

Copy Att. Harris Eagle Lake N.Y. Aug 15/14
Runge vs. Weston et al

My dear Mr. Runge:-
The Judge has just written me a personal letter in which he grants me 20 days to correct our complaint so as to bring in the facts which Mr. Lodge has just furnished us through his affidavit of Aug 10/1914 viz:- the existence of a subscription list in which a contract appears between Isaac Harris & some 12 Riparian owners. They to build a new log crib in the centre of the Harris Dam (bought from Arthur) & allow him to raise the waters of Eagle Lake 6 inches. In return for which, he agrees to keep up the dam for an unlimited period.

It appears that the owners (including Harris) raised \$75⁰⁰ & paid same through their treasurer to a Contractor, Andrew Howell, to do this work. Mr. Lodge got most of the subscriptions, he says, Mr. Cole of Albany Hill Lehigh, does the subscription agreement, signed by all & paid the collected money over to contractor when the work was done.
(over)

The justice disregards the allegations in our
complaint regarding
(1) Irreparable injury to our riparian property,
(2) Denial of right to navigate the outlet lake, as before,
(3) Injury to our rights of fishing etc, but holds
that Newton & Harris can be made to restore the
torn out part of the dam by our showing some
agreement between Harris & the riparian owners,
wherein Harris paid the owners for a valuable
consideration, an interest in or the use of, said
dam or the right to insist that Harris & consequent-
ly, his grantee, Newton, shall hereafter maintain
the dam, so as to keep up the former water level
at Eagle Lake, established by said riparian
owners in 1900, when they made the new crib
& spillway (taken out lately by Newton).

Now it is certain that such a subscription
agreement was made & entered into. Mr. Cole
probably can produce it at the trial. Mr. Lodge
recalls the substance of it, as appears from
his affidavit just signed before Mr. Wickes ^{Aug 21/14}.

Mr. Cole can also prove the contents of this
agreement in case it has been mislaid.

3 Justice Laughlin clearly intimates that the production of this paper, or proof of what it contains, will be sufficient grounds upon which our action can be maintained in the Supreme Court and that he will even grant a temporary injunction upon same, at any time.

He therefore, feeling that we may be able to satisfy his mind upon this point, has formally written to me that we may submit a further amended complaint stating our newly discovered facts on this point upon which he lays great stress.

At the same time according to the rules of law, he formally sustains the demurrer of defendants, allowing us to come in with all our new facts in our amended pleading.

I think that the Judge is in error, holding that our cause is only tenable on the ground of the subscription agreement as aforesaid & that he should have granted you relief on any of the other grounds set up in the complaint.

Many New York cases cited by me in my brief would have sustained him in such ^{actions}

(over)

4. Many cases have been decided in Plaintiff's favor on much less cause for complaint than you have. The Justice seems to disregard all of these cases in his apparent solicitude over defendant's alleged property rights.

Defendant Weston swore that he was told the State to take out the claim. I showed the Commissioners' letter showing that the Statement was untrue, and yet, the granting of such request on any other ground than that of the written subscription agreement theory, might appear to be a criticism of the C. C., a legislative

of fact that now we can now proceed in this case with confidence of our victory.

Body of the Justice might have desired to avoid such apparent criticism, by insisting on our bringing out our strongest game first. The game

It is to be regretted that I had no inkling of this contract when I drew the original complaints & affidavits & that this knowledge was withheld until this late day. I did not know of its existence until long after July 6/94 when I argued the motion for a temporary injunction.

Mr. Lough now explains he hoped the suit might not be necessary & that he held the facts back until he became persuaded that defendants would do nothing for our relief, but that now he is with us in this fight to a finish. Were we in position where we can meet the State's objections & by offering a amended complaint at once we can confidently expect a trial early in October with good prospects of winning. I can also revise my motion for a temporary injunction on Mr. Lough's affidavit upon additional facts that have since been presented.