

1875-03

Southampton County Chancery - Bishop, Stith H. vs Butts, James T.

recover debt

(executor) Butts, Edward

~~165~~ ~~154~~ 144

Bishop

vs 3 Bill

Kills same

Bills.

1873 Oct. Rules —

Bill & answer filed & cause set
for hearing

To the Honorable George Blow judge of the
Circuit Court of Southampton in chancery sitting

Humbly complaining your orator
Bills B. Bishop sheweth unto your Honor
that at the November term 1858 of the
Circuit Court of Southampton James T. Butts
as executor of Edward Butts obtained a
judgment at common law against your
Orator for the sum of \$765.94 cts with interest
and that there is still the sum of \$374.50 cts
principal and \$300.52 cts interest still due
to the estate of James T. Butts who has
long since departed this life the above
sum of \$765.94 cts is the amount due
at July 1873

Your Orator states further that James
Kills as administrator de bonis non with
the will annexed of James T. Butts and
who was the only devisee and legatee under
the will of Edward Butts files his bill
in the ^{county} ~~great~~ court of Southampton to
enforce his judgment lien on the lands
of your Orator, that all the proper
accounts were taken and at the July
term 1873 of the said court a decree
was entered to sell your Orator's lands
to pay that debt and others reported
due by the commissions. All of which
will more fully be referred to this said
suit under the style of Butts Adm. vs
Bishop which has now been moved
to the Circuit Court

Your Orator states further and charges and
all of which will appear by reference
to this judgment that this is a security
debt he being the security on the
bond to John M. Gurley and it is a great
hardship that he has to pay it.

Your Orator states further that he
is very poor and that he has already
paid much money as security has
still more to pay and that he has
applied to Mr. Kells to release him
upon the payment of the principal still
due to wit the sum of \$374.50 and
that Mr. Kells has expressed his willingness
to do as provided this court will
authorize the compromise.

In further considerations whomever and
inasmuch as your orator is without relief
at Law and only entitled to relief in a
court of equity where such matters are
peculiarly cognizable he therefore prays
that said Kells who de bonis non with
the will annexed of James T. Butts dec'd
may be made partly defendant to this bill
and that the court would compel him
as full and perfect answer master to
the allegations therein contained as if he
had been thereunto more fully and
specially interrogated and that the court
would be its duty authorize the said
James Kells to grant him a discharge
in full upon the payment of the said

sum of \$374.50 and that the court would
grant such other and general relief the
premises considered as equity may dictate
and the nature of his case may
require and as in duty bound your orator
will ever pray &c.

Shanae p. 30

Bishop

as { session
of
same Kells

Kells Adm of the

1873 Oct Rules

The Answer of Samuel Kells Adm de bonis
non with the vice answer of James T. Butts as
to a bill in chancery in the circuit court
of Southampton by J. B. Bishop against him

This defendant for answer to the said
bill or as much thereof as he is advised it
is material for him to answer, answering
says that he believes all the allegations
of the plaintiffs bill to be true and that
this is a security debt and that he is
willing to receive the sum of \$374.10 out
from J. B. Bishop and the costs of
his suit and this suit and grant him
a receipt in full if so authorized by
this court and having fully answered
prays hence to be discharged with his costs
Shamds for
Kells

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Bishop

as 3 Decm

Kello adun. of us

To be received

Geo T. Blod

Nov. 1873.

Bishop
vs 3 Deene
Butts admr

This day this cause came
on to be heard on the plaintiff's bill
answer of the defendant Samuel Kells
administrator de bonis non with the vice
answer of James T Butts and general
replication Thence and was argued by
Counsel On consideration whereof the
court doth advise, order and decree That
upon Stith & Bishop's paying to Samuel
Kells administrator of James T Butts and
the sum of \$374.50cts and the costs of
this suit and the said Kells' costs in
the chancery suit of Butts Admr. vs Bishop
that the said Samuel Kells shall
give to the said ^{Stith & Bishop} a discharge and receipt
in full for the judgment obtained in
November 1859 by James T Butts executor
of Edwards Butts vs John M Gurley and
Stith & Bishop for the sum of \$765.94cts

But unless the said Stith & Bishop
shall pay the above named sum of
\$374.50cts and costs to the said Samuel
Kells within three months from the
date of this decree then this decree
shall be void and of no effect

Bishops

as 3 Decm

Buth' return

To be entered

Yes Bld.

1875 Feb, Dismissed

Bishop

10 3 Decem

Butts

This day this cause came
on again to be heard on the papers
formerly made and it appearing to the
court there is nothing further to be done
in this cause it is ordered that the same
be removed from the docket

Bishop
 Rev.
 Butler & Co.

W. J. C. A. R. C. C. C. C.

I acknowledge service of the within
summons for James Kells.
Wm B Shands
atly for Kells

The Commonwealth of Virginia

To the Sheriff of Southampton County--Greeting:

WE COMMAND YOU to summon *Samuel Wells late Sheriff and as such advised*
de bonis viris vobis etc. vobis amicus & James T. Butts do.

if *he* be found within your bailiwick, to appear at the Clerk's Office of our *General*
Court of Southampton county, at the Rules to be holden for the said Court on the first Monday in
October to answer a bill in Chancery exhibited against
him & others in our said Court by Sir H. Bishop -

And have then there this writ. Witness LITTLETON R. EDWARDS, Clerk of our said Court, at the
Court-house, this *16th* day of *September* A. D. 1873, in the *98th*
year of the Commonwealth.

L R Edwards Clk

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Bishop

n } Papers

Butt, admor.