

1846-009

SOUTHAMPTON COUNTY
CHANCERY PAPERS

PEETE

et al

VS

FRENCH

et al

11/1846

other surnames: Cross, Dillard,
Mason, Heath & Mason, William
Gilmore & Company, Goodwyn,
Rawlings, Williamson, Heath,
Davis, Nicholson, Laurence,
Brown, Barham, Harris,
Mordecai Brown & Company,
James, Richards, Edwin James
& Company, Turner Bryant,
Lawrence, Browne, Gilmore,
Jenkins, Bowers

Pete Gab

v. } Papers

Pete H

1846 Nov. Dec 1

Page 1st.

v. } Stat. Rules

Page 2d

Mark T. Peete. George W Peete & ad:
v:
James. S. French & Alexander P Peete.

1846 Apr. 13. Sp^s & dunc nisi issued -
" May R. Sp^s Ret^s Not found -
" July " New sp^s awarded
" Aug. " Sp^s ret^s Ex^s Bill filed -
" Oct " Cause set for hearing +

Pete Jas

u. } Bill

Pete Jr

Pete }
u. } Bill
Pete

1846 August Rules.

1846 July 24

To the Hon. Richard H Baker Judge of the Circuit
Superior Court of Law & Chancery for the County
of Southampton in chancery, sitting, respectfully
by complaining sheweth unto your Honor your
orators Mark T Peto, George W Peto, Hardy Croft & Mar-
tha Birnside who was Dillard, Jno G Mason admr. of
Joseph Mason the surviving partner of the firm
of Heath & Mason which firm consisted of Jno Heath &
the s^d Joseph Mason, Wm Gilmore & the individuals
composing which firm can not be now ascertained,
Wm G Anderson, Jno Drury admr. de bonis non with
the will annexed of George Rantings, Benj^m William-
son, Jno G Mason, Isaac H Davis, Susan Rantings,
Carr Bowers admr. de bonis non of Seth Nicholson,
Mills E Lawrence, Chris A Brown, Wm Dillard & Wm
Briggs admrs of James Dillard, Wm Jenkins admr. of George
Barham, James Harris, Merdecui Brown & the
individuals composing which firm can not be
now ascertained, and Edwin James Fleming
James Henry James & George W Richards surviv-
ing partners of the firm of Edwin James & Co which
firm consisted of the s^d surviving partners
and Joseph James since dead, Who state that in
the year 1838 Alexander P Peto then of the s^d coun-
ty of Southampton was largely indebted to each
of them, and that being so indebted he the said
Peto executed a deed of trust conveying certain
property therein specified to James S French
as trustee upon trust to secure the payment
of the s^d debts in the s^d deed set forth and in the man-
ner thereby directed, all of which will more fully
appear by a copy of the s^d deed herewith filed and
prayed to be taken as a part of this bill. Your

orators would further represent that the s^d debts have never been paid, nor has any sale or satisfaction place under the provisions of the s^d deed, and that the entire property conveyed in the said deed consists in a usufructuary interest in shares to pass in upon the death of the tenant for life or Charlotte Bryant formerly Nicholson of the s^d County of Southampton; that the s^d shares were in possession of the s^d Charlotte Bryant in the year 1838 and have remained so ever since. Your orators would also represent that their security under the s^d deed is in a very precarious situation, that the s^d trustee James T French has removed from the s^d County of Southampton to a distant part of the state so as to place it entirely out of his power to exercise his authority as trustee to guard the interest of your orators, and it is in the power of the tenant for life the s^d Charlotte Bryant by sending the s^d shares out of the state to deprive your orators entirely of this security for the debts justly due them from the s^d Alexander P Rute, and the fact that all your orators as well as the s^d trustee reside at a distance from the s^d Charlotte Bryant renders such an event very probable. Your orators humbly submit that the substitution of some responsible person resident in the said County of Southampton, in the place of the s^d trustee James T French would have the effect to prevent the evil consequences from the removal of the s^d French. In consideration of the premises and in as much as your orators are without remedy at law, they pray that the s^d James T French and Alexander P Rute may be made defendants here to with apt & proper words to

charge them and that they answer the premises, and that by a decree of this court the s^d James T French be removed from his situation as trustee and some one substituted in his place under whose direction the rights of your orators may be secured from loss or injury: and that your Honor will be pleased to grant such other & further general relief touching the premises as may be equitable & just; and that your Honor would grant unto your orators the common writ of sp^e commanding the defendants to stand to and abide such order & decree as to your Honor may seem just & proper; and your orators will ever pray &c

Chambliss & Chapman Esq

Pestle
3 { Notes by counsel
Pestle

Depts
is { Notes by Pltff counsel
Depts

The Pltffs pray that James I French may be removed from his situation as trustee in the deed filed with the Bill and they state in their bill the following reasons why their prayer should be granted; first - that the property conveyed in the deed is of such a nature that it may at any time be carried beyond their reach without the exercise of great vigilance on the part of the trustee, and that the said trustee has removed from the county of Southampton to distant part of the state & by so doing has placed it entirely out of his power to exercise his ~~authority~~ as trustee to guard the rights of the Pltffs. They state also that it not understood that the pecuniary situation of James I French is very good - They desire that another trustee should be substituted in his place. It may not be improper to state that though this bill is taken for confessed & no answer has been filed it is known that the Depts wish the prayer for, entered

Pete
to { Deere
Pete

To be entered

R. B.

1846 November Term

Pecte

no { Decree

Pecte } It appearing to the court that the subpoena
in this cause has been executed on the defendants
James T French and Alexander P Pecte and has been
returned more than two months, and they the
said defendants having failed to answer, the bill
of the Plaintiffs is taken for confessed as to them, and
the cause came on to be heard on the bill & exhibits
and was argued by counsel, on consideration whereof
the court doth adjudge order and decree that the
said James T French be removed from his situation
as trustee in a certain deed bearing date the
day of 18 executed by Alexander P Pecte to
him for the benefit of Mark T Pecte &c. mentioned
in the bill of the Plaintiffs, and discharged from
all the rights privileges and responsibilities there
of, and that Edward W Maffett be appointed trust-
ee in his stead with full power to carry into effect
all the provisions of the said deed.

b.s.6

Pete Gal.

v. } Sp^a. in Chy.

Pete &c

1826 May Rides

Ad. found

Some spinning do

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting :

We command you that you summon

Alexander P Pate

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery in the County of Southampton, at the Rules to be holden for the said Court on the first Monday in

May

next, to answer a Bill in Chancery exhibited against ^{another} him & in

the said Court by *Mark Pate George W Pate Hardy Lrops & Marthie his wife Francis E Rieves admr Maxwell P Heath who was surviving partner of Heath & Mason Wm Gilmore &c Wm G. Goodwyn John Drewry admr de bonis non with the will annexed of Gregory Robinsons Benj Williamson John Y Mason Isaac H Davis Susan Robinsons Arth Nicholson ancy of Ethel Nicholson Mills & Lawrence Orris A Browne Wm Dillard & Wm Briggs admr of James Dillard Wm Judkins admr George D archam decr Mordchai Browne &c & Edwin James Flemming James Henry James & G W Richards surviving partners of the firm last two* Edward James &c —

And unless ~~he~~ shall answer the said Bill within ~~four~~ 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 13th day of

April

1846, in the

70

year of the Commonwealth.

L R Edwards cly

[One Copy to be delivered each Defendant.]

C.S. 16

Pete Yadi

r. { Sp^a in Chy.

Pete Y

1846 May Rules

c Vol found in Elizabeth
city Co

Wm S. Selater Dept for
Mallory Sheff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ^{Elizabeth City} ~~Southampton~~ County, Greeting:

We command you that you summon

James S French

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

May.

next, to answer a Bill in Chancery exhibited against ^{another} him & in

the said Court by *Mark T Pette, George W. Pette, Hardy Croft, & a Martin his wife, Francis E Reeves Tutor of Starkill O Heath who was surviving partner of Heath & Mason, Wm Gilmore & Co: Wm D. Goodwyn, John Sawry adm. de bonis non with the will annexed of Gregory Rawlings, Benj: Williamson, John Y. Mason, Isaac A Davis, Susan Rawlings, Anne Nicholson admx: of Seth Nicholson, Mills E Lawrence Orris A Broome, Wm Dillard & Wm Driggs admx: of James Dillard, Wm Jenkins amox: George Barham dec: & Mordecai Brown & Co: & others*

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 *13* day of

April

184*6*, in the *70* year of the Commonwealth.

L R Edwards

[One Copy to be delivered each Defendant.]

I acknowledge the legal service of this
outp^r in chancery with my hand
this 17 day of August. 1846

A. P. Peck

C. S. C.

Deeds &c

W:

Sp. in Chy.

Deeds &c

1846 August Rules

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *Alexander P. Peter*

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

August. next, to answer a Bill in Chancery exhibited against ^{and another} ~~him~~ in

the said Court by *Mark T. Peter. George W. Peter. Hardy Leroy & Martha his wife & others*

And unless *he* shall answer the said Bill within ^{*five*} ~~four~~ 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 *6th* day of *July* 184*6*, in the *71st* year of the Commonwealth.

L. R. Edwards

[One Copy to be delivered each Defendant.]

I acknowledge the legal service of
this *Spa* in chancery, with my hand
this 14th day of July 1846

Jas. L. Fennell

John W.

at *Spa* in chancery

John W.

1846 August Rules

10.16

THE COMMONWEALTH OF VIRGINIA,

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

We command you that you summon

James S. French

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

August

next, to answer a Bill in Chancery exhibited against ^{and another} ~~him~~ in

the said Court by *Mark T. Peter, George W. Peter, Hardy Croft & Marthas his wife. & others*

And unless *he* shall answer the said Bill within ^{*two*} ~~four~~ 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 I have then there this writ. Witness, LITTLETON

R. EDWARDS, Clerk of our said Court, at the Court-house, the *6th* day of

July

1846, in the *70th* year of the Commonwealth.

L.R. Edwards

[One Copy to be delivered each Defendant.]

Peter

J. } Deed Trust

Peter's others

Moopy.

This Indenture made the 16th day of March 1838
between Alexander S. Perle of the first part James S. Funch
of the second part and Mark S. Perle George W. Perle and
Martha N. Dillard special creditors as well as all other persons
creditors of the said Alexander S. Perle of the third part Witnesseth
that the said Alexander S. Perle in order to secure and provide
for the payment of the following debts to wit a debt due
Mark S. Perle of \$1280. due by note executed March 15th
1838 or 14th of the same month a debt due George W. Perle of
about \$800. loaned the said A. S. Perle by Geo. W. Perle and
paid by an order drawn on John F. Mason for the amount the
date of the said debt and pecuniary amount not restricted and a
debt due Martha N. Dillard by two notes executed one for
the sum of \$150. and not recollered due by note executed
about the 20th of January 1838 and one other for the sum of
\$400 due by note executed March 10th 1838 all of which
will more fully appear by reference to the said notes and also
for and in consideration of \$5 to the said Alexander S. Perle
in hand paid by the said James S. Funch before the signing
sealing and delivery of this Indenture has granted bargained
sold aliened and conveyed and conveyed and by these presents
does grant bargain sell alien and convey unto the said James
S. Funch his heirs and assigns forever the following negroes now
in possession of Charlotte Nicholson and in whose possession they are
to remain until her death that is all right title and interest
whatsoever which the said A. S. Perle has to the negroes herein after
enumerated to wit Daniel Henry Albert Jacks Polly and Minerva
with their children and the future increase of said female
slaves they the said negroes having been given to William A. Perle
son of Alexander S. Perle by his Grand Mother Charlotte Nicholson
as will appear by a deed of gift on record in the Clerk's Office
of Southampton bearing date August the 17th 1831 and the said
William A. Perle having died they have devolved to A. S. Perle
as his heir at Law To have and to hold the said negroes slaves
above ~~enumerated~~ ^{enumerated} and their increase together with all right title
or interest whatever present in remainder or otherwise which the
said A. S. Perle has in and to the slaves above mentioned to the said
James S. Funch his heirs and assigns forever but in Trust nevertheless
and for the following purposes to wit first that in the event that
the said A. S. Perle shall fail to pay the debts before specially

enumerated when he shall be required to do so by the persons
or their Representatives to whom they are due then saving accepting
over again from the date of this Indenture or in the month of Charlotte
Bryan formerly Charlotte Nicholas dying before the expiration
of a year from this date then immediately after her death the
said James P French shall whenever required by any two of the
Special creditors before mentioned or their Representatives advertise the
Borrowers in convenient at several public places giving at least thirty
days notice and then sell them to the highest bidder for cash or
credit as he shall be directed and the proceeds of such sale all
his expenss expenss being first paid apply as follows to wit to the
payment of the debts due Mark P Perle George W Perle and
Martha A. Dillard with the interest which may have accrued
on them and the residue of the proceeds of such sale to be by
the said James P French applied as followed to wit to be distributed
among the following other creditors of the said A.P. Perle in
proportion to the amount of the respective debts to wit William
Simons Esq. William B. Goodwyn Esq. George Raudenbush Esq. Benja
Williamson John J. Mason Esq. Isaac H. Davis Esq. Susan Raudenbush
Esq. Nicholas Esq. Mills & Lawrence Esq. A. Brown James
Dillard Esq. Esq. A. B. Barham Esq. James Harris and Michael
Brown Esq. and all other creditors of the said A.P. Perle not herein
enumerated and the remainder if any after the payment of
all the aforesaid debts to be paid over to the said A.P. Perle his
heirs &c. But in the event of the said A.P. Perle paying the debts
herein specified and and underriding a sale unnecessary then this
Indenture to be void or else remain in full force and value
and the said James P French for himself his heirs &c. covenants
with the other parties to this deed that he will faithfully execute
the trust hereby reposed in him and should a sale be made
by virtue hereof that he will faithfully apply the proceeds
of such sale according to the true intent and meaning of this
deed and should no default be made that he will when
required by the said A.P. Perle or his Representatives release and
discontinue to him or them the property aforesaid and furthermore
that the said Charlotte Bryan shall have the uninterrupted possession
and benefit of said property conveyed as herein authorized so long
as it remains in the hands of Southampton SN Wilbur whereof
we have hereto set our hands and seals this day and date above

written

A.P. Perle *seal*
James P. French *seal*
Southampton County In the Clerk's Office the 17th day of March
1838 This Indenture was acknowledged by Alexander P. Perle
& James P. French parties thereto to be their act & deed and admitted
to Record And at a Court held for the said County the 19th
day of the said month the said Indenture was entered upon
the proceedings of the day

Test J. R. Edwards &c

Copy Test J. R. Edwards &c