

1912-023 Chancery Causes: Edgar Spivey & al vs Robert Reynolds & al

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Isle of Wight County

other surnames: Duck,
Downing, Hall, Sykes

Know all Men by These Presents: That we Claud J. Spivey, principal, And The United States Fidelity and Guaranty Company, surety, are held and firmly bound unto Robert Reynolds, W. H. Sykes, Walter Spivey and Ada Hall, in the just and full sum of TWO HUNDRED AND FIFTY DOLLARS, to the payment whereof well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

IN TESTIMONY WHEREOF, the said Claud Spivey, principal, has hereto set his hand and seal, and the said The United States Fidelity and Guaranty Company, surety, by C. R. Hoskins, its duly authorized agent and attorney in fact, has caused its corporate name and seal to be hereunto affixed, the said seal to be attested by the signature of the said C. R. Hoskins, its said agent and attorney in fact, this, the 24th. day of July, A. D. 1912.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the above bound Claud J. Spivey, who executes, on behalf of the of the complainants, this bond, in a certain suit in chancery in the Circuit Court of the County of Isle of Wight, Virginia, pending, in which Edgar Spivey, and others are the complainants, and Robert Reynolds, W. H. Sykes, Walter Spivey and Ada Hall are the defendants, in which an injunction has been granted by Honorable C. W. Robinson, Judge of the 11th. Judicial Circuit of the State of Virginia on the 23rd. day of July, 1912, enjoining and restraining Robert Reynolds and W. H. Sykes, and each of them, their agents, servants, employees, attorneys and all others, from cutting and removing trees, timber and wood, and committing waste upon the tract of land in the bill mentioned, containing between eighty and ninety acres, and being the part of the land loaned to Walter Spivey for his life, by his father, Exum Spivey, by his will duly probated in the County Court of Isle of Wight County, October 7th. 1878, until the 10th. day of October, 1912; and, providing further that the plaintiffs are not to have the benefit of said injunction order until some one of them shall enter into a bond with sufficient security, in the penalty of two hundred and fifty dollars, payable to the said defendants, and conditioned to pay all costs and damages as they or either of them may sustain in consequence of the said injunction, in case the same shall be dissolved, shall pay all such costs and damages to the said defendants as they may sustain in case the said injunction shall be dissolved, then the above obligation to be void, or else to remain in full force and virtue.

C. J. Spivey, (SEAL)

The United States Fidelity and Guaranty Company,

(SEAL)

By C. R. Hoskins, Its duly authorized
agent and attorney in fact.

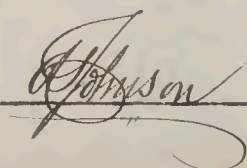
Attest: C. R. Hoskins,
Agent and attorney in fact.

Virginia: In the Clerk's Office of the Circuit Court of the County of Isle of Wight the 24th. day of July, 1912, this bond was duly executed and acknowledged by the obligors to the same and, ordered to be recorded.

A. S. Johnson, Clerk.

A copy,

Teste,



Clerk.

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Injunction bond
Copy

Edgar Spruay et al
vs } Chancery
Robt Reynolds et al

Executed & filed July 24/12

IN THE NAME OF GOD, AMEN. I, Exum Spivey, of the County of Isle of Wight and State of Virginia, do make and ordain this instrument of writing to be my last will and testament, in manner and form as follows: and I hereby revoke all former wills made by me at any time heretofore.

1st. I loan unto my son Richard L. Spivey the tract of land on which he now resides, estimated to contain 40 acres, more or less, to be bounded by the County Road as it now runs, during his life, and at his death to his legal heirs forever. He to pay to my oldest daughter Mary Wellons the sum of fifty dollars, at my death and when he comes in possession of said forty acres of land.

Item 2nd. I loan unto my wife Catherine all the balance of my land and all my personal property after the payment of my just debts, during her life, if she survives me, and at her death I loan the said land loaned to my said wife as aforesaid to my two sons Christopher and Walter equally to them during their lives, and at their death to their legal heirs of their body, and if either of them should die without such heirs his part to go to the survivor, and if both die without such heirs the said land is to go to my son Richard L. Spivey to him and his heirs forever if he be living at that time, and if not living to his heirs. The said Christopher and Walter shall ^{each} pay to my daughters Missouri Cutchin and Ada Hall or to their heirs, the sum of fifty dollars (That is the said Christopher is to pay to Missouri Cutchin twenty five dollars and the like sum to Ada Hall, and the said Walter to each one the same amt. as Christopher within two years after they come in possession of the said land.

Item 3rd. All of the personal property remaining after the payment of my just debts, which I have loaned to my wife during her life, at her death I give the same equally to my three daughters, Mary Wellons, Ada Hall and Missouri Cutchin, to them and their heirs forever.

Given under my hand and seal this 5th. day of October A.D.
1876.

Exum Spivey, (SEAL)

Witnesses.

C. H. Hart

R. A. Edwards.

Codicil to this my last will and testament having heretofore
given to my son Stith D. Spivey property which I estimate to
be his proper portion of my estate I now exclude him from
having any further portion of my estate at my death.

Given under my hand and seal this 16th. day of August,
A.D. 1878.

Exum Spivey, (SEAL)

Witness

James B. Porter

Wm. Finch.

In the County Court of Isle of Wight County the 7th. day of Oc-
tober, 1878. The last will and testament of Exum Spivey, decd.,
was proved by the oaths of Charles H. Hart and R. A. Edwards, the
subscribing witnesses thereto and the codicil to said will was
proved by the oaths of James B. Porter and Wm. Finch, the wit-
nesses thereto, and thereupon the said will and codicil are or-
dered to be recorded as the true last will of Exum Spivey, decd.

Teste, N. P. Young, Clk.

A copy,

Teste, *N. P. Young* Clerk.

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Exhibit "A"

Edgar Snow et al

n { Chaudry

Robert Reynolds et al

Filed with Bill July
24" 1912

IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, VA.

EDGAR SPIVEY, et als., - - - - - Complainants.

vs.

ROBERT REYNOLDS, et als., - - - - - Defendants.

This cause having been settled out of Court satisfactorily to all parties, it is on motion of the plaintiffs, ordered stricken from the docket.

In Court Ct of Sec of Wright
Edgewood Springs

✓

Robert Rymor

Decease

1912

Oct. 23.

Enter this.

B.D.W.

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IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, VA.

Edgar Spivey, Claude J. Spivey,
Sadie S. Duck, wife of C. H. Duck,
Jefferson D. Spivey, Birdie S. Downing,
wife of E. W. Downing, and Christopher
Spivey,

Complainants.

vs. In Chancery.

Robert Reynolds and W. H. Sykes,
Walter Spivey and Ada Hall,

Defendants.

Clerk will please issue summons returnable
first August rules, 1912.

To A. S. Johnson,

Clerk of Court.

L. A. M. Harris
A. J.

Attorneys Memo

Edgar Spruey et al

vs { Chancery

Robt Reynolds et al

Filed July 24th 1912

CLERK OF COURT.

RECORDED.

INDEXED.

CLERK WILL RETURN FORMS AND ONE RECEIPT

Robert Reynolds and W. E. Spruey,

Defendants.

vs.

Edgar Spruey.

Plaintiff.

Complainant.

Wife of R. E. Spruey, and Christopher
Reynolds, H. Spruey, David E. Spruey,
Eugene E. Spruey, wife of C. E. Spruey,
John Spruey, Charles E. Spruey,

IN THE CIRCUIT COURT OF THE COUNTY OF LAKE OSWEGO, WY.

IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, VIRGINIA.

Edgar Spivey, Claude J. Spivey,
Sadie S. Duck, wife of C. H. Duck,
Jefferson D. Spivey, Birdie S. Downing,
wife of E. W. Downing, and Christopher
Spivey,

Complainants.

vs.

Robert Reynolds and W. H. Sykes,
Walter Spivey and Ada Hall,

Defendants.

On motion of plaintiffs by counsel, and for good cause shown, an injunction is awarded them to enjoin and restrain the defendants, Robert Reynolds and W. H. Sykes, and each of them, their agents, servants, employees, attorneys and all others, from cutting and removing trees, timber and wood from, and committing waste upon the tract of land in the bill mentioned, containing between eighty and ninety acres, and being the part of the land loaned to Walter Spivey for his life, by his father, Exum Spivey, by his will duly probated in the County Court of Isle of Wight County, October 7th, 1878, until the 10th day of October 1912.

But the plaintiffs are not to have the benefit of this order until some one of them shall enter into a bond with sufficient security, in the penalty of two hundred ^{and fifty} dollars, payable to the defendants, and conditioned to pay all costs and damages as they or either of them may sustain in consequence of the said injunction, in case the same shall be dissolved.

1912 - July 23rd

*E. W. Robinson, Judge of
the 11th Judicial Circuit.*

To A. S. Johnson, Esq.,

Clerk of the Circuit Court of

Isle of Wight County.

Virginia: Clerk's Office of the Circuit Court of the County of Isle of Wight
July 24th. 1912 this vacation decree was received and entered to record.

Teste,

Johnson

Clerk.

THE STATE OF VIRGINIA

IN SENATE

SENATE

SENATE

SENATE

SENATE

SENATE

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Spivay et al

v. 3 to ch

Reynolds et al

Deceit

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Tell & Massie,
Attorneys-at-Law,
Newport News, Va.

IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, VIRGINIA.

Edgar Spivey, Claude J. Spivey, Sadie S. Duck,
wife of C. H. Duck, Jefferson D. Spivey, Bir-
die S. Downing, wife of E. W. Downing, and
Christopher Spivey,

Complainants,

vs)

Robert Reynolds and W. H. Sykes, Walter
Spivey and Ada Hall,

Defendants,

On motion of the plaintiffs by counsel, and for good cause shown, an injunction is awarded them to enjoin and restrain the defendants, Robert Reynolds and W. H. Sykes, and each of them, their agents, servants, employees, attorneys and all others, from cutting and removing trees, timber and wood from, and committing waste upon the tract of land in the Bill mentioned, containing between eighty and ninety acres, and being the part of the land loaned to Walter Spivey for his life, by his father, Exum Spivey, by his will duly probated in the County Court of Isle of Wight County, October 7th. 1878, until the 10th. day of October, 1912.

But the plaintiffs are not to have the benefit of this order until some one of them shall enter into a bond with sufficient security, in the penalty of two hundred and fifty dollars, payable to the defendant, and conditioned to pay all costs and damages as they or either of them may sustain in consequence of the said injunction, in case the same shall be dissolved.

July 23rd. 1912.

C. W. Robinson,
Judge of the 11th. Judicial Circuit.

To A. S. Johnson, Esq.,

Clerk of the Circuit Court of Isle of Wight County.

*A copy
Frd. Johnson, Clk.*

*Bond required by above order has been
received
Frd. Johnson Clk.*

COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ISLE OF WIGHT COUNTY—Greeting;

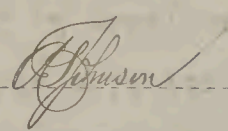
We command you that you summon Robert Reynolds and W. H. Sykes, Walter Spivey and Ada L. Hall,

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 1st. Monday in August, 1912, to answer a bill in chancery exhibited against them in our said Court by

Edgar Spivey, Claude J. Spivey, Sadie S. Duck, wife of C. H. Duck, Jefferson D. Spivey, Birdie S. Downing, wife of E. W. Downing, and Christopher Spivey,

And have then and there this writ.

Witness, A. S. JOHNSON, Clerk of our said Court, at the Court-house, this 24th. day of July, 1912, and in the 137th. year of the Commonwealth.

Testa,  Clerk.

I executed the with-in injunction this the 24th, day of July 1912 by serving a true copy of same to-gather with a copy of the with-in summons on Robert Reynolds and W. H. Sykes in person, and by serving a true copy of the with-in summons on Ada Hall in person-the with-in named Walter Spivey not being found at his usual place of abode I served a true copy of the with-in summons on Ada Hall for the said Walter Spivey and explained to her the purport of same, she being a member of the family of the said Spivey and over the age of 16 years all with-in the County of Isle Of Wight.

R. Augustus Edwards Sheriff.

By Frank H. Jordan.

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Edgar Spivey et als

vs) Chancery subpoena

Robert Reynolds, et als.

Returned July 26/1912

IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, VIRGINIA.

Edgar Spivey, Claude J. Spivey,
Sadie S. Duck, wife of C. H. Duck,
Jefferson D. Spivey, Birdie S. Downing,
wife of E. W. Downing, and Christopher
Spivey,

Complainants.

vs.

Robert Reynolds and W. H. Sykes,
Walter Spivey and Ada Hall,

Defendants.

To the Honorable B. D. White,

Judge of said Court:-

Humbly complaining, your complainants, Edgar
Spivey, Claude J. Spivey, Sadie S. Duck, wife of C. H. Duck,
Jefferson D. Spivey, Birdie S. Downing, wife of E. W.
Downing, and Christopher Spivey, respectfully represent
unto your Honor:-

1. That the first five complainants named are the
sons and daughters of Christopher Spivey, the other
complainant, and the nieces and nephews of Walter Spivey,
and that their father, the other complainant, and the said
Walter Spivey are sons of Exum Spivey, deceased, and the
said Christopher Spivey is the brother of the said Walter
Spivey.

2. That the said Exum Spivey executed his last
will and testament, dated October 5th, 1876, which was
probated in the County Court of Isle of Wight County,
October 7th, 1878, a copy of which said will is filed
herewith marked "Exhibit A", and prayed to be taken
and read as part of this bill.

3. That by the terms of this will, the said
Exum Spivey loaned unto his wife, Catherine, during
her life, the tract of land described in said will as the

balance of his estate. At her death, the said tract of land, according to the provisions of said will, was loaned to the said Christopher and Walter Spivey, equally, during their lives, and at their death to the legal heirs of their bodies. If either of them should die without such heir, his part was to go to the survivor, and if both should die without such heirs, the said land was to go to his son, Richard L. Spivey.

4. That the said Catherine Spivey, wife of Exum Spivey has died, and the balance of the land of the testator, has been divided between the said Christopher Spivey and the said Walter Spivey. The said Walter Spivey, after the said partition, sold his life interest in the portion received by him, to his sister, Ada Hall, and she in turn, transferred the same to Robert Reynolds. This portion of the tract thus sold to Robert Reynolds, contains betweeneighty and ninety acres, and is part of the home place of Exum Spivey, and bounded on the northerly by the lands of Jack Porter, on the westerly by the lands of Linsey Nelms and Joe Nelms and Christopher Spivey, and on the southerly by the lands of Christopher Spivey and Arthur Spivey, and easterly by the lands of Sam Spivey.

5. That the said Walter Spivey is about sixty years of age, unmarried, and without heirs of his body; that by the terms and provisions of said will, the said Walter Spivey has only a life estate in said land, and the first five of these complainants are the remaindermen and the other the survivor, and as such remaindermen, will, upon the death of the said Walter Spivey, their uncle, and their father, take the fee simple estate.

6. These complainants aver that a large part of the said tract of land is woodland, which about fifteen

years ago was cut over, and the lumber removed therefrom, so that the trees now standing thereon are all young and of tender growth. Nevertheless, the said Robert Reynolds, knowing full well that he has in the said tract of land, and especially in the young growing timber thereon, only that estate equal to the life of the said Walter Spivey, is proceeding, and is now actively engaged in cutting and removing from the woodland on said tract, all the young timber growing thereon, while he neglects properly to cultivate the cleared arable land upon the said tract, and the said trees and timber so being cut and removed are not necessary, nor are they being used in the maintenance, upkeep, use or improvement of the said land; that the purchase price of the said timber is being withdrawn from the said tract and used by the said Robert Reynolds in the maintenance of himself and his family, the increase of his estate, and the upkeep of his home, separate and apart from the tract above described. Your complainants say that the said Robert Reynolds in cutting down and removing from the said tract the growing timber standing thereon, is committing waste upon the property of these complainants.

7. Your complainants further allege that one, W. H. Sykes, is the owner of a sawmill located near ~~his~~ ^{the} said premises, and has purchased and is purchasing from the said Reynolds, the timber so being cut and removed from the said land; that the purchase of the said timber by the said Sykes is made in defiance of a notice and warning to him that the timber so being purchased by him from the said Robert Reynolds is not owned by the said Robert Reynolds, and that the said Robert Reynolds had, nor has, any right to sell the same; but despite the protests of your complainants, the said W. H. Sykes persists in buying the

said timber and appropriating the same to his own use, being fully aware, and being notified and warned by your complainants as aforesaid, that the said timber so being purchased by him, was not the property of the said ^{Robert} ~~Walter~~ Reynolds, but the property of these complainants.

8. The said complainants aver that the said Robert Reynolds and W. H. Sykes are acting in collusion together and wantonly removing the growing timber from the said tract of land and reaping the benefits thereof, and thereby defeating these complainants of the estate devised to them, to the irreparable loss and damage of these complainants, who are without any adequate remedy at law.

Your complainants therefore, being without remedy, save in a Court of Equity where matters of this sort are alone and properly cognizable, prays that the said Robert Reynolds, W. H. Sykes, Walter Spivey and Ada Hall be made parties defendant to this bill, and be required to answer the same, answer under oath being hereby waived; that the said Robert Reynolds and W. H. Sykes, and each of them and their agents, servants and employees, be enjoined and restrained from cutting, removing or disposing of the said standing timber upon the said described land, and that the said Robert Reynolds and W. H. Sykes do account to your complainants for the value of the timber so cut and removed ~~and also that hereof~~ ^{cut and removed} by them, together with the damages provided by statute for such waste; that for such purpose an accounting may be had before a Commissioner of this Honorable Court, and that such other, further and general relief may be had in the premises, as to equity and this Honorable Court may seem meet.

L. H. Morris
L. H.

Edgar Spivey
Claude Spivey
Sadie S. Duck
Jefferson D. Spivey
Birdie S. Downing
Christopher Spivey

} By Counsel

STATE OF VIRGINIA,

CITY OF NEWPORT NEWS, to-wit:

This day personally appeared before me,
J. A. Massie, a Notary Public in and for the said City and
State, Claude J. Spivey, who makes oath and says
that he is one of the complainants in the foregoing bill
and that the matters and things stated therein of his own
knowledge are true, and those stated upon information
derived from others, he believes to be true.

Claude J. Spivey

Subscribed and sworn to before me this _____
day of July, 1912.

J. A. Massie

Notary Public.

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Spinner et al
v { In Chy
Reynolds et al

Pice

July 24th 1912

Injunction order entered, bond
executed. Process issued with
order attached, returnable to
1st Aug. rules 1912. Bill re filed

1st Aug rules 1912
Declaratory

2nd Aug rules 1912
Case set down for
hearing

Lett & Massie,
Attorneys-at-Law,
Newport News, Va.