

VIRGINIA

IN THE CIRCUIT COURT OF MADISON COUNTY

STATE COMMISSION ON CONSERVATION AND
DEVELOPMENT OF VIRGINIA, Plaintiff

v.

No. 82
At Law

D. F. ANDERSON ET ALS and 55,000
ACRES OF LAND IN MADISON COUNTY, VIR-
GINIA, Defendants

In the matter of the claim of B. H.
Spitler to 320 3/4 acres in the park
area, approximately 202 in Madison
County and approximately 118 3/4 in
Page County, Virginia.

Evidence taken before the Appraisal Commissioners of
Madison County, Virginia, by consent of the Appraisal Commissioners,
the Petitioner, and the Defendants, at Sperryville, Virginia, on
the 27th day of May, 1931.

PRESENT:

S. R. Price, Attorney for Defendant
W. C. Armstrong, Attorney for the State
Commission on Conservation and Develop-
ment of Virginia.

* * * *

Mr. Bernard H. Spitler, a witness of lawful age, being first duly sworn, deposes as follows:

DIRECT EXAMINATION: Mr. Price.

Q. Are you the Mr. Spitler that is making claim to 314^{acres}/₄ in the park area?

A. Yes sir.

Q. Part of it in Page and part of it in Madison County?

A. Yes sir.

Q. Do you know approximately how much is in Madison County?

A. I pay taxes on 202 acres in Madison County, I think.

Q. And how much in Page County?

A. Page County - - 118 3/4.

Q. Mr. Spitler, where do you live?

A. I live in the Hawks Bill section.

Q. In Page County?

A. Yes sir.

Q. You own a farm there?

A. No sir.

Q. How long have you owned this grazing farm?

A. My father and myself bought it together.

Q. How long ago has that been?

A. Part of it in 1912 and part in 1914.

Q. Do you remember how much you bought in 1912?

A. 105 acres.

Q. Who did you buy it from?

A. Mr. David Koontz.

Q. What did you pay for that tract?

A. Well, now, I don't know. I bought two tracts at the same time.

Q. What did you pay for the two tracts?

A. That has slipped my mind. To the best of my knowledge, it was in the neighborhood of \$3000.00 for the two tracts. Mr.

Wolfenberger offered it for that and my father and myself took a chance on it and paid approximately \$3000.00 for it.

BY MR. ARMSTRONG: Where does this Mr. Wolfenberger live?

A. Near Stanley.

Q. What kind of deed did you take?

A. General warranty.

BY MR. PRICE:

Q. Mr. Spitler, where did you get the other from?

A. On January 30, 1914, from D. E. and J. H. Wolfenberger.

Q. How much did you pay for it?

A. That has slipped my mind.

Q. From who did you get the other?

A. That was a settlement between my father and his brothers.

The five of them owned 1346 acres.

Q. Your father got that land in the division?

A. In the division.

Q. You really couldn't tell what that was valued at?

A. No sir.

Q. Mr. Spitler, what, if any, improvements have you made on that land since your father acquired title to it?

A. Cattle scales, stable, we have improved the tenant house, built a summer house, and put metal roofing on everything.

Q. What about any clearing?

A. We have done considerable of that.

Q. How much of your land now is in sod?

A. To stand and look over it, it would look like 200 acres, but the park commission gave me 180 or 85 acres if I remember correctly.

Q. Did I ask you what you thought this tract is worth?

A. No.

Q. What do you think it is worth?

A. I value the place at \$18,000.00.

Q. Did you see the report that was filed in Page County of the

investigators for the park commission?

A. Well, they read off the different types of land.

Q. Did they show you how many acres they put in Madison County?

A. They showed me a map and asked me if that was correct.

Q. Assuming that the assessment is correct, how many acres were assessed in Madison County?

A. 202 acres in Madison County and 118 3/4 in Page.

Q. What would you say the Madison land is worth?

A. Well, I didn't value it that way. I valued it as a whole on its earning power.

Q. I expect you had better give your best value of the Madison land. These gentlemen have that to decide.

A. Well, I figure that the county line about equally divides it. It is right hard to follow the water shed in that section.

Q. That would put 1/2 in Page. What would you say your land in Madison County is worth?

A. We would run about 3/5 of it in Madison and 2/5 of it in Page. There would be that much in the lump.

Q. In your lump sum, what do you figure your land is worth per acre?

A. \$56.00 per acre.

Q. \$56.00 per acre. Do you think that is a fair price for the Madison County land?

A. That is what I thought at the time.

Q. Would it be about the same in value as the other tract that would be left in Page?

A. Yes sir.

Q. How many cattle have you been carrying on this land in the grazing season?

A. The most is 69, but the average is 50. We aim to carry 50 every year.

Q. Tell the Commissioners something about the fair estimate of what that property has been earning you in profit each year for the last 5 or 6 years.

A. For the last 10 years - about \$1000.00 a year.

Q. Do you buy cattle in the Spring and sell them in the Fall?

A. That has been the custom.

Q. How much weight have you been putting on your cattle?

A. 300 pounds is a fair average.

Q. I started to say something about the mineral on the land or the copper crop. Tell the Commissioners about that.

A. A few years ago, I got a sample of that out crop and sent it to the University of Pittsburg. I went along the ledge, took some rock that didn't show any indications of copper and some that did. They analyzed it and wrote to me saying that it was 2.15% copper.

Q. Does your land adjoin what was known as the Cooper tract?

A. It borders me on the south.

Q. Got any idea what the value of that copper rights in there is?

A. No. I just pushed off a part of the ledge there and indications are there but it has never been examined by an expert to my knowledge.

CROSS EXAMINATION: Mr. Armstrong.

Q. When was that - when you submitted the copper samples that you spoke of?

A. June 8, 1925.

Q. Have you ever given anybody an option for the copper rights or any other mineral right on this land?

A. No sir, the reason I didn't was that I wrote them another letter asking them for more information along that line. They wrote me telling me that copper was cheap at that time and they told me not to sell it as copper was worth very little.

Q. At the time you have known there was copper there - what have you been offered for the copper rights?

A. I have never tried to sell.

Q. Has anyone ever come to you and offered you anything?

A. I don't suppose anyone knew it was there.

Q. Didn't you think it was worth anything?

A. I was waiting for a later date.

Q. So you are without information as to the value of that now?

A. Yes sir.

Q. Your claim is \$56.00 per acre, did you say?

A. And a fraction, yes sir.

Q. Did you work that out by including the buildings on the property?

A. No sir, only the copper.

Q. Are the buildings on the Page or Madison part?

A. Madison part.

Q. What do you think would be a fair estimate on the buildings that are on the property now?

A. That would be hard to say. If they had to be replaced, they would come high, having to haul that lumber to the mountains.

Q. Yes sir, but isn't it customary among business men to charge off something annually for depreciation?

A. These buildings are all practically new except the summer house which was used to stay in when we went up to salt the cattle, except the tenant house.

Q. Do you object to stating what the buildings are worth in your opinion?

A. Well, to be perfectly frank, I haven't measured them and I only know in a general way. If the Board was going up there, they could see them.

Q. You prefer the Board to go?

A. Yes sir.

Q. Which is the best grade of land, fertile land, the land in Madison or Page, or is there any difference?

A. If the line runs where I think it does and where it is supposed to, I think they will agree with me that it is about equally divided.

Q. As to quality?

A. Yes sir.

Q. How many acres of woodland is there in Madison County?

A. Now, if you will show me the map, I will endeavor to show you the best I can. According to this map, the county line would come right along here somewhere and go along this road - -

Q. Here is the county line.

A. I thought the county line came up to here but I think - -

Q. According^{to} the map, there is 204 in Page and 110 in Madison.

A. I went down there and made a statement just as I made it to you and the map was different down there.

Q. Mr. Spitler, I will ask you this, have you ever offered this land for sale?

A. It isn't for sale at any price.

Q. Never tried to get a buyer for it?

A. No sir.

BY MR. SAMUELS: Do you ever take in cattle for grazing?

A. Yes sir, a few small cattle for my neighbors to fill out my number if I haven't enough of my own. I generally buy a car load of cattle in Chicago in the Spring, hold them on the home farm for thirty or sixty days on fodder and straw, then move them to the pasture. That is, this pasture.

BY MR. ARMSTRONG:

Q. Have you filled the acres during the last few years?

A. That has been our practice for about 10 years.

Q. Did you do it last year?

A. Last year? Yes sir.

Q. What did cattle cost you that you bought in the Spring last year?

A. \$ 9.45 in Chicago at the stock yards.

Q. What was the drift per head on the cattle from Chicago here?

A. I couldn't say.

Q. There always is?

A. These were lean cattle that were held in the stock yards.

Q. Of course, the drift wouldn't be as much on lean cattle as

it would be on cattle with more flesh, but there is always drift on cattle shipped from Chicago to Page County.

A. You take these figures here and keep a steer and sell it in the fall, and you have your weight.

Q. But if cattle cost you \$9.45 per head in Chicago when they weighed less, you have that same amount of money invested in less amount of cattle?

A. Yes sir, but we have the grazing land to bring back the flesh.

Q. What did you get for those cattle last fall?

A. 5¢ a pound.

Q. That was an unfair question to ask.

A. That is perfectly all right. We have nothing to hold back from you folks.

Q. Then, on your grazing operations last year, you didn't make 6% interest on \$56.00 per acre value?

A. No, but I can tell you of a year when I made considerably more than that. If I may be permitted to say, I made \$42.00 clear money on the cattle, on each one.

Q. During the war?

A. Yes sir.

Q. That was not a fair time either.

A. No, and I don't use that as a basis either.

Q. I want the Commission to know that I am not arguing because you bought the cattle at 9½¢/loss.

A. To be perfectly frank, I will tell you just how I reached this valuation. Over a ten year period, I figured 7¢ was an average price for cattle, and I also counted 300 pounds as an average gain for cattle but I think the testimony of the other people here is about correct - -

Q. 300 pounds at 7¢ a pound?

A. Would be \$21.00. That is \$21.00 per steer. That is just half of the \$42.50 that I made.

Q. How many steers do you stock up? How many acres to a steer?

A. Well, I figured 50 as its carrying capacity, but the witnesses

that I had here yesterday and was unable to get his testimony, he told me from his own experiences that the place would graze easily 10 more, but I don't contend that while I have had as many as 69 on there, I don't contend that for an average.

Q. How many acres are there? 110 and 240?

A. 105 and 90. This last is fenced off and they don't run over that only in the dry season. I valued it all as that because the copper is on the 112 acres.

Q. It might be worth more taking the copper into consideration, but we cannot estimate the copper - only at a price.

A. Well, if necessary, I guess we could get an engineer and get him to go on there and make an estimate. If you gentlemen will permit it?

Q. Certainly.

A. I am a little limited with funds now.

Q. \$56.00 an acre without the copper?

A. On the earning capacity as explained - what the cattle do and the earning power.

Q. How many acres?

A. 320 3/4.

Q. What is the carry^{ing}/capacity?

A. 50 cattle.

Q. That would be, figuring the whole acreage, would be about one steer to every six acres?

A. That was last summer.

Q. You didn't make anything at all last summer?

A. No sir.

RE CROSS EXAMINATION: Mr. Price.

Q. Mr. Spitler, what has been your average profit for the past 9 or 10 years on the farm, leaving out last year?

A. \$21.00 per head year before last, 30 cattle made me clear \$30.00 a head. Some I took to the home farm intending to sell them to the butcher. \$1050.00 a year is about the average.

Q. \$1050.00 is about the average you have been able to make out of your farm in the last ten years, leaving off last year?

A. Yes sir.

BY MR. ARMSTRONG: It is stipulated between counsel for Petitioner and counsel for Claimant that the testimony of all witness who have testified in the claim of R. D. Koontz, Frances E. Lamb, S. R. Aleshire and I. N. Long upon the matter of their opinion of the value of the lands in the neighborhood of the land now under consideration and the method by which they arrived at the value of such lands may be considered, and any other matter that they testified to may be considered by the Board of Appraisal Commissioners in ascertaining the value of the lands of B.H. Spitler now under consideration. In consideration of this stipulation, I will not further cross examine these witnesses.

W. C. Armstrong.

Mr. R. D. Koontz, a witness of lawful age, being first duly sworn, deposes as follows:

DIRECT EXAMINATION: Mr. Price.

Q. Mr. Koontz, state to the Commissioners whether you are familiar with Mr. Spitler's property in the Blue Ridge of 320 acres?

A. I am. My grand father owned an interest in the 90 acres, he and Mr. Howard Litter together.

Q. Mr. Litter of Madison County?

A. They sold their interest to Mr. Spitler and other property adjoining this tract which I have been over several times, but I am familiar with the 90 acres.

Q. The 90 acres that was owned by your grand father?

A. Yes sir, we took the cattle up there before we cleared up the ridge place.

Q. What do you consider a fair price per acre for this grazing farm?

A. He has priced it very cheap. It is the oldest sod in the Blue Ridge and the finest cattle I have known to come out of the Blue Ridge.

Q. Tell the Commissioners about the character of the grass that is on there?

A. Regular blue grass with this white clover in it.

Q. White clover mixed in it is a good asset to the sod?

A. It is.

Q. I believe in your grand fathers time, they carried a number of colts in there?

A. Yes sir. He and Mr. Litter didn't graze it very heavy - the 90 acres. They took a pride in them, having something nice - nice cattle for the market. They generally came off in fine shape. They probably had 3 or 4 colts.

Q. You always slipped a colt in?

A. Every time I could. I value it pretty high.

Mr. Marsh, a witness of lawful age, being first duly sworn, deposes as follows:

A. Value claimed \$18,000.00 Assessed \$240.00.

Top of Blue Ridge, north of Gordonsville Pike.

It is a sandy loam of good depth and fertility with loose rock in some places and rock outcrops in a few places. First class grazing is smooth with gentle to moderate slopes, little rock and very few weeds. The sod is very good with a high percentage of blue grass. The second class has a poorer soil, more rock and some sumac and weeds. The sod is fairly good with considerable blue grass. The third class has a large portion of the surface covered by rocks and cliffs but some blue grass.

It is eleven miles over very rough roads with the exception of two miles which is paved to Stanley, the nearest shipping point.

The wooded portion has been cut over at various times and there is no merchantable timber but some good young oak. Most of the land is steep with considerable rock.

Improvements: Madison County: Tenant house: log, 16 x 24 x 12', 4 rooms, 1½ story, porch 7 x 24', partly ceiled, stone chimney, metal roof, fair condition. \$400.00

Barn: frame, 32 x 16 x 10', shingled roof, good condition \$150.00. Kitchen: 12 x 14 x 8', metal roof \$50.00.

Hen house: frame, 8 x 8 x 8', shingled roof \$10.00. Hen

house: frame, 8 x 8 x 8', shingled roof. \$5.00. Scales and

house: frame, 14 x 18 x 10', metal roof, good condition.

Fairbanks scales) \$225.00. Summer house: frame 18 x 24

x 12' with an ell 14 x 28 x 8', matched, 6 rooms, 1½ story, porch 8 x 18', stone chimney, ceiled, metal roof, good condition

\$500.00. Total value \$1340.00.

Orchard: 15 trees - various sizes, - 20 years old - fair condition \$15.00.

Acreage and value of land by types: Madison County:

Ridge - 6 acres - \$1.00 per acre - total value \$6.00

Slope - 60 acres - \$2.50 per acre - total value \$150.00

Grazing I - 33 acres - \$40.00 per acre - total value \$1,320.00

Grazing II - 8 acres - \$22.00 an acre - total value \$176.00

Grazing III - 2 acres - \$12.00 an acre - total value \$24.00

Tillable - 1 acre - \$40.00 an acre - total value \$40.00

Total value of land \$1,716.00.

Value of improvements \$1,340.00 value of orchard \$15.00
value of tract \$3,071.00 or an average of \$27.92 per acre.

Acreage and value of land by types: Page County.

Slope - 56 acres - \$2.50 per acre - total value \$140.00

Ridge - 60 acres - \$1.00 an acre - total value \$60.00

Grazing I - 52 acres - \$40.00 per acre - total value \$2,080.00

Grazing II - 30 acres - \$22.00 per acre - total value \$660.00

Grazing III - 6 acres - \$12.00 an acre - total value \$72.00.

Total value of tract \$3,012.00 or an average of \$14.76 per acre.

SUMMARY: Page and Madison Counties.

Total number of acres - 314 A.

Total value of tract - \$6,083.00

Average value per acre - \$19.37.

CLAIM

of

B. H. SPITLER

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