

1933-172

Nansemond County (Suffolk)

Chancery Causes: Virginia & Carolina Coast
Railroad Co.]

vs

Standard Manufacturing Co, Inc.] & ^{P.}Baker

200

* All old chancery cases dismissed in this year

Allen, Moore, Hurff, Kingsboro Heights Corp.]

GEO. A. FRICK.

THEODORICK A. WILLIAMS.

FRICK & WILLIAMS,
ATTORNEYS AND COUNSELLORS AT LAW,
SUITE 202 BANK OF COMMERCE BUILDING,
NORFOLK, VIRGINIA.

May 12 1906.

Clerk Circuit Court Nansemond County, Va.

Suffolk, Va.

Dear Sir:-

We beg to hand you herewith a demurrer which we request
may be filed in the case of V. Car Coast R. R. Co vs Standard Manu.Co.

Very truly yours

Frick & Williams

Vth Clear Coast Rwy Co
vs Demurrer
Standard Mfg Co

1906 May 14th Filed
Appls. 56

A Clerk Circuit Court Hancock County;

Virginia & Carolina Coast Railroad Company

as of in Charge

Standa's Manufacturing Company, Newport and
B. P. Baker, County Surveyor.

Some summer in charge of Tally
at Newda in April, 1906,

E. R. Beech's In
E. E. Hall and
per

Pay \$1.50

1st - Carolina
Coast Ry. Co.

2nd } In Charge
Standard Mfg. Co.

Circuit Court of Nansemond County, April 6, 1906-

On motion of the plaintiff by counsel and for good cause shown, an injunction is awarded it to enjoin and restrain the Standard Manufacturing Company, Incorporated, a corporation and B. P. Baker, County Surveyor, their agents and employees from entering upon the land in the bill and proceedings mentioned, described as "beginning at an iron post embedded in the ground about one (1) foot west of the siding running from the main track of the Suffolk and Carolina Railroad into the property of the A. E. Cramer Lumber Company, and running thence in a Westerly direction perpendicularly to the main line of the Suffolk and Carolina Railroad forty (40) feet, more or less, to the Eastern edge of the right of way of the said main line, running thence North 15° West with the said Eastern line of the right of way one thousand and two and one half (1002 1/2) feet more or to a stake, thence in a Westerly direction perpendicularly to the said right of way forty (40) feet, more or less, to the Western line of the property of the Standard Manufacturing Company, Incorporated, touching the point where the property of the Standard Manufacturing Company corners with the property of the Suffolk Stove and Foundry Company, and running thence in a Southerly direction with the Western line of the Standard Manufacturing Company, Incorporated, to the ~~mixx~~ point of beginning", from making any plat or survey thereof or taking any further steps to secure a grant therefor, until it shall be determined by this court whether or not the said land is liable to entry and grant as waste and unappropriated land.

But the plaintiff shall not have the benefit of this order until it, or some one for it, shall enter into bond, with sufficient security, in the penalty of One Thousand Dollars, payable to the defendant, and conditioned to pay all such costs as may be awarded against the plaintiff, and all such damages as may be incurred in case this injunction shall be dissolved.)

A Copy Teste: R. R. Smith Clerk R. R. Prentiss
By J. L. Gomes Deputy Clerk

I. A. P. Gomer Deputy Clerk for R R Smith
Clerk of the Circuit Court for the County of
Hansemond do hereby Certify that the bond
required by the within order of Injunction
has been given with security deemed sufficient
by said Clerk

Teste:

R. R. Smith Clerk
By I. A. P. Gomer Deputy Clerk

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON

*Standard
Manufacturing Company
Incorporated and B P Baker
County Surveyor*

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 *Third* Monday in *April 1906*, to answer

a Bill in Chancery, exhibited against *them* in the said Court by *Virginia & Carolina Coast
Railway Company*

And have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *7th* day of *April*, 190*6*, in the 130th year of the Commonwealth.

A copy—Teste :

CLERK. }

Teste :

R R Smith

CLERK.

By J P Gomer Deputy Clerk

Executed this 10th day of April 1906, by delivering a true
copy of the within process, to Geo L Baird, President of the
Standard Mfg Company Incorporated & a copy of injunction
attached, and J Bury & Baker with a copy of injunction attached
in person

A. M. Baker
Sheriff

E R Baird }
E E Holland } p. q.

Virginia Carolina
Coast Railway
Company
vs. } IN CHANCERY.

Standard Manufac-
turing Company
Incorporated & c

1906

April Rules.

Third Monday.

NANSEMOND CIRCUIT COURT.

Process Book No. 3

Page 13

Know All Men by These Presents, That we, Virginia and Carolina

Coast Railroad Company by E. F. Holland Attorney and The United States
Fidelity and Guaranty Company by Richard L. Woodward ^{its} Atty. in fact

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of
One Thousand DOLLARS,

to the payment whereof, well and truly to be made to the Commonwealth of Virginia, we bind our-
selves, 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 trust herein mentioned, with coupons detached from bonds of said State.

~~Scaled with our seals, and dated this~~ ----- ~~day of~~ ----- ~~in the year~~
~~of our Lord one thousand nine hundred and~~ ----- ~~and in the~~ ----- ~~year of~~
~~the Commonwealth.~~ ----- by E. E. Holland its Attorney

In Testimony Whereof, the said Virginia and Carolina Coast Railway Company has
hereto set his hand and seal, and the said The United States Fidelity and Guaranty
Company by Richard L. Woodward ^{its} Atty. in fact has caused its corporate name to be hereto signed, and its

corporate seal to be hereto affixed, this 7th day of April in the year of our
Lord, one thousand nine hundred and six, and in the 130th year of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound,
whereas an injunction has been sued out in the Chancery cause of the Virginia
& Carolina Coast Railroad Company pending in the Circuit Court of Nansemond
County against Standard Manufacturing Company, Incorporated and B. P. Baker
County Surveyor on April 6th, 1906, and a bond required to be executed by
Complainant for some one for it before the Clerk of said Court in the penalty
of \$1000.00 with condition in the said Injunction order expressed.

Restraining the Standard Manufacturing Company, the County Surveyor their
Agents and employees from entering upon the land in the bill mentioned and
from making any plat or survey thereof or taking any further steps to secure a
grant therefor. But before the Complainant shall have the benefit of this
order it or some one for it shall execute a bond in the penalty of one
thousand dollars payable to the defendant with surety approved by the Clerk
or this court conditioned to pay all such costs as may be awarded against
the plaintiff and all such damages as may be incurred in case this injunc-
tion shall be dissolved.

Virginia and Carolina Coast Railroad Company



By E. E. Holland Atty.



The United States

Fidelity and Guaranty Co.



By Richard L. Woodward
its Attorney in fact.



VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County, on the 7th day
of April, 1906:

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

Teste:

A Copy Teste

A. L. Gomez, D.C.

A. L. Gomez, D.C.

Va. Har. Coastway Co
To { Inspection
Bond
The Commonwealth.

1906
April 7th

Recorded in
Official Bond
Book No 1 Page 462

A copy.

Virginia Carolina Coast
Railway Company
vs In Chancery
Standard Manufacturing Co. &c

1906 April 7th. Process issued returnable
to April Rules 3rd Monday
" " 16th Process returned executed
Bill filed and decree
nisi vs said defendant.
" May 2nd Decree nisi confirmed
and cause set for hearing

Chauncy
Notes

7th & Carolina
Coast Ry. Co.

7th } in Chauncy

Standard Mfg. Co.

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Pac. Coast
 Standard Mfg Co
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to Aug 11



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Circuit Court of Nansemond County, Virginia.

Virginia & Carolina Coast R. R. Co.

vs,

Standard Manufacturing Company et al.

And the said defendant comes and says that the bill filed in the above entitled cause is not sufficient in law.

Frien & Wilhams p. cl.

And the defendant assigns the following as the grounds of his demurrer.

The plaintiff has an adequate remedy at law.

The bill is multifarious

There is no equity for the intervention of a court of Chancery

Va. Har. Coast Rwy Co
vs Demure
Standard Mfg Co

1906 May 14th Filed
A.S. DC

TO THE HONORABLE ROBERT R. PRENTIS, JUDGE OF THE CIRCUIT
COURT FOR THE COUNTY OF HANSEMOND.

Your complainant, the Virginia and Carolina Coast Railroad Company, respectfully complaining, shows unto the court the following case:

That it is a corporation duly created, organized and existing under the laws of the State of Virginia.

That by virtue of certain contracts of purchase, agreements and deeds, it has succeeded to and become the owner of all the rights, franchises and property of the Suffolk and Carolina Railway Company.

That the Suffolk and Carolina Railway Company has, as your complainant is advised, been, for a number of years, in the uninterrupted and adverse occupancy and possession, under a claim of title, of a certain piece or parcel of land formerly near, but now within the corporate limits of, the Town of Suffolk, Virginia, and which said tract of land is described as follows:

All that certain strip, piece or parcel of land formerly near, but now within, the corporate limits of the Town of Suffolk, in the County of Hansemond, Virginia, which is described as follows:

A certain strip of land beginning in the line of the Alfred B. Cramer Company on the South, and running thence Northwardly between parallel lines to the right of way of the Seaboard and Roanoke Railroad Company, and bounded on the West by other lands of your complainant, and on the East by the lands formerly belonging to the Suffolk Land and Improvement Company, now the lands of the Standard Manufacturing Company and others, and being known as the strip of land over which the right of way from the "Rose Hill Farm" was formerly located.

And more fully described in notice filed herewith, and as it is read as a part thereof (filed Exhibit A)

That said land above described is a small part of a large tract of land which formerly belonged to Edward A. Allen and others and which the records show had been in possession of the said Edward A. Allen and others, and those claiming under them, for over fifty years.

That on the 29th day of December, 1873, the said Edward A. Allen and others conveyed a large tract of land to William P. Moore, in which conveyance the piece of land above referred to was included; that the said William P. Moore, and those claiming under him, have, by different deeds, since conveyed ~~the larger part of~~ the above tract of land, divided into several tracts, to different parties.

That the land above described was, for a number of years, used as a right of way from what is known as "Rose Hill Farm".

That the same was used as a right of way for some years but subsequently the said right of way was abandoned, and parts of it have since been occupied by different parties, the parcel above described by your complainant.

That some years ago Frank Hurif, the owner of "Rose Hill Farm", made claim to a right of way over said property and later, when "Rose Hill Farm" was sold by Frank Hurif to the Kingsboro Heights Corporation, your complainant obtained from said corporation a deed, conveying to it all its right, title and interest in and to said right of way over said land, and since then its title to said property, by reason of its uninterrupted use and occupancy thereof, has not been disputed.

Recently the Standard Manufacturing Company, ^(Incorporated) also a corporation created and organized within the past few months under the laws of the State of Virginia, proceeding under section 675 of the Code of Virginia, edition of 1904, has made application to purchase the same as waste and unappropriated land, has secured from the Register of the Land Office a land warrant and is now seeking to locate the same on said land, to secure a survey thereof and later to apply for a grant therefor in the manner provided by law.

Your complainant charges and alleges that the said land, as shown by the records, has been in possession of parties other than the Commonwealth of Virginia for more than one hundred years and that it is now a presumption of law that a grant for same has heretofore been issued and that, in consequence, the Commonwealth of Virginia has now absolutely no title thereto which can be granted to the said defendant or to any other party.

Your complainant further charges and alleges that the said land is in no sense liable to entry and grant as waste and unappropriated land and that the said defendant has no right to enter upon said land and have same located and surveyed as waste and unappropriated land.

The said defendant, with supposed knowledge of these facts, has lodged its land warrant, obtained as aforesaid, with B. P. Baker, County Surveyor, and the said County Surveyor, so your complainant is informed, has appointed a time for the survey of same, and unless enjoined by an order of this court will proceed to make said survey and furnish a plat and certificate of such survey for the purpose of enabling said defendant to secure a grant for the same.

Your complainant alleges that such action on the part of said defendant and of the said County Surveyor constitutes a trespass upon the rights of your complainant; that such trespass will result in great inconvenience, annoyance and damage to your complainant, and that thereby its heretofore quiet enjoyment of said property will be disturbed.

Your complainant further alleges that in undertaking to secure a grant for said land the defendant, incorporated only a few months ago, admits it has no title to said property, and, by undertaking to secure possession of a tract of land which is situated within the corporate limits of Suffolk, and which, as must be known to said defendant, has long been in the possession of other parties, and for which, it must be presumed,

a grant has long since been issued, is pursuing a course which is contrary to equity and good conscience, which can result in no benefit to it and yet it must necessarily result in vexatious litigation to your complainant and those who are alike interested.

Your complainant is therefore advised that said defendant has no right to enter upon said land as waste and unappropriated land; that such entry is a violent trespass upon the rights of your complainant; and that the said defendant ought to be enjoined and restrained from taking further steps to acquire the same by virtue of such proceedings as it has instituted.

In tender consideration whereof and for as much as your complainant is remediless in the premises save in a court of equity where matters of this kind are alone and properly cognizable, your complainant prays that the said Standard Manufacturing Company, ^(Incorporated) a corporation, and B. P. Baker, County Surveyor, may be made parties defendant to this bill and required to answer the same, but answers under oath are waived; that it may be ascertained and determined by this court whether or not the land above described is waste and unappropriated land and subject to entry and grant as such; that the said Standard Manufacturing Company, ^(Incorporated) a corporation, and B. P. Baker, County Surveyor, may be enjoined and restrained from entering upon said land, making a survey and plat thereof and from taking any further steps to secure a grant therefor until it shall be determined by this court whether or not said land is liable to entry and grant as waste and unappropriated land; that the quiet enjoyment of said land, of which your complainant has been in undisturbed possession and occupancy for a number of years, may not be disturbed or trespassed upon until the further order of this court; that proper process may be issued, that proper orders may be made and inquiries directed, and that all such other further and general relief may be af-

forred your complainant as the nature of its case may require and to equity shall seem fit.

And it will ever pray, etc.

Virginia and Carolina Coast Railroad Company

By J. E. Duwey

General Manager

*E. R. Baird,
E. E. Holland, per.*

City
VIRGINIA, ~~COUNTY~~ OF *Norfolk*, To-wit:

This day *J. E. Duwey* personally appeared before me, a notary public, in and for the *City* ~~County~~ aforesaid, in the State of Virginia, in my said *City* ~~County~~, and made oath that he believes that the statements made in the foregoing bill are true.

Given under my hand this *30th* day of *March* 1906.

Charlanaftinduson N. P.

My Commission Expires Dec. 7, 1909.

1892
Jan
Barnes

V I R G I N I A:

Mansemond County.

To ^{the} A. B. Cramer ^{Coat} The Virginia Carolina Railway Company, The Tidewater Railway Company, and the Bank of Suffolk.

You are hereby notified that on the fourteenth day of April, A. D. 1906, at 9 a. m., I shall proceed, as required by law, to make the survey for an entry of land made by the Standard Manufacturing Company, Incorporated, under Land Office Treasury Warrant No. 31,048 to the following tract of vacant and unappropriated land lying in the County of Mansemond and State of Virginia:--beginning at an iron pipe imbedded in the ground about one foot west of the siding running from the main track of the Suffolk & Carolina Railroad into the property of the A. B. Cramer Lumber plant and running thence in a westerly direction perpendicularly to the main line of the Suffolk & Carolina Railroad forty feet, more or less, to the eastern edge of the right of way of the said main line and running thence North 15 East with the said eastern line of the right of way one thousand and two and a half feet, more or less, to a stake, thence in an easterly direction perpendicularly to the said right of way forty feet, more or less, to the western line of the property of the Standard Manufacturing Company, Incorporated, touching the point where the property of the said company corners with the property of the Suffolk Stove and Foundry Company and running thence in a southerly direction with the said western line of the Standard Manufacturing Company, Incorporated, to the point of beginning.

This March 14, 1906.

Beverly P. Baker

County Surveyor, Mansemond County.

"Exhibit A"

Circuit Court of Nausemond County, ~~in~~ April 6, 1906

On motion of the plaintiff by counsel and for good cause shown, an injunction is awarded it to enjoin and restrain the Standard Manufacturing Company, Incorporated, a corporation, and B. P. Baker, County Surveyor, their agents and employees, from entering upon the land in the bill and proceedings mentioned, described as "beginning at an iron post embedded in the ground about one (1) foot West of the siding running from the main track of the Suffolk and Carolina Railroad into the property of the A. B. Cramer Lumber Company, and running thence in a Westerly direction perpendicularly to the main line of the Suffolk and Carolina Railroad forty (40) feet, more or less, to the Eastern edge of the right of way of the said main line, running thence North 15° West with the said Eastern line of the right of way one thousand and two and one-half (1002-1/2) feet, more or less, to a stake, thence in a Westerly direction perpendicularly to the said right of way forty (40) feet, more or less, to the Western line of the property of the Standard Manufacturing Company, Incorporated, touching the point where the property of the Standard Manufacturing Company corners with the property of the Suffolk Stove and Foundry Company, and running thence in a Southerly direction with the Western line of the Standard Manufacturing Company, Incorporated, to the point of beginning", from making any plat or survey thereof or taking any further steps to secure a grant therefor, until it shall be determined by this court whether or not the said land is liable to entry and grant as waste and unappropriated land.

But the plaintiff shall not have the benefit of this order until it, or some one for it, shall enter into bond, with sufficient security, in the penalty of One thousand Dollars, payable to the defendant, and conditioned to pay all such costs as may be awarded against the plaintiff, and all such damages as may be incurred in case this injunction shall be dissolved.

Robert R. Huntis

Entered April 6, 1906
Robert R. Hunt

Entered in Chy. Order
Book No. 4. Page 54.

E E Holland pg.

Va. Har. Coast Rwy Co

Wm In Chancery

Star Mfg Co.

Bill.