

Editor's Note:

This is a lawsuit involving Sewanee Coal Coke & Land, Tennessee Coal Iron & Railroad, and Tennessee Consolidated Coal Company. It provide some insight into the complexity of the ownership of coal and mining rights within the region. RET 03/06/2014

No. 847

Sewanee Coal Coke & Land Co.	}	
	}	
	}	
vs.	}	O. & Inj.
	}	
	}	
E. L. Hampton et al	}	

Filed in my office the
7th day of June, 1905
at 10:30 A..M.

John Scruggs C&M
By E. W. Cheek D. C.& M.

To the Honorable T.M. McConnell, Chancellor presiding over the Chancery Court of Grundy County, held at Altamont, Tennessee:

The bill of complaint of the-

SEWANEE COAL COKE & LAND COMPANY, a corporation organized and existing under the laws of Tennessee with its location and principal office in Grundy County, Tennessee, Complainant

against

E. L. Hampton, a citizen and resident of Grundy County, Tennessee; and the

TENNESSEE COAL IRON & RAILROAD COMPANY, a mining corporation organized and existing under the laws of Tennessee, with its location in Grundy County, Tennessee; and the

TENNESSEE CONSOLIDATED COAL COMPANY, a mining corporation organized and existing under the laws of the State of Alabama, with its location and principal office in Madison County, State of Alabama , Defendants.

The Complainant, and the **Sewanee Coal Coke and Land Company** (hereinafter called the “**Sewanee Co.**”) respectfully represents and shows that -

1. It is a mining corporation with power to own lands and coal mines, and to mine coal and to convert it into coke and to deal in and to sell the same. It is now operating extensive coal mines and owns large coal areas in Grundy County, Tennessee, and has owned and operated the same continuously **since before the year 1905**; and

2. The defendant, E. L. Hampton, during the said period, individually, or as a stockholder in certain mining company has been engaged in mining coal in this coal field also;

3. The Defendant, the **Tennessee Coal Iron & Railroad Company** and (hereinafter called the “**Tenn. Co.**”) is a mining company and for many years has owned and operated extensive coal mines in Grundy County, and in the coal fields above mentioned. Said Company at present is not operating in Grundy County but is mining or operating in **Marion** County, Tennessee, and has agents and managers located in said county conducting its business there; and

4. The defendant, the **Tennessee Consolidated Coal Company** (hereinafter called the “**Consolidated Co.**”) was organized since March 1905, for the purpose of acquiring and taking over the lands and property hereinafter mentioned, and which complainant seeks by this bill to recover.

The defendant, E. L. **Hampton**, is the **President** thereof and has been since its organization, and is the holder of the majority of the stock thereof, and has been from its beginning. He and **R. B. Roberts**, its **Vice-President**, and **Mr. J. J. Lynch** are the incorporators and sole directors, and stockholders. Said "Consolidated Co." has begun operations through the agency of another Company in Grundy County, Tennessee where it is represented and its business managed by said Hampton, the President and director; and

5. The "Tenn. Co." had been operating in Grundy County, Tennessee for many years prior to 1905. In March 1905, it owned and possessed, among other properties in Grundy County, Tennessee, the property hereinafter more specifically described, and which constituted its "mines" or mining plant, namely:

- (a) The body of land containing about 12000 acres described in Exhibit B hereto; and
- (b) Tipples, coal-screens, coal-washer, Engines, boilers, bank-cars, railroad rails, etc.; and
- (c) Repair shop, tools, machinery and equipment; props, hoisting-engines, hoists; and
- (d) 52 head of work mules, harness, etc.;
- (e) Supplies, shovels, picks, pipe chains, etc.;
- (f) Coke Ovens, "Larries", tracks and appurtenances;
- (g) Many other things appertaining to a mining and coking plant –

all of the above, being the same things then constituting the plant and equipment of the Tenn. Co. at its Tracy City, Tennessee mines, and on said lands, and now there as a part of said plant and equipment.

6. The Tenn. Co. is a company with many millions of dollars of capital stock and owning and operating extensive coal and coking plants in Tennessee; and also other mines, iron furnaces, and coking plants in the State of Alabama. worth many millions of dollars in all. Upon all of these valuable properties (including the 12000 acres of land houses, coke-ovens and real property herein mentioned) the Tenn. Co. on the first day of January 1887 executed two deeds of trust to the Central Trust Co. of New York as Trustee, and one other on the first day of July 1901, to the Union Trust Co. of New York as Trustee to secure large issues of negotiable bonds; and these bonds have many years to run, and the Tenn. Co. is amply able to take care of them. The properties herein mentioned, are but a trifling part in the value of the properties covered by said deeds of

trust; and these facts the defendants understood and well knew prior to March 1, 1905.

7. Complainant now further respectfully represents and shows that the defendant was the owner of a certain tract of coal and timber land lying in Sequatchie County, Tennessee, near mines and lands of the Tenn. Co., containing 2715 acres and being part of the grant made by the State of Tennessee to **Charles Ragon** January 8, 1836, and known as grant No. 4276, which he desired to sell, and which as he well knew the Tenn. Co. desired to acquire. The Tennessee Co. also desired to withdraw from actual mining operations in Grundy County; and this complainant and said Hampton both understood and knew. The situation in February, March and April, 1905, as both complainant and said Hampton well knew, was this:

The Tenn. Co. desired to withdraw from active operations in Grundy County, and to dispose of its said mining and coking plant and equipment therein; the defendant, Hampton, desired to dispose of his said Sequatchie County coal lands, and the Tenn. Co. desired to acquire them; and this complainant desired to acquire the Tenn. Company's plant in Grundy County, particularly its structures, coking-ovens and appurtenances, and the Sewanee Coal vein in the 12000 acre tract of land; and

8. Accordingly, in this situation, complainant and defendant Hampton, in order to accomplish what they both desired, came to an agreement with reference to these properties, and particularly with reference to a certain contract respect thereto entered into by said Hampton and the President of the Tenn. Company.

The defendants, Hampton and the Tenn. Co. (acting through its President D. H. Bacon) on or about the first day of March 1905, made and entered into an agreement in writing, a copy of which is hereto attached (marked "Exhibit A") and which is hereby made, a part hereof; but it was made subject to the approval of the board of directors of the Tennessee Company. In substance as appears therefrom, the Tenn. Co. agreed to sell and convey to said Hampton the Sewanee vein of coal in said 12000 acres of land (of which land and 100 acres on which are situated the "**Loan Rock, and East Fork Coke Ovens**" are a part) with all mining, timber and water rights necessary to mine that vein; also to sell and convey certain buildings and lots in Tracy City, Grundy County, Tennessee; also the said Coke-ovens, tipples, and structures; and all tools, machinery and equipment of every kind appertaining to and upon the said plant; and the

merchandise in the commissary building.

In consideration thereof the said Hampton was to convey said tract of land in Sequatchie County containing 2715 acres to the Tenn. Co., and pay the difference between the land taken at such valuation as should be agreed upon, and the value of the Tenn. Co. properties, in money. There are certain reservations, and minor provisions in said contract expressed, which speak for themselves in Exhibit A, and which, for that reason, need not be now more particularly mentioned; and

9. On the 4th day of March 1905 the defendant Hampton and this Complainant made and entered into the contract in writing which is here to attached (marked "Exhibit A" and Exhibit AA") as, and which is hereby made, a part hereof. Exhibit A, was attached to and is a part of Exhibit AA, the two constituting the contract between this Complainant and said Hampton. It speaks for itself, and it is sufficient to say and show here that it was then agreed between them that said Hampton should proceed to acquire the said properties in such a way as that he would dispose of his said land in paying therefore, and this complainant would for the price stated get said equipment, coal vein, structures, ovens, etc., etc., for use in connection with, and to improve and develop its existing mining operations. Said Hampton represented the stated, that while the valuations were not expressed in said writings, the same had been ascertained, and that he would get the same for his said tract of land and fifty one thousand dollars in money; and

10. Complainant now further represents and shows that it was well understood between it and said Hampton that in as much as the contract was subject to the approval of the directors of the Tenn. Co., and as the properties were varied and numerous it would probably be necessary in the final and concluding instrument of contract and conveyance to modify the details of the said contract in some particulars not then present to the mind of either party, and for this reason it was expressly stipulated and provided that said Hampton should sell and convey said properties to complainant (with the exceptions named) provided the contract entered into between said Hampton, and the Tenn. Co., through President Bacon, March 1, 1905 (and which is marked "Exhibit A") should be approved by the directors of the Tenn. Co. as OUTLINED in the said writing – it being well understood that said writing was outlined or general statement of the contract; and

11. Relying upon the said agreement with said Hampton,

this complainant did nothing to defeat the final agreement between the Tenn. Co., and said Hampton, but upon the contrary, by and with his consent endeavored to bring it about, and declined to make an offer to the said Tenn. Co. for said properties anything like as good as that made by said Hampton; but

12. After March 4, 1905, and prior to April 6, 1905, said Hampton, as complainant now avers and charges, secretly conceived the fraudulent design to defeat complainant, obtain said properties, and retain them for himself and his confederates, to complainant then unknown; and Complainant charges and says that said Hampton set about the making of a contract and the obtaining of said properties upon such terms as he conceived would enable him with some show to contend that the contract (Exhibit A) had been so far altered as that he could not be bound under it (Exhibit A, and AA) by this complainant.

With this view as complainant is informed and believes, and thereupon charges and says, the said Hampton arranged to bring out the defendant Consolidated Co., to take over said properties and defeat complainant thereof, and that he did subsequently bring it out and organize it for this purpose; and

Pursuant to his said fraudulent and unfair purpose he made and entered into a contract with the Tenn. Co. on or about the 6th day of April 1905 where by he obtained and acquired the said properties. A copy thereof hereto attached (marked Exhibit B) is here referred to as and made a part hereof.

Complainant charges and says that as appears from the face thereof it is an attempt (through ineffectual) to acquire said properties, in such a form as not to appear to do so, or to create "lease" instead of a sale.

As the said contract (exhibit B) shows, it in form is a lease for a term of fifty years beginning April 15th 1905 and expiring April 14, 1955 of the Sewanee Coal Seam in said 12000 acre tract with unlimited right to work and mine the same, but with no obligation to mine or work the same at all.

The said contract is in form a lease for said term of 50 years of the Coke-ovens, tipples, and buildings and structures now on said land, as removable fixtures, with the right to use the same for fifty years, and with no obligation to repair, or to keep the same in order, and with the right in said Hampton, to tear down, take away and remove the said coke-ovens, tipples, store-houses, barns, buildings and structures of every kind, (excepting only the tenement houses, or dwellings for miners) then on the said lands or thereafter placed there, at pleasure.

And by the said contract the Tenn. Co. sells absolutely all the tools, mules, equipment, material and supplies, to said Hampton, at a stated valuation of \$50,014.04 – payable as in exhibit B is provided; and

13. Complainant now further represents and shows that the said lands [meaning thereby the part (about 100 acres) of the 12000 acre tract upon which the coke-ovens are situated] apart from said ovens and structures, and the **Sewanee Vein** of coal therein, is worth but little, - not exceeding two dollars an acre; and the said 12000-acre tract is valuable principally for the Sewanee vein of coal which underlies it.

Mining operations conducted according to the usual course, and without extraordinary effort, will entirely exhaust and mine the Sewanee vein in all said lands within the first half of the said lease term or first twenty-five years thereof if prosecuted continuously – as the defendants all well know, and knew when said contract (exhibit B) was made. The coke-ovens above-mentioned are not new and will by ordinary and reasonable use, be useless and worthless long before said lease expires. The life of such ovens, as defendants knew and know, is not more than twenty or twenty-five years; and the said land on which they are situated is practically worthless save and except as a location for the coking-ovens:

Complainant now charges and says that the said “lease” for said term upon the conditions therein expressed is in substance and fact an absolute sale and transfer of the said properties by the Tenn. Co. to the defendant Hampton; and was intended by them to have this effect. It charges and says that this form was fraudulently employed to enable said Hampton if possible to escape from his said obligation to transfer and convey the said properties and interests to this complainant. The said contract (exhibit B) in attempted furtherance of this unworthy design repeatedly provides for a “forfeiture” of this pretended lease in the event that said Hampton shall continuously for a period of three years discontinue the mining and removal of coal from said Sewanee seam “by reason of the EXHAUSTION of the coal in said Seam” – well knowing that if the coal should be exhausted the working of the vein would have to be discontinued forever, and also well knowing that the Tenn. Co. had been paid therefore in advance in full, was not interested in the working of the vein thereafter, and that the said contract between them does not oblige or require said Hampton to work said vein, or to mine coal, at all; nor to do anything which will oblige him to exhaust the said vein of coal; and also well knowing that said Hampton his associates had large

areas of coal lands in the vicinity to mine, - the coal from which could be, and if the scheme prevails, will be profitably coked at said ovens; and

14. Complainant charges that by the said contract (Exhibit B) defendant Hampton has acquired in substance what he and this complainant contemplated when this contract (Exhibit A and AA) was made, and which as he well knew, this complainant desired, and which he was relied upon to acquire for it.

Complainant charges and says that the rights and properties so acquired (under Exhibit B) were contemplated and are within the outlines of said contract Exhibit A and AA; and

Complainant further charges and says that even if the interests are less and are encumbered by said deeds of trust it never the less is entitled to take the same so encumbered, if it elects and desires to do so at the price agreed upon for the whole; and

15. Complainant now further shows and says that early in April 1905 it was informed that defendant Hampton had closed the deal with the Tenn. Co. as contemplated, and that thereupon April 11, 1905, it address to him the following communication, which he received, viz.:

Tullahoma, Tenn.,
April 11, 1905.

Mr. E. L. Hampton,
Tracy City, Tenn.
Dear Sir;

We have heard that the deal with the Tennessee Coal, Iron and Railroad Company has been closed, and now advise you that we stand ready to comply with our contract with you.

Please let us know when and where we shall meet to close the matter. We will thank you to send us a copy of your contract with the Tennessee Co. so that we may know its exact terms in detail.

Respectfully,
The Sewanee Coal, Coke and Land Co.,
By F. B. Martin,
President.

April 15, 1905, he replied thereto as follows:

“Tracy City, Tenn., April 15, 1905.

Mr. F. B. Martin, President
Tullahoma, Tenn.

Dear Sir:-

Yours of the 12th inst. received. I have been in Watertown since receiving your letter which was handed me just as I was getting on the train.

I did not get the Tennessee Coal Iron & Ry. property under the terms contemplated in my conditional agreement with you. They only leased me the right to the mine and coal and declined to sell me the surface right or make any sale of realty. They declined to procure a release of the mortgage liens on the property and my leasehold right is burdened with the mortgages. At the same time I was compelled to pay largely more cash than provided for in my first proposal to the T.C.I and RR. Co. which we had in view at the time I had the conditional agreement with you. The deal we had in view and the one consummated are vastly different and hence there is no contract between us that applies: I have nothing to conceal from you and will send you a copy of the agreement as soon as all the collateral contracts between me and the T.C. I. are signed up which will be done in a very few days.

Yours truly,
E. L. Hampton”

To this Complainant replied as follows by a letter which he received, viz.:

“Tullahoma, Tenn., April 19th, 1905

Mr. E. L. Hampton
Tracy City, Tenn.

Dear Sir:

I am in receipt of your letter of the 15th. inst. We are gratified to know that you will send us copy of the agreement with the Tennessee Coal, Iron & Railroad Co. in a few days, that we may also see whether or not it is within the contemplation of the contract between us.

We have anxiously expected a letter from you with reference to this matter and are pleased to hear that you have nothing to conceal from us about it.

Be so kind when you send us a copy of the agreement as to inform us whether any of the “collateral” agreements to which you refer have any connection with the agreement concerning which you write, a copy of which we shall expect to receive within the next few days.

Very Respectfully,
Sewanee Coal, Coke and Land Co.,
Per *F. B. Martin*,
President.”

The defendant Hampton replied thereto enclosing a copy of the agreement which is Exhibit B to this bill. Thereupon this complainant wrote him a letter on the day of May 1905 advising and informing him that this Company demanded said properties and interests, and stood ready to accept and pay for the same according to the terms of said contract; and this letter he received, but refused and still refuses to convey or let complainant have said properties or to perform said contract with complainant.

16. Complainant has been informed that said Hampton has conveyed said properties and interests to the Consolidated Company, but cannot aver that it is true. It has no knowledge of any such conveyance, and no record has been made thereof in the register’s office of Grundy County,

Tennessee. But complainant is informed and believes and thereupon charges and says that Hampton and the above-named Roberts and Lynch are the sole incorporators, and stockholders and directors of said Company, and that said Hampton is the President thereof, and the owner and holder of the majority of the stock thereof, and that all of them well knew of the said contract with complainant when said corporation was organized. The Consolidation Co. paid nothing for said properties if any such conveyance was made. It was brought out to enable said Hampton to own and hold the same as stockholder of said company instead of as a natural person, individual; and

17. Complainant is informed and believes and thereupon charges and says that said Hampton paid the cash payment he was to pay the Tenn. Co., and conveyed the said land 2715-acre tract of land and executed the two notes for deferred payments of purchase-money viz.: one note made by said Hampton for \$9007.01 and payable to said Tenn. Co. on the 15th day of Oct. 1905 with interest at the rate of six per cent per annum and one other note for the like amount, and the like tenor and effect, except that it is payable on the 15th day of April 1906, and both dated April 15, 1905. The said contract, exhibit B, provides that in the event default be made in the payment of either of said notes at maturity, the Tenn. Co., the payee thereof, may at its option cancel the said contract of lease and take possession of all said property, and thereupon all the rights of said Hampton in and to said properties shall cease and terminate.

Complainant is informed and believes that the Tenn. Co. is still the owner and holder of said notes; and

18. Complainant avers and says that it promptly elected to take said properties, and demanded the same, proffering to comply with its said contract with said Hampton, but he refuses to recognize or to comply with the same; and

19. Complainant hereby offers to pay and tenders, to said Hampton the sum of \$30,000, and stands ready to execute to him for the said properties its two notes for \$30,000 each payable in six and twelve months from date with security approved by this Court and conditioned as said contract (exhibit AA) provides, demanding in return therefore that said properties, rights and interests transferred to him by the Tenn. Company by said writing exhibit B, be transferred and conveyed to it upon the same terms and conditions that the same were conveyed to said Hampton, excepting and omitting the "Sewanee" Seam in that part of said tract known as the "Cheatham Lap" containing 524, 4/10 acres by actual

survey, and also the right of way for a railway from the Nashville, Chattanooga & St. Louis Railway as is by said contract (exhibit AA) provided.

The complainant cannot be adequately compensated in damages by reason of the value of said Coke ovens and properties to the said mines it now has in operation, as hereinbefore stated.

The premises considered the complainant asks leave to file this bill in this Honorable Court against all the parties mentioned in the caption, and that process returnable to the first Monday in July, 1905 a rule day, issued compel them to appear and defend as such - process as to the Tenn. Company to be issued to Marion County, Tennessee, and that they answer but not on oath which is hereby waived; and

Complainant prays that upon the hearing a decree be rendered commanding and requiring the said Hampton and the said Consolidated Co. to assign said so-called lease to this complainant, and to transfer and convey all of the said properties rights and interests therein mentioned and described and herein before described (saving and excepting such as are excepted expressly by the provisions of said contract (exhibit AA) viz., the Sewanee vein in the "**Cheatham Lap**" and the said railroad right of way) to this complainant upon the terms and conditions in exhibits "AA" and "B" prescribed; or by decree to divest all the right, title and interest of the defendant Hampton and said "Consolidated Co." in and to said properties and rights out of them and to vest them in this complainant; and

That out of the said cash payment of \$30,000 a sufficiency be retained by this Court to pay the said two notes executed by said Hampton for \$9007.01 each so as to prevent any default in payment and any forfeiture of the said contract (exhibit B) by the said Tenn. Co.; and

That the notes with the security which will be offered by this complainant be approved by this Court and held subject to the orders of said Hampton; and

That the writ of injunction issue to said "Tenn. Co." restraining and enjoining it from transferring said two notes or either of them, and from forfeiting said contract, exhibit B because of any default in the payment thereof and from repossessing itself of any of said properties or interests; and restraining it, said Tenn. Co. from making any disposition of said notes other than presenting and filing them with the Clerk & Master of this court for payment at maturity out of said cash fund as hereinbefore stated; and

For the writ of injunction also to restrain and enjoin said Hampton, and Consolidated Company from assigning, transferring or conveying any of said properties, rights and interest as to which a specific performance of said contract (AA) is here by fought to be enforced; and

Complainant prays for an account to be taken and stated showing the value of all coal mined or taken from said Sewanee vein (except in the “**Cheatham Lap**”) by defendants or either of them subsequent to this date, and the rental value of said ovens, structures, equipment, etc., now being used by defendants, and of the damages or injury, if any done thereto by defendants, or either of them, and for a decree against said Hampton, and the Consolidated Company for the full amount thereof.

Complainant prays for general and special relief.

This is the first application for the writ of injunction in this cause.

Fertrees & Fertrees
Jas. A. Jones
C. H. Garner
Sols for Complainant

STATE OF TENNESSEE,
COFFEE County.

I, F. B. Martin, do make oath and say that I am President of the Complainant Company, the Sewanee Coal Coke & Land Company and am familiar with its business and affairs; and

I have read over and am acquainted with the contents of the foregoing bill; and

That the statements therein made on information and belief, I verily believe to be true; and

That the statements therein made not on information and belief, are true to the best of my knowledge and belief.

F B Martin

Sworn to and subscribed before me at my office in said County by the said F.B. Martin, with whom I am personally acquainted on this the 6 day of June, A.D., 1905.

Witness my hand and seal of office, at my office in said County, this date above written.

Edwin L. Davis
Notary Public

Seal

The STATE OF TENNESSEE

To the clerk and Master of the Chancery
Court of Grundy County, Tennessee:

Upon the Complainant
entering into bond with good security to be approved by you
in the penal sum of \$7,500.00 conditioned as required
by law, issue the writ of injunction as prayed for in the
foregoing bill.

Witness my hand this the 6th day of
June, A.D., 1905

Joseph C. Higgins.
Judge the Circuit, Tenn.

EXHIBIT A.

Whereas in memorandum of proposal in regard to conveyance of property at Tracy City, Tenn., was made by and between the Tennessee Coal Iron & Rail Road Company, by D. H. Bacon, Pres., and E. L. Hampton; said memorandum executed March 1, 1905, and which is as follows:

“First: Tennessee Coal Iron & railroad Company to convey to E. L. Hampton, first all the coal contained in the Sewanee Seam upon land owned by the Company at Tracy City, Tenn. and vicinity, which tract of land contains approximately twelve thousand acres.

Second: All mining rights and privileges, as well as all rights of way and timber and water upon said land which may be necessary for the removal and mining of all coal contained in said Sewanee Seam.

Third: A right of way of necessary width for a railroad leading from the Nashville, Chattanooga & St. Louis Rail Road to the proposed new opening or openings to be made by E. L. Hampton upon the land owned by him and embraced in the Cheatham Grant.

Fourth: Land embraced in the Cheatham Lap, containing five hundred and twenty-four and four – tenth acres, all mineral and mining rights and privileges, rights of way, timber and water, which may be necessary for the mining and removal of said minerals, as well as the preparation of same for marked, to be reserved, it being understood that the coal in Sewanee Seam is to be excepted from said reservation, as well as all rights and privileges, timber and water and rights of way necessary for the removal of said coal in said Sewanee Seam..

Fifth: All lands upon which are located the Lone Rock and East Fork Coke Ovens, said tract of land to be not over one hundred acres in area to have boundary lines which have been heretofore agreed upon, all necessary mineral and all mining rights and privileges and rights of way and timber and water to be reserved.

Sixth: The Commissary and office buildings at Tracy City, together with the lot upon which they stand as well as the adjoining lot in front of Tracy City Bank, all mineral and necessary mining rights and privileges, as well as the rights of way and timber and water to be reserved.

Seventh: The lot at Tracy City upon which is located the barn, all mineral and mining rights and privileges and rights of way, timber and water to be reserved.

Eighth: The coke ovens, tipplers and other structures

now existing upon said tract of land, belonging to the Tennessee Coal Iron & Rail Road Co. in vicinity of Tracy City, which may be necessary for the mining and removal of coal in the Sewanee Seam and in the manufacturing of Coke, as well as all tenement houses in immediate vicinity of the operations of the said E. L. Hampton in the mining removal of said coal, being understood that the said E. L. Hampton have complete control of said tenant houses and shall exercise the usual rights of ownership.

Ninth: All tools, machinery and equipment of every kind and description now belonging to the Tennessee Coal-Iron & Railroad Co. upon the land owned by it at Tracy City, Tenn. and vicinity.

First: E. L. Hampton conveyed to the Tennessee Coal Iron & Rail Road Co. by good and satisfactory warranty deed---

Second: Release the Tennessee Coal Iron & Railroad Co., its successors and assigns from all claims for damage which may accrue to the said E. L. Hampton, his heirs and assigns on account of mining operations which the Tenn. Coal Iron & Rail Road Co., its successors and assigns may in the future conduct upon the land conveyed under this agreement.

Third: Pay to the Tennessee Coal Iron & Railroad Co., \$_____.

Fourth: Release to the Tennessee Coal Iron & Railroad Co. its successors and assigns from any claims which may accrue on account of loss of title to any of the coal and other property under this agreement, it being understood that the said Company shall defend the said title at its own expense.

Fifth: Remove in case he should so decide, from the land of the Tenn. Coal Iron & Railroad Co., all structures which may now exist upon said land or which he may hereafter erect upon said land, within a period of six months after all the coal in Sewanee Seam has been removed or after abandonment of mining operations by him upon said land. It is understood that the above proposition is subject

to the Board of Directors of the Tenn. Coal Iron & Railroad Co.

Supplemental memorandum of proposal in regard to conveyance of merchandise at Tracy City, Tenn., belonging to Tenn. Co.

Tenn. Co. to sell to E. L. Hampton its stock of merchandise now on hand at Tracy City, Tenn. at process which the Company has paid heretofore for such merchandise, it being understood that these prices be in accordance with ruling wholesale market prices, the inventory of stock on hand to be taken jointly by a representative of the Company and a representative of E. L. Hampton, and in case of disagreement between these two representatives, all questions in dispute are to be settled by third party who is disinterested and who is to be agreed upon between the two parties referred to.

It is understood that the above proposal is subject to the approval of the Board of Directors of the Tenn. Coal Iron & Railroad Co.

EXHIBIT AA.

Whereas an agreement has been reached by and between said E. L. Hampton and the Sewanee Coal, Coke & Land Co., by virtue of which the said E. L. Hampton agrees to sell said Sewanee Coal, Coke and Land Co. all the property and rights mentioned in the foregoing proposition provided said proposition is accepted and said conveyance is made by the Tenn. Co. to the said E. L. Hampton as outlined in said proposal of sale, said E. L. Hampton excepting and reserving out of the land and property proposed to be conveyed five hundred and twenty-four and four-tenths acres, known as the Cheatham Lap and referred to in Clause four.

The Sewanee Coal, Coke & Land Co. hereby agrees and binds itself to pay to the said E. L. Hampton for the aforementioned property and rights and conditions aforementioned the sum of ninety thousand dollars as follows:

\$30,000 in cash,
30,000 in six months,
30,000 in twelve months,

with satisfactory and approved security on deferred payments, which are to bear six per cent interest until paid.

In case of failure of payment of the first note herein mentioned at maturity or thirty days thereafter, the second note will become due and payable.

It is further excepted out of the foregoing property in clause 3 the right of way for railroad leading from the Nashville, Chattanooga and St. Louis R. R. to the property of E. L. Hampton embraced in the Cheatham Grant. It is further understood and agreed that the said Sewanee Coal Coke & Land Co. shall in addition to the above, pay for the said merchandise at prices named in supplementary clause relative thereto.

The cash payment theretofore referred to shall be due and payable when satisfactory deed to the property herein mentioned is furnished.

This trade is made subject to the approval of the Board of Directors of the Sewanee Coal Coke & Land Co.,

It is hereby agreed that said E. L. Hampton shall be notified of the decision of the said Board of Directors not later than Tuesday, March 7, 1905.

E.L. Hampton

F. B. Martin

Pres. Sewanee Coal Coke and Land Co.

EXHIBIT B.

STATE OF TENNESSEE,

GRUNDY COUNTY.

THIS AGREEMENT, made and entered into this, the 6th day of April, 1905, by and between the Tennessee Coal, Iron and Railroad Company, hereinafter known and designated as party of first part and E. L. Hampton, hereinafter known and designated as the party of the second part, WITNESSETH:

1. That, for the consideration hereinafter expressed, the said party of the first part does hereby lease unto the said party of the second part, for a period of fifty years, beginning on the 15th day of April, 1905, and ending on the 14th day of April, 1955, all the coal contained in the **Sewanee seam** located upon land now owned by the party of the first part inside of the following described boundary lines; the object of this lease being to permit the said party of the second part to mine and remove said coal from said land so owned by the party of the first part, and to sell or otherwise dispose of the said coal, as he may see fit: Begin at the point of intersection of the center line of **Holy Water Creek** with the west boundary line of a tract of land containing approximately 5,000 acres, embraced in **grant No. 10185** from the State of Tennessee to **S. B. Barrel** on the 25th day of August, 1849; thence in a northerly direction along the west boundary line of said tract of land 140 feet to the north-west corner of said tract of land so embraced in said grant; thence south 87 degrees and 25 minutes east 5,866 feet; thence north 85 degrees and 25 minutes east 5,866 feet; thence north 85 degrees and 50 minutes east 2464 feet; thence south 88 degrees east 6064 feet; thence south 3 degree and 13 minutes west 14,530 feet; thence north 87 degrees west 12,244 feet; thence south 2 degrees and 15 minutes west 9,002 feet; thence north 87 degrees 17 minutes west 9,903 feet; thence south 75 degrees 56 minutes west 2,076 feet; thence north 88 degrees west 9,752 feet; thence north 2 degrees east 12,422 feet; thence north 2 degrees and 25 minutes east 5,140 feet; thence north 70 degrees and two minutes east 3,602 feet; thence south 87 degrees and 45 minutes east 520 feet; thence south 1 degree and 45 minutes west 1,023 feet; thence north 61 degrees and

49 minutes east 264 feet; thence north 69 degrees and 12 minutes east 317 feet; thence north 47 degrees east 438 feet; thence north 2 degrees east 1,050 feet; thence south 87 degrees and 45 minutes east 1,730 feet; thence north 87 degrees west 2,900 feet to the center line of **Sally's Branch**; thence in a northeasterly direction along said center line of **Sally's Branch** to the south boundary line of a tract of land known as the **Peter Staub** 5,000 acre tract; thence along said south boundary line of said tract of land north 89 degrees and 50 minutes east 3,836 feet; thence north 2 degrees east 801 feet; thence south 88 degrees east 1,650 feet; thence south 2 degrees and 15 minutes west 2,688 feet; thence south 87 degrees and 46 minutes east 2,971 feet; thence north 2 degrees and 4 minutes east 1,644 feet; to the center line of **Holy Water Creek**; thence in an easterly direction along said center line of **Holy Water Creek**; to point of beginning; the land enclosed by said boundary line being situated partly in Grundy County and partly in Marion County, Tennessee, the total area of land owned by the said party of the first part in fee simple, and the land in which the said party of the first part owns the mineral rights, inside of said described boundary line, being 12,000 acres, more or less;

2. That the said party of the first part, for the considerations hereinafter expressed, does grant unto the said party of the second part all such mining rights and privileges, as well as all right of way and timber and water, in and upon said land, as may be necessary for the mining and removal of the coal herein leased;

3. That in the event the said party of the second part shall continuously, by reason of the exhaustion of the coal in the Sewanee seam, for a period of three years, discontinue the mining and removal of said coal, the lease of said coal and the rights above granted shall immediately terminate, and the said party of the second part shall peacefully surrender possession of said coal to the said party of the first part, its successors or assigns;

4. That the said party of the first part, for the considerations hereinafter expressed, shall convey unto the said party of the second part a right of way of such width as may be necessary for the construction, maintenance and operation of a railroad leading from the Nashville, Chattanooga & St. Louis Railway to any coal mine, or coal mines, now existing, or which may hereafter exist, during the existence of this lease, upon the land owned by the said party of the second part and embraced in the **Cheatham Grant**;

5. That the said party of the first part does hereby

lease unto the said party of the second part for a period of fifty years beginning on the 15th day of April, 1905, and ending on the 14th day of April, 1955 the **Lone Rock and East Fork coke ovens**, all coal and other minerals in said land, together with all rights and privileges necessary for the mining and removal of said coal being reserved and excepted; it being understood that, in the event that the use of said coke ovens and land be abandoned by the said party of the second part for a continuous period of three years, by reason of the exhaustion of the coal in the Sewanee Seam, the lease of said property shall be terminated and the premises herein leased shall revert, without recourse in law, to the said party of the first part, its successors or assigns;

6. That the said party of the first part does hereby further lease unto the said party of the second part for a period of fifty years, beginning on the 15th day of April, 1905, and ending on the 14th day of April, 1955, the Commissary building and the Office building at Tracy City, Tennessee, together with the lot upon which they stand, as well as an adjoining lot in front of the Tracy City Bank; all coal and other minerals in said land, and all rights and privileges necessary for the mining and removal of said coal and other minerals, being reserved and excepted; it being understood that, in the event the use of said property be discontinued by the party of the second part for a period of three years, continuously, by reason of the exhaustion of the coal in the Sewanee Seam, the lease of said premises shall revert, without recourse in law, to the party of the first part, its successors or assigns;

7. That the said party of the first part does hereby further lease unto the party of the second part, for a period of fifty years, beginning on the 15th day of April, 1905, and ending on the 14th day of April, 1955 the barn at Tracy City, Tennessee, together with the land upon which it stands, all coal and other minerals in said land and all rights and privileges necessary for the mining and removal of said coal, being reserved and excepted; it being understood that, in the event the use of said property by the party of the second part be abandoned for a continuous period of three years, by reason of the exhaustion of the coal in the Sewanee Seam, this lease shall be terminated and the premises leased shall, without recourse in law, revert to the party of the first part, its successors or assigns;

8. That the said party of the first part does hereby further lease unto the said party of the second part for a

period of fifty years beginning on 15th day of April, 1905, and ending on the 14th day of April, of 1955, all tipples and other structure now existing upon the land herein described, of the party of the first part, which may be necessary in the mining and removal of the coal herein leased in the Sewanee Seam, and which may also be necessary for the manufacture of coke, as well as all tenement houses in the immediate vicinity of the operations of the said party of the second part in the mining and removal of said coal and in the manufacture of said coke; and the said party of the first part does hereby grant unto the said party of the second part the right and privilege during the continuance of this lease to construct, build and use such other houses and structures as may be necessary in the mining and removal of said coal, and the manufacture of said coke; it being understood that the said party of the second part shall have complete control over said tenement houses, and shall exercise the usual rights of ownership; and it being further understood that, in the event the use of said houses and other structures by the said party of the second part be abandoned for a continuous period of three years, be reason of exhaustion of the coal in the Sewanee Seam. this lease as well as the rights herein granted shall be terminated and the premises leased shall, without recourse in law, revert to said party of the first part, its successors or assigns;

9. That the said party of the second part shall have the right, during the period in which any particular property is controlled by him under this lease in accordance with the terms of this lease agreement, to remove from the land of the party of the first part any and all improvements, of every kind whatsoever which may now exist upon said land, or which may hereafter be erected upon said land by the said party of the second part, except such tenement houses as may now exist upon said land;

10. That the said party of the first part does hereby convey unto the said party of the second part all the tools, machinery, mules, and equipment of every kind and description belonging to it, the said party of the first part, and located upon the land hereinbefore first described

11. That, in consideration of the lease to the party of the second part by the party of the first part of the coal in the Sewanee Seam, and also, of the lease of the **Lone Rock and East Fork coke ovens** and of the property hereinbefore described, and in further consideration of the rights hereinbefore granted, the said party of the second part shall convey unto the said party of the first part, by legal and satisfactory warranty deed, a good title to a

tract of land now owned by him in Sequatchie County, Tennessee, containing 2715 acres, more or less, and forming a portion of the land embraced in a grant from the State of Tennessee to **Charles Ragon**, dated January 8th, 1836, and numbered 4276; and in consideration of the conveyance of the said party of the second part shall pay unto the said party of the first part 50.014.04 Dollars; 32,000.00 Dollars of which shall be paid immediately upon the execution of this instrument, less 1,000 Dollars paid by said party of the second part unto the said party of the first part on the 3rd day of April, 1905; 9,007.01 Dollars of which shall be paid, together with the accrued interest at the rate of 6% per annum, on the 15th day of October, 1905, and 9,007.01 Dollars of which shall be paid, together with accrued interest at the rate of 6% per annum, on the 15th day of April, 1906; and should the party of the second part fail to make the payments herein stipulated, or any of them as they severally become due, thereupon the party of the first part may, at its option, cancel this lease and take possession of all the property leased herein, and all the rights of the party of the second part, under said lease shall thereupon cease and forever terminate;

12. That., in the event the title of the party of the first part to certain land claimed adversely by the **Reid** Heirs in found to be defective, the said party of the second part shall release, and does hereby release, the said party of the first part from any claim which may accrue to him, the said party of the second part, because of loss of revenue, or from any other cause arising from such loss of title;

13. That, in the event that any of the property herein leased by the said party of the first part to the said party of the second part shall be sold under a foresaid party of the second part shall be sold under a foreclosure under any one, or all, of the mortgages, or deeds of trust, executed by the said party of the first part, two in favor of the Central Trust Company of New York, each dated January 1, 1887, and the other in favor of the Union Trust Company of New York, dated July 1, 1901, the second party of the first part shall indemnify the said party of the second part, against any loss which may results from said foreclosure, or foreclosures; and the said party of the second part shall be a preferred creditor of the said party of the first part (next to the bondholders secured by said mortgages), to the extent of such loss;

14. That the said party of the second part shall pay all taxes which may accrue on all coke ovens, tipples and

other structures and improvements herein leased; it being understood that the said party of the second part shall make returns in the manner prescribed by the laws of the State of Tennessee, to the Officers of Grundy County, of said coke ovens, tipples, structures and other improvements;

15. That the party of the first part shall be under no obligations to replace any leased property which may in any manner be destroyed or damaged during the existence of this lease;

16. That the party of the first part shall have the right, during the term of this lease to mine and remove, or sell, or lease all coal on the land herein described other than the coal contained in the Sewanee Seam, and to that end to make any improvements it may desire on said land, but not so as to interfere with the mining operations of the party of the second part on the Sewanee Seam; and that the said party of the first part, during existence of this lease, shall have the further right to exercise all such other rights of ownership of the land hereinbefore first described as will not interfere with the rights under this agreement; of the party of the second part;

IN WITNESS WHEREOF, the said party of the first part has caused this instrument to be signed in its name and behalf, in duplicate, by its **President, Don H. Bacon**, and its corporate seal to be hereunto affixed and attested by the signature of its **Secretary, L. T. Beecher**, who are unto duly authorized this, the 6th day of April, 1905; and E. L. Hampton, the party of the second part, has hereunto set his hand and seal, in duplicate, the day and year first above written.

TENNESSEE COAL, IRON & RAILROAD COMPANY.

By *Don H. Bacon*
PRESIDENT

ATTEST: *L. T. Beecher*,
SECRETARY,

WITNESS; *W. D. Allen*
Pearl Dillon

STATE OF ALABAMA
JEFFERSON COUNTY.

Before me, Pearle Dillon, a Notary Public, for the state and county aforesaid, personally appeared Don H. Bacon, with whom I am personally acquainted, and who upon oath acknowledged himself to be the President of the within named bargainer, a corporation, and that he as such, being for the purposes therein contained as the act and deed of said corporation, by signing the name of the corporation by himself as President.

WITNESS MY HAND AND SEAL OF MY OFFICE, this 7th day of April, 1905

Pearle Dillon,
Notary Public.

SATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK.

Before me, Henry R. Sloat, a Notary Public for the State and County aforesaid, personally appeared L. T. Beecher, with whom I am personally acquainted, and who upon oath acknowledged himself to be the Secretary of the within named bargainer, a corporation, and that he as such, being authorized so to do, executed the foregoing instrument of the purpose therein contained as the act and deed of said corporation, by affixing the seal of said corporation, and attesting the same as Secretary.

WITNESS MY HAND AND SEAL OF OFFICE, this 14th day of April, 1905.

Henry R. Sloat, Notary Public.

STATE OF ALABAMA
JEFFERSON COUNTY.

Before me, Pearle Dillon, a Notary Public for the state and county aforesaid, personally appeared the within named bargainer, E. L. Hampton, with whom I am personally acquainted, and who acknowledged that he executed the within instrument for the purposes therein contained.

WITNESS MY HAND AND SEAL OF OFFICE, this 7th day of

April, 1905.

Pearl Dillon,
Notary Public.

(Written on the outside of the bill)

Sewanee Coal, Coke and Land Co.

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vs.] O. & Inj

] Bill

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E. L. Hampton et al

Filed in my office the
7th day of June 1905
at 10:30 A. M.

John Scruggs C&M
By E. W. Cheek D.C.&M.