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nowledged to me on this day that being informed of the contents of the foregoing instrument they severally executed the same voluntarily on the day the same bears date.

Witness my hand and official seal on this the 24th day of November, 1931.

J. J. Crooke
Notary Public
My commission expires
Notary Public, State of Florida
at Large.
My commission expires March 20,
1934.

(SEAL)

STATE OF ALABAMA,

COUNTY OF BUTLER.

Before the subscriber personally came J. P. Langham and Arthur Langham, whose names are signed to the foregoing instrument, and who are known to me, and severally acknowledged to me on this day that being informed of the contents of the foregoing instrument, they severally executed the same voluntarily on the day the same bears date.

Witness my hand and official seal on this 30 day of November, 1931.

H. E. Mancill
Notary Public
My commission expires June 19, 1934

(SEAL)

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ure to begin and diligently to prosecute the cutting of piling by the date herein specified, or to begin and diligently to prosecute the manufacture of lumber by the date herein mentioned, or to install dry kiln and planer, all rights hereunder, at the option of the sellers, shall terminate.

14. It is further agreed and understood that the term "lumber" wherever used in this contract shall be deemed to cover and include all products of wood manufactured at the mill or mills of the buyers. The term "piling" wherever used shall also include marketable poles, and nothing herein shall bind the buyers to cut into lumber trees which they may desire to cut and market as piling as herein defined. The definitions of lumber and piling in this paragraph made shall be read into as a part of each of the paragraphs hereof where the term "lumber" or the term "piling" is used.

15. It is hereby agreed and understood that the buyers shall make an honest and diligent effort to carry out this contract according to the provisions thereof, but in the event after such efforts the buyers find that such contract can not be carried out with a profit to the buyers, then the buyers shall have the right to terminate said contract and surrender the rights hereunder by giving to the sellers immediate notice of their intention to do so, and in the event this agreement is terminated under this paragraph, the sellers agree that the buyers may remove their equipment at any time before January 1, 1936, and the buyers, upon such termination, release all claims to lumber and piling.

16. It is understood and agreed that the growing timber hereinabove described is under mortgage to West Florida Naval Stores Company and this contract shall not be binding on the parties hereto without the written consent of said mortgagee being first obtained.

IN WITNESS WHEREOF, the said parties have executed this instrument in duplicate on the day and year first above written.

MITCHELL NAVAL STORES COMPANY (SEAL)

By R. F. Mitchell Jr
J. L. Tucker (SEAL)
C. B. Mitchell (SEAL)
Langham Lumber Co (SEAL)
By J. P. Langham (SEAL)
Arthur Langham (SEAL)

Signed, sealed and delivered
in the presence of us by the
sellers:

A. R. McAnister
J. J. Crooke

Signed, sealed and delivered
in the presence of us by the
buyers:

Noble C. Huggins
Mart Salter.

STATE OF FLORIDA,

County of Escambia.

Before the subscriber personally came R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker, whose names are signed to the foregoing instrument, and who are known to me, and severally ack-

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checking up and keeping the sellers informed of the operations of the buyers hereunder, and keeping them informed of the quantity of lumber and piling cut and shipped, it being agreed that such employee shall at all times have access to the books and records of the buyers showing the lumber and piling cut and showing all sales and shipments, so that the sellers may at all times be accurately informed of the progress and details of the business, and such employee shall be under the direction and control of the sellers, but perform such other duties as may, with consent of the sellers, be required of him by the buyers, provided such duties do not conflict or interfere with such duties as above referred to. The salary of such employee, not exceeding One Hundred Dollars (\$100.00) per month, shall be borne and paid by the buyers, and for any default in making payments of such salary the sellers shall have the same rights as hereinabove given them with respect to defaults by the buyers in the making of payments on account of lumber and piling shipped or marketed.

10. The buyers understand that the right to sell the timber affected hereby is defined and given by the conveyance referred to in paragraph 1 of this instrument, through and under which the sellers claim, and the buyers covenant and agree that in their cutting of timber hereunder they will not in anywise violate the provisions of the said conveyance and will hold the sellers harmless from liability or loss by reason of any violation on the part of the buyers of the provisions of the said conveyance.

11. It is the intent of the parties hereto that the rights hereunder given by the sellers to the buyers are personal to the buyers, and that the buyers shall not have the right to assign this contract, or any rights hereunder, to any other person or persons whomsoever, and that any assignment thereof, or any rights thereunder, made or attempted to be made by the buyers shall forfeit all their rights hereunder, and shall not vest any right in the assignee whatsoever.

It is further agreed and understood that if at any time during the life hereof a petition in bankruptcy is filed by or against the buyers, or any application for a receiver of their property, or the happening of any other act of insolvency as to the buyers, that all rights of the buyers hereunder shall terminate, and the sellers shall have the right to retain as their own all of the manufactured product on hand and unsold as liquidated damages for the default of the buyers hereunder and the loss of performance of this contract by the buyers.

12. The buyers during the time of their operations hereunder shall not manufacture any of the trees into lumber except at a mill or mills located upon the hereinabove mentioned lands, or located upon fee simple lands owned by the sellers which they may allow used for that purpose. The buyers shall not have the right to manufacture lumber at the said mills from timber cut from any other lands without the consent of the sellers in each instance first had and obtained. It is understood that the sellers own other fee simple lands in the same territory in which the lands hereinabove referred to are located, and that the sellers will allow the buyers a location on such fee simple lands for their planers, dry kilns and lumber yards during the life hereof without further rental, such yards, however, to be used only for the product of the timber from the lands first hereinabove mentioned.

13. The buyers agree that they will begin the cutting of piling on the lands lying on the north side of the paved highway between Mobile and Pensacola not later than the 1st day of January, 1932, and will thereafter diligently prosecute the same, and they will begin the manufacture of lumber at their mills on said lands not later than the 1st day of March, 1932, and thereafter diligently prosecute the same, and install planes and dry kilns not later than the 1st day of June, 1932, and upon their fail-

(page three)

a point in the tree twelve inches from the ground provided the last above mentioned and described trees can be marketed and sold at a profit.

No piling are to be cut from the land south of the paved highway between Mobile and Pensacola until all of the piling on the lands north of said highway have been cut, unless buyers shall receive an order for piling which they are unable to fill from timber on the north side of said paved highway and it becomes necessary to use and cut piling on the south of said highway. It is understood that in cutting piling the cutting may be dodged from parcel to parcel as the buyers deem proper, but no piling shall be cut from the land south of said highway without the consent of the sellers first had and obtained, except as above stated.

6. The buyers agree that they will diligently prosecute the work of cutting and manufacturing said timber, and with such expedition as to assure that all of it will have been cut and manufactured by the first day of January, 1936. If at any time it becomes apparent that the operations of the buyers are not being prosecuted on such scale, or that buyers are not proceeding with such diligence and facilities as to assure the cutting and removal of all of the said timber by the first day of January, 1936, then the sellers, without liability to the buyers, shall have the right to terminate this agreement and take over the stock of lumber and piling then on hand (the buyers to have the right to remove their equipment at any time before January 1, 1936) provided, however, that if any controversy shall arise as to the right of the sellers to terminate the agreement under this paragraph, the question shall be determined by arbitration, each party to appoint one arbitrator and said arbitrators to select a third, and the decision of any two to be binding and conclusive on both parties.

In the manufacturing operations of the buyers they shall have the right to use so much of the slabs and butts of the trees for fuel and firing the boilers of their mills as is reasonably necessary, but the remainder of such slabs and butts of trees and the tops of all trees cut shall be and remain the property of the sellers to dispose of as they wish, provided the seller will remove said slabs promptly as they accumulate and failing to do so, the buyers shall have the right to remove same without delay.

8. It is further understood and agreed that should the buyers fail to make payments to the sellers as above provided for shipments and deliveries of lumber or piling, and within the time above provided, or should they at any time fail diligently to sell and market the lumber and piling, the sellers shall have the right to seize and take charge of any and all lumber and piling manufactured and themselves to market it as expeditiously as possible and in due course of business, but eighty percent of the net proceeds of such sales, after the payment of all reasonable costs thereof, shall as and when received by the sellers be paid over to the buyers; or, if at any time the buyers hereunder shall be in default for so much as thirty days in the payment of any moneys owing by the buyers under the terms hereof to the sellers, then the sellers at their option may terminate all rights of the buyers hereunder to cut any further lumber, and the lumber and piling then on hand may be seized and marketed by the sellers as expeditiously as practicable, and of the net proceeds arising therefrom, after payment of all expenses, twenty percent shall be retained by the sellers and the remaining eighty percent paid over to the buyers.

9. At all times during the operations of the buyers hereunder they shall keep complete books and records of lumber, piling and poles cut and shipments made, and the sellers shall have the right to keep at the mill or mills of the buyers a representative to be selected by the sellers for the purpose of

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ductible. If any deliveries are made by the buyers by truck to Mobile, Alabama, the trucking cost, if such cost does not exceed the rate for such service by rail, shall be deductible in the same manner as freights where under the selling contract the buyers hereunder are required to make such deliveries at Mobile.

As rapidly as shipments are made and at the time of each shipment, the buyers will forward to the sellers at Pensacola, Florida, a duplicate of every invoice of every shipment, and the railroad freight bills for all shipments under which the freights are to be paid by the buyers hereunder.

The twenty percent payments to the sellers hereinabove provided for on all lumber or piling shipped are to be paid by the buyers to the sellers within thirty (30) days after the shipment, and sooner if within such thirty days the buyers received payments from the consignees of such shipments, it being the intent hereof that the sellers hereunder shall not be required to bear any portion of any losses which the buyers hereunder may sustain by reason of their consignees failing to pay in whole or in part for any shipments made to them.

3-A. The buyers shall and will at their own cost and expense keep the manufactured products insured in reputable fire insurance companies against loss or damage by fire in an amount satisfactory to the sellers, provided such insurance can be obtained, and as each policy of insurance is effected shall lodge the same with the sellers, the policies to carry a clause making all loss payable to the sellers as their interest may appear.

The buyers will at all times hold the sellers harmless against loss or damage by reason of the violation by the buyers of any portion of the provisions, conditions and exceptions of the conveyance from Abe Durschlag and wife to H. E. Wickersham dated the 12th day of October, 1926 and mentioned in paragraph 1 hereof.

4. The buyers hereunder shall first cut and remove the timber from so much of the above mentioned lands as lie on the north side of the paved highway running between Pensacola, and Mobile, Alabama. All cutting of timber shall be carried on so that once the cutting has been begun parcels being cut shall be contiguous to those already cut, it being the intent hereof that the buyers shall not have the right to cut any parcels or governmental subdivisions which are not contiguous to parcels already cut. As to the lands on the north side of said paved highway, the buyers shall have the right to cut and remove the timber as rapidly as they desire. It is understood that the sellers reserve the right to turpentine all timber hereunder until cut by the buyers. As soon as the buyers have completed cutting the timber from the lands on the north side of said paved highway, the sellers will release to them for cutting the lands on the south side of said highway in two hundred forty (240) acre parcels by governmental subdivisions, such two hundred forty acre parcels released from turpentine operations to be contiguous to lands already cut by the buyers. The buyers shall not have the right to enter for cutting upon lands south of said paved highway except as releases thereof from turpentine operations are made by the sellers in two hundred forty acre parcel lots, and the cutting on any released two hundred forty acre parcel lot shall be completed before the buyers shall have the right to enter upon or require the release for cutting of any other two hundred forty acre parcel of land.

5. In their operations the buyers shall be bound to cut and convert into saw logs and manufacture into lumber all trees suitable therefor, and which are of a diameter of not less than eight inches at a point sixteen feet above the ground, and shall be bound to cut and make into piling all smaller trees suitable therefor which are of a diameter of not less than eight inches at

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STATE OF ALABAMA,

"Exhibit A"

COUNTY OF BALDWIN.

THIS MEMORANDUM OF AGREEMENT made and entered into on the 24th day of November, 1931, by and between R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, hereinafter called sellers, and J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, hereinafter called buyers, WITNESSETH:

1. Subject to the terms and conditions hereinafter set forth and to the provisions, conditions and exceptions set forth in a certain conveyance from Abe Durschlag and wife to H. E. Wickersham, dated the 12th day of October, 1926, and appearing of record at page 124 et seq., of record book 42 NS of the records of Baldwin County, Alabama, the sellers grant to the buyers the right up to January 1, 1936 to enter upon the lands in Baldwin County, Alabama, described in the list attached to the said last mentioned deed, except so much thereof as lies north and east of Styx River, and to cut and remove therefrom and convert into lumber all of the timber thereon standing of a diameter of not less than eight inches (8") at a point in the tree sixteen feet (16') from the ground, and also to cut and remove therefrom all such smaller timber suitable for piling and not smaller than eight inches (8") in diameter at a point in the tree twelve inches (12") from the ground.

2. The buyers will immediately after the execution hereof and at their own cost and expense locate such sawmill or saw mills and a planer and dry kiln on the above mentioned land as will be reasonably adequate to assure the cutting and removal of all the said timber by January 1, 1926, and will diligently, with such mills and at such locations on said land as the buyers deem proper, manufacture the timber on said lands into merchantable lumber, and sell such lumber and such piling as may be cut from said land at the best obtainable market prices in due course of business, it being understood that the title to all timber cut, including piling and all lumber manufactured therefrom, shall remain vested in the sellers until actually shipped and sold by the buyers in due course of business. The cutting of all such timber and the manufacture of the same into lumber and piling shall be at the sole cost and expense of the buyers. The buyers shall not have any right or authority to subject the sellers to any liability to any person. In cutting trees the buyers shall cut and take all of each tree suitable for making lumber and saw mill products up to the point of the tree where the diameter is not greater than eight inches.

Where the buyers are permitted to cut trees for piling on lands not generally released to the buyers for the cutting of the whole timber, they shall cut and sell the same in such manner as not to do any damage to turpentine faces, cups and aprons on trees being worked by the sellers or under their authority for the production of naval stores.

3. As rapidly and expeditiously as practicable the buyers will in due course of business market and sell all piling cut by them and all lumber and saw mill products manufactured by them from the timber on the above referred to land at the best obtainable prices, and will pay to the sellers as compensation for such lumber and piling twenty percent (20%) of the selling price thereof, after deducting any freights which the buyers may be required to pay from the sale prices of such products, the remaining eighty percent (80%) to be retained by the buyers as their own. Where deliveries and/or shipments are made at Robertsdale, Alabama, and/or Pensacola, Florida, and/or any point on the lines of the Louisville & Nashville Railroad or the lines of St. Louis-San Francisco Railroad in Baldwin County, Alabama, Escambia County, Florida, or Escambia County, Alabama, the cost of transportation to such points shall be borne by the buyers and shall not be counted as freights de-

7th.

Y our orators further show unto your Honor that the defendants have sold and disposed of 2 000 0 fet or more of lumber without making any effort whatever to account to your orators for same. That defendants have kept no record of the lumber mentioned in this paragraph that has been available to your orators; and if they have, they have concealed the same from your orators; that said lumber was cut, manufactured and sold more than 30 days prior to the date that your orator notified the defendants that said contract had been terminated. That as to the lumber mentioned in this paragraph, the defendants are indebted to your orators more than \$1,500.00 which ~~xxxxxx~~ orators are ~~xxxxxx~~ entitled to have judgment against defendants for, together with such other sums as your Honor might find just and proper.

Hysert, Heard & Shason
Solicitors for Complainants.

Foot Note:

The defendants are required to answer paragraph one and to seven inclusive of the foregoing Bill of Complaint, but answer under oath is hereby expressly waived.

Hysert, Heard & Shason
Solicitors for Complainants.

State of Alabama,)
Baldwin County.)

Before me, John Chason, a Notary Public, in and for said State and County, personally appeared, C. B. Mitchell, who is known to me, and who after being by me first duly sworn, and legally sworn, does depose and say under oath as follows: That he is one of the parties in the Mitchell Naval Stores Company, a partnership composed of R. F. Mitchell, C. B. Mitchell and J. L. Tucker, and as such is duly authorized to make this affidavit; that the allegations contained in the foregoing amended Bill of Complaint are true and correct.

C. B. Mitchell

Sworn to and subscribed before me this 9th day of May, 1932

John Chason
Notary Public, Baldwin County, Alabama.

purpose of checking up and keeping your orators informed of the operations of the defendants under said contract, and for keeping your orators informed of the quantity of lumber and the piling cut and shipped, it being agreed that such employee should at all times have access to the books and records of the defendants showing the lumber and piling cut and showing all sales and shipments, so that your orators might at all times be accurately informed of the progress and details of the business, and it was further stipulated that said defendants should pay the salary of said employee, not exceeding One hundred dollars per month, and it was further stipulated in said contract that, in the event that said defendants defaulted in making payment of said salary, that your orators had the right to terminate said contract and stop the cutting of timber on said lands. Your orator further show unto your Honor that said defendants have failed and refused to pay said salary of said employee as stipulated for, and that, by reason thereof, your ~~orators~~ orators, prior to the filing of this Bill of Complaint, terminated said contract, as they had a right to do, and gave defendants notice thereof. Your Orators further show that said defendants failed to keep complete books and records of of lumber, pilings and poles cut from said lands and of the shipments made from the same, and in this respect also violated their said contract.

5 th.

Your Orators further show unto your Honor that it is stipulated in said contract that the defendants were to pay to your orators 20 % of the net proceeds of shipments and deliveries of lumber and piling cut from said lands and said payments for said shipments and deliveries to be made within 30 days after the shipment and sooner if within said 30 days the defendants received payment from their consignees of such shipments it being the intent of the contract that your orators should not be ~~required~~ required to bear any portion of any losses which the defendants might sustain by reason of their consignees failing to pay on whole or in part for any shipment made to them and your orators further show that, on numerous occasions, the defendants failed and refused to pay the amount due your orators under the said contract for such shipments, and that immediately prior to the filing of this Bill of Complaint, your orators called upon said defendants for the payments of amounts due them for shipments made more than thirty days prior thereto and that the defendants failed and refused to pay to them at said time the said amounts then due orators, and that then and there your orators, as provided for in said contract, gave notice to the defendants that said contract to cut timber from said lands was terminated on account of said breaches heretofore mentioned.

6th

Your orators further show unto your Honor that ~~even~~ even though said rights of the defendants to enter upon and cut timber from said lands and manufacture the same have been terminated by your orators, as they had a right to do under the aforesaid contract, the defendants are making repeated trespasses on the aforesaid lands, cutting the timber therefrom indiscriminately, disregarding of the rights of your orators in the premises, and that by reason of the wrongful conduct on the part of the said defendants and the repeated trespasses being made, your orators are in danger of suffering irreparable injury to their timber and property. Your orators further show that the defendants are insolvent ~~and~~ and that unless the defendants are restrained from cutting and removing said timber located on the above described lands that the timber which remains at the expiration ~~of~~ of the above agreement referred to will be useless to them. Your orators further show that said trespasses will also cause a multiplicity of suits.

R. F. Mitchell Jr. C. B.
Mitchell and J. L. Tucker,
doing business as Mitchell
Naval Stores, a partnership

Complainants,

vs.

J. P. Langham and Arthur Lang-
ham, doing business as Langham
Lumber Company.

Respondents.

)
) In the Circuit Court-Equity
) Side.

)
) State of Alabama

)
) Baldwin County.

Now come the Complainants and amend their Bill of Complaint by re-writing paragraphs 3, and adding thereto paragraphs 4, 5, and 6. AND 7.

Third.

Your Orators further show unto your Honor that, on to-wit the 24th day of November, 1931, your Orators and the defendants entered into a cutting ~~contra~~ contract of the timber located and situated on the above described lands, as well as other described lands, a copy of said contract is hereto attached and marked "Exhibit A", and is made a part of this Bill of Complaint. Your Orators further show unto your Honor that, under the 4th paragraph of of said contract, it was stipulated that the defendants should first cut and remove the timber from so much of the above mentioned lands that lie on the North side of the paved highway running from Pensacola to Mobile; all cutting of timber should be carried on so that once the cutting had been begun, parcels being cut should be contiguous to those already cut, and that the defendants should not have the right to cut any parcels or governmental subdivisions not contiguous to parcels already cut, and your Orators further show that the said defendants violated this condition, by cutting timber indiscriminately on said lands without regard to whether the lands on which said timber was from was contiguous or not; and that said defendants sought out the best timber from the various subdivisions on said lands, and have been cutting and removing the same in many instances when the cutting was not on lands contiguous, as provided for in said contract. Your Orators further allege that, unless defendants are restrained from further cutting said timber located on the above described lands that the timber which would remain at the expiration of the agreement above referred to would be useless to them and would be scarcely of no value. And your Orators further show unto your Honor that all of the aforesaid lands heretofore described in paragraph 2 of the Bill of Complaint lies North of said paved highway.

4th.

Your Orators further show unto your Honor that it was stipulated in said contract that the defendants were to keep a complete set of books and records of lumber, pilings and poles cut and shipments made under said contract, so as to keep your Orators informed of the operations of the defendants under said contract and the quantity of lumber and pilings cut and shipped, so that your Orators might at all times be accurately informed of the progress and details of the business, and that, in addition thereto, it was stipulated that your orators would have the right to keep at the mill or mills of the defendants a representative, for the

Stores Company, and this Contract shall not be binding on the parties hereto without the written consent of said Mortgagee being first obtained". Your Orators further show unto your Honor that the West Florida Naval Stores Company has entered into a written consent approving the terms of the aforesaid Contract and authorizing the cutting of said timber thereunder.

Hyatt Heard & Pearson
Solicitors for Complainants.

STATE OF ALABAMA,
BALDWIN COUNTY.

Before me, John Pearson, a Notary Public in and for said State and County, personally appeared R. C. Heard, who is known to me and who after being by me first duly and legally sworn doth depose and say under oath as follows:

That he is one of the Solicitors of Record for R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker, partners doing business as the Mitchell Naval Stores Company, and as such is duly authorized to make this Affidavit; that the allegations contained in the Amended Bill of Complaint in this cause are true and correct.

R. C. Heard

Sworn to and subscribed before me, a Notary Public whose seal is hereto affixed, this 16th day of September, 1932.

John Pearson
Notary Public, Baldwin County,
State of Alabama.

We hereby certify that we have today forwarded a copy of the foregoing Amended Bill of Complaint to Col. C. E. Hamilton, Greenville, Alabama, one of the Solicitors of Record for the Defendants, postage prepaid.

Hyatt Heard & Pearson
Solicitors for Complainants.

R. F. MITCHELL JR., C. B.)
MITCHELL AND J. L. TUCKER,)
Doing business as Mitchell)
Naval Stores, a partnership,)
Complainants,)

-vs-

J. P. LANGHAM and ARTHUR)
LANGHAM, doing business as)
Langham Lumber Company,)
Respondents.)

IN THE CIRCUIT COURT-EQUITY SIDE
STATE OF ALABAMA
BALDWIN COUNTY.

Now come the Complainants in the aforesaid cause and amend their Bill of Complaint heretofore filed by re-writing Paragraph five thereof:-

5th. Your Orators further show unto your Honor that it is stipulated in said Contract that the Defendants were to pay 20% of the net proceeds of shipments and deliveries of lumber and piling cut from said land, and said payment of said shipments and deliveries to be made within thirty days after the shipment, and sooner if within said thirty days the Defendants received payment from their consignees of such shipment, it being the intent of the Contract that your Orators should not be required to bear any portion of any losses which the Defendants might sustain by reason of their consignees failing to pay in whole or in part for any shipment made to them, and your Orators further show that on numerous occasions the Defendants failed and refused to pay the amount due under the said Contract for such shipments, and that immediately prior to the filing of this Bill of Complaint your Orators called upon said Defendants to make the payments of the amounts due under said Contract for shipments made more than thirty days prior thereto, and that the Defendants failed and refused to pay the said amounts then due, and that then and there your Orators, as provided for in said Contract, gave notice to the Defendants that said Contract to cut timber from said land was terminated on account of said breaches heretofore mentioned. Your Orators further show that by paragraph sixteen of said Contract it is stipulated as follows:- "It is understood and agreed that the growing timber hereinabove described is under Mortgage to West Florida Naval

R. F. MITCHELL, JR., C. B. MITCHELL,
AND J. L. TUCKER, DOING BUSINESS
AS MITCHELL NAVAL STORES, COMPANY,
A PARTNERSHIP,

vs.

J. P. LANGHAM AND ARTHUR LANGHAM
DOING BUSINESS AS LANGHAM LIMBER
COMPANY.

THE STATE OF ALABAMA
Baldwin County

IN EQUITY
Circuit Court of Baldwin County

This cause is submitted in behalf of Complainant upon the original Bill of Complaint, filed March 15, 1932; the Amended Bill of Complaint, filed May 9, 1932, together with Exhibits thereto attached; the Amended Bill of Complaint filed September 20, 1932; and the Amended Prayer for Process to Bill of Complaint, filed May ,1933; the Admissions in Answers of the Respondents, the Testimony of the following witnesses: C. B. Mitchell, H. M. Gilly, E. L. Givens, and W. C. Brown, together with the Exhib-
its to their testimony.

By said a Register
Selectors for Complainant
Register

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the Northwest Quarter (NW $\frac{1}{4}$) Section Three (3);
the Northeast Quarter of the Southeast Quarter
(NE $\frac{1}{4}$ of SE $\frac{1}{4}$) Section Four (4); all in Township
Six (6) South of Range Five (5) East;

and from trespassing upon said lands or interfering with the possession of the said R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker' doing business as Mitchell Naval Stores Company' as to the same.

NOW THEREFORE THE CONDITION OF THE ABOVE OBLIGATION IS SUCH:- That if the said R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker' doing business as Mitchell Naval Stores Company' their successors or assigns' or any of them shall well and truly pay or cause to be paid all damages which any person may sustain by the suing out of said Injunction' if the same is dissolved by the said Circuit Court' in Equity' on the Bill filed by said R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker as aforesaid' then the above obligation to be void' otherwise to remain in full force and effect.

Witness our hands and seals on the day and year first above written.

R. F. MITCHELL JR., C. B. MITCHELL
AND J. L. TUCKER' DOING BUSINESS AS
MITCHELL NAVAL STORES COMPANY' a
Partnership'

By C. B. Mitchell SEAL
As Agent of said Company and as one
of the Partners thereof.

FIDELITY & DEPOSIT COMPANY OF BALTI-
MORE, MARYLAND'

By M. P. Hoffman SEAL
As its Attorney-in-Fact.

Taken and approved this
15th day of March, 1932.

D. W. Peterson
Register.

STATE OF ALABAMA*

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That we' R. F. MITCHELL JR.' C. B. MITCHELL and J. L. TUCKER' doing business as MITCHELL NAVAL STORES COMPANY' a Partnership' as Principal' and the FIDELITY & DEPOSIT COMPANY OF BALTIMORE' MARYLAND' as Surety' are held and firmly bound unto the Register of the Circuit Court' in Equity' for said County in the sum of Five Hundred Dollars (\$500.00)' for the payment of which to said Register' or his successors' we bind ourselves' our heirs' executors' successors and administrators' jointly and severally' firmly by these presents.

Sealed with our seals and dated this 14th day of March' 1932.

WHEREAS' the said R. F. Mitchell Jr.' C. B. Mitchell and J. L. Tucker' doing business as Mitchell Naval Stores Company' has filed its Bill of Complaint in the said Circuit Court' in Equity' and has obtained therein an order for the issuance of an injunction from the Honorable F. W. Hare' Judge of said Court' to restrain and enjoin J. P. Langham and Arthur Langham' doing business as Langham Lumber Company' from cutting or removing the timber from or on the following described real estate situate in Baldwin County' Alabama' to-wit:

The Northeast Quarter ($NE\frac{1}{4}$), the East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$), West half of Southwest Quarter ($W\frac{1}{2}$ of $SW\frac{1}{4}$) and the West half of the Southeast Quarter ($W\frac{1}{2}$ of $SE\frac{1}{4}$) Section Twenty-six (26); the Southeast Quarter ($SE\frac{1}{4}$) and the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$) Section Twenty-seven (27); the Southwest Quarter of Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$) Section Twenty-nine (29); the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$) of Section 30; the South half of the Southwest Quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$) Section Thirty-one (31); the West half of Northeast Quarter ($W\frac{1}{2}$ of $NE\frac{1}{4}$) Section Thirty-three (33); all Section Thirty-four (34); the North half ($N\frac{1}{2}$) and the Southwest Quarter ($SW\frac{1}{4}$) Section Thirty-five (35); the East half ($E\frac{1}{2}$); the East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$) and North half of Southwest Quarter ($N\frac{1}{2}$ of $SW\frac{1}{4}$) Section Thirty-six (36)' all in Township Five (5) South of Range Five (5) East; the Northeast Quarter and the Southeast Quarter of Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$) Section One (1);

(page two)

(6) South of Range Five (5) East;
and from trespassing upon said lands or interfering with the possession of the said R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, as to the same.

AND WHEREAS, at a day regularly set for hearing the same, Hon. F. W. Hare, as Judge of said Court, on the Motion of said Defendants, did increase the amount of the Bond heretofore filed in said cause from Five Hundred Dollars (\$500.00) to Five Thousand Dollars (\$5000.00);

NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH:- That if the said R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, their successors or assigns, or any of them, shall well and truly pay or cause to be paid all damages and costs which any person may sustain by the suing out of such Injunction, if the same is dissolved by order of the said Circuit Court, in Equity, on the Bill filed by the said R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker as aforesaid, then the above obligation to be void, otherwise to remain in full force and effect.

Witness our hands and seals on this the day and year first above written.

R. F. MITCHELL JR., C. B. MITCHELL
AND J. L. TUCKER, DOING BUSINESS
AS MITCHELL NAVAL STORES COMPANY,
A Partnership,

By C. B. Mitchell SEAL
As Agent of said Company and as
one of the Partners thereof.

J. D. Hues SEAL
H. G. W. W. W. W. W. SEAL

Taken and approved this
19th day of May, 1932.

D. W. Richardson
Register.

STATE OF ALABAMA,

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That we, R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, a Partnership, as Principal, and the undersigned, as Sureties, are held and firmly bound unto J. L. Langham and Arthur Langham, doing business as the Langham Lumber Company, their heirs and assigns, in the sum of Five Thousand Dollars (\$5000.00), for the payment of which we bind ourselves, our heirs, executors, successors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 19th day of May, 1932.

WHEREAS, the above bound principal has filed its Bill of Complaint in the Circuit Court of Baldwin County, Alabama, in Equity, and has obtained therein an order for the issuance of an Injunction from the Hon. F. W. Hare, Judge of said Court, to restrain and enjoin J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, from cutting or removing the timber from or on the following described real estate situate in Baldwin County, Alabama, to-wit:-

The Northeast Quarter ($NE\frac{1}{4}$), the East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$), West half of Southwest Quarter ($W\frac{1}{2}$ of $SW\frac{1}{4}$) and the West half of the Southeast Quarter ($W\frac{1}{2}$ of $SE\frac{1}{4}$) Section Twenty-six (26); the Southeast Quarter ($SE\frac{1}{4}$) and the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$), Section Twenty-seven (27); the Southwest Quarter of Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$), Section Twenty-nine (29); the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$) of Section 30; the South half of the Southwest Quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$), Section Thirty-one (31); the West half of Northeast Quarter ($W\frac{1}{2}$ of $NE\frac{1}{4}$), Section Thirty-three (33); all Section Thirty-four (34); the North half ($N\frac{1}{2}$) and the Southwest Quarter ($SW\frac{1}{4}$) Section Thirty-five (35); the East half ($E\frac{1}{2}$); the East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$) and North half of Southwest Quarter ($N\frac{1}{2}$ of $SW\frac{1}{4}$), Section Thirty-six (36), all in Township Five (5) South of Range Five (5) East; the Northeast Quarter and the Southeast Quarter of Southeast Quarter ($SE\frac{1}{2}$ of $SE\frac{1}{4}$), Section One (1); the Northwest Quarter ($NW\frac{1}{4}$) Section Three (3); the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}$ of $SE\frac{1}{4}$), Section Four (4); all in Township Six

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the same, and whether the price was to be paid at the ship side or at the point of destination, and the amount of freight that was to be charged by the Railroad Company for the transporting or hauling of said lumber.

Hyatt, Head & Mason
Attorneys for Complainants.

STATE OF ALABAMA,

BALDWIN COUNTY.

Personally appeared before me, Mary F. Green,
a Notary Public in and for said State and County, John Shanon
who being by me first duly sworn on oath says:

That he is one of the attorneys for the Complainants,
and as such is authorized to make this Affidavit, and Affiant fur-
ther states that the answers of the Defendants to the foregoing
Interrogatories, if made truthfully and unequivocally, will be
material testimony for the Complainants on the trial of this cause.

John Shanon

Sworn to and subscribed before
me, a Notary Public whose seal
is hereto affixed, this 24th
day of June, 1932.

Mary F. Green
Notary Public, Baldwin County,
State of Alabama.

We hereby accept service of a copy of the foregoing In-
terrogatories.

Dated this 24th day of June, 1932.

Hamilton & Miller
Attorneys for Respondents.

(page three)

NINTH INTERROGATORY.

Did you deliver any lumber at the ship side or anywhere else in the City of Pensacola which was cut from said premises? If so, to whom did you deliver the same? Please give in detail each of said deliveries made in the City of Pensacola, to whom made, the amount of lumber in feet and in dollars and cents so delivered.

TENTH INTERROGATORY.

With whom did you have contracts at the time that you ceased operation of your mills on the premises mentioned in Exhibit "A" to the Bill of Complaint as last amended? Please give the names and addresses of all parties that you claim that you had Contracts with for the future delivery of lumber, the terms of said Contract, the class of lumber that you were to deliver and the dates within which you were to deliver it, and the places where you were to deliver it. Were these Contracts in writing? If so, please attach a copy of said Contracts to your answer to this Interrogatory, marking the same by appropriate exhibit. If you say that they were oral Contracts when were they entered into, and by whom? Please give in detail the nature and the essential elements and the terms of all oral Contracts that you claimed to have had relative to the delivery of lumber or piling from said premises. If you say that the Contracts were in writing and that the writing has been misplaced, please give in detail the terms of said Contracts, the parties with whom the same were entered into, the date of the Contracts, the terms, the amount of lumber that was to be delivered, and the prices that were to be paid therefor, and the terms of the same. Whether the said Contracts relative to the future delivery of lumber by you which was cut from said premises were in writing or not, please give in detail the names of the parties that you contracted with, the amount of lumber that you were to deliver, the grade of lumber that you were to deliver, the price that you received for each delivery, and the other conditions, if any, of said Contracts, and where you were to deliver the said lumber, and who was to pay the transportation charges on

(page three)

(page two)

the timber cut from said premises? How many feet of lumber were shipped by you which were manufactured from timber cut on said premises? How many different shipments of lumber did you make up until the time that your operations ceased in the cutting of timber from said premises? Please give a detailed statement of all shipments of lumber by you from said premises, the names of the consignees, the date of the consignment and the amount of lumber in feet and in dollars shipped by you that was manufactured on and from said premises.

FIFTH INTERROGATORY.

Did you ship any lumber by way of the Frisco Railroad? If so, at what point did you ship the same from said premises? Please give the name of the consignee, the amount of money received therefrom, or the amount of the lumber shipped in dollars and cents.

SIXTH INTERROGATORY.

Did you make any local deliveries of lumber to anyone which was manufactured from said premises? If so, please state to whom you made such deliveries, the amount of lumber in feet and in dollars and cents, and the date of such deliveries.

SEVENTH INTERROGATORY.

Did you deliver any lumber in Mobile which was cut from said premises? If so, to whom, and give the date of such shipment, and the amount received therefrom or charged therefor, and the number of feet of lumber so delivered.

EIGHTH INTERROGATORY.

Did you deliver any lumber to the Louisville-Nashville Railroad for shipment? If so, to whom was said lumber consigned? At what point was said lumber shipped? What was the purchase price of said lumber so shipped? How many feet of lumber did you deliver to the Louisville-Nashville Railroad Company for shipment? Please give in detail each shipment of lumber made by you over either the Louisville & Nashville Railroad or the Frisco Railroad, setting forth the consignees, the date of shipment, the feet of lumber and the price received therefor or promised you.

(page two)

R. F. MITCHELL JR., ET AL,
Complainants,

-vs-

J. P. LANGHAM and ARTHUR
LANGHAM, doing business as
LANGHAM LUMBER COMPANY,
Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Now come the Complainants, who desire the testimony of each of the Defendants, J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, and hereby propounds the following Interrogatories to each of them, the answer to which will be material testimony for the Complainants on the trial of the aforesaid cause if said answers are made fully, truthfully and unequivocally.

FIRST INTERROGATORY.

Where do you live? What is your business? Is the Langham Lumber Company a partnership? If so, who are the partners? Where is such partnership engaged in business.

SECOND INTERROGATORY.

Did you execute for yourself and for the Langham Lumber Company a Contract relative to the cutting of timber, and the marketing and selling of the same, with the Complainants in the aforesaid cause, at any time during the year 1931? If so, is Exhibit "A" to the Bill of Complaint as last amended a correct copy of said Contract? If you entered into such a Contract when did you commence operations under the same.

THIRD INTERROGATORY.

How many sawmills of your own did you locate on the premises mentioned in said Contract for the purpose of cutting the timber therefrom? Who were the owners of the mills located on said premises for the purpose of manufacturing the lumber thereon? What was the capacity of each of said mills, and on what part of the premises were each of said mills located.

FOURTH INTERROGATORY.

How many feet of lumber were manufactured by you from

R. F. MITCHELL JR., ET AL,
Complainants,

-vs-

J. P. LANGHAM and ARTHUR
LANGHAM, doing business as
LANGHAM LUMBER COMPANY,

Respondents.

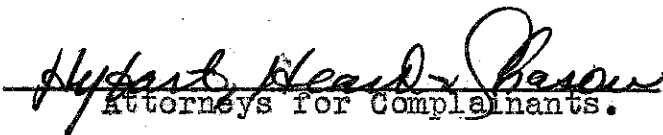
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

TO J. P. LANGHAM AND ARTHUR LANGHAM, DOING BUSINESS AS LANGHAM
LUMBER COMPANY, OR THEIR ATTORNEYS OF RECORD, MESSRS. POWELL &
HAMILTON OF GREENVILLE, ALABAMA:-

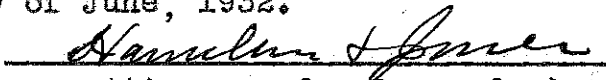
You will please take notice that the Demurrer hereto-
fore filed by you to the Bill of Complaint as last amended in the
aforesaid cause will be submitted to Hon. F. W. Hare, Judge of
the Twenty-first Judicial Circuit, at his office in Monroeville,
Alabama, at eleven o'clock P. M., on July ~~11th~~^{17th}, 1932, for a de-
cree thereon, at which time you may appear and contest such de-
murrer if you so desire.

This June 21st, 1932.


Attorneys for Complainants.

We hereby accept service of the foregoing notice.

Dated this 24th day of June, 1932.


Attorneys for Respondents.

R.F.Mitchell, Jr., C.B.
Mitchell and J.L.Tucker,
doing business as Mitchell
Naval Stores, a partnership,

Complainants,

Vs.

J.P.Langham and Arthur Lang-
ham, doing business as Langham
Lumber Company,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY.

This cause coming on to be heard on motion filed by the respondents, praying that the complainants be required to file a bond in larger amount, and such motion and the testimony in support thereof having been considered and understood by the Court, it is

ORDERED, ADJUDGED AND DECREED by the Court that the complainants be, and they hereby are, required to file injunction bond with good and sufficient surety in the sum of Five Thousand(\$5,000.00) dollars, to be approved by the Register of this Court for the continuance of the temporary writ of injunction issued in this cause. It is further

ORDERED, ADJUDGED AND DECREED by the Court that the complainants have Ten days within which to file such bond and upon failure to file such bond within the said Ten days, the said temporary injunction shall be dissolved; but, should the complainants file the said bond within said time, the said temporary writ of injunction shall continue in force until the further orders of this Court.

Dated, this, the 9th day of May, 1932.

F. V. Hare

Judge of the 21st Judicial
Circuit of Alabama, Sitting in
Equity.

STATE OF ALABAMA, |
BUTLER COUNTY. |

Personally appeared before me, Alma Murphy,
a Notary Public in and for said State and County, C. E.
Hamilton, who being by me first duly sworn on oath doth
say:

That the answers of the plaintiffs to the fore-
going interrogatories, if made truthfully and unequivocally,
will be material testimony for the defendants on the trial
of this cause.

Sworn to and subscribed |
before me, this 14 day |
of May, 1932. |

Alma Murphy
Notary Public.

C. E. Hamilton

consist? Do you claim that there was timber cut? Do you claim that said trespass consisted of cutting timber from said lands by the defendants? If yea, give the amount of timber cut, from what portion of said lands the same was cut and the date the same was cut. In giving the description of the lands on which said timber was cut, please give the same by Government^y Sub-division. Please give the total amount of timber cut and sold by the defendants. Give the date of each of the shipments obtained from said lands, to whom sold and the amount received. Please attach a complete itemized statement showing the status of the account between plaintiffs and defendants. Let such account show the amount paid by defendant from each shipment. To whom such shipment was made by defendant and how the same was paid, whether by cash or by check, and the amount of cash advanced or paid by you for the account of the defendants, and to whom, when and how paid by you. If such cash was paid by order of defendants, please attach copies of such orders and mark the same as proper exhibits thereto.

Under the seventh paragraph of the original bill as amended, you stated that the defendant is indebted to you in the sum of \$1500.00. Please attach a complete itemized statement to your answer to this interrogatory, showing the items which compose said claim of \$1500.00. Did you answer that it is for lumber, piling or poles that the defendant sold and disposed of? ^{if yea,} ~~and~~ how many poles, how much piling and how much lumber? When was said lumber, poles and piling obtained by the defendants from said lands? From what particular subdivision of said lands was said lumber, piling or poles obtained? To whom was said lumber, piling or poles sold? How much was received by defendants for said piling, lumber or poles?

was any shipment made by defendants for lumber, piling or poles obtained from said lands, for which the defendants did not pay you 20%? If yea, give the date and the amount of such shipments, and to whom such shipments were made? Do you claim that the defendants failed and refused to pay the amount due you under the contract for shipments of poles, piling and lumber obtained from said lands? If yea, give the date of each such shipment, and whether such shipment was lumber, poles or piling, and to whom such shipments were made, and the amount received by defendant. Do you claim that you called upon defendants for the amount due you for shipments claimed by you to have been made by defendants of lumber, piling or poles, and ^{that} ~~if~~ the defendants refused to pay same? If yea, give the amount of each such shipment, the date made and to whom made and character of such shipment, whether lumber, piling or poles.

Do you claim that by reason of the failure of the defendants to pay for such shipment that said contract was terminated, and ^{that} ~~if~~ you gave notice to the defendants of the termination of said contract? If yea, was such notice in writing or verbally? If in writing attach a copy of such notice to your answer to this interrogatory and mark the same as Exhibit "D" to your answer. How was such notice given? Was it mailed or given in person to the defendant? If you answer that it was given in person, to which of the defendants was it given? When and where was such notice given? If you answer that such notice was given verbally, give the time, place, who was present and to which of the defendants such verbal notice was given.

SIXTH INTERROGATORY.

Do you claim that there was a trespass committed upon the lands described in the contract attached to the original bill as amended? If yea, of what did said trespass

to you any amount or amounts paid by you to such representative? Did you ever demand of defendants the repayment to you of any amounts that you paid to such representative? If yea, from which of the defendants did you make such demand, and when and where did you make such demand? Was such demand in writing? If yea, attach a copy of such demand to your answer to this interrogatory and mark the same as Exhibit "A" thereto. Do you claim that you terminated said contract with defendants by reason of the failure of the defendants to pay said representative? If yea, when did you terminate said contract? If you claim that you did terminate said contract, was such action on your part in writing? If yea, when was the date of such termination? If you answer that it was in writing, attach a copy of such writing to your answer to this interrogatory, marking the same as Exhibit "B" to your answer. Do you claim that you gave verbal notice of the termination of said contract? If yea, when did you give such notice? Where did you give such notice and to whom did you give such notice? If you claim that you gave such notice verbally, who was present when such notice was given? If you answer that you gave such notice in writing, to whom did you deliver such notice? Was the same by letter? Do you claim that you wrote and mailed the letter to the defendants or either of them, giving such notice of the termination of said contract? If yea, please attach a copy of such letter to your answer to this interrogatory and mark the same as Exhibit "C" thereto.

FIFTH INTERROGATORY.

Have the defendants paid you any amounts for timber manufactured and sold by them under said contract? If yea, attach an itemized statement showing the amount paid by defendants, the date of payment and how paid, whether by check, draft or cash. Do you claim that there

contract? If yea, how much timber did the defendants cut from said lands? Please give a description by parcel or Government^y sub-division of said land, from which said timber was cut by the defendants. Was said lands contiguous from which said timber was cut? If not, what was the distance from each parcel or sub-division of said lands from which said timber was cut? Did the defendant cut any timber from any lands which did not lie north of the paved highway referred to in said contract?

FOURTH INTERROGATORY.

Did the defendant keep a set of books and records of the lumber, piling and poles cut from said lands, and shipments made under said contract? If so, what books did the defendants keep? Did you ever examine the books kept by the defendants? If so, when did you examine such books and how often did you examine same. Did you ever make a request of defendants to examine such books? If so, from which of the defendants did you make such request? Did the defendants or either of them, ever refuse or decline to permit you to examine said books. If you answer that you made a ~~stare~~ demand that you be permitted to examine said books, when and where was such demand made? If you answer the the defendant declined to permit you to examine such books, when and where did they so decline? Did you keep a representative at the mill or mills of defendant while defendants were cutting the timber from said lands? If yea, who was such representative? When did you place such representative at said mill or mills? What ~~were~~ the duties and authority of such representative? What was the salary of such representative? Did you pay the salary of such representative? If yea, how did you pay the same? Was not the amount paid by you as such salary refunded to you by the defendants? ~~Do~~ you claim that the defendants never at any time refunded

Original

R. F. Mitchell, Jr., C. B.
Mitchell and J. L. Tucker,
doing business as Mitchell
Naval Stores, a partnership,

Complainants,

VS.

J. P. Langham and Arthur Lang-
ham, doing business as Langham
Lumber Company,

Respondents.

In the Circuit Court,

Equity Side,

State of Alabama,

Baldwin County.

The defendants desiring the testimony of each of the plaintiffs, R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, hereby propounds the following interrogatories to each of them, the answers to which will be material testimony for the defendants on the trial of the cause, if said answers are made fully, truthfully and unequivocally:

FIRST INTERROGATORY.

Where do you live? What is your business? Is the plaintiff a partnership? If a partnership, who are the partners? Where is such partnership engaged in business?

SECOND INTERROGATORY.

Did you make an execute the contract attached as Exhibit "A" to the original bill as amended? If yea, did the defendants begin the operation of the manufacture of lumber under said contract obtained from the lands described in the contract? Who are the owners of the lands described in said contract? Is there a mortgage on said lands? If yea, who is the owner and holder of said mortgage? How much is due on said mortgage?

THIRD INTERROGATORY.

Did the defendants cut any timber from said lands described in said contract after the making of said

copy of which is attached to the original bill, as amended, marked "Exhibit A", the said contract should not be binding on the parties thereto without the written consent of the West Florida Naval Stores Company, which would require the said West Florida Naval Stores Company to be a party to this litigation, and said original bill as amended fails to make the said West Florida Naval Stores Company a party hereto.

7-Because there is a non-joinder of parties.

8-That under the facts alleged in said bill the complainants have an adequate remedy at law.

9-That in the second paragraph of the bill of complaint as amended it is alleged that the respondents are making repeated trespasses on said land, and such allegation is the conclusion of the pleader, without alleging how or in what manner the respondents are trespassing on the said lands.

10-That said bill as amended fails to allege any facts or circumstances which will show that respondents have trespassed on the lands of complainants.

HAMILTON & JONES,

Solicitors for Respondents.

I, B.E. Jones, one of the Solicitors for the respondents, hereby certify that I have this day mailed a copy of the foregoing demurrer to Messrs. Hybart, Heard & Chason, Solicitors of record for the Complainants in said cause, addressed to them at Bay Minette, Alabama, postage fully prepaid.

This, the 28 day of Sept, 1932.

B.E. Jones

R. F. MITCHELL, JR., C. B.
MITCHELL and J. L. TUCKER,
Doing Business as Mitchell
Naval Stores, a Partnership,

Complainants,

VS.

J. P. LANGHAM and ARTHUR
LANGHAM, doing business as
Langham Lumber Company,

Respondents.

IN THE CIRCUIT COURT-EQUITY SIDE,

STATE OF ALABAMA.

BALDWIN COUNTY.

Now comes the Complainants in the aforesaid cause
and amends their Prayer for Process to their said Bill of
Complaint to read as follows:

PRAYER FOR PROCESS.

To the end that equity maybe had in the premises, your
Orators pray that your Honor will cause the usual writ of process
to J. P. Langham and Arthur Langham, doing business as Langham
Lumber Company, and to the West Florida Naval Stores Company, a
Corporation, making them parties defendants in this bill of com-
plaint and requiring them to plead, answer or demurrer to the same
within the time as required by law.

Your Orators further pray unto your Honor that you will
cause a temporary writ of injunction restraining the said J. P.
Langham and Arthur Langham, doing business as the Langham Lumber
Company, from trespassing on said lands and from cutting, or re-
moving said timber, poles and piling above referred to and from
interferring with the possession of your Orators in the said
property.

Hybert, Head & Chason
Solicitors for Complainants.

I hereby certify that I have this day forwarded to Colonel
C. E. Hamilton, Greenville, Alabama, one of the attorneys of record
for the defendants, J. P. Langham and Arthur Langham, doing business
as Langham Lumber Company, Postage prepaid, a copy of the foregoing
amendment.

C. L. Hybert
Solicitor for Complainants.

R.F. Mitchell, Jr., C.B.
Mitchell and J.L. Tucker,
doing business as Mitchell
Naval Stores Company, a
Partnership,

Complainants.

Vs.

J.P. Langham and Arthur Langham,
doing business as Langham Lumber
Company,

Respondents.

IN THE CIRCUIT COURT
OF
BALDWIN COUNTY, ALABAMA,

IN EQUITY.

STATE OF ALABAMA,

CONECUH COUNTY.

Before me, Daisy M. Burnett, a Notary Public
in and for said County and State, personally appeared R.F.
Croom, who, being by me first duly and legally sworn, doth
depose and say:

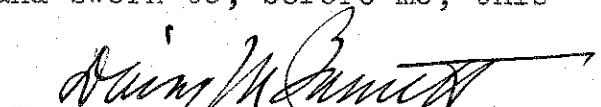
That he is a resident citizen of Conecuh
County, Alabama, and is engaged in the banking business at
Evergreen, Alabama, being the Active Vice President of The
Peoples Bank of Evergreen.

That he knows J.P. Langham and Arthur Lang-
ham, who compose the firm of Langham Lumber Company. That
the Langham Lumber Company and J.P. Langham and Arthur Langham
do business with The Peoples Bank of Evergreen and have done
business with The Peoples Bank of Evergreen and the First
National Bank of Evergreen for about ten years; that affi-
ant was the President of the First National Bank of Ever-
green, and that the First National Bank of Evergreen and
The Peoples Bank of Evergreen consolidated during the year
1930. That affiant has had full opportunity of knowing
the condition of Langham Lumber Company, J.P. Langham and
Arthur Langham, and affiant knows they are solvent.
That they own lands, stumpage, a saw mill and equipment,
bills receivable, crops, planing mill and that in the judg-
ment of affiant he would say the value of this property
is between Twenty Thousand and Thirty Thousand Dollars
(\$20,000.00 and \$30,000.00), and from the best information
affiant has been able to ascertain by diligent inquiry, it
being the duty of affiant to ascertain, the indebtedness of
the Langham Lumber Company, J.P. Langham and Arthur Langham
is the sum of about \$4,000.00 to \$5,000.00.

Affiant further states that neither the
Langham Lumber Company, J.P. Langham nor Arthur Langham
are indebted to The Peoples Bank of Evergreen at this
time. Affiant further states that he considers the
Langham Lumber Company, J.P. Langham and Arthur Langham
good for all their debts and obligations, and all of the
dealings that affiant has had with the said parties have
been satisfactory and they have at all times paid their
obligations promptly.



Subscribed and sworn to, before me, this
the 9th day of May, 1932.



Notary Public.

R. F. Mitchell, Jr., et al,		In the Circuit Court,
vs.		
J. P. Langham and Arthur		Baldwin County, Alabama,
Langham, doing business as		In Equity.
Langham Lumber Company.		

Now comes the respondents, Langham Lumber Company, J. P. Langham and Arthur Langham, in the foregoing cause, and show to the Court that the bond fixed by the Court of Five Hundred (\$500.00) Dollars in granting the injunction in this cause is wholly inadequate to compensate the respondents for damages already suffered, and to be suffered by reason of the wrongful suing out and issuing of said injunction. Respondents would show unto the Court that they have already suffered a sum greater than the amount of said bond. Respondents would further show unto the Court that the amount of attorneys' in resisting said injunction is a sum equal to the amount of said bond.

Respondents would further show to the Court that by reason of the issuing of said injunction, they have suffered great damage in their lumber and timber operations, said damages being greatly in excess of said bond of Five Hundred Dollars.

Respondents would further show unto the Court that they have at all times complied with the terms of the contract entered into with complainants, and referred to in said original bill, and have not breached said contract as alleged in said bill.

Respondents, therefore, move the Court to require the complainants to enter into a bond, payable and conditioned as required by law, in such sum as would fully compensate respondents for all damages sustained by them, should said

injunction be dissolved.

Powell & Hamilton,
Sols. for Respondents,
Langham Lumber Company,
J. P. Langham and Arthur
Langham.

Original

R. F. Mitchell, Jr., et al,		In the Circuit Court,
vs.		
J. P. Langham and Arthur		Baldwin County, Alabama,
Langham, doing business as		In Equity.
Langham Lumber Company.		

TO:

R. F. Mitchell, Jr., C. B. Mitchell, and J. L. Tucker, doing business as Mitchell Naval Stores Company, a partnership, or their attorneys of record, Messrs. Hybart, Heard & Chason:

You will please take notice that the motion hereto attached will be set down for hearing and be submitted to Hon. F. W. Hare, Judge of the Twenty-first Judicial Circuit, at the Court House in Evergreen, Alabama, at one o'clock P. M. on Monday, the 9th day of May, 1932, at which time you can appear and contest such motion if you so desire.

This 27th day of April, 1932.

Conce Hamilton

Attorneys for Langham Lumber
Company, J. P. Langham and
Arthur Langham, Respondents.

R. F. Mitchell, Jr., et al, | In the Circuit Court,
vs. | Baldwin County, Alabama,
J. P. Langham and Arthur | In Equity.
Langham, doing business as |
Langham Lumber Company. |

TO:

R. F. Mitchell, Jr., C. B. Mitchell, and J. L. Tucker, doing business as Mitchell Naval Stores Company, a partnership, or their attorneys of record, Messrs. Hybart, Heard & Chason:

You will please take notice that the demurrers heretofore filed to the original bill in this cause by respondents, Langham Lumber Company and J. P. Langham and Arthur Langham, will be submitted to the Hon. F. W. Mare, Judge of the Twenty-first Judicial Circuit at the Court House in Evergreen, Alabama, at one o'clock P. M. on Monday, the 9th day of May, 1932, for a decree thereon, at which time you may appear, and contest such demurrers if you so desire.

This April 27th, 1932.

Powell & Hamilton,
Attorneys for Langham Lumber
Company, J. P. Langham and
Arthur Langham, Respondents.

R. F. Mitchell, Jr., C. B.
Mitchell and J. L. Tucker,
doing business as Mitchell
Naval Stores Company, a
Partnership,

Complainants,

Vs.

J. P. Langham and Arthur
Langham, doing business as
Langham Lumber Company,

Respondents.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY

ALABAMA.

IN EQUITY.

This cause coming on to be heard is submitted
on demurrer of Respondents filed by them on July 10, 1932,
to the amended Bill of Complaint, and the same being under-
stood by the Court,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED
that the same be sustained.

Complainants are allowed thirty days in which
to amend their Bill of Complaint.

Dated this 14th day of September, 1932.

F. W. Hare

Judge of Twenty-first Judicial
Circuit of Alabama.

THE STATE OF ALABAMA, |
BALDWIN COUNTY |

CIRCUIT COURT OF BALDWIN COUNTY
IN EQUITY.

To Any Sheriff of the State of Alabama-GREETING:-

WE COMMAND YOU, That you summon J. P. LANGHAM AND ARTHUR LANGHAM, doing business as LANGHAM LUMBER COMPANY, of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by R. F MITCHELL, JR, C. B. MITCHELL and J. L. TUCKER, doing business as MITCHELL NAVAL STORES COMPANY, a partnership against said J. P. LANGHAM and ARTHUR LANGHAM, doing business as LANGHAM LUMBER COMPANY, and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 16th day of March, 1932.

T. W. Richerson
Register

N. B. Any party defendant is entitled to a copy of the bill upon application to the Register.

property is situated in Baldwin County, Alabama, and described as follows:-

The Northeast Quarter ($NE\frac{1}{4}$), the East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$), West half of Southwest Quarter ($W\frac{1}{2}$ of $SW\frac{1}{4}$) and the West half of the Southeast Quarter ($W\frac{1}{2}$ of $SE\frac{1}{4}$) Section Twenty-six (26); the Southeast Quarter ($SE\frac{1}{4}$) and the Southwest of the Southwest Quarter, ($SW\frac{1}{4}$ of $SW\frac{1}{4}$) Section Twenty-seven (27), the Southwest Quarter of Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$) of Section Twenty-nine (29); the Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$) of Section 30; the South half of the Southwest Quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$), Section Thirty-one (31); the West Half of Northeast Quarter ($W\frac{1}{2}$ of $NE\frac{1}{4}$) Section Thirty-three (33); all Section Thirty-four (34); the North-half ($N\frac{1}{2}$) and the Southwest Quarter ($SW\frac{1}{4}$) Section Thirty-five (35); the East half ($E\frac{1}{2}$); the East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$) and ($N\frac{1}{2}$ of $SW\frac{1}{4}$) North half of Southwest Quarter, Section thirty-six (36) all in Township Five (5) South of Range Five (5) East; the Northeast Quarter and the Southeast Quarter of Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$) Section One (1); the Northwest Quarter ($NW\frac{1}{4}$) Section Three (3); the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}$ of $SE\frac{1}{4}$) Section Four (4) all in Township Six (6) South of Range Five (5) East.

until further orders of this Court.

Witness my hand as Register, and the Seal of said
Circuit Court-In Equity, this 15th day of March, 1932.

T. W. Richerson
Register.

R. F. MITCHELL JR., C.B. MITCHELL
CHELD and J. L. TUCKER, doing
business as MITCHELL NAVAL STORES
COMPANY, a Partnership.

Complainants.

vs.

J. P. LANGHAM and ARTHUR LANGHAM,
doing business as LANGHAM LUMBER
COMPANY,

Respondents.

IN THE CIRCUIT COURT
EQUITY SIDE,

STATE OF ALABAMA,
BALDWIN COUNTY.

STATE OF ALABAMA,

BALDWIN COUNTY.

TO ANY SHERIFF OF SAID STATE- GREETINGS:-

We demand you that without delay you execute this
Writ and due return thereof to make to us instanter, at a term
of our Circuit Court-In Equity, to be held at Bay Minette, Alabama,
on the 25th day of April, 1932.

TO J. P. LANGHAM AND ARTHUR LANGHAM, DOING BUSINESS
AS LANGHAM LUMBER COMPANY- GREETINGS:-

WHEREAS, R. F. Mitchell Jr., C. B. Mitchell and H. L.
Tucker, doing business as Mitchell Naval Stores Company, a Partner-
ship, have exhibited their Bill of Complaint in the Circuit Court
of Baldwin County, Alabama- In Equity, and hath obtained from the
Hon. F. W. Hare, Judge of said Court, an order for the issuance
of a temporary Injunction to restrain and enjoin you as herein-
after mentioned;

AND WHEREAS, the said R. F. Mitchell, Jr., C. B. Mitchell
and J. L. Tucker, doing business as Mitchell Naval Stores Company,
in accordance with said order, entered into Bond with sufficient
surety in the sum of Five Hundred Dollars (\$500.00) payable to and
approved by the Register of said Circuit Court, and conditioned
according to law.

NOW THEREFORE, you, the said J. P. Langham and Arthur
Langham, doing business as Langham Lumber Company, are hereby com-
manded and strictly enjoined from trespassing on the lands herein-
after described, and from cutting or removing any timber, lumber,
poles or piling from said land, or from interfering with the pos-
session of said Complainants in and to said property, which said

Signed, sealed and delivered
in the presence of by the
sellers:

A. H. McKinster

J. J. Cooke

Signed, sealed and delivered
in the presence of us by the
buyers:

Noble C. Huggins

Mart Salter.

STATE OF FLORIDA,

COUNTY OF ESCAMBIA.

Before me, subscriber personally came R. F.
Mitchell, Jr., C. B. Mitchell and W. L. Tucker, whose names are
signed to the foregoing instrument, and who are known to me,
and severally acknowledged to me on this day that being informed
of the contents of the foregoing instrument they severally
executed the same voluntarily on the day the same bears date.

WITNESS my hand and official seal on this the 24th day
of November, 1931.

J. J. Crooke
Notary Public.

My commission expires Mar. 20 '34

STATE OF ALABAMA,

COUNTY OF BUTLER.

Before me the subscriber personally came J. P.
Langham and Arthur Langham, whose names are signed to the fore-
going instrument, and who are known to me, and severally
acknowledged to me on this day that being informed of the contents
of the foregoing instrument, they severally executed the same
voluntarily on the day the same bears date.

WITNESS my hand and official seal on this 30th day
of November, 1931 .

H. E. Mancill
Notary Public.

My commission expires

June 19, 1934.

14. It is further agreed and understood that the term "lumber" wherever used in this contract shall be deemed to cover and include all products of wood manufactured at the mill or mills of the buyers. The term "piling" wherever used shall also include marketable poles, and nothing herein shall bind the buyers to cut into lumber trees which they may desire to cut and market as piling as herein defined. The definitions of lumber and piling in this paragraph made shall be read into as a part of each of the paragraphs hereof where the term "lumber" or the term "piling" is used.

15. It is hereby agreed and understood that the shall make an honest and diligent effort to carry out this contract according to the provisions thereof, but in the event after such efforts the buyers find that such contract can not be carried out with a profit to the buyers, then the buyers shall have the right to terminate said contract and surrender the rights hereunder by giving to the sellers immediate notice of their intention to do so, and in the event this agreement is terminated under this paragraph, the sellers agree that the buyers may remove their equipment at any time before January 1, 1936, and the buyers, upon such termination, release all claims to lumber and piling.

16. It is understood and agreed that the growing timber hereinabove described is under mortgage to West Florida Naval Stores Company and this contract shall not be binding on the parties hereto without the written consent of said mortgagee being first obtained.

IN WITNESS WHEREOF, the said parties have executed this instrument in duplicate on the day and year first above written.

MITCHELL NAVAL STORES COMPANY (SEAL)

By- R. F. Mitchell, Jr.

J. L. Tucker (SEAL)

C. B. Mitchell (SEAL)

Langham Lumber Co. (SEAL)

By J. F. Langham (SEAL)

Arthur Langham (SEAL)

the assignee whatsoever.

It is further agreed and understood that if at any time during the life hereof a petition in bankruptcy is filed by or against the buyers, or any application for a receiver of their property, or the happening of any other act of insolvency as to the buyers, that all rights of the buyers hereunder shall terminate, and the sellers shall have the right to retain as their own all of the manufactured product on hand and unsold as liquidated damages for the default of the buyers hereunder and the loss of performance of this contract by the buyers.

12. The buyers during the time of their operations hereunder shall not manufacture any of the trees into lumber except at a mill or mills located upon the hereinabove mentioned lands or located upon fee simple lands owned by the sellers which they may allow used for that purpose. The buyers shall not have the right to manufacture lumber at the said mills from timber cut from any other lands without the consent of the sellers in each instance first had and obtained. It is understood that the sellers own other fee simple lands in the same territory in which the lands hereinabove referred to are located, and that the sellers will allow the buyers a location of such fee simple lands for their planers, dry kilns and lumber yards during the life hereof without further rental, such yards, however, to be used only for the product of the timber from the lands first hereinabove mentioned.

13. The buyers agree that they will begin the cutting of piling on the lands lying on the north side of the paved highway between Mobile and Pensacola not later than the 1st day of January, 1932, and will thereafter diligently prosecute the same, and they will begin the manufacture of lumber at their mills on said lands not later than the 1st day of March, 1932, and thereafter diligently prosecute the same, and install planers and dry kilns not later than the 1st day of June, 1932, and upon their failure to begin and diligently to prosecute the cutting and piling by the date herein specified, or to begin and diligently to prosecute the manufacture of lumber by the date herein mentioned, or to install dry kiln and planer, all rights hereunder at the option of the sellers, shall terminate.

over to the buyers.

9. At all times during the operations of the buyers hereunder they shall keep complete books and records of lumber, piling and poles cut and shipments made, and the sellers shall have the right to keep at the mill or mills of the buyers a representative to be selected by the sellers for the purpose of checking up and keeping the sellers informed of the operations of the buyers hereunder, and keeping them informed of the quantity of lumber and piling cut and shipped, it being agreed that such employee shall at all times have access to the books and records of the buyers showing the lumber and piling cut and showing all sales and shipments, so that the sellers may at all times be accurately informed of the progress and details of the business, and such employee shall be under the direction and control of the sellers but perform such other duties as may, with consent of the sellers, be required of him by the buyers, provided such duties do not conflict or interfere with such duties as above referred to. The salary of such employee, not exceeding One Hundred Dollars (\$100.00) per month, shall be borne and paid by the buyers, and for any default in making payments of such salary the sellers shall have the same rights as hereinabove given them with respect to defaults by the buyers in the making of payments on account of lumber and piling shipped or marketed.

10. The buyers understand that the right to sell the timber affected hereby is defined and given by the conveyance referred to in paragraph I of this instrument, through and under which the sellers claim, and the buyers covenant and agree that in their cutting of timber hereunder they will not in anywise violate the provisions of the said conveyance and will hold the sellers harmless from liability or loss by reason of any violation on the part of the buyers of the provisions of the said conveyance.

11. It is the intent of the parties hereto that the rights hereunder given by the sellers to the buyers are personal to the buyers, and that the buyers shall not have the right to assign this contract, or any rights hereunder, to any other person or persons whomsoever, and that any assignment thereof, or any rights thereunder, made or attempted to be made by the buyers shall forfeit all their rights hereunder, and shall not vest any right in

removal of all of the said timber by the first day of January, 1936, then the sellers, without liability to the buyers, shall have the right to terminate this agreement and take over the stock of lumber and piling then on hand (the buyers to have the right to remove their equipment at any time before January 1, 1936) provided, however, that if any controversy shall arise as to the right of the sellers to terminate the agreement under this paragraph, the question shall be determined by arbitrators to select a third, and the decision of any two to be binding and conclusive on both parties.

7. In the manufacturing operations of the buyers they shall have the right to use so much of the slabs and butts of the trees for fuel and firing the boilers of their mills as is reasonably necessary, but the remainder of such slabs and butts of trees and the tops of all trees cut shall be and remain the property of the sellers to dispose of as they wish, provided the seller will remove said slabs promptly as they accumulate and failing to do so, the buyers shall have the right to remove same without delay.

8. It is further understood and agreed that should the buyers fail to make payments to the sellers as above provided for shipments and deliveries of lumber or piling, and within the time provided, or should they at any time fail diligently to sell and market the lumber and piling, the sellers shall have the right to seize and take charge of any and all lumber and piling manufactured and themselves to market it as expeditiously as possible and in due course of business, but eighty percent of the net proceeds of such sales, after the payment of all reasonable costs thereof, shall as and when received by the sellers be paid over to the buyers; or, if at any time the buyers hereunder shall be in default for so much as thirty (30) days in the payment of any moneys owing by the buyers under the terms hereof to the sellers, then the sellers at their option may terminate all rights of the buyers hereunder to cut any further lumber, and the lumber and piling then on hand may be seized and marketed by the sellers as expeditiously as practicable, and of the net proceeds arising therefrom, after payment of all expenses, twenty percent shall be retained by the sellers and the remaining eighty percent paid

the south side of said highway in two hundred forty (240) acre parcels by governmental subdivision, such two hundred forty acre parcels released from turpentine operations to be contiguous to lands already cut by the buyers. The buyers shall not have the right to enter for cutting upon lands south of said paved highway except as releases thereof from turpentine operations are made by the sellers in two hundred forty acre parcel lots, and the cutting on any released two hundred forty acre parcel lot shall be completed before the buyers shall have the right to enter upon or require the release for cutting of any other two hundred forty acre parcel of land.

5. In their operations the buyers shall be bound to cut and convert into saw logs and manufacture into lumber all trees suitable therefore, and which are of a diameter of not less than eight inches at a point sixteen feet above the ground, and shall be bound to cut and make into piling all smaller trees suitable therefor which are of a diameter of not less than eight inches at a point in the tree twelve inches from the ground, provided the last above mentioned and described trees can be marketed and sold at a profit.

No piling are to be cut from the land south of the paved highway between Mobile and Pensacola until all of the piling on the lands north of said highway have been cut, unless buyers shall receive an order for piling which they are unable to fill from timber on the north side of said paved highway and it becomes necessary to use and cut piling on the south of said highway. It is understood that in cutting piling the cutting may be dodged from parcel to parcel as the buyers deem proper, but no piling shall be cut from the land south of said highway without the consent of the sellers first had and obtained, except as above stated.

6. The buyers agree that they will diligently prosecute the work of cutting and manufacturing said timber, and with such expedition as to assure that all of it will have been cut and manufactured by the first day of January, 1936. If at any time it becomes apparent that the operations of the buyers are not being prosecuted on such scale, or that buyers are not proceeding with such diligence and facilities as to assure the cutting and

Florida, a duplicate of every invoice of every shipment, and the railroad freight bills for all shipments under which the freights are to be paid by the buyers hereunder.

The twenty percent payments to the sellers hereinabove provided for on all lumber or piling shipped are to be paid by the buyers to the sellers within thirty(30) days after the shipment, and sooner if withinsuch thirty days the buyers received payments from the consignees of such shipments, it being the intent hereof that the sellers hereunder shall not be required to bear any portion of any losses which the buyers hereunder may sustain by reason of their consignees failing to pay in whole or in part for any shipments made to them.

3-a. The buyers shall and will at their own cost and expense keep the manufactured products insured in reputable fore insurance companies against loss or damage by fire in an amount satisfactory to the sellers, provided such insurance can be obtained, and as each policy of insurance is affected shall lodge the same with the sellers, the policies to carry a clause making all loss payable to the sellers as their interest may appear.

The buyers will at all times hold the sellers harmless against loss or damage by reason of the violation by the buyers of any portion of the provisions, conditions and exceptions of the conveyance from Abe Durschlag and wife to H. E. Wichersham dated the 12th day of October, 1926 and mentioned in paragraph 1 hereof.

4. The buyers hereunder shall first out and remove the timber from so much of the above mentioned lands as lie on the north side of the paved highway running between Pensacola, and Mobile, Alabama. All cutting of timber shall be carried on so that once the cutting has been begun parcels being cut shall be contiguous to those already cut, it being the intent hereof that the buyers shall not have the right to cut any parcels or governmental subdivisions which are not contiguous to parcels already cut. As to the lands on the north side of said paved highway, the buyers shall have the right to cut and remove the timber as rapidly as they desire. It is understood that the sellers reserve the right to turpentine all timber hereunder until cut by the buyers. As soon as the buyers have completed cutting the timber from the lands on the north side of said paved highway, the sellers will release to them for cutting the lands on

vested in the sellers until actually shipped and sold by the buyers in due course of business. The cutting of all such timber and the manufacture of the same into lumber and piling shall be at the sole cost and expense of the buyers. The buyers shall not have any right or authority to subject the sellers to any liability to any person. In cutting trees the buyers shall cut and take all of each tree suitable for making lumber and saw mill products up to the point of the tree where the diameter is not greater than eight inches.

Where the buyers are permitted to cut trees for piling on lands not generally released to the buyers for the cutting of the whole timber, they shall cut and sell the same in such manner as not to do any damage to turpentine faces, cups and aprons on trees being worked by the sellers or under their authority for the production of naval stores.

3. As rapidly and expeditiously as practicable the buyers will in due course of business market and sell all piling cut by them from the timber on the above referred to land at the best obtainable prices, and will pay to the sellers as compensation for such lumber and piling twenty percent (20%) of the selling price thereof, after deducting any freights which the buyers may be required to pay from the sale prices of such products, the remaining eighty percent (80%) to be retained by the buyers as their own. Where deliveries and or shipments are made at Robertsdale, Alabama, and or Pensacola, Florida, and/ or any point on the lines of the Louisville & Nashville Railroad or the lines of St. Louis San Francisco Railway in Baldwin County, Alabama, Escambia County, Florida, or Escambia County, Alabama, the cost of transportation to such points shall be borne by the buyers and shall not be counted as freights deductible. If any deliveries are made by the buyers by truck to Mobile, Alabama, the trucking cost, if such cost does not exceed the rate for such service by rail, shall be deductible in the same manner as freights where under the selling contracts the buyers hereunder are required to make such delivery at Mobile.

As rapidly as shipments are made and at the time of each shipment, the buyers will forward to the sellers at Pensacola,

STATE OF ALABAMA, |
COUNTY OF BALDWIN. |

"Exhibit A"

THIS MEMORANDUM OF AGREEMENT made and entered into on the 24th day of November, 1931, by and between R. F. Mitchell, Jr., C. B. Mitchell and J. L. Rucker, doing business as Mitchell Naval Stores Company, hereinafter called sellers, and J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, hereinafter called buyers, WITNESSETH:

1. Subject to the terms and conditions hereinafter set forth and to the provisions, conditions and exceptions set forth in a certain conveyance from Abe Durschlag and wife to H. E. Wickersham, dated the 12th day of October, 1926, and appearing of record at page 124 et seq., or record book 42 NS of the records of Baldwin County, Alabama, the sellers grant to the buyers the right up to January 1, 1936 to enter upon the lands in Baldwin County, Alabama, described in the list attached to the said last mentioned deed, except so much thereof as lies north and east of Styx River, and to cut and remove therefrom and convert into lumber all of the timber thereon standing of a diameter of not less than eight inches(8") at a point in the tree sixteen (16) from the ground, and also to cut and remove therefrom all such smaller timber suitable for piling and not smaller than eight inches (8") in diameter at a point in the tree twelve inches(12") from the ground.

2. The buyers will immediately after the execution hereof and at their own cost and expense locate such saw mill or saw mills and a planer and dry kiln on the above mentioned land as will be reasonable adequate to assure the cutting and removal of all the said timber by January 1, 1936, and will diligently, with such mills and at such locations on said land as the buyers deem proper, manufacture the timber on said lands into merchantable lumber, and sell such lumber and such piling as may be cut from said land at the best obtainable market prices in due course of business, it being understood that the title to all timber cut, including piling and all lumber manufactured therefrom, shall remain

damages thereby.

Affiants further state that they had gone to great expense in preparing to operate under said contract, and that the operation has had to cease and the respondents will suffer great damages thereby.

Affiant further states that the bond of \$500.00 given by complainants at the time of the suing out of said writ of injunction is wholly insufficient to pay and compensate respondents for the suing out of said injunction if the same should be dissolved, and affiants further state that respondents will be prepared and will show that said injunction was wrongfully sued out and should be dissolved.

Affiants further state that said injunction bond should be increased to protect respondents from any damages by reason of the wrongful suing out of said injunction. Affiants further state that neither they nor Langham Lumber Company are insolvent.

Sworn to and subscribed
before me, this 6th day
of May, 1932.

Celma Murphy
Notary Public

J. P. Langham
Arthur Langham

Affiants further state that at the time of the issuing of said injunction, there was manufactured and "on sticks" approximately 190,000 feet of lumber, for which respondents had paid for such manufacturing approximately the sum of \$1187.00 and that respondents had contracted for the sale of said lumber so manufactured, in which respondents had a profit of approximately \$5.00 per thousand, making about \$900.00, and that by reason of said injunction, the respondents are unable to remove said lumber and sell the same, said lumber now being in the woods and will be injured thereby and will be a loss to respondents.

Affiants further state that as a part of the respondents equipment at the time the injunction was sued out in this cause consisted of eight mules and three yoke of oxen, which mules and oxen were used by the respondents in the operation of their lumber business in cutting and removing the lumber from said lands, and that since the issuing of said injunction said mules and oxen have been idle and have had to be fed and cared for by respondents, and that the expense of caring for said mules and oxen was approximately \$5.20 per day; that one pair of said mules did not belong to respondents, but were the mules of Mr. Binion and that affiants were able to get Mr. Binion to take back the mules after having fed them for about thirty days.

Affiants further state that after making said contract and entering into the manufacturing of the timber from said lands, that respondents went to great expense in making contracts for the sale of the lumber to be manufactured from said timber and that at the time the injunction was granted in this cause the respondents had a number of contracts and orders incomplete, and respondents will have to break said contracts and make themselves liable for damages for failure of respondents to comply with the terms of such contracts, and respondents will suffer great

That while operating under said contract, the original bill in this cause was filed and an injunction was issued out of the Circuit Court of Baldwin County, Alabama, sitting in Equity, on the 16th day of March, 1932 enjoining affiants from further cutting or removing any timber, lumber, poles or piling from said lands, or from interfering with the possession of complainants of said property, and that attached to this affidavit marked Exhibit "B" and made a part of this affidavit, is a copy of said writ of injunction issued to respondents; that upon the granting of said writ, bond was fixed by the Hon. F. W. Hare, Judge of the Twenty-first Judicial Circuit, who issued said injunction at the sum of Five Hundred (\$500.00) Dollars, which bond was made and executed by complainants.

Affiants further state that they have incurred obligations and attorneys' fees in said cause, seeking to dissolve said injunction and representing the interest of respondents in the sum of Five Hundred (\$500.00) Dollars, having employed the firm of Powell & Hamilton of Greenville, Alabama, as such attorneys, and that such attorneys' fees are reasonable and proper for the services rendered and to be rendered in the cause.

Affiants further state that at the time of the issuing of the injunction in this case, affiant had made and entered into contracts with two saw mill operators, Nobles Bros. and Hobbs Bros. for the purpose of cutting and manufacturing said timber/ ^{from said lands} for respondents, and that since the issuing of said injunction one of said mill operators, Nobles Bros. moved its mill/ ^{from said lands} and the other mill operator, Hobbs Bros., is preparing to move its mill/ ^{from said lands} and affiants will suffer great damage by reason of the removal of said mills and the disorganization of its business in the cutting and manufacturing of said lumber.

R. F. Mitchell, Jr., C. B.		
Mitchell and J. L. Tucker,	:	In the Circuit Court -
doing business as Mitchell		
Naval Stores Company, a	:	Equity Side
partnership,		
Complainants,	:	State of Alabama,
-vs-		
J. P. Langham and Arthur	:	Baldwin County.
Langham, doing business as		
Langham Lumber Company,	:	
Respondents.		

Personally appeared before me, Alma Murphy, a Notary Public in and for Butler County, Alabama, J. P. Langham and Arthur Langham, who being by me first duly sworn doth depose and say:

That they are members of the firm of Langham Lumber Company, who was engaged in the business of manufacturing lumber in Baldwin County, Alabama, at the date and time of the filing of the original bill and obtaining the injunction in this cause, and that they are the respondents in the above stated cause; that on the 24th day of November, 1931, the complainants and respondents entered into a contract in writing, a copy of which is hereto attached marked Exhibit "A" and made a part of this affidavit.

That after making said contract, respondents began to operate their lumber business under said contract in Baldwin County, and begun to cut and manufacture the timber situated on the lands described in said contract, and that since the making of said contract, the defendants have strictly complied with the terms and conditions therein, and at no time did they breach such contract.

The State of Alabama, }
Baldwin County Circuit Court of Baldwin County, In Equity

To Any Sheriff of the State of Alabama--GREETING:

WE COMMAND YOU, That you summon J.P.LANGHAM and ARTHUR LANGHAM
doing business as LANGHAM LUMBER COMPANY,

of BALDWIN County, to be and appear before the Judge of the Circuit Court
of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Sum-
mons, and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by
R.F.MITCHELL, Jr., C.B.MITCHELL and J.L.TUCKER, doing busi-
ness as MITCHELL NAVAL STORES COMPANY, a partnership

against said J.P.LANGHAM and ARTHUR LANGHAM, doing business as
LANGHAM LUMBER COMPANY,

and further to do and perform what said Judge shall order and direct in that behalf. And this the
said Defendant shall in no wise omit, under penalty, etc. And we further command that you return
this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 16th day of
March 193 2

T. W. Richerson Register

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

property is situated in Baldwin County, Alabama, and described as follows:-

The Northeast quarter (NE $\frac{1}{4}$); the East half of Northwest quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$); Southwest quarter of Northwest quarter (SW $\frac{1}{4}$ of NW $\frac{1}{4}$); West half of Southwest quarter (W $\frac{1}{2}$ of SW $\frac{1}{4}$) and the West half of the Southeast quarter (W $\frac{1}{2}$ of SE $\frac{1}{4}$) Section Twenty-six (26); the Southeast quarter (SE $\frac{1}{4}$) and the Southwest quarter of the Southwest quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$); Section Twenty-seven (27); the Southwest quarter of Southwest quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) Section Twenty-nine (29); the Southeast quarter of the Southeast quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section 30; the South half of the Southwest quarter (S $\frac{1}{2}$ of SW $\frac{1}{4}$) Section Thirty-one (31); the West half of Northeast quarter (W $\frac{1}{2}$ of NE $\frac{1}{4}$); Section Thirty-three (33); all Section Thirty-four (34); the North half (N $\frac{1}{2}$) and the Southwest quarter (SW $\frac{1}{4}$) Section Thirty-five (35); the East half (E $\frac{1}{2}$); the East half of Northwest quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$); Southwest quarter of Northwest quarter (SW $\frac{1}{4}$ of NW $\frac{1}{4}$) and North half of Southwest quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$); Section Thirty-six (36); all in Township Five (5) South of Range Five (5) East; the Northeast quarter and the Southeast quarter of Southeast quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$); Section One (1); the Northwest quarter (NW $\frac{1}{4}$) Section Three (3); the Northeast quarter of the Southeast quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$); Section Four (4); all in Township Six (6) South of Range Five (5) East;

RICHARD C. DUBOIS, & BOBBERG, INC.
Attorneys at Law
CHERRY ST. 2. F. JACKSON, GEORGIA
R. F. WILKINSON JR., C. B. MILL-

Comptroller

W. B. I. T.

until further orders of this Court.

Witness my hand as Register and the Seal of said Circuit Court-In Equity, this 15 day of March, 1932.


Register.

R. F. MITCHELL JR., C. B. MITCHELL and J. L. TUCKER; doing business as MITCHELL NAVAL STORES COMPANY; a Partnership;

Complainants;

-vs-

J. P. LANGHAM and ARTHUR LANGHAM; doing business as LANGHAM LUMBER COMPANY;

Respondents.

IN THE CIRCUIT COURT-EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

STATE OF ALABAMA;

BALDWIN COUNTY.

TO ANY SHERIFF OF SAID STATE - GREETINGS:-

We command you that without delay you execute this Writ and due return thereof to make to us instanter' at a term of our Circuit Court-In Equity' to be held at Bay Minette' Alabama' on the 25th day of April, 1932.

TO J. P. LANGHAM AND ARTHUR LANGHAM; DOING BUSINESS AS LANGHAM LUMBER COMPANY - GREETINGS:-

WHEREAS' R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker' doing business as Mitchell Naval Stores Company' a Partnership' have exhibited their Bill of Complaint in the Circuit Court of Baldwin County' Alabama-In Equity; and hath obtained from the Hon. F. W. Hare' Judge of said Court' an order for the issuance of a temporary Injunction to restrain and enjoin you as hereinafter mentioned;

AND WHEREAS' the said R. F. Mitchell Jr., C. B. Mitchell and J. L. Tucker' doing business as Mitchell Naval Stores Company' in accordance with said order' entered into Bond with sufficient surety in the sum of Five Hundred Dollars (\$500.00)' payable to and approved by the Register of said Circuit Court' and conditioned according to law.

NOW' THEREFORE' you' the said J. P. Langham and Arthur Langham' doing business as Langham Lumber Company' are hereby commanded and strictly enjoined from trespassing on the lands hereinafter described' and from cutting or removing any timber' lumber' poles or piling from said land' or from interfering with the possession of said Complainants in and to said property' which said

HAMILTON & JONES
ATTORNEYS AT LAW
EVERGREEN, ALABAMA

Sept. 19, 1932.

Mr. T.W. Richerson,
Register of the Circuit Court,
Bay Minette, Ala.

Dear Sir:-

MITCHELL VS. LANGHAM.

Mr. Jones tells me that last Thursday, the 15th, he had a matter before Judge Hare in Monroeville and while there Judge Hare informed him he has sustained our demurrers in this case and Mr. Jones stated the file was being sent back to Bay Minette. We are presuming that by this time you have received this file.

We are very anxious to get the information as to when the bond for \$5,000.00 was filed by the insurance company, the name of the company that was surety on the bond, when such bond was withdrawn and who withdrew the same. It is our information that no order was ever granted by the Judge to withdraw such bond. We would like to have information as to whether or not we are correct as to this.

We would appreciate it if you would write us fully your information and what your records show, if anything, regarding the giving and withdrawal of this bond. It is going to be necessary for us to file a petition to get an additional bond as we cannot consent to the bond that has been given by parties living in Florida.

We would appreciate an early reply to this letter and inclose stamped, addressed envelope for your convenience in making the same.

Yours very truly,

Inc.
CEH/dmb.

Hamilton & Jones

HAMILTON & JONES
ATTORNEYS AT LAW
EVERGREEN, ALABAMA

July 15, 1932.

Mr. T.W. Richerson, Register of the Circuit Court,
Bay Minette, Ala.

Dear Sir:-

R.F. MITCHELL, JR., ET AL, VS. J.P. LANGHAM, ET AL.

A hearing in this case is set for next Monday,
July 18th, before Judge Hare in Monroeville.

Will you please, therefore, at once mail the
entire file to Judge Hare, or ask one of the attorneys
at Bay Minette who may be going to Monroeville on Mon-
day to carry the file with him. As you are aware, we
represent the respondents and Messrs. Hybart, Heard &
Chason the complainants.

Thanking you in advance to be sure this
file is in Monroeville on Monday, we are, with best
wishes,

Yours very truly,

Hamilton Jones

DMB.

Acknowledged same day before Notary Public, State of
Florida at large. Seal.

The undersigned Mitchell Naval Stores Company hereby
consents and agrees to the payments under the Contract above re-
ferred to being made to the West Florida Naval Stores Company as
hereinabove provided.

Mitchell Naval Stores Company,

By C. B. N.

Filed February 26, 1932.
Recorded 51 N.S., page 530.

STATE OF ALABAMA.

BALDWIN COUNTY.

WHEREAS, R. F. MITCHELL, C. B. MITCHELL and J. L. TUCKER, doing business as MITCHELL NAVAL STORES COMPANY, did, on the 24th day of November, 1931, enter into a certain Contract with for the sale of certain timber rights, which said Contract is by reference made a part hereof; and whereas, by the terms of said agreement it was provided that the same should not be binding on the parties thereto without the written consent of the West Florida Naval Stores Company, as Mortgagee; and whereas, said West Florida Naval Stores Company, as Mortgagee, has agreed on the conditions and provisions hereinafter contained, to consent to said Contract, and release its mortgage lien on the timber therein described, which said mortgage is dated the 16th of December, 1926, and recorded Said West Florida Naval Stores Company, a corporation, in consideration of One Dollar and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby release from the lien of said mortgage all the timber rights conveyed to said Langham Lumber Company under the Contract aforesaid, and consents that said Contract shall have preference and superiority over its said mortgage so long as said Contract is in full force and effect, provided, however, that the said Langham Lumber Company shall pay to said West Florida Naval Stores Company all moneys now or hereafter becoming due under the terms of the said Contract to the said Mitchell Naval Stores Company; and provided further that this release shall not apply to the turpentine place on the said property, which is also under mortgage to the said West Florida Naval Stores Company; and provided further that upon the termination of said Contract between Mitchell Naval Stores Company and Langham Lumber Company, any right that said West Florida Naval Stores Company might have in and by the terms of the said mortgage, which is hereby released, shall revert to and be vested in it, the said West Florida Naval Stores Company.

Executed this 30th day of November, 1931.

Attest:
D. J. Hayes Sec.

West Florida Naval Stores Company
By J. D. Russ, Pres.

(page two)

doing business as Mitchell Naval Stores Company, as to the same.

NOW THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH:- That if the said R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, their successors or assigns, or any of them, shall well and truly pay or cause to be paid all damages which any person may sustain by the suing out of said Injunction, if the same is dissolved by the said Circuit Court, in Equity, on the Bill filed by said R. F. Mitchell Jr, C. B. Mitchell and J. L. Tucker as aforesaid, then the above obligation to be void, otherwise to remain in full force and effect.

Witness our hands and seals on the day and year first above written.

R. F. MITCHELL, JR., C. B.
MITCHELL AND J. L. TUCKER, DOING
BUSINESS AS MITCHELL NAVAL STORES
COMPANY, a partnership,
By C. B. Mitchell, (SEAL)
As Agent of said Company and
as one of the Partners thereof.

FIDELITY & DEPOSIT COMPANY OF
BALTIMORE MARYLAND.
W. D. Stapleton, Seal.
As attorney-in-fact.

TAKEN AND APPROVED this 15th

day of March, 1932.

T. W. Richerson,
Register.

STATE OF ALABAMA,

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That we, R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, a partnership, as principal, and the Fidelity & Deposit Company of Baltimore Maryland, as surety, are held and firmly bound unto the Register of the Circuit Court, in Equity, for said County in the sum of Five Hundred Dollars (\$500.00) for the payment of which to said Register, of his successors, we bind ourselves, our heirs, executors, successors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 14th day of March, 1932.

WHEREAS, the said R. F. Mitchell, Jr., C. B. Mitchell, and J. L. Tucker, doing business as Mitchell Naval Stores Company, has filed its bill of complaint in the said Circuit court in Equity, and has obtained therein an order for the issuance of an injunction from the Honorable F. W. Hare, Judge of said court, to restrain and enjoin J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, from cutting or removing the timber from or on the following described real estate situate in Baldwin County, Alabama, to-wit:-

The Northeast Quarter (NE $\frac{1}{4}$) the East half of Northwest Quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$) Southwest Quarter of Northwest Quarter (SW $\frac{1}{4}$ of NW $\frac{1}{4}$), West half of Southwest Quarter (W $\frac{1}{2}$ of SW $\frac{1}{4}$) and the West half of the Southeast Quarter (W $\frac{1}{2}$ of SE $\frac{1}{4}$) Section Twenty-six (26); the Southeast Quarter (SE $\frac{1}{4}$) and the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) Section Twenty-seven (27); the Southwest Quarter of Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) Section Twenty-nine (29); the Southeast Quarter Quarter of the Southeast Quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section 30; the South half of the Southwest Quarter (S $\frac{1}{2}$ of SW $\frac{1}{4}$), Section Thirty-one (31); the West half of Northeast Quarter (W $\frac{1}{2}$ of NE $\frac{1}{4}$), Section Thirty-three (33); all Section Thirty-four (34); the North half (N $\frac{1}{2}$) and the Southwest Quarter (SW $\frac{1}{4}$) Section Thirty-five (35); all in Township Five (5) South of Range Five (5) East; the Northeast Quarter and the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$), Section One (1); the Northwest Quarter (NW $\frac{1}{4}$) Section Three (3); the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$) Section Four (4); all in Township Six (6) South of Range Five (5) East;

and from trespassing upon said lands or interfering with the possession of the said R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker

R. F. MITCHELL JR., ET AL,

Vs.

J. P. LANGHAM AND ARTHUR
LANGHAM, doing business
as LANGHAM LUMBER COMPANY,

)
IN THE CIRCUIT COURT,
BALDWIN COUNTY, ALABAMA,

)
IN EQUITY.

TO: R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, doing
business as Mitchell Naval Stores Company, a partnership, or
their attorneys of record, Messrs. Hybart, Heard & Chason:-

You will please take notice that the demurrers heretofore
filed to the original bill in this cause by respondents, Langham
Lumber Company and J. P. Langham and Arthur Langham, will be
submitted to the Hon. F. W. Hare, Judge of the Twenty-first Judicial
Circuit at the Court House in Evergreen, Alabama, at one o'clock
P. M. on Monday, the 9th day of May, 1932, for a decree thereon,
at which time you may appear, and contest such demurrers if you
so desire.

This April 27th, 1932.

Powell & Hamilton,
Attorneys for Langham Lumber
Company, J. P. Langham and
Arthur Langham, Resp.

R. F. MITCHELL, JR., ET AL,

VS.

J. P. LANGHAM, AND ARTHUR
LANGHAM, doing business
as Langham Lumber Company.

IN THE CIRCUIT COURT,
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

TO: R. F. MITCHELL, JR., C. B. MITCHELL AND J. L. TUCKER, doing
business as Mitchell Naval Stores Company, a partnership, or their
attorneys of Record, Messrs. Hybart, Heard & Chason.:-

You will please take notice that the motion hereto attach-
ed will be set down for hearing and be submitted to Hon. F. W. Hare
Judge of the Twenty-first Judicial Circuit at the Court House in
Evergreen, Alabama, at one o'clock P. M. on Monday, 9th day of
May, 1932, at which time you can appear and contest such motion
if you so desire.

This 27th day of April, 1932.

Powell & Hamilton
Attorneys for Langham Lumber
Company, J. P. Langham and
Arthur Langham, Respondents.

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ginal or a copy of said contract is not attached as an exhibit there-
to.

SEVENTH:

That complainants have failed to attach as an exhibit to the original bill the contract referred to in paragraph two, and the allegation as to what is provided in said contract, and the breaches thereof are but the conclusion of the pleader, and the original or a copy of said contract should be attached as an exhibit thereto to inform the court as to the provisions thereof and whether it has been breached as alleged in said bill.

EIGHTH:

That the contract referred to in said bill speaks for itself and shows that obligations are contained therein upon the contracting parties and the complainants have failed to attach the original or copy of same as an exhibit thereto in order that the court could ascertain its true obligation without relying upon the conclusion of complainants.

NINTH:

The allegations contained in the second paragraph of the original bill is a conclusion of the pleader, as it is alleged said contract is in writing and the original or a copy of said contract is not attached in order that the court may be correctly informed as to the contents and not rely upon the conclusion of the pleader.

Powell & Hamilton,
Sols. for Respondents.

We hereby certify that we have mailed a copy of the foregoing demurrers on Messrs. Hybart, Heard & Chason, attorneys for plaintiffs, to their post office address at Bay Minette, Alabama, postage prepaid.

Dated this 12th day of April, 1932.

Powel & Hamilton,
Sols. for Respondents.

R. F. MITCHELL, ET AL.,

Vs.

J. P. LANGHAM AND ARTHUR
LANGHAM, doing business
as Langham Lumber Company,

IN THE CIRCUIT COURT
BALDWIN COUNTY, ALABAMA.
IN EQUITY.

Now come the defendants, severally and separately, and demurs to the original bill in this cause, and for grounds of demurrer assigns the following:-

FIRST:

Because apparent upon the face of the bill the same is without equity.

SECOND:

That under the facts alleged in said bill complainants have an adequate remedy at law.

THIRD:

That under the second count of the bill of complaint, it is alleged that respondents are making repeated trespasses upon said land and that such allegation is a conclusion of the pleader without alleging how or in what manner respondents are trespassing upon said lands.

FOURTH:

That the allegations of the second count of the original bill that respondents are trespassing upon the lands of complainant is a conclusion of law of the pleader, and there are no facts alleged which would justify such conclusion.

FIFTH:

That said bill fails to allege any facts, or circumstances which will show that respondents have trespassed upon lands of complainants.

SIXTH:

That by the allegations of said bill, the contract referred to under the second paragraph of said bill is in writing and the ori-

THE STATE OF ALABAMA,
BALDWIN COUNTY.

)
)
)
IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
IN EQUITY.

TO ANY SHERIFF OF THE STATE OF ALABAMA... GREETINGS:-

WE COMMAND YOU, That you summon J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery Jurisdiction, within thirty days after the service of this Summons, and there to answer, plead, or demur, without oath, to a bill of Complaint lately exhibited by R. F. Mitchell Jr., C.B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, a partnership against said J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty etc. And we further command that you return this Writ with your endorsement thereon, to our said court immediately upon the execution thereof.

WITNESS T. W. Richerson, Register of the said Circuit Court,
this 16th day of March, 1932.

T.W. Richerson, Register.

(page two)

J. P. Langham or Arthur Langham are indebted to the Peoples Bank of Evergreen at this time. Affiant further states that he considers the Langham Lumber Company, J. P. Langham and Arthur Langham good for all their debts and obligations, and allof the dealings that affiant has had with the said parties have been satisfactory and they have at all times paid their obligations promptly.

R. F. Croom.

Subscribed and sworn to before me
this the 9th day of May, 1932.

Daisy M. Burnett,
Notary Public.

R. F. MITCHELL JR., C. B.
MITCHELL AND J. L. TUCKER,
Doing business as Mitchell
Naval Stores Company, a partnership,

Complainants,

vs.

J. P. LANGHAM AND ARTHUR LANGHAM,
Doing business as Langham Lumber
Company,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Before me, Daisy M. Burnett, a Notary Public, in and for said County and State, personally appeared R.F.Croom, who, being by me first duly and legally sworn, doth depose and say:-

That he is a resident citizen of Conecuh County, Alabama, and is engaged in the banking business at Evergreen, Alabama, being the active Vice President of the Peoples Bank at Evergreen.

That he known J. P. Langham and Arthur Langham, who compose the firm of Langham Lumber Company, That the Langham Lumber Company and J. P. Langham and Arthur Langham do business with the Peoples Bank of Evergreen and have done business with the Peoples Bank of Evergreen and the First National Bank of Evergreen for about ten years; that affiant was the President of the First National Bank of Evergreen and that the First National Bank of Evergreen and the Peoples Bank of Evergreen consolidated during the year 1930. That affiant has had full opportunity of knowing the condition of the Langham Lumber Company, J. P. Langham and Arthur Langham, and affiant knows they are solvent. That they own lands, stumpage, a saw mill and equipment, bills receivable, crops, palning mill and that in the judgment of affiant he would say the value of this property is between Twenty Thousand and Thirty Thousand Dollars (\$20,000.00 and \$30,000.00), and from the best information affiant has been able to ascertain by diligent inquiry, it being the duty of affiant to ascertain, the indebtedness of the Langham Lumber Company, J. P. Langham and Arthur Langham is the sum of about \$4,000.00 to \$5,000.00.

Affiant further states that neither the Langham Lumber Company

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and J. L. Tucker, and as such is duly authorized to make this affidavit: That the allegations contained in the foregoing Bill of Complaint are true and correct.

C. B. Mitchell.

Sworn to and subscribed before me, a Notary Public, whose seal is hereto affixed, this 15th day of March, 1932.

Mary F. Green,
Notary Public, Baldwin County, Alabama.

TO THE REGISTER OF THE CIRCUIT COURT, BALDWIN COUNTY, ALABAMA:-

Upon complainants entering into bond with good and sufficient surety in the sum of Five Hundred Dollars (\$500.00), to be approved by you, you will cause the temporary Writ of Injunction to be issued as prayed for.

F. W. Hare, Judge.

(page three)

be prevented from obtaining the full value thereof; Your Orators further show unto Your Honor that the said respondents are insolvent and are unable to respond in damages in a Court of Law.

PRAYER FOR PROCESS.

To the end that equity may be had in the premises Your Orators pray that Your Honor will cause the usual writ of Process to issue to J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, making them defendants in this bill of Complaint and requiring them to plead, answer or demur to the same within the time required by law.

Your Orators further pray unto Your Honor that you will cause a temporary writ of injunction to issue restraining the said respondents from trespassing on said lands, and from cutting or removing said timber, lumber, poles and piling above referred to, and from interfering with the possession of Your Orators in the said property. Your Orators further pray for such other and further relief as in equity may seem meet and just, and Your Orators will ever pray.

C. B. Mitchell, as one of the partners
in Mitchell Naval Stores Company, a
partnership.

FOOT NOTE:-

Respondents are required to answer paragraphs "First" through "Third", inclusive of the foregoing Bill of Complaint, but answer under oath is hereby expressly waived.

Hybart, Heard & Chason,
Attorneys for Complainants.

STATE OF ALABAMA,

BALDWIN COUNTY.

Before me, Mary F. Green, a Notary Public in and for said State and County, personally appeared C. B. Mitchell, who is known to me and who after being by me first duly and legally sworn doth depose and say under oath as follows:-

That he is one of the partners in the Mitchell Naval Stores Company, a partnership composed of R. F. Mitchell, Jr., C. B. Mitchell

(page two)

Quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$) Section Four (4), all in Township Six (6) South of Range Five (5) East;

and that there is no suit pending to test the title as to same;

THIRD:

Your Orators further show unto Your Honor that the Respondents are making repeated trespasses on the aforesaid lands in violation of that certain agreement made and entered into by and between your Complainants and the Respondents on, to-wit, November 24th, 1931, by which agreement your Complainants conveyed all timber standing on above land of diameter of not less than eight inches at a point in the tree twelve inches from the ground and also all smaller timber suitable for piling not smaller than eight inches in diameter at a point in the tree twelve inches from the ground, subject to certain conditions and restrictions; that in and by said agreement Respondents were to cut said timber and pay to your complainants for such timber and piling 20% of the selling price thereof, and were to keep at all times during the operations thereunder a complete set of books and records of lumber and piling and poles cut and shipments made and agreed that your complainants or their agents should at any time have a right to inspect and check said books and records and keep themselves informed of the quantity of lumber and piling cut and shipped, and your Orators further allege that said respondents have not paid unto your complainants the said 20% of the selling price of the timber above referred to, nor have they kept such records and books as are necessary in order that your complainants be able to ascertain the amount of poles, piling and lumber which have been cut, nor have they allowed your complainants at all times to inspect such books and records, and because of the breaches of said agreement above referred to and complained of, your complainants have injured and are in danger of suffering irreparable injury to their timber and loss, in that they are unable to ascertain just how much timber is being cut and what is being paid for; and your Orators further allege that unless the respondents are restrained from cutting and removing said timber located on above described lands that the timber which remains at the expiration of the above referred to agreement will be useless to them, and that they will

R. F. MITCHELL JR., C. B. MITCHELL AND
J. L. TUCKER DOING BUSINESS AS MITCHELL
NAVAL STORES COMPANY, a partnership,

Complainants,

vs.

J. P. LANGHAM AND ARTHUR LANGHAM, doing
business as LANGHAM LUMBER COMPANY,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

Equity Side.

TO THE HONORABLE F. W. HARE, JUDGE OF THE TWENTY-FIRST JUDICIAL
CIRCUIT:-

Your Orators humbly complaining of the respondents in a
manner as will hereinafter appear, show unto your Honor as follows:-

FIRST:

That the Respondents J. P. Langham and Arthur Langham are
residents of the State of Alabama and are over the age of twenty-One
years.

SECOND:

Your Orators further show unto Your Honor that they are the
owners of all merchantable timber of a dimension of eight inches
in diameter at a point twelve inches from the ground, now stand-
ing on the following described lands situate in Baldwin County, Ala-
bama, to-wit:-

The northeast quarter ($NE\frac{1}{4}$), the East half of the North-
west Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter of North-
west Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$), West half of Southwest
Quarter ($W\frac{1}{2}$ of $NW\frac{1}{4}$), and the West half of the South-
east Quarter ($W\frac{1}{2}$ of SE) Section Twenty-six (26); the
Southeast Quarter ($SE\frac{1}{4}$) and the Southwest Quarter of
the Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$), Section Twenty-
seven (27); the Southwest Quarter of Southwest quarter
($SW\frac{1}{4}$ of $SW\frac{1}{4}$), Section Twenty-nine (29); the
Southeast Quarter of the Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$)
of Section Thirty; the South half of the Southwest
Quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$), Section Thirty-one (31); the
West half of the Northeast Quarter ($W\frac{1}{2}$ of $NE\frac{1}{4}$), Section
Thirty-three (33); all Section Thirty-four (34);
the North half ($N\frac{1}{2}$) and the Southwest Quarter ($SW\frac{1}{4}$)
Section Thirty-five (35); The East half ($E\frac{1}{2}$); the
East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), South-
west Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$), and
North half of Southwest Quarter ($N\frac{1}{2}$ of $SW\frac{1}{4}$), Section
Thirty-six (36), all in Township Five (5) South of
Range Five (5) East; the Northeast Quarter and the
Southeast Quarter of Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$),
Section One (1); the Northwest Quarter ($NW\frac{1}{4}$) Section
Three (3); the Northeast Quarter of the Southeast

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Witness our hands and seals on this the day and year first
above written.

R. F. MITCHELL, JR., C. B. MITCHELL
AND J. L. TUCKER DOING BUSINESS AS
MITCHELL NAVAL STORES COMPANY,
A PARTNERSHIP,

By C. B. Mitchell,
as Agent of said Company
and as one of the partners
thereof.

(SEAL)

Taken and approved this
19th day of May, 1932.

T. W. Richerson,
Register.

J. D. Russ
H. E. Wickersham

(SEAL)
(SEAL)

STATE OF ALABAMA,
BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS: That we, R. F. Mitchell, jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, a partnership, as principal and the undersigned, as sureties, are held and firmly bound to J. L. Langham and Arthur Langham doing business as Langham Lumber Company, their heirs and assigns, in the sum of Five Thousand Dollars (\$5000.00), for the payment of which we bind ourselves, our heirs, executors, successors and administrators, jointly and severally, and firmly by these presents.

Sealed withour seals and dated this 19th day of May, 1932.

Whereas, the above bound principal has filed its bill of complaint in the Circuit Court of Baldwin County, Alabama, in Equity, and has obtained therein an order for the issuance of an Injunction from the Hon. F. W. Hare, Judge of said court, to restrain and enjoin J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, from cutting or removing the timber from or on the following described real estate situate in Baldwin County, Alabama to-wit:

The northeast Quarter (NE $\frac{1}{4}$), the East half of Northwest Quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$), Southwest Quarter of Northwest Quarter (SW $\frac{1}{4}$ of NW $\frac{1}{4}$), West half of Southwest Quarter (W $\frac{1}{2}$ of SW $\frac{1}{4}$) Section Twenty-six (26); the Southeast Quarter (SE $\frac{1}{4}$) and the Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) Section Twenty-seven (27); the Southwest Quarter of Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$), Section Twenty-nine (29); The Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) Section Thirty (30); the Southhalf of the Southwest Quarter (S $\frac{1}{2}$ of SW $\frac{1}{4}$), Section Thirty-one (31); all Section Thirty-four (34); the North half (N $\frac{1}{2}$) and the Southwest Quarter (SW $\frac{1}{4}$) Section Thirty-five (35); the East half (E $\frac{1}{2}$); the East half of Northwest Quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$), Southwest Quarter of Northwest Quarter (SW $\frac{1}{4}$ of NW $\frac{1}{4}$) and North half of Southwest Quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$), Section Thirty-six (36) all in Township Five (5) South, Range Five (5) East; the Northeast Quarter and the Southeast Quarter of Southeast Quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) Section One (1); the Northwest Quarter (NW $\frac{1}{4}$) Section Three (3); the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$), Section Four (4); all in Township Six (6) South of Range Five (5) East; and from trespassing upon said lands or interfering with the possession of the said R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, as to the same.

AND WHEREAS, at a day regularly set for hearing the same Hon. F. W. Hare, as Judge of the said Court, on the Motion of said Defendants, did increase the amount of the Bond heretofore filed in said cause from Five Hundred Dollars (\$500.00) to Five Thousand Dollars (\$5000.00);

NOW THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH: That if the said R. F. Mitchell, Jr., C.B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, their successors or assigns, or any of them, shall well and truly pay or cause to be paid all damages and costs which may sustain by the suing out of sauch injunction, if the same is dissolved by order of the said Circuit court, in Equity, on the Bill filed by the said R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, as aforesaid, then the above obligation to be void, otherwise to remain in full force and effect.

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If so, to whom did you deliver the same? Please give detail each of said deliveries made in the City of Pensacola, to whom made, the amount of lumber in feet and in dollars and cents so delivered.

TENTH INTERROGATORY

With whom did you have contracts at the time that you ceased operations of your mills on the premises mentioned in Exhibit "A" to the Bill of Complaint as last amended? Please give the names and addresses of all parties that you claim that you had contracts with for the future delivery of lumber, the terms of said contract, the class of lumber that you were to deliver and the dates within which you were to deliver it, and the places where you were to deliver it. Were these contracts in writing? If so, please attach a copy of said contracts to your answer to this Interrogatory, marking the same by appropriate exhibit. If you say that they were oral contracts when were they entered into, and by whom? Please give in detail the nature and the essential elements and the terms of all oral contracts that you claimed to have had relative to the delivery of lumber or piling from said premises. If you say that the contracts were in writing and that the writing has been misplaced, please give in detail the terms of said contracts, the parties with whom the same were entered into, the date of the contracts, the terms, the amount of lumber that was to be delivered, and the prices that were to be paid therefor, and the terms of the same. Whether the said contracts relative to the future delivery by you of lumber which was cut from said premises were in writing or not, please give in detail the names of the parties that you contracted with, the amount of lumber that you were to deliver, the grade of lumber that you were to deliver, the price that you received for each delivery, the other conditions, if any, of said contracts, and where you were to deliver the said lumber, and who was to pay the transportation charges on the same, and whether the price was to be paid at the ship side or at the point of destination, and the amount of freight that was to be charged by the Railroad Company for the transportation or hauling of said lumber.

Hybart, Heard & Chason,
Attorneys for Complainants.

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the timber cut from said premises? How many feet of lumber were shipped by you which were manufactured from timber cut on said premises? How many different shipments of lumber did you make up until the time that your operations ceased in the cutting of timber from said premises? Please give a detailed statement of all shipments of lumber by you from said premises, the names of the consignees, the date of the consignment and the amount of lumber in feet and in dollars shipped by you that was manufactured on and from said premises.

FIFTH INTERROGATORY

Did you ship any lumber by way of the Frisco Railroad? If so, at what point did you ship the same from said premises? Please give the name of the consignee, the amount of money received therefrom, or the amount of the lumber shipped in dollars and cents.

SIXTH INTERROGATORY

Did you make any local deliveries of lumber to anyone which was manufactured from said premises? If so, please state to whom you made such deliveries, the amount of lumber in feet and in dollars and cents, and the date of such deliveries.

SEVENTH INTERROGATORY

Did you deliver any lumber in Mobile which was cut from said premises? If so, to whom, and give the date of such shipment, and the amount received therefrom or charged therefor, and the number of feet of lumber so delivered.

EIGHTH INTERROGATORY

Did you deliver any lumber to the Louisville-Nashville Railroad for shipment? If so, to whom was said lumber consigned? At what point was said lumber shipped? What was the purchase price of said lumber so shipped? How many feet of lumber did you deliver to the Louisville-Nashville Railroad Company for shipment? Please give in detail each shipment of lumber made by you over either the Louisville-Nashville Railroad or the Frisco Railroad, setting forth the consignee, the date of shipment, the feet of lumber and the price received therefor or promised you.

NINTH INTERROGATORY

Did you deliver any lumber at the ship side or anywhere else in the City of Pensacola which was cut from said premises?

such salary refunded to you by the defendants? Do you claim that the defendants never at any time refunded to you any amount or amounts paid by you to such representative? Did you ever demand of defendants the repayment to you of any amounts that you paid to such representative? If yes, from which of the defendants did you make such demand? Was such demand in writing? If yes, attach a copy of such demand to your answer to this interrogatory and mark same as Exhibit "A" hereto. Do you claim that you terminated said contract with defendants by reason of the failure of defendants to pay said representative? If yes, when did you terminate said contract? If you claim that you did terminate said contract, was such action on your part in writing? If yes, when was the date of such termination? If you answer that it was in writing attach a copy of such writing to Your Answer to this interrogatory, making the same Exhibit "B" to your answer. Do you claim that you gave verbal notice of the termination of said contract? If yes, when did you give such notice? If you claim that you gave such notice verbally who was present when such notice was given? If you answer that you gave such notice in writing, to whom did you deliver such notice? Was the same by letter? Do you claim that you wrote and mailed the letter to the defendants or either of the, giving such notice of the termination of said contract? If yes, please attach a copy of such letter to your answer to this interrogatory and mark the same as Exhibit "C" thereto.

FIFTH INTERROGATORY: Have the defendants paid you any amounts for timber manufactured and sold by them under said contract? If yes, attach an itemized statement showing the amount paid by the defendants, the date of payment and how paid, whether by check, draft or cash. Do you claim that there was any shipment made by defendants for lumber, piling or poles obtained from said lands, from which the defendants did not pay you 20%? If yes, give the date and the amount of such shipment and to whom such shipments were made? Do you claim that the defendants failed and refused to pay the amount due you under the contract for shipments of poles, piling and lumber obtained from said lands? If yes, give the date of each such shipment, and whether such shipment was lumber, poles or piling and to whom such shipment was made and the amount received by defendants. Do you claim that you called upon defendants for the amount due you for shipments claimed by you to have been made by defendants of lumber, piling or poles, and that the defendants refused to pay same? If yes, give the amount of each such shipment the date made and to whom made & character of such shipment, whether lumber piling or poles.

Do you claim that by reason of the failure of defendants to pay for such shipment that said contract was terminated? and that you gave notice to the defendants of the termination of said contract? If yes, was such notice in writing or verbally? If in writing attach a copy of such notice to your answer to this interrogatory and mark same as Exhibit "D" to your answer. How was such notice given: Was it mailed or given in person to the defendant? If you answer that such notice was given verbally, given the time, place, who was present and to which of the defendants such verbal notice was given.

SIXTH INTERROGATORY: Do you claim that there was a trespass committed upon the land described in the contract? Do you claim that there was timber cut? Do you claim that said trespass consisted of cutting timber from said lands by the defendants? If yes, give the amount of timber cut, from what portion of said lands the same was cut and the date the same was cut. In giving the description of the lands on which said timber was cut, please give the same by Governmental sub-division. Please give the total amount of timber cut and sold by the defendants. Give the date of each shipment obtained from said lands, to whom sold and the amount received. Please attach a complete itemized statement showing the status of the account between plaintiffs and defendants. Let such account show the amount paid by defendant from each shipment, to whom such shipment was made by defendant and how the same was paid

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whether by cash or by check, and the amount of cash advanced or paid by you for the account of the defendants, and to whom, when and how paid by you. If such case was paid by order of defendants, please attach copies of such orders and mark the same as proper exhibits thereto.

Under the seventh paragraph of the original bill as amended, you stated, that the defendant is indebted to you in the sum of \$1500.00. Please attach a complete itemized statement to your answer to this interrogatory, showing the items which compose said claim of \$1500.00. Did you answer that it is for lumber, piling or poles that the defendant sold and disposed of? If yea, how many poles, how much piling and how much lumber: When was said lumber, poles or piling obtained by the defendants from said lands? From what particular subdivision of said lands was said lumber, piling or poles obtained? To whom was said piling, lumber or poles sold? How much was received by defendants for said piling, lumber or poles?

Powell & Hamilton, Attys
for Defendants.

STATE OF ALABAMA,
BUTLER COUNTY.

Personally appeared before me, Alma Murphey, a Notary Public in and for said state and county, C. E. Hamilton, who being by me first duly and legally sworn on oath doth say:

That the answers of the plaintiffs to the foregoing interrogatories, if made truthfully and unequivocally, will be material testimony for the defendants on the trial of this cause.

C, E. Hamilton

Sworn to and subscribed before
me, this 14th day of May, 1932.

Alma Murphey

Received in office this 16th day of May, 1932.

W. R. Stuart, Sheriff.

R. F. MITCHELL, JR., C. B. MITCHELL,
AND J. L. TUCKER, doing business as
Mitchell Naval Stores Company, a Part-
nership,

Complainants,

Vs.

J. P. LANGHAM AND ARTHUR LANGHAM,
doing business as Langham Lumber
Company,

Respondents.

IN THE CIRCUIT COURT-
EQUITY SIDE,

STATE OF ALABAMA,

BALDWIN COUNTY.

The defendants desiring the testimony of each of the Plaintiffs, R. F. Mitchell, jr., D. B. Mitchell and J. L. Tucker, hereby propounds the following interrogatories to each of them, the answers to which will be material testimony for the defendants on the trial of the cause, if said answers are made fully, truthfully and unequivocally:-

FIRST INTERROGATORY: Where do you live? What is your business? Is the plaintiff a partnership? If a partnership, who are the partners? Where is such partnership engaged in business?

SECOND INTERROGATORY: Did you make and execute the contract attached as Exhibit "A" to the original bill as amended? If yea, did the defendant s begin the operations of the manufacture of lumber under said contract obtained from the lands described in the contract? Who are the owners of the lands described in said contract? Is there a mortgage on said lands? If yea, who is the owner and holder of said mortgage? How much is due on said mortgage?

THIRD INTERROGATORY: Did the defendants cut any timber from said lands described in said contract after making of said contract? If yea, how much timber did the defendants cut from said lands? Please give a description by parcel or governmental sub-division of said land, from which said timber was cut by the defendants. Was said lands a contiguous from which said timber was cut? If not, what was the distance from each parcel or subdivision of said lands from which said timber was cut? Did the defendant cut any timber from any lands which did not lie north of the paved highway referred to in said contract?

FOURTH INTERROGATORY: Did the defendant keep a set of books and records of the lumber piling and poles cut from said lands, and shipments made under said contract? If so, what books did the defendant keep? Did you ever examine the books kept by the defendants? If so, when did you examine such books and how often did you examine same? Did you ever make a request of defendants to examine such books? If so, from which of the defendants did you make such request? Did the defendants or either of them, ever refuse or decline to permit you to examine said books, if you answer that you made a demand that you be permitted to examine said books, when and where was such demand made? If you answer that you made a demand that you be permitted to examine such books. If you answer the defendant declined to permit you to examine such books, when and where did they so decline? Did you keep a representative at the mill or mills of defendant while defendants were cutting the timber from lands? If yea, who was such representative? When did you pay the salary of said representative? When did you place such representative at the mill or mills? What were the duties and authority of such representative? What was the salary of such representative? Did you ever pay the salary of said representative? If yea how did you pay the same? Was not the amount paid by you as

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or piling from said land, or from interfering with the possession of said complainants, in and to said property, which said property is situated in Baldwin County, Alabama, and described as follows:-

Northeast Quarter ($NE\frac{1}{4}$) East half of the Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$) Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$) West half of Southwest Quarter ($W\frac{1}{2}$ of $SW\frac{1}{4}$) and the West half of the Southeast Quarter ($W\frac{1}{2}$ of $SE\frac{1}{4}$) Section 26; Southeast Quarter ($SE\frac{1}{4}$) and the Southwest Quarter of the Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$) Section 27; the Southwest Quarter of Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$) Section 29; Southeast Quarter of Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$) of Section 30; South half of Southwest Quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$) Section 31; West half of Northeast Quarter ($W\frac{1}{2}$ of $NE\frac{1}{4}$) Section 33; All Section 34; North half ($N\frac{1}{2}$) and the Southwest Quarter ($SW\frac{1}{4}$) Section 35; East half ($E\frac{1}{2}$) East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$) Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$) and North half of Southwest Quarter ($N\frac{1}{2}$ of $SW\frac{1}{4}$) Section 36; All in Township 5 South of Range 5 East; Northeast Quarter and the Southeast quarter of Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$) Section 1; Northwest Quarter ($NW\frac{1}{4}$) Section 3; Northeast Quarter of the Southeast Quarter ($NW\frac{1}{4}$ of $SE\frac{1}{4}$) Section 4, all in Township 6 South, of Range 5 East until further orders of this Court.

Witness my hand as Register, and the Seal of said Circuit Court--- In Equity, this 15th day of March, 1932.

T. W. Richardson, Register.

R. F. MITCHELL JR., C. B. MITCHELL,
AND J. L. TUCKER, doing business
as MITCHELL NAVAL STORES, a partner-
ship,

Complainants,

Vs.

J. P. LANGHAM AND ARTHUR LANGHAM,
DOING business as LANGHAM LUMBER
COMPANY,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

STATE OF ALABAMA,

BALDWIN COUNTY.

TO ANY SHERIFF OF SAID STATE. . . GREETINGS:-

We command you that without delay you execute this Writ
and due return thereof make to us instantler, at the Term of Our Cir-
cuit Court- -In Equity, to be held at Bay Minette, Alabama, on the
25th day of April, 1932.

TO J. P. LANGHAM AND ARTHUR LANGHAM, DOING BUSINESS AS
LANGHAM LUMBER COMPANY. . . . GREETINGS:-

WHEREAS, R. F. Mitchell, Jr., C. B. Mitchell, and J.
L. Tucker, doing business as Mitchell Naval Stores Company, a partner-
ship, have exhibited their bill of complaint in the Circuit Court of
Baldwin Co nty, Alabama, in Equity, and hath obtained from the Hon.
F. W. Hare , Judge of the said Court, an order for the issuance of
a temporary injunction to restrain and enjoin you as hereinafter
mentioned:

AND WHEREAS, the said R. F. Mitchell, Jr., C. B.
Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores
Company, in accordance with said order, entered into bond with
sufficient surety in the sum of Five Hundred Dollars (\$500.00) pay-
able to and approved by the Register of said Circuit Court, and con-
ditioned according to law,

NOW THEREFORE, You, the said J. P. Langham and Arthur
Langham, doing business as Langham Lumber Company, are hereby comm-
anded and strictly enjoined from trespassing on the lands hereinafter
described, and from cutting or removing any timber, lumber, poles

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of November, 1931.

H. E. Mancill, Notary Public.
My commission expires June 19,
1934.

14. It is further agreed and understood that the term "lumber" wherever used in this contract shall be deemed to cover and include all products of wood manufactured at the millor mills of the buyers. The term "piling" wherever used shall also include marketable poles, and nothing herein shall bind the buyers to cut into lumber trees which they may desire to cut and market as piling as herein defined. The definitions of lumber and piling in this paragraph made shall be read into and as a part of the paragraphs hereof where the term "lumber or the term "piling" is used.

15. It is hereby agreed and understood that the buyers shall make an honest and diligent effort to carry out this contract according to the provisions hereof, but in the event after such efforts buyers find that such contract can not be carried out with a profit to the buyers, then the buyers shall have the right to terminate said contract and surrender the rights hereunder by giving to the sellers immediate notice of their intention to do so, and in the event this agreement is terminated under this paragraph, the sellers agree that the buyers may remove their equipment at any time before January 1, 1936, and the buyers, upon such termination, release all claims to lumber and piling.

16. It is understood and agreed that the growing timber hereinaabove described as under mortgage to West Florida Naval Stores Company and this contract shall not be binding on the parties hereto without the written consent of the said mortgagee being first obtained.

IN WITNESS WHEREOF, the said parties have executed this instrument in duplicate on the day and year first above written.

Signed, sealed and delivered in the presence of us by the sellers: A. R. McAnister, J. J. Crooke.

MITCHELL NAVAL STORES COMPANY (SEAL)
by R. F. Mitchell, Jr. (SEAL)
J. L. Tucker (SEAL)
C. B. Mitchell (SEAL)
LANGHAM LUMBER COMPANY (SEAL)
by J. P. Langham (SEAL)
Arthur Langham (SEAL)

Signed, sealed and delivered in the presence of us by the buyers: Noble C. Huggins, Mart Salter.

STATE OF ALABAMA,
COUNTY OF ESCAMBIA.

Before me the subscribed personally appeared R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, whose names are signed to the foregoing instrument, and who are known to me, and severally acknowledged to me on this day that being informed of the contents of the foregoing instrument they severally executed the same voluntarily on the day the same bears date.

Witness my hand and official seal on this the 24th day of November, 1931.

J. J. Crooke, Notary Public, My Commission expires _____
Notary Public, State of Florida,
at Large. My commission expires
March 20, 1934.

(SEAL)

STATE OF ALABAMA,
COUNTY OF BUTLER.

Before me the subscribed personally came J. P. Langham and Arthur Langham, whose names are signed to the foregoing instrument, and who are known to me, and severally acknowledged to me on this day that being informed of the contents of the foregoing instrument, they severally executed the same voluntarily on the day the same bears date.

Witness my hand and official seal on this 30th day

progress and details of the business, and such employee shall be under the direction and control of the sellers, but perform such other duties as may with consent of the sellers be required of him by the buyers, provided such duties do not conflict with or interfere with such duties as above referred to. The salary of such employee not exceeding \$100 per month, shall be borne and paid by the buyers, and for any default in making payment of such salary the sellers shall have the same rights as hereinabove given them with respect to default by the buyers in the making of payments on account of lumber and piling shipped or marketed.

10. The buyers understand that the right to sell the timber affected hereby is defined and hereby given by the conveyance referred to in paragraph 1 of this instrument, through and under which the sellers claim and the buyers covenant and agreed that in their cutting of timber hereunder they will not in anywise violate the provisions of the said conveyance and will hold the sellers harmless from liability of loss by reason of any violation on the part of the buyers of the provisions of the said conveyance.

11. It is the intent of the parties hereto that the rights hereunder given by the sellers to the buyers are personal to the buyers, and that the buyers shall not have the right to assign this contract, or any rights hereunder, to any other person or persons whomsoever, and that any assignment thereof, or any rights hereunder, made or attempted to be made by the buyers shall forfeit all their rights hereunder, and shall not vest any right in the assignee whatsoever.

It is further agreed and understood that if at any time during the life hereof a petition in bankruptcy is filed by or against the buyers, or any application for a receiver of their property, or the happening of any other act of insolvency as to the buyers, that all rights of the buyers hereunder shall terminate, and the sellers shall have the right to retain as their own all of the manufactured products on hand and unsold as liquidated damages for the default of the buyers hereunder and the loss of performance of this contract by the buyers.

12. The buyers during the time of their operations hereunder shall not manufacture any of the trees into lumber except at a mill or mills located upon the hereinabove mentioned lands, or located upon fee simple lands owned by the sellers which they may allow used for that purpose. The buyers shall not have the right to manufacture lumber at the said mills from timber cut from any other lands without the consent of the sellers in each instance first had and obtained. It is understood that the sellers own other fee simple lands in the same territory in which the lands hereinabove referred to are located, and that the sellers will allow the buyers a location on such fee simple lands for their planers, dry kilns and lumber yards during the life hereof without further rental such yards, however, to be used for only the product of the timber from the lands first hereinabove mentioned.

13. The buyers agree that they will begin the cutting of piling on the lands lying on the north side of the paved highway between Mobile and Pensacola not later than the first day of January 1932, and will thereafter diligently prosecute the same, and they will begin the manufacture of lumber at their mills on said lands not later than the 1st day of March, 1932, and thereafter diligently prosecute the same, and install planers and dry kilns not later than the 1st day of June, 1932, and upon their failing to begin and diligently to prosecute the cutting of piling by the date herein specified, or to begin and diligently prosecute the manufacture of lumber by the date herein mentioned, or to install dry kiln and planer, all rights hereunder, at the option of the sellers, shall terminate.

No piling are to be cut from the land south of the paved highway between Mobile and Pensacola until all of the piling on the lands south of the paved highway have been cut, unless buyers shall receive an order for piling which they are unable to fill from timber on the north side of said paved highway and it becomes necessary to use and cut piling on the south side of said highway. It is understood that in cutting piling the cutting may be dodged from parcel to parcel as the buyers deem proper, but no piling shall be cut from the land south of said highway without the consent of the sellers first had and obtained, except as above stated.

6. The buyers agree that they will diligently prosecute the work of cutting and manufacturing said timber, and with such expedition as to assure that all of it will have been cut and manufactured by the first day of January, 1936. If at any time it becomes apparent that the operations of the buyers are not being prosecuted on such scale, or that buyers are not proceeding with such diligence and facilities as to assure the cutting and removal of all of the said timber by the first day of January, 1936, then the sellers, without liability to the buyers shall have the right to terminate this agreement under and take over the stock of lumber and piling then on hand (the buyers to have the right to remove their equipment at any time before January 1, 1936) provided, however, that if any controversy shall arise as to the right of the sellers to terminate the agreement under one arbitrator, the question shall be determined by arbitration, each party to appoint one arbitrator and said arbitrators to select a third, and the decision of any two to be binding and conclusive on both parties.

In the manufacturing operations of the buyers they shall have the right to use so much of the slabs and butts of the trees for fuel and firing the boilers of their mills as is reasonably necessary, but the remainder of such slabs and butts of trees and the tops of all trees cut shall be and remain the property of the sellers to dispose of as they wish, provided the sellers will remove the said slabs promptly as they accumulate and failing to do so, the buyers shall have the right to remove the same without delay.

8. It is further understood and agreed that should the buyers fail to make payments to the sellers as above provided for shipments and deliveries of lumber or piling, and within the time above provided, or should they at any time fail diligently to sell and market the lumber and piling, the sellers shall have the right to seize and take charge of any and all lumber and piling manufactured and themselves to market it as expeditiously as possible and in due course of business, but eighty percent of the net proceeds of such sales, after the payment of all reasonable costs thereof, shall as and when received by the sellers be paid over to the buyers, or, if at any time the buyers hereunder shall be in default for so much as thirty days in the payment of any moneys owing by the buyers to the sellers under the terms hereof, then the sellers at their option may terminate all rights of the buyers hereunder to cut any further lumber, and the lumber and piling then on hand may be seized and marketed by the sellers as expeditiously as practicable, and of the net proceed arising therefrom, after payment of all expenses, twenty percent shall be retained by the sellers and the remaining eighty percent shall be paid over to the buyers.

9. At all times during the operations of the buyers hereunder they shall keep complete books and records of lumber, piling and pices cut and shipments, made and the sellers shall have the right to keep at the mills or mill of the buyers a representative to be selected by the sellers for the purpose of checking up on and keeping the sellers informed of the operations of the buyers hereunder, and keeping them informed of the quantity of lumber and piling cut and shipped, it being agreed that such employee shall at all times have access to the books and records of the buyers showing the lumber, piling cut and showing the sales and shipments, so that the sellers may at all times be accurately informed of the

Florida, and/ or shipments any point on the lines of St. Louis-San Francisco Railroad in Baldwin County, Alabama, Escambia County, Florida, or Escambia County, Alabama, in the cost of transportation to such points shall be borne by the buyers and shall not be counted as freights deductible. If any deliveries are made by the buyers by truck to Mobile, Alabama, the truck cost, if such cost does not exceed the rate for such service by rail, shall be deductible, in the same manner as freights where under the selling contract the buyers hereunder are required to make such deliveries at Mobile.

As rapidly as shipments are made and at the time of each shipment, the buyers will forward to the sellers at Pensacola, Florida, a duplicate of every invoice of every shipment, and the railroad freight bills for all shipments under which the freights are to be paid by the buyers hereunder.

The twenty percent payments to the sellers hereinabove provided for on all lumber or piling shipped are to be paid by the buyers to the sellers within thirty days (30) after the shipment, and sooner if within such thirty days the buyers received payments from the consignees of such shipments, it being the intent hereof that the sellers hereunder shall not be required to bear any portion of any losses which the buyers hereunder may sustain by reason of their consignees failing to pay in whole or in part for any shipments made to them.

3-a. The buyers shall and will at their own cost and expense keep the manufactured products insured in a reputable company against loss or damage by fire in an amount satisfactory to the sellers, provided such insurance can be obtained, and as each policy of insurance is effected shall lodge the same with the sellers, the policies to carry a clause making all loss payable to the sellers as their interest may appear.

The buyers will at all times hold the sellers harmless against loss or damage by reason of the violation by the buyers of any portion of the provisions, conditions and exceptions of the conveyance from Abe Durschlag and wife to H. E. Wickersham dated the 12th day of October, 1926 and mentioned in paragraph 1 hereof.

4. The buyers hereunder shall first cut and remove the timber from so much of the above mentioned lands as lie on the north side of the paved highway running between Pensacola, and Mobile, Alabama. All cutting of timber shall be carried on so that once the cutting has been begun parcels being cut shall be contiguous to parcels already cut. As to the lands on the north side of said paved highway the buyers shall have the right and remove the timber as rapidly as they desire. It is understood that the sellers reserve the right to turpentine all timber hereunder until cut by the buyers. As soon as the buyers have completed cutting the timber from the lands on the north side of said paved highway, the sellers will release to them for cutting the lands on the south side of said highway in two hundred forty (240) acre parcels by governmental subdivisions, such two hundred forty (240) acre parcels released from turpentine operations to be contiguous to lands already cut by the buyers. The buyers shall not have the right to enter for cutting upon lands south of said paved highway except as releases thereof from turpentine operations are made by the sellers in two hundred forty acre parcels lots, and the cutting on any released two hundred forty acre parcel lot shall be completed before the buyers shall have the right to enter upon or require the release for cutting of any other two hundred forty acre parcel of land.

5. In their operations the buyers shall be bound to cut and convert into saw logs and manufacture into lumber all trees suitable therefor, and which are of a diameter of not less than eight inches at a point sixteen feet above the ground, and shall be bound to cut and make into piling all smaller trees suitable therefor which are of a diameter of not less than eight inches at a point in the tree twelve inches from the ground provided the last above mentioned and described trees can be marketed and sold at a profit.

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EXHIBIT "A"

STATE OF ALABAMA,
COUNTY OF BALDWIN.

THIS MEMORANDUM OF AGREEMENT made and entered into on the 24th day of November, 1931, by and between R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, hereinafter called sellers, and J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, hereinafter called buyers, WITNESSETH:-

1. Subject to the terms and conditions hereinafter set forth and to the provisions, conditions and exceptions set forth in a certain conveyance from Abe Durschlag and wife to H. E. Wickersham, dated the 12th day of October, 1926, and appearing of record at page 124 et seq., of record book 42 N.S. of the records of Baldwin County, Alabama, the sellers grant to the buyers the right up to January 1, 1936, to enter upon the lands in Baldwin County, Alabama, described in the list attached to the said last mentioned deed, except so much thereof as lies north and east of Styx River and to cut and remove therefrom and convert into lumber all of the timber standing thereon of a diameter of not less than eight inches (8") at a point in the tree sixteen (16') feet from the ground, and also to cut and remove therefrom all such smaller timber suitable for piling and not smaller than eight inches (8") in diameter at a point in the tree twelve inches (12") from the ground.

2. The buyers will immediately after the execution hereof and at their own cost and expense locate such saw mill or saw mills and a planer and dry kiln on the above mentioned land as will be reasonably adequate to assure the cutting and removal of all the said timber by January 1, 1936, and will diligently, with such mills and at such location on said land as the buyers deem proper, manufacture the timber on said land into merchantable lumber, and sell such lumber and such piling as may be cut from said land at the best obtainable market prices in due course of business, it being understood that the title to all timber cut, including piling and all lumber manufactured therefrom, shall remain vested in the sellers, until actually shipped and sold by the buyers in due course of business. The cutting of all such timber and the manufacture of the same into lumber and piling shall be at the sole cost and expense of the buyers. The buyers shall not have any right or authority to subject the sellers to any liability to any person. In cutting trees the buyers shall but and take all of each tree suitable for making lumber and saw mill products up to the point of the tree where the diameter is not greater than eight inches.

Where the buyers are permitted to cut trees for piling on lands not generally released to the buyers for the cutting of the whole timber, they shall cut and sell the same in such manner as not to do any damage to turpentine faces, cups and aprons on the trees worked by the sellers or under their authority for the production of naval stores.

3. As rapidly and expeditiously as practicable the buyers will in due course of business market and sell all piling cut by them and all lumber and sawmill products manufactured by them from the timber on the above referred to land at the best obtainable prices, and will pay to the sellers as compensation for such lumber and piling twenty percent (20%) of the selling price thereof, after deducting any freights which the buyers may be required to pay from the sale prices of such products, the remaining eighty percent (80%) to be retained by the buyers as their own. Where deliveries and/or shipment are made at Robertsdale, Alabama, and/or Pensacola,

(page four)

ing irreparable injury to their timber and property. Your orators further show that the defendants are insolvent and that unless the defendants are restrained from cutting and removing said timber located on the aboved described lands that the timber which remains will be useless to them. Your orators further show that said trespasses will also cause a multiplicity of suits.

SEVENTH:

Your Orators further show unto Your Honor that the defendants have sold and disposed of 20,000 feet or more of lumber without making any effort whatever to account to your orators for same. That defendants have kept no record of the lumber mentioned in this paragraph that has been available to your orators; and if they have, they have concealed the same from your orators; that said lumber was cut, manufactured and sold more than 30 days prior to the date that your orators notified the defendants that said contract had been terminated. That as to the lumber mentioned in this paragraph, the defendants are indebted to your orators more than \$1,500.00 which orators entitled to have judgment against defendants for, together with such other sums as Your Honor might find just and proper.

FOOT NOTE:

Hybart, Heard & Chason,
Solicitors for Complainants.

The Defendants are required to answer paragraph one and to seven inclusive of the foregoing bill of complaint, but answer under oath is hereby expressly waived.

Hybart, Heard & Chason,
Solicitors for Complainants.

STATE OF ALABAMA,

BALDWIN COUNTY.

Before me, John Chason, a Notary Public, in and for said State and County, personally appeared C. B. Mitchell, who is known to me, and who after being by me first duly and legally sworn, does depose and say under oath as follows: That he is one of the parties in the Mitchell Naval Stores Company, a partnership composed of R.F. Mitchell C. B. Mitchell and J. L. Tucker, and as such is duly authorized to make this affidavit; that the allegations contained in the foregoing amended bill of complaint are true and correct. C. B. Mitchell.

Sworn to and subscribed before me this 9th day of May, 1932.

John Chason, Notary Public, Baldwin County, Ala.

(page three)

keep complete books and records of lumber, piling and poles cut from said lands and of the shipments made from the same, and in this respect also violated their said contract.

FIFTH:

Your Orators further show unto Your Honor that it is stipulated in said contract that the defendants were to pay to Your Orators 20% of the net proceeds of shipments and deliveries of lumber and piling cut from said lands and said payments for said shipments and deliveries to be made within 30 days after the shipment and sooner if within said 30 days the defendants received payment from their consignee of such shipments, it being the intent of the contract that your orators should not be required to bear any portion of any losses which the defendants might sustain by reason of their consignees failing to pay in whole or in part, for any shipment made to them and your orators further show that, on numerous occasions, the defendants failed and refused to pay the amount due your orators under the said contract for such shipment, and that immediately prior to the filing of this bill of complaint, your orators called upon said defendants for the payments of amount due them for shipments made more than 30 days prior thereto and that the defendants failed and refused to pay to them at said time the said amounts due Orators and that then and there your orators provided for in said contract gave notice to the defendants that said contract to cut timber from said lands was terminated on account of the said breaches as heretofore mentioned.

SIXTH

Your Orators further show unto Your Honor that even though said rights of the defendants to enter upon and cut timber from said lands and manufacture the same have been terminated by your Orators, as they had a right to do under the aforesaid contract, the defendants are making trespasses on the aforesaid lands, cutting the timber therefrom in discriminately, disregarding of the rights of your Orators in the premises, and that by reason of the wrongful conduct on the part of the said defendants and the repeated trespasses being made, your orators are in danger of suffer-

(page two)

at the expiration of the agreement above referred to would be useless to them and would be scarcely of no value. And your Orators further show unto Your Honor that all the aforesaid lands heretofore described in paragraph 2 of the Bill of Complaint lies north of said paved highway.

FOURTH:

Your Orators further show unto Your Honor that it was stipulated in said contract that defendants were to keep a complete set of books and records of lumber, piling, and poles cut and shipments made under said contract, so as to keep your Orators informed of the operations of the defendants under said contract and the quantity of lumber and pilings cut and shipped, so that your orators might at all times be accurately informed of the progress and details of the business, and that, in addition thereto, it was stipulated that your orators would have the right to keep at the mill or mills of the defendants, a representative, for the purpose of checking up and keeping your orators informed of the operations of the defendants under said contract, and for keeping your orators informed of the quantity of lumber and the piling cut and shipped, it being agreed that such employee should at all times have access to the books and records of the defendants showing the lumber and piling cut and showing all sales and shipments, so that your orators might at all times be accurately be informed of the progress and details of the business, and it was further stipulated that said defendants should pay the salary of said employee, not exceeding One Hundred Dollars per month, and it was further stipulated that in said contract, that in the event that said defendants defaulted in making payment of said salary, that your orators had the right to terminate the contract and stop the cutting of timber on said lands. Your Orators further show unto Your Honor that said defendants have failed and refused to pay said salary of said employee stipulated for, and that, by reason thereof, your Orators prior to the filing of this bill of complaint, terminated said contract, as they had a right to do, and gave defendants notice thereof; Your Orators further show that said defendants failed to

R. F. MITCHELL, JR., C. B.
MITCHELL AND J. L. TUCKER,
doing business as Mitchell
Naval Stores Company, a part-
nership,

Complainants,

Vs.

J. P. LANGHAM AND ARTHUR
LANGHAM, doing business as
Langham Lumber Company,

Respondents.

IN THE CIRCUIT COURT-EQUITY SIDE.

STATE OF ALABAMA,

BALDWIN COUNTY.

Now come the complainants and amend their bill of complaint by re-writing paragraphs 3, and adding thereto paragraphs 4, 5, 6 and 7.

3rd. Your Orators further show unto your Honor that, on to-wit the 24th day of November, 1931, Your Orators and the defendants entered into a cutting contract of the timber located and situated on the above described lands, as well as other described lands, a copy of which contract is hereto attached and marked "Exhibit "A" and is made a part of this Bill of Complaint. Your Orators further show unto Your Honor that, under the 4th paragraph of said contract, it was stipulated that the defendants should first cut and remove the timber from so much of the above mentioned lands that lie on the north side of the paved highway running from Pensacola to Mobile; all cutting of timber should be carried on so that once the cutting had been begun, parcels being cut should be contiguous to those already cut, and that the defendants should not have the right to cut any parcels or governmental subdivisions not contiguous to parcels already cut, and your Orators further show that the said defendants violated this condition, by cutting timber indiscriminately on said lands without regard to whether the lands on which said timber was cut was contiguous or not; and that said defendants sought out the best timber from the various subdivisions and lands, and have been cutting and removing the same in many instances when the cutting was not on lands contiguous as provided for in said contract. Your Orators further allege that, unless defendants are restrained from further cutting said timber located in the above described lands that the timber which would remain

(page five)

also under mortgage to said West Florida Naval Stores Company, and provided further upon the termination of said contract between Mitchell Naval Stores Company and Langham Lumber Company any rights that said West Florida Naval Stores Company might have in and by the terms of the said mortgage which is hereby released shall revert to and be vested in it, the said West Florida Naval Stores Company.

EXECUTED this 30th day of November, 1931.

ATTEST:

D. J. Hayes, Secretary.

WEST FLORIDA NAVAL STORES COMPANY,
by J. D. Russ, President.

STATE OF FLORIDA,
COUNTY OF ESCAMBIA.

Before me the undersigned personally appeared, J. D. Russ, known to me to be the individual described in and who executed the foregoing instrument, and to be the president of the West Florida Naval Stores Company, a corporation, and acknowledged and declared that as President of said corporation, and being duly authorized by it, signed its name and affixed its seal to and executed the said instrument for it and as its act and deed.

Given under my hand and Official seal this 30th day of November, 1931.

J. J. Crooke, Notary Public,
State of Florida at large,
My commission expires March 20,
1934.

The undersigned Mitchell Naval Stores Company hereby consents and agrees to the payments under the contract above referred to being made to the West Florida Naval Stores Company.

This 30th day of November, 1931.

MITCHELL NAVAL STORES COMPANY
BY C. B. Mitchell

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STATE OF ALABAMA,
COUNTY OF BALDWIN.

WHEREAS, R. F. Mitchell, C.B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, did on the 24th day of November, 1931, enter into a certain contract with J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, for the sale of certain timber rights, which said contract is by reference made a part hereof; and

WHEREAS, by the terms of said agreement it was provided that the same should not be binding on the parties thereto without the written consent of West Florida Naval Stores Company, as mortgagee; and

WHEREAS, said West Florida Naval Stores Company as mortgagee has agreed on the conditions and provisions hereinafter contained to consent to said contract and release its mortgage lien on the timber therein described, which said mortgage is dated the 13th day of December, 1926, and recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Mortgage Record 38, at page 79; now therefore,

Said West Florida Naval Stores Company a corporation organized under the laws of the State of Florida, in consideration of One Dollar and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby release from the lien of said mortgage all the timber rights conveyed to the said Langham Lumber Company under the contract aforesaid, and consents that said contract shall have preference and superiority over its said mortgage, so long as said contract is in full force and effect, provided, however, that the said Langham Lumber Company shall pay to said West Florida Naval Stores Company all moneys now or hereafter becoming due under the terms of said contract to the said Mitchell Naval Stores Company, and provided further that this release shall not apply to the tarpentine place on the said property which is

(page three)

effect; that the said West Florida Naval Stores Company, a corporation, should be made a party to the original bill of complaint as amended, in order that the West Florida Naval Stores Company could propound and set up such rights claimed by it under said mortgage and in order that all matters pertaining to said contract and said mortgage may be adjudicated in the trial of this cause.

These respondents admit that there is not suit pending to test the title of complainants to said timber other than the bill in this cause.

Hamilton & Jones, Attorneys
for Respondents, Langham
Lumber Company and J. P.
Langham and Arthur Langham.

STATE OF ALABAMA,

BALDWIN COUNTY.

Personally appeared before me, Alma Murphey, a Notary Public in and for said State and County, J. P. Langham, who, being by me first duly sworn, doth depose and say that the facts stated in paragraph two of the amended answer are true as therein stated.

J. P. Langham.

Sworn to and subscribed before me,

this the 9th day of July, 1932.

Alma Murphey, Notary Public.

(page two)

Company, and said original bill, as amended, fails to allege that the West Florida Naval Stores Company consented in writing to the making of said contract.

The Respondents without waiving the demurrers hereinabove set out, and heretofore filed in this cause, hereby amend their answer to the original bill of complaint by amending paragraph two so that the same will read as follows:

SECOND:

Answering the second paragraph of the original bill of complaint as amended, these respondents admit and are informed and believe, that the complainants are the owners of the timber on the lands set forth and described in the second paragraph of the bill as amended, subject, however, to a mortgage held by the West Florida Naval Stores Company, a corporation of Pensacola, Florida.

Respondents are not advised as to the amount due on said mortgage, or when said mortgage will become due, but respondents allege that at the time the contract was entered into by and between complainants and respondents, a copy of which is attached to the original bill as amended, marked Exhibit A, the said West Florida Naval Stores Company, executed to these respondents an instrument, a copy of which is hereto attached marked Exhibit A, and made a part of this amended answer. Under and by the terms of said instrument, the said West Florida Naval Stores Company released from the lien of said mortgage all of the timber rights conveyed to these respondents under the contract, a copy of which is marked Exhibit A, and attached to the original bill of complaint amended, and consented that said contract should have precedence and superiority over the mortgage of complainants to the said West Florida Naval Stores Company so long as said contract was in full force and effect, provided, however, that the said Langham Lumber Company should pay to the said West Florida Naval Stores Company all monies that were due or to become due under the terms of said contract of the respondents to the Mitchell Naval Stores Company.

These respondents allege that they have at all times strictly complied with the terms of said contract, and that said contract has never been terminated, and is in full force and effect;

R? F. MITCHELL, JR., C. B.
MITCHELL AND J. L. TUCKER,
doing business as MITCHELL
NAVAL STORES COMPANY, A
partnership,

Complainants,

Vs.

J. P. Langham and Arthur Langham
doing business as Langham Lumber
Company,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Now comes the respondents, severally and separately,
and amend the demurrers heretofore filed to the original bill, as
amended, by adding, as additional grounds of demurrer thereto, the
following:

(b) That from the allegations of said original bill as
amended, the West Florida Naval Stores Company is a necessary party
thereto.

(c) That from the allegations of said original bill as
amended, the West Florida Naval Stores Company is a necessary party
thereto.

(d) That from the allegations of said original bill as
amended, the West Florida Naval Stores Company is a necessary and
proper party thereto.

(e) For that under the terms of the sixteenth paragraph
of the contract, a copy of which is attached to the original bill
as amended, and marked "Exhibit A" it is provided as follows: "It
is understood and agreed that the growing timber hereinabove des-
cribed is under mortgage to West Florida Naval Stores Company and
this contract shall not be binding on the parties hereto without the
written consent of said mortgagee being first obtained"; and said
bill, as amended, fails to allege that the West Florida Naval Stores
Company, the mortgagee has given its written consent to making and
entering into the said contract.

(f) Because under the terms of the contract, a copy of
which is attached to the original bill, as amended, marked "Exhibit
A", the said contract should not be binding on the parties there-
to without the written consent of the West Florida Naval Stores

(nineteen)

Please sign and return this copy.

CARRIGA EXPORT COMPANY, INC.
BY Garriga, Prest.

Accepted:
Langham Lumber Company
Bt.

Signed in duplicate.

(eighteen)

	Price
8,000 ft 6x6 - 12' & up	17.00
5,000 " 8x8 - 12 & up	17.00
2,000 " 9x9 - 12 & up	19.00

The 6x8" to show heart entire length on one fact and the 9" on two opposite facts.

All to average 16/17 lineal.

FOE ship side Pensacola, Fla.

Please sign and return promptly the white ticket.

R. D. W.

E. T. W.

E. H. B.

TW

R. D. WALKER LUMBER COMPANY, INC.
BY E. T. W.

EXHIBIT "N"

Pensacola, Fla.
February 20, 1932.

PENSACOLA LUMBER & TIMBER COMPANY

CONTRACT NO. 5067.

For and in consideration of the sum of One Dollar paid by the Pensacola Lumber and Timber Company to Lanham Lumber, the receipt of which is hereby acknowledged, the Pensacola Lumber & Timber Company of Pensacola, Fla., buys and agrees to receive, and Lanham Lumber Company of Robertsedale, Ala., sells and agrees to deliver the below mentioned schedule of Long Leaf Yellow Pine Lumber, to be manufactured at their mill at Robertsedale, Ala.

DELIVERY: to be on sticks ready for delivery Late March/Early April
INSPECTION: To be final at mill, either by buyers inspector at buyer's expense or by sellers inspection at seller's expense, at buyers option.

PAYMENT: Net Cash upon proper delivery of lumber as ordered by buyer.

PRICE: Eighteen (18) Dollars per thousand superficial feet, delivered at Pensacola, Fla, as customary.

GRADE: Long Leaf Yellow Pine Merchantable Quality Dry & Bright.

SCHEDULE: 12/15 Ms Ft 3x9", 14 ft and up

Lanham Lumber Company
by
P. O. Address, Pensacola, Fla.

PENSACOLA LUMBER & TIMBER CO.
BY President.

This contract signed in duplicate.

EXHIBIT "OO"

ORDER NO. 1637

Pensacola, Fla. March 2,
1932.

For and in consideration of the sum of One dollar paid by the Carriga Export Company to Lanham Lumber Co., receipt of which is hereby acknowledged, the said Carriga Export Company of Pensacola, Fla., buys and agrees to receive, and the Lanham Lumber Company, of Pensacola, Fla. sells and agrees to deliver the below mentioned schedule of Long Leaf Yellow Pine Lumber, to be manufactured at their mill.

QUALITY: S. E. & S & Better, free from spike or large knots.

PRICE: \$15.50 per thousand superficial feet delivered to buyers yard in Pensacola.

DELIVERY: To be completed by end of March 1932.

INSPECTION: Final at mill by buyers inspector at buyers expense, or by sellers inspector at sellers expense, buyers option.

PAYMENT: Net Cash upon proper deliver, every two weeks for stock delivered and accepted.

SCHEDULE:

7,000 s. ft 3x9")	12 feet and up long to average not less than
5,000 " 4x9)	16½ lineal

(seventeen)

Langham Lumber company,
Pensacola, Fla.

Shipping point Robertsdale.

Dear Sirs:

Please enter our order for the following Long Leaf Yellow Pine

5,000 sft	2x9"	10'	long
700 sft	"	17'	"
2,000 sft	"	18'	"
700 sft	"	19'	"
1,500 sft	"	20'	"
<u>9,900 sft</u>	"		
			long
75 sft	3x9"	13'	"
750 sft	"	14'	"
200 "	"	15'	"
200 "	"	16'	"
350 "	"	17'	"
100 "	"	18'	"
100 "	"	19'	"
700 "	"	20'	"
100 "	"	21'	"
100 "	"	25'	"

500 sft	4x9"	18'	Long
600 "	"	19'	"
400 "	"	20'	"
1,400 "	"	21'	"
300 "	"	24'	"
600 "	"	25'	"
<u>3,800 sft</u>			

Note; Must have two-thirds heart surface on two opposite sides or its equivalent.

QUALITY: Longleaf Merchantable as per CCC 1919- must be absolutely dry & bright.

PRICE: \$19.00 per M sft.

DELIVERY: F. O. B. MOBILE

INSPECTION: at mill, buyer's inspector.

DATE OF DELIVERY: To suit steamer due March 25th

PAYMENT: In net cash on right delivery

Timbers when shipped by rail to be loaded on flat cars only or seller to bear extra expense of unloading

This above material to be manufactured at seller's mill unless otherwise stated.

This agreement is not transferable except with buyers' consent.

Accepted:

HUNTER, BENN & COMPANY
Norman D. Putman.

EXHIBIT "M"

FORM 15.

R.D. WALKER LUMBER CO, INC.
LONG LEAF YELLOW PINE,
Mobile, Ala.
Jan 28, 1932.
816x38

Original

Show this number on your invoice
1282-EW Order No.

When stock is inspected at mill please show inspector's name on invoice.

CONFIRMATION.

Langham Lumber co.
1740 E. Blunt St.,
Pensacola, Fla.

Please cut the following G. C. C. Merchantable LLYP Dry & bright, Long leaf yellow pine.
and ship as directed below, noting carefully all instructions given.
To be completed March 15, 1932.
Consign to later

(Sixteen)

Pensacola, Fla.

BUYERS' SCHEDULE:

SELLERS' ORDER:

In consideration of One Dollar, receipt of which is hereby acknowledged, M. A. Quina Jr., Inc., of Pensacola, Fla., buys and agrees to receive, and Langham Lumber Co., sells and agrees to deliver the below schedule of Long Leaf Yellow Pine, to be manufactured at

TO BE SHIPPED DRY AND BRIGHT

QUALITY: L Leaf SE & S D&B

PRICE: Mentioned below per thousand superficial ft. f. o. b. cars Pensacola, Fla. & / or lighter f. a. s. vessel Pensacola, as customary.

SHIPMENT: To be ready for shipment

MARKS: To be marked by seller as directed by buyer.

PAYMENT: On complete shipment of order and proper delivery to buyer; payment due on clearance of vessel in which schedule is shipped.

SCHEDULE:

	Lot 1 - Mark - "Cal 5771"	
Price	2x6-50/14, 103/20	2760'
\$17.00	3x3-164/20	2460

	Lot 2 Mark - "13-CAL-84"	
	3x9-60/20	2700
	6/4x9-145/12	1957
	1x9-170/12, 170/20	4080
	3x4-50/20	1000
	2x3-200/12, 200/20	3200

EXHIBIT "K"

FORM 15.

R. D. WALKER LUMBER CO, INC
Long Leaf Yellow Pine,
Mobile, Ala., February 12, 1932.

Original. Show this number on your invoice. Order No. 2122-W
When stock is inspected at mill please show inspector's name on invoice.
898x1

CONFIRMATION.

LANGHAM LUMBER CO.
PENSACOLA, FLA.

Please cut the following Ceona Prime Dry & Bright No Knots over 2" Long Leaf Yellow Pine and ship as directed below, noting carefully all instructions given.

TO BE COMPLETED IN ABOUT 20/30 DAYS, WHEN READY WILL ADVISE CONSIGN TO LATER.

6,000	S ft.	2x9"	& up	- 10	&"up	Price	27.00
1,000	"	1 1/2 x9	"	"	"	"	"
1,000	"	2 1/2 x9	"	"	"	"	F. A. S. Vessel Pensacola
1,000	"	3x9	"	"	"	"	"
1,000	"	4x9	"	"	"	"	"

to average 10" and 15ft.

Kindly sign and return the little white ticket attached for our files.

R.D.W.
E.TW.
TW

R. D. WALKER LUMBER COMPANY, INC.
BY eh

EXHIBIT "L"

SELLERS' ORDER
BUYERS' ORDER,
1600-U

HUNTER, BENN & COMPANY,
Mobile, Ala.

PHONES: Long Distance No 7
Local Bell No 101.

EXPORTERS OF
SAWN AND HEWN PITCH PINE.

Mobile, Ala. Feb. 18, 1932.

(fifteen)

In consideration of One Dollar, receipt of which is hereby acknowledged, M. A. Quina, Jr., Inc. of Pensacola, Fla., buys and agrees to receive, and Langham Lumber Company of Pensacola, Fla., sells and agrees to deliver the below schedule of Long Leaf Yellow Pine, dry and bright, to be manufactured at Baldwin County, Ala.

TO BE SHIPPED AND DELIVERED WHEN ORDERED.

QUALITY: Standard R/Plat Quality - D & Bright.

PRICE: Mentioned below per thousand superficial ft. F. O. B. dars Pensacola &/ or lighter 17.25 f. a. s. vessel Pensacola, as customary. Scant

SHIPMENT: To be ready for shipment QUICK AS POSSIBLE.

MARKS: To be marked by sellers ad directed by buyer.

PAYMENT: On shipment of complete order and proper delivery to buyer; payment due within net cash five days after clearance of vessel in which schedule is shipped.

SCHEDULE:	7500'	3x4)	
	4500	3x3)	
	2800	3x6)	12 ft. & up - long as possible
	500	1x12	- 12 & up)
	500	6x12	")
	500	2x12	")

FREE OF KNOTS

M. A. Quina Jr., Inc.
By M. A. Quina Jr.

LANGHAM LUMBER CO.
BY

Signed in duplicate

EXHIBIT "I"

FORM 1.

No. 7007.
Pensacola, Fla. Jan 13,
1932.

BUYERS' SCHEDULE:

SELLERS' ORDER:

In consideration of One Dollar, receipt of which is hereby acknowledged, M.A. Quina Jr., Inc. of Pensacola Fla. buys and agrees to receive, and Langham Lumber Company, of Pensacola Fla, sells and agrees to deliver the below schedule, of Long Leaf Yellow Pine dry and bright, to be manufactured at Baldwin County, Ala.

TO BE SHIPPED AND DELIVERED WHEN ORDERED.

QUALITY: Longleaf - good SE&S - D & B cut full - well manufactured

PRICE: Mentioned below per thousand superficial feet, f. o. b. cars, Pensacola &/ or lighter as below f. a. s. vessel Pensacola, as customary.

SHIPMENT: To be ready for shipment 2nd half February.

MARK: To be marked by seller as directed by buyer.

PAYMENT: On shipment of complete order and proper delivery to buyer; payment due within five days after clearance of vessel in which schedule is shipped.

SCHEDULE:	5,000'	6/4x12 - rough	\$26.00	Pensa
	5,000	3x12	26.00	"
lengths	11,000	2x4		
12-14-16	11,000	2x6		
18-20	5,500	3x4		
fair as-	5,500	4x4		
sortment	2,500	4x6		
	2,500	4x8	17.25	"

LANGHAM LUMBER CO.
BY

M. A. QUINA JR., INC.
BY M. A. QUINA

Signed in duplicate

EXHIBIT "J"

FORM 1.

no. 7023.

(thirteen)

Payment: On complete shipment of order and proper delivery to buyer; payment due on clearance of vessel in which net cash schedule is shipped.

SCHEDULE: ON CARS PENSA.

20,000' 3x9 - Rio Deal 12 & up - 17 Lin avg - price \$26.00
10,000 4x9 - do do 26.00

LANGHAM LUMBER COMPANY,
BY

M. A. QUINA JR., INC.
By M. A. Quina Jr.

RUSH THIS ORDER TO COMPLETION ALL POSSIBLE
Sign one contract.

EXHIBIT "D"

FORM 1

No 6093.

Pensacola, Fla. Nov. 30, 1931.

BUYERS' SCHEDULE

SELLERS' ORDER.

In consideration of One Dollar, receipt of which is hereby acknowledged, M. A. Quina Jr. Inc. of Pensacola, Fla, buys and agrees to receive and Langham Lumber Co., of Georgiana, Ala, sells and agrees to deliver the below schedule of Long Leaf Yellow Pine, to be manufactured at
TO BE SHIPPED DRY AND BRIGHT

QUALITY: longleaf - D & B - 80% FOK - one face-
1 heart face - all rift-

PRICE: mentioned below per thousand superficial ft. f. o. b. cars
Pensacola & / or lighter f. a. s. \$35.00 Pensa. bessel Pensacola
as customary.

SHIPMENT: to be ready for shipment soon as possible.

MARKS: to be marked by seller as directed by buyer.

PAYMENT: on complete shipment of order and proper delivery to
buyer; payment due on clearance of vessel in which schedule is shipped.
Net Cash.

SCHEDULE: 5/4x3 - lengths 4 feet and up -

LANGHAM LBR CO.
BY

M. A. QUINA JR., INC.
BY M. A. QUINA, JR.

EXHIBIT "E"

ORDER NO 1621.

Pensacola, Fla. Feb. 2,
1932.

For and in consideration of the sum of One Dollar paid by Carriga Export Company to Langham Lumber Company, the receipt of which is hereby acknowledged, the said Carriga Export Company of Pensacola, Fla, buys and agrees to receive, and Langham Lumber Co. of Pensacola, Fla., sells and agrees to deliver the below mentioned schedule of Long Leaf Yellow Pine Lumber to be manufactured at their mill

QUALITY: EXTRA PRIME, DRY & BRIGHT.

PRICE: \$55.00 per thousand superficial F. O. B. cars Pensacola
& / or lighter f. a. s. vessel Pensacola as customary.

DELIVERY: To be on sticks ready for shipment in dry condition within
next forty five days.

INSPECTION: Final at mill by buyers' inspector at buyer's expense,
or by sellers's inspectors at seller's expense, buyer's option.

PAYMENT: Net cash upon proper delivery, as ordered by buyer.

SCHEDULE:

5 to 10,000 s. ft. 1 x 11" and wider, 10 feet and up long with
a minimum average of 14½ lineal feet.

ACCEPTED: Langham Lumber Company
by

GARRIGA EXPORT COMPANY, INC.
by Garriga, Prest.

Mobile, Ala, 2/12, 1932.

Langham Lbr. Co.,
Pensacola, Fla.

Please ship the following article to Alabama, Tennessee & Northern Railroad Corporation, Mobile, Ala.
FOB Cars ATN Tracks and charge to account of Alabama, Tennessee & Northern Railroad Corporation.

1 C/L 6" x 18" @ 31.50 per M

1 C/L 3" x 10" x 18' - 20' - 22' @ \$34.00 per M

1RY PINE 75% Heart faeise area

(Terms 60 days after receipt of timber)
(Delivery guaranteed within 2 weeks)
To be inspected as unloaded.

K. R. Guthrie, Purchasing
Agent.

Render Invoices in Triplicate.

EXHIBIT "B"

FORM 1.

NO. 6099

BUYERS' SCHEDULE:

Pensacola, Fla, Dec. 9, 1931.
SELLERS' ORDER.

In consideration of One Dollar, receipt of which is hereby acknowledged, M. A. Quina, Jr., Inc., of Pensacola, Fla., buys and agrees to receive, and Langham Lumber Co., of Georgiana, Ala, sells and agrees to deliver the below schedule of Long Leaf Yellow Pine, to be manufactured at
TO BE SHIPPED DRY AND BRIGHT.

Quality: as below.

Price: Mentioned below per thousand superficial ft. F. O. B. Cars
Pensacola & / or on lighter F. A.S., as below vessel
Pensacola as customary.

SHIPMENT: To be ready for shipment when ready.

MARKS: To be marked by seller as directed by buyer.

PAYMENT: On Complete shipment of order and proper delivery to buyer; payment due on clearance of vessel in which schedule is shipped.

SCHEDULE:	30,000'	3x9	Rio - 12 & up-17/18	Linprice	\$26.00	Pensa
	20,000	2x3	"	"	19.00	"
	20,000	3x6	"	"	19.00	"

LANGHAM LUMBER CO.

By

M. A. QUINA, JR., INC.
by M.A. QUINA JR.,

NOTE BEAR DOWN ON THE 3x9 - TAKE YOU TIME ON THE 2x3 - 3x6.

Sign one contract.

EXHIBIT "C"

FORM 1.

NO 6098

Pensacola, Fla. Dec 9, 1931.

BUYERS' SCHEDULE:

SELLERS' ORDER:

In consideration of One Dollar, receipt of which is hereby acknowledged M. A. Quina Jr., Inc., of Pensacola, Fla., buys and agrees to receive, and Langham Lumber Co., of Gerogiana, Ala, sells and agrees to deliver the below schedule of Long Leaf Yellow Pine, to be manufactured at
TO BE SHIPPED SRY AND BRIGHT.

Quality: as below.

Price: Mentioned below per thousand superficial ft. F. O. B. cars
Pensacola & / or on lighter as below f. a. s. vessel Pensacola as customary.

Shipment; To be ready for shipment when ready.

Marks; To be marked by seller as directed by buyer.

(page ten)

3x9-57/12, 9/13, 75/14, 10/15, 81/16, 7/17, 65/18, 4/19, 56/20, 3/21,
14/22, 2/23, 12/24, 1/25, 2/26, 14769'

4x9-78/12, 4/13, 43/14, 8/15, 50/16, 5/17, 25/18, 1/19, 6/21, 6/22,
15/20, 2/23, 7/24, 2/25, 2/26 10014'

Total 24783' @ \$20.00 495.66

EXHIBIT # 22.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

PENSACOLA, FLORIDA, JAN 6,
1932.

INVOICE NO 2.
SOLD TO C. W. HEMPSTEAD LUMBER CO.
SHIP TO "
AT MOBILE, ALABAMA,
PRICE F. O. B. MOBILE, ALA.

CAR NO L & N 49264
TERMS: USUAL.

GRADE-SQUARE EDGE & SOUND.

2 1/2 x 6 31/14, 5/16, 49/16, 9/17, 12/18, 4/19, 24/20, 1/21, 3/22, 0/23,
7/24, 3/25 2866'

2 1/2 x 7 22/14, 4/15, 36/16, 20/17, 2/18, 28/19, 0/20, 1/21, 2/23, 0/24,
0/22, 1/25 2488'

2 3/4 x 7 2/16, 3/20 147'

Total 5501' @ 18.00 99.01

EXHIBIT NO 23.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

PENSACOLA, FLORIDA, JAN 11,
1932.

INVOICE NO 6.
SOLD TO STOVER MFG CO.,
SHIP TO MOBILE, ALABAMA.
PRICE F. O. B. MOBILE, ALA.

CAR NO. L & N 12309
TERMS: USUAL.

#1 & BTR BOARDS

1x3-16/6, 6/8, 13/10, 11/14, 2/16, 4/18, 108'

1x4-103/6, 143/8

1x6-18/6, 24/8, 80/10, 121/12, 13/14, 138/16, 42/18, 31/20 3988'

1x8-1/6, 1/8, 31/10, 63/12, 60/14, 51/16, 24/18, 22/20. 2404'

1/10-5/10, 9/12, 2/14, 7/16, 1/20 282'

10905'

at \$19.00 per M 207.25

EXHIBIT NO 24.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

PENSACOLA, FLORIDA, JAN 23,
1932.

INVOICE NO 8.
SOLD TO STOVER MFG. CO.,
SHIP TO MOBILE, ALA.
PRICE F. O. B. MOBILE, ALA.

CAR NO. L & B 13870
TERMS: 2% Discount for cash

11706' clear boards @ \$19.00 per M
less freight and 2% discount 222.35

EXHIBIT NO. 25.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

PENSACOLA, FLORIDA, FEB 7,
1932.

INVOICE NO 12.
SOLD TO STOVER MFG. CO.,
SHIP TO MOBILE, ALA.
PRICE F. O. B. MOBILE, ALA.

CAR NO. L & N 12590
TERMS: USUAL.

1 car 12034' 1x4 & wider @ 19.00
per MBM 228.64

(page nine)

EXHIBIT #18.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

PENSACOLA, FLORIDA, JAN 17,
1932.

INVOICE NO. 3.

SOLD TO M. A. QUINA JR.,
SHIP TO PENSACOLA, FLA.
VIA TRUCK DELIVERY.

PRICE F. O. B. PENSACOLA, FLA. \$ TERMS: USUAL.

GRADE-SQUARE EDGE & SOUND.

60 pcs. 4x10 - 16 3200' @ \$23.00 per M. 73.60

EXHIBIT #19.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

PENSACOLA, FLORIDA, DEC 29,
1932.

INVOICE NO. 1.

SOLD TO PENSACOLA CREOSOTING CO.,
SHIP TO PENSACOLA, FLA.
VIA TRUCK DELIVERY

PRICE F. O. B. PENSACOLA, FLA. TERMS: NET CASH.

1	12-3-25'	piling @	8 $\frac{1}{2}$ ¢	per lin	2.12
30	12-330'	"	9 $\frac{1}{2}$ ¢	" "	85.50
					<u>87.62</u>

EXHIBIT NO. 20.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

PENSACOLA, FLORIDA, FEB 29,
1932.

ORDER NO. 7008

INVOICE NO. 21.

SOLD TO M. A. QUINA JR.,
SHIP TO DO
AT PENSACOLA, FLA.

PRICE F. O. B. PENSACOLA, FLA. TERMS: USUAL.

SOUTH AMERICAN GRADE.

3x3 101/12, 10/13, 95/14, 7/15, 105/16, 5/17, 58/18, 66/20, 3/21,
19/22,

3x4 115/12, 3/13, 135/14, 13/15, 126/16, 10/17, 85/18, 4/19, 36/20,
5/22,

3x6 14/12, 4/13, 36/14, 7/15, 45/16, 3/17, 14/18, 3/19, 8/20, 5/22,
1/23, 1/24

TOTAL NO. feet above 17005' @ 17.25 293.33

1x12 4/12, 1/13, 4/14, 4/15, 5/16, 9/19, 1/20, 3/21, 3/18,
2x12 1/13, 4/14, 4/16, 3/18, 2/20, 3/22, 1/23, 2/24

6/4x12 2/12, 1/13, 4/14, 7/16, 1/18, 3/20, 1/21, 5/22, 2/24

Total No. Feet 1975' @ 26.00

51.35
344.68

EXHIBIT #21.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

PENSACOLA, FLORIDA, FEB. 2,
1932.

ORDER NO 816x37

INVOICE NO 9.

SOLD TO R. D. WALKER LBR. CO.,
SHIP TO MOBILE, ALA.
AT PENSACOLA, FLA.

PRICE F. O. B. PENSACOLA, FLA.

CAR NO. L & N 22034 & L&N 22016

MERCHANTIBLE 3x9 & 4x9 Deals

TERMS: USUAL.

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EXHIBIT #7.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

SOLD TO GARRICA EXPORT CO.
SHIP TO PENSACOLA, FLA.,
VIA TRUCK,
PRICE F. O. B. PENSACOLA,

PENSACOLA, FLORIDA, FEB 27,
1932.

TERMS: USUAL

3x9 SE&S & BTR. Deals.
4x9 " " "

3x9 24/14, 7/15, 20/16, 4/17, 16/18, 1/19, 17/20, 6/21, 1/22, 2/23, 1/2
1/25, 1819' Lin
4x9 10/14, 2/15, 23/16, 9/17, 17/18, 5/19, 18/20, 1/21, 8/22, 8/23, 5/
1953' Lin

Supl feet 9726 @ 18.00

175.06

EXHIBIT #8.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

ORDER NO 6098
INCOIVE NO 19.
SOLD TO M. A. QUINA, JR.,
SHIP TO DO
AT PENSACOLA, FLA.
VIA TRUCK,
PRICE F. O. B. PENSACOLA, FLA.

PENSACOLA, FLORIDA FEB 24,
1932.

TERMS: USUAL

4x9 Rio Deals.

3/12, 7/14, 2/15, 10/16, 2/17, 8/18, 1/19, 12/20, 1/21, 7/22,
5/23, 8/24, 18/25, 1/26, 5211 feet @ 26.00 per MBM 135.48

EXHIBIT #9.
LANGHAM LUMBER COMPANY,
YELLOW PINE.

INVOICE NO. 18,
SOLD TO PENSACOLA, CREOSOTING CO.,
SHIP TO PENSACOLA, FLA.
VIA TRUCK,
PRICE FOB, PLANT.

PENSACOLA, FLORIDA, FEB 15,
1932.

TERMS: USUAL.

POLES.

14pcs	7" x12'	05¢	per lin
7 "	12" x25'	12¢	"
26 "	9" x25'	08¢	"
5 "	7" x35'	04¢	"
1 "	7" x40'	05¢	"
1 "	8" x35'	06¢	"
3 "	8" x40'	07¢	"
2 "	7" x55'	10¢	"
1 "	8" x65'	13¢	"

12-3 Piling

1 pcs.			
1 "	12'	09¢	per lin
2 "	18'	09¢	"
1 "	20'	09¢	"
4 "	22'	09¢	"
5 "	25'	09¢	"
7 "	30'	09¢	"
8 "	35'	09¢	"
1 "	40'	09¢	"
1 "	50'	19¢ ^{1/2}	"
1 "	55'	11¢	"
1 "	60'	12¢	"

TOTAL

225.37

(page three)

ANSWERING THE SEVENTH INTERROGATORY, they say:

We delivered lumber in Mobile which was cut from this timber. We did deliver lumber in Mobile and the same was sold and delivered to C. W. Hempstead Lumber Company, Stover Manfg. Company and the Alabama-Tennessee Railroad Company. This lumber sold and is shown by exhibits 22, 23, 24, 25, 26 and 27, and we sold and delivered to R. D. Walker Lumber Company of Mobile, Alabama, lumber cut from said premises, which was delivered to Pensacola, Fla., which is shown by Exhibit 21. These exhibits show the amount of lumber sold and the amount received and the number of feet delivered.

ANSWERING THE EIGHTH INTERROGATORY, they say:

We did deliver to the L & N RR Co. lumber, and such lumber so delivered is shown by Exhibits 22, 23, 24, 25, 26, and 27. The lumber was shipped from Robertsdale, Alabama. The purchase price is shown by the invoices marked Exhibits 22, 23, 24, 25, 26 and 27. This does not include the lumber sold to R. D. Walker Lumber Company as shown by Exhibit 21, which was trucked to Pensacola. The exhibits we refer to show each shipment of lumber, the number of feet, to whom sold and the price received.

ANSWERING THE NINTH INTERROGATORY, they say:

We did not deliver any lumber to the ship side, but we did deliver some lumber to the L & N switch in Pensacola and such deliveries are shown by Exhibits 1, 2, 4, 7, 8, 11, 15, 16, 17, 20, and 21, and the balance of said sales and deliveries from Exhibits 1 to 21, both inclusive, by truck.

ANSWERING THE TENTH INTERROGATORY, they say:

We had contracts with various and sundry parties at the time the original bill in this cause was filed, and attached hereto are copies of such contracts marked Exhibit A, B, C, D, E, F, G, H, I, J, K, L, M, N, and O. A part of said contracts had been filled. The exhibits herein referred to are the contracts had with various and sundry purchasers for future delivery of lumber at the time the injunction was issued in this cause, and the defendants had to breach their contracts, and have suffered great damages thereby in the sum of approximately two thousand to twenty-five hundred dollars.

in fact owned by M. B. Binion. The capacity of the Emmons Mill was 5,000 feet per day. The capacity of the Hobbs mill was about six to seven thousand a day, and the capacity of the Noble Bros Mill was about 6,000 feet per day, but we had made certain improvements on it, which would have made the capacity around 10,000 feet per day.

ANSWERING THE FOURTH INTERROGATORY, they say:-

We manufactured from the timber cut from said premises 405,526 feet. From this amount we sold from the yard and shipped lumber manufactured from timber cut from the said premises 203,888 feet, and in addition to this there was 13,148 feet sold to M. A. Quina, Jr., Pensacola, Fla., for which we received \$195.53, said sum being deposited in escrow in the name of C. B. Mitchell, Jr., as Trustee, to be held pending this litigation. In addition to this there is lumber which we had cut and manufactured now on sticks on the premises, amounting to approximately 188,490 feet which we were enjoined from removing.

We made twenty-seven shipments or deliveries of lumber and piling during our operations in cutting the timber from said premises, and attached to our answer to this interrogatory are copies of such shipments marked Exhibits one to twenty-seven, both inclusive. We sold in addition to this, three local sales, copies of such sales are hereto attached marked Exhibits 28, 29 and 30, and we made two sales of piling, the sale of piling being shown by Exhibits 9 and 19 hereto attached. Said exhibits show the amount of lumber shipped, the price, the names of the consignees, the date of consignment, the number of feet and the amount of dollars, with exception of three small sales, which were local sales, amounting to \$11.86 from one of which the number of feet is omitted.

ANSWERING THE FIFTY INTERROGATORY, they say:

We did not ship any lumber by way of the Frisco Railroad. This answers the remainder of said fifty interrogatory.

ANSWERING THE SIXTH INTERROGATORY, they say:

We did make local deliveries of lumber from said premises. We do not recall the names of the persons to whom such local deliveries were made, but the amount did not exceed \$12.00 and did not exceed 500 feet. The invoices for this lumber sold locally are shown as exhibits 28, 29 and 30.

R. F. MITCHELL JR., ET AL,

Complainants,

Vs.

J. P. LANGHAM AND ARTHUR
LANGHAM, doing business as
LANGHAM LUMBER COMPANY,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Now come the respondents, J. P. Langham and Arthur Langham, to whom interrogatories were propounded by the complainants and for answer to said interrogatories say:

ANSWERING THE FIRST INTERROGATORY, they say:

J. P. Langham lives at Excell in Monroe County, Alabama, and Arthur Langham lives at McKenzie, Butler County, Alabama. We are both engaged in the manufacture of lumber and in farming. The Langham Lumber Company is a partnership. The partners are J. P. Langham and Arthur Langham and the partnership is engaged in the manufacture of lumber at McKenzie Alabama, and was engaged at Seminole in Baldwin County, Alabama, until the injunction was issued in this cause and stopped their operation at that point, and are engaged in farming in Conecuh County, Alabama.

ANSWERING THE SECOND INTERROGATORY, they say:

We did execute for and in behalf of the Langham Lumber a contract relating to the cutting of timber and marketing the same with complainants during the year 1931, and Exhibit A to the amended complaint is supposed to be a copy of the same. We have not checked such contract with the original and can not say whether it is a true and correct copy. After the execution of said contract, we commenced to place a mill in the vicinity of the timber on or about December 8, 1931, and commenced cutting the timber a short time after placing the mill at said point.

ANSWERING THE THIRD INTERROGATORY, they say:

We did not locate any sawmills of our own on the premises referred to. T. W. Emmons was the owner of one of the saw mills located on said premises. Hobbs Bros. was the owner of another saw mill located on said premises. There was another saw mill located on said premises operated by Noble Bros., but the mill was

(page two)

in fact owned by M. B. Binion. The capacity of the Emmons Mill was 5,000 feet per day. The capacity of the Hobbs mill was about six to seven thousand a day, and the capacity of the Noble Bros Mill was about 6,000 feet per day, but we had made certain improvements on it, which would have made the capacity around 10,000 feet per day.

ANSWERING THE FOURTH INTERROGATORY, they say:-

We manufactured from the timber cut from said premises 405,526 feet. From this amount we sold from the yard and shipped lumber manufactured from timber cut from the said premises 203,888 feet, and in addition to this there was 13,148 feet sold to M. A. Quina, Jr., Pensacola, Fla., for which we received \$195.53, said sum being deposited in escrow in the name of C. B. Mitchell, Jr., as Trustee, to be held pending this litigation. In addition to this there is lumber which we had cut and manufactured now on sticks on the premises, amounting to approximately 188,490 feet which we were enjoined from removing.

We made twenty-seven shipments or deliveries of lumber and piling during our operations in cutting the timber from said premises, and attached to our answer to this interrogatory are copies of such shipments marked Exhibits one to twenty-seven, both inclusive. We sold in addition to this, three local sales, copies of such sales are hereto attached marked Exhibits 28, 29 and 30, and we made two sales of piling, the sale of piling being shown by Exhibits 9 and 19 hereto attached. Said exhibits show the amount of lumber shipped, the price, the names of the consignees, the date of consignment, the number of feet and the amount of dollars, with exception of three small sales, which were local sales, amounting to \$11.86 from one of which the number of feet is omitted.

ANSWERING THE FIFTY INTERROGATORY, they say:

We did not ship any lumber by way of the Frisco Railroad. This answers the remainder of said fifty interrogatory.

ANSWERING THE SIXTH INTERROGATORY, they say:

We did make local deliveries of lumber from said premises. We do not recall the names of the persons to whom such local deliveries were made, but the amount did not exceed \$12.00 and did not exceed 500 feet. The invoices for this lumber sold locally are shown as exhibits 28, 29 and 30.

(eight)

Top & Butt cutting waste	10,349'	
Average price as above	<u>20.00</u>	
Value	206.98	
20%		41.40
Salary representative Dec 8, 1931 thru March 21, 1932 @ 100.00 per month		341.94
Unpaid rent on quarters used by Langham Lbr. Co.		35.00
5 Scrape irons		<u>5.00</u>
		<u>\$3,415.27</u>

C. B. Mitchell
R. F. Mitchell Jr.
J. L. Tucker

STATE OF FLORIDA,
ESCAMBIA COUNTY.

Before me, J. J. Crooke, a Notary Public in and for said State and County, personally appeared R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, who first being by me duly sworn depose and say:- That the foregoing Answers to the Interrogatories propounded by the defendants in the aforesaid cause to complainants are true and correct.

Sworn to and subscribed before me,
a Notary Public, whose seal is here-
to affixed, this 18th day of August,
1932.

C. B. Mitchell;
R. F. Mitchell, Jr.
J. L. Tucker

J. J. Crooke, Notary Public, Escambia
County, State of Florida.

Seal

PAYMENTS BY THE LANGHAM LUMBER TO MITCHELL LUMBER COMPANY

1/23/32	check	\$99.92	
3/3/32	do	300.00	
3/4/32	check returned		\$300.00
3/7/32	Cash	300.00	
3/16/32	Cashier's check	300.00	
		-----	-----
		999.92	300.00
	to Balance		699.92
		999.92	999.92
		-----	-----
	TOTAL PAYMENTS	699.92	

LANGHAM LUMBER COMPANY,
to MITCHELL NAVAL STORES COMPANY, Dr.

total cut	697,161'	
Stock on hand	224,258'	
Total lumber sold	472,903'	
Langham Lumber Co. estimate of average price per thousand	20.00	
Total sales	9,458.06	
20% of total sales		\$1,891.61
Timber left standing on cut over lands	275,080'	
Average price as above	20.00	
Value	\$5501.60	
20%		\$1,100.32

collecting for the stumpage and other moneys due, which they were unable to do, as heretofore stated, and that complainants were advised that no further steps were necessary so far as any further notice of the termination of the contract was concerned, as complainants explicitly notified the defendants that said contract would be terminated unless the conditions of the contract were complied with. We contend that our notice of termination was based upon their carrying out of their contract; that the defendants had reasonable time in which to comply with the same and that on their failure to comply with said contract the same was terminated; that the defendants evidenced an intention not to carry out said contract and that their actions in failure to comply with the demands of complainants was a trespass on said lands. We are not advised as to the amount of timber that was cut after our letter to them as heretofore mentioned and the issuance of the injunction, on account of the fact that we have been unable to get them to let us examine their books and papers. The timber which was cut between the time that we wrote to the defendants as heretofore mentioned, and the issuance of the injunction, was cut in Section 34 and 33. The amount of timber cut and sold by the defendants according to our estimation was 697,903 feet cut and sold. We are unable to give the date of each of the shipments obtained from said land for the reason that we have been denied the privilege of examining the books and papers of the defendants. We hereby attach an itemized statement showing the status of the account between the plaintiff and the defendants, marking the same Exhibit B to our answers to these interrogatories. This is the best statement that we can get up on account of the fact that we have been denied access to the books and papers of the defendants which appertained to their business. That the timber which was cut and manufactured either into lumber, piling or poles was taken from the subdivisions of land heretofore mentioned. As stated, we are unable to say as to whom all the lumber, piling or poles were sold to, or exactly when, but we do know that the same was cut from our lands and carried away therefrom by the defendants, and that they owe the amounts set out in the itemized statement hereto attached for the same as well as for the amount paid over by us for having a representative at said mill.

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action with their transactions in cutting the timber and manufacturing the same from said lands. We claim that the defendants have failed and refused to pay the amounts due under the contract for shipments of poles, piling and lumber obtained from said lands. As stated above, on account of the fact that they would not let see their papers and books we are unable to furnish the information inquired for. We claim that we called upon the defendants to pay the amount due us for lumber manufactured from timber on the lands mentioned in the contract and that they failed and refused to pay the amount due us, which they were in duty bound to do. We are unable to give you the amount of each such shipment and the dates, to whom made and the character of the shipments, whether lumber, piling or poles, for the reason that we were denied an investigation of the books and papers of the defendants. We claim that by reason of the failure of defendants to cut the timber continuously; that is, to clear up a forty as they went, that by reason of the failure to pay us for the salary of the agent that we were to keep at the mill, and the failure to permit us to examine their records and books so that we might be cognizant of our business affairs as connected with this transaction, that said defendants breached said contract and that on account of their said breaches the same were terminated.

SIXTH

In answer to the sixth interrogatory we claim that about a week before the injunction was obtained in this case that we gave notice to the defendants that we would terminate the contract unless they conformed to the agreement in said contract and paid to us the balance due us for the stumpage on said lands and other moneys due us; that the defendants failed to comply with their said contract; that this letter was delivered to the business of said partnership, Mr. J. P. Langham, and the conditions continued as they were at the time of the delivery of said letter, no change was made in the nature and form in which the business was being carried on; the defendants continued to breach their contract and failed to pay the amounts due promptly, and as aforesaid our representatives used their best endeavors to get up with the said J. P. Langham for the purpose of

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evidently evading our representative after the aforesaid letter was written, and shortly prior to the issuance of the Injunction, or, in other words, our representative was unable to get up with Mr. J. P. Langham from the time that we wrote him the letter heretofore mentioned up until the time that the Injunction was issued; that he made numerous visits to the mills and to his home and that the only time he was able to locate him was at the time that he came very near running into our representative; that at this time Mr. J. P. Langham was sitting in a car which was standing still, and when our representative walked up and spoke to him and placed his hand on the car Mr. Langham said something to the driver twice that our representative could not hear, and the driver of the car drove on, and our representative had to step out of the way to keep from being run into. This letter of which we speak, a copy of which was given to Mr. J. P. Langham personally, and another copy of which was mailed to Arthur Langham at Georgiana, Alabama, a copy of which letter has been misplaced from the files either in the office of Hybart, Heard & Chason or in the office of the West Florida Naval Stores Company. In the event that we are able to find a copy of the same we will attach it to our answer to these interrogatories.

FIFTH

In answer to the fifth interrogatory complainants say the defendants have paid to them Six Hundred Ninety-nine & 92/100 Dollars (\$699.92). There is also being held in the Peoples National Bank, Pensacola, Florida, One Hundred Ninety-five & 53/100 Dollars (\$195.53) in escrow, the same being in the name of Mr. C. B. Mitchell as Trustee. We are attaching an itemized statement, markeding same Exhibit A to our answer to these interrogatories, showing amounts paid by defendants as required. These payments were made as follows: The first payment was made by check, the second payment was made by check which was returned unpaid and was later taken up by cash, the third payment was made in cash. We claim that there was lumber, piling or poles obtained from said lands for which the defendants have not paid us; that is, the amount due us for the same. We are unable to give the date, the amount of such shipments and to whom such shipments were made on account of the fact that the defendants would not permit us to examine their books and records in conn-

as soon as we started to have trouble with the defendants in regard to this cutting contract. The duties of our representatives were to try to see that the contract was carried out and that the timber was cut as contracted for, and to try to keep up with the output of the mills. The duties of said representatives also were to keep in touch with the records of the mills as kept by the defendants, but in this respect they had no success, as Mr. J. P. Langham would not permit them to do so. The defendants were to pay \$100.00 per month for the services of the representative of the complainants while engaged at said mill. The amount paid by us on the salary inquired about was not refunded to us by the defendants. We demanded payment of the defendants of the amount that was due us both for the stumpage and for the amount that they agreed to pay for our representative at the mills, and we made a straight out demand for the salary. We made this demand specifically upon Mr. J. P. Langham. Our best recollection is that this took place at one of the mills he was operating. The demand was not in writing. We terminated said contract by reason of the fact that the defendants had failed and refused to carry out their contract with us; to pay us for the stumpage and for the salary, and to cut the timber continuously upon the sub-divisions that they were operating on, and for failure to permit us to examine their books as they had contracted to do. The contract was terminated the day that we obtained the injunction. The contract was terminated by our enjoining the further operation of the defendants. About the week before the injunction was obtained we notified the defendants that unless they paid the moneys that were due us and changed their manner of operation at once so as to comply with the contract that we would be forced to terminate the same. That no attention was paid to this letter. Shortly after this our representative tried to get in contact with Mr. J. P. Langham, the active partner at the mills, but he was unable to do so. That on one occasion about a day or so before the injunction was taken out that he endeavored to stop Mr. Langham in his car for the purpose of collecting the money that was due on stumpage and salary, and our representative had to step out of the way to keep Mr. Langham from running into him. That the active manager of said mills was

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half of the Southeast Quarter ($S\frac{1}{2}$ of $SE\frac{1}{4}$) of Section 27, Township 5 South Range 5 East; West half of Northeast Quarter ($W\frac{1}{2}$ of $NE\frac{1}{4}$) of Section 33, Township 5 South Range 5 East; all except the South half of Northeast Quarter ($S\frac{1}{2}$ of $NE\frac{1}{4}$) of Section 34, Township 5 South Range 5 East; West half of West half ($W\frac{1}{2}$ of $W\frac{1}{2}$), East half of Southwest Quarter ($E\frac{1}{2}$ of $SW\frac{1}{4}$) and Southeast Quarter of Northwest Quarter ($SE\frac{1}{4}$ of $NW\frac{1}{4}$) of Section 35, Township 5 South of Range 5 East; Northeast Quarter of Northwest Quarter ($NE\frac{1}{4}$ of $NW\frac{1}{4}$) of Section 3, Township 6 South Range 5 East. Said lands from which the timber was cut lay contiguous but they did not cut the timber continuously on the said subdivisions heretofore mentioned. The lands were not cut clean before another parcel was started, nor were they cut clean later.

FOURTH

The defendants did not keep a correct set of books and records of the lumber, piling and poles cut from said lands and shipments made under said contract. The defendants kept a list of invoices of each customer having separate page. His inspector kept a list tally of each shipment, but we were never allowed to see it. The mills kept a tally of each daily cut but refused to allow us to see it. The only thing that we ever saw was the list of invoices. We made a demand on the defendants to be allowed to examine their books on numerous occasions; that is, upon J. P. Langham, who was the partner in charge of the operations. Every time that we made this demand or request Mr. J. P. Langham would put us off by excuses, and on one occasion he stated that he would not let us make the examination. On this occasion he stated that the books were at his home and we then requested him to be permitted to examine them there and he refused for us to do it. This was about a month after the defendants started operations on the cutting of the timber. This conversation took place at Ermon's Mill in Baldwin County, Alabama. Our representatives, Mr. H. M. Gilly and Mr. C. B. Mitchell were supposed to be at the mill practically the time. Mr. Gilly was at the mills all the time except Sunday and Saturday afternoons. Mr. H. M. Gilly was placed at the mills about January 18th, 1932, and continued there during the operation. Mr. Gilly was placed there just

RL F. MITCHELL, JR., C. B.

MITCHELL AND J. L. TUCKER,
doing business as MITCHELL
NAVAL STORES COMPANY, A
Partnership,

Complainants,

Vs.

J. P. LANGHAM AND ARTHUR
LANGHAM, doing business as
LANGHAM LUMBER COMPANY,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Now come the complainants, R. F. Mitchell, C. B. Mitchell and J. L. Tucker, and for answer to the Interrogatories heretofore filed by the respondents say as follows:-

FIRST

In answer to the first interrogatory complainants say that they live at Pensacola, in the State of Florida. We are engaged in the Naval Stores Business. The complainant is a partnership; that is, the Mitchell Naval Stores is a partnership composed of R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, The partnership is engaged in business near Seminole, Baldwin County, Alabama.

SECOND

In answer to the second interrogatory, we executed the contract referred to as Exhibit A to the original bill as amended. The defendants began operation of the manufacture of lumber under said contract in the land described therein. The lands described in said contract belong either to Louis Sussman or Abe Durchlag, we are not advised as to the exact title as to the land. We are not advised as to whether or not there is any Mortgage on the lands or not. We are not advised as to who the owner of said mortgage is upon the lands.

THIRD

Our information is that they cut 697,161 number of feet of timber. This timber was cut from the lands mentioned in said contract lying north of the Pensacola and Mobile Highway, and on the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$) and South

WE command you that without delay you execute this Writ and due return thereof to make to us instanter, at a term of our Circuit Court-In Equity, to be held at Bay Minette, Alabama, on the 25th day of April, 1932.

TO J. P. LANGHAM AND ARTHUR LANGHAM, doing business as LANGHAM LUMBER COMPANY....GREETINGS:°

WHEREAS, R. F. MITCHELL, JR., C. B. MITCHELL AND J. L. TUCKER, doing business as Mitchell Naval Stores Company, a partnership, have exhibited their bill of complaint in the Circuit Court of Baldwin County, Alabama, in Equity, and hath obtained from the Hon. F. W. Hare, Judge of said Court, an order for the issuance of a temporary injunction to restrain and enjoin you as hereinafter mentioned:

AND WHEREAS, the said R. F. Mitchell, Jr., C.B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, in accordance with said order, entered into Bond with sufficient surety in the sum of Five Hundred Dollars (\$500.00) payable to and approved by the Register of said Circuit Court, and conditioned according to law.

NOW THEREFORE, you, the said J. P. Langham and Arthur Langham doing business as Langham Lumber Company, are hereby commanded and strictly enjoined from trespassing on the lands hereinafter described and from cutting or removing any timber, lumber, poles or piling from said land, or from interfering with the possession of said Complainants in and to said property, which said follows:

The northeast Quarter ($NE\frac{1}{4}$) the East half of North west Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter of North-west Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$); West half of Southeast Quarter ($W\frac{1}{2}$ of $SE\frac{1}{4}$) Section Twenty-six (26); the Southeast Quarter ($SE\frac{1}{4}$) and the Southwest Quarter of Southwest Quarter ($SW\frac{1}{4}$ of $SW\frac{1}{4}$) of Section Twenty-nine (29); the Southeast Quarter of Southeast Quarter ($SE\frac{1}{4}$ of $SE\frac{1}{4}$) of section Thirty (30); The south half of the Southwest Quarter ($S\frac{1}{2}$ of $SW\frac{1}{4}$) Section Thirty-one (31); the West half of the Northeast Quarter ($W\frac{1}{2}$ of $NE\frac{1}{4}$); Section Thirty-three (33); all Section Thirty-four (34); The North half ($N\frac{1}{2}$) and the Southwest Quarter ($SW\frac{1}{4}$) Section Thirty-five (35); The East half ($E\frac{1}{2}$); the East half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$), Southwest Quarter, of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$) and North half of Southwest Quarter ($N\frac{1}{2}$ of $SW\frac{1}{4}$), Section Thirty-six (36), all in Township Five (5) South of Range Five (5) East; The Northeast Quarter ($NE\frac{1}{4}$ of $SE\frac{1}{4}$) Section One (1); the Northwest Quarter ($NW\frac{1}{4}$) Section Three (3); the Northeast Quarter of the Southeast Quarter ($NE\frac{1}{4}$ OF $SE\frac{1}{4}$) Section Four (4) all in Township Six (6) South of Range Five (5) East.

until further orders of the court.

Witness my hand as Register, and the seal of said Circuit Court, In Equity, this 15th day of March, 1932.

T.W. Richerson, Register.

into as a part of each of the paragraphs hereof where the term "lumber" or the term "piling" is used.

15. It is hereby agreed and understood that the/ shall make an honest and diligent effort to carry out this contract according to the provisions thereof, but in the event after such efforts the buyers find that such contract can not be carried out with a profit to the buyers, then the buyers shall have the right to terminate said contract and surrender the rights hereunder by giving to the sellers immediate notice of their intention to do so, and in event this agreement is terminated under this paragraph, the sellers agree that the buyers may remove their equipment at any time before January 1, 1936, and the buyers upon such termination, release all claims to lumber and piling.

16. It is understood and agreed that the growing timber hereinabove described is under mortgage to West Florida Naval Stores Company and this contract shall not be binding on the parties hereto without the written consent of said mortgagee being first obtained.

IN WITNESS WHEREOF, the said parties have executed this instrument in duplicate on the day and year first above written.

Signed, sealed and delivered in the presence of by the sellers: A. R. McAinsten, J. J. Cooke.

MITCHELL NAVAL STORES COMPANY (SEAL)
BY R. F. MITCHELL, JR., (SEAL)
J. L. TUCKER (SEAL)
C. B. MITCHELL (SEAL)
LANGHAM LUMBER COMPANY, (SEAL)
BY J. P. LANGHAM (SEAL)
ARTHUR LANGHAM (SEAL)

Signed, sealed and delivered in the presence of us by the buyers: Noble C. Huggins, Mart Salter.

STATE OF FLORIDA,
COUNTY OF ESCAMBIA.

Before me, subscriber, personally came R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker whose names are signed to the foregoing instrument, and who are known to me, and severally acknowledged to me on this day that being informed of the contents of the foregoing instrument they severally executed the same voluntarily on the day the same bears date.

Witness my hand and official seal this 30th day of November, 1931.

H. E. Mancill, Notary Public.

EXHIBIT "B"

R. F. MITCHELL JR., C. B. MITCHELL AND J. L. TUCKER, doing business as Mitchell Naval Stores, company a partnership,

Complainants,

Vs.

J. P. LANGHAM AND ARTHUR LANGHAM, doing business as Langham Lumber Company,

Respondents.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.
IN EQUITY.

TO ANY SHERIFF OF SAID STATE...GREETINGS:-

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as above referred to. The salary of such employee, not exceeding One Hundred Dollars (\$100.00) per month, shall be borne and paid by the buyers, and for any default in making payments of such salary the sellers shall have the same rights as hereinabove given them with respect to defaults by the buyers in the making of payments on account of lumber and piling shipped or marketed.

10. The buyers understand that the right to sell the timber affected hereby is defined and given by the conveyance referred to in paragraph 1 of this instrument, through and under which the sellers claim, and the buyers covenant and agree that in their cutting of timber hereunder they will not in anywise violate the provisions of the said conveyance and will hold the sellers harmless from liability or loss by reason of any violation on the part of the buyers of the provisions of the said conveyance.

11. It is intent of the parties hereto that the rights hereunder given by the sellers to the buyers are personal to the buyers, and that the buyers shall not have the right to assign this contract, or any rights hereunder to any other person or persons whomsoever, and that any assignment thereof, or any rights hereunder, made or attempted to be made by the buyers shall forfeit all their rights hereunder, and shall not vest any right in the assignee whatsoever.

It is further agreed and understood that it at any time during the life hereof a petition in bankruptcy is filed by or against the buyers, or any application for a receiver of their property, or the happening or any other act of insolvency as to the buyers, that all rights of the buyers hereunder shall terminate, and the sellers shall have the right to retain as their own all of the manufactured products on hand and unsold as liquidating damages for the default of the buyers hereunder and the loss of performance of this contract by the buyers.

12. The buyers during the time of their operations hereunder shall not manufacture any of the trees unto lumber except at a mill or mills located upon the hereinabove mentioned lands or located upon fee simple lands owned by the sellers which they may allow used for that purpose. The buyers shall not have the right to manufacture lumber at the said mills from timber cut from any other lands without the consent of the sellers in each instance first had and obtained. It is understood that the sellers own other fee simple lands in the same territory in which the lands hereinabove referred to are located, and that the sellers will allow the buyers a location of such fee simple lands for their planers, dry kilns and lumber yards during the life hereof without further rental, such yards, however, to be used only for the product of the timber from the lands hereinabove mentioned.

13. The buyers agree that they will begin cutting of piling on the lands lying on the north side of the paved highway between Mobile and Pensacola not later than the 1st day of January, 1932, and will thereafter diligently prosecute the same and they will begin the manufacture of lumber at their mills on said lands not later than the 1st day of March, 1932, and thereafter diligently prosecute the same, and install planes and drykilns not later than the 1st day of June, 1932, and upon their failure to begin and diligently to prosecute the manufacture of lumber by the date herein mentioned, or to begin and diligently to prosecute the cutting and piling by the dates herein specified, or to install dry kilns and planer, all rights hereunder at the option of the sellers, shall terminate.

14. It is further agreed and understood that the term "Lumber" wherever used in this contract shall be deemed to cover and include all products of wood manufactured at the mill or mills of the buyers. The term "piling" wherever used shall also include marketable poles, and nothing herein shall bind the buyers to cut into any lumber trees which they may desire to cut and market as piling herein defined. The definitions of lumber and piling in this paragraph shall be read

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No piling are to be cut from the land south of the paved highway between Mobile and Pensacola until all of the piling on the lands north of said highway have been cut, unless buyers shall receive an order for piling which they are unable to fill from timber on the north side of said paved highway and it becomes necessary to use and cut piling on the south of said highway without the consent of the sellers first had and obtained, except as above stated.

6. The buyers agree that they will diligently prosecute the work of cutting and manufacturing said timber, and with such expedition as to assure that all of it will have been cut and manufactured by the first day of January, 1936. If at any time it becomes apparent that the operations of the buyers are not being prosecuted on such scale, or that buyers are not proceeding with such diligence and facilities as to assure the cutting and removal of all of the said timber the first day of January, 1936, then the sellers, without liability to the buyers, shall have the right to terminate this agreement and take over the stock of lumber and piling then on hand (the buyers to have the right to remove their equipment at any time before January 1, 1936) provided, however, that if any controversy shall arise as to the right of the sellers to terminate the agreement under this paragraph the question shall be determined by arbitrators to select a third, and the decision of any two to be binding and conclusive on both parties.

7. In the manufacturing operations of the buyers they shall have the right to use so much of the slabs and butts of the trees for fuel and firing the boilers of their mills as is reasonable necessary, but the remainder of such slabs and butts of trees and the tops of all trees cut shall be and remain the property of the sellers to dispose of as they wish, provided the sellers will remove said slabs promptly as they accumulate and failing to do so, the buyers shall have the right to remove same without delay.

8. It is further understood and agreed that should the buyers fail to make payments to the sellers as above provided for shipments and deliveries of lumber or piling, and within the time provided, or should they at any time fail diligently to sell and market the lumber and piling, the sellers shall have the right to seize and take charge of any and all lumber and piling, manufactured and themselves to market it as expeditiously as possible and in due course of business, but eighty percent of the net proceeds of such sales, after the payment of all reasonable costs thereof, shall as and when received by the sellers be paid over to the buyers; or, if at any time the buyers hereunder shall be in default for so much as thirty (30) days in the payment of any moneys owing by the buyers under the terms hereof to the sellers, then the sellers at their option may terminate all rights of the buyers hereunder to cut any further lumber, and the lumber and piling then on hand may be seized and marketed by the sellers as expeditiously as practicable, and of the net proceeds arising therefrom, after the payment of all expenses, twenty percent shall be retained by the sellers and the remaining eighty percent paid over to the buyers.

9. At all times during the operations of the buyers hereunder they shall keep complete books and records of lumber, piling and poles cut and shipments made, and the sellers shall have the right to keep at the mill or mills of the buyers a representative to be selected by the sellers for the purpose of checking up and keeping the sellers informed of the operations of the buyers hereunder, and keeping them informed of the quantity of lumber and piling cut and shipped, it being agreed that such employee shall at all times have access to the books and records of the buyers showing the lumber and piling cut and showing all sales and shipments, so that the sellers may at all times be informed accurately of the progress and details of the business, and such employee shall be under the direction and control of the sellers but perform such other duties as may, with consent of the sellers, be required of him by the buyers, provided such duties do not conflict or interfere with such duties

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freights deductible. If any deliveries are made by the buyers by truck to Mobile, Alabama, the trucking cost, if such cost does not exceed the rate for such service by rail, shall be deductible in the same manner as freights where under the selling contracts the buyers hereunder are required to make such delivery at Mobile.

As rapidly as shipments are made and at the time of each shipment, the buyers shall forward to the sellers at Pensacola, Florida, a duplicate of every invoice of every shipment, and the railroad freight bills for all shipments under which the freights are to be paid by the buyers hereunder.

The twenty percent payments to the sellers hereinabove provided for on all lumber or piling shipped are to be paid by the buyers to the sellers within thirty days (30) after the shipment, and sooner if within such thirty days the buyers receive payments from the consignees of such shipments, it being the intent hereof that the sellers hereunder shall not be required to bear any portion of any losses that the buyers hereunder may sustain by reason of their consignees failing to pay in whole or in part for any shipments made to them.

3-a. The buyers shall and will at their own cost and expense keep the manufacturer products insured in reputable fire insurance companies against the loss or damage by fire in an amount satisfactory to the sellers, provided such insurance can be obtained, and as each policy of insurance is affected shall lodge the same with the sellers, the policies to carry a clause making all loss payable to the sellers as their interest may appear.

The buyers shall at all times hold the sellers harmless against the loss or damage by reason of the violation by the buyers of any portion of the provisions, conditions and exceptions of the conveyance from Abe Durschlag and wife to H.E. Wickersham dated the 12th day of October, 1926 and mentioned in paragraph 1 hereof.

4. The buyers hereunder shall first cut and remove the timber from so much of the above mentioned lands as lie on the north side of the paved highway running between Pensacola, And Mobile, Alabama. All cutting of timber shall be carried on so that once the cutting has been begun parcels being cut shall be contiguous to those already cut, it being the intent hereof that the buyers shall not have the right to cut any parcels already cut. As to the lands on the north side of said paved highway, the buyers shall have the right to cut and remove the timber as rapidly as they desire. It is understood that the sellers reserve the right to turpentine all timber hereunder until cut by the buyers. As soon as the buyers have completed cutting the timber from the lands on the north side of said paved highway, the sellers will release to them for cutting the lands on the south side of said paved highway in two hundred forty (240) acres parcels by governmental subdivision, such two hundred forty acre parcels released from turpentine operations to be contiguous to lands already cut by the buyers. The buyers shall not have the right to enter for cutting upon lands south of said paved highway except releases thereof from turpentine operations are made by the sellers in two hundred forty acre parcels lots, and the cutting on any released two hundred forty acre parcel lot shall be completed before the buyers shall have the right to enter upon or require the release for cutting any other two hundred forty acre parcel of land.

5. In their operations the buyers shall be bound to cut and convert into saw logs and manufacture into lumber all trees suitable therefore, and which are of a diameter of not less than eight inches at a point sixteen feet above the grounds, and shall be bound to cut and make into piling all smaller trees suitable therefore which are of a diameter of not less than eight inches at a point in the tree twelve inches from the ground, provided the last above mentioned and described trees can be marketed and sold at a profit.

EXHIBIT "A"

STATE OF ALABAMA,

BALDWIN COUNTY.

THIS MEMORANDUM OF AGREEMENT made and entered into on the 24th day of November, 1931, by and between R. F. Mitchell, Jr., C.B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, hereinafter called sellers, and J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, hereinafter called buyers, WITNESSETH:-

1. Subject to the terms and conditions hereinafter set forth and to the provisions conditions and exceptions set forth in a certain conveyance from Abe Durschlag and wife to H. E. Wickersham, dated the 12th day of October, 1926, and appearing of record at page 124 et seq., or record book 42 N. S. of the records of Baldwin County, Alabama, the sellers grant to the buyers the right to tap to January 1, 1936, to enter upon the lands in Baldwin County, Alabama, described in the list attached to the said last mentioned deed, except so much thereof as lies north and east of Styx River, and to cut and remove therefrom and convert into lumber all of the timber thereon standing of a diameter of not less than eight inches (8") at a point in the trees sixteen (16) inches from the ground, and also to cut and remove therefrom all such smaller timber suitable for piling and not smaller than eight inches (8") in diameter at a point in the tree twelve inches (12") from the ground.

2. The buyers will immediately after the execution hereof and at their own cost and expense locate such saw mill or saw mills and a planer and dry kiln on the above mentioned land as will be reasonably adequate to assure the cutting and removal of all the said timber by January 1, 1936, and will diligently, with such mills at such locations on said land as the buyers deem proper, manufacture the timber on said lands into merchantable lumber and sell such lumber and such piling as may be cut from said land at the best obtainable market prices in due course of business, it being understood that the title to all timber cut, including piling and all lumber manufactured therefrom, shall remain vested in the sellers until actually shipped and sold by the buyers in due course of business. The cutting of all such timber and the manufacture of the same into lumber and piling shall be at the sole cost and expense of the buyers. The buyers shall not have any right or authority to subject the sellers to any liability to any person. In cutting trees the buyers shall cut and take all of each tree suitable for making lumber and saw mill products up to the point of the tree where the diameter is not greater than eight inches.

Where the buyers are permitted to cut trees for piling on lands not generally released to the buyers for the cutting of the whose timber, they shall cut and sell the same in such manner as not to do any damage to turpentine faces, cups and aprons on trees being worked, by the sellers or under their authority for the production of naval stores.

3. As rapidly and expeditiously as practicable the buyers will in due course of business market and sell all piling cut by them from the timber on the above referred to land at the best obtainable prices, and will pay to the sellers as compensation for such lumber, and piling twenty percent (20%) of the selling price thereof, after deducting any freights which the buyers may be required to pay from the sale price of such products, the remaining eight per cent (80%) to be retained by the buyers as their own. Where deliveries and or shipments are made at Robertsdale, Alabama, and or Pensacola Florida, and/ or any point on the lines of the Louisville & Nashville Railroad or the lines of St. Louis, San Francisco Railway in Baldwin County, Alabama, the cost of transportation to such points shall be borne by the buyers and shall not be counted as

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state that neither they nor Langham Lumber Company are insolvent.

J. P. Langham,
Arthur Langham.

Sworn to and subscribed
before me, this 6th day
of May, 1932.

Alma Murphy,
Notary Public.

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oxen were used by respondents in the operation of their lumber business in cutting and removing the lumber from said lands, and that since the issuing of said injunction said mules and oxen have been idle and have had to be fed and cared for by respondents, and that the expense of caring for said mules and oxes was approximately \$5.20 per day; that one pair of said mules did not belong to respondents, but were the mules of Mr. Binion and that affiants were able to get Mr. Binion to take back the mules after having fed them for about thirty days.

Affiants further state that after making said contract and entering into the manufacturing of the timber from said lands, the respondents went to great expense in making contracts for the sale of the lumber to be manufactured from said timber and that at the time the injunction was granted in this cause the respondents had a number of contracts and orders incomplete, and respondents will have to break said contracts, and make themselves liable for damages for failure of respondents to comply with the terms of such contracts, and respondents will suffer great damages thereby.

Affiants further state that they had gone to great expense in preparing to operate under contract, and that the operation has had to cease and the respondents will suffer great damages thereby.

Affiants further state that the bond of \$500.00 given by complainants at the time of the suing out of said writ of injunction is wholly insufficient to pay and compensate respondents for the suing out of said injunction if the same should be dissolved, and affiants further state that respondents will be prepared and will show that said injunction was wrongfully sued out and should be dissolved.

Affiants further state that said injunction bond should be increased to protect respondents from any damages by reason of the wrongful suing out of said injunction. Affiants further

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upon the granting of said writ, bond was fixed by the Hon. F. W. Hare, Judge of the Twenty-first Judicial Circuit, who issued injunction at the sum of Five Hundred Dollars (\$500.00) which bond was made and executed by complainants.

Affiants further state that they have incurred obligations and attorneys fees in said cause, seeking to dissolve said injunction and representing the interest of respondents in the sum of Five Hundred Dollars (\$500.00), having employed the firm of Powell and Hamilton of Greenville, Alabama, as such attorneys, and that such attorneys fees are reasonable and proper for the services and to be rendered in the cause.

Affiants further state they at the time of the issuing of the injunction in this case, affiant had made and entered into a contract with two saw mill operators, Nobles Bros. and Hobbs Bros. for the purpose of cutting and manufacturing said timber from said lands for respondents, and that since the issuing of said injunction one of said mill operators Nobles Bros. moved its mill from said lands and the other mill operator, Hobbs Bros. is preparing to move its mill from said lands and affiants will suffer great damage by reason of the removal of said mills and the disorganization of its business in the cutting and manufacturing of said lumber.

Affiants further state at the time of the issuing of said injunction, there was manufactured and "on sticks" approximately 190,000 feet of lumber, for which respondents had paid for such manufacturing approximately the sum of \$1187.00 and that respondents had contracted for the sale of said lumber so manufactured, in which respondents had a profit of approximately \$5.00 per thousand, making about \$900.00, and that by reason of said injunction the respondents are unable to remove said lumber and sell the same, said lumber now being in the woods and will be injured thereby and will be a loss to respondents.

Affiants further state that as a part of the respondents equipment at the time of the injunction was sued out in this cause of eight mules and three yoke of oxen, which mules and

R. F. MITCHELL JR., C. B. MITCHELL
AND J. L. TUCKER, doing business
as Mitchell Naval Stores Company,
a partnership,

complainants.

VS.

J. P. LANGHAM AND ARTHUR LANGHAM,
doing business as Langham Lumber
Company,

Respondents.

IN THE CIRCUIT COURT--
EQUITY SIDE.

STATE OF ALABAMA,

BALDWIN COUNTY.

Personally appeared before me, Alma Murphy, a
Notary Public in and for Butler County, Alabama, J. P. Langham and
Arthur Langham, who being by me first duly and legally sworn doth
depose and say:

That they are members of the firm of Langham Lumber
Company, who was engaged in the business of manufacturing lumber
in Baldwin County, Alabama, at the date and time of the filing of
the original bill and obtaining the injunction in this cause, and
that they are the respondents in the above stated cause; that on
the 24th day of November, 1931, the complainants and respondents
entered into a contract in writing, a copy of which is hereto
attached marked Exhibit "A" and made a part of this affidavit.

That after making said contract, respondents
began to operate their lumber business under said contract in
Baldwin County, and begun to cut and manufacture the timber situated
on the lands described in said contract, and that since the making
of said contract, the defendants have strictly complied with the
terms and conditions therein; and at no time did they breach such
contract.

That while operating under said contract, the orig-
inal bill in this cause was filed and an injunction was issued
out of the Circuit Court of Baldwin County, Alabama, sitting in
Equity, on the 16th day of March, 1932, enjoining affiants
from further cutting or removing any timber, lumber, poles or
piling from said lands, or from interfering with the possession
of complainants of said property, and that attached to this
affidavit marked Exhibit "B" and made a part of this affidavit
is a copy of said writ of injunction issued to respondents; that

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STATE OF ALABAMA,

BUTLER COUNTY.

Before me, Alma Murphy, a Notary Public in and for said State and County personally came J. P. Langham he being by me duly sworn says on oath that he is one of the respondents named in the foregoing answer, and that he is also a member of the firm of Langham Lumber Company, a partnership composed of affiant and Arthur Langham.

Affiant further states that individually and also as a member of said partnership of said Langham Lumber Company, he is authorized to make this affidavit and that the facts stated in the foregoing answer are true as therein stated.

J. P. Langham

Sworn to and subscribed before
me this 7th day of June, 1932.

Alma Murphy, Notary Public.

that the same might be shipped and sold and about fifty pilings ready for shipping. By reason of the injunction granted by the court in this cause, respondents have been unable to ship said lumber and piling, and if the same is not shipped and sold within reasonable time, respondents will be greatly damaged thereby; that respondents are able, ready and willing to pay to complainants due them from said shipments and sales of said lumber and piling, that complainants have been to the expense of the sum of to-wit: \$1600.00, and, if said lumber and piling is not sold, these respondents will suffer the loss of said sum of \$1500.00 and that if said lumber is sold these respondents will have a profit of around \$1200.00, which sum will be a loss to respondents if they are not permitted to sell and dispose of said lumber.

Further answering said bill of complaint as amended, these respondents say that they have suffered great loss in the disorganization of their business, and not being permitted to carry out said contract and manufacture said lumber, and their mules and oxen have been idle and have had to be fed at great expense, and the saw mills on said lands have been removed by the owners, and respondents' business of cutting and removing said timber and piling from said lands has been completely disorganized.

Respondents further answering said original bill of complaint say, that they have at all times complied with the terms of said contract, and that they have at no time breached the same; that the injunction in this cause was erroneously issued and should be dissolved, and that the respondents should be permitted to cut and manufacture said timber into lumber, and piling as provided for in said contract, and that these respondents should be permitted to again reorganize their business and continue the operations under said contract.

Now having fully answered the original bill of complaint as amended, as they are required to do by the foot note attached thereto, ask to be hence dismissed with their costs most wrongfully sustained.

HAMILTON & JONES
Solicitors for Respondents.

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paid to them and in addition thereto a sum equivalent to the amount paid by them to said Gillie for services rendered as their agent as provided for by said contract. This method of cutting, manufacturing, and selling of said timber was continued until the filing of the bill, and at no time did the complainants ever give any written or verbal notice to the respondents that said contract had been terminated nor did complainants complain to respondents that they were violating the terms of said contract.

These respondents further say that by way of answer to said bill, that no complaint was ever made by the complainants or their agent, Mr. Gillie, that he was not permitted to examine the books and records of respondents, showing the amount of timber and piling cut and the shipments made.

Further answering the bill of complaint as amended, these respondents deny that they are indebted to complainants in any sum; that as heretofore set out in this answer; just before the filing of this bill, these respondents shipped lumber from which there was due to complainants under the terms of said contract about \$219.00, and that strictly within the terms of said contract, these respondents mailed to West Florida Naval Stores Company a check for that sum, said contract providing that said payments were to have been made to the West Florida Naval stores Company. The amount of the check, however, was for the sum of Two Hundred and twenty-five (\$225.00) dollars, this sum being paid for the purpose of allowing for any little difference that might arise between respondents and complainants and that said check was returned by the West Florida Naval Stores Company, stating that it was done upon the advice of counsel, which sum these respondents are ready, able and willing to pay, and which they hereby offer to pay if directed to do so by the court.

These respondents further answering said bill say that at the time of the filing of the bill in this cause, they had cut and manufactured from timber cut from said lands about 190,000 feet of lumber. This lumber was on sticks in the process of drying, in order

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consisting of a logging outfit of six mules, six oxen, skiæder, one cart and one wagon and entered into negotiations with three portable saw mills, said saw mills being owned by one T. W. Emmons, Hobbs Brothers and Nobles Brothers, and five laborers, and after moving said equipment and labor begun to manufacture lumber and piling from the timber obtained from the lands described in the original bill of complaint as amended; that in addition to the labor above set out, respondents employed a book-keeper, Mr. W. W. Hall, who was a resident of Excel, Alabama, at that time, the said W. W. Hall taking charge of said work, he being an experienced book-keeper, and that he kept the books of said corporations, showing the amount of timber cut, the amount of shipments made, when made, to whom sold and the amount obtained for such timber, and the amount paid to complainants under said contract; that in addition to the above the complainants employed a Mr. Gillie as provided by the terms of said contract, who came upon the lands where said operations were being made and carried on to look after the interests of the said complainant, and that the said Gillie began his term of service on the 18th day of January, 1932, and continued until the original bill was filed in this cause; that at all times the said Gillie has had access to the books of respondents and was permitted to examine whenever requested said books; that he was familiar with the operations of the respondents and knew the lands from which the timber was cut by respondents, and knew the manner in which respondents were cutting timber and the said Gillie was consulted by respondents from time to time as to the cutting of said timber.

These respondents further answering the bill say that as said timber was manufactured it was put on sticks for the purpose of drying and when it reached the stage at which it could be shipped, it was shipped and sold, and the manner in which it was shipped and sold was three invoices were made, one retained by these respondents, one one to the complainants and one sent to the purchaser, thereby giving to the complainants full and accurate information as to the amount of timber sold and shipped, the price at which it was sold and to whom sold, and as such timber was settled for by the purchasers, the amount due the complainants under the terms of the contract was

sold and the amount received, which records have at all times been available to complainants, and which these respondents now offer to permit complainants or their representative to inspect by calling at their residence where said books are kept at this time. They deny that they have at any time concealed said books or records from complainants showing the amount of timber and piling cut from said lands, and shipped and sold, and deny that complainants gave to respondents notice that said contract was terminated, and deny most emphatically that these respondents are indebted to complainants in the sum of \$1500.00 or any other sum except as hereinafter set out, and deny that complainants are entitled to a judgment against these respondent for said sum, or any other sum and deny that they owe the complainants any other sum than about \$219.00, which respondents offered to pay and endeavored to pay to the West Florida Naval Stores Company to whom such payments were to have been made, but the West Florida Naval Stores Company declined to accept such payment by advice of counsel.

These respondents fully having answered the original bill of complaint, as they are required so to do by the foot note attached to said original bill as amended, they further say:

That they are residents of Butler County where they have been residing for the last three or four years, and are now engaged in the manufacture of lumber in Butler County, and farming operations in Conecuh County, Alabama; that they were so engaged on the 24th day of November, 1931, and prior thereto negotiations were entered into with the complainants, Mitchell Naval Stores Company, engaged in business at Pensacola, Florida, and that after said negotiations were entered into a contract was finally engaged into by the complainants and these respondents on the 24th day of November, 1931, and that attached to the original bill of complaint as amended, is a copy of such contract, and that after making and entering into said contract, these respondents began to make their plans and arrangements to manufacture lumber and poles from said timber situated on the lands described in the original bill of complaint, as amended, and that respondent, J. P. Langham took charge of the operations in cutting and manufacturing the timber and piling from said lands and moved the equipment of said respondents to said land,

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Further answering said paragraph, these respondents deny that the complainants or any one for them, ever gave to respondents any notice, either written or verbal that the contract marked Exhibit "A" attached to the original bill as amended was terminated on account of any breach that they claim that these respondents had made, and allege the truth to be that the first notice that these respondents obtained that said contract was terminated was the filing of the bill in this cause.

SIXTH:

These respondents deny that their right to enter upon and cut timber from said lands and manufacture the same has been terminated, and deny that they at any time committed any trespass whatever on said lands, and deny that the cutting of timber from said lands was disregarding of the rights of complainants, but to the contrary these respondents allege that what cutting of timber and piling was done was in strict conformity with the terms of the contract and not in violation with the rights of complainants, but they only cut said timber and piling as they had a right to cut, and that they at no time trespassed upon said lands, and that they at all times paid for such timber and piling cut by them, and they deny that complainants are suffering irreparable injury by reason of the cutting of said timber, and they deny most emphatically that they are insolvent, but allege the truth to be that they are solvent and able to pay all of their obligations.

SEVENTH:

Answering the seventh paragraph of the original bill of complaint, these respondents deny that they have sold and disposed of 200,000 feet or more of timber without making any effort whatever to account to complainants for same, but allege the truth to be that they have paid complainants for all timber that they cut and manufactured into piling and lumber and sold strictly in accordance with the terms of said contract, and deny as alleged in said paragraph that they kept no record of the lumber mentioned, but allege the truth to be that they have a full and complete record showing all timber and piling cut and all shipments made, to whom

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ments made two or three days before the filing of the bill in this case, from which shipments respondents would have been due the complainants about \$219.00, which sum would have been due complainants thirty days from the date of the shipment, and that after the filing of the bill in this case, respondents sent a cashier's check to the West Florida Naval Stores Company of Pensacola, Fla., who held a mortgage upon the lands where such timber was situated, to whom such payment was to be made. Said payment was made in strict accordance with the terms of said contract and that the West Florida Naval Stores returned the Cashier's check to respondents stating that their attorney had advised them not to accept such payment in view of the filing of the bill in this cause, and respondents are now willing, ready and able to pay said sum when directed to do so by the court.

These respondents deny that they had failed to pay in whole or in part any shipments made by them to the complainants, and deny that on numerous occasions the respondents have refused and failed to pay complainants the amount due them under said contract for the shipment of lumber, piling, but they at all times paid complainants the amount due under said contract for all timber cut, and all shipments made, and that they were not at the time of the filing of the bill in this case due complainants any sum for any such timber and piling and cut and shipped other than the sum of about \$219.00, which would have been due in thirty days from the date of such shipment which was about two days before the filing of the bill in this cause, and which sum as above set forth, sent to the ^{West} Florida Naval Stores Company to whom payment was to be made by cashier's check and which was returned to respondents by the said West Florida Naval Stores Company by advise of counsel, and which sum these respondents are ready, able and willing to pay and hereby offers to pay.

These respondents further answering said paragraph deny that the complainants called upon them for any sums due them for shipments of lumber and piling, and deny that respondents have failed and refused to pay to complainants upon demand, but allege the truth to be that they pay all that were due complainants, except as stated herein.

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he be permitted to examine said books for the purpose of ascertaining the amount of timber and piling cut and sales and shipments made, and such request denied, and these respondents were never informed until the filing of the bill in this case that they claimed that any such right was denied them, and respondents further answering said paragraph say that they have always been willing and ready to permit the complainants or their agents to examine their books and records showing the lumber and piling cut, and showing the sales and shipments made, so that they might be accurately informed as to the progress and details of the business of respondents. Respondents are now willing and offer to permit their representative to see and examine such books by calling at the respondents residence where they have such books.

Further answering said paragraph, these respondents admit that there was a stipulation in said contract that these respondents should pay the salary of said employee of complainants not exceeding One Hundred Dollars (\$100.00) per month. These respondents deny that they have failed and refused to pay said salary of said employee as stipulated therefor prior to the filing of the bill of complaint, but allege the truth to be that they have paid to complainants all amounts which they claimed they paid to such representative of complainants for the service rendered as such employee. These respondents deny that they breached said contract by refusing and declining to pay such representative, but that they paid to complainants such sum as they stated they had paid for such service, and no demand has ever been made upon these respondents by complainants, or their agent for any sum other than was paid by respondents to complainants as services for said agent.

FIFTH:

Answering the fifty paragraph, these respondents admit the allegations contained therein as to the amount and the time when respondents should pay to complainants for the timber and piling cut from said lands and the shipments and deliveries made and contained in said contract. They deny at the time of the filing of the bill in this case that they were due complainants any sum of timber and piling cut from said lands, but there had been some ship-

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cutting of timber from lands, and respondents claim that they cut only timber which they had a legal right to do.

FOURTH:

The respondents for answer to the fourth paragraph of the original bill of complaint as amended admit that it is stipulated in said contract, that the respondent were to keep a set of books and records of lumber, piling and poles cut and shipments made, and these respondents say that they kept such books showing a complete record of all lumber piling and poles cut and shipments made, and they admit that under the terms of said contract it was stipulated that the complainants should have a representative to be selected by them for the purpose of checking up, keeping them informed of the operations of respondents and keeping them informed as to the quantity of lumber and piling cut and shipped and that such representative should have access to the books and shipments made so that the complainants at all times be accurately informed as to the progress and details of the business, said representative to be under the control and direction of the complainants.

These respondents further answering said paragraph say that these respondents kept such books as provided for in said contract employing a book-keeper for that purpose one W. W. Hall, who had had experience in the keeping of such books, and he kept said books accurately showing the amount of timber and poles cut, manufactured and shipped, and the amount of the sales of such timber and poles, and that under the terms of said contract, the complainants selected their representative in the person of one Mr. Gillie, who commenced his employment on or about January 18, 1932 and stayed in and around where the operations of the respondents were being carried on and the cutting of said timber and poles from such land and the manufacture of same. At all times said representative of complainants had access to the books kept by respondents in order that the complainants should be informed as to the quantity of lumber and piling cut and shipped, and at no time did said representative request that

the original bill of complaint, as well as other described lands, and that attached to the original bill of complaint as amended as Exhibit "A" is a copy of said contract, and that the lands described in the original bill of complaint lie north of the paved highway.

Respondents further admit that under the fourth paragraph of the contract it was stipulated that the respondents should first cut and remove the timber from so much of the above mentioned lands that lie north side of the paved highway running from Pensacola to Mobile; that the cutting should be on lands contiguous on lands already cut; These respondents emphatically deny that they at any time violated the conditions of said contract by cutting timber indiscriminately on said lands without regard as to whether the land on which said timber was from was contiguous or not and deny most emphatically that these respondents sought out the best timber from the various subdivisions of said land. They deny that they have been cutting timber from said lands in many instances when the cutting was not on lands contiguous as provided in said contract.

These respondents further answering said paragraph say that the timber was cut from said lands was with the consent of the agent of the complainants and with his full knowledge; that said agent was one Mr. Gillie, who was representing the complainants in the cutting operations of said timber and he was paid by the respondents under the terms of said contract. If at any time there was any timber cut from any lands that were not contiguous to lands from which timber had already been cut, that such cutting of such timber was with the full knowledge and consent of the said Gillie, the agent of Complainants, who was present during the timber cutting, representing the complainants as their agent.

These respondents deny that it is necessary to restrain respondents from further cutting timber to protect such timber and protect complainants from injury; but these respondents say that they at no time cut any timber that was not within the terms of said contract and did not in any way injure complainants by such cutting other than would be natural damages that would follow from the

R. F. MITCHELL, JR., C. B. MITCHELL
AND J. L. TUCKER, doing business
as Mitchell Naval Stores Company,
a partnership,

Complainants,

Vs.

J. P. LANGHAM AND ARTHUR LANGHAM,
doing business as Langham Lumber
Company,

Respondents.

IN THE CIRCUIT COURT -EQUITY
SIDE, STATE OF ALABAMA,
BALDWIN COUNTY.

Now comes the respondents and for answer to the original bill in the foregoing cause as amended doth demur thereto, and for grounds of demurrer assigns the following:-

(a) That apparent upon the face of the bill as amended same is without equity.

Repondents withour waiving demurrer hereinabove set out, hereby files their answer to the original bill of complaint as amended as follows:-

FIRST:

That respondents each admit the allegations contained in the first paragrph of the original bill of complaint as amended to be true as therein stated.

SECOND:

Answering the second paragraph of the original bill of complaint as amended, these respondents each state that they are informed and believe that the complainants are the owners of the timber on the lands set forth and described in the second paragraph of the bill as amended, subject however, to mortgages held by West Florida Naval Stores Company. Respondents are not advised as to the amount due on said mortgages or when said mortgages become due, and admit there is no suit pending to test title of complainants to said timber.

THIRD:

Answering the third paragraph of the original bill as amended, these respondents admit that on the 24th day of November, 1931 that the complainants and respondnts entered into a contract with reference to the timber sold and situated on the lands descirbed in

THE STATE OF ALABAMA,)
BALDWIN COUNTY.) PROBATE COURT

Filed in office this 23 day of April, 1930, 1:30 P.M.
and duly recorded in Mtg. Book No. 39 pages 344, and I certify
that \$9 cts.00 license or privilege tax, paid as required by
an Act of the Legislature approved August 22, 1923.

G. W. Humphries,

Judge of Probate.

By J. L. Kessler, Clk.

tion once a week, for three consecutive weeks, of the date, place
 tion in some newspaper published at Bay Minette in said County and State, to sell the same in front of
 the Court House door of said County, at public outcry, to the high-
 est bidder for cash, and apply the proceeds of said sale: First to
 the expense of advertising, selling and conveying, including a
 reasonable attorney's fee; Second, to the payment of any amounts
 that may have been expended or that may then be necessary to expend,
 in paying insurance, taxes and other incumbrances, with interest
 thereon; Third, to the payment of said note in full whether the
 same shall or shall not have fully matured at the date of said sale;
 but no interest shall be collected beyond the day of sale, and Fourth,
 the balance, if any, to be turned over to the said W. D. Stapleton
 And we further agree, that said Baldwin County Bank, agent or
 assigns, may bid at said sale and purchase said property, if the
 highest bidder thereof; and we further agree to pay a reasonable
 attorney's fee to said Baldwin County Bank, or its assigns, for
 the foreclosure of this mortgage in chancery. Should same be fore-
 closed said fee to be a part of the debt hereby secured.

Witness our hands and seals this the 1st day of April A.D., 1930

WITNESS: W. D. Stapleton SEAL
Leila Stapleton SEAL

THE STATE OF ALABAMA,)
 BALDWIN COUNTY.)

I, Winnie G. Scarborough a Notary
 Public in and for said County, in said State, hereby certify
 that W.D.Stapleton and Leila Stapleton his wife whose name
 are signed to the foregoing conveyance, and who are known to me,
 acknowledged before me on this day that being informed of the
 contents of this conveyance they executed the same voluntarily
 on the day the same bears date.

Given under my hand and official seal this 1st day of
 April, A.D., 1930.

(NOTARIAL SEAL)

Winnie G. Scarborough
 Notary Public, Baldwin County, Ala.

THE STATE OF ALABAMA,)
 BALDWIN COUNTY.)

I, Winnie G. Scarborough, a Notary Public
 in and for said County, in said State, hereby certify that on the
 1st day of April 1930, came before me the within named Leila Stapleton
 known to me (or made known to me) to be the wife of the within named
 W.D.Stapleton, who being examined separate and apart from the husband
 touching her signature to the within conveyance acknowledged that she
 signed the same of her own free will and accord and without fear, con-
 straint, or threats on the part of the husband.

In witness whereof, I hereunto set my hand and official seal,
 this 1st day of April A.D., 1930.

(NOTARIAL SEAL)

Winnie G. Scarborough
 Notary Public, Baldwin County, Ala.

warranted free from all incumbrance and against any adverse claims.

TO HAVE AND TO HOLD, The above granted premises unto the said Baldwin County Bank, its successors and assigns forever. And for the purpose of further securing the payment of said note do hereby agree to pay all the taxes and assessments when imposed legally upon said premises, and should we make default in the payment of same, said Baldwin County Bank, may at its option pay off the same; and to further secure the said indebtedness first above named we agree to keep said property insured for at least _____ DOLLARS loss, if any, payable to said _____ as _____ interest may appear, and if _____ fail to keep said property insured as above specified, then the said _____ may at _____ option insure said property for said sum for _____ own benefit, the policy, if collected, to be credited on said indebtedness, less cost of collecting same; all amounts so expended by Baldwin County Bank, shall become a debt to Baldwin County Bank, additional to the indebtedness, hereby specially secured, and shall be covered by this mortgage and bear interest from date of payment by said Baldwin County Bank and be due and payable at the maturity of debt

UPON CONDITION, HOWEVER, That if the said W.D.Stapleton & Leila Stapleton pay said note and reimburse said Baldwin County Bank, for any amount it may have expended as taxes and insurance and interest thereon, then this conveyance to be null and void; but should default be made in the payment of any sum expended by the said Baldwin County Bank, or should said note or any part thereof, or the interest thereon, remain unpaid at maturity, or should the interest of said Baldwin County Bank, or its assigns in said property become endangered by reason of the enforcement of any prior lien or encumbrance thereon, so as to endanger the debt hereby secured, then in any one of said events, the whole of said indebtedness shall at once become due and payable, and this mortgage be subject to foreclosure as now provided by law in case of past due mortgages, and the said Baldwin County Bank, agent or assigns, shall be authorized to take possession of the premises hereby conveyed, and after giving 21 day's notice, by publication once a week, for three consecutive weeks, of the time, place and terms of sale, by publica-

EXHIBIT "B".

THE STATE OF ALABAMA,)
BALDWIN COUNTY.)

KNOW ALL MEN BY THESE PRESENTS, That whereas, the undersigned W. D. Stapleton & Leila Stapleton his wife justly indebted to Baldwin County Bank, in the sum of Six thousand & no/100 Dollars, evidenced by our promissory note dated April 1st, 1930 and payable to Baldwin County Bank on June 1st 1930 with interest from maturity. and whereas, the said W. D. Stapleton and Leila Stapleton his wife are desirous of securing the prompt payment of said note when the same fall due. Now, therefore, in consideration of said indebtedness, and to secure the prompt payment of the same at maturity, the said W. D. Stapleton and Leila Stapleton his wife are have bargained and sold, and we do hereby grant, bargain, sell and convey unto the said Baldwin County Bank, the following described real estate, situated in Baldwin County and State of Alabama, to-wit:

Northeast quarter of Northeast quarter of section Nine, Township Four South of Range Five East containing 40 acres more or less.
Southwest quarter of the Southwest quarter of Section Three Township Four South of Range five East, containing 40 acres more or less.
Southeast quarter of the Southeast quarter section Four, Township four South of Range Five East containing 40 acres more or less.
Northeast quarter of the Northeast quarter, Southeast quarter of the of the Northwest quarter, The Northeast quarter of the South west quarter Section Twenty six Township Four South of Range Two East containing 120 acres more or less.

All of Section Fifteen, East half of West half. West half of Northwest quarter section Twenty six,
West half of the East half, East half of Northwest quarter; Northeast quarter section Thirty four:

Northwest quarter of section Thirty six all in Township Three South of Range Three East, containing 1640 acres.

The Southwest quarter of the Southwest quarter, section Fourteen, Township Three South of Range Three East containing 40 acres more or less.

EXHIBIT "A".

\$6,000.00

BAY MINETTE, ALA. April 1st, 1930.

On the 1st day of June 1930, I, we, or either of us, promise to pay to the order of BALDWIN COUNTY BANK, of Bay Minette, Alabama.

Six thousand & no/100 - - -

DOLLARS,

for value received in gold coin of the United States of the present standard of weight and fineness.

Negotiable and payable at BALDWIN COUNTY BANK, Bay Minette, Alabama.

The parties to this instrument, whether maker, endorser, surety, or guarantor, each for himself, hereby severally waive as to this debt, or any renewal thereof, all rights of exemption under the Constitution and Laws of Alabama, as to personal property, and they each severally agree to pay all costs of collecting or securing or attempting to collect or secure this note, including a reasonable attorney's fee, whether the same be collected or secured by suit or otherwise. And the maker, endorser, surety or guarantor of this note severally waives demand presentment, protest, notice of protest, suit and all other requirements necessary to hold them and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply, on or after maturity to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor, or any one of them. All suits for the collection of this note may be prosecuted in any County in this State that the payee or assignee elects.

Witness our hand and seal
the day above given.

W. D. Stapleton (SEAL)

Leila Stapleton (SEAL)

Attest: _____
Attest: _____

(ON REVERSE SIDE OF ABOVE NOTE)

Each and every endorser of this note hereby waives all right of exemption of property from levy and sale under execution or other process for the collection of debts, as provided for in the Constitution and Laws of the State of Alabama, or any other State in the United States of America, and it is hereby agreed by each endorser hereof that he shall pay all costs of collecting this note after failure to pay when same becomes due under the terms hereof, including a reasonable attorney's fee for all services rendered in any way in any suit against any endorser, or in collecting or attempting to collect, or in securing or attempting to secure this debt, and they agree that time of payment may be extended without notice to them of such extension. The bank at which this note is payable is hereby authorized to apply on or after maturity, to the payment of this debt any funds in said bank belonging to the maker, surety, endorser, guarantor, or any one of them. Each and every endorser of this note hereby waives demand, protest and notice of protest, and all requirements necessary to hold them as endorsers.

Approved this 1st April 1930

A. C. Hall

L. T. Rhodes

Norborne Stone

Directors.

Without recourse.

Baldwin County Bank

By A. C. Hall, Cashier.

fees incurred in this proceeding.

PRAYER FOR PROCESS:

Your Orator prays that the said W. D. Stapleton, Leila Stapleton, Baldwin County Bank, a corporation, and H. H. Montgomery, as Alabama State Superintendent of Banks, liquidating the affairs of the said Baldwin County Bank, be made parties defendant to this bill of complaint, and that the usual process of this Honorable Court do forthwith issue to them and each of them.

PRAYER FOR RELIEF:

Your Orator further prays that upon the hearing of this cause it be decreed that your Orator is the owner of the aforesaid note and mortgage, and entitled to the foreclosure thereof; that the amount of the indebtedness due thereon, with interest, including costs, attorneys' fees and expenses of this proceedings may be decreed, and that a decree of foreclosure of said mortgage be entered, ordering and decreeing that in event of a failure to pay the amount so ascertained to be due within some such reasonable time as decreed by the Court, the lands described therein be sold for the satisfaction of said demands, in all respects, according to law and the practice of this Honorable Court in foreclosure suits, and that all further proceedings be had and orders and decrees made as may be necessary or proper to effect a full and complete foreclosure of said mortgage.

Your Orator further prays for such other, further and general relief as he may be equitably entitled to, the premises considered.

Stevens M. Conroy, M. Good, Good, James
Solicitors for Complainant.

FOOT NOTE:

Each of the defendants is required to answer each paragraph of the foregoing bill of complaint numbered from 1 to 5, both inclusive, but not under oath, the benefit whereof is hereby expressly waived.

Stevens M. Conroy, M. Good, Good, James
Solicitors for Complainant.

Northeast quarter of Northeast quarter of section Nine, Township Four South of Range Five East containing 40 acres more or less.
 Southwest quarter of the Southwest quarter of section Three, Township Four South of Range five East, containing 40 acres more or less.
 Southeast quarter of the Southeast quarter section Four, Township four South of Range Five East containing 40 acres more or less.
 Northeast quarter of the Northeast quarter, Southeast quarter of the Northwest quarter, The Northeast quarter of the South west quarter Section Twenty six Township Four South of Range Two East containing 120 acres more or less.
 All of Section Fifteen, East half of West half. West half of Northwest quarter section Twenty six,
 West half of the East half, East half of Northwest quarter; Northeast quarter section Thirty four;
 Northwest quarter of section Thirty six (all in Township Three South of Range Three East,) containing 1640 acres.
 The Southwest quarter of the Southwest quarter, section Fourteen, Township Three South of Range Three East containing 40 acres more or less.

3. On or about November 10th, 1931, your Orator purchased said note and mortgage from the said Baldwin County Bank, paying therefor a valuable consideration in approximately the amount of said note and the said Baldwin County Bank then and there endorsed said note and delivered the same with the said mortgage to your Orator, but did not, and has not, executed any transfer of said mortgage to your Orator other than that which results by operation of law from the said transfer of the indebtedness secured thereby and the aforesaid endorsement and delivery of the note evidencing said indebtedness and secured by said mortgage. Consequently, your Orator owns the said note and mortgage and the indebtedness thereby evidenced and secured, yet upon the public records of Baldwin County, Alabama, where the said mortgage stands duly recorded, it appears still to belong to the said Baldwin County Bank.

4. Although the said note is now long past due, yet the same, with the interest thereon since June 1st, 1930, the date of its maturity, remains unpaid and in default and because thereof the said mortgage under its terms and provisions in that behalf is now foreclosable.

5. Both the said note and the said mortgage provide for the payment of attorneys' fees as appears from Exhibits "A" and "B" hereto, and your Orator is now entitled to have the said mortgage foreclosed and also to be allowed all of his reasonable attorneys'

TO THE HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
SITTING IN EQUITY:

Your Orator, J. T. Bradley, brings this his bill of complaint against W. D. Stapleton, Leila Stapleton, Baldwin County Bank, a corporation, and H. H. Montgomery, as Alabama State Superintendent of Banks, liquidating the affairs of said Baldwin County Bank, and thereupon your Orator complains and says:-

1. Your Orator is over the age of twenty-one years and resides in Baldwin County, Alabama. The said W. D. Stapleton and Leila Stapleton are each over the age of twenty-one years, and reside in Baldwin County, Alabama. The said Baldwin County Bank is a banking corporation organized under the laws of Alabama with its principal place of business at Bay Minette, in Baldwin County, Alabama, where it conducted a banking business until a few weeks ago, when it closed its doors and its affairs were taken over for liquidation as provided by law by the said H. H. Montgomery as State Superintendent of Banks. The said H. H. Montgomery, as such Superintendent of Banks, is over the age of twenty-one years and resides in Montgomery, Alabama.

2. Under date of April 1st, 1930, the said W. D. Stapleton and Leila Stapleton executed to the said Baldwin County Bank, their promissory note for six thousand dollars payable on June 1st, 1930, a copy of which note is hereto attached, marked Exhibit "A", and made a part hereof. At the same time they also executed to the said Baldwin County Bank their mortgage to secure the payment of the said note, a copy of which mortgage is hereto attached, marked Exhibit "B", and made a part hereof. It conveys and mortgages the following described land situated in Baldwin County, Alabama, namely:

ther that this release shall not apply to the turpentine
plave on the said property, which is also under mortgage
to the said West Florida Naval Stores Company; and provided
further that upon the termination of said contract between
Mitchell Naval Stores Company and Langham Lumber Company, any
right that said West Florida Naval Stores Company might have
in and by the terms of the said mortgage, which is hereby
released, shall revert to and be vested in it, the said West
Florida Naval Stores Company.

Executed this 30th., day of November, 1931.

ATTEST:

West Florida Naval Stores Company,
By J.D.Russ, Pres.

J.D.Hayes, Sec.

Acknowledge same day before Notary Public,
State of Florida at Large. Seal.

The undersigned Mitchell Naval Stores
Company hereby consents and agrees to the payments under
the contract above referred to being made to the West
Florida Naval Stores Company as hereinabove provided.

Mitchell Naval Stores Company,

By C.B.M.

Filed February 26, 1932.

Recorded 51 N.S. page 530.

STATE OF ALABAMA.

BALDWIN COUNTY.

WHEREAS, R. F. MITCHELL, C. B. MITCHELL AND J. L. TUCKER, doing business as Mitchell Naval Stores Company, did on the 24th., day of November 1931, enter into a certain contract with for the sale of certain timber rights, which said contract is by reference made a part hereof; and whereas, by the terms of said agreement it was provided that the same should not be binding on the parties thereto without the written consent of the West Florida Naval Stores Company; as mortgagee, and whereas, said West Florida Naval Stores Company, as mortgagee, has agreed on the conditions and provisions hereinafter contained, to consent to said contract, and release its mortgage lien on the timber therein described, which said mortgage is dated the 16th., day of December 1926, and recorded Said West Florida Naval Stores Company, a corporation, in consideration of One Dollar and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby release from the lien of said mortgage all the timber rights conveyed to said Langham Lumber Company under the contract aforesaid, and consents that said contract shall have preference and superiority over its said mortgage so long as said contract is in full force and effect, provided, however, that the said Langham Lumber Company shall pay to said West Florida Naval Stores Company all moneys now or hereafter becoming due under the terms of the said contract to the said Mitchell Naval Stores Company; and provided fur-

Alibi "A"

he is authorized to make this affidavit on behalf of the
respondent and that the facts stated in the foregoing answer
are true as therein stated.

G. Richard

Sworn to and subscribed
before me this the 25th
day of May A.D. 1933.

G. Richard
Notary Public

My commission expires March 19, 1934

Fourth.
respondent insisted upon the proper performance of the said contract or upon its termination since this respondent was not willing to have timber on which it had a mortgage cut and removed without being able to collect for such timber as provided in and by the contract.

Fifth.
Sixth.
Answering the fifth paragraph of the Bill of Complaint as amended the respondent says that it knows the allegations of the sixth paragraph of the amended Bill of Complaint.

Seventh.
This respondent is informed and believes and therefore avers that the respondent, J. P. Langham and Arthur Langham, doing business as Langham Lumber Company failed and breached the terms of the contract between Mitchell Naval Stores Company and Langham Lumber Company and were in default thereunder and that the contract was properly and validly terminated and voided by Mitchell Naval Store Company under the terms thereof.

West Florida Naval Stores Company, a Corporation,
Escambia County, Florida.
By J. D. Russ, President.

Before me [Signature], a Notary Public in and for said State and County, personally came J. D. Russ, and being by me duly sworn says on oath that he is President of West Florida Naval Stores Company, a Corporation of the State of Florida, and that the respondent named in the foregoing answer. That

IN THE CIRCUIT COURT

EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

R.F. MITCHELL, JR., C.B.
MITCHELL AND J.L. TUCKER,
DOING BUSINESS AS MITCHELL
NAVAL STORES COMPANY, A
PARTNERSHIP,

COMPLAINANTS,

VS

J. P. LANGHAM AND ARTHUR
LANGHAM, DOING BUSINESS AS
LANGHAM LUMBER COMPANY AND
WEST FLORIDA NAVAL STORES
COMPANY.

RESPONDENTS.

Now comes the respondent, West Florida Naval Stores Company, a corporation, and for answer to the Bill of Complaint as amended, says:

First.

It admits the allegations of the first paragraph of the Amended Bill of Complaint to be true.

Second.

It admits the allegations of the second paragraph of the Bill of Complaint to be true.

Third.

It is without knowledge of the allegations of the third paragraph of the Bill of Complaint except as expressly stated in the fifth paragraph of this answer.

STATE OF ALABAMA, |

BUTLER COUNTY. |

Before me, Alma Murphy, a Notary Public in and for said State and County, personally came J. P. Langham, who being by me duly sworn, says on oath, that he is one of the respondents named in the foregoing answer, and that he is also a member of the firm of Langham Lumber Company, a partnership composed of affiant and Arthur Langham.

Affiant further states that individually and also as a member of said partnership of said Langham Lumber Company, he is authorized to make this affidavit and that the facts stated in the foregoing answers are true as therein stated.

Sworn to and subscribed
before me, this 7th day
of June, 1932.

Alma Murphy
Notary Public

|
|
| J. P. Langham |
|
|

by the owners, and respondents' business of cutting and removing said timber and piling from said lands has been completely disorganized.

Respondents further answering said original bill of complaint say, that they have at all times complied with the terms of said contract, and that they have ~~had~~ at no time breached the same; that the injunction in this cause was erroneously issued and should be dissolved, and that the respondents should be permitted to cut and manufacture said timber into lumber and piling as provided in said contract, and that these respondents should be permitted to again reorganize their business and continue the operations under said contract.

Now having fully answered the original bill of complaint as amended as they are required to do by the foot note attached thereto, ask to be hence dismissed with their costs most wrongfully sustained.

Hamilton & Jones,

Sols. for Respondents.

providing said payments were to have been made to West Florida Naval Stores Company. The amount of the check, however, was for the sum of Two Hundred and Twenty-five (\$225.00) Dollars, this sum being paid for the purpose of making allowance for any little difference that might arise between respondents and complainants, and that said check was returned by the West Florida Naval Stores Company, stating that it was done upon the advice of counsel, which sum these respondents are ready, able and willing to pay, and which they hereby offer to pay if directed to do so by the Court.

These respondents further answering said bill say that at the time of the filing of the bill in this cause, they had cut and manufactured from timber cut from said lands about 190,000 feet of lumber. This lumber was on sticks in process of drying, in order that the same might be shipped and sold and about fifty pilings ready for shipping. By reason of the injunction granted by the Court in this cause, respondents have been unable to ship said lumber and said piling, and if the same is not shipped and sold within a reasonable time, respondents will be greatly damaged thereby; that respondents are able, ready and willing to pay to complainants the amount due them from said shipments and sales of said lumber and piling, and that complainants have been to the expense of the sum of towit: \$1600.00, and if said lumber and piling is not sold, these respondents will suffer the loss of said sum of \$1500.00 and that if said lumber is sold these respondents will have a profit of around \$1200.00, which sum will be a loss to respondents ^{if} ~~that~~ they are not permitted to sell and dispose of said lumber.

Further answering said bill of complaint as amended, these respondents say that they have suffered great loss in the disorganization of their business, and not being permitted to carry out said contract and manufacture said lumber, and their mules and oxen have been idle and have had to be fed at great expense, and the saw mills on said lands have been removed

These respondents further answering said bill say that as said timber was manufactured, it was put on sticks for the purpose of drying and when it reached the stage at which it could be shipped, it was shipped and sold, and the manner in which it was shipped and sold was three invoices were made, one retained by these respondents, one sent to the complainants and one sent to the purchaser, thereby giving to the complainants full and accurate information as to the amount of timber sold and shipped, the price at which it was sold and to whom sold, and as such timber was settled for by the purchasers the amount due the complainants under the terms of the contract was paid to them, and in addition thereto a sum equivalent to the amount paid by them to said Gillie for services rendered as their agent as provided by said contract. This method of cutting, manufacturing and selling of said timber was continued up until the filing of the bill, and at no time did the complainants ever give any written or verbal notice to the respondents that said contract had been terminated^{did} or complainants complained to respondents that they were violating the terms of said contract.

These respondents further say that by way of answer to said bill, that no complaint was ever made by complainants or their agent, Mr. Gillie, that he was not permitted to examine the books and records of respondents, showing the amount of timber and piling cut and the shipments made.

Further answering said bill of complaint as amended, these respondents deny that they are indebted to complainants in any sum; that as heretofore set out in this answer, just before the filing of this bill, these respondents shipped lumber from which there was due to complainants under the terms of the contract about \$219.00, and that strictly within the terms of said contract, these respondents mailed to West Florida Naval Stores Company a check for said sum, said contract

original bill of complaint as amended, and that respondent, J. P. Langham took charge of the operations in cutting and manufacturing the timber and piling from said lands and moved the equipment of said respondents to said lands, consisting of a logging outfit of six mules, six oxen, skidder, one cart and one wagon and entered into negotiations with three portable saw mills, said saw mills being owned by one T. W. Emmons, Hobbs Brothers and Nobles Brothers, and five laborers, and after moving said equipment and labor and begun to manufacture lumber and piling from the timber obtained from the lands described in the original bill of complaint as amended; that in addition to the labor above set out, respondents employed a book-keeper, Mr. W. W. Hall, who was a resident at that time of Excel, Alabama, the said W. W. Hall taking charge of said work, he being an experienced book-keeper, and that he kept the books of said operations, showing the amount of timber cut, the amount of shipments made, when made, to whom sold and the amount obtained for such timber, and the amount paid to complainants under said contract; that in addition to the above the complainants employed one Mr. Gillie as provided by the terms of said contract, who came upon the lands where said operations were being carried on to look after the interest of the complainants, and that the said Gillie begun his term of service on the 18th day of January, 1932 and continued until the original bill was filed in this cause; that at all times the said Gillie had access to the books of respondents and was permitted whenever requested to examine said books; that he was familiar with the operations of the respondents and knew the lands from which timber was cut by respondents, and knew the manner in which respondents were cutting timber and the said Gillie was consulted by respondents from time to time as to the cutting of said timber.

respondents now offer to permit complainants or their representative to inspect by calling at their residence where said books are kept at this time. They deny that they have at any time concealed said books or the records from complainant showing ~~and~~ the amount of timber and piling cut from said lands, and shipped and sold, and deny that complainants gave to respondents notice that said contract was terminated, and deny most emphatically that these respondents are indebted to complainants or any other sum except as hereinafter set out, in the sum of \$1500.00, and deny that complainants are entitled are entitled to a judgment against these respondents for said sum, or any other sum and deny that they owe the complainants any sum other than about \$219.00, which respondents offered to pay and endeavored to pay to the West Florida Naval Stores Company to whom such payments were to have been made, but the West Florida Naval Stores Company declined to accept such payment by advice of counsel.

These respondents having fully answered the original bill of complaint as they are required so to do by the foot note attached to said original bill as amended, they further say:

That they are residents of Butler County where they have been residing for the last three or four years, and are now engaged in the manufacture of lumber in Butler County, Alabama, and farming operations in Conecuh County, Alabama; that they were so engaged on the 24th day of November, 1931 and prior thereto negotiations were entered into with the complainants, Mitchell Naval Stores Company engaged in business at Pensacola, Florida, and that after said negotiations were entered into a contract was finally entered into by the complainants and these respondents on the 24th day of November, 1931, and that attached to the original bill of complaint as amended is a copy of such contract, and that after the making and entering into said contract, these respondents began to make their plans and arrangements to manufacture lumber and poles from the timber situated on the lands described in the

claim that these respondents had made, and allege the truth to be that the first notice that these respondents obtained that said contract was terminated was the filing of the bill in this cause.

Sixth.

These respondents deny that their right to enter upon and cut timber from said lands and manufacture the same has been terminated, and deny that they at any time committed any trespass whatever on said lands, and deny that the cutting of timber from said lands was disregarding of the rights of complainants, but to the contrary these respondents allege that what cutting of timber and piling was done was in strict conformity with the terms of the contract and not in violation with the rights of complainants, but they only cut said timber and piling as they had a right to cut, and that they ~~xxx~~ at no time trespassed upon said lands, and that they at all times paid for such timber and piling cut by them, and they deny that complainants are suffering irreparable injury by reason of the cutting of said timber, and they deny most emphatically that they are insolvent, but allege the truth to be that they are solvent and able to pay all of their obligations.

Seventh.

Answering the seventh paragraph of the original bill of complaint, these respondents deny that they have sold and disposed of 200,000 feet or more of timber without making any effort whatever to account to complainants for same, but allege the truth to be that they have paid complainants for all timber that they cut and manufactured into piling and lumber and sold strictly in accordance with the terms of said contract, and deny as alleged in said paragraph that they kept no record of the lumber mentioned, but allege the truth to be that they have a full and complete record showing all timber and piling cut and all shipments made, to whom sold and the amount received, which records have at all times been available to complainants, and which these

payment in view of the filing of the bill in this cause, and that respondents are now willing, ready and able to pay said sum when directed to do so by the Court.

These respondents deny that they have failed to pay in whole or in part for any shipments made by them to the complainants, and deny that on numerous occasions the respondents have refused and failed to pay complainants the amount due them under said contract for the shipment of lumber and piling, but they at all times paid complainants the amount due under said contract for all timber cut, and all shipments made, and that they were not at the time of the filing of the bill in this cause due complainants any sum for any such timber and piling cut and shipped other than the sum of about \$219.00, which would have been due in about thirty days from the date of such shipment which was about two days before the filing of the bill in this cause, and which sum as above set forth sent to the West Florida Naval Stores Company to whom payment was to be made by Gashier's check, and which was returned to respondents by the said West Florida Naval Stores by advice of counsel, and which sum these respondents are ready, able and willing to pay and hereby offers to pay.

These respondents further answering said paragraph, deny that the complainants called upon them for any sums due them for shipments of lumber and piling, and deny that respondents failed and refused to pay to complainants upon demand, but allege the truth to be that they pay all that were due complainants, and at the time of the filing of the bill in this cause there was nothing due complainants, except as herein stated.

Further answering said paragraph, these respondents deny that the complainants or any any one for them, ever gave to respondents any notice, either written or verbal that the contract marked Exhibit "A" attached to the original bill as amended was terminated on account of any breach that they

to the filing of the bill of complaint, but alleges the truth to be that they have paid to complainants all amounts which they claimed they paid to such representative of complainants for the service rendered as such employee. These respondents deny that they breached said contract by refusing and declining to pay such representative, but that they paid to complainant such sum as they stated they had paid for such service, and no demand has ever been made upon these respondents by complainants, or their agent for any sum other than was paid by respondents to complainants as services for said agent.

Fifth.

Answering the fifth paragraph, these respondents admit the allegations contained therein as to the amount and the time when these respondents should pay to complainant for the timber and piling cut from said lands and the shipments and deliveries made, and these respondents say that they complied strictly with the terms and agreement made and contained in said contract. They deny at the time of the filing of the bill in this case that they were due complainants any sum for timber and piling cut and lumber manufactured and delivered from timber and piling cut from said lands, but that there had been some shipments made two or three days before the filing of the bill of complaint in this cause, from which shipments respondents would have been due the complainants about \$219.00, which sum would have been due complainants thirty days from the date of such shipment, and that ~~now~~ after the filing of the bill in this case, these respondents sent a Cashier's check to The West Florida Naval Stores Company of Pensacola, Fla., who held a mortgage upon the lands where such timber was situated, to whom such payment was to be made. Said payment was made in strict accordance with the terms of said contract and that the West Florida Naval Stores returned such Cashier's check to respondents, stating that their attorney had advised them not to accept such

books, and he kept said books accurately showing the amount of timber and poles cut, manufactured and shipped, and the amount of sales of such timber and poles, and that under the terms of said contract, the complainants selected their representative in the person of one Mr. Gillie, who commenced his employment on or about January 18, 1932 and stayed in and around where the operations of the respondents were being carried on and the cutting of said timber and poles from such land and the manufacture of the same. At all times said representative of complainants had access to the books kept by respondents in order that the complainants could be informed as to the quantity of lumber and the piling cut and shipped, and at no time was said representative ever denied access to said books and records of respondents, and at no time did said representative request that he ~~was~~ be permitted to examine said books for the purpose of ascertaining the amount of timber and piling cut and sales and shipments made, and such request denied, and these respondents were never informed until the filing of the bill in this case that they claimed that any such right was denied them, and respondents further answering said paragraph say that they have always been willing and ready to permit the complainants or their agents to examine their books and records showing the lumber and piling cut, and showing the sales and shipments made, so that they might be accurately informed as to the progress and details of the business of respondents. Respondents are now willing and offer to permit their representative to see and examine such books by calling at the respondents' residence where they have such books.

Further answering said paragraph, these respondents admit that there was a stipulation in said contract that these respondents should pay the salary of said employee of complainants not exceeding One Hundred (\$100.00) Dollars per month. These respondents deny that they have failed and refuse to pay said salary of said employee as stipulated therefor prior

and consent of the said Gillie, the agent of complainants, who was present during the timber cutting, representing the complainants as their agent.

These respondents deny that it is necessary to restrain respondents from further cutting timber to protect such timber and to protect complainants from injury, but these respondents say that they at no time cut any timber that was not within the terms of said contract and did not in any way injure complainants by such cutting other than would be the natural damages that would follow from the cutting of timber from lands, and respondents claim that they cut only timber which they had a legal right to do.

Fourth.

The respondents for answer to the fourth paragraph of the original bill of complaint as amended admit that it is stipulated in said contract that the respondents were to keep a set of books and records of lumber, piling and poles cut and shipments made, and these respondents say that they kept such books showing a complete record of all lumber piling and poles cut and shipments made, and they admit that under the terms of said contract, it was stipulated that the complainants should have a representative to be selected by them for the purpose of checking up, keeping them informed of the operations of respondents and keeping them informed as to the quantity of lumber and piling cut and shipped, and that such representative should have access to the books and records of the respondents showing the lumber and piling cut and showing the sales and shipments made so that the complainants might at all times be accurately informed as to the progress and details of the business, said representative to be under the control and direction of the complainants.

These respondents further answering said paragraph say that these respondents kept such books as provided for in said contract, employing a book-keeper for that purpose, one W. W. Hall, who had had experience in the keeping of such

Third.

Answering the third paragraph of the original bill as amended, these respondents admit that on the 24th day of November, 1931 that the complainants and respondents entered into a timber contract with reference to the timber sold and situated on the lands described in the original bill of complaint, as well as other described lands, and that attached to the original bill of complaint as amended as Exhibit "A" is a copy of said contract, and that the lands described in the original bill of complaint lie north of the paved highway.

Respondents further admit that under the fourth paragraph of the contract it was stipulated that the respondents should first cut and remove the timber from so much of the above mentioned lands that lie on the north side of the paved highway running from Pensacola to Mobile; that the cutting should be on lands contiguous on lands already cut. These respondents most emphatically deny that they at any time violated the conditions of said contract by cutting timber indiscriminately on said lands without regard as to whether the land on which said timber was from was contiguous or not and deny most emphatically that these respondents sought out the best timber from the various sub-divisions of said land. They deny that they have been cutting timber from said lands in many instances when the cutting was not on lands contiguous as provided in said contract.

These respondents further answering said paragraph say that the timber was cut from said lands was with the consent of the agent of the complainants and with his full knowledge; that said agent was one Mr. Gillie, who was representing the complainants in the cutting operations of said timber, and ~~he~~ was paid by the respondents under the terms of said contract. If at any time there was any timber cut from any lands that were not contiguous to lands from which timber had already been cut, that such cutting of such timber was with the full knowledge

R. F. Mitchell, Jr., C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, a partnership,

Complainants,

vs.

J. P. Langham and Arthur Langham, doing business as Langham Lumber Company,

Respondents.

In the Circuit Court,

Equity Side

State of Alabama,

Baldwin County.

Now comes the respondents and for answer to the original bill in the foregoing cause as amended doth demur thereto, and for grounds of demurrer assigns the following:

(a) That apparent upon the face of the bill as amended same is without equity.

Respondents without waiving the demurrer hereinabove set out, hereby files their answer to the original bill of complaint as amended as follows:

First.

That respondents each admit the allegations contained in the first paragraph of the original bill as amended to be true as therein stated.

Second.

Answering the second paragraph of the original bill of complaint as amended, these respondents each state that they are informed and believe that the complainants are the owners of the timber on the lands set forth and described in the second paragraph of the bill as amended, subject, however, to mortgages held by West Florida Naval Stores Company. Respondents are not advised as to the amount due on said mortgages or when said mortgages become due, and admit there is no suit pending to test the title of complainants to said timber.

hibit thereto.

SEVENTH.

That complainants have failed to attach as an exhibit to the original bill the contract referred to in paragraph two, and the allegation as to what is provided in said contract, and the breaches thereof are but the conclusion of the pleader, and ^{the original or} a copy of said contract should be attached as an exhibit thereto to inform the Court as to the provisions thereof, and whether it has been breached as alleged in said bill.

EIGHTH.

That the contract referred to in said bill speaks for itself and shows what obligations are contained therein upon the contracting parties and the complainants have failed to attach the original ^{or} copy of same as an exhibit thereto in order that the Court could ascertain its true obligation without relying upon the conclusion of the complainants.

NINTH.

The allegations contained in the second paragraph of the original bill is a conclusion of the pleader, as it is alleged said contract is in writing and the original or a copy of said contract is not attached in order that the Court may be correctly informed as to the contents and not rely upon the conclusion of the pleader.

Powell & Hamilton,

Sols. for Respondents.

We hereby certify that we have mailed a copy of the foregoing demurrers on Messrs. Hybart, Heard & Chason, attorneys for plaintiffs, to their Post Office address at Bay Minette, Alabama, postage prepaid.

Dated this 12th day of April, 1932.

Powell & Hamilton,

Sols. for Respondents.

R. F. Mitchell, et al, | In the Circuit Court,
 | Baldwin County,
 | Alabama.
J. F. Langham and Arthur |
Langham, doing business as |
Langham Lumber Company. |

Now comes the defendants, severally and separately,
and demurs to the original bill in this cause, and for grounds
of demurrer assigns the following:

FIRST.

Because apparent upon the face of the bill the same
is without equity.

SECOND.

That under the facts alleged in said bill the
complainants have an adequate remedy at law.

THIRD.

That under the second count of the bill of complaint,
it is alleged that respondents are making repeated trespasses
upon said land and that such allegation is a conclusion of
the pleader without alleging how or in what manner respondents
are trespassing upon said lands.

FOURTH.

That the allegations of the second count of the
original bill that respondents are trespassing upon the lands
of complainant is a conclusion of law of the pleader, and there
are no facts alleged which would justify such conclusion.

FIFTH.

That said bill fails to allege any facts, or cir-
cumstances which will show that respondents have trespassed upon
lands of complainants.

SIXTH.

That by the allegations of said bill, the contract
referred to under the second paragraph of said bill is in
the original or
writing and a copy of said contract is not attached as an ex-

of Northeast Quarter, Section 33; all of Section 34;
the North Half and the Southwest Quarter of Section 35;
the East Half; the East Half of Northwest Quarter;
Southwest Quarter of Northwest Quarter, and North Half of
Southwest Quarter, Section 36; all in Township 5, South of
Range 5 East;

The Northeast Quarter and the Southeast Quarter of Southeast
Quarter, Section 1, the Northwest Quarter, Section 3; the
Northeast Quarter of the Southeast Quarter, Section 4,
all in Township 6, South of Range 5 East.

Situated, lying and being in Baldwin County, Alabama.

on, to-wit, 24th day of November, 1931, a copy of said contract being
Exhibit A. to Complainants' amended bill of complaint be and the same
is hereby declared null and void and of no force and effect, and no
longer binding upon the complainants.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said
temporary injunction issued by this Court restraining the Respondents
from going upon, cutting or removing any timber from the lands in-
volved in this suit, and described above,, be and the same is made
perpetual.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Respon-
dents be and they are perpetually and forever enjoined from tres-
passing upon said land or cutting or removing the timber therefrom.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
Respondents, J. P. Langham and Arthur Langham, doing business as
Langham Lumber Company, be taxed with the cost of this proceeding,
for which let execution issue.

Signed at Monroeville, Alabama, this 21 day of
February, 1942.

A. W. Hare

JUDGE

R. F. MITCHELL, JR., C. B. MITCHELL
and J. L. TUCKER, Doing business as
MITCHELL NAVAL STORES, a Partnership,

Complainants

VS.

J. P. LANGHAM AND ARTHUR LANGHAM,
doing business as Langham Lumber Company,

Respondents.

IN THE
CIRCUIT COURT OF BALDWIN
COUNTY, ALABAMA.

This cause coming on to be heard is submitted for final decree by the Complainants on the testimony as noted in accordance with Rule 57, Chancery Practice of Alabama, and the same being understood by the Court, the Court is of the opinion that the Respondents, J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, before the filing of the bill of complaint in this cause, breached that certain contract entered into by the Complainants and Respondents on, to-wit: 24th day of November, 1931, a copy of which said contract is referred to and made a part of Complainants' bill of complaint as amended, and that the Respondents have no further right to enter upon the lands set forth in the bill of complaint and cut or remove any timber thereon and that said contract should be declared null and void and of no force and effect, and that the temporary injunction heretofore issued by this Court restraining the respondents from entering upon said lands and cutting or removing any timber therefrom should be made perpetual -

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that said contract entered into by and between Complainants and Respondents relative to the cutting and removing of the timber on the lands involved in this suit, and described as follows, to-wit:

The Northeast Quarter ($NE\frac{1}{4}$), the East Half of Northwest Quarter ($E\frac{1}{2}$ of $NW\frac{1}{4}$); Southwest Quarter of Northwest Quarter ($SW\frac{1}{4}$ of $NW\frac{1}{4}$), West Half of Southwest Quarter ($W\frac{1}{2}$ of $SW\frac{1}{4}$) and the West Half of the Southeast Quarter ($W\frac{1}{2}$ of $SE\frac{1}{4}$), Section 26, The Southeast Quarter and the Southwest Quarter of the Southwest Quarter, Section 27; the South-west quarter of Southwest Quarter, Section 29; the Southeast Quarter of Southeast Quarter of Section 30; the South Half of the Southwest Quarter, Section 31; the West Half of

Langham Lumber Company

To MITCHELL NAVAL STORES COMPANY, Dr.

Total out	697,161'	
Stock on Hand	<u>224,258'</u>	
Total Lumber Sold	472,903'	
Langham Lumber Co. estimate of average price per thousand	<u>20.00</u>	
Total Sales	\$9,458.06	
20% of total sales		\$1,891.61
Timber left standing on cut over lands	275,080'	
Average price as above	<u>20.00</u>	
value	\$5501.60	
20%		1,100.32
Top & Butt cutting waste	10,349'	
Average price as above	<u>20.00</u>	
Value	206.98	
20%		41.40
Salary representative Dec. 8, 1931 thru March 21, 1932 @ 100.00 per month		341.94
Unpaid rent on quarters used by Langham Lbr. Co.		35.00
5 scrape irons		<u>5.00</u>
		\$3,415.27

PAYMENTS MADE BY THE LANGHAM LUMBER COMPANY

TO MITCHELL LUMBER COMPANY

1/23/32	Check	\$99.92	
3/3/32	do	300.00	
3/4/32	Check returned		\$300.00
3/7/32	Cash	300.00	
3/16/32	Cashier's Ck.	300.00	
		<u>\$999.92</u>	<u>300.00</u>
	To Balance,		<u>699.92</u>
		<u>\$999.92</u>	<u>\$999.92</u>
	Total Payments,..	\$699.92	

attach an itemized statement showing the status of the account between the Plaintiff and Defendants' marking the same Exhibit "B" to our Answers to these Interrogatories. This is the best statement that we can get up on account of the fact that we have been denied access to the books and papers of the Defendants which appertained to their business. That the timber which was cut and manufactured either into lumber' piling or poles was taken from the subdivisions of land heretofore mentioned. As stated' we are unable to say as to whom all of this lumber' piling or poles were sold to' or exactly when' but we do know that the same was cut from our lands and carried away therefrom by the Defendants' and that they owe the amounts set out in the itemized statement hereto attached for the same as well as for the amount paid out by us for having a representative at said mills.

C. B. Mitchell
R. F. Mitchell Jr.
J. L. Tucker

STATE OF FLORIDA'
ESCAMBIA COUNTY.

Before me' J. J. Brooke a Notary Public in and for said State and County' personally appeared R. F. Mitchell Jr.' C. B. Mitchell and J. L. Tucker' who first being by me duly sworn depose and say:- That the foregoing Answers to the Interrogatories propounded by the Defendants in the aforesaid cause to Complainants' are true and correct.

C. B. Mitchell
R. F. Mitchell Jr.
J. L. Tucker

Sworn to and subscribed before me' a Notary Public whose seal is hereto affixed' this 18th day of August' 1932.

J. J. Brooke
Notary Public' Escambia County,
State of Florida.
Notary Public, State of Florida at Large
(affix seal) My commission expires March 20, 1934

moneys due us; that the Defendants failed to comply with their said Contract; that this letter was delivered to the business manager of said partnership 'Mr. J. P. Langham' and the conditions continued as they were at the time of the delivery of said letter' no change was made in the nature and form in which the business was being carried on; the Defendants continued to breach their contract and failed to pay the amounts due promptly' and as aforesaid our representatives used their best endeavors to get up with the said J. P. Langham for the purpose of collecting for the stumpage and other moneys due' which they were unable to do' as heretofore stated' and that Complainants were advised that no further steps were necessary so far as any further notice of the termination of the Contract was concerned' as Complainants explicitly notified the Defendants that said Contract would be terminated unless the conditions of the contract were complied with. We contend that our notice of termination was based upon their carrying out of their contract; that the Defendants had reasonable time in which to comply with the same and that on their failure to comply with said contract the same was terminated; that the Defendants evidenced an intention not to carry out said contract and that their actions in the premises in cutting further or other timber on these lands after said notice and their failure to comply with the demands of Complainants was a trespass on said lands. We are not advised as to the amount of timber that was cut after our letter to them as heretofore mentioned and the issuance of the Injunction' on account of the fact that we have been unable to get them to let us examine their books and papers. The timber which was cut between the time that we wrote to the Defendants as heretofore mentioned' and the issuance of the Injunction' was cut on Sections Thirty-three and Thirty-four. The amount of timber cut and sold by the Defendants according to our estimation was 697'161 feet' less 224'258 feet which is at the mills' totalling 472'903 feet cut and sold. We are unable to give the date of each of the shipments obtained from said land for the reason that we have been denied the privilege of examining the books and papers of the Defendants. We hereby

in cash. We claim that there was lumber' piling or poles obtained from said lands for which the Defendants have not paid us; that is' the amount due us for the same. We are unable to give the date' the amount of such shipments and to whom such shipments were made on account of the fact that the Defendants would not permit us to examine their books and records in connection with their transactions in cutting the timber and manufacturing the same from said lands. We claim that the Defendants have failed and refused to pay the amounts due under the Contract for shipments of poles' piling and lumber obtained from said lands. As stated above' on account of the fact that they would not let us see their papers and books we are unable to furnish the information inquired for. We claim that we called upon the Defendants to pay the amount due us for lumber manufactured from timber on the lands mentioned in the contract and that they failed and refused to pay the amount due us' which they were in duty bound to do. We are unable to give you the amount of each of such shipments and the dates' to whom made and the character of the shipments' whether lumber' piling or poles' for the reason that we were denied an investigation of the books and papers of the Defendants. We claim that by reason of the Defendants failure to pay for such shipments' that by reason of the failure of the Defendants to cut the timber continuously; that is' to clear up a forty as they went' that by reason of the failure to pay us for the salary of the agent that we were to keep at the mill' and the failure to permit us to examine their records and books so that we might be cognizant of our business affairs as connected with this transaction' that said Defendants breached said contract and that on account of their said breaches the same was terminated.

SIXTH:

In answer to the sixth interrogatory we claim that about a week before the Injunction was obtained in this case that we gave notice to the Defendants that we would terminate the Contract unless they conformed to the agreement in said contract and paid to us the balance due us for the stumpage on said lands and other

was due them on stumpage and salary' and our representative had to step out of the way to keep Mr. Langham from running into him. That the active manager of said mills was evidently evading our representative after the aforesaid letter was written' and shortly prior to the issuance of the Injunction or' in other words' our representative was unable to get up with Mr. J. P. Langham from the time that we wrote him the letter heretofore mentioned up until the time that the Injunction was issued; that he made numerous visits to the mills and to his home and that the only time he was able to locate him was at the time that he came very near running into our representative; that at this time Mr. J. P. Langham was sitting in a car which was standing still' and when our representative walked up and spoke to him and placed his hand on the car Mr. Langham said something to the driver twice that our representative could not hear' and the driver of the car drove on' and our representative had to step out of the way to keep from being run into. This letter that we speak of' a copy of which was given to Mr. J. P. Langham personally' and another copy of which was mailed to Arthur Langham at Georgiana' Alabama' a copy of which letter has been misplaced from the files either in the office of Hybart' Heard & Chason or in the office of West Florida Naval Stores Company. In the event that we are able to find a copy of the same we will attach it to our Answer to these interrogatories.

FIFTH:

In answer to the fifth interrogatory Complainants say the Defendants have paid to them Six Hundred Ninety-nine & 92/100 Dollars (\$699.92). There is also being held in the Peoples National Bank' Pensacola' Florida' One Hundred Ninety-five & 53/100 Dollars (\$195.53) in escrow' the same being in the name of Mr. C. B. Mitchell' as Trustee. We are attaching an itemized statement' marking same Exhibit "A" to our Answer to these interrogatories' showing amounts paid by Defendants as requested. These payments were made as follows:- The first payment was made by check' the second payment was made by check which was returned unpaid and was later taken up by cash' the third payment was made

the operation. Mr. Gilly was placed there just as soon as we started to have trouble with the Defendants in regard to this cutting contract. The duties of our representatives were to try to see that the Contract was carried out and that the timber was cut as contracted for' and to try to keep up with the output of the mills. The duties of said representatives also were to keep in touch with the records of the mills as kept by the Defendants' but in this respect they had no success' as Mr. J. P. Langham would not permit them to do so. The Defendants were to pay \$100.00 per month for the services of the representative of the Complainants while engaged at said mill. The amount paid by us on the salary inquired about was not refunded to us by the Defendants. We demanded payment of the Defendants of the amount that was due us both for the stumpage and for the amount that they agreed to pay for our representative at the mills' and we made a straight out demand for the salary. We made this demand specifically upon Mr. J. P. Langham. Our best recollection is that this took place at one of the mills that he was operating. The demand was not in writing. We terminated said Contract by reason of the fact that the Defendants had failed and refused to carry out their Contract with us; to pay us for the stumpage and for the salary' and to cut the timber continuously upon the subdivisions that they were operating upon' and for failure to permit us to examine their books as they had contracted to do. The Contract was terminated the day that we obtained the Injunction . The Contract was terminated by our enjoining the further operation of the Defendants. About a week before the Injunction was obtained we notified the Defendants that unless they paid the moneys that were due us and changed their manner of operation at once so as to comply with the contract that we would be forced to terminate the same. That no attention was paid to this letter. Shortly after this our representative tried to get in contact with Mr. J. P. Langham' the active partner at the mills' but he was unable to do so; that on one occasion about a day or so before the Injunction was taken out that he endeavored to stop Mr. Langham in his car for the purpose of collecting the money that

South Range 5 East; West half of Northeast Quarter ($W\frac{1}{2}$ of $NE\frac{1}{4}$) of Section 33' Township 5 South' Range 5 East; All except the South half of Northeast Quarter ($S\frac{1}{2}$ of $NE\frac{1}{4}$) of Section 34' Township 5 South' Range 5 East; West half of West half ($W\frac{1}{2}$ of $W\frac{1}{2}$)' East half of Southwest Quarter ($E\frac{1}{2}$ of $SW\frac{1}{4}$) and Southeast Quarter of Northwest Quarter ($SE\frac{1}{2}$ of $NW\frac{1}{4}$) of Section 35' Township 5 South of Range 5 East; Northeast Quarter of Northwest Quarter ($NE\frac{1}{4}$ of $NW\frac{1}{4}$) of Section Three (3)' Township 6 South' Range 5 East. Said lands from which the timber was cut lay contiguous but they did not cut the timber continuously on the said subdivisions heretofore mentioned. The lands were not cut clean before another parcel was started' nor were they cut clean later.

FOURTH:

The Defendants did not keep a correct set of books and records of the lumber' piling and poles cut from said lands and shipments made under said Contract. The Defendants kept a list of invoices of each customer having a separate page. His inspector kept a list tally of shipments' but we were never allowed to see it. The mills kept a tally of each daily cut but refused to allow us to see it. The only thing that we ever saw was the list of invoices. We made a demand on the Defendants to be allowed to examine their books on numerous occasions; that is' upon J. P. Langham' who was the partner in charge of the operations. Every time that we made this demand or request Mr. J. P. Langham would put us off by excuses' and on one occasion he stated that he would not let us make the examination. On this occasion he stated that the books were at home and we then requested him to be permitted to examine them there and he refused for us to do it. This was about a month after the Defendants started operation on the cutting of the timber. This conversation took place at Emmons' Mill in Baldwin County' Alabama. Our representatives' Mr. H. M. Gilly and Mr. C. B. Mitchell were supposed to be at the mill practically all the time. Mr. Gilly was at the mills all the time except Sundays and Saturday afternoons. Mr. H. M. Gilly was placed at the mills about January 18th' 1932' and continued there during the

R. F. MITCHELL JR.' C. B.)
MITCHELL and J. L. TUCKER')
doing business as MITCHELL)
NAVAL STORES' a Partnership')
Complainants')

IN THE CIRCUIT COURT-EQUITY SIDE
STATE OF ALABAMA
BALDWIN COUNTY.

-vs-

J. P. LANGHAM and ARTHUR)
LANGHAM' doing business as)
LANGHAM LUMBER COMPANY')
Respondents.

Now come the Complainants' R. F. Mitchell Jr.' C. B. Mitchell and J. L. Tucker' and for answer to the Interrogatories heretofore filed by the Respondents say as follows:-

FIRST:

In answer to the first interrogatory Complainants say that they live at Pensacola' in the State of Florida. We are engaged in the Naval Stores business. The Complainant is a partnership; that is' the Mitchell Naval Stores Company is a partnership composed of R. F. Mitchell Jr.' C. B. Mitchell and J. L. Tucker. The partnership is engaged in business near Seminole' Baldwin County' Alabama.

SECOND:

In answer to the second interrogatory' we executed the Contract referred to as Exhibit "A" to the Original Bill as amended. The Defendants began operation of the manufacture of lumber under said Contract on the land described therein. The lands described in said Contract belong either to Louis Sussman or Abe Durschlag' we are not advised as to the exact title as to the land. We are not advised as to whether there is any Mortgage on the lands or not. We are not advised as to who the owner of said Mortgage is upon the lands.

THIRD:

Our information is that they cut 697'161 number of feet of timber. This timber was cut from the lands mentioned in said Contract lying North of the Pensacola and Mobile Highway' and on the Southwest Quarter of Southwest Quarter (SW $\frac{1}{2}$ of SW $\frac{1}{2}$) and South half of Southeast Quarter (S $\frac{1}{2}$ of SE $\frac{1}{2}$) of Section 27' Township 5'

between Mitchell Naval Stores Company and Langham Lumber Company any rights that said West Florida Naval Stores Company might have in and by the terms of the said mortgage which is hereby released shall revert to and be vested in it, the said West Florida Naval Stores Company.

EXECUTED this 30th day of November, 1931.

WEST FLORIDA NAVAL STORES COMPANY

By J. D. Russ,

President.

ATTEST:

D. J. Hayes,

Secretary.

STATE OF FLORIDA ,
COUNTY OF ESCAMBIA.

Before the undersigned personally appeared J. D. Russ, known to me and known to me to be the individual described in and who executed the foregoing instrument, and to be the President of the West Florida Naval Stores Company, a corporation, and acknowledged and declared that as President of said corporation, and being duly authorized by it, signed its name and affixed its seal to and executed the said instrument for it and as its act and deed.

Given under my hand and official seal this 30th day of November, 1931.

J. J. Crooke, Notary Public.

Notary Public, State of Florida
at Large - My commission expires
March 20, 1934

The undersigned, Mitchell Naval Stores Company, hereby consents and agrees to the payments under the contract above referred to being made to the West Florida Naval Stores Company as hereinbefore provided.

This 30th day of November, 1931

MITCHELL NAVAL STORES COMPANY,
By C. B. Mitchell-

STATE OF ALABAMA. |
COUNTY OF BALDWIN. |

WHEREAS, R. F. Mitchell, C. B. Mitchell and J. L. Tucker, doing business as Mitchell Naval Stores Company, did on the 24th day of November, 1931, enter into a certain contract with J. P. Langham and Arthur Langham, doing business as Langham Lumber Company, for the sale of certain timber rights, which said contract is by reference made a part hereof; and

WHEREAS, by the terms of said agreement it was provided that the same should not be binding on the parties thereto without the written consent of West Florida Naval Stores Company, as mortgagee; and

WHEREAS, said West Florida Naval Stores Company as mortgagee has agreed on the conditions and provisions hereinafter contained to consent to said contract and release its mortgage lien on the timber therein described, which said mortgage is dated the 16th day of December, 1926, and recorded in the office of the Judge of Probate of Baldwin County, Alabama, in Mortgage record 38 at page 79; now therefore,

Said West Florida Naval Stores Company, a corporation organized under the laws of the State of Florida, in consideration of One Dollar and other valuable considerations, the receipt whereof is hereby acknowledged, does hereby release from the lien of said mortgage all the timber rights conveyed to said Langham Lumber Company under the contract aforesaid, and consents that said contract shall have preference and superiority over its said mortgage, so long as said contract is in full force and effect, provided, however, that the said Langham Lumber Company shall pay to said West Florida Naval Stores Company all moneys now or hereafter becoming due under the terms of the said contract to the said Mitchell Naval Stores Company, and provided further that this release shall not apply to the turpentine place on the said property which is also under mortgage to said West Florida Naval Stores Company, and provided further that upon the termination of said contract

These respondents allege that they have at all times strictly complied with the terms of said contract, and paid to the said West Florida Naval Stores Company all monies that were due or to become due under the terms of said contract, and that said contract has never been terminated, and is in full force and effect; that the said West Florida Naval Stores Company, a corporation, should be made a party to the original bill of complaint as amended, in order that the West Florida Naval Stores Company could propound and set up such rights claimed by it under said mortgage, and in order that all matters pertaining to said contract and said mortgage may be adjudicated in the trial of this cause.

These respondents admit that there is no suit pending to test the title of complainants to said timber other than the bill in this cause.

HAMILTON & JONES,
Attorneys for respondents,
Langham Lumber Company and J.P.
Langham and Arthur Langham.

STATE OF ALABAMA,
BUTLER COUNTY.

Personally appeared before me, Alma Murphy, a Notary Public in and for said State and County, J.P. Langham, who, being by me first duly sworn, doth depose and say, that the facts stated in paragraph two of the amended answer are true as therein stated.

Sworn to and subscribed before me, this, the 9th
day of July, 1932.

Alma Murphy
Notary Public.

thereto without the written consent of the West Florida Naval Stores Company, and said original bill, as amended, fails to allege that the West Florida Naval Stores Company consented in writing to the making of said contract.

The respondents without waiving the demurrers hereinabove set out, and heretofore filed in this cause, hereby amend their answer to the original bill of complaint by amending paragraph two so that the same will read as follows:

Second.

Answering the second paragraph of the original bill of complaint as amended, these respondents admit and are informed and believe, that the complainants are the owners of the timber on the lands set forth and described in the second paragraph of the bill as amended, subject, however, to a mortgage held by the West Florida Naval Stores Company, a corporation, of Pensacola, Florida.

Respondents are not advised as to the amount due on said mortgage, or when said mortgage will become due, but respondents allege that at the time the contract was entered into by and between complainants and respondents, a copy of which is attached to the original bill as amended marked Exhibit "A", the said West Florida Naval Stores Company executed to these respondents an instrument, a copy of which is hereto attached marked "Exhibit A", and made a part of this amended answer. Under and by the terms of said instrument, the said West Florida Naval Stores Company released from the lien of said mortgage all of the timber rights conveyed to these respondents under the contract, a copy of which is marked "Exhibit A", and attached to the original bill of complaint as amended, and consented that said contract should have precedence and superiority over the mortgage of complainants to the said West Florida Naval Stores Company so long as said contract was in full force and effect, provided, however, that the said Langham Lumber Company should pay to the said West Florida Naval Stores Company all monies that were due or to become due under the terms of said contract of the respondents to the Mitchell Naval Stores Company.

R.F. Mitchell, Jr., C.B.
Mitchell and J.L. Tucker,
doing business as Mitchell
Naval Stores Company, a
partnership,

Complainants.)

Vs.)

J.P. Langham and Arthur
Langham, doing business as)
Langham Lumber Company,)

Respondents.))

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

IN EQUITY.

Now come the respondents, severally and separately,
and amend the demurrers heretofore filed to the original bill,
as amended, by adding, as additional grounds of demurrer thereto, the follow-
ing:

(b) That from the allegations of said original
bill as amended, the West Florida Naval Stores Company is a
necessary party thereto.

(c) That from the allegations of said original bill
as amended, the West Florida Naval Stores Company is a proper par-
ty thereto.

(d) That from the allegations of said original bill
as amended, the West Florida Naval Stores Company is a necessary
and proper party thereto.

(e) For that under the terms of the Sixteenth para-
graph of the contract, a copy of which is attached to the original
bill as amended, and marked "Exhibit A", it is provided as follows:

"It is understood and agreed that the growing timber hereinabove
described is under mortgage to West Florida Naval Stores Company
and this contract shall not be binding on the parties hereto with-
out the written consent of said mortgagee being first obtained":
and said bill, as amended, fails to allege that the West Florida
Naval Stores Company, the mortgagee, has given its written consent
to making and entering into the said contract.

(f) Because under the terms of the contract, a copy
of which is attached to the original bill, as amended, marked
"Exhibit A", the said contract should not be binding on the parties

STATE OF ALABAMA'

BALDWIN . COUNTY.

Before me' Mary J. Green , a Notary Public in and for said State and County' personally appeared C. B. Mitchell' who is known to me and who after being by me first duly and legally sworn doth depose and say under oath as follows:

That he is one of the partners in the Mitchell Naval Stores Company' a Partnership composed of R. F. Mitchell Jr.' C. B. Mitchell and J. L. Tucker' and as such is duly authorized to make this Affidavit; that the allegations contained in the foregoing Bill of Complaint are true and correct.

C. B. Mitchell

Sworn to and subscribed before me' a Notary Public whose seal is hereto affixed' this 15th day of March' 1932.

Mary J. Green

Notary Public' Baldwin County'
State of Alabama.

TO THE REGISTER OF THE CIRCUIT COURT' BALDWIN COUNTY' ALABAMA:-

Upon Complainants entering into Bond with good and sufficient surety in the sum of Five Hundred Dollars (\$500.00)' to be approved by you' you will cause the temporary Writ of Injunction to be issued as prayed for.

Dated this 15th day of March' 1932.

J. W. Hare
Judge.

be prevented from obtaining the full value thereof; your Orators further show unto your Honor that the said Respondents are insolvent and are unable to respond in damages in a Court of Law.

PRAYER FOR PROCESS.

To the end that equity may be had in the premises your Orators pray that your Honor will cause the usual writ of process to issue to J. P. Langham and Arthur Langham' doing business as Langham Lumber Company' making them party defendants in this Bill of Complaint and requiring them to plead' answer or demur to the same within the time required by law.

Your Orators further pray unto your Honor that you will cause a temporary writ of injunction to issue restraining the said Respondents from trespassing on said lands' and from cutting or removing said timber' Lumber' poles and piling above referred to' and from interfering with the possession of your Orators in the said property.

PRAYER FOR RELIEF.

The premises considered' your Orators pray that upon the final hearing of this cause your Honor will cause said temporary Writ of Injunction to be made perpetual and forever restraining the said Respondents from trespassing and from interfering with the possession of your Orators in said lands. Your Orators pray for such other and further relief as in equity may seem just and meet' and your Orators will ever pray.

C. B. Mitchell

As one of the Partners in Mitchell Naval Stores Company' a Partnership.

FOOT-NOTE:-

Respondents are required to answer Paragraphs "First" through "Third", Inclusive' of the foregoing Bill of Complaint' but answer under oath is hereby expressly waived.

Hyatt Heard Chason
Atty for Complainants

and that there is no suit pending to test the title as to same.

THIRD:

Your Orators further show unto your Honor that the Respondents are making repeated trespasses on the aforesaid lands in violation of that certain agreement made and entered into by and between your Complainants and the Respondents on 'to-wit' November 24th' 1931' by which agreement your Complainants conveyed all timber standing on above land of diameter of not less than eight inches at a point in the tree sixteen feet from the ground and also all smaller timber suitable for piling not smaller than eight inches in diameter at a point in the tree twelve inches from the ground' subject to certain conditions and restrictions; that in and by said agreement Respondents were to cut said timber and pay to your Complainants for such lumber and piling 20% of the selling price thereof' and were to keep at all times during the operations thereunder a complete set of books and records of lumber and piling and poles cut and shipments made and agreed that your Complainants or their agents should at any time have a right to inspect and check said books and records and keep themselves informed of the quantity of lumber and piling cut and shipped' and your Orators further allege that said Respondents have not paid unto your Complainants the said 20% of the selling price of the timber above referred to' nor have they kept such records and books as are necessary in order that your Complainants be able to ascertain the amount of poles' piling and lumber which have been cut' nor have they allowed your Complainants at all times to inspect such books and records' and because of the breaches of said agreement above referred to and complained of' your Complainants have been injured and are in danger of suffering irreparable injury to their timber and loss' in that they are unable to ascertain just how much timber is being cut and what is being paid for; and your Orators further allege that unless the Respondents are restrained from cutting and removing said timber located on above described lands that the timber which remains at the expiration of the agreement above referred to will be useless to them' and that they will

R. F. MITCHELL JR. & C. B. MITCHELL and J. L. TUCKER, doing business as Mitchell Naval Stores Company, a Partnership,

Complainants

-vs-

J. P. LANGHAM and ARTHUR LANGHAM, doing business as LANGHAM LUMBER COMPANY,

Respondents.

IN THE CIRCUIT COURT-EQUITY SIDE

STATE OF ALABAMA

BALDWIN COUNTY.

TO THE HONORABLE F. W. HARE, JUDGE OF THE TWENTY-FIRST JUDICIAL CIRCUIT:-

Your Orators humbly complaining of the Respondents in a manner as will hereinafter appear, show unto your Honor as follows:

FIRST:

That the Respondents J. P. Langham and Arthur Langham are residents of the State of Alabama and are over the age of twenty-one years.

SECOND:

Your Orators further show unto your Honor that they are the owners of all merchantable timber of a dimension of eight inches in diameter at a point twelve inches from the ground, now standing on the following described lands situate in Baldwin County, Alabama, to-wit:-

The Northeast Quarter (NE $\frac{1}{4}$), the East half of Northwest Quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$), Southwest Quarter of Northwest Quarter (SW $\frac{1}{4}$ of NW $\frac{1}{4}$), West half of Southwest Quarter (W $\frac{1}{2}$ of SW $\frac{1}{4}$) and the West half of the Southeast Quarter (W $\frac{1}{2}$ of SE $\frac{1}{4}$) Section Twenty-six (26); the Southeast Quarter (SE $\frac{1}{4}$) and the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$), Section Twenty-seven (27); the Southwest Quarter of Southwest Quarter (SW $\frac{1}{4}$ of SW $\frac{1}{4}$), Section Twenty-nine (29); the Southeast Quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section 30; the South half of the Southwest Quarter (S $\frac{1}{2}$ of SW $\frac{1}{4}$), Section Thirty-one (31); the West half of Northeast Quarter (W $\frac{1}{2}$ of NE $\frac{1}{4}$), Section Thirty-three (33); all Section Thirty-four (34); the North half (N $\frac{1}{2}$) and the Southwest Quarter (SW $\frac{1}{4}$) Section Thirty-five (35); the East half (E $\frac{1}{2}$); the East half of Northwest Quarter (E $\frac{1}{2}$ of NW $\frac{1}{4}$), Southwest Quarter of Northwest Quarter (SW $\frac{1}{4}$ of NW $\frac{1}{4}$) and North half of Southwest Quarter (N $\frac{1}{2}$ of SW $\frac{1}{4}$), Section Thirty-six (36), all in Township Five (5) South of Range Five (5) East; the Northeast Quarter and the Southeast Quarter of Southeast Quarter (SE $\frac{1}{4}$ of SE $\frac{1}{4}$), Section One (1); the Northwest Quarter (NW $\frac{1}{4}$) Section Three (3); the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ of SE $\frac{1}{4}$), Section Four (4); all in Township Six (6) South of Range Five (5) East;