

1911-009

Chancery Causes: Shaw Land & Timber Company vs Joseph N. White

88

Isle of Wight County

Other SURNAMES: BROWN

KNOW ALL MEN BY THESE PRESENTS, that we, John S. Gale, principal, for Shaw Land and Timber Company, a corporation chartered and existing under the laws of the State of Iowa, and L. W. Brown, surety, are held and firmly bound unto Joseph N. White in the just and full sum of TWO HUNDRED DOLLARS, to the payment whereof well and truly to be made to the said Joseph N. White we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. And we hereby waive the benefit of our Homestead Exemptions as to this obligation.

Sealed with our seals and dated this 10th. day of February, 1910.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas, Shaw Land and Timber Company, a corporation, upon a bill in chancery against the said Joseph N. White, addressed to the Circuit court of the county of Isle of Wight, has obtained from the said court an injunction to enjoin and restrain the said Joseph N. White, his agents, servants and employees, from cutting, injuring or destroying any of the timber on the tract of land situated in Hardy Magisterial District Isle of Wight County, Virginia containing one hundred and fourteen acres, more or less, as mentioned and described in said bill and in the deed from said Joseph N. White and Nora L. White to Shaw Land and Timber Company, dated the 28th. day of May, 1907, a copy whereof is filed as an exhibit with said bill, excepting only the white oak trees on the highland five or six in number, as reserved in said deed. But nothing contained in said order shall prevent the said Joseph N. White, his agents, servants or employees from cutting and removing from said land in a careful and workmanlike manner the said white oak trees on the high land, five or six in number, or from doing such injury to the other timber on said land as may be necessarily incident to the removal of the said white oak trees, in a careful and workmanlike manner. This injunction, shall, unless sooner dissolved or enlarged, be effective for and during the period of sixty days and, whereas, it is provided in the said order that the said injunction shall not take effect till the plaintiff, or some one for it, shall enter into and acknowledge a bond before the clerk of said court in the penalty of two hundred dollars, conditioned to pay all such costs as may be awarded against the said plaintiff, and all such damages as may be incurred in case the said injunction shall be dissolved.

Now if the said plaintiff shall pay all such costs and damages, mentioned as aforesaid, then this obligation to be void, or else to remain in full force and virtue.

Witness the following signatures and seals of the parties hereto this 10th. day of February, 1910.

J. S. Gale, (SEAL)

L. W. Brown, (SEAL)

Witness, A. S. Johnson.

Clerk's Office of the Circuit Court of the County of Isle of Wight
February 10th. 1910. This day the foregoing bond was duly ~~rightly~~
executed by the said J. S. Gale and J. S. Brown, and each of them,
upon oath, stated that after the payment of all of their just
debts, and those for which they are bound and expect to have to
pay for others, that they are worth the sum of two hundred dol-
lars.

A. S. Johnson Clerk.

4 copy
Dist. *Johnson*
en

4

Shaw Found & Timber Co
vs S. J. Junction Bond
Jas N White

Filed July 1, 1910

Copy

MR. BROWN,

Berkley, Virginia,

Dear Sir:-

Mr. Gale spoke to me about my lumber in regard to cutting wood. I was under impression I had a right to cut anything under 12 inches but I phoned to Clerk's Office and find I have a right to cut anything under 10 inches and 12 inches from ground. Mr. Gale and I went over it this A. M. and find I only cut 3 or 4 trees over 10 inches. Am sorry I cut those 3 or 4 over size and will be very careful and not cut anything over 10 inches hereafter.

Yours truly,

JOS. N. WHITE,

McClelland, Va.

1/31/10

Whit B.

THIS DEED, Made this twenty-eighth day of May, A. D. 1907, between JOSEPH N. WHITE and NORA L. WHITE, his Wife, and the said NORA L. WHITE and JOSEPH N. WHITE, her Husband, of the County of Isle of Wight, Virginia, parties of the first part; and SHAW LAND AND TIMBER COMPANY, a corporation duly chartered and existing under the laws of the State of Iowa, party of the second part;

WITNESSETH, That the said parties of the first part, in consideration of the sum of Twelve Hundred Dollars to them in hand paid, the receipt whereof is hereby acknowledged, do GRANT, with general warranty, unto said SHAW LAND AND TIMBER COMPANY, its successors and assigns, All the timber of every kind and character (excepting the white oak trees on the high land, five or six in number) ten inches and upwards across the stump (outside measurement) twelve inches above the ground at the time of cutting on all that certain tract of land situated in Hardy Magisterial District, in the County of Isle of Wight, in the State of Virginia, bounded and described as follows: Beginning at a pine tree on the West side of McClelland Ponds Road, the same being a short distance Easterly from the point where said road crosses Mill Swamp stream, thence along said McClelland Ponds Road S. 33° W. Seven Hundred (700) feet, S. 26° W. Three Hundred (300) feet, N. 84° W. One Hundred and Eighty-five (185) feet to a big gum standing on the North side of road; thence N. 61° W. Two Hundred and Seventy (270) feet to a gum, N. 57° W. Four Hundred (400) feet to a big cypress standing in Mill Swamp stream, thence up the main center run of Mill Swamp stream as it meanders through the swamp approximately as follows, due North Twenty-two Hundred and Fifty (2250) feet, N. 67° W. Ten Hundred and Fifty-seven (1057) feet, N. 10° W. Three Hundred and Seventy-five (375) feet to center of main run at Sheep Hole, thence leaving

Mill Swamp stream and following Main run to small stream meandering through Swamp approximately as follows, N. 20° E. Eleven Hundred and Fifty (1150) feet to a point where said small stream enters and spreads out into a swamp. Thence up said small stream as it meanders N. 20° E. Six Hundred and Eighty (680) feet to a point where said small stream is crossed by Mill path road; thence along said Mill path road as follows, S. 46° and 1/2° E. Two Hundred (200) feet, S. 60° E. One Hundred and Eighty-five (185) feet, S. 50° E. Ninety-five (95) feet to a gate, entrance into cultivated field; thence following fence line around said field as follows, S. 54° W. One Hundred and Forty-three (143) feet, S. 28° E. Three Hundred and Thirty-five (335) feet, S. 42° W. Fifty-five (55) feet, S. 34° E. Nineteen Hundred and Twenty-two (1922) feet to a big oak, N. 49° E. Five Hundred and Twenty (520) feet to a gate and farm road; thence along farm road S. 8° E. Two Hundred and Thirty-five (235) feet, S. 4° W. One Hundred and Seventeen (117) feet, S. 11° E. One Hundred (100) feet, S. 36° E. One Hundred and Ninety (190) feet to a gate; thence around a cultivated field S. 73° W. Four Hundred and Fifteen (415) feet along a rail fence, S. 29° and 1/2° W. Two Hundred and Forty-five (245) feet along a path in edge of woods to a gum on the West side of path, S. 39° W. Eighty-four (84) feet, S. 5° W. One Hundred and Twenty-five (125) feet, S. 27° and 1/2° W. Two Hundred and Forty-two (242) feet, S. 39° W. Two Hundred (200) feet, S. 29° W. Two Hundred (200) feet, S. 23° W. One Hundred and Forty (140) feet, S. 32° E. One Hundred and Forty-eight (148) feet into a field; thence along a fence line S. 44° E. Three Hundred (300) feet, S. 86° E. Four Hundred (400) feet along a ditch to the point of beginning, the said tract of land on which said timber is sold and conveyed hereby contains One Hundred and Fourteen (114) acres, more or less,

and is shown by a plat thereof made by John W. Hays, C. E. and hereunto annexed as a part of this deed, the said tract of land being composed of a part of the tract of land which was conveyed to the said Joseph N. White by A. H. White and wife by deed dated August 28th, 1888, recorded in the County Clerk's Office of Isle of Wight County aforesaid in Deed Book No. 52, page 435, and a part of the tract of land which was conveyed to the said Nora L. White by James T. Gray and wife by deed dated March 30th, 1894, recorded in said Clerk's Office in Deed Book No. 58, page 535, reference to which two deeds is hereby made: and for the consideration aforesaid the said parties of the first part do further Grant unto said party of the second part, its successors and assigns the full term of fifteen (15) years from the date of this deed in which to cut and remove the said timber, with the right at any and all times during the said term to enter upon the said lands by its agents, servants and employees for the purpose of cutting and removing the said timber, or of manufacturing the same, and for the purposes aforesaid to erect and construct on said land all such sheds, buildings and other structures as the grantee, its successors or assigns may deem expedient, and to lay and construct through and over said land, and other lands of the grantors adjoining the same, such tramways, railway tracks and roads as may be necessary and convenient for transporting said timber or timber products from the said tract of land above described, and from other lands owned or controlled by the grantee, its successors or assigns, and to remove the said sheds, buildings, structures, machinery, tracks or tramways at will during said term or at the end thereof; provided, however, that no such railway, tramway, track or road shall be constructed or opened through and over any of the open land of the grantors adjoining said timber tract when such open land is in actual cultivation, without the written consent of said grantors or their assigns first obtained.

The said Joseph N. White and Nora L. White covenant that they have the right to convey the said timber and timber rights to the grantee; that the grantee shall have quiet possession of said timber and timber rights free from all incumbrances; that they will execute such further assurances of said timber and timber rights as may be requisite; and that they have done no act to encumber the said timber or timber rights.

Witness the following signatures and seals.

Joseph N. White (Seal)

Nora L. White (Seal)

State of Virginia,

County of Isle of Wight, to-wit;

I, Walter Stott, ^{Justice of the Peace} a Notary Public for the County aforesaid, in the State of Virginia, do certify that Joseph N. White and Nora L. White, his Wife, and Nora L. White and Joseph N. White, her Husband, whose names are signed to the writing above bearing date on the Twenty-eighth day of May, A. D. 1907, have acknowledged the same before me in my County aforesaid.

~~My term will end~~ on the 31 day of December 1907.

Given under my hand this 29th day of May, 1907.

Walter Stott Jr
Notary Public.

Virginia: Clerk's Office of the Circuit Court of Isle of Wight County this 3rd. day of June, 1907, at one o'clock P.M. this deed was received and with the certificate annexed, admitted to record.

Teste, A. S. JOHNSON, Clerk.

A copy,

Teste, A. S. Johnson Clerk.

VIRGINIA.

In the Circuit Court of the County of Isle of Wight.

In Vacation, On the 10th day of May 1911.

Shaw Land and Timber Company, a cor-
poration chartered and existing under
the laws of the State of Iowa.

vs

Joseph N. White.

In Chancery.

By consent of the parties hereby entered of record,
the above entitled cause is hereby made a vacation cause, and
may be submitted to the Judge of this Court for such decision
and decree therein in vacation as might be made in term, and
thereupon this cause came on this day to be heard on the com-
plainant's bill and exhibits filed therewith, the said bill
having been taken for confessed, and it appearing to the Court
that the parties to the said suit have agreed that the injunction
heretofore awarded therein shall be perpetuated, and that all
matters and questions of damage done by the defendant have been
fully compromised and settled, the Court, by consent of the
parties, doth ADJUDGE, ORDER and DECREE that the injunction
heretofore awarded in this cause be, and the same is hereby
made perpetual. And it further appearing to the Court that all
questions of costs have been adjusted between the parties, no
judgment for costs shall be entered herein. And nothing further
remaining to be done in this suit, the same is hereby removed
from the docket. All of which is hereby certified to the Clerk

of the Circuit Court of Isle of Wight County to be entered.

J. H. White

Attest, Johnston Clerk

Shaw Land and Timber Company

VS

Joseph M. White

We consent to the within

deprece.

degree.

[Handwritten signature]

Geo. R. Whalley. p.d.

C. O. B. No. 7, Page 71.

VIRGINIA,

In the Circuit Court of the County of Isle of Wight.

In vacation on the 29th day of March, 1910.

Shaw Land and Timber Company, a corpo-
ration chartered and existing under
the laws of the State of Iowa,
vs
Joseph N. White.

In Chancery.

This day came the complainant in the above entitled cause, by H. H. Rumble, its Attorney, and moved the Judge of said Court to enlarge the injunction heretofore awarded by said Court in said cause, and to continue the said injunction to the hearing of said cause; *Also came the defendant by George F. Whitley his attorney* and it appearing to the said Judge that reasonable *said* notice of the said motion has been given to the defendant ~~in said cause, and the said defendant failing to appear at the hearing of said motion,~~ *Motion having been fully argued by Counsel* it is ORDERED that the injunction heretofore awarded

by the said Court in said cause be, and the same is hereby enlarged and continued to the hearing of said cause. *All of which is certified to the Clerk of this Court the undersigned in the Chancery room.*
G. F. Whitley
Judge of the Circuit Court of the County of Isle of Wight, Virginia.

To the Clerk of the Circuit Court
of the County of Isle of Wight:

Virginia: Clerk's Office of the Circuit Court of the County of Isle of Wight March 30th. 1910, this vacation decree was received and entered of record.

Teste,

Johnson Clerk.

Shaw Land & Timber Co

to

Joseph N. White

Order Enlarging Easement

C. O. B. No 7

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ALBANY,

IN THE COUNTY OF ALBANY, N. Y.

IN SENATE OF 1890

TO THE HONORABLE SENATE OF THE STATE OF NEW YORK.

REPORT OF THE COMMISSIONER OF THE LAND OFFICE, IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE, JANUARY 18, 1890.

VIRGINIA,

In the Circuit Court of the County of Isle of Wight,

Shaw Land and Timber Company, a corpo-
ration chartered and existing under
the laws of the State of Iowa,

vs

Joseph N. White.

In Chancery.

An injunction is awarded in accordance with the prayer of the accompanying bill enjoining and restraining the defendant, Joseph N. White, his agents, servants and employees from cutting, injuring or destroying any of the timber on the tract of land situated in Hardy Magisterial District, Isle of Wight County, Virginia, containing One Hundred and Fourteen (114) acres, more or less, as mentioned and described in said bill and in the deed from said Joseph N. White and Nora L. White to Shaw Land and Timber Company dated the twenty-eighth day of May, 1907, a copy whereof is filed as an exhibit with said bill, excepting only the white oak trees on the high land, five or six in number, as reserved in said deed. But nothing contained in this order shall prevent the said Joseph N. White, his agents, servants or employees from cutting and removing from said land in a careful and workmanlike manner the said white oak trees on the high land, five or six in number, or from doing such injury to the other timber on said land as may be necessarily incident to the removal of said white oak trees in a careful and workmanlike manner. This injunction shall be effective for and during the period of 60 days from this date.

This injunction shall not take effect until the plaintiff, Shaw Land and Timber Company, or some one for it shall enter into and acknowledge before the Clerk of this Court bond with good security in a penalty of \$ 200⁰⁰ conditioned to pay all such costs as may be awarded against said plaintiff and all such damages as may be incurred in case this injunction shall be dissolved.

Judge of the Circuit Court of
Isle of Wight County, Virginia.

To the Clerk of the Circuit Court of
the County of Isle of Wight, Virginia.

3

Shaw Hand Binder Co

vs { Chancery

Joseph H White

Rough Decree

1910

Feb. 7.

Enter his.

B. D. W.

C. O. B. No 7. page 9

VIRGINIA.

In the Circuit Court of the County of Isle of Wight.

Shaw Land and Timber Company, a corpo-
ration chartered and existing under
the laws of the State of Iowa.

VS

Joseph N. White.

To Joseph N. White:-

Please take notice that on the ²⁹~~30~~th day of March, 1910, at two o'clock P. M. of that day, Shaw Land and Timber Hon. Benjamin D. White, Company will move the Judge of the Circuit Court of Isle of Wight County, Virginia, at his office No. 508 Seaboard Bank Building, in the City of Norfolk, Virginia, to enlarge the injunction heretofore awarded by said Court against you in the above entitled cause, and to continue the said injunction to the hearing of said cause.

Very respectfully,

SHAW LAND AND TIMBER COMPANY.

by

Its Attorney.

Norfolk, virginia, 23rd March, 1910.

Shaw Land & Timber Co

Joseph N. White

In the
COUNTY OF ISLE OF WIGHT
this 30 day of March 1910
Filed
Test. [Signature]

State of Virginia,

City of Norfolk, to-wit;

Before the subscriber, a Notary Public for the City afore-
said, in the State of Virginia, personally came L. W. Brown
and made oath and stated that he served the within notice
on the 25th day of March, 1910, by delivering a true copy
thereof in writing to Joseph N. White in person.

L. W. Brown

Subscribed and sworn to before me the day and year first
above written.

M. A. Edwards
Notary Public.

X
Executed the within summons and injunction order this the 14th,
day of Feb. 1910, by serving a true copy thereof on J.J. Hollowman
in person at his residence in the Co. of Isle of Wight,

W.A. Edwards, Sheriff.

By *R. Augustus Edwards*, D.S.

J. J. Hollowman

Shaw Land & Timber Co

Re Ramsey Subpoena

Joseph H. White

*Returnable to first
March rules 1910*

In the CLERK'S OFFICE of the

CIRCUIT COURT,

OF THE

COUNTY OF ISLE OF WIGHT

this *15* day of *July* 1910

Return of
Sub. Ramsey
J. J. Hollowman

COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ISLE OF WIGHT COUNTY--Greeting;

We command you that you summon J. J. Holleman,

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules to be holden for the said Court on the first Monday in March, 1910, to answer a bill in chancery exhibited against them in our said Court by Shaw Land and Timber Company, a corporation chartered and existing under the laws of the State of Iowa,

And have then and there this writ.

Witness, A. S. JOHNSON, Clerk of our said Court, at the Court-house, this 10th. day of February, 1910, and in the year of the Commonwealth.

A. S. Johnson

Clerk.

Endorsed--Bond required in injunction order has been executed.

A. V. K. 1910

To be seen at the residence of the Co. of Isle of Wight
of Dep. 1910, by the name of the Co. of Isle of Wight
executed the writ of injunction and the order of the Court.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT
FEBRUARY 7TH. 1910.

Shaw Land and Timber Company, a corporation chartered
and existing under the laws of the State of Iowa.

vs) Chancery.

Joseph N. White.

An injunction is awarded in accordance with the prayer of the accompanying bill enjoining and restraining the defendant, Joseph N. White, his agents, servants and employees from cutting, injuring or destroying any of the timber on the tract of land situated in Hardy Magisterial District, Isle of Wight County, Virginia, containing one hundred and fourteen (114) acres, more or less, as mentioned and described in said bill and in the deed from Joseph N. White and Nora L. White to Shaw Land and Timber Company, dated the twenty eighth day of May, 1907, a copy whereof is filed as an exhibit with said bill, excepting only the white oak trees on the high land, five or six in number, as reserved in said deed. But nothing contained in this order shall prevent the said Joseph N. White, his agents, servants or employees from cutting and removing from said land in a careful and workmanlike manner the said white oak trees on the highland, five or six in number, or from doing such injury to the other timber on said land as may be necessarily incident to the removal of said white oak trees in a careful and workmanlike manner. This injunction, unless sooner dissolved or enlarged, shall be effective for and during the period of sixty days from this date.

This injunction shall not take effect until the plaintiff, Shaw Land and Timber Company, or some one for it, shall enter into and acknowledge before the clerk of this court bond with good security in a penalty of \$200.00 conditioned to pay all such costs and damages as may be awarded against said plaintiff and all such ~~xxxxx~~ damages as may be incurred in case this injunction be dissolved.

A copy. Teste, 
Clerk.

COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ISLE OF WIGHT COUNTY--Greeting;

We command you that you summon Joseph N. White,

to appear at the Clerk's Office of the Circuit Court of the County of
Isle of Wight at the rules to be holden for the said Court on the
first Monday in March, _____, 1910, to answer a bill in
chancery exhibited against him in our said Court by Shaw Land
and Timber Company, a corporation chartered and existing under the
laws of the State of Iowa,

And have then and there this writ.

Witness, A. S. JOHNSON, Clerk of our said Court, at the Court-
house, this 10th. day of February, _____, 1910, and in the
_____ year of the Commonwealth.

 Clerk.

D.E.

Endorsed----Bond required in injunction order has been executed.

of the Court in the Co. of Isle of Wight
of the Court in the Co. of Isle of Wight
Executed the 10th day of February 1910

Executed the within summons and injunction order this 14th, day
of Feb. 1910 by serving a true copy thereof on J.N. White in person
at his residence in the Co. of Isle of Wight,

W.A. Edwards, Sheriff.

By *R. Cargill Edwards*, D.S.

J. New

Shaw Land Trust Co.

vs. } Quorum Subpoena

J.F. Holloman

Returnable 1st March/1910

15 Feb 1910

Returned & Filed

Test J. Johnson. Clerk

VIRGINIA,

In the Circuit Court of the County of Isle of Wight,

First March Rules, 1910.

Shaw Land and Timber Company, a corpora-
tion chartered and existing under the
laws of the State of Iowa,

vs

Joseph N. White.

Complainant's Bill.

To the Honorable BENJAMIN D. WHITE,

Judge of said Court:

Your complainant, Shaw Land and Timber Company, a corpo-
ration duly chartered and existing under the laws of the State of
Iowa, humbly complaining, showeth unto the Court the following case;

(1) Your complainant is a corporation, as such duly char-
tered and existing under the laws of the State of Iowa.

(2) By deed dated the twenty-eighth day of May, 1907, and
duly recorded in the Clerk's Office of this Court, a copy whereof
is filed as an exhibit with this bill, one Joseph N. White and Nora
L. White, his Wife, for the consideration stated in said deed did
grant and convey with general warranty unto your complainant, its
successors and assigns, all the timber of every kind and character
(excepting the white oak trees on the high land, five or six in num-
ber) ten inches and upwards across the stump (outside measurement)
twelve inches above the ground at the time of cutting on a certain
tract of land containing One Hundred and Fourteen (114) acres, more
or less, situated in Hardy Magisterial District, in the said County
of Isle of Wight, in the State of Virginia, the metes and bounds
whereof are particularly set out in the said deed: and for the con-

sideration aforesaid the said Joseph N. White and Nora L. White, his Wife, did further grant unto your complainant, its successors and assigns, the full term of Fifteen (15) years from the date of said deed, viz., the said twenty-eighth day of May, 1907, in which to cut and remove the said timber, with the right at any and all times during the said term to enter upon the said lands by its agents, servants and employees for the purpose of cutting and removing the said timber, or of manufacturing the same, and for the purpose aforesaid to erect and construct on said land all such sheds, buildings and other structures as the grantee in said deed, its successors and assigns, may deem expedient, and to lay and construct through and over the said land and other lands of the grantors adjoining the same, such tramways, railway tracks and roads as may be necessary and convenient for the transporting of such timber or timber products from the said tract of land above described and from other lands owned or controlled by the grantee in said deed, its successors or assigns, and to remove the said sheds, buildings, structures, machinery, tracks or tramways at will during the said term or at the end thereof; provided, however, that no such railways, tramways, tracks or roads shall be constructed or opened through or over any of the open land of the said grantors adjoining said timber tract when such open land is in actual cultivation without the written consent of the said grantors or their assigns first obtained.

The said deed contained the following covenants on the part of the said Joseph N. White and Nora L. White, viz., "The said Joseph N. White and Nora L. White covenant that they have the right to convey the said timber and timber rights to the grantee; that the grantee shall have quiet possession of the said timber and timber rights free from all encumbrances; that they will execute

such further assurances of the said timber and timber rights as may be requisite; and that they have done no act to encumber the said timber or timber rights."

The said deed was duly signed, sealed, acknowledged and delivered by the said Joseph N. White and Nora L. White and, as above alleged, the same has been recorded in the Clerk's Office of this Court, all of which will more fully and at large appear from a duly certified copy of the said deed hereunto attached, marked exhibit A, and asked to be read and taken as a part of this bill.

(3) By and through the said deed from said Joseph N. White and Nora L. White, his Wife, mentioned in the next preceding paragraph, complainant acquired and now owns the present absolute title to all the timber of every kind and character that was on the said tract of land described in said deed at the date of said deed which was then ten inches and upwards across the stump (outside measurement) twelve inches above the ground, or which would grow to the said size within the time allowed by the said deed for the cutting and removal thereof, to-wit, Fifteen (15) years from said twenty-eighth day of May, 1907, excepting only the white oak trees on the high land, five or six in number. And complainant alleges that there was at the date of said deed and still is on the said tract of land a large quantity of young timber which, in the usual course of nature, will within the said period of Fifteen (15) years from the twenty-eighth day of May, 1907, attain to the minimum dimensions fixed in said deed, and a great part thereof to sizes considerably in excess of said minimum dimensions. In fact, practically all of the timber standing and growing upon said tract of land at the date of said deed which had not at that time attained the said minimum size would, in the usual course of nature, have

grown to said minimum size or larger within said period of Fifteen (15) years. Complainant purchased the said timber as an investment and has not cut any of it and does not expect to cut it until near the end of the term fixed in said deed for the cutting and removal thereof. Complainant was and is entitled under the said deed to have the benefit of the growth of all of said young timber limited only by the provisions in said deed requiring the same to be removed within said period of Fifteen (15) years, and complainant was and is entitled under said deed to the use of the said tract of land throughout the entire period for the purpose of nourishing and growing the said trees and for all the other purposes provided in said deed.

(4) Notwithstanding the grant of said timber and timber rights by the said Joseph N. White and Nora L. White as aforesaid, and notwithstanding their said covenants in said deed, the said Joseph N. White in violation of the rights of complainant and without its knowledge has from time to time since the date of said deed entered upon the said tract of land and cut down and removed therefrom a large quantity of the timber standing and growing thereon owned by complainant as above alleged, and claims the right to cut all the timber on the said land of every kind and character under ten inches in diameter. Some of the trees cut by the said Joseph N. White as aforesaid were more than ten inches in diameter. The said Joseph N. White has been cutting the said timber from time to time since the date of said deed for fire wood and other purposes, and now claims the right to continue and intends to continue to cut the same from time to time. The fact that the said Joseph N. White has cut the said timber as herein alleged and claims the right to cut the same, and intends to continue cutting said timber as aforesaid, appears from a letter of the said Joseph N. White dated Jan-

uary 31st, 1910, addressed to and received by Mr. L. W. Brown, agent of complainant at Berkley, Virginia; ^{A Copy of} the said letter being hereunto attached marked exhibit B, and asked to be read and taken as a part of this bill.

(5) As hereinabove alleged, the timber that the said Joseph N. White has already cut was not all cut at one time, but from time to time as said Joseph N. White wished to use the same, and said Joseph N. White intends to continue and will continue to cut and remove timber from said land from time to time, his acts in this behalf constituting a continuing trespass or repeated trespasses upon the rights and property of said complainant, necessitating a multiplicity of suits for the protection of complainant's said rights unless said acts be restrained.

Moreover, the said acts on the part of said Joseph N. White are and will be destructive of the substance of said complainant's estate in said timber, and in fact completely destructive of the estate itself, and will work irreparable injury to complainant.

Not only so, but for the wrongs and injuries aforesaid complainant has no adequate remedy at law. As hereinabove alleged, complainant is entitled to the full benefit of the growth of said timber throughout the entire period of Fifteen (15) years less the time necessary to remove the same, and is entitled to the use of the said tract of land throughout said period for the purpose of growing each and every tree standing thereon. Every tree cut and removed as aforesaid deprives complainant pro tanto of its said right to use the soil of said land as aforesaid for the growing of said timber. It cannot be determined with accuracy or precision to what size the said trees may attain within the said period, nor can it be foreseen what the price of timber may be when complainant

is ready to cut them at or near the end of said period. It is not, therefore, a mere question of the value at the time of the trespass of the particular tree cut, but a serious impairment of the value of complainant's investment in said timber, and a deprivation of complainant's said right to use the said soil for the purpose of growing and maturing said timber.

And complainant therefore alleges that unless the said Joseph N. White be enjoined and restrained by this Honorable Court from cutting and removing the said timber as aforesaid, complainant will suffer irreparable injury, will be required to resort to a multiplicity of suits or actions at law for the recovery of damages, and that the damages which might be recovered in any such action would be wholly inadequate to compensate complainant for the loss and injury sustained.

Forasmuch, therefore, as complainant is without remedy in the premises save in a Court of Equity where such matters are usually and alone cognizable, it prays that said Joseph N. White be made a party defendant to this bill and required to answer the same as fully and particularly in all respects as if the same were here repeated and he specially interrogated with reference thereto, an answer under oath, however, being hereby expressly waived; that the said Joseph N. White, his agents, servants and employees, be enjoined and restrained from cutting ^{injuring or destroying} any of the timber on said tract of land, excepting only the white oak trees on the high land, five or six in number, which were reserved by him as mentioned in said deed; that the said Joseph N. White be required to account to said complainant for all the timber, other than said white oak trees, which he has cut or caused to be cut, injured or destroyed on the said tract of land since the date of the said deed; that complainant

may have a decree against the said defendant for ^{the amount due it and} damages sustained by said complainant as aforesaid; that all necessary orders and accounts may be directed and taken; that process issue with said restraining order properly endorsed thereon; and that complainant may have all such other further and general relief in the premises as the nature of its case requires and to equity may seem meet.

And complainant will ever pray.

SHAW LAND AND TIMBER COMPANY,

 by L. W. Brown
Agent.
p.q.

State of Virginia,

City of Norfolk, to-wit;

Before the subscriber, a Notary Public within and for the City aforesaid, in the State of Virginia, personally came L. W. Brown and made oath and stated that he is the agent of Shaw Land and Timber Company, complainant in the foregoing bill of complaint, and that the facts set out in said bill insofar as the same are stated of his own knowledge are true, and insofar as the same are stated upon information derived from others, the same he believes to be true.

Given under my hand this 5th day of February, 1910.

Wm. J. Shannonhouse
Notary Public.

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Shaw Land and Timber Company

vs In Chancery.

Joseph N. White.

Complainant's Bill.

H. H. RUMBLE
ATTORNEY AND COUNSELLOR AT LAW
NORFOLK, VA.

JEWELL & COMPANY, PHILADELPHIA