

1849-08

SOUTHAMPTON COUNTY
CHANCERY PAPERS

JAMES & CO.

VS. CUTLER & al

11/1848

other surnames: Edwin James
& Company, Revel, Bryant,
Howell, Drewry, Worrell, Bishop,
Barden, Clarke, Jones

~~13 11~~
James & Co

v. } Papers

Outlets

1829 November

James Glee

v. } Stat. Rules

Butlers

1848 May

lakes cord	\$6.29
Skiff	1.50
Saw ye	<u>17.41</u>
	\$25.20

1849 Nov

lakes - 1.78

Edwin James & Flemming James Merchants & partners trading
under the firm and style of Edwin James & Co. and also as survivors
of themselves and Joseph J. James dec. Merchants & trading under
the firm and style as aforesaid.

against

William W. Cutler and Goodwyn Cutler

1847 May 26. Subpoena & issued returnable to July Rules.

" July R. Bill filed. Subpoena ret. Ex. on Goodwyn Cutler.

" Aug. " Answer of Goodwyn Cutler. Rep. thereto. and new sp. &.
Dft. William W. Cutler.

" Sep. R. Spa. ret. Ex. on dft. Wm W. Cutler. Answer of Wm W.
Cutler filed. Gen. Rep. thereto.

Oct. " Set for hearing as to Dft. Goodwyn Cutler.

" " 26 Set for hearing as to dft. Wm W. Cutler.

Nov. 7. Continued.

1848 Mar. 7. Dever.

1848 Nov. 7. Dever.

1849 May. Contd.

Eclair James also

Bill in Choney
2
exhibits

Cutter &c

July rules

(R & B)

To the Hon. Judge of the Circuit Superior Court of Law
and Chancery for the County of Southampton - In Chancery

Humbly complaining sheweth your complainants Edwin James
and Fleming James, merchants and partners trading under the
firm and style of Edwin James & Co. and also as survivors of
themselves and Joseph S. James decd. merchants &c. trading under
the firm and style as aforesaid, that on the 24th June in the year
1842, William W. Cutler of the County aforesaid, being considerably
indebted to your complainants, executed to them four bonds
payable in one, two, three and four years after their respective dates
with Bennett T. Whiffield, Benj. B. Phillips and William Borden as
his securities. That subsequently to this time, suits have been insti-
tuted on said bonds and judgements rendered in each case against
the said Cutler; and in two of said cases against some of the above
named securities also; as follows to wit: for the sum of \$121.61 with
Int. thereon from the 24th June 1843 and \$6.08 costs - for the sum of
\$128.58 with Int. thereon from the 24th June 1844 and \$10.28 costs -
for the sum of \$135.43 with Int. thereon from the 24th June 1845
and \$6.08, and for the sum of \$142.31 with Int. thereon from the
24th June 1846 and \$7.39, making in all the sum of \$557.76 with
Int. as above stated - all of which will appear from copies of said
judgements filed here with as parts of this bill. - Your complainants
state that the said judgements are still due and unpaid - that they
have no means whatever of collecting them in a court of law, all of said
securities being notoriously insolvent; and the said Cutler principle
debtor having fraudulently conveyed his property in order to defeat
his just creditors, as will be more fully stated

Your complainants further state that on the 19th September in
the year 1842, the said William W. Cutler, being indebted to them
as aforesaid, executed to his son Goodwin Cutler a deed of bargain
and sale conveying three tracts or parcels of lands to wit: "the tract
on which he then lived containing by estimation 136 acres"; - "one
known as the Pine Grove tract and the other as the Ferguson tract"
all in the County aforesaid; purporting to be in consideration of
the sum of \$100 - paid him by the said Goodwin Cutler; the said
several tracts of land are more particularly described & bounded
in said deed here with filed as part of this bill - said deed as
admitted to record the same day it was executed, on the acknowledge

edgement of the grantor. Your complainants are advised that no consideration money was in fact ever paid by the said Godwin Cutler to the said William M Cutler for the land aforesaid; and they charge that said above named deed is voluntary, fraudulent and therefore void as to the creditors of said Cutler, executed by the said Cutler for the purpose of defrauding and defrauding his said creditors.

In consideration of all which and your complainants being without remedy except in a court of Chancery, they pray that the said William M. Cutler and Godwin Cutler be made defendants to this bill - that they answer the premises; and that your Honor will by decree set aside the said above named deed; and also decree a sale of the said several tracts of land, or a sufficient quantity thereof as will pay off the several judgements aforesaid, of your complainants amounting to the sum of \$557.76 with interest on the several amounts as before stated, and that the proceeds of sale thereof be applied to the discharge and satisfaction of said judgements. Your complainants pray such other and general relief, as it may be necessary and proper for them to receive, and the justice and equity of this case may entitle them to -

Pridley & Goodwyn
Attys.

James & Co.

v.

Carton.

assumed of
F. Lutter.

1847 August Rules

To the Hon. Rich^d. H. B. Allen. Judge of the circuit
superior Court of Law and Chancery for the County
of Southampton.

The answer of Goodwyn Butler, to a bill
of complaint ~~presented~~ exhibited against him
and others, by Edwin Barnes, & Co.

This defendant, having
ing and reserving to himself all just benefits of
reparation &c. for wrongs to the said bills, and more
and says - That he is ignorant of the claims set up
by the plaintiffs against the defendant Mr. Rogers.
& can not therefore say whether they are just
or not. - That on the 19th September 1822. he
purchased of his Father, a tract of land & his in-
terest in two other tracts, for the sum of \$700 - pay-
able in five equal annual payments - which was
a full, fair and adequate price - & considered
- value - That he received at the time of the con-
- tract - his bond for the purchase money, which bond
he has fully paid off & used as charged & now
represents the same as a part of his answer -

The said conveying the land is herewith filed.
as containing, a description of the land purchased
as well as the terms and: agreed to be paid, &
proved to his father & considered as a part of this
answer.

It is most positively and emphatically denied that
the said from Mr. Rogers, & exhibited both by the Plffs
with their bill, & by their depts with their answer, was
either "voluntary or fraudulent" - or was a matter
for the purpose "defecting", binding, delaying or
defrauding creditors. On the contrary it was
a bona fide sale & conveyance for valuable
consideration - The Plffs. Transfers must -

have thought - so, also, only wait for five years
open the and was made & recorded, before any
proceedings were instituted for the purpose
of settling it aside - Your Respondent regards the
present suit, as an effort on the part of the
Depts. to recover this money from an innocent
person, who does not now owe one shilling or
cent - to make your Respondent pay the debt
of another, - for which he is in no way ^{bound} or
effort which has no just foundation, & is ~~an~~
illegal "fraudulent" and unjust -

Your Respondent denying all fraud and
conspiracies, / says to be never concerned
with his costs. & he will now pray.

May it please the Ct.

Santharup's (uncle) to wit

This day, Goodwin (attor)
has orally appeared before me, a justice of the
peace for the county of Essex, & made oath
that the foregoing answers contain the truth to
the best of his knowledge and belief.

I now render my hand this 19th day of July
1847. *Chas D. Nicholas J. D.*

Southampton County to wit;

This day ~~Wednesday~~ to

Cutler personally appeared before me a justice
of the peace for the county aforesaid & made oath
that the foregoing answer contains the truth
to the best of his knowledge and belief - Given
under my hand this 4 day of Sept 1847
A. Myrick, J. P.

Edwin James & Co
v
Answer of
Wm. W. Cutler
Cutler &c

1847 September 4th

To the Hon^{ble} Richard H Baker Judge of the
circuit Superior Court of Law & Chancery
for the County of Lou. Thompson

The answer of William W Cutler
to a bill of complaint exhibited against him &
others by Edwin James & Co

This defendant saying and
reserving to himself all just benefit of excep-
tions & for answer to said bill or so much ^{thereof} as
he is advised it is material he should answer,
answers & says - That it is true he was in-
debted to the Pliffs in a considerable amount
and that he executed to them four bonds payable
in one, two, three & four years, and that suits
have been instituted & judgments rendered
on said bonds as stated in the bill of the
Pliffs. He most positively denies that he has ever
fraudulently conveyed any part of his property
in order to defeat his just creditors or for any
other purpose, that although he has unfortunately
been unable to meet his debt he has always
been fair & honest in all his transactions

That the sale of ~~the~~ land mentioned by the Pliffs
in their bill and declared to be fraudulent by them
was in fact & truth a fair & bona fide sale to
Goodwyn Cutler for valuable consideration - That
the said Goodwyn Cutler executed a bond for
the purchase money to this defendant and
has paid nearly the whole amount of said
bond. Your respondent denying all fraud
and combination, having answered prayers
since to be awarded with his costs & he will
ever pray &c May it please the Court &c

Chambliss Wapenburg atty

Jamesolo

6 } Decree
Cutters

To be entered

R. H. B.

1846 May

James Obo & Butler &c

May Term 1848

This day this cause came on to be heard on the bill, answers of the defendants, replications thereto, together with the exhibits referred to and examinations of witnesses and was argued by counsel - On consideration whereof, the Court being of opinion that the deed described in the bill executed by William^M Butler to Goodwin Butler, bearing date the 19th September 1842, and recorded in the Clerk's office of the County Court of Southampton County, is fraudulent and void as to the creditors of the said William Butler doth order a judge and decree that said deed is null and void and that the same be set aside - And unless the defendants William M. Butler and Goodwin Butler or either of them do within sixty days after the date hereof pay unto the plaintiffs Edwin Jones &c the sum of five hundred and fifty seven dollars and 76/100, with but on \$121.61 from the 24th June 1843, on \$128.58 from the 24th June 1844 - on \$135.43 from the 24th June 1845 and on \$142.31 from the 24th June 1846 till paid; and the cost expended by the plaintiffs in prosecuting this suit; that the sheriff William J. Sebrell, after giving 20 days previous notice by advertisement at the Court House and on the premises, do expose to sale at the Court House, by public auction, ^{separately} on a credit of nine months, except a sum in cash sufficient to pay the expenses of sale, the ^{several tracts of} land and premises mentioned in the bill and more particularly described in the deed referred to from William M. Butler to Goodwin Butler; and that he take of the purchaser or purchasers bond with good security for the purchase money and file the same in this cause - And make report to Court in order for a final decree

128.58	10.28
121.61	6.08
135.43	7.35
142.31	6.08
527.93	29.53
29.83	
557.76	

James H:

is } Co. Decur

Butler

M

Southampton Circuit Superior Court May 4. 1848.

Edwin James and Fleming James. Merchants and Partners trading under the firm and style of Edwin James & Co. and also as survivors of themselves of Joseph J James dec. Merchants & Partners trading under the firm & style of Edwin James & Co.

Plffs

against

William W Cutler, and Goodwyn Cutler

Def

This day this cause came on to be heard on the bill and answers of the Defendants, replications thereto, together with the exhibits referred to and examination of witnesses and was argued by counsel. On consideration whereof the Court being of opinion that the deed described in the bill executed by William W Cutler to Goodwyn Cutler bearing date the 19th September 1842 and recorded in the Clerks Office of the County Court of Southampton County is fraudulent and void as to the creditors of the said William W Cutler doth. adjudges. order and decree that said deed is null and void and that the same be set aside. And unless the defendants William W Cutler and Goodwyn Cutler or either of them do within sixty days after the date hereof pay unto the plaintiffs Edwin James & Co. the sum of five hundred and fifty seven dollars and seventy six cents with interest one hundred and twenty one dollars and sixty one cents from the 24th June 1843, on one hundred and twenty eight dollars and fifty eight cents from 24th June 1844. On one hundred and thirty five dollars and forty three cents with interest from 24th June 1845. and on One hundred and forty two dollars and thirty one dollars and thirty one cents from the 24th June 1846 till paid, and the costs expended by the plaintiffs in prosecuting this suit that the Sheriff after giving twenty days previous notice by advertisement at the Courthouse and on the premises do ~~proceed~~ expose to sale at the Courthouse by public auction separately, on a credit of nine months except a sum in cash sufficient to pay the expenses of sale, the several tracts of land and premises mentioned in the bill and more particularly described in the deeds referred to from William W Cutler to Goodwyn Cutler. and that he take of the purchaser or purchasers bond with good security for the purchase money and file the same in this cause and make report to this Court in order to a final decree.

Plffs Costs \$25.20.

Attesty Teste.

J R Edwards Clk

James & Co

2 } Deane
cutters-

To be entered

R. H. Baker

Nov. Co. '48

1848 Nov. Term

James O'Leary

Nov. Term 1848

i

Decree

Butler

This day this cause came on again to be heard on the papers formerly read together with the report of Commr. Seabell filed during the Term, by consent of parties, to which said report no exceptions have been filed, and was argued by Counsel, On consideration whereof the Court, by consent of parties, confirming said ~~decree~~ report doth adjudge, order and decree that the bond filed with said report executed by Jacob Barnes and W. P. Pope be delivered to the plaintiffs, James O'Leary, and that said Seabell Commr. pay over to said plaintiffs the bond executed by John Hargrove, when received by him. The Court doth further order adjudge and decree that said Seabell Commr. carry into effect the order of May term last and report his proceedings to Court with any matter deemed pertinent by himself, or which may be required by either of the parties -

James O'Leary
i 3 Dec 1849
Cutler & Co

To be entered
R H Baker
Nov. co. '49

1849 Nov. Term

James S. Co.

vs

Butler &c.



Deane

Nov: Term 1849

This day this cause came on again to be heard on the papers formerly read and the report of Commr: Seabell made pursuant to the order of Nov: Term 1848, to which there is no exception, and was argued by counsel, On consideration whereof the Court doth adjudge, order and decree that said report be confirmed and that the defendants pay such costs as have accrued since the order of Nov: Term 1848

James Ho.

τ } Copy Dated

Outlets

Southampton Circuit Superior Court. November 10. 1829.
Between James & Fleming James Merchants &c
against
William W. Cutler &c

Puff
Dyb

This day this cause came on again to be heard on the papers formerly read together with the report of Commissioner Sebrall filed during the term by consent of parties to which report no exceptions have been filed. and was argued by Counsel: On consideration whereof the Court by consent of parties confirming said report. doth adjudge, order & decree that the bond filed with said Report executed by Jacob Barnes and H. P. Pope delivered to the plaintiffs James &c. and that Sebrall the Commissioner pay over to the said plaintiffs the bond executed by John Hargrave when received by him. The Court doth further order adjudge and decree that said Sebrall commissioner carry into effect the order of May Term last. and report his proceedings to Court with any matters deemed pertinent by himself or which he may be required by either of the parties

A Copy

Teste.

JR Edwards Clk

Pursuant to the above order the undersigned Comr. he go
here to report that he advertised for sale the tract of land known
as Pine Grove as the property of William Cutler, but that no
bid was made for it in consequence of the impression & belief
that said Cutler has no right or title to the same.

Respectfully submitted

H. J. Sebrall Comr.

C. S. C.

James G. Co.

v. { Sp. in chg

Cutter

184, ⁷ July Rules

Executed

By delivering a true
copy of the within
to Goodwin Cutter
+ on Mr. W. Cutter by
delivering a true copy
to his son Goodwin
Cutter a member of the
family — H. P. Pope
Left for J. B. Ames, Sept 11

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon

William W Butler & Goodwin Luther

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

July -

next, to answer a Bill in Chancery exhibited against ~~them~~ in

the said Court by *Edwin James & Fleming James survivors of themselves & Jos. S. James late merchants & partners trading under the firm style of Edwin James & Co.*

And unless ~~they~~ ^{*two*} shall answer the said Bill within ~~four~~ 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 *26th* day of

May

1847, in the

71st

year of the Commonwealth.

L R Edwards

[One Copy to be delivered each Defendant.] *

65.6

James & Co:

Sp^{ce} ch^y

Butler

1847 September Rules

Executed by

Delivering a true copy
of the within to the
Defendant

H. P. Popie

Deft for Jacob Barnes
Shiff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon

William W. Cutler

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 ^{and another} him in

the said Court by - Edwin James & ~~Flamming~~ James Mer-

chants ~~Spontaneous~~ trading under the firm & style of
Edwin James & Co. and also as survivors of themselves
of Joseph & James dec^d Merchants trading under the
firm & style as aforesaid

And unless ~~he~~ shall answer the said Bill within ^{two} ~~one~~ 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 2^d day of

August

1847, in the 72^d year of the Commonwealth.

L. R. Edwards

[One Copy to be delivered each Defendant.]

Notice to
Cutter.

Messrs William W Butler & Gordon
Butler — Sir.

Please take notice
That we will proceed on Tuesday the 18th
Inst. at the office of Ridley & Gordon in the
town of Jerusalem, between sunrise & sun set of
that day, to take the depositions of Harrison
& Pope. Anthony M Hume and others to be
used as evidence in a certain suit or
Controversy ~~now~~ pending & undetermined in
the Circuit Superior Court of Southampton
on the Chancery side of said Court
wherein we are complainants and
you are defendants. If said depositions
are not taken at the time and place
named, they will be continued from
time to time till taken —
April 8th 1848.

E. James & Co
By their Attys

We acknowledge service of the above written
notice
Chambliss & Maffettburg Attys for Defs.

James H^o

v. } Dispositions

Butler

Appt 18. 1841 & handed
in by G. W. Newson. J.P.

GRG

V. B.
Pa. H.

Lord Bishop

Depositions of ~~At Mr. H. H. H. H.~~ William Borden and others taken at the office of Messrs. Hedges & Goodwin in Jerusalem, on the 18th day of April 1848, between the hours of sun rise and sun set, to be read as evidence on the part of the part of the Complainants, in a certain Chancery suit now pending, in the Circuit Superior Court of Law & Chancery for the County of Southampton, in which Edwin Jones & Co are complainants and William W. Butler and Goodwin Butler are defendants.

William Borden having been first duly sworn deposes and says as follows—

I have known Goodwin Butler from the year 1830, many years before he was grown. I have known said Butler since that time intimately. lived in the neighborhood of his father for many years and married his sister. I do not think that in the year 1842 he could have been of age. I cannot be positively certain on that point; but if he was of age during that year, it was as much. Until the execution of the deed conveying land and other property to him from his father W. W. Butler in the year 1842, Goodwin Butler never owned any kind of property, either money, or any other real or personal property, to my knowledge, and I have been in his neighborhood ever since 1830, and frequently at his father's house, where said Goodwin has lived ever since I have known him. William W. Butler the father of Goodwin has lived on the land and had the same in his possession, since 1842 in the same manner as he did before, until within the last 3 or 4 months since, about which time I think he left the County—

Question by Council. Did Goodwin Butler have any means of making money or acquiring property independently of his father—

Answer of deponent. He did not. he has no trade of any kind had lived with his father all the time up to 1842, and since that time also, and previous to 1842 worked on his father's farm as the balance of his children did. I have not been to M. M. Cutler very often since 1842, I have been there several times with my wife to see him father and relations since 1842, and M. M. Cutler seemed to exercise the same authority and acts of ownership on the premises since that time as he did before, but when ever he had occasion to speak of the property, he had in possession, he called it Gordwin. M. M. Cutler has a son son who has lived with him, who is a kind of mechanic mends clocks, watches &c. who has not worked in the farm.

Question by Depts. Counsel. What acts of ownership did M. M. Cutler exercise where he lived since 1842.

Answer of Deponent. He gave orders on the farm, and been said on the boys to then work in the same manner that he did before. Gordwin Cutler was at the house, as was his father also. I do not know who carried the produce raised on the farm to Market and sold it, I presume that Gordwin did as he claimed the property. I do not know the value of the produce annually made on the premises, I think it would rent for 45 or 50 dollars, the old plantation. the other tract is a small one perhaps containing about 30 acres, I do not know the annual value of that and further the deponent says it not.

William B. Barber

Cordey Bishop having been duly sworn deposes and says as follows. I have known Gordwin Cutler ever since he was a boy not more than three feet high, some ten or twelve years old perhaps, in 1842 I think he could not have been more than some twenty years of age. I think since I have known him up to 1842, he has lived with his father and worked on his farm. had no property

of any kind whatever to my knowledge and no means of acquiring any independently of his father. Since 1842 I have not been much on that side of the river on which Cutler lives and have not known much of him. The tract of land conveyed to Gordwin Cutler by his father is tolerable good piney woods land, and I think the purchase at the sum of \$700 - might pay for the same from the productions of the land in about twenty years. And further the deponent says it not.

C. A. Bishop

William D. Clarke having been duly sworn deposes and says as follows. I have known Gordwin Cutler as

a son of Mr. William Cutler, some six or eight years and perhaps longer, I think he is now about 25 years of age.

He has not to my knowledge owned any kind of property whatever, prior to the time of the execution of a deed from his father conveying to him, Gordwin, his property, nor has he had any means of acquiring any.

He has been in no business, or followed any kind of pursuit, to my knowledge, by which he could acquire property or money. Since 1842. I do not know who has been the proprietor of the property conveyed in the deed from Gordwin Cutler's father, but I have understood that Gordwin owned it. I do not know who sold the produce of the farm. And further the deponent says it not.

W. D. Clarke

I hereby certify that the above depositions were taken ~~sworn~~ and subscribed at the time and place mentioned in the caption before me a justice of the peace in and for the County of Dorchester. Given under my hand this 18th April 1848.

G. A. W. Newson J. P.

James He^d

a } Depositions

Cutlers

Handed in by John Cobb SR
Apr. 29. 1846. L.R.E

The depositions of Horatio Cutler, Robert
Knap and John Bryant Taken at the office
of Ridley & Goodwyn in the Town of Greenwald
on the 29th day of April 1848 to be used as
evidence in a suit now pending in the
Circuit Superior Court of land & chancery
for the County of San Francisco between
Edwin James & Co Plff and Goodwyn & Wm
Cutler Defs on behalf of the Defs -

Horatio Cutler being first duly sworn, deposes &
swears that Goodwyn Cutler purchased the land
about which there is now a suit from Wm
Cutler that he cultivated it and exercises all
acts of ownership over it; that he purchases
what is required for the farm and sells
what is produced on it; Wm Cutler boarded
with Goodwyn Cutler for some time after
he purchased the land and was to pay him
something, I do not know how much, he
does not live with him at this time

Question by Defs. Did you ever see any act
of ownership by Wm Cutler after he sold the land
Answer. I have not

Question by Defs. How old is Goodwyn Cutler
Answer Between twenty six & seven

Question by Plff. Were you not present at
Wm Cutler's on a day appointed by the Sheriff
to sell Wm Cutler's property satisfy execution
in favor of Edwin James & Co
Answer. I was

Question by Plff. Was the property sold
Answer. I believe it was not

Question by Plff. Do you know why it was
not sold -

Answer I think other arrangement were made

Question by Plff. Do you know that bonds were executed by Bordon, Phillips, as securities for Wm Cutler on that day

Question by Plff. Did Wm Cutler execute his bonds with Bordon & Phillips ^{and perhaps others} as his securities in satisfaction of the execution in favor of James & Co

Answer I do not know, but I have understood that he did

Question by Plff. Do you not know that this arrangement prevented the sale

Answer I expect it did. I do not recollect either the day of the contemplated sale, or the time at which the land was sold to Goodwyn Cutler

Question by Plff. Is Wm Cutler your father

Answer He is I have not lived with him in thirteen years, I live about four miles from him

Question by Plff. How many did Wm Cutler have in family dependant on him when he sold the land

Answer His wife & two children.

Question by Plff. Where have they lived since the sale

Answer They have lived with ^{Goodwyn} Cutler, his wife and children all the time and Wm Cutler until lately

Question by Plff. Did Goodwyn Cutler up to the time of this purchase have any property or money

Answer I am not positive that he had either

Goodwyn Cutler is not a merchant

Question by Plff. Have not Wm Cutler & his family been living on the land sold in the same way since the sale that they did before

Answer They have been living there in the same way except that they have no control on the farm

Question by Plff. How do you know that they have no control

Answer I have never seen any where I was there, which was frequently ^{Myself} Wm Cutler

Robert Kerst being first duly sworn deposes and says as follows that ^{for several years} ~~from 1844~~ he has always considered Goodwyn Cutler as the owner of the land, he has had many transactions with him, and whenever he went to his house he appeared to be the master, if he had business & Goodwyn Cutler was not at home he always had to wait for his return. he has sold produce for Goodwyn Cutler and has bought it from him sometimes

Question by Deft. If you had wished to purchase anything from the farm would you have applied to Goodwyn Cutler or to Wm Cutler

Answer I should have applied to Goodwyn

Question by Plff. Can you say whether Goodwyn was acting as agent for his father or not

Answer I can not

Question by Deft. Was he considered the agent of Wm Cutler in the neighborhood

Answer He was not so far as he knew

Question by Plff. Was not Wm Cutler quite old

Answer I should judge he was about saying
he is "quite a strong looking man"

Robert Kneel

John Bryant being duly sworn deposes and says
That having read the statement of Robert Kneel
he confirms it; That Wm Cutler is able to at-
tend to his own business, That Goodenough
Cutler has every year sold between seven &
five & a hundred dollars worth of produce
from the farm, some years more than that;
Wm Cutler & his family have been living at the
same place since the sale to Goodenough, and he
believes

John N Bryant

The above depositions were taken sworn to
and subscribed at the time and place men-
tioned in the caption before one a justice of
the peace for the county of Lawrence, Mo.

Geo. Cobb J.P.

James L^o

to } Deposits.

Outlet

Came to hand

Handed in by Saml P. Anderson

IR Apr. 29. 1848.

ERG

Depositor -

Deposition of A. M. Howell, Taken at the office of Bradley & Goodwyn in the town of Jerusalem & County of South-
ampton between the hours of sun rise and sun set; on the
29th day of April 1848, adjourned from the 18th day of April
1848, to be read as evidence ~~in~~ the part of the plaintiffs
in a certain Chancery suit now depending in the
Circ-Dep: court of Law & Chancery for the County of said
in which Edwin James is one plaintiff and
William Butler is defendants.

A. M. Howell being first duly sworn
deposes and says as follows:
"In the year 1842 or 43
"I was deputy sheriff in the Parish in which
William Butler and Goodwyn Butler lived. I had in
my possession nearly all the time, some legal process
against said William and several of his sons, ~~which~~
none against Goodwyn, and consequently was fre-
quently at Butlers. William Butler would never permit
me to serve process on him if he could help it. I have
frequently seen him run off from home when he
would see me coming, and sometimes would conceal
himself in the house. In the year 1842 or 43, I had in my
possession one or more executions against William Butler
one of them in favour of Edwin James. I levied on
Butlers property and advertised to sell Butlers land at that
time was under a deed of trust; and the trustee adver-
tised to sell on the same day. Goodwyn Butler claimed
the property I had levied on, but I determined to sell it.
Mr James who was present, promising to indemnify
his property was sold on that day either by me or the trustee
in consequence of an arrangement entered into by James
and William Butler; the said William Butler giving bonds
for the amt due James, payable annually, with William
Borden, Bay. Phillip and N. H. Whiffled as his securities
the land was not sold in consequence of some arrange-
ment, by which William Butler gave security for the debt

secured by the deed, and by which the deed was cancelled on the same day, when these bonds were executed by Cullen and his securities, he the said Cullen promised his said securities to execute to them a deed of land on his land to secure them. I was called upon by Cullen to bear his promise to execute the deed to his securities. The land above mentioned ~~for~~ some land William Cullen afterwards conveyed to his son Goodwin. He never owned any other land in the County to my knowledge.

Question by Jtts Counsel. Do you know any thing concerning the age and circumstances as to property of Goodwin Cullen at the time of the intended sale.

Answer. If Goodwin was five or twenty one years of age, at that time it was as much. I do not think he could have been more than twenty one - previous to that time I had known Goodwin Cullen well for some four or five years, & he never owned any property or money whatever to my knowledge. He claimed all the personal estate at his father's, out of the house, which I sold subsequently under executions against William Cullen the executor, giving indemnity bonds. He lived with his father and worked on the farm, I know of no means he had of acquiring either money or property. Since 1843 I have not been acting sheriff in the same parish, and do not know much about the Cullens.

Question by some. State what occurred in the fall of 1843 at a sheriff's sale, at William Cullen's conducted by you.

Answer. At that sale in the fall of 1843. Goodwin Cullen claimed every thing on the premises, stock, crop &c. which he the said Goodwin claimed as being personal of his father. He the said Goodwin was asked by some one present, either Mr Pope or Mr Bryant, where he obtained money from to buy so much property, as young as he was. Goodwin replied that there was no

law to make a man tell where he got money from. Question by same. What is the general character and reputation of William Cullen and Goodwin Cullen as to honesty and correct principles.

Answer. The general character and reputation of the old man William is now and has been since I have known him, very bad and his son Goodwin, not much better. and further the deponent saith not.

Sam. Howell

Jesse Drury having been first duly sworn deposes and says as follows.

Question by Jtts Counsel. What is the general character and reputation of William Cullen & Goodwin Cullen.

Answer. I have had numerous transactions with William Cullen when I was acting ^{deputy} sheriff, and I always found that he would evade the law and act dishonestly if he could. His general character is very bad. Goodwin Cullen I know nothing of ~~for~~ further the deponent saith not.

Jesse Drury

Lewis Correll having been duly sworn deposes and says as follows. I confirm the statement made at one by Mr Drury as far as the general character and reputation of William Cullen is concerned. and further the deponent saith not.

Lewis Correll

The above depositions were taken and subscribed before me at the time and place mentioned in the Caption in the presence of Counsel for the defendants. Given under my hand this 29th April 1848.

Saml D Nicholas J. P

Jamesolo

i } Report

Cutters

1824 Nov 10th

James

i } Report

Cullen

1848 Nov 10th

May 2^d 1849. Recd. of L. M. Edwards Clerk of the Court returned
by Comr. Seabell with this report on J. Barnes & N. P. Pope for the sum
of \$258.40, due June 18th 1849—

Richard Seabell atty

James & Co

bidders

3
3
3

Coramur Report

Nov Term 1848

Pursuant to the annexed decree entered at May term 1848 in the case of James & Co bidders, the undersigned Commissioner has come to report, that he advertised the land in the decree mentioned according to the terms of said decree and on the 18th Sept, that being Court day, at the Court house, sold at public auction, one tract containing 136 acres, more or less to Jacob Barnes for the sum of three hundred dollars; and after deducting the sum of \$41.60, costs of suit & commissions, took from said Barnes bond with W. P. Pope security, for the return to wit the sum of \$258.40 due the 18th June 1849, which is herewith returned to Court. At the same time and place the Court also sold in some manner another tract containing 25 acres to John Wozgore for the sum of sixteen dollars, due the 18th June 1849, ~~which the~~ said Wozgore not yet having executed bond as required by the said decree, said bond is not yet returned to Court. Another tract of land called the Pine Grove, was at the same time and place and in like manner, set up at public auction, but there being no bid made for the same, it was not sold, objections having been made by some at the time of sale, that Willard Cutler had only a life estate in the same. Below will be found a statement of my transactions

One tract of land containing 136 acres to Jacob Barnes	\$ 300.00
Do " " " " 25 " " John Wozgore	16.00
amt sales	\$316.00
Do Commissions on \$316.00 at 5 p. ct.	\$15.40
" amt paid Cayan	1.00
" Costs of suit	25.20
Jacob Barnes bond, herewith returned	258.40
John Wozgore, amt	16.00
	\$316.00

all of which is respectfully submitted to the Court

Wm. J. Scrull Secy of
Joseph Warden Shff

Cutler
to 3 Dred
Cutler

A Copy

James H^c

to 3 Exh^t. with bill

Cutler H^c

This Indenture Made and entered into on this 17
day of September in the year of our Lord Eighteen hundred
and forty two between William W. Coker of the County
of Southampton and State of Virginia - of the one party
and Goodwin Coker of the same County and State of the
other party Witnesseth that the said William W. Coker
for and in consideration of the sum of seven hundred
dollars Current Money of Virginia to him in hand paid
by the said Goodwin Coker at and before the making
and delivery of these presents the Receipt Whereof is
hereby acknowledged hath granted bargained and sold
and by these presents doth grant bargain and sell
unto him the said Goodwin Coker his heirs and assigns
forever a certain tract or parcel of Land and premises
of which he the said William W. Coker now lives on
lying & being in the aforesaid County of Southampton
and parish of Saint Lukes and containing by estimation
One hundred and thirty six acres - be the same more
or less and bounded by the Lands of Benjamin Burr
Patience Vick Bonnett H. Whitfield and others also all
right title interest or demand in and to one other tract
or parcel of Land and premises lying and being in
the aforesaid County of Southampton known and called
by the Name of the Pinny Grove and ~~bounded by~~
the Lands of Jacob V. Barrow John Barrow and
others also all right title interest or demand in and
to one other tract of Land lying and being in the
aforesaid County of Southampton known and called
by the Name of the Frequent tract together with all
the present years crop or growth whatever now standing
on the Lands consisting of Cotton corn fodder peas
and potatoes To have and to hold all right title
interest claim or demand of him the said William
W. Coker of in and to the above tracts of Land and
premises with its appurtenances thereto belonging or in

any and all appertaining unto him the said Goodwin
 Butler his heirs and assigns forever to and for the only
 proper use and behoof of him the said Goodwin Butler
 his heirs and assigns forever And the said William
 W Butler for himself his heirs heirs and assigns
 doth hereby covenant and agree to and with the said
 Goodwin Butler his heirs heirs and assigns that
 he will by these presents warrant and forever defend
 all right title interest claim or demand of int and
 to the aforesaid tracts or parcels of land and premises
 against the claim or demands of all and every other
 person or persons whatsoever In Witness whereof the
 said William W Butler hath brought to his
 hand and affixed his seal the day and year first
 above written

signed sealed & delivered
 In presence of

William W Butler (seal)

Southampton County in the Clerks Office the
 19th day of September 1844 This Deed of Bargain
 and sale from William W Butler to Goodwin Butler
 was acknowledged by the said William W Butler
 and admitted to Record
 John P R Edwards C

A Copy Test J R Edwards C

60
 13) 720 (48
 18
 120 60

I am
" 3
Luby

Exhibit with bill

Copy

Southampton Circuit Superior Court. November Term 1844

Edwin Samro. Fleming Samro & Joseph S Samro late partners
and Merchants in trade under the firm & style of Edwin
Samro & Co

Plffs

against

William W Cuthr Bennett H. Whitfield & William Borden Defts

Ind Dfts

The defendants still failing to appear on the motion of
the plaintiffs by their attorney it is considered by the
Court that the Plaintiffs recover against the defendants the
sum of One hundred and twenty eight dollars and fifty
eight cents the debt in the declaration mentioned with legal
interest thereon from the 24th day of June 1844, till paid
and their costs by them about their suit in this behalf
expended and the said Defendants in Mercy &c

Costs \$10.28

A Copy Test J R. Edwards cc

James H
Corbett
Clerk

Exhibit with bill

Southampton Circuit Superior Court. Clerk's Office the
30th day of November 1846

Edwin James and Fleming James surviving partners of
themselves and Joseph S. James dec'd. late Merchants and
partners trading under the firm & style of Edwin James & Co.
against

Wm W. Custer Benj^d B Phillips & William Barden Dyk
The defendants being arrested and in custody of the
Sheriff of this County upon a Writ of Capias ad Respondendum
issued in this cause acknowledge the plaintiffs action for
the debt in the said writ mentioned with interest thereon
from 24th June 1846 and the costs. Therefore it is consid-
ered that the said plaintiffs recover against the said defen-
dants ONE hundred forty two dollars thirty one cents
the debt aforesaid with interest thereon from the 24th
day of June 1846 till paid and their costs by them
about their suit, in this behalf expended and the said
Defendants in Mergers. AND it appearing that
the plaintiffs do not reside in this County and that
the defendants have given to the Plaintiffs Attorney
reasonable notice of the time at which he is to
make the said confession AND the plaintiffs nor
their Attorney not directing otherwise it is ordered
that the defendants be forthwith discharged from custody
Plffs costs \$7.39

Teste J. R. Edwards cc

James Lee
36 Ind. St.
Culver

Exhibit with bill

In the Clerk's office of Southampton Circuit Superior
Court the 15th day of February 1847

Edwin Samms & Menning James Merchants & partners trading
under the firm & style of Edwin Samms & Co. Plffs
against

William W. Custer

In Debt

Deft

The Defendants being arrested in custody of the Sheriff
of this County under the writ of Alia Capias issued in
this cause acknowledge the Plaintiffs action for the debt
and interest in the said writ mentioned and the costs
Therefore it is considered that the Plaintiffs recover against
the defendant One hundred and twenty one dollars and
sixty one cents with interest thereon from the 24th June
1843 till paid the debt and interest aforesaid and
their costs by them about them and in this behalf
expended and the said Defendants in answer to and
in appearing that the Plaintiffs do not reside in
this County the Attorney for the Plaintiffs appeared and
acknowledged to have received legal notice of the
time at which the defendant went to make the
said confession and the said Plaintiff or their
Attorney Not directing otherwise it is Ordered that
the defendant be forthwith discharged from custody
Plffs costs \$ b. 08

A Copy Issued L. R. Edwards & Co

James & Co
3 Turf
Quarry

Q 47

Exhibit with bill

In the Clerk's Office of Southampton Circuit Superior Court
the 15th day of February 1847

Edwin James & Fleming James Merchants and Partners
trading under the firm and style of Edwin James & Co Plffs
against
William W Coker Defs

The Defendants being arrested & in custody of the Sheriff
of this County under the writ of alias capias issued in this
cause acknowledge the Plaintiffs action for the debt and
interest in the said writ mentioned and the costs thereof
it is considered that the Plaintiffs recover against the defen-
dant one hundred and thirty five dollars forty three
cents with interest thereon from the 24th June 1845 till
paid the debt and interest aforesaid and their costs
by them about their suit in this behalf expended and
the said Defendants in mercy and it appearing that
the Plaintiffs do not reside in this County the Attorney
for the ~~Plaintiffs~~ appeared and acknowledged to
have received legal notice of the time at which the
Defendants meant to make the said confession and
the said Plaintiffs or their attorney not directing otherwise
it is ordered that the defendants be forthwith discharged
from custody

Plffs costs \$6.08

John S R Edwards & Co

Butler

to { deed

Butler

1842 Sep: 19 acknowledged in office &
AR.

James H. Co.

to { Exhibit with D. H.

Butler's { Bookkeeping Butler's and

Record
Page 416

Southampton County, Ind the Clerk's Office the 19th day of September 1842
This deed of bargain and sale from William M Butler to Horatio Butler was
acknowledged by the said William M Butler and admitted to Record

Test. L. R. Buchanan Clk

This Indenture made and entered in to on this 19th day
of September in the year of our Lord Eighteen hundred
and Forty two between William W. Cutler of the County
of Southampton and State of Virginia of the one part
and Gooswin Cutler of the same County and State of the
other part, witnesseth that the said William W. Cutler for
and in consideration of the Sum of Seven hundred
Dollars current money of Virginia to him in hand paid
by the said Gooswin Cutler at or before the executing
and delivery of these presents the receipt whereof is hereby
Acknowledged both granted Bargained and Sold
and by these presents doth grant bargain and sell
unto him the said Gooswin Cutler his heirs and assigns forever
a certain Tract or parcel of Land and Premises of which
he the said William W. Cutler now Lives on Lying and
Being in the afore said County of Southampton and
Parish of Saint Luke Containing by Estimation one
Hundred and thirty six acres be the same more or less
and Bounded by the Lands of Benjamin Bunn Patience
Vick Bennett R. Whipple and others
also all right title Interest or demand in and to one other
Tract or Parcel of Land and premises lying and being in the
afore said County of Southampton known and called
by the name of the Piney Grove and Bounded by lands
of Jacob Barnes John Barrett and others
also all right title Interest or demand in and to one other
Tract or parcel of Land lying and being in the afore
said County of Southampton known and called by the
name of the Ferguson Tract - To have with all the
Present years Crop or growth what soever now
Standing on the Lands - Consisting of Cotton Corn
Peas and potatoes To have and to hold
all right title Interest Claim or demand of him the said

William W. Cutler of in and to the above Tracts of Land and
Premises with ^{its} appurtenance there to belonging or many
were appertaining unto him the said Goodwin Cutler
His heirs and assigns forever to and for the only proper use
and behoof of him the said Goodwin Cutler his heirs
and assigns forever and the said William W. Cutler
for him self his heirs execs and admors doth hereby
covenant and agree to and with the said Goodwin
Cutler his heirs execs admors and assigns that he will
by these presents warrant and forever defend
all right title Interest Claim or demand of in and
to the afore said Tracts or Parcels of Land and
Premises against the Claims or demands of all and
Every other person or persons what soever In
witness where of the said William W. Cutler Hath
Here unto set his hand and affixed his seal the
day and year first above written
Signed Seal and delivered by William W. Cutler ^{Seal}
In presence of

1812 Sep. 19th

September 19 - 1843 C^d for boarding
my self and wife Sixty five dollars
also same time Rec^d in cash Seventy five dollars
in part of the within - - - W.W. Cutler

September 19. 1844. This bond has credit for ~~sixty five~~ Sixty five
Dollars for board - - -

November 15th 1844 then Rec^d in cash Seventy
five dollars - - - W.W. Cutler

September 19 - 1845 C^d by board sixty five
dollars in part

Oct^r 15 - 1845 Rec^d forty dollars in
part

December 5th 1845 Rec^d thirty five
dollars in part

September 19 - 1846 C^d for Board
Sixty five dollars in part of the within bond

1846 November 2nd then Rec^d Seventy five
dollars in part - - - W.W. Cutler

James H^c

to { Exh^t with amount
Cutler. Frederick Cutler.

Know all men by these presents that I Goodwin Cutler of the
County of Southampton and State of Virginia am here
and firmly bound unto William W. Cutler of the same
County and State in the Sum of Seven hundred
Dollars lawful money of this Commonwealth to be
paid to him the said William W. Cutler in five annual
installments commencing the nineteenth day of
September Eighteen hundred and forty three
it being for the consideration of abovesaid and sale of
three certain Tracts or parcels of land and for the
true payments whereof I bind my self firmly by these
presents sealed with my seal dated the nineteenth
day of September 1842.

witness

Goodwin Cutler

The further consideration is such that so long as the above
bounden Goodwin Cutler do and shall well and truly
board and support me the said Wm W. Cutler and my
wife then for and in that consideration I do promise
and agree with the said Goodwin Cutler to allow
him sixty five dollars per year which amount I
will credit the above bond with annually as the
payments here comes due Sept. 19. 1842, Wm W. Cutler

witness

Gannet

as

leather.

}

note of

P. p. p. also.

James or Leath. This is a suit brought to set aside
a Deed of Bargain & Sale executed to the Deft
Goodwyn Leath by his Father William Leath
dated 19/ September 1842 - on the ground that it
was voluntary & fraudulent ~~and void~~ and
void as to creditors.

The witnesses on the part of the Defts. prove that
Goodwyn Leath was a very young man without
visible means. & had previous to the purchase lived
with his father the Vendor. who after the sale
to his son, lived with him - This is the principal
testimony

On the part of the Deft, the Deed is relied on, and
the testimony of the witnesses. The witnesses prove that
Goodwyn Leath, did purchase the land which he
executed is filed - also that Goodwyn has ever since
the purchase exercised ownership over the Land -
cultivated it and made good crops, selling from
75 to \$100 worth of produce annually - which sum
together with the board of his father's family, has
enabled him to pay off the Debt.

It is submitted that the bill should be dismissed.