1814-076 SOUTHAMPTON COUNTY CHANCERY PAPERS SIMMONS VS. ADAMS' EXECUTOR 5/1814

other surnames: Rollings
Washington

To the worshipful the Justices of the county court of Southampton
County in Chancery sitting humbly complaining shew to your
worships your orator John Simmons that sometime in the year of
---- your orator a certain Benny Adams was lawfully
indebted to your orator in the sum of forty pounds, lawful
money of Virginia to be computed as paper money then is
with other moneys particularly specified that sometime
after the contract of said demand the same Benny Adams
died and unpaid Benny Adams departed this life
intestate of a valuable personal estate that a certain
Edwd. le Fyle was nominated and duly qualified took
upon himself the burthen of executing the will of the
Benny by qualifying thereto according to law
That the Executor being thus possessed of the estate aforesaid
the same a the greater part thereof to be sold according to
law - that the sd. Ex. advised & informed the creditors generally
& particularly your orator who had previously presented his
acct. for payment to sd. Ex., that he would be allowed,
to purchase property at said sale, in discharge
of his acct. - that in consequence of this advice
your orator states that he did attend on the day of
the sale, appointed for the sale aforesaid and there
there in consequence only of the premises purchased
property belonging to sd. estate to the amt. of about
£21. that said Ex. persuaded the your orator to take
his bond for the same stating that he in his official
capacity was compelled to take a note or an [illegible] for
the amt. of property sold, but allowed at the same time
that [illegible] this acct.
should be allowed against him - In consequence of which
assurance your orator was induced to take his bond for
the amt. aforesd. - your orator further states that he is
informed & verily believes that on a full settlement of said estate

Mix will be found Assets entirely sufficient to discharge all the Claims against s^d estate — Nevertheless the s^d Tyler doth s^d pret^s a def^t hereto in full knowledge of the premises fraudulently intending to defraud & deceive the Complt^s in this respect wrongfully & unjustly & intends to apprehend him on the bond aforesaid on which & against him to record judgment thereon In tender consideration whereof & the end that the s^d may full answer make to the premises & to his oath & particularly set forth & say the full amt & nature of his Executorial transactions in the premises & the order pray thereon in consequence of the premises that the Judgm^t aforesaid may be set aside & that you would vouchsafe to make such further Decree in the premises as may comport with equity & justice —

Forasmuch &c

Exhibit
Bill
vs.
Alexander &c
Defendants
February 1817

Bill filed Sundry exhibits
& Rule to answer
Answer filed Depos
Commiss =

Sept 1804 deposn fil.
by Complt &
1814 May continuance
No 4

Simmons
vs
Tyler exon
Answer

The answer of Edmd W. Tyler executor of Henry Adams to the bill of injunction exhibited against him in the Worshipful court of Southampton county by John Simmons—

This Respondent saving to himself all right of excepting to the various errors and imperfections contained in the said bill for answer thereto, or to so much thereof as he is advised is material for him to answer; he answering, says that he is exor of Henry Adams as is alledged by the complt, that he sold the personal estate at public auction, and did agree that any persons who held accounts against his testator which they could prove to be just, might expect that the said account should be discounted from the amount of their purchases, provided there was enough estate to pay all his testator's debts; but he positively denies making any agreement of this kind particularly or individually with the complt as he has stated. Your Respondent knows nothing of the justice of the complts account, nor did he ever hear of such an account existing at all, until after the sale. He alledges that the whole personal estate of his testator is inadequate to the payment of the bonds and judgments against the said estate, and the fees and other incidental expences which yr Respondent has necessarily and unavoidably incurred. This deft prays to be hence dismissed with his costs in this behalf wrongfully expended.

Edmd W. Tyler this day personally appeared before me and made oath that the allegations contained in the above answer are true, to the best of his knowledge and belief. Given under my hand this 21st day of March 1804.

Lem'l Culbert

Southampton County, to-wit

This day Sam'l Wells appeared before me a justice of the peace for the county aforesd and made oath that on the 7th day of Sept. present month he did deliver to Edw'd W. Tyler a Copy of the within notice Given under my hand this 14th day of Sept. 1884

J. Rushton P.S.

Mr Edward W Tyler Ex Henry Adams dec.

Sir

Take notice that on Saturday the 15 of September next (in office of the clerk of the County Court of Southampton) between the hours of 10 o'Clock in the forenoon and 3 o'Clock in the afternoon of that day I shall proceed to take the depositions of William Washington and Burwell Rollings to be read as evidence in an Injunction now depending and undetermined between myself as Compt and yourself as Ex Hy Adams dec'd Defts

John Simmons

August 30th 1864

Agreable to Commission to us directed we the Subscribers have proceeded take the deposition of Burwell Rollings in the Suit in Chancery depending in the County Court of Sumpter Between Jno Simmons Compt and Danl W Tyler Jr Henry Adams def deft who being first sworn on the holy Evangelist Almighty God deposeth & Sayeth that he this deponent was sent by Henry Adams in his life time to Jno Simmons for a negro girl which he this deponent got and Carried to Henry Adams And that he heard him say that he had a negro boy of Jno Simmons. and further sayeth not

We hereby certify that the foregoing deposition was taken in the Clerks Burwell ✕ Rollings
office of the County of Sumpter
agreable to notice &c given under
our hands this 15 day Sept 1804

Sam Talbott

Jos Ruffin

Simmons
Esq.
Sylvan

The deposition William Washington of full age taken in the Clerks office of the County of Stor in a Suit in Chancery depending between Jno Simmons plff and Edwd W Tyler exr &c Adams dec'd defts in the Court for County who being first Sworn on the Holy Evangelick of Almighty God deposeth and Sayeth that Benny Adams the defts testator told this deponent that he had sent to Jno Simmons for a negro girl and boy and but a little time before his ~~death~~ defts testators death he this deponent heard him say that he owed the s Jno Simmons a sum of money but how much this deponent did not hear him say And that he wished he could pay the s Jno Simmons and further saieth not

Taken before us this 15 day Sept Sep 1804 Agreable to notice Wm

his
+ Washington
Mark

Sam Calvert
Jos. Ruffin

Know all men by these presents that we Jn° Simmons and
Wm Washington
are held and firmly bound unto Saml W Tyler & Adams
in the sum of Forty two pounds
to which payment well and truly to be
made to the said Tyler ——— his heirs executors and
administrators we bind ourselves and each of us our and each of
our heirs executors and administrators jointly and severally firmly
by these presents sealed with our seals and dated this 23
day of March anno Domini 1802 and in the 27 of
the commonwealth —
The condition of this obligation is such that whereas the said
hath obtained a judgment at common law against the
said Jn° Simmons ~~William Washington~~ for the sum of
twenty one pounds ——— and costs and whereas the above bound
Jn° Simmons ——— hath obtained an injunction to
stay the proceedings on the said judgment until the
matter thereof in equity and a bill filed for that purpose can be
heard now if the said Jn° Simmons
shall well and truly pay or cause to be paid unto the said
Tyler & Adams the aforesaid judgment and costs all damages
and costs as shall or may arise in case the said bill shall be
dissolved then this obligation to be void or else to remain in
full force and virtue —

Seald and Delivered
In presence of

John Simmons Seal
his
Willm X Washington Seal
mark
Seal