

427

February 2nd, 1940.

Mr. Nicholas E. Stallworth,
Mobile, Alabama.

Dear Sir: Richard E. Moore, as Admr. for the use
of Augustine Meaher, Plaintiff,
vs.
Wiley V. Hamilton, Defendant.
No. 427 - Law.

Will you kindly return the file of the
above case immediately? Your receipt for same is
on file dated November 15, 1938, and signed by you
Sgt Allan R. Cameron, Jr.

On 1/29/40 the following order was
made by Judge Baker: "Dismissed for failure to
revive.

Thanking you, I remain,

Very truly yours,

R. S. Duck, Clerk.

Mr. Wiley V. Hamilton,
Daphne, Alabama.

Your rights to possession of the premises hereinafter described having been terminated, you are hereby notified to quit and deliver up possession of the same to the owner within ten days of this date.

Dated this January 14th, 1938.

The property is described as:

All of Fraction 34 east Apalachia River containing 12.35 acres; All of Fractional Section 35 east of Apalachia River, containing 1.30 acres; All of Fractional Sections 26 and 36 West of Apalachia River, containing 172.54 acres; Fractional S.E. 1/4 of Section 24, containing 61.25 acres; Fractional Sections 26 and 36 east of Apalachia River containing 205.93 acres; All of S. 1/2 of S.E. 1/4 of Frac. Sec. 23 east of west prong of Apalachia River containing 55.90 acres;

Fractional West half of the Southwest quarter of Section Thirteen (13) containing fifty-seven (57) acres; Fractional Northeast quarter of Section Twenty-three (23) containing forty-six (46) acres; Fractional Northeast quarter of Section Twenty-four (24) containing seventy-nine (79) acres; all of the above lands being in Township Four (4) South, Range One (1) East, and acquired by E. H. Sudder by deed from Los Island Stock Company, a corporation, dated December 10, 1934;

Augustine Meacher
Owner.

BFM/IS

RECORDED

Hamilton, Wiley V.
by serving a copy on Wiley V. Hamilton
and executed on January 14th, 1938.
Jas. H. Sudder
1938

STATE OF ALABAMA, |
COUNTY OF BALDWIN. |

Before me, Howard Gaillard, a Justice of the Peace in and for said State and County, personally appeared B. F. McMillan, Jr., who is known to me and who being sworn says:

Affiant is the Attorney at Law for Augustine Meaher, who is the owner of the lands or tenements hereinafter described, and as such makes and files this affidavit before Howard Gaillard, a Justice of the Peace at Daphne in Baldwin County, Alabama, that being the county and district in which the said lands or tenements are located.

Wiley V. Hamilton, a tenant on said lands or tenements, holds the said lands or tenements over and beyond the term for which the same were rented or leased to him, or after his right of possession has determined or been forfeited, and the owner of the lands or tenements desires possession of same and makes and files this affidavit under the Act of the Legislature of Alabama of the year 1932, page 164, and alleges that he has demanded possession of the property so rented, leased, held or occupied. The said lands are described as follows:

~~Fractional~~ Section 25, Township 4 South, Range 1 East.

B. F. McMillan, Jr.

Sworn to and subscribed before me
this 1st day of ~~January~~, 1938.

February

Howard Gaillard,
J. Baldwin County, Ala.

RECORDED 8-199

Created by personal

Donnie & Coby are

Phyllis W. Hamilton

this 5th day July 1938

at 400 P.M.

Sharon Hamilton

affidavit

Filed this 5th day July 1938

Sharon Hamilton

in his capacity as owner of the property as stated, located, held or recorded. The said lands are located as follows: Township Section 35, Township 4 North, Range 1 East.

Sharon Hamilton

on or before the 1st day of August

Sharon Hamilton

RICHARD E. MOORE, AS ADMINISTRATOR OF RALPH HUDSON, DECEASED, FOR
THE USE OF AUGUSTINE BEAVER, PLAINTIFF, VS. WILEY W. HAMILTON,
RESPONDENT:

Plaintiff sues to recover possession of the following
tract of land:

Section 18. 45-12

of which he was in possession and of which pending such possession
and before commencement of this suit defendant lawfully entered
on demise of plaintiff and which now the defendant, after determina-
tion of his possessory interest and after plaintiff's demand in
writing therefor, unlawfully detains together with Fifty Dollars
for the detention thereof.

Sturtevant
Attorneys for Plaintiff

AUGUSTINE MEAHER, PLAINTIFF
VS.
WILEY V. HAMILTON, DEFENDANT

IN JUSTICE OF PEACE COURT OF JUDGE HOWARD
GAILLARD, DAPHNE, BALDWIN COUNTY, ALABAMA.

Comes the Defendant and under the provisions of Section 3 of an act passed by the Legislature of the State of Alabama, October 25, 1932, known as the Sanderson Act, makes this affidavit.

That he has never been a tenant of the Plaintiff in this case for the property sued for; that he has never made any lease with the Plaintiff in this case for said property; that he is not holding possession of said property or premises under the plaintiff in this case or beyond the term of any lease or rental agreement with this plaintiff; That his right of possession has not terminated or been terminated and that he still has good and lawful right to the premises he is occupying.

The defendant further says on oath that he is occupying a house boat which has been elevated upon Piling, placed in Jack's Bayou in Baldwin County Alabama, a navigable stream, by permission of the United States Government; that he is occupying no land of the plaintiff and has never occupied any land of the plaintiff;

That the premises he is in possession of are his own premises erected at his own cost and without any agreement with the plaintiff concerning the same.

The defendant further says that this Court is without jurisdiction to remove the defendant from the premises he is occupying as hereinabove alleged and that only the State of Alabama and or the United States Government has the authority to remove the Defendant from said premises.

The defendant further particularly denies that the plaintiff has any title to the bed or stream known and called Jack's Bayou or the right or authority to remove any constructions in said stream.

Wiley V. Hamilton

Sworn to and subscribed before me,
a Notary Public, this 7th day of
February, 1938.

Elmer G. Medlander
Notary Public, Mobile County Ala.

RECORDED

8.200

Filed July - 9th 1938
at 9:00 A.M.

Shannon Wallace

Notice to Plaintiff cancelled.

Filed this 25 day Dec 1938
Shannon Wallace
Clerk-Recorder

NOTICE TO PLAINTIFF
TO REMOVED FROM THE
FILE OF THE COURT
IN THE MATTER OF
THE ESTATE OF
JAMES H. WALLACE
DECEASED
JULY 9, 1938
AT 9:00 A.M.

Shannon Wallace

WAR DEPARTMENT

NOTE.—It is to be understood that this instrument does not give any property rights either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to private property or invasion of private rights, or any infringement of Federal, State, or local laws or regulations, nor does it obviate the necessity of obtaining *State assent* to the work authorized. IT MERELY EXPRESSES THE ASSENT OF THE FEDERAL GOVERNMENT SO FAR AS CONCERNS THE PUBLIC RIGHTS OF NAVIGATION. (See *Cummings v. Chicago*, 188 U. S., 410.)

3-8360

PERMIT

United States Engineer Office.

_____, 19 .

Mr. W. V. Hamilton
Mobile, Ala.

Referring to written request dated *Aug 15, 1935*

I have to inform you that, upon the recommendation of the Chief of Engineers, and under the provisions of Section 10 of the Act of Congress approved March 3, 1899, entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," you are hereby authorized by the Secretary of War,

to *construct a timber pier*
(Here describe the proposed structure or work.)

in *Jacks Bayou, headwaters of Mobile Bay at its mouth*
(Here to be named the river, harbor, or waterway concerned.)

at about 6.1 miles east of Mobile, Ala. near the east end of
(Here to be named the nearest well-known locality—preferably a town or city—and the distance in miles and tenths from some definite point in the same, stating whether above or below or giving direction by points of compass.)
Cochran Bridge

in accordance with the plans shown on the drawing attached hereto
(Or drawings; give file number or other definite identification marks.)

subject to the following conditions:

(a) That the work shall be subject to the supervision and approval of the District Engineer, Engineer Department at Large, in charge of the locality, who may temporarily suspend the work at any time, if in his judgment, the interests of navigation so require.

(b) That any material dredged in the prosecution of the work herein authorized shall be removed evenly, and no large refuse piles, ridges across the bed of the waterway, or deep holes that may have a tendency to cause injury to navigable channels or to the banks of the waterway shall be left. If any pipe, wire, or cable hereby authorized is laid in a trench, the formation of permanent ridges across the bed of the waterway shall be avoided and the back filling shall be so done as not to increase the cost of future dredging for navigation. Any material to be deposited or dumped under this authorization, either in the waterway or on shore above high-water mark, shall be deposited or dumped at the locality shown on the drawing hereto attached, and, if so prescribed thereon, within or behind a good and substantial bulkhead or bulkheads, such as will prevent escape of the material into the waterway. ~~If the material is to be deposited in the harbor of New York, or in its adjacent or tributary waters, or in Long Island Sound, a permit therefor must be previously obtained from the Supervisor of New York Harbor, Army Building, New York City.~~

(c) That there shall be no unreasonable interference with navigation by the work herein authorized.

(d) That if inspections or any other operations by the United States are necessary in the interests of navigation, all expenses connected therewith shall be borne by the permittee.

(e) That no attempt shall be made by the permittee or the owner to forbid the full and free use by the public of all navigable waters at or adjacent to the work or structure

(f) That if future operations by the United States require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Secretary of War, it shall cause unreasonable obstruction to the free navigation of said water, the owner will be required, upon due notice from the Secretary of War, to remove or alter the structural work or obstructions caused thereby without expense to the United States, so as to render navigation reasonably free, easy, and unobstructed; and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners shall, without expense to the United States, and to such extent and in such time and manner as the Secretary of War may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable capacity of the watercourse. No claim shall be made against the United States on account of any such removal or alteration.

(g) That the United States shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the Government for the conservation or improvement of navigation, ~~and no claim or right to compensation shall accrue from any such damage.~~ ^{or for other purposes.}

(h) That if the display of lights and signals on any work hereby authorized is not otherwise provided for by law, such lights and signals as may be prescribed by the Bureau of Lighthouses, Department of Commerce, shall be installed and maintained by and at the expense of the owner.

(i) That the permittee shall notify the said district engineer at what time the work will be commenced, and as far in advance of the time of commencement as the said district engineer may specify, and shall also notify him promptly, in writing, of the commencement of work, suspension of work, if for a period of more than one week, resumption of work, and its completion.

(j) That if the structure or work herein authorized is not completed on or before _____ day of _____, 19____, this permit, if not previously revoked or specifically extended, shall cease and be null and void.

By authority of the Secretary of War:

7-21
Duch
RECORDED
Moore
8-199

VS

Hamilton

Appeal from writ of
Harris Bailard

J. P. Precinct 8

Filed 3/10/38

Filed March 28, 1938

R. S. Duch,
Clerk

Resume of proceedings on record in trial of cause of
Unlawful detainer

Augustine Meaher VS Wiley V. Hamilton.

- 1-21-38. Notice, dated 1/14/38, to Hamilton to vacate, filed.
Notice served on Hamilton same day.
- 2/ 1-38. Affidavit in unlawful detainer filed in Court.
- 2- 5-38. Papers served on Hamilton.
- 2- 7-38. Counter affidavit filed by Hamilton denying tenancy.
Hearing set for 2/11/38.
- 2-10-37. Hearing set on plea for new date from Plaintiff.
New date set for March, 7, 1938.

- 3- 7-38. Came the parties to this suit Plaintiff represented by
B.F. McMillan Jr. Defendant appearing as his own counsel.

Both parties being ready for hearing the following
witnesses for plaintiff sworn.

Augustine Meaher-- Richard E. Moore.

Testimony. Richard E. Moore, on direct testimony stated that he as
Administrator for the Estate of Ralph Hudson, deceased,
entered into a trapping contract with the defendant on
the usual basis, viz- 30% of gross receipts from the
catch for the Estate of Hudson, 70% to the defendant.

That the defendant at this time, 1935 was on the premises
now occupied by him. That certain additions to the then
existing premises, viz, an additional room for the care
and curing of the pelts, were made in the shape of such
room, the Estate furnishing the lumber, or major part
thereof and the defendant to do the carpenter work to
balance his share of the outlay.

That this arrangement continued thru balance of 1935,
all of 1936 and that part of 1937 until August, 27th, 37
when title to the property of Estate of Hudson passed
by sale to Augustine Meaher.

That the above is all the business of any nature relative
to this matter that was had with the defendant.

Augustine Meaher, on direct testimony, stated that at
about 3.00, P.M. on August, 27th, 1938, the defendant came
to his home at Point Clear and then apprised him of the
fact that his (Meaher's) agent had that day at noon
purchased at the sale at the Court House in Mobile, Ala.
the property of the Estate of Ralph Hudson, deceased and
comprising that area wherein the location of the defendant's
place of residence and operations was situated. That the
defendant then sought a renewal or continuance of the
trapping arrangements which had been in effect as between

Testimony, Continued.

Augustine Meaher.

the defendant and the Estate of Hudson. That he, Meaher then and there refused to enter into any agreement with the defendant and that no further business or agreement or arrangements of any nature ever came up between them that his next act relative to this matter was his filing thru his attorney the demand for possession of the property.

(Hamilton, not as testimony, interpolated that this was an erroneous statement.)

Wiley V. Hamilton. Stated that he moved to his present location in 1934, having as his place of abode a houseboat, anchored in that piece of water known as Jacks Bayou. That subsequently he applied for permission from the U.S. Government, Engineers Department to construct a pier. This permission granted and the pier built. That later, his house boat beginning to leak he raised it on piles, at the water end of his pier, where it is now located. That he was granted permission from the Cochrane Bridge Co., to construct a turn-out at the land-end of his pier and did so. That this pier from its land-end extends over water to his house-boat.

He stated that he was not a tenant of either the Estate of Hudson or of the subsequent owner, Meaher. That he has never agreed to pay rent for his location, never has paid rent, no rent has ever been demanded by either party above named and no arrangement, agreement or contract for rent ever been mentioned. That his right to his present location is by reason of his buildings being in the center of what was, prior to the building of the Cochrane Bridge, an open channel, used for the passage of small boats, sail and motor, that only his pier touches land and that^s land the property of the Cochrane Bridge Co., or its assigns.

County, Ala.

[illegible]

RICHARD E. MOORE, AS ADMINISTRATOR OF RALPH HUDSON,
DECEASED, FOR THE USE OF AUGUSTINE MEAHER, PLAINTIFF,
VS. WILEY V. HAMILTON, DEFENDANT.

NOTICE OF APPEAL

To Wiley V. Hamilton, defendant in said cause:

You are hereby notified that on March 12th, 1938
Richard E. Moore, as administrator, the plaintiff in
the above entitled cause, has prayed an appeal from the
judgment therein rendered by me, in your favor and
against the plaintiff in said cause and given sufficient
bond, having first executed and filed with me an appeal
bond with sufficient sureties payable to you with
condition to pay such judgment as may be rendered against
him by the Circuit Court of Baldwin County, Alabama, to
which the cause was sought to be removed on the appeal.
Plaintiff having complied with the requirements of the
law in such cases, the same has been granted, to the
next term of the Circuit Court of Baldwin County, Alabama
to be held for Baldwin County.

Given under my hand, this 22 day of November, 1938.

Howard Gaillard

JUSTICE OF THE PEACE, Beat 8
Baldwin County, Alabama

To any lawful officer of said County:

You will please execute the foregoing notice by
personal service of a copy thereof on Wiley V. Hamilton
as soon as practicable and return the original hereof
with your certificate of service to the Clerk of the
Circuit Court of Baldwin County, Alabama immediately
after the service thereof.

Howard Gaillard

JUSTICE OF THE PEACE, Beat 8
Baldwin County, Alabama

Received November 22, 1938 and on November 25, 1938
executed the same by delivering a copy thereof to the
Wiley V. Hamilton.

Howard Gaillard, Jr.
CONSTABLE, Beat 8
Baldwin County, Alabama

Executed this 25th day of November 1938, by personal service of copy to Wiley V. Hamilton, Howard Gaillard Jr.

RECORDED

RECORDED

Richard E. Moore, as adm'r.

for the use of

Augustine Meaher, Plaintiff

vs.

Wiley V. Hamilton, Defendant

NOTICE OF APPEAL

(from judgment of

Howard Gaillard

Justice of the Peace

Baldwin County, Ala.

Filed November 26, 1938

R. S. DUCK

clerk, - registered

By Wiley V. Hamilton
Deputy