land not exceeding in
" extent three fourths of an acre on
" N. E. side of South Quay Road as
" abutts and adjacent to the old
" landing place for Granberry
" Upon aforesaid was elected as
" the parties of the second part
" or their ^{assigns} as their business as
" navigators and common car-
" riers on Black Water River
" may require at their landing
" place, with ⁺ several necessary
" But under and upon the express
" condition that the parties of the
" second part or their assigns
" own their Steamers or Steamers
" aforesaid or some other Steam-
" er to the aforesaid old landing
" otherwise then the rights, con-
" vents, rights and privileges hereby
" granted shall cease and forever
" determine and the same remain
" to the parties of the first part, their
" heirs and assigns" & other provi-

runs are made in relation to
a rail road track not neces-
sary. The line is in the
(e) The said Steamers were regularly
run upon the Black Water River to
said landing until the breaking
out of the late war, when they were
taken possession of by the Confederate
States forces, & the "Carleu" converted
into a gun boat and the "Stag"
run in the river near the said
landing so as to obstruct the
navigation of the river at that
point. So soon as the war termi-
nated Robert Dickson one of the
parties above mentioned took
possession of the said gun boat
& vessel, and purchased a
new steamer called the "Illa"
the steamers "Carleu" and "Stag"
having both been destroyed,
and took possession of the landing
aforesaid, and began to run regu-
larly on the Black Water river
upon the route formerly run by
the steamers "Carleu" & "Stag".

In a short while he associated
Edward Croft with him as an
owner of said steamer "Illa"

and these two, "with such persons as they may hereafter associate with them their successors and assigns", became incorporated, as before mentioned as "the alternate steam navigation company", the plaintiff in this suit.

(F). The said Corporation whose affairs were managed by the said Robert Dickson, who had also the management of the affairs of the old steamers "Caledon" and "Shag" continued to occupy and possess the landing on the west side of the river, just as had been done by the owners of said old steamers before the war, and by Robert Dickson with the steamer "Tella" after the war, and so making his continued during the life time and until the death of the said Richard Bailett which occurred in the year 1868; the said Richard Bailett never claiming from the said company in his life time any com-

justification whatever =

(g) after the death of said Richd
Barnett, his widow, Mary R. Bar-
nett executed the deed mentioned
in the 4th clause of the original
will whereby she, in her own
right and as the executrix of
said Richard Barnett deed, bequeathed
to your complainant, "the
wharf and landing on the Black
water River in the County of South
ampton (then) occupied by
said company" = Your com-
plainant charges that as the
successors of the original parties
above named - to wit Thos. B.
Warren & the others named, that
it was in the use occupation
and possession of all the rights
and privileges which were
granted to them, ^{the said Warren & others} in the deed
of record mentioned, dated April 21-
1858 from said Richd Barnett
to wit ~~to said Warren & others~~
and, your complainant in
accepting the deed aforesaid
from said Mary R. Barnett
executrix he never intended &
did not intend to waive

Landings, shores and

any of the rights ~~of~~ ^{of} ~~the~~ ^{the} ~~which~~ ^{which} it then enjoyed or was
entitled to, and by virtue of the
said former, according to the
true intent and meaning thereof
this complainant became entitled
to the possession and use of the
bank of said Blackwater River
then in its actual use and posses-
sion, and with the exclusive right
"to control and prevent the landing
of any other steamer or vessel"
whose landing might be in
anyway conflict with its in-
terest as navigators and com-
mon carriers ~~on~~ on Blackwa-
ter river, "on or on the landings
shores and river banks of said
river." - "From the line of the sea-
board & Roanoke Rail Road to the
land (formerly) of New Market"
(b) at the time of the institution of
this suit ~~it~~ ^{was} the filing of the
original bill, the Superintendent
of said the Albemarle Steam
Navigation Company was not
aware of the existence of the
said West from Richard B. B. B.

and wife to wear nothers, and
just became aware of it from
witnesses whose depositions were
being taken & he read as evidence
in this suit.

(i) Since the institution of this suit
and filing of the original Bill
your complainant has insti-
tuted upon the Law side of
this Court its action of Trespass
to establish its rights in the Premises
and to recover of the defendants
damages for the trespass committed
& in the original bill, on Augst
1880.

(j) The defendants A. Holly and
Jacob Cook are now residents
of the State of Virginia and have
as your complainant is informed
residence and therefore charge
no injury within the State
out of which any damages or which
they might recover at Law
can be recovered by due process
of Law in this State.

Your ~~own~~ complainant
desires that the defendants may
be enjoined and inhibited from
standing or moving their land

Steamer or any other steamer
or vessel owned by them with
wharf or landings, shores and
river banks on the west side
of Black Water River from the
Seaboard & Roanoke Rail Road
to the line of the land formerly
owned by Wm. Simpson

In consideration
whereby and inasmuch as your
complaintant is entitled to a
complete adequate full and
complete relief by the intervention
of a court of equity, to the end
therefore to give complaintant
prayer that the defendants above
named may be made sub-
jects defendants and required
to answer the several matters
set forth in this amended
and supplemental bill,
that the injunction heretofore
granted in this suit may be
continued in full force and effect
until the court shall order
otherwise and that the court
may have all such full
and general relief in the premises
such as the nature of its case
may require: May it please

that an injunction may be awarded without charge
from complaintant's costs and fees and that the court
may have all such full and general relief in the premises
such as the nature of its case may require: May it please
the court to grant the premises and to award costs and fees
to the plaintiff and to the defendant.

The Atlantic Steam
Navigation Co

53

Dally & Co

Amended and
Supplemental
Bill -

1/2 of
Daniel
W. G.

1880 October 1st filed & dated
Dated -

The Albemarle Steam Navigation
Company - Plaintiff

against
A. Kelly, Jacob Wood
and Chas. W. Dexter - Defts

In Chancery
Upon motion of the Plaintiff
and for good cause shewn
a writ of injunction is awarded
according to the prayer of the
Plaintiffs bill to inhibit and
enjoin the defendants - their
agents or employees from lan-
ding or attempting to land their
steamer called the "Sessey" or
any other steamer or vessel,
at the wharf and landing now
in the use and possession of
the Plaintiff on the Black Water
river in the County of Southampton
Ire, and which wharf and
landing is bounded on the
South by the land formerly
owned by A. W. Imblett and
on the North by a marsh
or swamp - or from in any
manner interfering with
the Plaintiff in the use or occu-

ration of said wharf and lan-
ding: But before this order
shall be effectual, the said
plaintiff, or some one for it
shall, before the clerk of this
Court enter into bond with
security - to be approved by the
said clerk in the penalty of
one thousand dollars payable
to the Commonwealth of Virginia
and conditioned according to
law -

August 4th 1880

D. H. Brown

Judge C. C. Ch;
City of Norfolk

To the clerk of the
Branch Court of
Smithampton Co.

Albemarle Shm

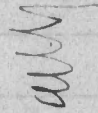
Navigation Co

as

Moally & others

Injunction order

8813
The Albion and Steam Navigation
Co.

W. 
R. Holly, and Jacob Wool
owners of the Steamer Gypsy
and Charles W. Foster Master and
Captain of said Steamer.

The undersigned Jacob
Wool who is alleged in the plain-
tiff's bill to be one of the owners
of the said Steamer, deems that
he is such owner, or part owner of
said Steamer, and hereby disclaiming
all interest in said Steamer, and
all interest in or connection with
this suit, and the matters & things
involved therein, and he therefore
prays that the said bill as to
him may be dismissed at the cost
of the plaintiff in

(Signed) Jacob ^{his} + Wool
marks

Personally, appeared before me, a Justice of the Peace
for the County of Cheshire, Jacob Wool, who made oath
that the facts set forth in the above affidavit
are ~~true~~ true and subscribed before me
this 7th day of August 1880 -

J. R. B. Houghton
Justice of the Peace

The Albion Steam
Navigation Co

Mr. J. Sinclair
Rothy 205

of
Leath. Wood

In the County of Southampton
County of Hampshire
The Albion Steam Navigation Company - Plaintiff
against
A. Woolly & Jacob Wool

and Charles W. Dyer, the
master and captain of
said Steamship - Defendants

Issue Summons in Chancery
returnable 15 Sept Ruler 1880

Mem: The clerk will please endorse upon
the summons the following -
"And injunction is awarded
to inhibit and enjoin the defendants
A. Woolly, Jacob Wool and Charles
W. Dyer, their agents or employees
from from landing or attempting to
land their steamer called the "A-
-sey" or any other steamer or ves-
-sel at the wharf and landing
now in the use and possession of
the Plaintiff - "The Albion Steam
Navigation Company" - on the Black
water River in the County of South-
ampton and which wharf and lan-
ding is bounded on the South by

"the land formerly owned by & used by
"and on the north by a marsh or
"swamp" & or from in any manner
"interfering with the plaintiff's use of the
"use or occupation of said wharf
"and landing &c."

Attest my hand
in the block of the low epoch branch
of Southampton County
August 24th 1880

Almonde Shire

Northampton

John A. Shire

Prothonotary

at Northampton

THE COMMONWEALTH OF VIRGINIA.

To the Sheriff of Southampton County,---GREETING:

We Command You to summon A Holly & Jacob Wool
owners of Steamer Gypsy & Chas W. Lester, the master & Captain
of said Steamer,
to appear at the Clerk's office of our Circuit Court for South-
ampton County, at the Rules to be holden for the said Court on the first
Monday in September next to answer, a bill in
Chancery exhibited against them in said
Court by "The Albemarle Steam Navig-
ation Company. And this they shall in no wise
omit under the Penalty of \$100.
and have then there this writ.

Witness: Littleton R. Edwards, Clerk of our said court, at the Court-House
this 4th day of August 1880 in the 105th year of the Common-
wealth.

L. R. Edwards C. C.

To inhibit and injoin the Defendants
 A. Holly, Jacob Wood, and Chas. W. Foster
 their Agents or employees from landing
 or attempting to land, their Steamer
 called the "Gypsy" or any other Steamer
 or vessel at the Wharf and landing
 now in the use ~~and~~ possession of the
 Plaintiff "The Albemarle Steamer
 Navigation Company" on the Black
 Water River in the County of Southampton
 and which Wharf and landing is
 bounded on the South by the land forme-
 rly owned by A. M. Norfleet, and
 on the North by a Marsh or Swamp,
 or from ~~and~~ in any manner interfering
 with the Plaintiff in the use or occu-
 pation of said Wharf and landing.

The Plaintiff having given Bond
 and Security in the Penalty of
 (\$1000) one Thousand Dollars, condit-
 ioned according to law.

The Albemarle
 Steamer Navigation Co
 vs
 A. Holly, Jacob Wood,
 and Chas. W. Foster

1880
 October 10
 Law Court

Teste:
 J. A. Edwards, Clerk

Exhibited by following. Dated at
 copy of this document on the day of May
 1880
 on the 8th day of August 1880
 before me, Not a Notary of the
 County of Southampton
 for Wm. H. Saff

The Atlantic
Steam Nav. Co
or She in Chy
Holly et als

1880
Do Oct Rules Cir Ch

Holliday & Lyall
& Prince & Co

Line of Coast 19th 1880
Circle of the Wicks in ware & know
M. H. T. & Co. & W. H. T. & Co.
W. H. T. & Co. & W. H. T. & Co.
W. H. T. & Co. & W. H. T. & Co.

The Commonwealth of Virginia,

To the Sheriff of Southampton County - GREETING:

WE COMMAND YOU TO SUMMON *A. Holey and Jacob Wood*
owners of the Steamer "Gipsy" and Chas.
Juster the master and Captain of said
Steamer.

to appear at the Clerks Office of our Circuit Court of Southampton County
at the Rules to be holden for the said Court on the first Monday in *October*
1880 *and amended & supplemental* to answer a bill in chancery exhibited against *them* in our
said Court by *The Albemarle Steam*
Navigaton Company

and have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court at the Court
House, this *first* day of *October* 1880, in the *105th* year
of the Commonwealth.

L. R. Edwards

The Albemarle Steam Navigation
Company

vs $\frac{3}{3}$ In Chancery
Holly et al

Answer of Defendants
A. Holly, and C. W.
Lester, & Ex. R -

(1881 March 7th filed)

The Joint and several answer of Augustus Holly
sole owner of the Steamer 'Gypsy' and of Charles
W. Jester the master and captain of said Steamer
to a bill of complaint exhibited against them
and one Jacob Wool, in the Circuit Court
of Southampton County, by the Albemarle
Steam Navigation Company.

These respondents saving and reserving all
exceptions to the said bill for its many errors
and mis-statements of law and fact, for answer
thereto, or to so much thereof as they are ad-
vised it is necessary or proper for them to
make answer to, answering say.

1st The matters and things stated in the first
and second paragraphs of the said bill, are believed
to be, and are admitted to be true.

2^d The allegation of the third paragraph of the
bill to the effect that "prior to the 26th day of
September 1868, the said The Albemarle Steam
Navigation Company was in the occupation
use and possession of a certain wharf and
landing upon the lands of one Richard
Barrett (now deceased) bordering upon the
Blackwater River, and running from the
lands then owned by A. W. Norfleet on the
Western bank of said river, thence running
Northwardly along the Bank of the river
to a marsh or swamp, which wharf and
landing the said Company held and

used under a parol agreement with said Richard Barrett" is not true, and is positively, affirmatively, and explicitly denied.

If true it has no relevancy to this case.

If it is intended by the said paragraph to allege that the plaintiff at the time specified, occupied and used the "old wharf and landing" owned by said Barrett, it is probably true, and is cheerfully admitted; but if, as seems to be the case, the impression is sought to be made, by the cunning use of words, that the wharf and landing alleged to have been used, ran northerly from A. W. Norflute's land, along the bank of the river to the Marsh or swamp, it is, as these respondents are informed and believe and therefore charge utterly and entirely untrue, and is positively denied.

3. It is true that on the 26th day of September 1868, Mary R. Barrett, widow of the said Richard Barrett, leased to the said Plaintiff Company the "wharf and Landing on the Blackwater River in the County of Southampton near Franklin Depot now (then) occupied by said Company" and that said wharf and landing were within the boundaries described in the said third paragraph, but if it is intended by the fourth paragraph of the bill to charge that the lease in question (Exhibit A) conveyed to the said Company the entire river front from Norflute's line to the swamp or marsh,

as now for the first time claimed by said Company, the allegation is wholly untrue and is positively and emphatically denied.

That lease conveyed to said Company the old wharf and landing as then used by said company, which wharf and Landing was bounded by the line of A. W. Vorflut, on the South, and limited on the North by the extreme Northern end of said Barrett's old wharf, as it then stood, terminating some ten or fifteen feet South of a large Cypress then standing on the edge of the water, which has since been cut down by said Company or its agents.

4. The allegation of the fifth paragraph of the bill to the effect that the said plaintiff Company, since the Execution of the said Lease, has been in possession of all the property described in the third paragraph thereof, is untrue, and is positively and emphatically denied. And if at any time it has used and occupied any portion of the said property other than that described in the said lease, it has done so without authority of law, or the consent of the said Mary R. Barrett.

These respondents allege that the Northern limit of the wharf described in said lease, as used by the said Company, at the time of its execution is well known and easily

defined, and that the said wharf terminated
some feet below the cypress tree above described.
5th. On the 31st day of July 1880, the said defen-
-ant Augustus Holly entered into a contract
in writing with the said Mary R. Barrett
for the lease for four years from that date of
the wharf and river bank adjoining on the
North the wharf leased by her to the plaintiff
in 1868, and described in said contract as fol-
lows "Commencing at the line of the proper-
ty leased by Edward Wood for the Albemarle
Steam Navigation Company in the year 1868,
from said Mary R. Barrett, thence up the Black-
water river to the edge of the swamp about 150
feet, thence in a Northerly direction to a Syca-
mone tree standing on the Hill, thence in a
Westerly direction to the line of the S. R. R. R.
Company's track running from the Rail Road
to Albemarle Steam Navigation Company's
wharf, thence in a Southerly direction
along said R. R. Co's line to Albemarle
Steam Navigation Company's line, thence
along said Albemarle Steam Navigation
Company's line to the point of beginning".
That contract is filed herewith as an Exhibit.
it marked X, and these respondents deny
that the property therein described was
embraced in the lease to the plaintiff of
the 26th September 1868, or that any part of it

was at any time lawfully used by or in possession of the said Plaintiff.

6th Under and by virtue of that contract these respondents proceeded on the 2^d day of August 1880, to enter upon and take possession of the said property, which they did peacefully and quietly, and without the slightest opposition or objection on the part of the plaintiff, or any one else, by bringing their Steamer the "Gyrfalcon" up to and mooring her at the wharf immediately adjoining on the North, the property of the plaintiff; That property when so taken possession of by these respondents under the said contract, was idle and vacant, and was not and never has been, as they are informed, in the possession of the plaintiff.

It is not true as alleged in the 6th paragraph of the bill, that these respondents at the time of taking possession of their said wharf, disputed the true Northern boundary of the plaintiff, for up to that hour the plaintiff, to the best of their knowledge information and belief, never had claimed the property leased to these respondents.

It is not true that these respondents unlawfully and forcibly moored their said Steamer to the lands wharf and landing occupied by the plaintiff, but on the contrary the said allegation is untrue, and is positively denied.

It is untrue that if these respondents persist in landing at the wharf rented by them, that it will entail great and irreparable damage on said plaintiff Company, or greatly incommode said Company in its business, and in the proper navigation of its own steamers by reason of unavoidable collision.

All these allegations are untrue and are positively denied; so far from their being true, these respondents allege that the Plaintiff Company has, in the wharf actually leased from Mrs Barrett, and in the adjoining wharf and river front recently leased by it from Norfleet, more room than is needed or well could be needed for its use.

It is not true that the conduct of these defendants was a vexatious and malicious trespass, and a flagrant violation of the rights of the plaintiff, and all the allegations of the bill to that effect are untrue and are indignantly denied.

On the contrary these respondents quietly lawfully and peacefully took possession of what belonged to them, without opposition or objection from any quarter.

The true secret of the Plaintiff's effort to prevent these respondents from using the property so rented by the said Holly, is that

It is untrue that if these respondents persist in landing at the wharf rented by them; that it will entail great and irreparable damage on said Plaintiff Company, or greatly incommode said Company in its business, and in the proper navigation of its own steamers by reason of unavoidable collision.

All these allegations are untrue and are positively denied; So far from their being true, these respondents allege that the Plaintiff Company has, in the wharf actually leased from Mrs Barrett, and in the adjoining wharf and river front recently leased by it from Norfleet, more room than is needed or well ever be needed for its use.

It is not true that the conduct of these defendants was a vexatious and malicious trespass, and a flagrant violation of the rights of the Plaintiff, and all the allegations of the bill to that effect are untrue and are indignantly denied.

On the contrary these respondents quietly lawfully and peacefully took possession of what belonged to them, without opposition or objection from any quarter.

The true secret of the Plaintiff's effort to prevent these respondents from using the property so rented by the said Holly, is that

he is running an opposition boat to the plaintiff and carrying the United States mail, and the plaintiff's object is to monopolize the whole available River front at Franklin, so as to obstruct these defendants in their lawful business.

7th These respondents further answering say that the Injunction awarded by the Court in this cause is a serious and grievous hardship and injury to them, that they are engaged in carrying the United States Mail from the Town of Franklin to the various points on the Blackwater, and Chowan Rivers and Albemarle Sound, and that in consequence of the plaintiff's action they have been compelled in order to deliver the mails, to run their Steamer up the Blackwater a distance of about

to the rail-road bridge, and to cart the mail to and from the village, a distance of at great risk and expense, and if the said injunction is not speedily dissolved, great and serious loss and injury will be entailed upon them.

8th These respondents utterly deny every allegation of the bill by which the jurisdiction of a Court of Equity was sought to be obtained; They utterly deny that Equity has any jurisdiction of the case.

as stated, and insist that if there was any remedy for the plaintiff (which they deny) it was in a Court of Law.

9. Your respondent Augustus Holly is a resident of Bertie County for the State of North Carolina and is the sole owner of the said "Steamer Gypsy"; and your respondent C. W. Foster is the master and captain of said Steamer, and resides in the town of Franklin in Southampton County, and is not a non-resident as charged in the said bill.

And having fully answered these respondents pray that the said Injunction may be dissolved, and the said bill be dismissed with costs &c.

R. H. Baker & Son
A. L.

Geo. J. Kinred per

County of Southampton to wit:

This day

personally appeared before me and made oath that the matters stated in the foregoing answer of own knowledge are true, and those stated upon the information of others, believe to be true. Given under my hand this day of

1880 -

Franklin Va

July 31st 1888

Receipt of A. W. Anglett Agent for A. Holly
One hundred dollars in part payment of
the sum of Four hundred dollars, all of which
is to be paid within 30 days from the date of
this writing, and if the remaining 300 dollars
are not paid within said time, then the said
Holly forfeits all right or claim to the said sum
of One hundred dollars. And on the payment
of said sum of Four hundred dollars, I Mary
R. Barnett bind myself to leave unto the said A.
Holly a water front and land to be described, to wit
commencing at the line of the of the property leased
by Edward Wood for the Albemarle Steam Navigation^{C.} in
the year 1868 from said Mary R. Barnett, thence up
the Blackwater river to edge of the swamp, ^{about 150 feet} thence in a
Northwesterly direction to a Lycium tree standing on the
hill - thence in a westerly direction to the line of
The S. & R. R. ~~Co's~~ ^{Company's} track run-
ning from R. R. to Albemarle Steam Navigation Com-
pany's wharf, thence in a Southeasterly direction along
said R. R. Co's line to Albemarle Steam Navigation
Company's line, thence along said A. Steam Navigation

Company" line to point of beginning. But the said
 Mary R. Barrett reserves to herself the right to
 the house and ~~premises~~ ^{now} ~~on~~ ^{the} land on which house
 is situated in which Mr Henry Curtis lives.
 The said Mary R. Barrett agrees to give a right of
 way through the field ~~on~~ on the east side of of said
 R.R. Company's track, said right of way ~~to be~~ ^{to be} 145 feet
 wide, ~~and~~ extending to Mechanic Street, and ~~and~~
~~thence 180 feet from said R.R. track~~ said right
 of way to commence at the line of said R.R. Compa-
 ny's track and to extend along the north side of
 the line agrees to be leaves by this writing to a
 point 180 feet from said track, thence in a westerly
 direction across said field to Mechanic Street. In witness
 of this receipt and agreement the said Mary R. Barrett
 for herself and A. H. Norflett agent for A. Holly sign
 this writing this 31st day of July 1888. The said
 term is to be for the term of four years from this date. And
 the said Holly is not to remove any improvements put on said
 land except by consent of said Mary R. Barrett.

M. R. Barrett
 A. H. Norflett
 Agent for A. Holly

~~County of Southampton~~
~~Office of~~

Witness
 J. P. Bryant
 J. Foster

To A. Neolly and Jacob wrote from
the steamer "Siphon" and telegraphed
Jester, master - captain

Saturday

TAKE NOTICE, That 2 shall proceed on the 14 day of August 1880
at the office of J. H. Bryant in Franklin Pa
between the hours of 6 A. M., and 6 P. M., of that day, proceed to take the deposition of
Jos. H. Bryant and others, to be read as evidence in my behalf,
in a certain Suit in Equity depending in the County Court of
Southampton Co wherein 2 am plaintiff
and you are defendant ; and if from any cause, the taking of the said depo-
sition be not commenced on that day, or if commenced, be not concluded on that day, the
taking of same will be adjourned and continued from day to day, or from time to time, at
the same place and between the same hours until the same shall be concluded.

The alternate Steam Navigation
by Holladay & Co. attys

I certify that I
did on the 10th day
2 August 1888
send a copy of
this notice on
Jury list
R. C. Barrett

Personally appeared
before me A. M.

Brownly Mayor of the
Town of Franklin &
ex officio Justice of
the Peace of the County
of Southampton. I saw
R. C. Barrett & made
oath to the writing
above — on this the
10th day of August 1888.
A. M. Brownly Mayor

To A. Holly and ~~John~~ ^{John} ~~Wool~~ ^{Wool} owners
of the Steamer "Sisay" and Charles W.
Jeter, master Steamboat.

TAKE NOTICE, That 2 shall proceed on the 14 day of August 1880
at The office of J. H. Bryant in Franklin Co
between the hours of 6 A. M., and 6 P. M., of that day, proceed to take the deposition of
Mr. H. Bryant and others, to be read as evidence in my behalf,
in a certain Suit in Equity depending in the County Court of
Southampton Co wherein I am plaintiff
and you are defendant; and if from any cause, the taking of the said depo-
sition be not commenced on that day, or if commenced, be not concluded on that day, the
taking of same will be adjourned and continued from day to day, or from time to time, at
the same place and between the same hours until the same shall be concluded.

The alternate Steam Navigation
Company
by Holladay & Son attys

To a Hally and ~~Scott~~ wool messrs
the Steamer "Gibrey" and Charles W.
Jester master & Captain

Saludaw
TAKE NOTICE, That 2 shall proceed on the 14 day of August 1880
at The office of J. H. Brack in Franklin Co.
between the hours of 6 A. M., and 6 P. M., of that day, proceed to take the deposition of
J. H. Brack and others, to be read as evidence in my behalf,
in a certain Suit in Equity depending in the County Court of
Southampton Co wherein I am plaintiff
and you are defendants and if from any cause, the taking of the said depo-
sition be not commenced on that day, or if commenced, be not concluded on that day, the
taking of same will be adjourned and continued from day to day, or from time to time, at
the same place and between the same hours until the same shall be concluded.

The alluvial Steam Navigation
Company
by Keeladan & Co. attys

2 copies and 2 did
on the 7th day of
August 1880 send
a copy of the same
on Charles W. Lister
master of Steamer
"Gipsy" - and also
on a Mr. M. L. Lister
agent of said Steamer
at Franklin Bar

W. H. Briggs & Co.
By Jno W. Lawrence & Co.

1
The depositions of Dr. W. B. Borch
Saml. J. Noand and others, taken
at the town of Grantville, in the
County of Southampton, on Sat-
urday the 14-day of August
1880, pursuant to the notices
hereto annexed, to be read in
evidence on behalf of the plain-
tiff, in a certain suit in Chan-
cery depending in the County-
Court of Southampton County,
wherein the Albemarle Steam
Navigation Company is plain-
tiff, and A. Wally and Jacob
Wool, owners of the Steamer "Gibson"
& Charles W. Foster master and
captain, are defendants.

Present J. B. Price & Dr. W. B. Borch

attorneys for Plaintiff

R. W. Baker & son Dr. J.

Kindred, attys for Defs.

Saml. J. Noand, a witness called
on behalf of the plaintiffs, being
first duly sworn deposes that:

Sworn by Plaintiff's atty -

1- Sworn. State your age, residence & occupation

2
Ans. 60 years, Portsmouth Va, Superintendent of
repairs Seaboard & Roanoke Rail Road.

Ques 2 When did you first come into the employ
of the Seaboard & Roanoke R.R. Co?

Ans In 1849.

Ques 3 Were there at that time a line of steam
on the Blackwater river, and if so where
was the landing of said steamer?

Ans. There was one steamer, and the landing
was about where the Chocoma now lands

Ques 4 What was the name of that steamer?

Ans. Fox

Ques 5 When was the R.R. Depot at that time?

Ans. There was an old building near where
the present R.R. depot now stands, which
was used to have been the depot of the old
Company. The first regular depot established

Ques 6 ~~Where~~ after coming here was on
the left or right side of Blackwater river

Ques 6 State whether or not the steamboat lan-
ding was about that time changed to
the same side of the river?

Ans. It was

Ques 11 When did Mr Barrett die?

Answer I don't recollect.

Ques 12 Please examine the plot marked "A" and state what portion of Mr Barrett's land is designated on this map was used and occupied by the Montreal Company during his life time?

Answer (Exception: The defendant's counsel excepts to the above question on the ground that it is irrelevant.)

Answer I don't know. But the steamer Ella which was, I think 160 feet long could not land and turn round without ~~occupying~~ occupying all of the ^{front of the} present wharf. I don't know the piles of the Helen Smith wharf, and the bow of the Ella reached to that point. The point

The point indicated is also shown in marked "P" on the diagram.

Question 13 How many boats had the Montreal Company in 1868?

Answer I do not know.

Quesⁿ 14. Do you know whether the Steamboat Company in the lifetime of Mr. Broun occupied any portion of the river bank & up to the river upon point P of the river, and if so how much?

(Question excepted to by the Defendant's Counsel because it is leading and because it is irrelevant.)

Answer I do not know, I don't recollect.

Quesⁿ 15. Supposing the distance from Surflet's line to point "P" to be 142 feet and supposing the Company to have two boats, would there have been sufficient room there, for the use of the Company?

Question excepted to by defendant's Counsel as irrelevant.

Answer There would not.

Quesⁿ 16. Did you ever hear Mr. Broun in his life time say upon what terms he had permitted the Steamboat Company to occupy his lands on the river?

(Exception by defendant's Counsel as irrelevant and as being hearsay.)

Answer I don't recollect any conversation to that effect.

Question 17 Who constructed the wharf as at present located?

Answer T. J. Moncure was the engineer sent here by the R.R. Co. I had the work done.

Question 18 Did you have the present coal house, Smith shop and coal ^{bin} ~~shed~~ constructed?

Answer I had the coal house constructed, but not the Smith shop or coal bin.

Question 19 Who removed the old coal house to its present location?

Answer I had it done.

Question 20 Was there any objection from any quarter to your locating the wharf where it now is, the new coal house where it now is, and the old coal house where it now is?

Answer There was no objection to the location of the new wharf and the new coal house. But Mr. Bonin did object to the moving of the old coal house on his land.

Ques 10 Assume now that Richard Baruti's wharf as it stood in 1868 was that indicated by the dotted lines on the diagram and marked "old wharf 1868." If that was its then location where was the landing leading to it?

Answer I don't recollect dates. That I don't know, whether it was at one corner or the other or the middle. I did not go there once in six months until I laid the first track from the R R to the wharf.

Ques 11 When was that, in what year

Answer I am not positive, I think was before 1868.

Ques 12 Did the pass way leading from the R R track over Mr. Baruti's land to the wharf of 1868 strike the wharf at one of the corners or at some intermediate point?

Answer That I do not know. The first track went out on ~~the~~ nearly on the middle of the wharf. The second track went parallel with it.

Ques 13 What was the character and condition in 1868 of ^{bank of the river at the} the northern end of the old wharf at or about the point now indicated by a

Cypress stump?

Answer I do not know.

Ques 14 Was there any wharf or landing in 1868 at the point indicated by the Cypress stump?

Answer That I don't know. But the Miami Elder in landing at this point, his house must have passed the stump.

Ques 15 Was the Cypress tree then standing?

Answer The Cypress tree was cut down when we built the new wharf. It was standing up to the time when the new wharf was

built.

Ques 16 Whilst the Cypress tree was standing was there any wharf there?

Answer Not that I know of.

Ques 17 Was there any landing at that point?

Answer I suppose not. I suppose they landed at the gangway.

Ques 18 Who cut down that tree?

Answer I had it cut down.

Ques 19 Did you know it was a live tree?

Answer I did not.

11
Q. 20 Did you get Mr. Barnet's consent to do so?

A. I did not.

Q. 21 When was it cut down?

A. When the new wharf was built. I do not recollect the date.

Q. 22 Who built the new wharf?

A. I had the work done for the Steamboat Company.

Q. 23 From whom did you receive your instructions as to the dimensions of that new wharf?

A. Mr. Bogart and Mr. Mancus put down the stakes when they wanted it.

Q. 24 Who were they?

A. Mr. Mancus was the Engineer sent here by the R R & Steamboat Company in charge of the work, Mr. Bogart was the Agent or representative of the Steamboat Company.

Quest 25 Was Mrs Bonnell consulted about it as far as you know?

Answer I do not know. I did not consult her.

Quest 26 When did the Ella come on this line?

Answer I think she came here about 1866. I am not certain. I haven't got the date.

Quest 27 State of your own knowledge what was made by the Ella at the Shantons Company of the space at the northern end of the old wharf indicated by the Cypress stump, if any other than that the Ella's low projects beyond the wharf?

Answer I don't know

Quest 28 Did you say just now, that sometimes you were ~~there~~ not down there for six months at a time?

Answer Yes - sometimes not in six months and sometimes not in 12 months that is previous to our buying tracks there.

Quest 29 Can you say that you were down there during the six months previous to the 26th

13
of September 1868?

Answer I cannot.

Question 30 Did not the (Stamford) Company a R R Company in 1868 own a low draft's wharf adjoining Barret's wharf on the south?

Answer That I don't know.

Question 31 Did not they use it?

Answer I think they did but I don't know it for a certainty.

Question 32 Did they not use a portion of it?

Answer I don't know.

Question 33 You have spoken of the Elba's projecting beyond the end of Barret's old wharf about the point indicated by the Cyprus Street. How far she usually projects beyond the end of the old wharf.

Answer I don't know when she usually comes. I wasn't there every day - while I was building the Helen Smith's wharf her bows came there every day (to the point marked "P" on the map)

Question 34 Did she come to that point whilst moored at the wharf or only when being turned round?

Answer When moored at the wharf I do not know whether she quite touched that point or not but she came up there always in coming up.

Question 35 How was that prior to that time? i.e. prior to your building the Helen Smith wharf.

Answer I do not know.

Question 36 Then you do not know prior to building the Helen Smith wharf that the piers projected beyond the old wharf at all?

Answer I do not, but presume that the landings at the same place.

Question 37 When did you build the Helen Smith wharf?

Answer I do not recollect the date, as far as I presume it has been since 1868.

Question 38 When the Ella was lying with her bow at point "P" where was her stern, indicate the point on diagram.

Answer That I can't do. I don't know the length of the Ella.

Question 39 Supposing the Ella to be 160 feet long where would her stern come to?

Answer It would bring her down to about 30 feet on the Anflut wharf.

Question 40 What is the length on this diagram of the width of the Anflut wharf?

Answer According to this diagram it is about 85 feet
(i.e. the new wharf)

Question 211 Do you know anything of the character of
the bank or wharf? now front below Ber-
rett's old wharf - whether deep or shallow?

Answer The bank is steep as far as the new wharf
goes. I have never examined it further

Question 42 Look at the diagram and point out where
the ^{various} wharves and buildings were in 1868, ac-
cording to you can!

Answer I cannot do it. The present wharf covers the
land occupied by the old wharf and was then
with an extension at both ends.

Question 43 Examination by Plaintiff

Question 1 When you had the new wharf built was
there any wharf on the land of Mr. Stuyvesant
south of and adjoining the old wharf?

Answer There was only one wharf. If I recollect right
Mr. Stuyvesant had one there about 6 or 8 feet above
the old wharf was on high land

Question 2 Do I understand you to say that Mr.
Stuyvesant claimed that a small portion of
the Chambers wharf was on his land?

Answer

Yes sir.

Question 3

And do I understand that there was no other wharf but the stevedore wharf?

Answer

Not that I know of.

And further this deponent says nothing.

James F. H. H. H.

Joshua Preller a witness called in behalf of the plaintiff being first duly sworn, deposes & says.

Examined by

Plaintiff's attorney.

Question 1

State your age, residence, & occupation

Answer

53 years old Southampton Co. Va. Farmer

Question 2

Do you know the defendants, A. Helly and Jacob Wool?

Answer

I know A. Helly, but don't know Jacob Wool

Question 3

Where does Mr. Helly reside

Answer

He lives in North Carolina

Question 4

Has he any property in this State?

Answer

Not that I know of

Question 5

How long have you lived in a new France?

Answer

26 years. I lived in France from 1854 to 1862

Question 6

Did you know Richard Burnett in his lifetime and if so what was the relation this existed between him and you?

17

Ans I knew him, we were always friendly
and a part of the time I boarded at his
house I knew him since early life.

~~Question 7~~

Question 7 How long has the Albemarle Steam Navigation
Company been using its present landing?

Answer Since 1866 or 1867

Question 8 Was there any other steam boat Company using
the present landing prior to that date?

Ans. There was.

Question 9 How long did such Company use it?

Ans. From 1857 till the war of 1861

Question 10 Were there any Steamboats running on Blackwater
river prior to 1857?

Ans. There were two lines running for a while, which
were finally merged into one

Question 11 Where did the Steamers running on the Blackwater
river prior to 1857 have their landing?

Ans. On the East side of the river immediately below
the R. R. bridge

Question 12 Where was the R. R. station at that time?

Ans. On the East side of the river in the of Wright
Co

Question 13 State if, you know by whom instrumentality
the Steamboat landing on the East side of the
Blackwater river was changed to its present position

on the west side. State all the facts and circumstances connected with the removal.

Exception taken by Defendant's counsel - The foregoing questions are excepted to as being irrelevant.

Answer. We Richard Barnett, Wm Murfee, S. W. Anflus and myself. I usually acted as spokesman. The Steamboat Co has become disaffected with Mr Charles Hollins on account of rent - Mr Hollins being owner of the East side landing. We then asked the parties if they would in move the Depot to this side of the river. After awhile they consented to do so if certain conditions were complied with. One of the conditions of was that they should have Steamboat Company were to have the right of way on the River from Bean & Connell's line to the Rail Road Bridge or as far as Mr Barnett's land extended - The Contracts to that effect were written & I think recorded in the Clerk's office. Besides we were to pay for the removal or half of the removal of the ware house & office, & the building of a new ware house on this side, we firm Wm Murfee, Richard Barnett, S. W. Anflus & myself.

In this answer to the question the Defendant's Counsel except because the answer is irrelevant & the paper Contract referred to is not produced -

Question 14

Please state whether you know that any rent was paid to Mr. Barrett by the Steam Boat Company, for the use of his land on this side of the river, after the removal of the landing?

Ans.

No rent was ever paid that I know of — Mr. Barrett surrendered up the wharf to the Glen boat company.

Question 15

State if you know whether Mr. Barrett did, from the time the landing was brought to this side of the river up to his death, ever instruct the Steamboat Company as to the amount of land they should use on this side of the river?

Ans.

I never heard of any instruction

Question 16

State if you know why it was that Mr. Barrett was so anxious that the Hamilton landing and R.R. Depot should be removed from the other side of the river.

Ans.

For a long time there was no hotel on this side of the river, but finally one was built, after which time the property on this side for hotel purposes was worthless. Hence Mr. Barrett, anxious to have the Glen boat land on this side convenient to his hotel.

Question 17

You have stated in answer to a previous question, that one condition of the Steamboat

Company, coming to the side of the river was that the Company should have exclusive right of way from Beans & Cornell, line to the northern terminus of Mr. Barrett's land on the river. Please be more particular and state whether or not this right of way embraces the exclusive right of landing between those designated points?

Answer It was done to prevent any other parties landing on this side of the river.

Ques 18. You have stated that a paper was drawn between Mr. Mumford and the R.R. Company to carry out the agreement that you have mentioned and that you had seen such paper - please examine the paper here shown you marked "Y" and say whether that is a copy of the contract referred to.

Ans That is one of the papers.

Ques 19. You have also stated that Mr. Barrett had executed a paper which you had seen. Please state if that paper executed by Mr. Barrett contains similar provisions in relation to his land on the river?

Ans The provisions were exact so far as my recollection serves me.

Ques 20. Are you familiar with the locality on the river which was used and occupied by the Steamboat Co in 1868?

Ans I can say I was right familiar.

Ques 7 Was the Contract made with a Company or with individuals

Ans With a Company I suppose

Ques 8 Were Thos D Warren, T. L. Skinn, Alvin Roddeck, Augustus Holly, John W. Kellogg & Robt Dickson operating on a Steam Boat Co in 1868?

Ans They were not

Ques 9 Do you say that the alleged Contract made by Burnett was made with the same parties and similar in import as that made with Murfee?

Ans It was.

Ques 10 Did that Contract convey to Warren & others perpetual right in Burnett's land, on the river from the RR bridge to Murfee's afterwards Striffler's land?

Ans That was my understanding but it was the same Contract you have there made in the exhibit and marked 'G'

Ques 11 When did these parties cease to run their steamers?

Ans They ran them until this was

Ques 12 Did they cease then?

Ans That Company ceased.

Ques 13 Did that Company ever resume their running after this?

Ans Not as that Company, Mr Dickson who was one of

~~Ques 14~~ the old Company came back after the war and commenced running a steamer but I don't know

whether under the old contract or not, and as far as I know he continues to occupy the "Wharf" under Mr. Barrett's deed

Ques 14 Did you know that Mr. Angell compelled Mr. Dickson to pay him rent for the wharf which the paper

Ans. "Y" purports to have conveyed from Murfree to the parties with names, after Angell became the owner of it

Ans. I heard Mr. Angell say two days ago that Mr. Dickson did pay him 30 dollars for rent of the wharf.

Ques 15 Does H. W. Angell cognizant of a piling to the matters stated in your answer to the 13th interrogatory?

Ans. I can say that Mr. Angell knew very well that was said & done but I suppose he did. He was talking about it two months day and one night

Ques 16 Did you say just now that you were not here much in 1868

Ans. I did say as I did not live here then & from once a time a week

Ques 17 When you came did you always go down and visit the wharves?

Ans. That depends I did not go down every time I came down. Up to 1868 whenever I came and went from the place I had to pass them

Ques 18 You do not know then accurately what space the Albemarle River Amusement Co. had actually used in 1868

Ans. I can say that I do know

Examiner

Ques 1 When did Richard Barrett die?

Ans I think he died in the fall of 1867 or in 1868

Ques 2 Did not the R. R. Company have its depot on the side of the river and the Steamboat then running, landings on this side before they were carried to the other side

Ans In the time of the old R. R. they were on this side

Ques 3 Did you ever after the war hear Mr Barrett say anything in regard to keeping the landings on this side of the river?

Ans I never had any conversation with him on the subject

Ques 4 What was the extent of Mr Barrett's property on this side of the river? When the Depot & Landing were brought from the other side of the river?

Question excepted to by Defendant.

Correct or irrelevant.

Ans Mr Barrett owned most of the land on which the Town of Franklin now stands

Ques 5 Was he not the owner or jointer interest after the war to keep the Steamboat landings on this side than he had in 1857?

Ans He has the same interest, jointer if anything for the price of property had advanced some.

Ques 6 Do you know when Mr Barrett purchased

the truck owned by Mr. Munster
 Ans. In 1869 I think.

Ans. Further the deponent says it was
 signed

Joshua Preston

The taking of these depositions are
 resumed this the 4th day of Sept
 1880 to which time they were
 continued by consent of par-
 ties by their counsel -

Present - Mr. W. G. Gault, atty. for Plffs

" R. W. Baker & Mr. J. Kendrick

attys for Defendants

Wm E. Rawls a witness called
 on behalf of the Plaintiff, being
 first duly sworn, deposes and
 says as follows -

Ques 1 State your age, residence, & occupation.

Ans. 62 yrs, Franklin co. Farmer.

Ques 2 How long have you resided in a new place.

Ans. Ever since May 1864.

Ques 3 How were you employed in year 1868?

Ans. Rail road Agent, at Franklin for S & R R R
 Co.

Ques 4 In the year 1868 where was the loading

of the steamer which ran on the Black water river to Franklin?

Ans. I think ~~that~~ it was when it is now and I think it was moved to this side in 1857 or in 1858 I don't recollect the date exactly.

The last question was objected to by the defendant's counsel on being irrelevant, and for the purpose of saving time in taking the deposition it was at this point agreed between counsel for plaintiff & defendant that any exception which might or could be taken to any question propounded by either side may be made at the trial of the cause and have the same effect as if the same had been taken to the question when asked.

Ques. 5 When were you in the year 1868?

Ans. I was then in Franklin attending to a Rail Road business.

Ans. 6 Are you familiar with the landing on this side of the river which has been used by the steamer running on the Blackwater river since the close of the recent war, I mean the steamer Ellen, & Shadow, and other steamers owned by the Albemarle Steam Navigation Company?

Ans. Yes sir.

Ques 7 Please examine the plot under you and "A" and state whether or not, in the year 1868 so much of the bank of the river as lay between point P and the mouth to the east of it was used by the steamer of the Alabama Steam Navigation Company for the purpose of mooring said steamer when not running, or repairing them?

Ans So far as that question is concerned I can tell you. The Cyprus tree when it stood then, there was a chest to it to which the boat was tied. The Ella when she was there, kept the wharf did not come up to it. I don't know or I have ever seen them repairing there. I have seen them lying right off against the point of the marsh (point the direction on the plot)

Ques 8 How long a time have you known the steamer of the Alabama Steam Navigation Co. to be lying at point "H"?

Ans I can't tell how long.

Ques 9 How often have you seen the boats of the Company moored at that point?

Ans I can't tell that either.

Ques 10 How far or how far you not seen the boats moored there frequently?

Ans I have seen the Indian Moons there but how frequently I don't know.

Ques 16 Do you know whether or not the Albemarle Steam Navigation Co occupied up to that time in the year 1868?

Ans I do not.

Ques 17 Do you know when the old warehouse of the Company stood?

Ans I don't know that I could tell exactly. It stood a little below the Cypress Swamp on the hill between the RR track and the edge of the old wharf (and nearly opposite the Cypress Swamp)

~~Ques 18~~ or true as it was then.

Ques 18 Do you know when the small shop and the coal shed are now located?

Ans Yes I know when they are now. They are above the Cypress trees. I don't know how much.

Ques 19 How long have they been in their present location?

Ans I don't know exactly. Not more than 2 or 3 years.

Ques 20 Do you know what inducements were offered for the removal of the Steamboat Landings from the East or the of light side of the river to the present location?

Ans All the inducements I can say that I do. But the Citizens offered to pay the expense of bringing the warehouse from

that side to this but I don't know how much of that expense was paid

Q. 21 Do you know of any special indentments which ever offers to the owner of the shingles by Mr Richard Barnette and Mr Munger for the removal of the landing to this side of the river?

A. Mr Munger gave them a deed to the right to land as far as his land went. I understood that Mr Barnette did but I don't know, I saw Munger's deed

not. Plaintiffs by his Counsel files a Copy, Office Copy of a deed from Richard Barnette and Mary R his wife to Thomas D Warner & others dated April 21st 1858 and recorded in the Clerk's office of Burlington Co. June 2^d 1858 which Copy for purpose of identification is marked "X X"

Q. 22 Do you remember the Steam Cycles and Stags which formerly ran on the Black River?

A. Yes sir.

Q. 23 By whom were they owned?

A. The Stag was first owned by Mr John W. Keeling and ~~John~~ ^{John} Dickson, the Cycles were first owned by Dr. Don Warren Mr Peter Shinn, Mr Augustus Kelly and Mr Alvan

P 32

Riddick Mr Keeling sold out his interest in the Slig to Mr Robt Dickson, Wm H. Kenner, Kelly, & Riddick. They all consolidated into one company owning the two boats. Prior to the consolidation the boats were running as rivals. This consolidation was made prior to the removal from the side of Wright side to the side, and about a year after the consolidation the landing was removed to the side of the river.

Ques 24 Who was the principal manager of the Consolidated Steam Boat line

Ans Dr Don Warren was the President and Mr Dickson was Treasurer. Mr Dickson carried on my work to collect the money, he paid the bills and sent the stores.

Ques 25 What boats were on the route when the war began?

Ans The Curlew and Slig.

Ques 26 What became of them during the war?

Ans The Curlew was taken for a gunboat and I have never seen her since. The Slig ran from her to Sedenton - and then to Hyattsville and was sunk in the river just above the wharf. (The Curlew was taken by the Confederate Government)

Ques 27 What boats were put on the river after the termination of the war and by whom?

Q. The Ella and Indan, but by whom I
 don't know. But I don't know who the
 Company was except Mr. Dickson. The Ella
 was put on first, right after the war and
 before the rail-road was re-laid. The Indan
 was put on a year or two after the Ella
 Q. 28 When took possession ^{after the war}, and the wharf
 which had been used by the Chaimers, Curlew
 and Stag before the war

A. I don't think there was any wharf there
 The Ella stopped for some months at Mr. Mc-
 Flew's landing until the some vessels which
 had been sunk near the old landing to
 obstruct the river ~~had been~~ (before it was Mr.
 McFlews' landing,) ~~had been~~ were gotten up

Q. 29 Is now or the obstruction had been removed
 so as to admit of landing at the point
 used by the Stag and the Curlew, did
 the Ella and Indan occupy that point
 permanently as a landing?

A. I don't think she did until Mr. McFlews and
 the Captain of the Ella had some difficulty
 about rent claims by Mr. McFlews, and Mr.
 McFlews locked his gate, then Mr. Dickson
 came up got some lumber and built a tem-
 porary wharf at the old wharf. There was
 a little steam sunk at the old wharf and
 the temporary wharf was built over that sink

for iron or the steam was removed they built the permanent wharf.

Q. 30 Was this occupation and building of the temporary and permanent wharves in the lifetime of Mr. Richard Barrett?

A. Yes sir.

Learn examined by Defendant's Counsel

Q. 1 Do you know the name of the Company that owns the Steam Slog and Cinders?

A. Robt Dickson. T. H. Harn. John Skinn. Augustus Kelly and Abram Riddick.

Q. 2 Did the Company have any particular name?

A. None that I ever heard of except the Blackwater Lumber Co. it was always called.

Q. 3 Was it incorporated?

A. Not that I know of.

Q. 4 When did it cease to exist?

A. ^{About the beginning of} Until the war. about 1862.

Q. 5 Do you know that that Company was afterwards run as a steam or the wharf regularly?

A. Not the Company. Mr. Dickson one of the Company did.

Q. 6 When did he commence doing so and when did he cease to do so?

A. He commenced sometime in 1865 or 1866 and ceased at his death. I don't know when he died. He died in 1866 in October Nov.

Ques 7 Do you know on what terms, Mr Dickson obtained from Mr Banister the use of the old wharf in 1865 or 1866 when commenced running the S

Ans He did.

Ques 8 When state who constructed first after the war the wharf designated on plat "A" on the old wharf?

Ans Mr Hans built it - him and his hands. Mr Dickson had it done by Mr Hans' force when the temporary wharf was built. Mr Dickson had it done himself by hands picked up around him.

Ques 9 Can state the wharf first used by the Albemarle River Navigation Company in 1868 when they first leased the property?

Ans Yes, the "old wharf" designated on the plat by the dotted line, and marked "old wharf 1868 97 feet front"

Ques 10 In September 1868 was there any wharf when the Cyprus stood or at any point on the river north of the dotted line which forms the northern boundary of the old wharf on the plat?

Ans I think not.

Ques 11 Can you say that on the 26th of September 1868 or at any time very much prior to that time, the Albemarle River

igala Company was and occupied a ^{habitually a regularly} portion of right ^{any} part of Mrs. Berrell's river then north of the Cypress tree?

Ans. I cannot.

Ques. 12 What is the distance from the north edge of the old wharf to the Cypress tree?

Ans. 12 or 15 feet

Ques. 13 You have spoken of seeing the ^{or one of the Elms.} Ellen lying in the bend of the river ~~between~~ when was she moored ~~where that was~~ ^{in the stream} as to the bank?

Ans. To a stub in the river.

Ques. 14 How far were any boat of the Company lying ~~between~~ north of point "P" on the plot 'Mound' or further to the bank.

Ans. I have seen the below were lying there frequently along when the piles are north of point P.

Ques. 15 Before that have ever made a river?

Ans. Since then.

Ques. 16 Did you ever see any vessel of the Albemarle Steam Navigation Co. during the year 1868 and from to September in that year using a landing on the bank of the river north of the Cypress?

Ans. I can't tell about the date. That I don't know. When the Ellen was lying at her wharf her stern or bow was tied to the Cypress.

Ques. 17 Who built the Smith Shop and what shop of it is answer to the 18 & interestingly?

Ans. I think they were built for the Company - (the Albion Iron Works Co.)

Ques. 18 Do you feel sure of that fact?

Ans. I suppose it was built for that Company

Ques. 19 Examined by Plaintiff's Counsel.

Ques. 1 You have stated in your Cross examination that when you saw the Sadler's mine in the bend of the river that she was tied to a stake in the river, was the line, not extended to the shore and made fast so as to keep her in position?

Ans. I think they were to a stump on the shore

Ques. 2 How far was she from the bank of the river?

Ans. About 30 or 40 feet.

Ques. 3 Couldn't she move or draw to the bank of the river or she could get without getting aground.

Ans. In her position she was, I think!

Re Cross examination by Defendant's Counsel

Ques. 1 In what year was it that you saw the Sadler in the position spoke of in the 2nd & 3rd Questions in the re-examination.

Ans. I don't know the date.

And further the defendant says it was.

Depos

Wm. E. Parvls.

Captain George H. Hickey a witness for the plaintiff being duly sworn deposes and says as follows.

Ques. 1 State you a g. resident and occupant

Ans. 32 yrs. Ill. of Wright County Va, Sailor.

Ques. 2 Are you now in the employ of the Albemarle Steam Navigation Company and if so how long have you been in such employment

Ans. I am, and I have been 13 yrs.

Ques. 3 Please examine plot shown you marked "A" and state how much of the bank of the river shown on this plot was and was occupied by the Albemarle Steam Navigation Company in the year 1868

Ans. We occupied about 160 feet with one boat but I don't recollect how much of it we occupied ~~of it~~ to the southward of this old wharf, while laying at the landing I mean.

Ques. 4 You have stated that the Company occupied about 160 feet while the boat was lying at the wharf please state if any other portion of the river bank was occupied by the boats of the Company for mooring said boats when not in use or for repairing said boats when they needed repairs and if so what portion of the river bank was so used?

Ans. While we occupied this mark for moving boats when not running, shown on the plat from "P" to "W". We left a few feet above point "P" for the purpose of turning round. The rest of the space up to point "W" was used for moving boats when not running.

Ques 5. Was the Company in 1868 using that portion of the river bank between "P" & "W" for the purpose of moving their boats when they were not running?

Ans. They ~~was~~ used a portion of the time.

Ques 6. State whether or not the Company used the show above indicated in the year 1868 as a place for the purpose of repairing their boats?

Ans. I think they repaired one boat in 1868 the Hedon. She was run up between point P & W as far as she would go.

Ques 7. State whether or not in the year 1868 a tugboat, the Hedon was laid up between point "P" & "W" and if so how long?

Ans. She was laid up then but I don't recollect how long, in 1868 She was in charge of my father as shipkeeper.

Ques 8. State how often you have seen since the year 1868 and during that year the boats of the Company occupying the space between the point "P" & "W"?

Ans. I could not say how often. I know we used it

when the boats went running

Ques 9 State when the ground indicated was occupied by the boats of the Company how they were fastened?

Ans. They were fastened by a rope from the boat across the marsh to a stump, and we had to drive down some stakes near the side of the boat to keep her from going up.

Ques 10 What year did you come into the employ of the Company

Ans. In the year 1867 I don't recollect what month

Ques 11 Do you remember the location of the old wharf designated on the plat by the dotted lines and marked "old wharf 1868. 97 feet"?

Ans. Yes sir I remember something about it I have looked at it several times.

Ques 12 What was the length of the Ella and of the Indian respectively

Ans. The Ella was about 160 feet on all her hull was I think 156 feet. The Indian was 140 or 142 feet.

Ques 13 Supposing the center line of the old wharf to be on the line dividing Mr. Bannister from Mr. Ainslie's land was it possible for the Ella to get away from the

old wharf without occupying the bend of the river in so doing between points "P" & "W".

Ans. Certainly, she has to occupy this ground in turning. When there were boats lying at the bank a wharf above we had to keep fenders out to keep from striking her in going by.

Ques. 14 If all the bank of the river from "P" to "W" was occupied by boats, or wharves, could it be possible to turn the Ella on a boat of her size when lying at the old wharf?

Ans. Well we always had to wait for boats lying below "P" & "W" to go out before we could turn. In ordinary water it could not turn with boats or wharves there.

Ques. 15 Do you know when the new wharf was built by the Company and the new warehouse ^{was} ~~then~~ constructed?

Ans. I don't recollect. I was in the employ of the Company when it was built, before and since.

Ques. 16 Do you ~~remember~~ remember when the Steamer Helen Smith owned by Mr. J. P. Hill had her landing near the Company's present wharf?

Ans. Certainly. She had a pier at a point designated as "piling of old wharf".

Q. 17 State whether the Helen Smith when at the wharf gave way to the boat of the Company, or the boat of the Company gave way to her?

A. She gave way to the boat of the Company.

Q. 18 State if you remember a fence indicated on the plot a "rail fence in 1897"

A. Oh yes, I remember a rail fence run along there.

Q. 19 State whether or not the Company occupied the ground up to that fence?

A. I don't remember about that.

Q. 19 How was the land north of that fence occupied?

A. That was a field a portion of the time it was cultivated and a portion of the time it laid out.

Q. 20 Did you ever learn any of the land south of that fence to be cultivated & used by any one other than the Company?

A. No sir.

Examined by the Defendant's Counsel

Q. 1 What is your position in

A. Captain.

Q. 2 How long have you been Captain or the employ of the Albion Star Navigation Company, the plaintiff in this suit?

A. About 3 years.

Ques. 3 What was your position when you went into the employ of the Company in 1867

Ans. As Santa before the war.

Ques. 4 On what boat?

Ans. On the Steam Elbe

Ques. 5 How long did you continue to occupy that position?

Ans. I dont recollect.

Ques. 6 Was it one year?

Ans. I dont recollect

Ques. 7 Was it 5 years?

Ans. I told you once I dont recollect.

Ques. 8 Then you dont recollect which you were one a five years in the employ of the Albemarle Steam Navigation Company or a partner.

Ans. No sir.

Ques. 9 What was your next grade

Ans. Foreman.

Ques. 10 When did you enter upon that

Ans. I dont recollect that date either.

Ques. 11 When was it that Mr. Barrell heard the property in connection with the Albemarle Steam Navigation Company

Ans. I dont know that either I only heard it was sometime during the year 1868.

Ques. 12 From whom did you hear it?

Ans. I dont recollect now. I heard it above the

boat I think, it might have been for Linfae
Boat

Q. 13 How old were you in that year?

A. 20 years.

Q. 14 How far was it in the course of your depen-
dence that the river bank north of the
Cypress Swamp was used in 1868 by the Alb-
marle River Navigation Company?

A. Yes sir.

Q. 15 How do you happen so well to remember
that fact when you don't remember your
own occupation about the boat?

A. I do remember my occupation about the
boat in 1868.

Q. 16 You said just now that you did not ~~know~~
at how what it was in 1868.

A. A mile before the mill.

Q. 17 How does it happen that you a soldier before
the mill should remember particularly or you
say you do, that the disputed territory was
cut and occupied in that particular year
by the company?

A. By an accident happening to the boat I was
on and this boat (the Indem) coming down to
look for it.

Q. 18 Did that happen in that year?

A. That was in the year following the year I

went on.

Q. 19 What was the accident

A. Run ashore

Q. 20 When?

A. Near the mouth of Salmon Creek near the mouth of the Chomaw river.

Q. 21 How does the Indian coming to look for you on that occasion remind you of the fact that the disputed territory was occupied and used during that year?

A. By being aboard of her every day when I was at Douglas. She was then laying along side of the Maud.

Q. 22 How you refreshed your memory in regard to the fact of the date just spoken of in any way since this controversy commenced?

A. By the date of my marriage on the day when

Q. 23 I was at home
What was that date?

~~Q. 23~~ A. That was in 1867 the first part of 67. the 31st of January.

Q. 24 How does the fact that you were married in January 67 enable you to say that the Indian lay at the Maud in 1868?

A. Well I calculated that time from the date of my marriage and the year following I went aboard the boat.

Q. 25 How you arrived that on or near this controversy commenced in regard to the Indian's being

on the March in 1868?

Ans. I've conversed with Mr. Curtis several times since in regard to the whole affair of it. I've conversed with my wife about it about the date.

Ques 26 Who is Mr. Curtis?

Ans. A carpenter on the wharf for the boats in the employ of the Company.

Ques 27 In what month in 1868 was it that the Indian lay on the March?

Ans. It was ~~the~~ in the first part of the year 1868 that she came down to look for us, being a Pilgrimage.

Ques 28 How long has she been lying there when she came down to look for you and how long did she lay there afterwards?

Ans. I don't recollect.

Ques 29 You can't say then of your own knowledge that she was there in September 1868?

Ans. As far as I could not.

Ques 30 How otherwise was the space above the Cy press used by the Company in 1868. I mention the fact that the Indian you say was there part of the time. State the particulars as to which it was put.

Ans. That it was all it was used for mooring the boats when they were not running.

Ques 31 Do you say that any other boat besides the

hadn't we laid up then during that year?

Ans. I think not: that I recollect.

Ques 32 Was the Hadon laid up then more than once during that year?

Ans. I don't recollect.

Ques 33 Can you say then that the space above the Cyprus was habitually and regularly used by the Company during the year 1868?

Ans. It was not regularly used for mooring purposes only for turning round.

Ques 34 Then all you can say about the use of that space during the year 1868 is, that the Hadon was moored there once.

Ans. Yes sir, it was moored there once. She was there once when she came to look for us - to look for the Ella when she ran ashore.

Ques 35 How many boats did the Albion & the Manager Company have in the year 1868 regularly in their employ?

Ans. They owned two boats the Ella & Hadon and no others.

Ques 36 Was the Hadon running to Hawaii in 1868?

Ans. I think she ran a part of the time.

Ques 37 Was she here during the month of September 1868 at any time?

Ans. I don't recollect that particular month.

Ques 38 Please indicate on plan "A" the space occupied

first by the Indian in 1868 when you say she was laid up

Ans. Between the point marked "W" and in the divide of point marked "boat-shed" along the marsh.

Ques 39 How and when was she made fast?

Ans. From line, running to a stump on the shore at the edge of a sawdust bank & by pole along side

Ques 40 Did not the Company in 1868 use what is now called Nuxley's wharf as a part of it?

Ans. I don't know - they may have used a part of it

Ques 41 Was Nuxley's river front then used by any other Company or boat?

Ans. No Company, that I know of - then even no other boats here but ours.

Ques 42 Do you say as a Lieutenant Captain that a boat lying at Bennett's old wharf could not be turned round without going up the river as far as the bend?

Ans. We had to come up in the bend to turn the Elba. The Indian could be turned without it.

Ques 43 If a line of wharves was constructed up the river along the bank projecting into the river as far as Mr Bennett's dock and extending up into the bend - do you say that a boat such as the Elba could not be carried up the river and turned round

because of their coherence?

Ans. It could on a fetcher not otherwise without damage.

Ques. 44 Do you recollect anything about the use of the property in 1867?

Ans. As near then the wharf and the ground round the river. I don't know what the Company used the disputed property in 1867.

Ques. 45 Do you know what any Company did?

Ans. I do not.

Ques. 46 Do you know what any boat used the disputed property in 1867?

Ans. Only what the Eliza used.

Ques. 47 How did the Eliza use it in 1867?

Ans. Only in turning round. That's all.

Ques. 48 The turn round in the river didn't she?

Ans. Yes sir.

Remains by the Plaintiff. Counsel

Ques. 1 Was the new wharf at present occupied by the Company constructed before or after 1868?

Ans. Since 1868.

Ques. 2 When the new wharf the Company had in 68 was the old wharf indicated on the plat?

Ans. It was.

Ques. 3 Was that old wharf sufficient to answer the purpose of mooring a boat not running on the route, and answering the purpose of a landing too?

Ans. It was not.

Q. 4 What is the distance from point "P" to point "W" on the map?

Ans. I don't know. I should judge it to be over 100 feet.

Q. 5 Did you know Mr. Richard Bonnell in his lifetime?

Ans. Yes sir.

Q. 6 If the entire bend between "P" & "W" had wharves constructed on the banks of the river with depth of water sufficient to make a landing and boats were moored at them whenever, would it not be a physical impossibility for a boat the size of the Ella lying at the Company's old wharf to turn around without injuring the boats at the wharves in the bend?

Ans. Could it do it without damage to the boats - a running risk of damage.

Q. 7 Suppose boats the size of the Ella I mean the width and length were moored at the wharves in the bend would it be impossible for a boat the size of the Ella to ~~turn around~~ lying at the Company's old wharf to turn around?

Ans. I couldn't say it would be impossible - it would be impossible except by risk of damage.

Q. 8 Would not the old landing have been almost useless as such for vessels the size of the Ella with wharves constructed between points ~~between~~ "P" & "W"?

Ans. I don't think it would be entirely useless, its usefulness as a wharf would be very much impaired. Re-Cross examined by Defendant's Counsel

Ques 1 When the trader lay on the flat, as you say
he did, you succeeded in turning the Elk
around without any difficulty did you?

Ans I did.

Ques 2 Was the trader any farther out in the water
than the could necessarily have been if there
had been a wharf when the lay.

Ans I think the could have been farther out with
a wharf.

Ques 3 Was it the afloat all the time?

Ans Not wholly.

Ques 4 How many feet farther out would the wharf have
to have been to keep her afloat?

Ans I suppose about 5 or 6 feet.

Ques 5 What do you mean by not "wholly afloat"?

Ans I mean that she caught on the bank on
muskrat.

Ques 6 Was she on the muskrat all the time?

Ans No.

Ques 7 When you pulled her off the muskrat
did you have any difficulty then, in turning
around.

Ans No.

Ques 8 It would not have been necessary would it
to have brought the wharf out any farther
than to water enough to float her?

Ans I think it would.

Ques 9 Why so.

Ans. So she could be always afloat a low water.

Ques 10. Would it have been necessary to have constructed a wharf, further out than the water deep enough to float her at low water?

Ans. It would not.

Ques 11. Whenever you found her aground you brought her out to water deep enough to float her did not you?

Ans. Yes sir.

Ques 12. Did not the Company use the Norfolk wharf as a point of it in river bank in 1868?

Ans. I think we did and tie to the bank when we wanted to.

Ques 13. Does not the Company now own the whole of Norfolk's wharf and river front?

Ans. I believe they do.

Ques 14. What is the length of the wharf on the river front formerly Norfolk, south of and in continuation of the Barrell wharf?

Ans. 120 feet according to the map and scale.

Ques 15. What is the distance from the point "N" to the wharf below known as the Key stone wharf?

Ans. I suppose about 100 yards.

Re-examines by Plaintiff's Counsel

Ques 1. When the boats of the Company were moored in the bend of the river were they not placed

men point "W" leaving sufficient room East of point "P" to enable a ~~large~~ boat lying at the wharf to turn?

Ans. They can.

Asked by the Boston Defendent Counsel

Ques. 1 Do you mean by your last answer to be understood as saying of your own knowledge that boats were moored in 1868 at the point indicated under the head which you have particularized?

Ans. I do not.

And further this deponent says not.

Geo. H. Wilby

^{Witness for Plaintiff}
Henry Curtis being duly sworn deposes and says as follows:

Ques. 1 What is your age, residence and occupation

Answer ~~Edw.~~ Reside 45 & 50 year old, Portsmouth N.H., Carpenter.

Ques. 2 State how long you have been in the employ of the Albemarle River Navigation Company?

Ans. I came in the Company in 1867.

Ques. 3 How long remained in the employ ever since?

Ans. Until the exception of a little time when I was crippled (I was away about one month) I have been in the employ ever since.

Ques. 4 Are you familiar with the location of the

wharf of the Albemarle River Navigation Co.

Ans. I think I am sir.

Ques 5 Please examine plot when you marked "A" and say whether you remember the location of the old wharf which was as existed in 1868 designated or such on the plot by the dotted line

Ans. I think I am.

Ques 6 State whether in 1868 the Company was any portion of the bank of the river or a landing to the south of the line of the "old wharf"

Ans. It did not.

Ques 7 State whether in 1868 the Company was any portion of the bank of the river to the north of the old wharf extending or designated on the plot to points "P" & "W"?

Ans. Yes sir: The Indian lay on that point of Mark designated by point "W" there was small fort and anchors from her stern bow and a line from her stern bow to stump on shore. The stern was fastened to an old "spile". When they went to turn the boat round the boat's bow came up in the direction of point P. and between points P & W.

Ques 8 When one of the boats of the Company was out running on the regular route when was she moored?

Ans. In 1868 the Draden lay there at that point and since that time she has laid there again.

Ques 9 Did any boats lay there before 1868?

Ans. The Draden lay there in 1867 and was not moved from there till 1868 when she went down the river to look for the Ella.

Ques 10 Has the Ella or the Lota or any other boat of the Company whenever not running on the line been moved along the bank between point P & W?

Ans. The Lota has been put there once. Captain Simmich objected to her laying there saying she was in the way of the other boats turning round, and then she was taken away. The Ella has never laid there since I have been in the employ of the Co. to my knowledge.

Ques 11 Has any of the boats of the Company since you have been in its employ from September 1868 been repaired anywhere on the bank of the river between points P & W.

Ans. When the Draden lay there at that point

early in 68 some repairs were done on her by Mr. Hickey who was in charge of her.

Ques 12 I was crippled in February 1868, and went to Putnam and remained there till July 1869.

Ques 12 Do you remember the location of the rail fence designated on the plot?

Ans Yes sir I do

Ques 13 What was the land to the south of that fence in 1868 ~~and~~ before & since

Ans It has not been used by no one with the exception of the use by Mr. Hill, and the Company. The chicken coop stood on inside of the field to the west of the fence. I put it there with Mrs. Barre's permission. Mrs. Barre after a while objected to my having it there when I took it down sold my chicken and gave Mr. Raco the fence to move it out of the way.

Ques 14 With respect to the said fence was considered and recognizes a clear

Ques. I don't know anything about what bargain was made between the parties, but I know that I was ~~not~~ free outside the fence to do anything I wanted to do it up to the fence.

Ques. 15 How long has the smelt-shop been there? Did you see the dog kennel as indicated on the plot been in their present location?

Ans. The coal pier was put in the position the first fall after the new warehouse was built. The one on the pier has been there I suppose about 2 years. The smelt shop I don't suppose he has there longer than 2 years. The dog kennel was put there soon after the new house was built I built these structures.

Ques. 16 Was any objection made to the erection of them contemporaneous by Mr. Barntt?

Ans. Not to me. He never objected to it or I know of.

Ques. 17 Did Mr. Barntt to your knowledge ever object to the use by the Company

to any of the logs to the back of the rail fence?

Ans. Not that I know it is.

Q. 18 Do you remember the Cypress Swamp situated on the plot and the trees that were stood there?

Ans. I believe I do.

Q. 19 How far to the head of that swamp did the steamer Ella have extended when moored at the wharf?

Ans. I couldn't tell you positive how many feet it is somewhere about 10 or 12 feet I suppose much of the swamp.

Q. 20 How far towards the head of the river between points "P" & "W" did the steamer Ella come when turning around?

Ans. Now I can't say positive how many feet she would come up in there. ~~She~~ I don't know that she would go half way up in turning if she went up further she would strike at point W in turning when the water is that low.

Ques 21 If the river bank between points P & W were used for the purpose of landing the vessel, would it be practicable for a vessel of the size of the Liam Ella to move at the old wharf to get away from there without danger of injury to such vessels.

Ans. I don't think it would be advisable for a man to lay his boat there when she is turning around especially when the wind is blowing, or I think there would be danger of damage to our boat as she is in turning around.

Ques 22 What is the width of the river opposite the old wharf.

Ans. I don't know what it is. The Chinese call it Lin Lin - we could see Ella Lin there. I don't think it is 50 yards wide.

Ques 23 How the Ella lying at the old wharf would necessarily have to move in the bend of the river between points P & W.

Ans. Yes sir.

Ques 24 ~~When~~ Do you remember where the old wharf or at present it exists and the new one known

was built?

Ans. I was down there when it was built, some 5 or 6 yrs ago.

Ques 25 How long has the boat thus indicated on the pier been in its present position?

Ans. I know well enough when it was built but don't know exactly how long ago some 5 or 6 yrs ago.

Ques 26 When was the pier for the Helen Smith built?

Ans. That was built a long time before the new house was built I don't remember when it was done.

Ques 27 How far did it extend in the river?

Ans. I suppose it was about 23 or 24 feet, a little more or a little less.

Ques. 28 Which boat had to give way when both were at the wharf, the Ella or the Helen Smith when the Ella was to move?

Ans. The Helen Smith had to give way to the Ella at the time.

Examined by Defendant. Crossed

Ques 1 You say you came onto the upper of the

Albion Union Georgetown Co. 1867

In what month in that yr did you come

Ans In July in that yr.

Ques 2 Ans you say that you were crippled in February 1868 and went to Patuxent and remained there about 18 months, is that so.

Ans I stopped here about 25 days before I went to Patuxent, and I was in the hospital and Patuxent together about 18 months.

Ques 3 You went to Patuxent there in March 1868 and remained there until the summer of 69 is that so?

Ans I returned here in the summer of 69 and went there in February March 68

Ques 4 Do you know how the Albion Union Navigation Co. used the wharf and loading on the Blackwater river during your absence?

Ans. I ~~found this out~~ I cannot tell how they were using the wharf when I was in Patuxent.

Ques 5 Do you know what the Company used and

occupied during the time of your leaving and returning here?

Ans I could not tell nobody, what condition they was using the wharf in when I was not here.

Ques 6 Can you tell how much of the wharf and what part of the river on the bank of the river if any they used in your absence?

Ans I suppose they used the same old wharf I was not here to see it, & the same parts of the river.

Ques 7 You were not asked what you supposed, you were asked to tell what you knew. Do you know of your own knowledge that the Company used any of it during your absence?

Ans. ~~Yes~~ They were using of it when I took a trip down the river.

Ques 8 When did you take a trip down the river?

Ans. That was some time in 68 I could not tell you exactly what time it was, what month it was.

Ques 9 What boat did you go in?

Ans I think it was in the Ellen *

Ques 10 Who commanded her at the time

Ans. Capt Freeman I think

Ques 11 How long were you here on that occasion?

Ans. I made one trip down the river and came back and went back here next day. I don't know how long I stopped in Doublin - waiting for the train to start I can't tell how many times I was in Doublin. I don't think I was in Doublin a whole day.

Ques 12 Can you point out on this map all that the Company was using of the river bank and of the wharf on that particular day?

Ans. They were using the length of the wharf for Mr. Stuplett's line up with the bow post the Cyprus or the usually long up along side the wharf.

Ques 13 Is that all she was using that day that you saw?

Ans. ~~That~~ She was using the front of the wharf for the use of the Company.

Ques 14 How far did he bow go past the Cyprus that day?

Ans. It might have went 10 feet more or less.

Ques 15 Did you see any vessel moored in the bend of

the river below March 68 & July 69

Ans. I did not.

Ques 16 Can you read and write?

Ans No sir.

Ques 17 Could you know ~~any of the~~ the figures and writings on Map A without being told what they are.

Ans. I don't pretend to know what the letters is

Ques 18 what is your business?

Ans. I am acting as Carpenter at the present time for the Company

Ques 19 Do you make your living in that way?

Ans. I have been doing of it by ^{off and on} times for the last 15 or 18 years

Ques 20 Are you making your living at this time by working as a Carpenter for the Albemarle Steam Navigation Company.

Ans I am.

Examination by Plaintiff counsel

Ques 1 Did you know Richard Borde in his life time?

Ans I see the old gentleman but had no acquaintance

with him.

Ques 2 Do you know upon what title the Albemarle Steam Navigation Company occupies the land of Mr Barrett?

Ans I know not sir.

Ques 3 Do you know when the Albemarle Steam Navigation Company was first incorporated and who were the incorporators?

Ans I do not.

The Counsel for the plaintiff has presented the paper marked Y. Y. which by agreement of Council is a true and correct copy of the original Charter of the Albemarle Steam Navigation passed by the Legislature of North Carolina February 6th 1866 and that the same shall be received in evidence of an original authenticated copy from the Secretary of State of North Carolina.

Ans Further this deponent deposet not.

Henry ^{his} X Coates
make

Deposition taken this 10th day of September 1880 same parties being present that were present yesterday.

Goodman E. Johnson a witness for the
 Plaintiff being present, and a being duly sworn
 deposes and says or follows:

Ques 1 State your age, residence and occupation

Ans. 76 yrs old, Franklin Va. No occupation.

Ques 2 How long have you lived in a near Franklin?

Ans. Some three or four years, in Franklin.

I have been living in the County since

1829

Ques 3 Are you acquainted with the landing of
 the Albemarle Steam Navigation at Franklin

Ans. Yes sir.

Ques 4 Were you acquainted with it in 1868

Ans. Oh yes sir before this I rec'd.

Ques 5 ~~Did~~ Did the Albemarle Steam Navigation Com-
 pany in 1868 make any use of the bars of
 the river designated a point 'A' on the plan
 P. 8 14 5.

Ans. Not that I know of

Ques 6 In that year and before had you ever seen
 any of the boats of the Company when not
 running regularly on the line laid up in that

beats between point P & W.

Ans. Not as I know of; they were laid up down
towards of the Anfleut.

Ques. 7 Do you know when the line was taken up
+ buried, & how?

Ans. I do not.

Ques. 8 Did you ever see any boats lying between
point P & W?

Ans. Yes sir I've seen some small boats lying
there but I don't know what boats they were.
Can examine by Defendant's Counsel

Ques. 1 What kind of boats were there up there
in your last answer were they not small
battering and cannon belonging to different
people about the place?

Ans. Yes sir - small tow boats belonging to differ-
ent people I reckon.

Ques. 2 What do you mean by tow-boats?

Ans. Little boats to tow rafts of timber &c.

Ques. 3 Did the Albemarle River Navigation Company
tow rafts?

Ans. Not that I know of sir.

Ques. 3 Did not any body put his boat there that
wanted to?

Ans. I believe they did sir. They did as far as I
know.

Ques. 4 Did the Albemarle River Navigation Company
claim the exclusive use of it?

Q. Not or I know of it.

A. Further the deponent says not.

Goodman & Schinner
J.

Captain Irvin C. Mills, a witness for the plaintiff being present and duly sworn deposes and says or follows:

Q. 1 State your age, residence and occupation

A. 43 yrs old, Southampton Co Va. Farmer, I am also County surveyor of Southampton Co.

Q. 2 Please state whether you have recently made a plat and survey of the Albemarle Steam Navigation Company's wharf and landing on the Blackwater river near Franklin, and if you have the plat then show you marked "A" is the one ~~that you are~~ ~~the one~~ prepared by you.

A. Yes sir I made the survey and this is the plat of it.

Q. 3 Please explain the same

A. It shows the entire wharf as at present stands and also shows by dotted lines marked "old wharf 1868 97 feet" ~~when it was~~ the extent of the old wharf at that time 1868. At the north end of the new or entire wharf I have lines to show by some points marked "piling of old wharf" when it seems an old wharf at some time has existed. The point marked

"made land" is actually land raised above the surrounding marsh, and I think the marsh extends right where that land is. ^{at} The first survey of this property made by me this place was marsh - the first survey was made some five or six years ago before the wharf was extended from the "old wharf" as it is now.

About half way between where the "old wharf" of 1868 and the present wharf is a Cypress stump - a starting point for the line between Mrs. Bennett and Mr. A. W. Norfleet's property. That stump was a Cypress tree when I made my survey 5 or 6 years ago and ever a live tree since that time. The wharf has been improved and extended as shown by the plan - first by a warehouse 100 feet long & 30 feet wide and by the addition of another ^{chute} ~~chute~~ in the wharf (it is a depression in the wharf for the purpose of facilitating landing in low water) - the old warehouse quarters were removed from the point now occupied by the new warehouse, and I think that by the addition of two railroad tracks

Ques 4. Please point out on the plot the dividing line between Norfleet's & Bennett's land.

Ans. It is designated by the dotted line marked "old line for Norfleet" This line commences 15 inches of the southern extremity of the "old wharf"

Ques 5. How long have you known all this property?

Ans. I never knew anything definite until I read my ~~first~~ survey of the Angles & Barre line 5 or 6 years ago.

Ques 6 Do you know the extent of the whole wharf or bit now stands?

Ans. About 250 feet.

Ques 7 What is the distance from the northern line of the "old wharf" and the northern line of the new wharf?

Ans. About 35 feet.

Ques 8 What is the distance of that Cypress stump from the northern terminus of the wharf or if now stands?

Ans. Its 20 feet (about)

Ques 9 Please explain the line indicated and marked "rail fence 1877"

Ans. This line indicates the ~~enclosed~~ field that was enclosed by rail fence at that time.

Ques 10 What use was made of the land to the south of that fence from the time you have known the property?

Ans. I could not say. It was not in cultivation.

Ques 11 Is the river wide or narrow opposite this wharf property?

Ans. It is quite narrow opposite the south end. It is about 100 feet wide opposite the south end.

Ques 12 What is the Character of the shore indicated by the point indicated by letter "W".

Ans It is shallow with a marshy bank.

Ques 13 What is the Character of the shore bank from point "W" to the Rail Road bridge?

Ans It is marshy all the way - (It is a swamp)

Ques 14 Can you examine by defendant Counsel

Ques 1 Do you know how the property was used by the Albemarle Steam Navigation Co in the year 1867 & 1868 and how much, and what part of it was so used?

Ans I don't know how it was used, I don't know of them using any other property other than the property marked "old wharf 1868".

Ques 2 Do you know where the wharf is, lately owned by Mr. Arflet now used by the Key Stone Pier indicate it on Map "A"

Ans I know where it is, I can't indicate it on the map for want of room but I can give you the exact distance from the point to the eastern end of the wharf of the Albemarle Steam Navigation Company ^{wharf} It is 297 feet.

Ques 3 What is the Character of the shore from the one point to the other?

Ans A high bluff with deep water affording favorable position for tying up boats

Ques 4 You have spoken of a fence indicated on the Map Did not that fence run along the brow of the hill on river bank all the way round the field?

Ans It ran around the high land. All the land not enclosed by that fence was subject to overflow and not fit for cultivation except that the fence cut ^{off} a small point of the high land near the wharf which it did not enclose.

Ques 5 Do you know how far point "W" is from point "P"? Supposing point "W" to indicate the true position of the state?

Ans I don't know I never measured it.

Ques 6 And further this document says it not.
John L. Wiley

Henry Curtis recalled

Question by the plaintiff's counsel

Ans 1 Since your examination on yesterday has you made any examination of the premises in question?

Ans I have.

Ques 2 What is the width of the river at the narrowest point opposite the Company's wharf?

Ans From the wharf to the point across the river indicated on the map a point "I" it is 112 feet by actual measurement.

Ques 3 What is the distance from point P to the spot indicated by point "W" on the map at the beginning of the march.

Ans From the point P to point W. I should suppose is about double the distance of the short end of the wharf from point I. I haven't measured it but guess at it.

Ques 4 By whom and when was the land made as indicated on the plat?

Ans The land that you speak of is being ^{was made} made by the land cut away when the new town house was built - it was the first land before. It was made by the Company.

Ques 5 When was that done?

Ans Some 5 or 6 years ago when the townhouse was built.

Ques 1 What is the distance between point "P." & point I

Ans I couldn't tell you I haven't measured it. I don't think it is twice as far as from P to W. I don't think it is 448 feet from "P" to "I".

Ans Further this deponent says not.

Henry X. Curtis
mark

John H. Bogart a witness for the plaintiff being present and duly sworn deposes and says as follows:

Ques 1 What is your age, residence and occupation.

Ans. 38 yrs old. Loudon County, Superintendent of Albemarle Steam Navigation Co., Agent of ^{at Franklin} ~~Sears & Roanoke~~ Rail Road Co., & Agent of Tucker Express Company, at Franklin, & Merchant.

Ques 2 How were you employed from the close of the war until December 1867?

Ans. I was unemployed until November 1865, when I was sent to Franklin by my uncle Robt Dickson then general agent of the Albemarle Steam Navigation Company to represent him, in which position I occupied until his death in October 1866 I think, when I succeeded him as agent of the Company and held that position until December 1867.

Ques 3 When was the Steamer Ella put upon the Blackwater river, when was she purchased, & by whom?

Ans. She was put on the Blackwater river in 1865 she was here when I came here. Robert Dickson purchased her in 1865.

Ques 4 When was the Hudson purchased and by whom?

Ans. She was purchased in December 1866 and by the Albemarle Steam Navigation Company.

Ques 5 Did you know Richard Barrett in his life time?

Ans. I did, intimately. He died in 1868 I

don't remember the month.

Ques. 6 During the life time of Richard Barrett i.e. after the Ella came on until the time of his death what arrangements were made between him and Robert Dickson or between him and the Company for the use of his landing on the Blackwater river near Franklin?

Ans. I do not know that any arrangements were made between them. I only know that the Steamer of the Albemarle Company was Mr Barrett's property.

Ques. 7 Did you ever know him, Richard Barrett up to the time of his death make any demands of the Company or of Robert Dickson for compensation for the use of his landing?

Ans. I did not.

Ques. 8 Can you say that he made no such demands which you were connected with the Company?

Ans. Never through me, and never upon any other officer of the Company within my knowledge.

Ques. 9 Do you know when the old wharf or it is designated on plat "A" was built & who built it and who paid for it?

Ans. I can't say positively. ~~either~~

Ques 10 When was the Company's wharf enlarged to its present dimensions and the new warehouse built?

Ans I think the entire work was finished in August 76. It was all done in that year.

Ques 11 Do you know Mrs. Mary R. Barrett, the widow of Richard Barrett?

Ans Yes sir. I married her daughter at her home in November 68.

Ques 12 Were you living with Mr. Barrett in 1876?

Ans Yes sir. I lived at Mr. Barrett's house from 1868 till 1880.

Ques 13 Were you not in 1876 a director of the Albemarle Steam Navigation Company?

Ans I was.

Ques 14 During the time that the Company was extending its wharf, excavating the bank, & constructing its new warehouse did you then or thereafter hear from Mrs. Barrett any complaint or protest, ^{on account} ~~by~~ ~~of~~ of the Company, or making their extension and improvements ~~on account~~ of

Ans The only complaint I have ever heard from Mrs. Barrett in regard to the said improvements was that the Seaboard Road was using more of her land for track purposes.

as then it was entitled to, and that the Albemarle Company were taking a liberty with her property in moving the old ware house on the hill now occupied by the ^{and designated on plot A as warehouse grounds} warehouse of the Company. The Rail road track referred to extended from the main track to the Steamboat landing. I also desire to state in this connection that this complaint was never made to me officially either as an officer of the Albemarle Company or as the Agent of the Seaboard Rail road.

Ques 15 Referring to plot "A" please state whether within your knowledge in the year 1868 before and since the Albemarle Steam Navigation Company have used that portion of the river bank between points P & W. on the plot and if so how.

Ans I am ~~not~~ positive as to the year The Albemarle Company has frequently used the bend indicated for the purpose of mooring its steamers when laid up out of service till or to the years in which said use was made of the bend I am not positive I am sure that a portion of the bend has been used since 67 for the purpose of rounding the steamers.

Ques 16 What steamers have you seen moored in the bend?

Ans I have seen the Shadow, the Lota, the Delos, the War and I think the steamer Vista. I am

Ques 17 About Steamers run that the last three mentioned were

not moved then until after 1868

Q. 17 What steamer did the Company own in 1868.
 A. The Steamer, Ellen and her sons

Q. 18 Were there any other steamers running in
 connection with the Company at that time
 which landed at the Company's ^{wharf or} landing ^{at Frankfort}?

A. Yes. I am positive of vessels, the
 Steamer Wave which belonged to the Seaboard
 & Roanoke Rail Road Company, did so.

Was examined by the Defendant's Counsel

Q. 19 Are you positive that any steamer of the
 Company was moved in the bend referred to
 in 1868 prior to September of that year?

A. I am not.

Q. 20 What connection if any did you have with
 the institution of this suit. State the facts
 fully and in detail.

A. As the representation of the Company my President
 being absent in Europe the suit was instituted
 at my instance. I employed counsel, I protested
 against the use of the property claimed, by any
 other steamer than our own, ~~I officially refused~~
~~I protested~~ I made the affidavit to the Bill
 and furnished Counsel with the facts, or facts
 as I knew, with facts upon which he drew the
 bill.

Q. 21 Do you say that under the deed of Leon
 of 26th of September 1868 made by May R

Route to Edward Wood President of the Alaska Marine Navigation Company; that Company acquiesced to the entire bank of the river from the northern line of the old wharf up to the bend?

Ans. I think so.

Ques. 4. Have you not tried to learn from Mrs Barrett within the last two or three months what property?

Ans. I have not, but on the contrary I have distinctly refused to pay for it when the proposition looking to such a purchase was made to me.

Ques. 5. Have you not since the loan to Mr Holly was agreed on, attempted to induce him to cancel it, and offered if she would do so to pay her more or to see that she did not suffer by it or work to that effect.

Ans. Never. In that connection I would like to explain. About six weeks before Mrs Barrett made any contact with Mr Holly I knowing that the steamer Gypsy would soon have to leave her old wharf and fearing that Mrs Barrett might come to visit the steamer some portion of her lands lying along the Blackwater river, between the point where our landing ends and the Rail road bridge, I went to Mr Barrett and requested that if any such proposition was made that she would give me the refusal of such property.

at the price named by her. She agreed to do so while the negotiations were going on between her and the representatives of the Gypsy. I had frequent conversations with Mr. Bennett on the subject, but never contemplated my request nor did she give me any reason to believe that she would rent any of said property to these gentlemen without first giving me the opportunity to take it at the price to be named for them. She did offer to lease the property to the Albemarle Steam Navigation Company at 500 dollars a year. I mean the property from where our wharf ends to the Redd Road bridge. Giving as her reason for so doing that she desired to form the Albemarle Company. I urged that the amount was excessive and could not take it at that figure. She then asked what I felt justified in paying. I answered that I could form no estimate of the value of the property that I desired that she should have its full value. And in order to reach a proper valuation I suggested that she require these gentlemen to make a proposition for it. That I would then be in position when acquainted with their offer to refuse or accept it. I understood that this was to be her policy. I had no intention of the property having been leased, or any part

tion of it by Mrs Bonite to Mr Holly until in
furner of the fact the day afterwards by Mr
H. W. Angell. I went at once to see Mrs Bon
nite and to ask her if what I had heard was
true she answered that it was partially so
and then stated to me the conditions of her
contract with, I understood Mr A. W. Angell
I suppose Mr Angell was the agent of Mr Holly
at the time. I told Mrs Bonite I felt very
much hurt at the treatment I had received
and was astonished that she should have made
such a contract without my knowledge, in
violation of her promise to me. We talked over
the matter for a considerable length of time
and when at that interview a room adjoining
the very room afterwards I stated to her in
the presence of her son R. C. Bonite that while
I was deeply hurt I felt no resentment on
the contrary that I desired to be to her the
same friend that I had ever been. That while
my fight would be just a battle against the
parties who might attempt to use any portion
of the property claimed by the Albemarle Com
pany ^{as if the case was not it} that I did not desire to strike her.
I then suggested that as she had given an
instrument of writing leaving a portion of
her property commencing when the Albemarle
Company's line ended, ~~and that this line to~~
be established by the parties so leaving

that she allow one or ~~an~~ ~~an~~ her representa-
 tion to represent her in the location of said
 point. I explained to her that neither she I
 nor any other human being could positively
 locate such point but that I or the Representative
 of the Company knowing what had been used
 by the Company by reason of my connection
 with it could come or more establishing that
 point as any other person. Her answer to me
 was that if I took in the bend (between Pt
 W on the map) that it would necessarily
 force the parties desiring to take their part
 in the swamp and that they might decline
 to do so. I stated to her that if they did
 the balance of the land to the bridge being
 voluntary outside of the portion leased by Mr
 Holly, that I would give the amount bargained
 for by them namely 400 dollars for the 1/4
 year of her lease. I repeated this conversation
 to R. C. Barnett & T. O. Barnett and Dr. J. A.
 Bryant a son in law of Mr. Barnett
 and so anxious was I not to come in conflict
 with Mr. Barnett in this suit that I insisted
 that these gentlemen should urge her to keep
 out of it. I also stated to Mr. Barnett and
 to Dr. Bryant I think that in case these
 gentlemen finding that the location of the
 purchase was in the swamp when it properly

belonged that it would not be fair on the part of Mrs. Barnett to return the 100 dollars deposited as security for the compliance of their portion. Dr. Bryant after seeing Mr. Barnett in regard to this matter intimated to me that Mrs. Barnett would gladly do so provided I would pay her some amount not named for the land that she claimed ~~belonged~~ much of the old wharf up to a point on the map marked "W". I positively declined so to do, claiming it as the property of the Albemarle Steam Navigation Company.

Ques 6 How you states essentially all that has taken place between Mrs. Barnett and yourself ~~under~~ the subject?

Ans. There is nothing that remember omitted.

Ques 7 Did you ever have any conversation with Mr. Anfleut in which he told you that he was going to rent the Heler Smith wharf from Mrs. Barnett (the Heler Smith, wharf was located at the point marked P on the map and at the pier the head of which are shown on the map) and if you did how such conversation did you say to him that that wharf belonged to the Albemarle Steam Navigation Company?

Ans. I don't remember any special conversation with Mr. Anfleut in regard to the matter. I think that Mr. Anfleut did say to me some time

before the lease was effected that he was going to rent a landing from Mrs Barrett he may, or may not have said the Helen Smith, whom I did not think with Mr Barrett, promise to me that he would secure a wharf on her river bank I therefore paid no attention to the conversation saying that I would have done had he said that he was going to rent my farm. The witness says that he mentioned the Helen Smith, whom to me in this connection. I believe that he did so.

Q. 8. Is he now carrying the mail on the river to and from Franklin?

A. Steamship Gyffrey owned by the defendants.

Q. 9. When did they get the contract?

A. They got the contract in Mr. George McDonald of Washington D. C. secured the contract commencing July 1st 1880.

Q. 10. Does the Gyffrey carry the mail under his contract?

A. Yes sir.

Q. 11. Was your Company a competitor for that mail contract?

A. Yes sir.

Re-examined by Plaintiff's Counsel.

Q. 1. Did you appear the introduction of this suit know of the deed of Barrett with to Warner & others, filed in this suit as XX

Ans I did not.

Ques 2 Plein indicates on the map at what point of the landing occupied by your Company did the claim begin, and at the time alleged in the bill?

Ans The lands at the northern end of our wharf at point "P" and south of it but how much the occupied ^{of it} I don't know.

Ans further this deponent says not.

J. H. Bogart

Virginia

Southampton County Court

I Luther R. Edwards a ^{lawyer} certify that the foregoing depositions were taken before me the taking of the same having been assigned from Saturday the 14th day of August 1880 to the 9th day of September when they were resumed, and from what time they were resumed to the following day the 10th of September when they were ended. Given under my hand this 25th day of October 1880

Luther R. Edwards. N.P.

Notary Fee \$20=

This deed made this 13th day of April in the year one thousand eight hundred and fifty eight between William Murfee of the first part and Thomas B. Warren, J. L. Skinner, Abram Riddick, Augustine Holley, John W. Keeling and Robert Dickson of the second part. Witnesseth that the said William Murfee in consideration of the sum of five dollars to him in hand paid by the parties of the second part and for divers other good and lawful considerations, do grant unto the parties of the second part the right and privilege of a landing or easement for the landing of the Steamers Curlew and Stag and all steamers that may be run by said parties of the second part or their assigns on the Black water River at the old landing place for Franklin Depot on said River together with the full and exclusive right to control and prevent the landing of any other Steamers or vessels whose landing may in their opinion conflict with their interest as navigators and common carriers on Black-Water River at or on the landings, shores and river banks of said river now in possession of the said parties of the first part, from the land or line of Richard Barrett near the old landing to the land or line of Beans & Cornell. and also a right of way for a rail road or any other track to be used for the transportation of freight and passengers twenty feet in width thro' the lands of the party of the first part from the old landing place for Franklin Depot aforesaid to be selected by the parties of the second part to the line of the Seaboard and Roanoke Rail Road, the location of said right of way to be at the election of the parties of the second part or their assigns - and also the use and privilege of as much land ~~in the river~~ ^{in extent} three eighths of an acre north of his ice-house at about and adjacent to the old landing place for Franklin Depot aforesaid to be selected by the parties of the second part or their assigns as their business as navigators and common carriers on Black water River may require at their landing place with general warranty - But under and upon the express condition that the parties of the second part or their assigns

run their Steamer or Steamers aforesaid or some other steamer to the
aforesaid old landing, otherwise then the estates, easements, rights and
privileges hereby granted shall cease and forever determine and the same
revert to the party of the first part their heirs or assigns. The party of
the first part also covenants that in the event of the parties of the second
part or their assigns may lay a track and afterwards deem it expedient to
change the location of said track, they are privileged to do so through any
part of his lands between the two aforesaid points having the right to claim
only same rights and privileges as before granted.

Witness the following signature and seal

Wm Murfee Seal

Southampton County to wit:

I Joseph E. Gillette a Justice of the Peace
for the County aforesaid in the State of Virginia do certify that William
Murfee whose name is signed to the writing hereto annexed bearing date on
the 13th day of April 1858 acknowledged the same before me in my County
aforesaid Given under my hand this 13th day of April 1858.

Joseph E. Gillette J.P.

Southampton County In the Clerk's Office the 17th May 1858.
This deed of bargain and sale was presented and together with the certificate
of the acknowledged grant of William Murfee a party thereto was thereupon
admitted to record.

L R Edwards Clk

L R Edwards Clk

The Albemarle
Steam Navigation
Company.

vs
Holly & others

Depositions for
the Plaintiffs

1881 Decr 10th

(~~177~~) ~~101~~ 94

Albemarle Steam Nav. Co.

or } Stat. Rules

Holly & Co

Colt	\$ 9.00
Shy	3.00
L. R. Co. & P.	20.00
Lawyer & Co.	16.50
	\$ 49.50

In Southampton Circuit Court.

The Albemarle Steam Navigation Company Plaintiffs
against

A. Holley & Jacob Wool owners of Steamer Gypsy & Charles
W. Jester the master & Captain of said steamer Defendants }

1880 Aug 4th bill filed, bond & security given Injunct. issued

" Sep. Re Subpoena returned on Jacob Wool & Charles W. Jester. A. Holley not a
resident. Decree nisi to Defts Wool & Jester.

" Oct. 1st Amended & Supplemental bill filed. Subp.^a awarded to answer.

" " Re. Same returned. Service acknowledged by Defts. D. Nisi to Defts.

" Nov " Subps. original & amended taken for Confessed & Cause set for
hearing.

1882 May. Dismissed at Defts Costs

Richard H. Baker & Son,
Attorneys and Counsellors at Law,
Norfolk, Va.

J. I. Kinder Esq.
J. H. Gayle Esq. ^{Dear Sir}

Norfolk Nov. 4. 81

Dear Kinder

The Holly having
refused to pay Mrs. Baunton, she
has abrogated the lease to him,
and leased the property to the
Albion Co.

Gayle will be at Court to have
the case removed from the docket
by a simple decree of dismissal
without prejudice to either party,
but will I suppose claim costs
against Holly, which I do not see
that we can resist.

Yrs truly
R. H. Baker

Albemarle Steam N. Co.
to } Inj. bond

Holly 1.2

Know all men by these Presents that
we John H. Bogart, A. L. Gardin & W. W. B-
riggs, are held and firmly bound unto
the Commonwealth of Virginia in the
just and full sum of One
Thousand Dollars, to the payment
whereof, well and truly to be made, we
bind ourselves, our heirs, executors
and administrators, jointly and
severally firmly by these Presents.
And we ~~the~~ obligors herein hereby
waive the benefit of our Homestead
Exemption as to this Obligation

Sealed with our seals, and dated
this 4th day of August A. D. 1880.

The condition of the above obligation
is such, that whereas ~~is~~ the
Albemarle Steam Navigation
Company has obtained and
injunction from the Hon. J. F.
Goawin Judge of the Corporation
Court of the City of Norfolk an
injunction enjoining and
inhibiting A. Hally & Jacob Wool
owners of Steamboat "Gipsy" & Charles
W. Jester the Master & Captain of said
Steamer, their agent or employees
from landing or attempting to
land their Steamboat called the
"Gipsy" or any other ~~vessel~~ Steamer
or Vessel at the Wharf and landing
now in the use and possession of the

Albemarle Steam Navigation
Company on the Black Water River
in the County of Southampton, and
which wharf and landing is bounded
on the South by the land formerly
owned by A. W. Norfleet and on
the North by a Marsh or Swamp.
Now if the said Albemarle Steam
Navigation Company shall pay &
satisfy to the said A. Holly & Jacob
Wool & Charles W. Jester all damages
& costs which they shall sustain
in consequence of said injunction
then the above obligation to be
void, or else to remain in full
force and virtue

Signed sealed and delivered
in presence of

J. H. Bogart.
A. L. Gardner
W. C. Briggs

Seal
Seal
Seal
Seal

The Alameda

Steamer May 10

ms

Tully & Sons

Merch 3

May Term 1882

John C. Tully

Geo. B. W. S.



The Albemarle Steam

Navigation Company-

Plaintiff

against

A. Holly and Jacob Wood

owners of the Steamer "Ginger"

and Charles W. Dexter master

and Captain-

Defendants

In Chancery-

It appearing to the Court that A. Holly has abandoned his case in the proceedings in this suit mentioned on that having failed to comply therewith that Mary R. Barnett his grantor has abrogated the same and has conveyed the property in dispute to the Albemarle Steam Navigation Company - upon motion of the said plaintiff this suit is ordered to be removed from the docket of this Court without prejudice to the rights of any of the parties to this suit - and it is ordered that the defendants Holly and Wood pay to the plaintiffs their costs by them in this behalf in this suit expended, to be taxed by the clerk of this Court -

The Commonwealth S. No Co

vs 3 Decree

Holly

Nov Term 1882.

To be entered.

Geo. W. Brown.

Recd Nov 27, 1882 of S. R. Edwards
Clerk of the Circuit Court of South-
ampton, the original charter referred
to in this order. a copy having been
left in the papers.

Wm. H. Boyant
by J. B. Preece his
att.

The Albernade Steam Navigation Co
vs 3 Decree
Holly &

On the motion of Jno. H. Bogart, it is ordered
that he be allowed to withdraw from
the Chancery papers of "The Albernade
Steam Navigation Co. vs Holly & ", the
Charter of said Company, upon giving
his receipt to the Clerk of this Court
and leaving a copy of the same, in
the papers of that cause.

The Merchants S. N. Co
vs 3 Decree
Holly.

Nov Term 1882.

To be entered.

Geo. W. Brown.

Recd Nov 27, 1882 of S. R. Edwards
Clerk of the Circuit Court of South-
ampton, the original Charter referred
to in this order. a copy having been
left in the papers.

Wm. H. Boyant
by J. B. Paine his
att.

The Albemarle Steam Navigation Co.
vs 3 Decree,
Holly &

On the motion of Jno. H. Bogart, it is ordered
that he be allowed to withdraw from
the Chancery papers of "The Albemarle
Steam Navigation Co. vs Holly &c.", the
Charter of said Company, upon giving
his receipt to the Clerk of this Court
and leaving a copy of the same, in
the papers of that cause.