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Walter S. Tipton
Attorney at law.

Hillsville, Va. March 16th 1905.

C. W. Schaefer, Esq.

Cleveland, Ohio.

Dear Mr. Schaefer:-

We have to report a trial of the Battershall case with the verdict against us. We suffered upon the trial by the rulings of the Judge on two of our title papers. The Battershall title is as follows, First, a grant from the Commonwealth to Benjamin Chambers 1796, Second, a deed from the heirs at law of Benjamin Chambers, dated 1850. Third, a deed from Thomas M. Thorp, Sheriff, to T. B. Kennady, dated 1854, Fourth, a deed from T. B. Kennady to Mary and Lucy Chambers 1856. Fifth, a power of attorney to T. B. Wigfall dated 1866. Sixth, a deed from T. B. Wigfall to L. A. Battershall dated Feb. 1st 1871. Following this chain of title, we next took the several deeds amongst the Battershalls themselves. The deed from Thomas M. Thorp, Sheriff, to T. B. Kennady, purports to be in pursuance of a decree of the Circuit Court of Carroll County, rendered in Chancery Cause in 1854. All of the records of our Circuit Court prior to April 1865 were destroyed by Federal Soldiers under the command of Major General Stoneman, who infested this place in 1865 and burned up our Court Records. Objections to this deed were made because no authority was shown for making it. We were able to prove by the keeper of the records their destruction. We were also able to prove that T. M. Thorp was Sheriff at that time, but further than this we were not able to prove anything in connection with this deed. The Judge held this insufficient and excluded the deed from our chain of title. The deed from Wigfall to L. A. Battershall is drawn and signed in his individual capacity and not as Agent or Attorney for Mary and Lucy Chambers. The Judge also excluded this deed from our chain of title. This left us with no defence to make outside of the outstanding title in Joseph Chambers, his heirs or devisees.

Cut loose from our Chambers grant, plaintiff's possession and title was older and superior to ours. We did our best on the question of outstanding title, but the Jury found against us. We have laid the foundation of an appeal to the Supreme Court of the State. Our only substantial grounds for error will be the rulings of the Judge in excluding the two deeds above named. If we could reverse his judgment and get the Thorp deed into the record at a new trial, we would have great faith in winning the case but if our title is cut in two at that point, in 1854, we would have no faith in the case on a future trial. So we think that unless Judge Jackson erred on the trial in excluding that deed, that there is little left for us in the case. We feel sure that we could have won on the Chambers title but for the exclusion of the Thorp and Wigfall deeds. For we have seen the Chambers title set up in another trial successfully. The above is the present status of the case and we shall await your advice before taking any farther steps in the matter.

We shall be glad to confer with you further and give you any information you may desire.

Yours very truly,

D. W. Bolen

(Signed)

Walter S. Tipton