

1791-0051791

SOUTHAMPTON COUNTY  
CHANCERY PAPERS : BRANCH vs KELLO'S EXTOR

3/1791

other surnames : Coker,  
Tyler, Ruffin

Branch  
- vs - (Inj.)  
Kello ex.

To March 1791

D/ 100

dismissed  
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To the worshipful the court of Southampton county in chancery  
sitting, humbly complaining sheweth unto your worshipps your  
orator Henry Branch, that sometime about the year of our  
Lord one thousand seven hundred &

Coker departed this life intestate, leaving at  
the time of his decease a considerable estate both real &  
personal, & that letters of administration were granted  
to the late Col<sup>l</sup> Richard Hall Esq<sup>r</sup> of all his estates.

Your orator begs leave to further shew unto your worshipps that the  
heir at law having to take the slaves at their appraised value  
& being desirous to take possession & receive the same, the said  
Rich<sup>d</sup> the adm<sup>r</sup> altogether refused to possess the said heir  
at law of the said slaves without his giving bond & security  
for his faithful & punctual discharge to the remaining  
legatees. And your orator further sets forth that he  
not doubting at that time the circumspection & good  
demeanor of him the said Coker, son & heir  
at law of the said Coker, became his security  
for his faithful payment to the said legatees as he should be  
liable to pay the same according to law. And your orator  
further sheweth to your worshipps that sometime after he became  
security for the said heir at law, he had just ground to suspect  
that he was in a fair way to waste & run through the  
whole of the estate, & that your orator would become charge-  
able to pay the whole amount of which he was security for  
without possibility of redress from the said heir at law.  
In consequence of which your orator applied to Mr S<sup>r</sup> Wilson  
the heir at law, to indemnify him in this his precarious and  
perilous situation. Whereupon the S<sup>r</sup> heir at law made

him a mortgage of        acres of land at that time not supposed  
to be a complete indemnification of your orator, which mortgage  
had its equity foreclosed in this worshipping court; & a decree  
of this court after paper giving & vesting the entire interest  
in the said land in your orator as his own proper right &  
estate, for the amount of the same for which he had  
rendered himself liable by being security. And your  
orator begs leave to further show & particularly set forth,  
that at the time the said mortgage was made, & also at  
the time the same was foreclosed, there was standing &  
affixed to the freehold a still of the value of £36  
& which your orator was informed & he himself  
considered as a part of the freehold, & that he had as  
certain an interest, & a property as absolute in the said  
still, as in the land itself. — And your orator begs

leave to further suggest & show unto your worships  
that in order that the said Wilson (being the heir at  
law) might be fairly & honestly dealt by Mr. Edmund  
Tyler & Benja. Ruffin were appointed by this court  
as trustees to him the said Wilson. Circumstances  
being as above set forth, & your orator being frequently  
called on & pressed by the said Richard Kille the administrator  
for the money for which he was security, in order to save his  
own estate from the expence of a lawsuit, appointed a day  
for the sale of the above mortgaged land; & after having  
publicly & in diverse places advertised the same, & also  
having given Mr. Tyler & Ruffin, the trustees to the heir at  
law, due notice of the same, to the end that they might attend

and see that the heir at law had complete & ample justice done him, who accordingly attended on the day of sale.

Your Orator taking the opinion of the people generally, & of the said trustees particularly, concluded that the land & still would sell better by being separated, than to be jointly sold; accordingly year B:6 by the advice of the said trustees had the still taken down & first exposed to sale, which after being sometime publicly cried, was hidden off on Mr. Edmund Tyler for the sum of £36 & he the s<sup>d</sup> Edmund gave his hand to year B:4 for that sum of money. And y<sup>r</sup> Orator

Further sheweth that after the sale of the still, your orator proceeded to sell the land, & that after the same was for a considerable time exposed to the highest bidder, it was cried out on

for the heir at law, & that bond & security being demanded of him he was unable to give the same, whereupon it was deemed a void sale. Your Orator begs leave to suggest also, that on the day of sale Rich<sup>d</sup> Kello the adm<sup>r</sup>. attended & was pressing your orator for money as security to

to pay off the legacies of the said intestate

Kello; your orator informed the adm<sup>r</sup>. that he had not the money to advance, but that he would give up the bond which he had then just taken in the name <sup>of y<sup>r</sup> Orator</sup> to be at his disposal for the use of the legacies, if he the s<sup>d</sup> adm<sup>r</sup>. would credit your orator for so much on the bond for which your orator was accountable to him the s<sup>d</sup> Rich<sup>d</sup>. as adm<sup>r</sup>. which the s<sup>d</sup> adm<sup>r</sup>. expressly agreed to do. And your Orator as an equitable suggestion further sheweth, that he can prove apart of the bond given by Edm<sup>d</sup>. Tyler has been by the s<sup>d</sup> Tyler paid & appropriated to the use & benefit of the s<sup>d</sup> legacies, & that your orator always thought during the life of the s<sup>d</sup> Rich<sup>d</sup>. the adm<sup>r</sup>. that he had credit to the amount of the s<sup>d</sup> bond, on the back

of that bond which he had given to the adm<sup>r</sup>. as security to the  
heir at law — But so it is may it please your worshipps  
that since the death of Rich<sup>d</sup>. Kello the adm<sup>r</sup>. suit has been instituted in  
this worshipful court against your orator on his said bond given to the said  
Rich<sup>d</sup>. as adm<sup>r</sup>. & judgment confirmed according to specialty; your orator  
not doubting but credit had been given for the full amount of the bond  
given by the said Edmund Tyler to your orator for the still purchased of  
your orator as a house set forth — However, your Orat<sup>r</sup>. happening  
a few days after the judgment aforesaid at Sam<sup>l</sup>. Kello's the present adm<sup>r</sup>.  
enquired of him the amount of the judgment & of the credit given;  
when your Orat<sup>r</sup>. was informed that the judgement stood in full against  
him, & that no credit appeared to be given your orator for  
the still a mongst any of the papers of the said Rich<sup>d</sup>. the former adm<sup>r</sup>.  
All which doings & sayings are contrary to equity & strict justice, &  
tend much to the injury & oppression of your orator — In tender  
consideration whereof, & for as much as your orator is without  
redress at the common law, & only relievable in a court of equity,  
where matters of this sort are its peculiar objects. To the end  
therefore that the said Sam<sup>l</sup>. Kello the ~~admiror~~ of Rich<sup>d</sup>. Kello, who was adm<sup>r</sup>.  
of  
baker dec<sup>d</sup>. may on his oath full true & perfect answer  
make, to all & every the allegations of this bill, as fully as if they were again  
set forth, but more particularly, whether your Orat<sup>r</sup>. had not a mortgage for the land  
aforesaid. whether the s<sup>d</sup>. mortgage was not foreclosed in this court. whether there was  
not a decree of this court giving your Orat<sup>r</sup>. the full possession & <sup>the</sup> entire interest  
in the land, as security for the bond which was in the possession of his father?  
was not Edmund Tyler & Benj<sup>l</sup>. Ruffin appointed trustees for Baker the  
heir at law? did not they attend on the day of sale? was not the still sold to Edmund  
Tyler for £36? & was not the still at the time of the mortgage affixed  
to the freehold? & was it not so at the time the s<sup>d</sup>. mortgage was foreclosed?  
was not the bond given to your Orat<sup>r</sup>. & not to Rich<sup>d</sup>. Kello the adm<sup>r</sup>? & was not the  
bond taken by the adm<sup>r</sup>. to your Orat<sup>r</sup>. & not to him the adm<sup>r</sup>? Has not judgment been confirmed  
against y<sup>r</sup>. Orat<sup>r</sup>. for the full amount of his said bond & no credit given or to be found  
for the £36 for which the still sold? And that your worshipps would  
grant unto your orator the commonwealth's most gracious writ or  
writs of subpoena & injunction for £36 & interest thereon from  
the time the same was due to your orator to the present time, & direct  
your orator to be credited for so much on his said bond given to the adm<sup>r</sup>. —  
And the s<sup>d</sup>. injunction directed to Sam<sup>l</sup>. Kello ex<sup>r</sup>. of Rich<sup>d</sup>. Kello who was adm<sup>r</sup>. of  
baker is the prayer of y<sup>r</sup>. Orat<sup>r</sup>. — Benj<sup>l</sup>. Drew for the plantiff