

1892-05

Southampton County Chancery

Cutler, G. D. et al vs

Barden, James (dec.) et al

Creditors suit.

Thorpe, A. B. (Admin.)

Bardon, John

Webb, George D.

" , Julia A.

Barnes, Wm.

" , Louisa

i
3/4
4/5 { Barden, Betty

" , Thomas

" , Charles

" , Luther

McLemore, B. F.

G. A. W.

20

Hon. Geo. Hill, Judge of the Circuit
Court of Southampton - In Chancery.

Humbly complaining sheweth unto
your Honor your complainant, G. D.
Cutler, who sues for the benefit of
himself and all other creditors of
James Barden dead, who will come
in and bear their part of the cost
of this suit - That in or about the year
1880, James Barden departed this
life intestate, leaving a widow, Julia
Barden, who has since intermarried with
Geo. S. Webb, and his children, ^{Drs. Barden,} Louisa
Barnes, formerly Barden, the wife of Wm.
Barnes, Betty Barden, Thomas Barden,
Charles Barden and Luther Barden -
the last five minors - as the heirs-at-
law and distributees of his estate;
That some time after the death of said
James Barden, to-wit, at a County Court
held in and for said County on the 16th
day of November 1880 A.D. Thorpe,
qualified as administrator of said
James Barden dead, a copy of
his qualification being herewith filed
as an exhibit marked "A" & prayed
to be read as a part of this bill; That

at the time of his death, the said James Barden was seized & possessed of some personal estate and a tract of land lying in said county, containing 290 acres, more or less; that the said A.B. Thorne ^{admr.} by virtue of his office, has possessed himself of all the personal estate; that at the time of his death the said James Barden was jointly and severally bound and indebted, along with W.D. Barden, unto your complainant for \$300.⁰⁰, by note dated 29th of December 1879, as will more fully appear from the said note herewith filed as an exhibit, marked "B" & prayed to be read as a part of this bill; that in or about the year 1880 the said W.D. Barden departed this life and his entire estate both real and personal has been fully settled and there is nothing to be gotten from that source to be applied to the satisfaction of your complainant's debt; that your complainant is advised that the only way he can collect his debt is to have a full settlement of the estate of said James Barden decd., and subject the land, if necessary,

to the payment of the debt of the decedent;
that the rents & profits of said land
will not in five years pay the debt—
and notice is hereby given that the Judge
of the Circuit Court will be asked to
allow a reasonable atty's fee to Prince
& Scrull out of any funds that may
be under the control of the Court—

In consideration whereof & inasmuch
as your Complainant is remediless
save in a Court of Equity where matters
of this sort are properly cognizable,
to the end, therefore, that justice may be
done, your Complainant prays that
A.B. Thorpe, admr. of James Barden
decd., Geo. D. Webb & Julia, his wife,
Jno. Barden, Wm. Bames & Louisa, his
wife, Betin Barden, Thomas Barden, Chas.
Barden and Luchin Barden, be made
parties defendant to this bill & compelled
to answer the same; that a proper
guardian ad litem be assigned the
infant defendants to protect their
interests in this suit; that all
necessary & proper accounts be wound,
and if it should appear necessary
that the lands of said James Barden
decd., be sold & the proceeds applied

to the payment of his debt; that your
Complainant's debt be paid to him
that your Honor will grant such other
further general & special relief as in
the premises is just and right -
And your Complainant will ever pray &c -
Prince & Schell p.q.

Under &c -

Mr. Bill & Exhibit

Barden

Prince & Schell
p.q.

Cutter
in 3 Dept
Bancroft adms

1892 Nov Tenn

Butler
U.S. 3^d District Report

Bardens Adm'r

To The Hon. C. W. Hill

Your Comd. begs
leave to report the entire debt \$86.⁷²,
& costs fully paid, and the same
paid to J. B. Prince atty.

Respectfully Submitted

J. H. Williams

Comr

Nov. 5. 92

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON *Geo. D. Webb*

to appear at the Clerk's Office of our Circuit Court of Southampton County, at the Rules to be holden for the said Court on the first Monday in *April* next, to answer a bill in chancery exhibited against *him & others* in our said Court by *G. D. Butler* who sues *for the benefit of himself and all other creditors of James Barden dec^d. who will come in and bear their part of the costs of this suit*

And this *he* shall in no wise omit; and have then there this writ.

B. F. McLemore
Witness, *J. B. Prince*, Clerk of our said Court, this *30th* day of *March*

1888, in the *112th* year of the Commonwealth.

Teste: B. F. McLemore

C. C.

Butler

Dr } Sum

Barden's Adm'r's als:

1888. Ap'l's Rules

Cir: Ct.

Executed April 25
1888 by delivering a
copy of this summons
to each of the within
named parties except
G. D. Webb who is not
a resident of the County.

R. D. Moon Supt for

J. M. Williams Supt

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON *A. B. Thorpe* Administrator of *James Barden* dec^d. *John Barden*. *Geo. D. Webb* and *Julia A. his wife*. *Wm. Barnes* & *Louisa*, his wife. *Bettie Barden*. *Thomas Barden*, *Chas. Barden*, & *Luther Barden* - the last five infants. by *B. F. McLeod* *Edm ad litem*

to appear at the Clerk's Office of our Circuit Court of Southampton County, at the Rules to be holden for the said Court on the first Monday in *April* next, to answer a bill in chancery exhibited against *them* in our said Court by *G. D. Lottler* who sues for the benefit of himself and all other creditors of *James Barden* dec^d, who will come in & bear their part of the Costs of this suit.

And this *they* shall in no wise omit; and have then there this writ.

B. F. McLeod
Witness, *J. B. Prince*, Clerk of our said Court, this *30th* day of *March*

1888, in the *112* year of the Commonwealth.

Desto: B. F. McLeod

C. C.

Received of W. H.
Daugherty Adm^r W. D. Barden Dec^r
one hundred and forty five
dollars and sixty cents (\$145⁶⁰/₁₀₀)
on within note.
G. D. Butler

Received of W. H. Daugherty Adm^r
W. D. Barden Dec^r Sixty Seven
Doll. and Sixty three cents (\$67⁶³/₁₀₀) on within bond -
Aug. 20. 1887.
G. D. Butler

W. D. Barden
made
\$145.00

On demand the first day of
October next but carrying
interest at the rate of 8 percent
for annum from date we or either
of us do promise to pay to G D
Cutter the Sum of three hundred
dollars it being for cash loaned
and we waive our homestead
and all constitutional Exemptions
as to this note witness our hands
and seals this 29 day of Dec^r

1879

Witness

W D Border

Seal

A D Bryant James ^{his} Baden

mark

Seal

Rec^d. Dec^r 26. 1891 of B. F. Wilcox
Fifty three & $\frac{52}{100}$ dollars. as amount paid
him collected by him from John Barden
in the suit of "Cutler & Barden."

J. W. Willard Shff.

Received Nov 5. 1892 of J. Williams
Receiver in letter to Boardman adms.
Eighty Six & 7/100 dollars and Sixteen & 5/100
dollars legal fee. in full of acct
Collected under decree Nov Term
1888.

L. B. Prince atty.

20.100.28.18-100.35.15.15.15=26=1.44.
40.26.26.

	Leak	\$ 5.87
Paid J.W.W.	Shff	8.50
Paid L.B.P.	Loewy.	16.50

\$5.00
13.50

Paid 30.87

Paid by Johnnie Barclay
Dec. 26-1891

Recd of J. R. Williams Shff Five $\$5.87$ dollars
Clerk of as in Chan. Suit of Carter vs. Barden
Admrs
Dec 26th 1871

B. F. McLeod, clk

Cutter

on 3 Dec
Borden Adams

Mr Teener 1892

To be entered

CWJ

Entered

Carter

104 3 Decree.

Barren Adams

This day this Cause came on to
be again heard on the papers
formerly read and the report of
Coun. J. M. Williams filed during
the term and was argued by
Counsel. And it appearing
from said report that the matter
in controversy has been fully
settled. The Court doth confirm
said report. nothing further
appearing necessary to be
done in this Cause, the same
is ordered to be removed from
the docket.

Cutter ¹⁰⁴
~~109~~
m 3 Decree
Bardini Adams

For Term ¹⁰⁰
1888

To be entered.

C W Hill

Mar 9, 1888

Letter

or 3 decrees.

Bardeen's Adm'r &c.

This day this cause came on to be further heard in the paper formerly read, the report of Commissioner W. H. Parker filed Oct. 26. 1888, to which there is no exception, and was signed by Counsel. On consideration whereof, the said report is confirmed; and it appearing to the Court that the rents and profits of the lands of which James Bardeen dec'd seized will pay the debt proved against him in five years, the Court doth as judge order and decree that unless the heirs of said James Bardeen or some one for them shall within ⁶⁰ ~~thirty~~ days from the last day of this term pay to G. D. Letter or his attorney the sum of \$86.77, then that J. W. McLeain, Shff. of this County take possession of the said farm and rent the same out until the said debt is fully paid. ^{and the report of this Court} And the said McLeain will report to Court.

K. Barden's adun
ad. 3
~~ad. 3~~
G. D. Butler

Adun of A. B. Throp
adun of J. E. Barden

The separate answer of A. B. Thorne
to a bill in chancery in the circuit
court of Southampton by G. D. Cutler
against him and others

This defendant for answer to
the said bill or as much thereof as
he is advised it is material for him
answer, answering says that it is
true he qualifies as administrator
on the estate of James E. Barden died
sometime in the year 1881. That he
has with his administration account
of the said estate, that in the year
1881 his widow Julia Barden now
Wetb claimed the homestead and
it was set aside by a decree of
the county court of Southampton
that this defendant is ready to
settle any accounts which may
be ordered by the court showing
exactly what he has done with
all the assets which have come
to his hands, that he has no
notice of the bond of \$300 which
has been filed with the bill and
he supposes the answer G. D. Cutler
never mentions it to him nor

that his intestate James B. Barden was
debt to J. D. Barden and
considered the principal good for
the debt and so took no steps until
late to collect from his intestate
estate This defendant is advised that
the said bond is erroneous on its face
that \$213.00 has been paid and
that this must be applied to the
payment of the principal and
leave only \$96.97 to be applied
to the payment of the bond in
full And having fully answered
This defendant prays to be hence
dismissed with his costs &c

Signed

A. B. Thorpe

Sherrill & Son Jr. &c.

Southampton County, D. C.

This day A. B. Thorpe personally
appeared before me and made oath
that the above answer is true to
the best of his knowledge and
belief given under my hand
This 7th day of May 1888.

W. F. M. Lemmon

Com'r in Chancery

Letter

or

Barden's Answer

Answer of Infants
by Edw. and others

The joint and several answer Bettie
Barden, Thomas Barden, Charles
Barden, and Luther Barden, all
infants, by B. F. M. Lemaire, their Guar-
dian ad litem - to a bill in Chancery
exhibited against them & others in
the Circuit Court of Southampton
Co. by G. D. Cutler -

These respondents, saving and reserv-
ing &c., for answer to said bill say:
that they being infants, know nothing
of the facts as set forth in the said
bill - and therefore, submit their
rights to the protection of this Court -
And having answered, pray hence
to be dismissed. &c.

B. F. M. Lemaire

Gdn ad litem

Jan. E. Gardner Adm.

Qualified.

Copy

Exhibit "A"

In Southampton County Court November
Term 1880.

On the motion of A. B. Thorp who made
oath according to law, and together with
George W. Whitfield and Jno. W. Beaton,
his securities (who justified on oath as to their
sufficiency) entered into and acknowledged
a bond in the penalty of seven thousand dollars
conditioned as the law directs, which bond
is ordered to be recorded. Certificate is gran-
ted the said A. B. Thorp for obtaining letters
of administration on the Estate of James E.
Parden dec'd. in due form.

Teste. L. R. Edwards. clk.

Attesty

Teste. B. L. Moore l. c.

Carter - {
47. {
}

Scam.

Bardeen's address.

May term 1888.

To be entered -
C. M. Hill

Primer & Abrell,
N.Y.

To be done by any interested party.

Court - }
Decree.

Barden's Adm^r &c.

This day this cause came on to be heard upon complainant's bill, taken for confessed as to all the adult defendants except ^{A.B. Thorp, adm^r &c. +} G. D. Webb, exhibit therewith filed, ^{and the answer of A.B. Thorp} & was argued by counsel. On consideration whereof, the Court doth adjudge, order & decree that it be referred to one of the Commissioners of this Court to ascertain & report to this Court -

1st an account of the transactions of A.B. Thorp, administrator of James Barden dead; 2nd an asc of the outstanding debt against the Estate of said James Barden dead, with their priorities and dignities.

3rd An asc of the annual & absolute value of the Real Estate of which said Jas. Barden died seized & possessed; and whether or not in his opinion the rents & profits thereof will in five years pay the outstanding debt proved against the said Estate - all which the Commissioner is directed to report together with any matter specially stated deemed pertinent by himself or which he may be required

Butler ¹³³
107
or Stat. Rules
Bar den's Adm'r of

G.D. Cutler - who sues for the
benefit of himself & all other Creditors
of Jas. Barden dec^d. who will come
in and bear their part of the costs
of this suit.

Plffs

Against

A.B. Thorp, Admr of Jas Barden dec^d.
John Barden - Geo. D. Webb & Julia A.
his wife - Wm Barnes & Louisa, his wife
Pettie Barden, Thomas Barden - Char
Barden - & Luther Barden - last
four infants, by B. F. M. Lemare.
Gdn ad litem.

Defts

1888. Mich 30 Sum: ip? to April Rules

" April Rule: Sum: ret? Execut? on all the parties
Except G.D. Webb. bill & Exhib: filed.
decrece nisi to Defts

" May " bill taken for confessed as to A.B. Thorp.
Admr & Jno. Barden. Julia A. Webb. Wm Barnes
& Louisa Barnes. B. F. M. Lemare signed
answer of Gdn ad litem filed -
Gdn ad litem to infants. Cause set for
hearing as to all parties except G.D. Webb

Southampton Circuit Court May Term 1888
Loutler

vs.
Baron's adm'r &c. } Decree

This day
this cause came on to be
heard upon complainant's
bill, taken for confessed as
to all the admts defendants
except A. B. Thorp adm'r &c & G.
Hebb, & exhibits there with
filed - and the answer of A.
B. Thorp adm'r &c & was ar-
gued by counsel. On consid-
eration whereof the court
doth adjudge, order and decree
that it be referred to one of
the commissioners of this
court to ascertain & report
to this court -

1st An account of the transac-
tions of A. B. Thorp adm'r is -

2nd An asc of the outstanding
debts against the estate of
said James Baron &c with
their priorities and dignities.

3rd An asc of the annual and

Cutler &c.,

to 3 notice

Barden

E. & Cutler Sept 21st 88

R. D. Moon Sept
for J. S. Williams Ruff

Commissioner's Office,

Jerusalem, Va., Sept., 5th. 1888.

To G. D. Lüsler, who sues for the benefit of himself and all other creditors of James Barden, deid, who will come in and bear their part of the costs of this suit, A. B. Sharp, Administrator of Jas: Barden, deid, John Barden, Geo: D. Well and Julia A. his wife, Wm Barnes, and Lavinia his wife, Bettie Barden, Thomas Barden, Lehas: Barden and Luther Barden, last five infants by B. F. McSimore *pro ad litem*.

You are hereby notified that I have fixed upon the 26th day of September next, if fair, if not, the next fair day thereafter (Sunday excepted), to take and settle, at my office, the following accounts, to wit: 1st: Account of the Transactions of A. B. Sharp, administrator of James Barden, deid. 2nd: An Account of the outstanding debts against the estate of said James Barden, deid, with their priorities and dignities. 3rd: An Account of the annual and absolute value of the Real Estate of which said James Barden deid seized and possessed; and whether or not, in his opinion, the rents and profits thereof will in five years pay the outstanding debts ^{owed against} the said estate - all which the Commissioner is directed to report together with any matter specially stated deemed pertinent by himself or which he may be required to so state by any interested party -

required to be taken by a decree of Southampton Circuit Court, rendered at the May term, 1888, in a suit in chancery depending in said Court, in which you are parties, plaintiffs and defendants; at which time and place you are required to attend.

Given under my hand, as Commissioner in Chancery of said Court, the day and year first aforesaid.

Alvin Parker

Commissioner.

To the Sheriff of Southampton County to execute.

An Account of all debts or demands against James
 Barden, deceased, or his estate, proved before W^m H. Parker,
 a Commissioner in Chancery of the Circuit Court of
 Southampton County, pursuant to a decree, rendered at
 the May Term 1888, in the suit of Leutler against
 Barden &c., now pending in said Court.
 4 to: Class.

One bond, saving Homestead
 Exemption, dated Dec., 29th: 1879,
 and payable on demand Oct., 1st,
 1880 to G. D. Leutler for
 134 Cash. in Bond. \$ 145.60

300 00

1887

Aug: 20

" " " "

67.63 213 23 86 77

Total amo: debts proved

86 77

Respectfully Submitted,

W^m H. Parker,

Commissioner in Chancery.

An Account of the Real Estate of which James Barden
died seized and possessed, showing the fee simple
and annual value of the same, in obedience to a
decree of the Circuit Court of Southampton County,
rendered at the May Term 1888, in the Chancery suit
of Butler &c. against Barden &c.

A tract of land, containing 190 acres, more or less, valued at	Fee Simple, Annual Value	Annual Value
	\$870 00	\$52 20

Respectfully Submitted,

Wm. A. Parker,
Commissioner in Chancery.

Commissioner's Office,
Jerusalem Va.,

Sept., 26th. 1888.

To the Circuit Court of Southampton
County:

Pursuant to a decree of the
Circuit Court of Southampton County,
rendered at the May Term 1888, in a
suit in Chancery depending in the said
Court between G. D. Cütler for re, Com-
plainant, and A. B. Thorpe, Adm^r of
James Barden, decd, and others defend-
ants, an office copy of which decree is
hereto annexed, the undersigned, one of
the Commissioners of the said Court, to
whom was referred for settlement, by said
decree, the following accounts, to wit:

- 1st An account of the transactions of A. B. Thorpe,
administrator of James Barden, decd;
- 2nd: An account of the outstanding debts against
the Estate of said James Barden, decd, with
their priorities and dignities; and,
- 3rd: An account of the annual and absolute
value of the Real Estate of which said James
Barden died seized and possessed; and whether
or not, in his opinion, the rents and profits
thereof will in five years pay the out-
standing debts proved against the said
estate—

Estate — all which the Commissioner is directed to report, together with any matter specially stated deemed pertinent by himself or which he may be required to so state by any interested party, reports to the Court, ^{that} on the 5th day of September last, he issued notices against the several parties aforesaid, requiring them to attend the settlement of the said accounts, before him, at his said office, on the 26th day of September 1888, which were returned to your Commissioner duly executed. That the said Mr. Thorpe, administrator as aforesaid, failing to appear and produce any vouchers, in obedience to the said notices, your Commissioner was, therefore, unable to state any account of his transactions of his said decedent's estate. But, from an investigation of the records in the Clerk's office of Southampton County, he finds that the said Thorpe had rendered such an account, in the County Court of said County, on the 1st day of August 1881, showing a balance due his decedent's Estate of \$160. $\frac{42}{100}$ with interest thereon from that date. The debt of G. D. Lütler, the Complainant, amounting to \$86. $\frac{77}{100}$ was the only debt proved against the said Estate.

3

This, however, was reduced to \$86. $\frac{7}{8}$ from the original sum of \$300. $\frac{5}{8}$ by payments which were credited on the bond evidencing the debt; and, as the bond, upon its face, expressly provides for the payment of an usurious rate of interest, no interest, in pursuance of an Act of Assembly of 1874 and still in operation at the time of the execution of the said bond, was allowed.

The fee simple value of the Real Estate of which the said James Barden died seized and possessed is \$840. $\frac{5}{8}$ and the annual value thereof is \$52. $\frac{2}{8}$, which sum will, in five years, pay the debts proved against the same.

Given under my hand, as Commissioner in Chancery aforesaid, the day and year first aforesaid.

Wm. H. Parker,

Commissioner in Chancery.

Commissioner's fee
\$10. $\frac{0}{8}$ Charged to
complainant.

Paid W. H. P.