

1933-186

Nansemond Co (Suffolk) Chancery Causes: Nansemond Collegiate Institute vs Fannie Colden, admx et al

214

White, Herrell, Carney, Rodgers, Haskins, Bell, Willie,
Darden, Griffin, Spivey, Jordan, Coleman, Sharp, King
Macklin, Cobb, Wrench, Owen, Reid

The Commonwealth of Virginia:

To the Sheriff of the County of Nansemond, Greeting:

We command You That You Summon *H. M. Bridgford, Jas. C. Hancee, J. D. Whit, Richard C. Carney, Major C. K. William Haskins, T. J. Johnston and J. W. Wilson*

to appear before the Judge of our Circuit Court of the County of Nansemond at the ^{City} Court-house ~~thereof~~, on the *25th* day of *March*, 192*5*, at 10 o'clock a. m., to testify and the truth to say in behalf of the Plaintiff, Defendant, in a certain matter of controversy in our said Court before the said Judge depending and undetermined between *Bernie Olsen, Adm.*

Nansemond Collegiate Institute Plaintiff, and
Nansemond Collegiate Institute Defendant . And have then and there this writ.

Witness, G. E. Bunting, Clerk of said Court, at the Court-house, the *23* day of *March*, 192*5*, and in the 14th year of the Commonwealth

G. E. Bunting Clerk.

Oregonia
Rennie Olsen, Adm.

vs }

SUBPOENA FOR *Depts.*
WITNESS

James L. Odepiata Esq.

Nansemond County Circuit Court

the day of

192

Ex. cited me
24, 1925-

E B Rawls
Sheriff

CHANCERY SUMMONS

The Commonwealth of Virginia.

Sergeant of the City of Suffolk
TO THE SHERIFF OF NANSEMOND COUNTY---GREETING:

You are Hereby Commanded to Summon Fannie Golden, Administratrix
of the estate of Willie Golden, deceased, T.B. Rawles, Sheriff of Nansemond
County, Virginia, and W.R. Winner, Deputy Sheriff of Nansemond County, Virginia

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held
for the said Court, on the First Monday in April, 1925 to answer a
Bill in Chancery, exhibited against them
in the said Court by Nansemond Collegiate Institute

And have then and there this summons.

Witness. G. E. Bunting, Clerk of our said Court, at his office, this 18th day of

March, 1925, in the 139th year of the Commonwealth.

~~A Copy~~ Teste:

Clerk }

Teste:

Clerk

Executed March 26th 1905
By serving a true copy thereof on the
defendant in person Fannie Colden
Administratrix of the Estate
of Hugh I. Holland
in the City of Norfolk, Va.
City Sergeant
By
Deputy Sergeant

ORIGINAL

Hugh I. Holland p. q.

Nansemond Collegiate Institute

vs. } In Chancery

Fannie Colden, Administratrix
et als

19 25

April Rules

First Monday.

NANSEMOND COUNTY COURT,

Process Book, No.

Page

Sheriff

in person, in the County of Nansemond, State of Virginia.

Executed this day of, 191 by delivering a true copy of the with-
in process to

CHANCERY SUMMONS

The Commonwealth of Virginia.

TO THE SHERIFF OF NANSEMOND COUNTY---GREETING:

You are Hereby Commanded to Summon Fannie Colden, Administratrix
of the estate of Willie Colden, deceased, E.B. Rawles, Sheriff of Nansemond
County, Virginia, and W.R. Winner, Deputy Sheriff of Nansemond County, Virginia

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held
for the said Court, on the First Monday in April, 1925, to answer a
Bill in Chancery, exhibited against them
in the said Court by Nansemond Collegiate Institute

And have then and there this summons.

Witness. G. E. Bunting, Clerk of our said Court, at his office, this 18th day of
March, 1925, in the 149th year of the Commonwealth.

A Copy--Teste:

Clerk

Teste:

Clerk

Executed March 25th
1925 by delivering a
true copy of within notice
to W. R. Wimmer Esq. Sheriff
in Nansemond Co.

E. B. Rawls Sheriff

I hereby accept
service on within
notice 3. 26. 1925

E. B. Rawls Sheriff

Original

H. R. Holland p. q.

Nansemond Collegiate
Institute

vs. } In Chancery

1925

Office Rules

First Monday.

NANSEMOND COUNTY COURT,

Process Book, No.

Page

Executed this day of, 191... by delivering a true copy of the with-
in process to
.....
.....
.....
in person, in the County of Nansemond, State of Virginia.

Sheriff

Mar. 25-1925-
at 10 a.m.
at city courthouse

City

W. M. Bridgford
Jas. A. Harrell

County-

J. L. White

Richard Carney

Major Cook

William Haskins

T. J. Johnson

J. W. Wilson-

Fannie Golden admx
of Willie Golden, decd
v.

Worcester Collegiate
Trust.

The Farmers Bank of Nansemond

BY

192

[illegible]

items payable out of town, whether credited upon receipt or not are received and collected only at the risk of the depositor. We are not responsible for losses in mail and do not guarantee the banks to which we send such items, and in collecting them this bank acts as your agent and the responsibility for such must remain with the depositor until the bank has received final actual payment of check sent us in return.

TOTAL \$

SEE THAT ALL CHECKS AND DRAFTS ARE ENDORSED

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

March 16, 1925.

Mr. George E. Bunting, Clerk,
Suffolk, Va.

In re: Nansemond Collegiate Institute, Inc.
v.

Dear Sir:

Fannie Colden, administratrix of the
Estate of Willie Colden, deceased, et als.

I hand you herewith memorandum returnable to
First April Rules in above-styled chancery suit. This is the same
suit in which injunction was granted on March 14, 1925, and bond
executed to-day. I enclose my check for \$10.00 to cover writ
tax and deposit.

Please address process for Fannie Colden,
administratrix of Willie Colden, deceased to H.W. Churn, Sergeant
of the City of Suffolk and let me have original and one copy.
Please address process for E.B. Rawles Sheriff of Nansemond
County and W.R. Winner Deputy Sheriff of Nansemond County to
E.B. Rawles Sheriff of Nansemond County and let me have original
and two copies of same. I will have these processes executed.

Yours very truly,

Hugh L. Holland
D.

H/D
Enc. 2

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA:

Nansemond Collegiate Institute, Incorporated.....Complainant
vs) Memorandum

Fannie Colden, administratrix of the Estate of
Willie Colden, deceased, E.B. Rawles, Sheriff
of Nansemond County, Virginia, and W.R. Winner,
Deputy Sheriff of Nansemond County, Virginia.....Defendants

To George E. Bunting, Clerk of said Court:

Please summon defendants for complainant to First
April (1925) Rules, in Chancery.

Hugh J. Holland,
P.q.

*Mar. 18, 1925 - Process issued Returnable to
April Rules, First Monday, 1925 -*

. Nansemond Collegiate Institute,
Incorporated.....Complainant

vs) Memorandum

Fannie Colden, administratrix
of the Estate of Willie Colden,
deceased, et als.,.....Defendants.

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

Know All Men by These Presents, That we *Nansemond Collegiate Institute, Inc. Principal & Major Cook, J. L. White, William Harkins & David Epps, Surg*

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of *One Thousand (\$1000.00)* Dollars to the payment whereof, well and truly to be made to the Commonwealth of Virginia, we bind ourselves, our heirs; executors, and administrators, jointly and severally, firmly by these presents.

And we waive the benefit of our exemption as to this obligation, and also waive any claim or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of the office, post or trusts herein mentioned, with coupons detached from bonds of said State.

Sealed with our seals, and dated this *16th* day of *Mar.* in the year of our Lord one thousand nine hundred and *Twenty-five*, and in the *1925* year of the Commonwealth.

In Testimony Whereof, the said..... has hereto set his hand and seal, and the said.....

..... has caused its corporate name to be hereto signed and its corporate seal to be hereto affixed, this..... day of..... in the year of our Lord one thousand nine hundred and....., and in the..... year of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound *Nansemond Collegiate Institute, Inc.*

and costs
shall pay all damages as shall be incurred by *Emmie Oden, Admrx. of Nellie Oden, deceased, in* case the injunction granted on the *14th* day of *Mar.* 1925, in the case of *Nansemond Collegiate Institute vs. Emmie Oden, Admrx.* it also, shall be dissolved

<i>Mag. Cook</i> (Seal)	by <i>Nansemond Collegiate Institute</i> (Seal)
<i>J. L. White</i> (Seal)	<i>disincorporated</i>
<i>William Harkins</i> (Seal)	<i>Mag. Cook</i> (Seal)
<i>David Epps</i> (Seal)	<i>J. L. White</i> (Seal)
	<i>William Harkins</i> (Seal)
	<i>David Epps</i> (Seal)

VIRGINIA:

In the Clerk's Office of the Circuit Court of the County of Nansemond, on the *16th* day of *March*, 192*5*.

The above bond was executed and acknowledged before me by the obligors to the same (the security justifying), and ordered to be recorded.

Teste:

[Signature] Clerk

Tested

same (the receipt Justifying) and

The above bond was executed

day of

In the County of

VIRGINIA:



Clerk

The Commonwealth

the County of

Witness

hand of said

or by virtue of

claim or right to the

And we certify that

these presents

bind ourselves, our heirs, ex-

to the payment whereof, well as

full sum of

are held and firmly owing unto the

Know All Men by These Presents



COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

WILLIAM F. RHEA, CHAIRMAN

BERKLEY D. ADAMS

LESTER HOOKER

RICHARD T. WILSON,
CLERK OF THE COMMISSION

RICHMOND

March 19, 1925. W.-C.

Messrs. Hodges & Foreman,
Attucks Building,
Norfolk, Virginia.

Gentlemen:

As requested in your letter of March 17, I am enclosing you memorandum taken from the last annual report of Nansemond Collegiate Institute, giving the names and residences of its officers.

Yours very truly,

Clerk of the Commission.

Encl.

WM. F. RHEA, CHAIRMAN

BERKLEY D. ADAMS

LESTER HOOKER

R. T. WILSON, CLERK OF THE COMMISSION

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

RICHMOND

Nansemond Collegiate Institute,

Suffolk, Va.

- - - - -

Officers.

Rev. T. J. Johnson,	President.	Suffolk, Va.
Rev. W. A. Cobb,	Vice-Presdt.	Suffolk, Va.
Jas. W. Wilson,	Secretary.	Suffolk, Va.
J. C. White,	Treasurer.	Suffolk, Va.

From report filed April 11, 1923.

CERTIFICATE OF INCORPORATION

OF

NANSEMOND COLLEGIATE INSTITUTE.

This is to certify that we do hereby associate ourselves to establish a corporation under and by virtue of the provisions of an act of the General Assembly of the State of Virginia, entitled, "An Act concerning corporations", which became a law on the 21st day of May, 1903, and acts amendatory thereof, for the purpose and under the corporate name, hereinafter mentioned, and to that end we do, by this our certificate, set forth as follows:

The name of the corporation is to be Nansemond Collegiate Institute.

Its principal office in this State is to be located in Nansemond County, Virginia, postoffice Suffolk, Virginia.

The purpose for which the corporation is formed is for conducting an institute of learning for colored people.

The number of trustees who are to manage the affairs of the same is twenty-one (21).

The names and residences of the trustees who are to manage its affairs for the first year of its existence, together with the names, residences and postoffices of the president and secretary of the corporation are as follows:

TRUSTEES.

Names	Post Offices	Residences
Willie Colden	Suffolk, Va.	Suffolk, Virginia
J. L. White	Suffolk, Va.	Suffolk, Virginia
James A. Harrell	Suffolk, Va.	Suffolk, Virginia
R. C. Carney	R. F. D. #1, Box 26, Suffolk, Va.	Nansemond County, Va.
Luke Rodgers	R. F. D. #1, Box 31, Suffolk, Va.	Nansemond County, Va.
William Haskins	Suffolk, Va.	Suffolk, Virginia
J. W. Bell	Magnolia, Va.	Nansemond County, Virginia
Edward Willie	Magnolia, Va.	Nansemond County, Virginia
Edward Darden	Magnolia, Va.	Nansemond County, Virginia
C. L. Griffin	Bennett's Creek, Va.	Nansemond County, Virginia
R. O. Spivey	Bennett's Creek, Va.	Nansemond County, Virginia
J. C. White	Suffolk, Va.	Suffolk, Virginia
C. W. Jordan	Suffolk, Va.	Suffolk, Virginia

Names	<u>TRUSTEES.</u>	Residences
I.V.Coleman	Suffolk, Va.	Suffolk, Virginia
Jenkins Sharp	Suffolk, Va.	Suffolk, Virginia
N.L.King	Buckhorn, Va.	Nansemond County, Virginia
E.M.Macklin	Buckhorn, Va.	Nansemond County, Virginia
A.A.Cobb	Suffolk, Va.	Suffolk, Virginia
J.B.Wrench	Suffolk, Va.	Suffolk, Virginia
Frank Owen	Savage Crossing, Va.	Nansemond County, Virginia
Henry Reid	Savage Crossing, Va.	Nansemond County, Virginia

PRESIDENT.

Name	Residence	Postoffice
James A. Harrell	Suffolk, Virginia	Suffolk, Virginia

SECRETARY.

Name	Residence	Postoffice
Junius C. White	Suffolk, Virginia	Suffolk, Virginia

The period for the duration of the corporation is unlimited.

The amount of the real-estate to which its holdings at any time are to be limited shall be one thousand acres.

The entire voting power in the meetings of the corporation shall be vested in the trustees.

The power of making and altering by-laws shall be in the trustees.

The date of the annual meeting of the board of trustees shall be fixed by the board at the organization meeting and the regular terms of trustees shall begin on the day for the annual meetings.

Special meetings of the trustees shall be called as provided in the by-laws.

Notice of all meeting of the trustees, other than the annual meeting and regular meetings provided for in the by-laws, except where otherwise provided by statute, shall be given in the manner provided in the by-laws adopted covering same, and shall state the object of the meeting.

The first seven trustees hereinabove named shall serve for the term of one year, the second seven for the term of two years, and the third seven for the term of three years from the date of the first annual meeting, or until their successors are chosen.

At the expiration of the said terms of one year, two years, and three years, respectively, all terms shall thereafter be to expire three years from the day of the annual meeting fixed for the expiration of the preceding term.

Successors to trustees shall be chosen by the Nansemond Educational Association from nominations therefor made and transmitted to the said association by each of the churches now or hereafter being members thereof, the churches now members of the said Association being as follows:

First Baptist Church, Suffolk, Virginia

Little Mt. Zion Baptist Church, Nansemond County, Virginia

Oak Grove Baptist Church, Nansemond County, Virginia

Canaan Baptist Church, Nansemond County, Virginia

Poplar Run Baptist Church, Nansemond County, Virginia

Pine Street Baptist Church, Suffolk, Virginia

Fair Ground Baptist Church, Suffolk, Virginia

Piney Grove Baptist Church, Nansemond County, Virginia

Pleasant Union Baptist Church, Nansemond County, Virginia

Diamond Grove Baptist Church, Nansemond County, Virginia

Gethsemane Baptist Church, Nansemond County, Virginia

the said Association to act through delegates sent to its meeting by the churches members thereof, each church to send not more than three delegates; provided, also, that no member of the faculty or board of instruction in the institute shall be a member of the board of trustees. /)

The said Association shall have power, by two-thirds of the delegates concurring, to remove any of the trustees for good cause, and when there shall be a vacancy occasioned by death, removal, resignation or refusal to act, the Association shall supply the vacancy from nominations for trustee made and transmitted to the said Association by the churches members thereof.

At all times after one year from the date of the first annual meeting, except pending the filling of a vacancy occasioned by death, removal, resignation or refusal to act, each church shall be represented on the board of trustees of trustees by at least one, and not more than two of the members of the board, provided nominations for new trustees are duly made and transmitted by each

church, but in the event that any church fails to duly make and transmit to the Association nominations for trustees, then the said Association shall choose a sufficient number of trustees from the other nominations duly made and transmitted.

A majority of the trustees shall constitute a quorum for the transaction of business, but every resolution for the purchase of real-estate, or for the sale, lease or mortgage of property of the corporation, or for the election of the president and for fixing his salary, must be passed by a majority of the whole board.

The board of trustees may, by a resolution passed by a majority of the whole board, designate two or more of their number to constitute an executive committee, who, to the extent provided in the said resolution or in the by-laws of the corporation and not prohibited by its charter, shall have and exercise the power of the board of trustees in the management of the business and affairs of the corporation, and may have power to authorize the seal of the company to be affixed to all papers which may require it.

Given under our hands this 22nd day of January, 1914.

James A. Harrell

Willie Colden

Junius C. White

STATE OF VIRGINIA

County of Nansemond, To-wit:

I, E.W. Jordan, a Notary Public in and for the county and state aforesaid, do certify that James A. Harrell, Willie Colden and Junius C. White whose names are signed to the foregoing writing, bearing date on the 22nd day of January, 1914, have acknowledged the same before me in my county aforesaid.

Given under my hand this 22nd day of January, 1914.

My commission expires March 1st, 1914.

E.W. Jordan

Notary Public.

VIRGINIA:

In the Circuit Court of Nansemond County, Virginia.

The foregoing certificate of incorporation of the Nansemond Collegiate Institute, was presented to me, James L. McLemore, Judge of the Circuit Court of the County of Nansemond, in term time, and having been examined by me, I now certify that the said certificate for incorporation is, in my opinion, signed and acknowledged in accordance with an act of the General Assembly of Virginia, entitled "An act concerning corporations," which became a law on the 21st day of May, 1903, and acts amendatory thereof.

And I do further ascertain and certify that James A. Harrell Willie Colden and Junius C. White the persons signing and acknowledging the said certificate, are of good moral character, and suitable and proper persons to be incorporated for the purpose set forth in the said certificate.

Given under my hand this 27 day of January, 1914.

Jas. L. McLemore, Judge.

COMMONWEALTH OF VIRGINIA

Department of the State Corporation Commission.

City of Richmond, 3rd day of March, 1914.

The accompanying certificate for incorporation, together with a receipt showing payment of the charter fee required by law, having been presented to the State Corporation Commission by James A. Harrell, Willie Colden and Junius C. White, and the Hon. Jas. L. McLemore, Judge of the Circuit Court of Nansemond County having certified that the said persons signing said certificate are of good moral character and suitable and proper persons to be incorporated for the purposes therein set forth, and that the said certificate has been signed and acknowledged by said applicants in accordance with law, the State Corporation Commission having examined said certificate, now declares that the said applicants have complied with the requirements of law, and have entitled themselves to a charter, and it is therefore ordered that they and their associates and successors be, and they are, hereby made and created a body, politic and corporate, under and by the name of Nansemond Collegiate Institute, upon the terms and conditions, and for the purposes set forth in said certificate, to the same extent as if the same were now herein transcribed in full (pursuant to the

provisions of an Act of the General Assembly of Virginia, entitled "An Act concerning corporations", which became a law the 21st day of May, 1903), and with all the powers and privileges conferred and subject to all the conditions and restrictions imposed by law.

And said certificate, with this order, is hereby certified to the Secretary of commonwealth for record.

Robert R. Prentis, Chairman.



R.T. Wilson, Clerk.

COMMONWEALTH OF VIRGINIA,

Office of Secretary of the Commonwealth.

In the City of Richmond, the 3rd day of March, 1914, The foregoing charter of Nansemond Collegiate Institute was this day received and duly recorded in this office and is hereby certified to the Clerk of the Circuit Court of Nansemond County, according to law.

B.O. James, Secretary of the Commonwealth.

VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County, the 9th day of March, 1914-- The foregoing charter and certificate of the Secretary of the Commonwealth thereon was this day received, and duly recorded.

Teste: G.E. Bunting, Clerk.

By S.J. Parker, D.C.

A true copy made this the 12th day of March 1925.

Teste: G.E. Bunting, Clerk.

2-12-25-

Fannie Colden, Adm^x
of the Est. of
Lillie Colden dec'd.
vs. Motion

Nansemond Collegiate
Institute Inc.

Rev. S. J. Johnson, Pres.

th
September 29, 1924

Wm. J. Huff

GEORGE E BUNTING
CLERK OF CIRCUIT COURT OF
NANSEMOND COUNTY
SUFFOLK, VA.

Rec'd. Sept. 29 #850

1-15-25

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA:

Fannie Colden, administratrix of the estate of
Willie Colden, deceased.....Plaintiff.

vs) Plea of Statute of Limitations.

Nansemond Collegiate Institute, Incorporated,
a corporation duly organized and existing
under the laws of the State of Virginia.....Defendant.

The said defendant, by its attorney, comes and says that this action is founded upon two certain promissory notes dated October 29, 1915, for \$877.44, payable on demand, and dated December 13, 1910, for \$82.00, payable sixty days after date, respectively; that both of said promissory notes are contracts in writing but not under seal; that the supposed cause of action as to either of said notes did not accrue to the said plaintiff at any time within five years next before the commencement of this action, in manner and form as the plaintiff hath complained against it. And this the said defendant is ready to verify.

NANSEMOND COLLEGIATE INSTITUTE, INCORPORATED.
a corporation duly organized and existing
under the laws of the State of Virginia.

By

W. J. d. Holland
Its Attorney

Fannie Colden, administratrix
of the estate of Willie Colden,
deceased.....Plaintiff

vs) Plea of Statute of
Limitations

Nansemond Collegiate Institute,
Incorporated, a corporation duly
organized and existing under the
laws of the State of Virginia
.....Defendant.

Filed May 11, 1925
H. L. Holland
Clerk

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA:

Fannie Colden, Administratrix of the Estate of
Willie Colden, deceased.....Plaintiff.

vs) Plea of Statute of Limitations.

Nansemond Collegiate Institute, Incorporated,
a corporation duly organized and existing under
the laws of the State of Virginia,.....Defendant.

The said defendant, by its attorney, comes and
says that the supposed cause of action in the notice of motion
in this action mentioned, is founded upon a contract in
writing, not under seal and that the same did not accrue
to the said plaintiff at any time within five years next
before the commencement of this action, in manner and
form as the said plaintiff hath complained against it.
And this the said defendant is ready to verify.

NANSEMOND COLLEGIATE INSTITUTE, INCORPORATED,
a corporation duly organized and existing
under the laws of the State of Virginia.

BY

Hugh L. Holland,
Its Attorney.

Fannie Colden, administratrix of
the estate of Willie Colden,
deceased.....Plaintiff

vs) Plea of Statute of
Limitations

Nansemond Collegiate Institute,
Incorporated, a corporation
duly organized and existing under
the laws of the State of
Virginia.....Defendant.

Filed May 11, 1928
H. L. Holland

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA:

Fannie Colden, Administratrix of the Estate of
Willie Colden, deceased.....Plaintiff.

vs) Plea of Not Guilty

Nansemond Collegiate Institute, Incorporated,
a corporation duly organized and existing
under the laws of the State of Virginia.....Defendant.

The said defendant, by its attorney, comes and says
that it is not guilty of the premises in this action, laid
to its charge, in manner and form as the plaintiff
hath complained. And of this the said defendant puts
itself upon the country.

NANSEMOND COLLEGIATE INSTITUTE, INCORPORATED.
a corporation organized and existing under
the laws of the State of Virginia.

By Hugh Holland
p.d.

Fannie Colden, Administratrix of
the Estate of Willie Colden,
deceased.....Plaintiff.

vs. Plea of Not Guilty.

Nansemond Collegiate Institute,
Incorporated, a corporation
duly organized and existing under
the laws of the State of
Virginia.....Defendant.

Filed May 11, 1928
H. L. Holland
Clerk

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA:

Fannie Colden, Administratrix of the Estate of
Willie Colden, deceased.....Plaintiff.

vs) Plea of Non-Assumpsit

Nansemond Collegiate Institute, Incorporated,
a corporation duly organized and existing under
the laws of the State of Virginia.....Defendant

The said defendant, by its attorney, comes and says
that it did not undertake or promise in any manner or form
as the plaintiff hath in this action complained. And of
this the said defendant puts itself upon the country.

NANSEMOND COLLEGIATE INSTITUTE, INCORPORATED.
a corporation duly organized and existing
under the laws of the State of Virginia.

by

Hugh L. Holland,
p.d.

Fannie Colden, Administratrix of
the estate of Willie Colden,
deceased.....Plaintiff

vs) Elea of Non-~~Assumpsit~~

Nansemond Collegiate Institute,
Incorporated, a corporation duly
organized and existing under
the laws of the State of Virginia..
.....Defendant

Filed May 11, 1925
J. E. Ombry
Deer

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, VIRGINIA:

Fannie Colden, Administratrix of the
estate of Willie Colden, deceased.....Plaintiff

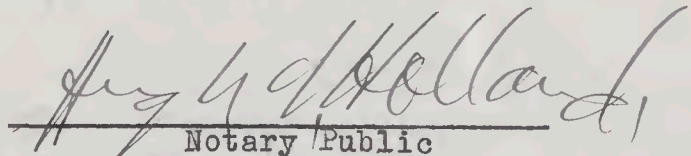
vs) Counter Affidavit

Nansemond Collegiate Institute,
Incorporated, a corporation
duly organized and existing
under the laws of the State
of Virginia.....Defendant
State of Virginia,

City of Suffolk,.....to-wit:

This day personally appeared before me, Hugh
L. Holland, a notary public in and for the city aforesaid,
in the State of Virginia, J.L. White, who made oath before
me in my said city that he is agent for the defendant in the
above entitled action, and that he verily believes that the
plaintiff is not entitled to recover anything from the
defendant on the claim asserted in said action.

Given under my hand this 11th day of May, 1925.


Notary Public

*my Commission
expires Oct. 1-1927.*

Fannie Colden, administratrix of
the estate of Willie Colden,
deceased.....Plaintiff

vs) Counter Affidavit

Nansemond Collegiate Institute,
Incorppated, a corporation
duly organized and existing
under the laws of the
State of Virginia....Defendant

Filed May 11, 1825
H. E. Amory
Clerk

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

\$ 877.44

Suffolk, Va., Oct. 29th.

1915

On demand

~~days after date~~ We promise to pay to

Willie Golden

or order, negotiable and payable

without offset at the NATIONAL BANK OF SUFFOLK, Suffolk, Virginia,

Eight Hundred & Twenty Seven ⁴⁴/₁₀₀ Dollars,

For value received, with ten per cent. for cost of collection; and it is agreed upon by the parties that the interest on this Note shall be payable in advance; and we, principal and endorsers, hereby waive the benefit of our Homestead Exemption as to this debt.

CREDIT THE MAKER

Hansen & Co. Legate
Institute Inc.

F 4 9-1-1-50M

Jas. C. Harrell, Pres.
 J. L. White, Sec.

#18.58

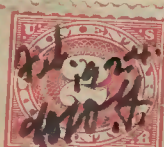
Interest from

Sept 23-1920 to

Sept 23-1922

\$52.66- pd by Rev

T. Johnson, Principal of
N.H.C.I.



VIRGINIA:
IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

To,

Nansemond Collegiate Institute, a corporation duly organized and existing under the laws of the State of Virginia,

Rev. T. J. Johnson, President, Suffolk, Virginia.

The principal sum of Eight Hundred, Seventy-Seven Dollars and Forty-Four Cents (\$877.44), with interest thereon from the 25th day of March 1924, until paid is due to me from you, and evidenced by a certain homestead waiving, negotiable promissory note for the said principal sum of Eight Hundred and Seventy-Seven Dollars and Forty-Four (\$877.44), made by you, signed by Jas. A. Harrell and J. L. White, President and Secretary, respectively, and bearing the corporate seal of the Nansemond Collegiate Institute, payable to Willie Colden (now deceased) on demand at National Bank of Suffolk, Suffolk, Virginia, and bearing date on the 29th day of October, 1915. Said note was renewed on the 23rd day of September, 1921 as will appear from credit endorsement on the reverse side thereof. Formal demand was made on the said Nansemond Collegiate Institute for payment of the note above described, on the 25th day of March, 1924, and same being refused interest on the amount due is asked for from said date until paid.

An additional principal sum of Eighty-Two Dollars (\$82.00) with interest thereon from the First (1st) day of January, 1923, until paid, is due to me from you, and evidenced by a certain homestead waiving, negotiable promissory note for the said principal sum of Eighty-Two Dollars (\$82.00), made by you, signed by J. L. White, Secretary, and bearing the corporate seal of Nansemond Collegiate Institute, payable to Willie Colden (now deceased), sixty (60) days after date at Farmers Bank of Nansemond, Suffolk, Virginia, and bearing date on the 13th day of December, 1910. Said note was renewed during December, 1922 as will appear from credit endorsement on back of said note. The principal sums of

the two (2) notes herein described aggregate a total principal sum of Nine Hundred, Fifty-Nine Dollars and Forty-Four Cents (\$959.44) that is now due me.

Notice is therefore hereby given you that at Ten (10) o'clock A. M. on the 15th day of October, 1924, or as soon thereafter as I may be heard, I shall move the Circuit Court of Nansemond County, at the Court House thereof in the City of Suffolk, Virginia, for a judgement and award of execution against you for the said aggregate principal sum of Nine Hundred, Fifty-Nine Dollars and Forty-Four Cents (\$959.44), with interest thereon as aforesaid. *Said notes have been reported for taxation and assessed as required by law.*
Given under my hand this 29th day of September, 1924.

Fannie Colden, Administratrix of the Estate
of Willie Colden, deceased.

By:

W. H. Foreman.
Counsel.

COPY OF NOTES SUED ON BY NOTICE OF MOTION HEREWITH.

\$877.44

Suffolk, Va., Oct. 29th 1915

On demand ~~-days-after-date-~~ We promise to pay to
Willie Colden or order, negotiable and payable
without offset at the NATIONAL BANK OF SUFFOLK, Suffolk, Virginia,
Eight Hundred & Seventy-Seven----- 44/100 Dollars,
For value received, with ten per cent. for cost of collection;
and it is agreed upon by the parties that the interest on this
Note shall be payable in advance; and we, principal and endors-
ers, hereby waive the benefit of our Homestead Exemption as to
this debt.

Credit The Maker

Nansemond Collegiate Institute Inc.

(Signed) Jas. A. Harrell, Pres.

Corporate
Seal

J. L. White Sect.

Endoreed on back of note of which above is a copy is the follow-
ing:

Interest from Sept. 23, 1920 to Sept. 23, 1921, \$52.65 paid
by Rev. T. J. Johnson, Principal of N. N. & C. I.

oooooooooooo0000000oooooooooooo

\$82.00

SUFFOLK, VA., Dec. 13 1910.

Sixty (60) days after date We promise to pay,
without offset, unto Willie Colden or order, negotiable and
payable at the FARMERS BANK OF NANSEMOND, SUFFOLK, VIRGINIA,
Eighty-Two Dollars, for value received; and it is agreed
upon by the parties that the interest on this Note shall be pay-
able in advance; and we, principal and endorsers, hereby waive
the benefit of our Homestead Exemption as to this debt.

(Signed)

Nansemond Normal & Industrial Institute.

Thos. S. Bruce, Principal of School.

J. L. White, Sct.

Corporate
Seal

Endorsement on back of note of which the above is a copy is as
follows;

Interest from Dec. 1920 to Dec. 1921, \$4.92 paid by Rev. T. J. Johnson, Principal N. N. & C. I.

Pd. interest on face of this note \$4.92 for 1921 and 1922.

Fannie Colden, Administratrix of
the Estate of Willie Colden, dec'd.*

vs.

Mansemond Collegiate Institute, a
Corporation duly organized and ex-
isting under the laws of the State
of Virginia

AFFIDAVIT BY PLAINTIFF.

STATE OF VIRGINIA:
CITY OF SUFFOLK, TO-WIT,

This day, in the City of Suffolk, W. W. Foreman, attorney for Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, personally appeared before me, Luther Colden, a notary public of and for the City aforesaid, in the State of Virginia, and made oath that he is the attorney for the plaintiff mentioned in the notice with which this affidavit is filed; that to the best of his belief the amount of the plaintiff's claim is the sum of Nine Hundred, Fifty-Nine Dollars and Forty-Four Cents (\$959.44); that said amount is justly due; and that the plaintiff claims interest thereon as set out in said notice.

W. W. Foreman,
Attorney for Fannie Colden, Administra-
trix of the Estate of Willie Colden, dec'd.

Subscribed and sworn to before me this 29th day of September, 1924. In testimony whereof I have hereunto set my hand the day, month and year aforesaid.

Luther Colden
Notary Public.

My Commission Expires Feb. 13, 1928

July 13, 1924
For true and

Fannie Colden, Administratrix
of the Estate of Willie Col-
den, deceased.

vs.

Nansemond Collegiate Insti-
tute, Inc.

NOTICE OF MOTION

Recd. in the Clerk's
Office Sept. 29, 1924
J. E. Bunting, Clerk

W. W. Foreman,
Attorney-At-Law,
Phoenix Bank Building,

Suffolk, Virginia.

Subject for filing on the 29th.
Subject to the credits on back of note -
Other note of \$25.00 allowed -
J. E. Bunting

Presented on the 29th of
Sept 1924 within the county of
Nansemond, by delivering a
true copy of the within process,

In writing to J. F. Johnson President
Nansemond Collegiate Institute
E. B. Rawlen
Suffolk of Nansemond County.

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Nansemond Collegiate Institute, Incorporated, Complainant.

VS:) In Equity.

Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, E. B. Rawles, Sheriff of Nansemond County, Virginia, and W. R. Winner, Deputy Sheriff of Nansemond County, Virginia.

Defendants.

To Rev. T. J. Johnson, President of Nansemond Collegiate Institute,

Suffolk, Virginia.

Take notice that on Monday, March, 23rd, 1925, at ²~~10~~ o'clock P. M. or as soon thereafter as I may be heard, I shall move the Circuit Court of Nansemond County, Virginia, at the Court House thereof, to dissolve the temporary injunction which was entered in the above styled cause on the 14th day of March, 1925 against Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, E. B. Rawles, Sheriff of Nansemond County, Virginia, and W. R. Winner, Deputy Sheriff of Nansemond County, Virginia, and now pending in the said Court, which said temporary injunction was granted upon your petition and bond with surety.

Dated this 23rd day of March, 1925.

Fannie Colden, Administratrix of the Estate of Willie Colden, deceased.

By: W. W. Foreman,
Counsel.

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VIRGINIA:
IN THE CIRCUIT COURT OF
NANSEMOND COUNTY.

Nansemond Collegiate Inst. Inc.

vs.

Fannie Colden, Admr. etc.

Notice of motion to dissolve
injunction.

Executed on the 23 day of

March 1925
within the County of Nanse-
mond, by delivering a true
copy of the within process
in writing to T. Johnson

Pres. Nansemond Collegiate Institute
in person.

E. B. Rayles
Sheriff Nansemond
Co. Va.

Nansemond Collegiate Institute, Incorporated.....Complainant

vs) Injunction

Fannie Colden, administratrix of the Estate of
Willie Colden, deceased, E.B. Rawles, Sheriff
of Nansemond County, Virginia, and W.R. Winner,
Deputy Sheriff of Nansemond County, Virginia.....Defendants

The complainant in accordance with the prayers of its bill and supplemental bill this day files
On motion of the complainant, by counsel, and for good cause shown, an injunction is hereby awarded enjoining and

restraining Fannie Colden, administratrix of Willie Colden, deceased, E.B. Rawles, Sheriff of Nansemond County, Virginia, and W.R. Winner, Deputy Sheriff of Nansemond County, Virginia, their agents, attorneys and all others from, further proceedings on a judgment, recovered by the said Fannie Colden, administratrix of Willie Colden, deceased against the complainant in this suit in the Circuit Court of Nansemond County, Virginia, on the _____ day of _____ 19____, docketed on the 16th day of

January, 1925, and in the sum of EIGHT HUNDRED AND SEVENTY SEVEN DOLLARS AND FORTY FOUR CENTS (\$877.44), *But this injunction order shall stand dissolved after May 31, 1925, unless otherwise ordered on or before that date.* ~~until the further order of this court.~~

But the said injunction is not to take effect until the complainant in this suit, or someone on its behalf, shall enter into a bond with sufficient security before the Clerk of this Court in the penalty of the sum of \$1000. conditioned to pay all such damages as shall be incurred by the said Fannie Colden administratrix of Willie Colden, deceased, in case said injunction shall hereafter be dissolved, and also to pay all such costs as may be awarded against the complainant in this suit.

Cham B

Nansemond Collegiate Institute,
Incorporated.....Complainant

vs) Injunction

Fannie Colden, administratrix
of Willie Colden, deceased, et
als. Defendants.

Original

Enter March 14. 1925.
Jas. L. McInroe,

6-79124

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Nansemond Collegiate Institute, Incorporated.....Complainant.

vs) Order

Fannie Colden, Administratrix of the Estate of
Willie Colden, deceased, et als.....Defendants.

This cause came on this day to be heard upon the motion of Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, defendant; by her attorney and upon complainants' bill and supplemental bill and exhibits filed therewith, and upon the separate answer of the said defendant, the testimony of witnesses in open court, and the general replication of complainant thereto; proof of proper service on all necessary parties hereto, and was argued by counsel; and it appearing to the Court that the judgment recovered by the said Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, against the Nansemond Collegiate Institute, a corporation, in the Circuit Court of Nansemond County, Virginia, on the day of January, 1925, for the principal sum of Eight Hundred, Seventy-seven Dollars and forty-four Cents (\$877.44), with interest thereon from the 25th day of March, 1925, until paid, and Eight Dollars and Sixty-five Cents (\$8.65) costs, is void because of improper service of process, it is adjudged, ordered and decreed that the judgment aforesaid be set aside and the said proceedings be ^{litigated} ~~proceeded with~~, on the Common Law side of the Court, and to that end that a copy of the original motion or any amendment thereof, be served upon the proper parties and the case proceed as though no trial had heretofore been had.

It appearing that the objects for which the bill in this cause was filed has been accomplished it is ordered that the cause be removed from the docket.

Nansemond Collegiate Institute,
Incorporated.....Complainant

vs) Order

Fannie Colden, Administratrix
of the Estate of Willie Colden,
deceased, et. als.....Defendants.

Enter April 27 1925
J. L. H. L.

#C 127

Nansemond Collegiate Institute, Incorporated, Complainant.

vs: In Equity.

Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, et als.----- Defendants.

The Separate Answer of Fannie Colden, Administratrix of the Estate of Willie Colden, deceased.

The separate answer of Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, answering for herself alone, the supplemental bill of complaint exhibited in this cause by Nansemond Collegiate Institute, Incorporated, for answer thereto or so much thereof as she is advised it is material she should answer, answers and says:

(1) This respondent admits that complainant is a non-stock corporation, organized and existing under the laws of Virginia, but denies all other allegations contained in a paragraph (1) of complainants' supplemental bill of complaint.

(2) This respondent asserts and here states that the trustees of complainant corporation are not such trustees as section 6065 of the Code of Virginia (1919) contemplates; and that process on complainant was served under section 6063 of said Code in accordance with the requirements and provisions therein stated.

(3) This respondent denies the allegations contained in paragraph (3) of complainants supplemental bill of complaint.

Wherefore your respondent respectfully prays that the injunction sued out against her restraining her from further proceedings on the judgment herein referred to be dissolved, and *and the said judgment be permitted to stand*

that she be henceforth dismissed with her reasonable costs in this behalf expended.

Fannie Colden

Administratrix of the Estate of Willie Colden,
deceased.

State of Virginia,

City of Suffolk, to-wit:

Fannie Colden personally appeared before me, Luther
Colden, a Notary Public, in and for the State and City
aforesaid, after being duly sworn, says that she is Administra-
trix of the Estate of Willie Colden, deceased, and that the mat-
ters and allegations stated in the answer herein are true ex-
cept such matters as are stated to be upon information and be-
lief, and as to those matters she believes them to be true.

My Commission expires ^{13th} ~~10th~~ day of February, 1928.

Given under my hand this nd 23rd day of March, 1925.

Luther Colden
Notary Public.

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VIRGINIA:
IN THE CIRCUIT COURT OF
NANSEMOND CO.

Nansemond Collegiate In-
stitute, Inc., et als.

vs:

Fannie Colden, etc.

ANSWER TO SUPPLEMENTAL
BILL.

W. W. Foreman.
Norfolk, Virginia.

Phone- 21795.

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

NANSEMOND COLLEGIATE INSTITUTE, Incorporated, Plaintiff.

vs:

In Equity.

Fannie Colden, Administratrix of the Estate of Willie Colden, deceased. E. B. Rawles, Sheriff of Nansemond County, Virginia and W. R. Winner, Deputy Sheriff of Nansemond County, Virginia. Defendants.

Separate Answer of Fannie Colden, Administratrix of the Estate of Willie Colden, deceased.

The separate answer of Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, answering for herself alone, for answer to the bill of complaint exhibited in this cause by Nansemond Collegiate Institute Incorporated, or so much thereof as she is advised it is material she should answer, answers and says:

(1) That it is true that Fannie Colden, Administratrix of the Estate of Willie Colden, deceased, recovered a judgement at law against the Nansemond Collegiate Institute, a corporation duly organized and existing under the laws of the State of Virginia, in the Circuit Court of Nansemond County, Virginia, for Eight Hundred and Seventy-seven Dollars and forty-four (\$877.44) *Costs* with interest thereon from the 25th day of March, 1924, until paid, and \$ 8.65 costs, and that no Court order showing judgement had been recorded at the time of the drawing of said bill, but this respondent alleges and here states that the said judgement was duly entered at the October term of said Court, that is to say on the 12th day of February 1925, when a motion to vacate said judgement, *was argued,* in overruling said motion Honorable J. L. Mc Lemoire, Judge of said Court entered said judgement nunc pro tunc as of the last day of said October term, which said term has

long since expired making said judgement, according to Virginia Statutes for such case made and provided, final. It is also true that said judgement was duly docketed in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, in docket 5, at page 54, on the 16th day of January, 1925, and that an execution issued thereon and was placed in the hands of E. B. Rawles, Sheriff of Nansemond County, Virginia, on said 16th of January, 1925, returnable to March 16th, 1925.

(2) This respondent admits that a levy under said execution was made on the 3rd day of February, 1925, but that the quantity of furniture levied upon was not small but on the contrary, a very large quantity consisting of the following: One (1) office desk, all books in office, one (1) office chair, Sixty (60) school desks, four (4) teachers desks, Seventeen (17) chairs, five (5) heaters, stoves, Six (6) long benches, two (2) tables, one (1) stool, one piano (1), One (1) piano stool, one pulpit (1) desk, twelve (12) rows of chair seats, the value of which is approximately \$600.00.

(3) This respondent denies that said judgement is unjust, or that complainants were prevented, in any ~~wagner~~ whatsoever by her from making whatever defense it might have had, and this respondent further alleges and here states that ^{Complainants} ~~its~~ failure to appear in seasonable time was due to its own neglect and laches and not by any deception, by either words, acts or signs, of her.

(4) That the allegations and averments contained in paragraph four (4) of said bill of complaint are substantially true.

(5) That it is true that the transactions for which this note was given took place on or before October 29th, 1915, at which time the note in question was made, but this respondent denies that said transactions were had by Willie Colden, deceased, ~~an~~ an individual acting for himself, with him-self acting for complainant corporation, but that instead said transactions were had

by the said Willie Colden, deceased, as an individual and acting for himself with complainant corporation through its duly elected officers; that good and sufficient consideration was given for said note; that the actions, admissions, representations and conduct, with reference to said note, since its making up to February 1925 were wholly inconsistent with any theory other than that good and sufficient consideration was given and by reason of this fact complainant is estopped from denying that good and sufficient consideration was given for said note; that the books and papers bearing on this subject, of complainant, were not made and kept by Willie Colden during his life time, but were made and kept by J. L. White, Secretary of said Corporation at the time of the making of said note; that any and all books in the possession of Willie Colden during his life time are his own personal records of his private affairs and that complainant has no right to access to them; and that what papers she has consists of receipted bills, cancelled notes etc. which were paid by the said Willie Colden, deceased, out of his own personal funds.

(6) That no part of the money due the said Willie Colden, deceased, (a part of which is evidenced by the note described in the bill of complaint filed herewith), has ever been paid but on the contrary is long past due and is now payable.

(7) This respondent denies that payment of said note was presumed in law ever since October 29, 1920, and that it has been barred by the statute of limitations since that time; *but avers and here states* that said note is a demand note; that it was agreed between Willie Colden, deceased and the complainant that demand for the payment of the principal of same would not be made for several years provided the interest was paid by complainant, and that it was kept alive by the renewal of same from time to time up to September, 23rd, 1922.

(8) That the complainant corporation according to its charter, was organized for the purpose of "conducting an institute of learning for colored people"; that she is not informed as to

whether said corporation is conducted for profit or not and therefore requires strict proof of this matter; that title to the real estate of complainant corporation is not held by its board of trustees as alleged in its bill of complaint, but is held by said corporation in its corporate name; that she is not advised as to the truth or falsity of the allegation that James A. Harrell and J. L. White, (President and Secretary respectively of complainant at the time of the signing of said note), were not authorized by the board of trustees of complainant corporation ~~or~~ any other duly constituted authority, and therefore neither affirm nor deny it, but here states that complainant is estopped from denying said authority; ^{and further states} that T. J. Johnson is president or agent of complainant corporation and that good and sufficient service was had on complainant through him.

(9) That she is not advised as to the truth or falsity of the allegations contained in paragraph (9) of complainants' bill of complaint and therefore neither admits ^{or} denies same but requires strict legal proof of all matter therein.

(10) That she is not advised as to the truth or falsity of the allegations contained in paragraph (10) of complainants' bill of complaint and therefore ^{neither} admits ^{nor} denies same but requires strict legal proof of all matter therein.

(11) This respondent denies the allegations contained in paragraph (11) of complainants' bill of complaint.

(12) This respondent denies the allegations contained in paragraph (12) of complainants' bill of complaint.

(13) This respondent admits the allegations contained in the first sentence of paragraph (13) of complainants' bill of complaint, but denies the allegations contained in the second and last sentence of said paragraph.

(14) This respondent denies the allegations contained in paragraph (14) of complainants' bill of complaint.

Wherefore your respondent respectfully prays that the injunction sued out against her restraining her from further proceedings on the judgment herein referred to be dissolved, ^{and the said judgment be permitted to stand} and that she be hence dismissed with her reasonable costs in this behalf expended.

Fannie Colden

Administratrix of the Estate of Willie Colden,
deceased.

State of Virginia,

City of Suffolk, to-wit:

Fannie Colden personally appeared before me, Luther Colden, a Notary Public, in and for the City and State aforesaid, after being duly sworn, says that she is Administratrix of the Estate of Willie Colden, deceased, and that the matters and allegations stated in the answer herein are true, except such matters as are stated to be upon information and belief, and as to those matters she believes them to be true.

My Commission expires on the 13th day of February, 1928.

Given under my hand this 23rd day of March, 1925.

Luther Colden
Notary Public.

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VIRGINIA:
IN THE CIRCUIT COURT OF
NANSEMOND CO.

Nansemond Collegiate In-
stitute, Inc., et als.

vs:

Fannie Colden, etc.

ANSWER TO BILL.

W. W. Foreman.
Norfolk, Virginia.

Phone- 21795.

Nansemond Collegiate Institute, Incorporated.....Complainant

vs) Supplemental Bill of Complaint

Fannie Golden, administratrix of the Estate of Willie Golden, deceased, E.B. Rawles, Sheriff of Nansemond County, Virginia, and W.R. Winner, Deputy Sheriff of Nansemond County, Virginia.....Defendants

To the Honorable Circuit Court of Nansemond County, Virginia:

Your complainant, Nansemond Collegiate Institute, Incorporated, a Corporation, respectfully represents:

(1) That your complainant corporation is a non-stock corporation organized and existing under chapter 151 (sections 3872 to 3880 inclusive) of the Code of Virginia; that said corporation is operated by a Board of Trustees as provided by the above referred to law and by its charter; that legal process on this corporation would have to be served under section 6065 of the Code of Virginia; that T.J. Johnson, on whom process was served is not an officer or trustee of said corporation; that some of the trustees of the corporation reside in the County of Nansemond, wherein the suit was commenced, and for that reason no agent of the said trustees could be legally served with process; that said T.J. Johnson at the time of the service of the said process was not an agent of the said trustees or any of them or of ^{said} corporation; that said process on which the judgment complained of in this suit was secured is absolutely void; that said judgment is null and void.

(2) If on the other hand the Court should hold that the trustees who operate and manage your complainant corporation are not such trustees as contemplated by section 6065 of the Code of Virginia, then process on your complainant corporation would have to be served under section 6063 of the Code of Virginia, which is the general provision for service on domestic corporations. Your complainant submits that the process under which this judgment was obtained is not a legal and valid process even under section 6063 of the Code of Virginia for two reasons:

(1) That said process does not show that it was served by delivering to the alleged officer (T.J. Johnson) a copy in the county "Wherein he resides, or his place of business is, or the principal office of the corporation is located," and

(2) That said T.J. Johnson, alleged President of said Corporation, at the time of the service of the said process was not the President of the said corporation, nor was he any officer, director, or agent of such corporation as required by said section 6063 of the Code of Virginia.

(3) That the process on which the said judgment was secured is absolutely void, and constitutes no notice whatsoever to your complainant corporation and therefore the judgment and all proceedings thereunder are necessarily null and void.

(4) That your complainant made no appearance whatsoever in the suit on which said judgment was obtained against it.

(5) This Bill of Complaint is filed at the same time and as a part of the original Bill of Complaint in this suit and is prayed to be taken and read as such.

(6) That said judgment constitutes a cloud upon the real estate of your complainant corporation, which it is entitled to have removed.

For as much then as your orator is remediless, save in a court of equity, it prays that the said Fannie Colden, administratrix of the estate of Willie Colden, deceased, E.B. Rawles, Sheriff of Nansemond County and W.R. Winner, Deputy Sheriff of Nansemond County, Virginia, may be made parties defendant to this bill, and required to answer the same, but not on oath, the oath being hereby waived; that the said Fannie Colden, administratrix of the estate of Willie Colden, deceased, her agents, attorneys at law and all others be enjoined and restrained from proceedings to enforce said judgment in any way; that especially the said E.B. Rawles, Sheriff of Nansemond County and W.R. Winner, Deputy Sheriff of Nansemond County, Virginia, be enjoined and restrained from

levying an execution on said judgment or making any sale thereon; that proper process issue, and all proper orders be made; that said judgment be set aside and declared to be null and void; that all such other, further and general releif may be afforded your complainant as in the premises may be just and right. And your complainant will ever pray etc.

NANSEMOND COLLEGIATE INSTITUTE?
INCORPORATED.

By J. L. White
Richard Carney
William Haskin
Major Cook
W.M. Bridgeford
Its Trustees and Its Agents

State of Virginia,

City of Suffolk...to-wit:

W.M. Bridgeford, Richard Carney, Major Cook, J.L. White and William Haskin, being duly sworn say that they are trustees and agents of the Nansemond Collegiate Institute, Incorporated, a corporation, that they have been duly and legally authorized by said corporation to institute this suit and to sign, execute and file this bill of complaint, and that the facts and allegations therein contained are true, except so far as they are therein stated to be on information, and that so far as they are therein stated to be upon information, they believe them to be true.

J. L. White
Richard Carney
William Haskin
Major Cook
W.M. Bridgeford

Taken, sworn to and subscribed before me, Edna Diamond, a Notary Public of and for the city and state aforesaid, in my city aforesaid, this / 5th day of March, 1925.

Edna Diamond
Notary public

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Nansemond Collegiate Institute
Incorporated..... Complainant
vs) Supplemental Bill of Complaint
Fannie Colden, administratrix
of Willie Colden, deceased, et als

Defendants

Filed
Mar 14, 1925
H. L. Holland
Atty

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

Nansemond Collegiate Institute, Incorporated.....Complainant
vs) Bill of Complaint

Fannie Colden, administratrix of the Estate of Willie
Colden, deceased, E.B. Rawles, Sheriff of Nansemond
County, Virginia, and W.R. Winner, Deputy Sheriff of
Nansemond County, Virginia.....Defendants

To the Honorable Circuit Court of Nansemond County, Virginia:

Your complainant, Nansemond Collegiate Institute,
Incorporated, a Corporation, respectfully represents:

(1) That Fannie Colden, administratrix of the Estate
of Willie Colden, deceased, recovered a judgment at law against
your complainant in the Circuit Court of Nansemond County,
Virginia, for EIGHT HUNDRED AND SEVENTY SEVEN DOLLARS AND
FORTY FOUR CENTS (\$877.44) with interest thereon from the
25th day of March, 1924, until paid, and \$8.65 costs, no
court order showing said judgment having yet been recorded
or entered at the time of the drawing of this bill of
complaint, for which reason it is impossible to file a
certified copy of said judgment. However, a notation of
said judgment has been made in the Clerk's Office of the
Circuit Court of Nansemond County, Virginia, in judgment
docket 5, at page 54, showing that said judgment was docketed
on January 16, 1925 (which was during the January term of the
Circuit Court of Nansemond County, Virginia), which said
notation shows that an execution was issued by the Clerk of
the Circuit Court of Nansemond County, Virginia, on January
16, 1925, returnable to March 16, 1925.

(2) That said execution was issued on said judgment
on January 16, 1925, and is now in the hands of W.R. Winner,
Deputy Sheriff of Nansemond County, Virginia, who made a

levy thereunder on February 3, 1925, on a small quantity of furniture of the value of approximately \$150.00.

(3) Your complainant alleges that the said judgment is unjust and that it had and has a full and complete defense to the action in which it was rendered, which could and would have been made thereto had your complainant not been prevented from doing so by the action of the plaintiff (Fannie Colden administratrix of Willie Colden, deceased), whereby your complainant was deceived and lulled into false security, without any fault, laches or neglect on its own part. For a more particular statement of the causes which prevented your complainant from making defense to said action, it recites the following circumstances:

(4) That the said judgment was recovered on a note of which the following is a copy, "\$877.44 Suffolk, Va., Oct. 29th. 1915. On Demand ~~days-after-date~~ we promise to pay to Willie Colden or order, negotiable and payable without offset at the NATIONAL BANK OF SUFFOLK, Suffolk, Virginia, Eight Hundred & Seventy seven-----44/100 Dollars, For value received, with ten per cent for cost of collection; and it is agreed upon by the parties that the interest on this note shall be payable in advance; and we, principal and endorsers, hereby waive the benefit of our Homestead Exemption as to this debt. Jas. A. Harrell, Pres. J.L. White, Sect. Credit the Maker Nansemond Collegiate Institute Inc.", said note containing the following endorsement on the back thereof "Interest from Sept. 23- 1920 to Sept. 23- 1921 or 2 \$52.65 Pd by Rev. T.J. Johnson, Principal of N.N.& C.I."

(5) The transaction for which this note was given necessarily took place before the date of the note, namely,

October 29, 1915, which transactions, if any, were had by Willie Colden, deceased, as an individual and acting for himself, with himself acting for your complainant corporation; that your complainant does not know of any consideration for said note, but your complainant believes and alleges that the said Fannie Colden administratrix of Willie Colden, deceased, would have been required by law to make and to furnish an accounting between Willie Colden, deceased, and your complainant; that your complainant is informed and believes that there was no consideration for this note; that the books and papers of your complainant bearing on this subject were made, kept and held by said Willie Colden in his life time and have been held by the said Fannie Colden administratrix of Willie Colden, deceased, since his death, and your complainant has been refused to access to them by the said Fannie Colden administratrix of the estate of Willie Colden, deceased, and still is refused access to them by her.

(6) That any money, if any, that may have been due to Willie Colden, deceased, has long since been paid in full.

(7) That payment of this note was presumed by law ever since October 29, 1920, and said note has been barred by the statute of limitations ever since that time, all of which was well known to Fannie Colden administratrix of Willie Colden, deceased, and her attorney W.W. Foreman. That the said Fannie Colden administratrix of Willie Colden, deceased, and her attorney W.W. Foreman alleged in the notice of motion for judgment as follows: "Said note was renewed on September 23, 1922, as will appear from credit endorsement on the reverse side thereof," this allegation being made deliberately in an effort to mislead your complainant and to discourage and prevent your complainant

from defending the original suit, such allegations being made under a preconceived plan to prevent the suit from being defended.

(8) That this corporation was organized for the purpose of furnishing a school to the children of Lloyd Place and East Suffolk in Nansemond County, Virginia, and is not conducted for profit or gain; that the affairs of this corporation are controlled by a Board of Trustees elected by various religious denominations, which Board of Trustees hold title to the real estate of this corporation; that this Board of Trustees consists of twenty one trustees who live widely separated and find it difficult to have a full meeting. Certified copy of the charter of the complainant corporation is herewith filed marked "Exhibit A" and made a part of this bill of complaint. The note referred to in this suit was executed by James A. Harrell and J.L. White who had no authority whatsoever to execute this note on behalf of the complainant, the execution of said note being entirely beyond the power of said James A. Harrell and J.L. White and was not authorized by the trustees of your complainant or other duly constituted authority. That the notice of motion was served on T.J. Johnson on September 29, 1924; that the said T.J. Johnson teaches school at the school building of this corporation, but is not the President of this corporation and is not a trustee or other officer ^{or agent} of this corporation so that the service of the sheriff on him was not any notice whatsoever to your complainant corporation as required by law.

(9) That a meeting was held by the trustees of your complainant corporation, after due notice, on February 25, 1925, at the school building of your complainant corporation, at which meeting the said Board of Trustees passed a resolution directing that this suit be brought and an injunction be applied for, under which resolution the undersigned, W.M. Bridgeford, Richard Carney, Major Cook, J.L. White and William Haskin, ^{any three or more of whom could act,} trustees themselves, were appointed a committee, with power to act for said corporation and ^{as} its agents in instituting and prosecuting this suit on behalf of said corporation.

(10) That before bringing this suit the said W.W. Foreman attorney for Fannie Colden administratrix of Willie Colden

deceased, took this matter up with J.L. White Secretary and Trustee of this corporation and requested the said J.L. White Secretary and Trustee as aforesaid to call a meeting of the trustees to decide what they are willing to do concerning this note; that immediately after said notice was served on September 29, 1924, on T.J. Johnson, the said W.W. Foreman attorney as aforesaid requested your complainant through said J.L. White not to employ any attorney to defend the suit but to take the matter up with the Board of Trustees to see what they were willing to do about it, promising your complainant at the same time not to bring the suit to trial. Relying on the promise and agreement of the said W.W. Foreman attorney as aforesaid, your complainant did not employ an attorney but expected to find out what the various trustees of your complainant wished to do and to have further conferences with the said W.W. Foreman to see whether the matter could be adjusted.

(11) That the said Fannie Colden administratrix of Willie Colden deceased turned said note over to the said W.W. Foreman attorney merely for the purpose of having the said attorney try to secure a new note or a deed of trust as security for same, and the said Fannie Colden administratrix of Willie Colden, deceased, never at any time authorized the said W.W. Foreman to bring suit on this note, the suit being brought by the said W.W. Foreman in the name of Fannie Colden administratrix of Willie Colden, deceased, entirely without her authority or consent.

(12) Still relying on the promises of the said W.W. Foreman not to bring this suit to trial, said judgment was obtained without your complainant's knowledge at the October term of the Circuit Court of Nansemond County, Virginia; that the said W.W. Foreman purposely waited until January 16, 1925, to take the papers in the case from the chambers

of the court to the Clerk's Office and on that day secured from the Clerk an execution, which date was after the expiration of the October term of the court; that the first notice that your complainant had that a judgment had been asked for or rendered was on February 3, 1925, on which date W.R. Winner Deputy Sheriff made a levy on certain office furniture, desks and etc; that your complainant immediately employed an attorney to protect its interest and appeared before this court and asked that a date be fixed for hearing a motion to vacate this judgment, which date the court fixed for 10:00 o'clock A.M. February 12, 1925, your complainant believing at that time that the judgment was rendered at the January term of the court, which began on January 12, 1925.

(13) That on the said 12th day of February, 1925, the court heard a motion by your complainant to vacate said judgment, which motion was over-ruled by the court on the ground that said judgment had been entered at the October term of the court. That the said W.W. Foreman purposely failed to ask for or secure an execution during the October term of the court or to have a levy made during that term of the court, well knowing his agreement with your complainant and planning to avoid a motion to have the judgment vacated on that ground.

(14) Your complainant therefore alleges that it was prevented from defending the said motion for judgment against it by the agreement and promises aforesaid, which were in fraud of its just rights, and that the judgment rendered therein was Unjust and should be set aside, and a new trial granted.

Forasmuch then as your orator is remediless, save in a court of equity, it prays that the said Fannie Colden administratrix

of the estate of Willie Colden, deceased, E.B. Rawles, Sheriff of Nansemond County, Virginia, and W.R. Winner, Deputy Sheriff of Nansemond County, Virginia, may be made parties defendant to this bill, and required to answer the same, but not on oath, the oath being hereby waived; that the said Fannie Colden administratrix of Willie Colden, deceased, her agents, attorneys at law, and all others, be enjoined and restrained from proceedings to enforce said judgment in any way; that especially the said E.B. Rawles, Sheriff of Nansemond County and W.R. Winner Deputy Sheriff of Nansemond County, be enjoined and restrained from levying the said execution now in their hands; that proper process issue, and all proper orders be made, that the said judgment be set aside and a new trial of the said action at law be granted your complainant, and that all such other, further and general relief may be afforded your complainant as in the premises may be just and right. And your complainant will ever pray, etc.

NANSEMOND COLLEGIATE INSTITUTE, INCORPORATED.

By Majors
J. L. White
W. M. Bridgford
William Workin

Its Trustees and Its Agents

, State of Virginia,

City of Suffolk.....to-wit:

W.M. Bridgeford, Richard Carney, Major Cook, J.L. White and William Haskin, being duly sworn say that they are trustees and agents of the Nansemond Collegiate Institute, Incorporated, a corporation, that they have been duly and legally authorized by said corporation to institute this suit and to sign, execute and file this bill of complaint, and that the facts and allegations therein contained are true, except so far as they are therein stated to be on information, and that so far as they are therein stated to be upon information, they believe them to be true.

Major Cook
J.L. White
W.M. Bridgeford
William Haskin

Taken, sworn to and subscribed before me, Edna Diamond, a Notary Public of and for the city and state aforesaid, in my city aforesaid, this 11th day of March, 1925.

Edna Diamond
Notary Public

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Nansemond Collegiate Institute
Incorporated.....Complainant
vs) Bill of Complaint
Fannie Colden, administratrix
of Willie Colden, deceased, et als
Defendants

*Filed
Mar. 14, 1925
J. E. O'Connell
Clerk*

J

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

H. R. Holland

James M. Holland, Esq.

of

Providence

Rhode Island

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