1844-006 SOUTHAMPTON COUNTY CHANCERY PAPERS

COUNCIL vs LUTER et al

s/1844

other Surnames: Johnson

~~No 20~~ — ~~No XX~~ 5

Council

v. } Passors

Luter &c

1840 Sept. Sp^a. ex^d. on Jonathan^n. Adams
Luter. Jesse Fetherson dies. Elias
Luter no inhabitant Chancy
Luter dead. Bill filed & new
Sp^a. v. Elias Luter

" Oct^r. Sp^a. not of date before it came to hand.

" Nov^r. Set for hearing as to Defts on whom Sp^a. has been ex^d.

" Dec^r. New Sp^a. v. Elias.

1841 Jany. Sp^a. ret^d. Ex^r. & new Sp^a.

" Sp^a. Leave to amend bill

" May R. amended bill & Sp^a. ex^d.

" June Sp^a. Ex^r.

" Aug. Set for hearing.

" Oct. Continued.

1842 Ap^l. Continued

" Oct^r. Cont^d.

1843 Ap^l. Cont^d.

" Oct. Cont^d.

1844. May. Dismissed.

Benj: Council
vs
Bill
John Lester & others

1824 July 21.

(770 words)

To the Hon. Richard H. Baker Judge of the circuit Sup. Ct. of Law & Chancery for the County Southampton

Your Orator Benjamin Council humbly complaining sheweth unto your Honor that some time in the year [illegible] John Luter of the County of Southampton died testate leaving a widow Charity Luter and children Jonathan Luter, Elias Luter, Bland Luter, Nancy who married Isps Johnson, and Tenaby who married your Orator, and who has since marriage departed this life, your Orator having qualified as admr on her estate, - That under the will of the said John Luter dec. various Legacies were given to his children, a pecuniary Legacy of thirty dollars to Tenaby who intermarried with your Orator, and other property not disposed of to be divided among the children upon the happening of specific events as will more fully appear by a copy of the will which is herewith filed and prayed to be taken as a part of this bill - That at February Court 1816 Jonathan Luter who was left an Executor under the will, qualified as such and took possession of the estate of the said John Luter dec. and though often requested by your Orator, never did pay over to him the specific Legacy granted. although his account current of the settlement of the estate of John Luter dec. was returned to the County Ct. of Southampton Dec 16. 1815 shewing a balance on the estate of $381.5-2 3/4 cents - Whereupon the your Orator prays that Jonathan Luter, Elias Luter, Bland Luter, Isps Johnson and Nancy his wife, Charity Luter widow and relict of John Luter dec, and Jonathan Luter Executor of John Luter dec. may be made defts hereto, and full and perfect answers make to all the allegations herein contained and that the said Jonathan Luter Exr as aforesaid

be decreed to pay over to your Orator the pecuniary
Legacy to which he is entitled in right of his wife
under the will of John Luter dec. or render an
account of his proceedings as Executor showing
in what way he disposed of the funds which
came into his hands, or that if the same has been
received by the other parties before enumerated that
they be decreed to repeat their respective propor
=tions of the same, and that they be required to
shew if any division of the estate of said John Luter
has been made as was contemplated, how it
was disposed of, and that the party or parties having
the same be decreed against ~~the~~ in favour of
your Orator, to the amount that he is entitled to
in virtue of his marriage with Phenby Luter dec.
That the Commonwealth's writ of subpoenas may
issue against the parties defendants hereto, and
that your Honor would grant such further
and general relief in the premises as to your
may seem fit and proper & as in duty
bound he will ever pray &c

Fuller

Amended Bill

Council

v 3

Tutor 4

1821 April 24th

To the Hon. Richd H. Baker Judge of the Circuit Sup. Ct. of Law & Chancy in & for the county of Southampton - Your Complainant Benjamin Council humbly complaining sheweth unto yr. Honor that sometime in the year John Luter of the County of Southampton died Intestate, leaving a widow Charity Luter & children Jonathan Luter, Elias Luter, Obland Luter, Nancy who married Peter Johnson and Tenaly who intermarried with yr. complainant, and has since departed this life, yr. complainant having qualified as admr. on her estate a copy of which qualification is herewith filed Marked A and prayed to be taken as a part of this Bill - That under the will of the said John Luter dec'd various ~~various~~ ~~legacies~~ ~~&c~~ ~~given to his children~~, ~~a pecuniary legacy of thirty Dollars to Tenaly who intermarried with yr complainant~~, the testator bequeathed to his wife Charity Luter his plantation & land during her life or widowhood with all his personal estate, and after her death or marriage he directed his lands to be equally divided between his youngest sons Elias & John upon condition that they would pay to Obland, Nancy & Tenaly Luter $30 each, the balance of his estate to be equally divided among all his children upon his wife's death or marriage as will more fully appear by a copy of the will marked B herewith filed & prayed to be taken as a part of this Bill Your Complainant avers that upon the death of Charity Luter the Land bequeathed to Elias & John was taken possession of and divided equally between them &

that they did not pay to Yr. complainant or to Tenaby Luter in his life time, with whom Yr. complainant intermarried the £30 bequeathed to her, and for the payment of which the land was charged - But that disregarding the injunctions of this testator Elias Luter his part of the Land thus devised to Obland Luter & the purchase of John Luter his half & to hold it to Lepa Johnson, and Lepa Johnson to obtain a Patent - Whereupon in tender consideration of the premises aforesaid & for as Yr. complainants prays that Elias Luter John Luter Obland Luter, and Lepa Johnson who are the two latter, purchasers now in possession of the land devised by John Luter, may be made defts hereto & true answers make to all the allegations herein set forth, and that your Honor would decree to yr. complainant the legacy payment of the legacy specified with interest from the time when Charity Luter died, and yr. complainant in virtue of his marriage with Tenaby became entitled to the legacy bequeathed as aforesaid & that yr. Honor would grant such other further & general relief as the nature of the case may require & that the Commonwealths writ of Subpoena may issue & and as in

Fuller

Note for Decree

If any decree can now be entered it ought to be a decree for an account for it does not appear when Wm Carter died the period from which the interest upon the legacy is to be calculated. If the legacy of £30 does not charge the land the decree ought not to be joint but several against the land - you ought not a decree be rendered also in favour of the other daughters who are defendants - I am preparing to have the court decree therefore that the account ought act promptly if any thing is to be done -

R. T. B.

Council
vs. 3 In Chancery
Luter

This cause came on this day to be heard, on the Bill and amended Bill & exhibits which appear to have been filed more than 2 months, and the Subpoenas returned executed, at or before June Rules 1841, and the Defendants and the copies sworn affidavit of Thos. I. Brinton having failed to answer the said Bills and amended Bills the same is taken for confessed, and was argued by counsel whereupon the Court doth adjudge order and decree that the defendants Elias and John Luter pay to Benjamin Council admr of his late wife Phenaby, who was Phenaby Luter the sum of $30 with interest from the 1st day of April 1830, and leave is hereby reserved to the Pltff to ask for a further decree in this case, if the one now made proves unavailable.

C C.86

Counsel

v Exp. in Chy

Luter &c

1840 September Rules

Executed by delivering a
true copy to Jonathan
Luter, Willard Luter, Step
Johnson and Nancy his
Wife, Silas Luter, Pro In-
habitant, Charity Luter
&c &c,
Step Drewry and Jno
Jno. Pullow Shff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Jonathan Suter. Elias Suter. Obland Suter Jesse Johnson and Nancy his wife. Charity Suter widow and relict of John Suter dec^d and Jonathan Suter Executor of John Suter dec^d

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in September next, to answer a Bill in Chancery exhibited against them in the said Court by

Benjamin Council

And unless they shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this they shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 25 day of July 1840, in the 65 year of the Commonwealth.

L R Edwards Clk

[*One Copy to be delivered each Defendant.*]

Lo Land Oct 30th 1840
Attested Copy
for Secretary

L. S. C.

Council

Spain Ely

Luter

1840 October Rules

Out of date
before it came
to hand
Attested Copy
for Secretary

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ~~Southampton~~ Isle of Wight County, Greeting:

We command you that you summon Elias Suter

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in October next, to answer a Bill in Chancery exhibited against him & others in the said Court by

Benjamin Council

And unless he shall answer the said Bill within ~~four~~ Two months thereafter, the Court will take the same for confessed, and decree accordingly. And this he shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 7th day of September 1840, in the 65th year of the Commonwealth.

L R Edwards CC

[*One Copy to be delivered each Defendant.*]

C. S. C

Council

To Sp.a in Ehry

Luster Fc

1841 January Rules

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ~~Southampton~~ Isle of Wight County, Greeting:

We command you that you summon Elias Luter

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in January next, to answer a Bill in Chancery exhibited against him & others, in the said Court by

Benjamin Council

And unless he shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this he shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 7th day of December 1840, in the 65th year of the Commonwealth.

L R Edwards C.C.

[*One Copy to be delivered each Defendant.*]

C. S. C

Counsel

= Exs Sp.a in Eby

Luter Ex.d

1841 March Rules

J. O Wight

Counsel for Children

1841

Ex.d this 6 Dec.r 1841 Mary E. Miller

James Billingsley Executor

by Charles Gill

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ~~Southampton~~ Isle of Wight County, Greeting:

We command you that you summon Elias Luter

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in March next, to answer a Bill in Chancery exhibited against him & others in the said Court by

Benjamin Council

And unless he shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this he shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 1st day of February 1831, in the 65th year of the Commonwealth.

L R Edwards CC

[*One Copy to be delivered each Defendant.*]

C C. S. C

Council

v Sp^a in Ch^y

Luter &c

1841 June Rules

Executed by delivering
a true copy of May 27 1841
to Spe Downey Esq^r
for Mr Pratten &c

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Elias Luter. John Luter. Orland Luter & Jesse Johnson

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in June next, to answer an amended Bill in Chancery exhibited against them in the said Court by

Benjamin Council

And unless they shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this they shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 3d day of May 1841, in the 65 year of the Commonwealth.

L R Edwards CC

[*One Copy to be delivered each Defendant.*]

Executed May 28th 1841 by delivering a true Copy to Elias Luter.

Jos. L.G. Burt Deputy for
Gray Carroll Shff.

Counell

vs Exp. in Eq.

Luter &c

1841 June Rules.

6.16

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ~~Southampton~~ Isle of Wight County, Greeting:

We command you that you summon Elias Luter

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in June next, to answer ~~a~~ an amended Bill in Chancery exhibited against him & others in the said Court by Benjamin Council

And unless he shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this he shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 8th day of May 1841, in the 65th year of the Commonwealth.

L R Edwards CC

[*One Copy to be delivered each Defendant.*]

We acknowledge Service of the within Notice

Delivered a true copy to Obland Suter and Jesse Johnson & wife March 17th

Council

Notice

Suter &c

To Johnathan Luter in his own right and as executor of John Luter dicd. Johnathan Luter Elias Luter. Obland Luter Saye Johnston and Nancy his wife Take notice that I shall on monday the 21st of march next that being court day in the Town of Jerusalem between the hours of sunrise and sunset and to be continued from day to day until finished proceed to take the depositions of Benjamin Boiston and James Clayton to be read as evidence on a suit now depending in the circuit superior court of chancery for the county of Southampton in which I am the plaintiff and you are the defendants

Feb 25th 1842

Benjamin Council

Thos. J. Butler

Affidavit

I hereby certify that I was acquainted with Charity Lester wife of John Lester of Northampton Lindman Esq and saw her frequently and that she has been dead at least twelve or fifteen years - Witness my hand and seal this 21st of March 1842 Thos J Wister (Seal)

Sworn to and subscribed before me the day and date above written

E B Clauce J.P.

John Luters Will.

Counsel

Exhibit with bill

Luters &c

In the name of God Amen: I John Luter of the County of Southampton being in a low state of health but in sound mind and memory thanks be to God for the same I do make and ordain this to be my last will and Testament in manner and form following that is to say

Item 1st I give and bequeat unto my loving wife my plantation and Lands during her her life or widowhood with all my other estate by keeping my Children together after paying my just debts — Item 2d I give and bequeath to my two younger sons Elias and John all my Land to be equal divided after my wifes death or Marriage by paying my other three Children Obland Nancy and Phoaby thirty dollars each the balance of my estate to be equally divided among all my Children at the time of my youngest Child being of full age or my wifes death or Marriage

Signed Sealed and acknowledged this 31st day of January 1816.

NB I leave James Clayton and Jonathan Luter my hole and sole executors

Witness

Benjamin Wilson
Jonathan Luter
Matthew his mark Luter

John Luter

At a Court held for the County of Southampton the day of February 1816
This will was proved by the oaths of Benjamin Wilson and Matthew Luter two of the witnesses thereto and ordered to be recorded. And on the motion of Jonathan Luter one of the executors therein named who made oath according to law Certificate is granted him for obtaining a probat thereof in due form giving Security whereupon &c.

A Copy.

Teste. L R Edwards Clk