

1909-30

Southampton County Chancery

Drake, John C. vs

Cutler, Curtis et al

"Creditors suit
to sell land to
satisfy judgments"

Cutler, Georgia Earlie

Barham, J. I.

McLennan, J. L. Trustee

Cutler, Thomas

Barham, Eugene

Darden, Jas. J.

Ortlaw & Co.

Wynne, K. A. Trustee

I made

on 13.10.1911

London at 10

11.10.1911 at 10

11.10.1911

11.10.1911

11.10.1911

To The Honorable R.R. Kent Judge of
The Circuit Court of Southampton County Va
in chancery sitting

Humbly complaining your
Orator John C Drake sheweth unto your
Honor that at the November Term 1894
of the Circuit Court of Southampton Co Va.
he obtained a judgment against Curtis
Cutler on a bond for \$1100 with the
Homestead waived with certain credits
therein enclosed and that ^{there} is now due
on the said judgment at least
\$500 and that the said judgment has
been duly docketed, all of which will
more fully appear by a certified copy of
the said judgment and the endorsement
of its being docketed herewith filed
marked exhibit A and prayed to be taken
as a part of this bill

Your Orator states further unto
your Honor that on the 14th of October
1894 Curtis Cutler and his wife Georgie
Cutler by deed of Trust duly recorded
conveyed to J. L. McLeary all the real estate
devising to him by the last will and
Testament of J. D. Cutler and another tract
of 130 acres of land purchased from

* all of which will more fully appear by a certified copy of the said deed or trust instrument file marked (C) and prayed to be taken as a part of this bill

James J. Dardine and 5 horses ^{to thing increased} & land
of battle ^{trust increased}, 50 hogs, ^{there increased} 12 sheep, ^{their increased} 2 brandy stills
wagon, ^{1 buggy & harness} 2 carts, crops of 1894 and furniture
in trust to secure a bond of \$1629 due
to J. L. Barham all of which will more
fully appear by a certified copy of the said deed
or trust instrument file marked TB and
prayed to be taken as a part of this bill
That by deed of trust dated the 20th of
October 1894 Curtis Butler conveying the same
property to the same trustee to secure
a bond for \$200 due to Guyra Barham
a bond for \$200 due to Thos. Butler
an account for \$200 due to J. J. Dardine and
account of \$170 due to Pullen & Co., By
deed of trust made of the 26th of October
1894 Curtis Butler conveying to R. A. Wyams
as trustee all the chattels ^{estate} which he had
which was not conveyed in the type before
mentioned deeds; and such surplus as should
be left ^{after} satisfying and paying the debts
due secured by the two before mentioned deeds
to secure a bond for \$116,500 due to Jas
J. Dardine and another bond \$1008.1000
due to Jas J. Dardine all of which will
more fully appear by a certified copy of
the said deed marked exhibit DD and
prayed to be taken as a part of this
bill

7
Your Orator sheweth further unto
your Honor that the appraised value of
the land conveyed some 923 acres
is \$4000 and the personal estate
conveyed stock of horses sheep &c and
crops must be at least \$1000 making
in all the sum of \$5000 at the lowest
and that the timber standing on the
land can be sold for \$1500 making
the sum of \$6500 to pay debts secured
by the three deeds of trust amounting
to the sum of \$3423, Furthermore
your orator has been informed and
charges that at least \$1000 of the debts
secured by these deeds has been paid
off ^{leaving} only an indebtedness of \$2500
with property secured by the deeds worth
\$6500 to pay that indebtedness, Your
Orator states further to the court
that these deeds of trust can be
closed out and a sale held by the
trustee after reasonable notice and
time having been secured by the
grantors in the said deed for which
they should be answerable.

In further consideration whereof
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 Curtis Butler and his wife Georgina
Earlie Butler. J. L. Barham, J. L. McTearns
Trustee, Thomas Butler, George Barham
Jas. J. Dandlen, Puttows Co. and R. A
Wiggins Trustee may be made parties
defendants to this bill and that the court
would compel them as full and perfect
answer make to the allegations therein
contained as if they had been themselves
more fully and specially interrogated
but answer on oath is hereby waived
that the court would by its decree
direct the said Trustee J. L. McTearns
and R. A. Wiggins to sell the real estate
and personal estate conveyed to them
by Curtis Butler and his wife either
for cash or on such time as to the
court may seem best and after
pay^{ing} the debts in the order directed
by the said deeds or first apply
so much of the money ^{as} may be
necessary to the payment of your Masters
judgment and that all necessary accounts
may be taken and that the court would
grant such other and general relief as equity
may dictate and the nature of his case
may require and as in duty bound your
orator will ever pray, and he hereby gives notice
to all the defendants that he will ask the court
to allow him compensation for B. Shands as a
reasonable fee for their services in this
suit

Shands to Comptroller

Cutter Cuto wife

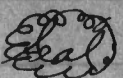
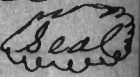
Trust Dues

Exhibit "B"

This Deed of Trust made and entered this the 20th
day of October 1894, by and between Curtis
Butler, Georgie Early his wife of the one part grantors
& J. L. McLenore Trustee & party of the second part
Witnesseth: that for and in consideration
of the sum of one dollar the said grantors and
parties of the first part do hereby grant
bargain sell & convey unto the said trustee
with general warranty unto the said trustee
the following real property to wit: All of
his real estate of every nature and description
which was devised to him by the last will
and testament of G. D. Butler decd. for accurate
description of which reference is made to said
Will of record in the Clerk's Office of the
County Court of Southampton County. Also
all of that certain tract of land known as
the Glover place near Diamond Bridge contain-
ing about 130 acres more or less & is the same
tract purchased by me at Trustee's sale made
by J. J. Darden Trustee: reference to which
Deed from said Trustee is here made for
better description. The said grantors also
convey the following Chattel Property to wit:
5 horses & there increase, 6 head of Cattle & there increase,
50 hogs & there increase, 12 sheep & there increase,
1 buggy & harness, 2 Brandy Stills with cider
presses, with all the fixtures & appurtenances
connected therewith, 2 carts & wheels, 1 wagon
& the harness connected with the same. All
of the crops of every kind raised by the grantors ^{during}
the year of 1894, Also All of his household
& kitchen furniture. It being the intention

of the grantors to convey in this deed all of the property conveyed in Deed of Trust to secure J. L. Barham dated October 19th 1894. & of record in the Clerk's Office of the County Court of said County of Southampton. In trust to secure equally & without priority the following debts due by Curtis Butler to wit: One bond of even date herewith for two hundred dollars due on demand unto Thomas Butler one bond for two hundred dollars of even date herewith & due on demand unto Eugenia Barham and Open account due to J. C. Garden amounting to about one hundred & seventy Dollars.

It is agreed that in the event of a sale hereunder the Trustee shall receive the usual commissions of 5% on gross sales
Witness the following signatures & seals

Curtis ^{his} _{mark} Butler 
Georgie Early Butler 

Virginia County of Southampton to wit:
I Richard Howard a Notary Public in and for the County of Southampton & State of Virginia do certify that Georgie Early Butler the wife of Curtis Butler whose name is signed to the writing above bearing date October 20th 1894. Has acknowledged the same before me in my County aforesaid.

Given under my hand this the 20th day of October 1894
Richard Howard
Notary Public

Southampton County to wit:

I B. F. McLeMore a Commissioner in Chancery of the Circuit Court for Southampton County in the State of Virginia, do hereby certify that Curtis Butler whose name is signed to the writing hereto annexed, dated October 20th 1894. has acknowledged the same before me in my County & State aforesaid. Given under my hand this 20 day of October 1894.

B. F. McLeMore
Comm. in Chancery of the
Cir. Ct. for Southampton, Co. Va.

Southampton County, In the Clerk's Office
October 24th 1894: The foregoing Deed of Trust
from Curtis Butler wife to J. F. Darden
& others Trustee, was this day received and
with the certificate annexed admitted to
record

Teste B. F. McLeMore C. C.

a copy:

Teste: B. F. McLeMore C. C.

In Southampton Circuit Court,

November Term, 1894

Against John L. Drake Pltff.

In

Lurtis Butler Deft.

Judgment for the Plaintiff against the Defendant for \$ 1100⁰⁰ Homestead waived with legal interest thereon from first day of January, 1893, till paid, and costs, \$ 8²⁵

Extract.

Teste:

B. F. M. Lenoir C. C.

By A. B. Urquhart Jr. D. C.

Drake
VS } Statement of Costs
Gunter

Suggestion Dismissal
Nov. 23/96

Recs. Jan'y 24. 96 of L. A. Barker #33.41 bal. Cash in New Case

Chancery Suit

Drake vs. Butler - Statement of Costs

Sums - 25 - 9 Copies 1.17	Recd. 18 - Atty. 10 -	1.70
Dock 18 - Rule 50 - Enter return 35 - fil Bick 15 -		1.18
Do 24. 25 - Rule 50 - Copy 24 1.75	Decr 72 -	32.2
Low cost 40 - fil, away papers 25		<u>6.5</u>
Check Paid L. A. Gay		\$6.75
Shff, Pdr. J. M. Williams		4.00
Lawrc. Paid W. Rhoads Jan'y 25 1896		<u>16.50</u>
		\$27.25

Learn. Law Suit.

Drake vs. Butler

Costs in said suit, Barker p'd to Drake	8.25
22 execution	1.66
Issuing Garnishes + 2 copies	1.00
Shff for Levy	3.00
Shff for executing Garnishes p'd J. M. W.	<u>1.00</u>
	\$14.91
	27.25

Jan'y 10th 1896	Total	\$41.66
	Less L. A. Gay c.c.	<u>8.25</u>
		\$33.41

Drake

vs } Statement of Rules

Butler et als.

John L. Drake,

Plaintiff.

Vs In Chancery

Curtis Custer, G. E. Custer, J. L. Barham, J. L. McLenore
Trustee, Thomas Custer, Eugenia Barham, J. J. Darden,
Preston & Co. R. A. Hyams Trustee Defendants

1895. 24th Aug. Process Sps. to 1. Sept. Rules.

1895. 1st Sept. Rules. Process returned ^{as to Eugenia Barham} excepted, except on

Bill & Exhibits filed. Decree nisi vs Defendants, &

1895. 2nd Sept. Rules. Bill taken for confessed and

Case set for hearing except as to Eugenia -
Barham.

Curtis Culler

Trust Seed

Exhibit "D."

This Deed of Trust made this 26th day of October in the year 1894, between Curtis Butler the grantor of the first part and R. A. Wynns Trustee of the second part all of Southampton County Virginia Witnesseth: That the said Curtis Butler the grantor doth grant unto the said R. A. Wynns Trustee the following property to wit: all the ~~hatter~~ property said Butler may have that is not conveyed in two deeds of trust made by said Butler one to secure J. L. Barham, and the other to secure Tom Butler, Pretlow & Co. Jas. J. Darden and others and this Deed of Trust conveys all surplus that may be left after satisfying the debts in the two deeds of trust above mentioned. To secure one bond due Jas. J. Darden for one hundred and sixteen dollars and fifty cents dated April 26th 1894. Also one bond due Jas. J. Darden for one thousand eight dollars and fifty cents, signed. October 26th 1894- and if it becomes necessary for the Trustee to sell any property he shall give the usual notice and sell on the usual terms pay the usual commissions of five per cent and all other cost and pay off the above debts and the balance if any, pay over to said Butler or his legal representative Witness: the following seals and signatures this day and date first above written

Witness
St. J. Story
Jas. R. Darden

Curtis^{his} Butler 
mark

Southampton County.

In the Clerk's Office Oct 26th 1894: The foregoing
Deed of trust from Curtis Carter to J. J. Darden
Trustee, was this day received, proved
by the oaths of W. J. Story & Jas. R. Darden
the two subscribing witnesses thereto, and
admitted to record.

Test: B. F. McLenore C. C.

A Copy:

Test: B. F. McLenore C. C.

Curtis Cutler's

Trust Deed

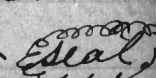
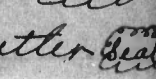
Exhibit "B"

This Deed of Trust made and entered
into this the 19th day of October 1894,
by and between Curtis Cutler & Georgie Early
Cutler, his wife of the County of Southampton
& State of Virginia of the one part, and
J. L. McLenore Trustee & party of the second
part, Witnesseth: That for and in considera-
tion of one Dollar the said Curtis Cutler
& Georgie Early, his wife, parties of the first
part do hereby grant bargain sell & convey with
general warranty unto the said Trustee,
the following real & personal property to wit:
All of his real estate of every nature and
description which was devised to him by
the last will and testament of Goodwin
D. Cutler decd: for accurate description of
which reference is made to said will,
recorded in the Clerk's Office of the County Court
of Southampton County, also all of that
certain tract of land known as the
Glover Place, containing about 130 acres
more or less & is the same tract purchased
by me at Trustee's sale made by J. J. Carden,
Trustee, reference is made to the deed from
said Trustee to me, of record in said
Clerk's Office of this County. Also the
following chattel property of the grantors
to wit: 5 horses & their increase, 6 head
of cattle & their increase, 50 hogs & their
increase, 12 sheep & their increase, 1 buggy
& harness, 2 Brandy Stills, with cider presses
& all the fixtures & appliances connected
therewith, 2 carts & wheels, 1 wagon & the

harness connected with the same, All of the crops of every kind raised by the grantor during this year (1894) consisting of cotton, corn, fodder, peanuts &c. Also all of his household & kitchen furniture, of every nature.

In Trust to secure the payment of one bond bearing even date with this deed and due on demand unto J. L. Barham, by the said Curtis Butler & Georgie Early Butler for the sum of Sixteen Hundred & Twenty nine & 5/100 Dollars. In the event of a sale the Trustee shall be entitled to usual commission of 5% on gross sales.

Witness the following signatures & seals:

Curtis^{his} Butler 
Georgie Early Butler 

State of Virginia

County of Southampton to wit:

I, Richard Howard a Notary Public in and for the County of Southampton and State of Virginia, do certify that Georgie Early Butler the wife of Curtis Butler whose name is signed to the annexed Deed of trust, bearing date October 19th 1894, has acknowledged the same before me in my County aforesaid.

Given under my hand this 19th day of October 1894.

Richard Howard N. P.

Southampton County to wit:

J. B. F. M. Lemore a Commissioner in Chancery of the Circuit Court for the

County aforesaid in the State of Virginia
do hereby certify that Curtis Butler, whose
name is signed to the writing here to
annexed, dated October 19th 1894 has acknowledged
the same before me in my County
aforesaid

Given under my hand this 19th day of October 1894

B. J. McLeMORE

Comm. in Chancery of
the Sup. Ct. for Southampton Co., Va.

Southampton County

In the Clerk's Office Oct. 22. 1894

The foregoing Deed of Trust from Curtis Butler
& wife to C. L. Barham's trustee was
this day received & with the certificate
annexed admitted to record.

Attest B. J. McLeMORE C. C.

A Copy Attest: B. J. McLeMORE C. C.

Memorandum for
The clerk. The papers
to be copied and filed
with the bill

copy Memorandum for Clerk of Circuit Court
file an abstract of the judgment and
statement of its being docketed state the
sums paid over same Exhibit A

copy - Deed of Trust of 19th of October
1894 from Curtis Carter to
J. L. McLenore Exhibit B

copy - Deed of Trust from
same to the same Oct
20th 1894 Exhibit C

copy Deed of Trust from Curtis
Carter to R. A. Wagoner Exhibit D
and file with bill

Shames to Tom

Drake

against 8 sum.

Butler & as

1895- 1st Sept Rules

Civ. Ct.

Executed by de-
-positing a copy
of this sum to each
of the within named
parties defendant & -
-Capt. Eugene Barram
who is dead.

J. Williams Stg
v. R. Dinan de p't for

J. Williams
Aug 29 1895 Stg

29 (\$)

Shanda & Son, p. q.

Droke -1909-

vs 3 12th Decree

Quies et al

To be entered
Sept. 20, 1895

Robert H. Hunt

Entered

Page 30

Droke

vs } Decree
Cutter et al

This day this cause came on to be heard on the plaintiff's bill taken as for confessed, as to all the defendants and exhibits therewith filed and was argued by counsel. On consideration whereof the court doth adjudge order and decree that one of the commissioners of this court proceed to enquire and report 1st what real estate the said Cutter has, stating its actual and annual value 2nd what liens there are binding the same stating their dignities and priorities. Together with any other matters specially stated deemed pertinent by himself or which he may be required so to state by any interested party.