1895-016 Chancery Causes. W. L. Cutchin, John W. Cutchin v Catherine M. Cutchin, by &c
Isle of Wight County VS J. T. Cutchin, A. R. Whitehead, trustee & John L. Underwood

other SURNames: White, Bunkley
Crumpler, Gwaltney, Kilby,
Spivey

Everett Waddey, Stationer and Printer, Richmond, Va. } Form No. 306.

Know all Men by these Presents, That we W. L. Cutchin, Edward Cox and John H. Kelly and Joseph E. White are held and firmly bound unto the Commonwealth of Virginia, in the sum of fifty dollars, to the payment whereof, well and truly to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. And we hereby waive the benefit of our exemptions as to this obligation, and also of any claim, or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of said office, post or trust, with coupons detached from bonds of this State. Sealed with our seals, and dated this 17th day of December, one thousand eight hundred and eighty nine.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas the above bound Catharine M. Cutchin by J. W. Cutchin her next friend; J. W. Cutchin and W. L. Cutchin on their bill in chancery against J. F. Cutchin, Jno. L. Underwood, and A. R. Whitehead trustee, addressed to the Judge of the Circuit Court of the Isle of Wight county has obtained from the said Judge an injunction to injoin and restrain A. R. Whitehead, trustee; J. F. Cutchin and Jno. L. Underwood their employees, agents & attorneys, and all other persons from foreclosing the deed of trust, in proceedings instituted & from selling any of the property therein named, till the further order of the said court until the future order of the said court; and whereas it is provided, by the order of the said Judge awarding the said injunction, that the plaintiffs shall not have the benefit thereof until they, or some one for them, shall enter into a bond, with good security, in the clerk's office of the said court, payable to the Commonwealth of Virginia, in the penalty of fifty dollars, and conditioned to pay all such costs as may be awarded against the said plaintiffs, and all such damages as shall be incurred in case the said injunction be dissolved. Now, therefore, if the said Catharine M. Cutchin, J. W. Cutchin and W. L. Cutchin shall pay all such costs as may be awarded against them, and all such damages as shall be incurred in case the said injunction be dissolved, then this obligation to be void, otherwise to remain in full force and virtue.

Executed in the presence of

W. L. Cutchin SEAL.

J. H. Kelly SEAL.

J. E. White SEAL.

In the Clerk's Office of the Circuit *Court of the* County *of* Isle of Wight.

This day personally appeared before me N. P. Young, Clerk of the Circuit Court of the County of Isle of Wight Jno. H. Kelly & Joseph E. White, and made oath that their estate, after the payment of all their just debts, and those for which they are bound as security for others and expect to have to pay, are worth the sum of fifty dollars, over and above all exemptions allowed by law.

Given under my hand this 17th day of Dec., 1889.

N. P. Young Clerk.

FORM NO. 306.

Circuit Ct for D. C.

to { INJUNCTION BOND.

Commonwealth

Dec. 12th 1889.
Executed & filed.

F. M. Jordan ..... Plaintiff.

VS. IN DEBT.

John W Cutchin ..... Defendant.

Isle of Wight Co., VA., 13 April 1886

JUDGMENT: That the Plaintiff recover of the Defendant Seven 16/100 Dollars, with interest thereon from the 20th day of August 1883, till paid; and One Dollars for his cost.

Jno. R. Pundie, J. P. SEAL

To A. R. WHITEHEAD, Constable of Said County:

I COMMAND YOU, in the name of the Commonwealth of Virginia, that of the goods and chattels of John W Cutchin in your district, you cause to be made the sum of Seven 16/100 Dollars, with interest thereon from the 20th day of August 1883, till paid, which F. M. Jordan has recovered before me, in a warrant in debt; also the sum of One Dollars, which has been adjudged to the said F. M. Jordan for cost in prosecuting this warrant.

Given under my hand, this 13th day of April 1886

COSTS TAXED:

Justice	$ .30
Clerk of County Court	$ .20
Constable	$ .30
Witnesses	$
Total	$ 1.00

Jno. R. Pundie, J. P. SEAL

No effects June 86

A. R. Whitehead

Exec't

In Yolo

U.S. Dist Ct for

Southern California

14 40

Dear Sir Enclosed
Please find Receipt
for Goods Purchased by the undersigned
for the Family Use
June 10/1886

April 21 1886
Dear Mr Reed
Thank the Reverend Gentlemen
for $14.40 received
June 10 1886
Dear Sir
C. B. Reed Esq

Virgil Caroline

14 4°

TO A R Whitehead, CONSTABLE OF SAID COUNTY:

I COMMAND YOU, in the name of the Commonwealth of Virginia that of the goods and chattels of Willie Cutchein in your district, you cause to be made the sum of Fourteen & 40/100 Dollars, with interest thereon from the 10th day of June, 188 6, till paid, which Joe Edwards ordered 21 apr 1888 has recovered before me, on a warrant in debt; also, the sum of One & 50 Dollars, which has been adjudged to the said Plantiff for costs in prosecuting this warrant.

Given under my hand, this 29 day of Oct, 188 8.

COSTS TAXED:

Justice	$ 1.00
Clerk of County Court	$ .20
Constable	$ .30
Witnesses	$
Total	$ 1.50

C B Hayden J. P. [SEAL.]

Norfolk Nov 29th 1888

A. N. Whitehead

Esq

Edwards N Y

Dear Sir

Enclosed I

Sale Sale!

On Friday, the 13 th day of December, 1889, I will offer for sale for cash, at the farm owned by Jas E. White, the following towit.

1 Bay Horse, 3 Cows, a lot of Hogs, 1 Buggy, and a lot of farming Implements.

A.R. Whitehead, Trustee.

December 2 nd, 1889.

This Contract Made and entered into
the 1st day of January 1889 between J. E. Wilson
of the first and Thomas Catchins and his son
Williams Catchins of the second part—
Witnesseth— That the party of the first part
doth covenant and agree to grant unto the
party of the second part— all of that por-
tion of his farm known as the home place
except the tenant-house on the south
side of the county road and about
(8) eight acres of land attached thereto
also all of the orchard and such a part
of the dwelling house and out-houses
as is necessary for the comfort of
his family— Produce farming imple-
ments &c he furthermore agrees to have
or cause to be hauled 1000 fence rails.
The party of the second part— doth cov-
enant and agree to cultivate the aforesaid
farm to the best of his knowledge and
ability and in such crops as will
be to the best interest of both parties and
they furthermore agree to give unto the party
of the first part— one third of all the
corn and fodder that shall be made on
the aforesaid farm when cured & husked,
one fourth of all peanuts made on said farm
if he the party of the second part picks them
all off; if the party of the first part prefers to
pick his share of them, the party of the
second part agrees to give one third of
all they shall make. They furthermore agree
to give ——— of all trucks they shall

Make or caused to be made: All for the rents use and profits of the aforesaid farm for the year 1889 The parties of the second part further more agrees to hand the aforesaid fence rails and place them on the fence also to shut the fence down out and make as much manure as is practicable for them to do

Given under our hands and seals this day of January 1889

J. J. Curtis mark + (Seal)
W. L. Curtis (Seal)
(Seal)

As for trucks the party of the first part is to have one third of over 1000 potatoes & one third of melons over 500 Mills

J. J. Curtis

OFFICE OF

E. B. Fergusson & Co.,

Dealers in General Merchandise,

Orbit, Isle of Wight Co., Va. ..... 1889.

"Sale" "Sale"

I will sell at
public Auction on Friday
the 13th day of Dec-1889 the
the Farm owned by J. E. White,
to satisfy a deed of Trust made
to me by J. T. Cutchins. The
following property, to Wit.-
1 Bay Horse Mare "Lily." 2 Cows
a Lot of Hogs 1 Buggy and
a lot of farming implements.

A. B. Whitehead
Trustee.

Dec-2-189

Curtin &c. et. als.
vs. E
Curtin et. als.

Trustee's Notice

Exhibit "B"
filed with bill

This Deed of Trust made this eight day of June A.D. 1889, between J. T. Cutchin of the one part, and A. R. Whitehead trustee of the other part, all of the county of Isle of Wight in the state of Virginia

Witnesseth that the said J. T. Cutchin does hereby grant convey and assigned to the said A. R. Whitehead trustee all his right title and interest in and to the following personal property to wit, one mare known as "Daisy" one cart and wheels, four plows, one cultivator, three cows, one sow and pigs, with all their natural increase, one clock, one open buggy, together with odds and any other house hold and kitchen furniture & farming implements that may be acquired by gifts or purchase.

In trust to secure to Jno L. Underwood the sum of ($100.00) One Hundred Dollars due for rent of farm for 1888, evidenced by the bond of said J. T. Cutchin, bearing date the first day of Jany. 1889, payable on demand with interest from date for the said sum of one hundred dollars.

The said trustee is hereby especially empowered to dispose of all or any part of the said property herein conveyed, on any terms he may think best, when ever he is requested so to do by the said J. L. Underwood.

Witness the following signature & seal.

J. T. his + Cutchin (Seal)
mark.

Virginia

County of Isle of Wight

I C. B. Hayden a notary public for the county aforesaid, in the state of Virginia, do hereby certify that J. T. Cutchin whose name is signed to the writing above bearing date the 8th day of June A.D. 1889, has acknowledged the same before me in my county aforesaid

Given under my hand this 8th day of June A.D. 1889

C. B. Hayden
Notary Public,

In the clerk's office of the county court of Isle of Wight county, June 13th 1889, this deed was received and with the certificate annexed admitted to record.

Teste A. P. Young clk
by A. B. Young D.C.

A copy Teste A. B. Young Dep. clk
for N. P. Young clk

Cutchin her fmd et. al.

vs.

Cutchin et. als

Copy Deed of trust.

Exhibit "A"
filed with the bill of
complaint.

Cutchin per friend

vs

Cutchin et. al.

On motion of both parties, defendants and plaintiffs, it is ordered that this suit be dismissed from the docket

Cutchin for Friend

vs

Cutchin et. als.

Decree

To be entered

Robert C. Lewis

April 23, 1895.

Entered #18

Stationer and Printer, Richmond, Va. Form No. 300.

The Commonwealth of Virginia,

To the Sheriff of the County of Isle of Wight, Greeting:

WE COMMAND YOU, That you summon J. T. Crutchfield, Jno. A. Underwood, and A. R. Whitehead, trading

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules to be held for the said court on the third Monday in December, 1889, to answer a bill in Chancery exhibited against them in our said court by Catharine W. Crutchfield, by J. W. Crutchfield her son and next friend; J. W. Crutchfield and W. L. Crutchfield

And have then there this writ. Witness, N. P. Young, Clerk of our said court, at the court-house, the 17th day of Dec. 1889, and in the 114 year of the Commonwealth.

N. P. Young clk

Form No. 300.

Cath: Jr. Cutchins
for P. Clerk,

vs. { SUBPŒNA IN CHANCERY.

J. P. Cutchins et als.

W. S. Holland p.q.

To Third Rules, Rules,
1889 Circuit Court.

The Board require by the order of the court has been given.

Executed by accepting to the within
Warned W. S. Holland & J. P. Cutchins for
Undersigned & J. P. Cutchins for
true copy of the within
Dec. 13th 1889

W. A. Edwards
Sh'ff

Our injunction in this cause
was reversed by the Supreme
Court of Appeals, and the
Bill, restraining Pollard
Executor, J. P. Cutchins
Executor, &c. &c. from
collecting certain
notes, &c. &c. Pollard and
Executors dismissed
from further attendance
on the Court, and
the Clerk of Lancaster
County Court was
directed to return
the record to the
Court of Appeals of this
County.

Feb'y 1, 1890

A. P. Haynes, c.l.c.

W. L. & D. W. Cutchin & C. M. Cutchin
by D. W. Cutchin

Ex parte-
D. T. Cutchin et-al

I, D. T Cutchin do solemny swear that I have not- for several years past - deserted, left- and wilfully abandoned my wife and children; that I have never refused to provide for them: that I have never been cruel to my wife nor abused nor threatened her except-once of it- can be so considered as will be hereafter explained; nor threatened to send them to the poor house; but- on the contrary have been a true and loyal husband and kind and affectionate father and have provided for my wife and children to the best- of my ability- and as well as they would allow me It- is true I did about- seven years ago take a sled and carry a load of Irish potatoes to Smithfield one hot- summer Day in July and on my return put- them in the pasture to graze and as he was tired and hungry did forbid my wife to take and ~~to~~ drive him two miles further to a friends house and on her persisting in taking him did say damned Kill or be killed before he should be used. If this be the worst meant I admit- it and plead in extenu

makes time, circumstances and the provocation given.

During the Storm on the 6, 7, and 8th of April 1889 I was so much annoyed by the noise of playing by D. E. White and others in the room adjoining my chamber that on the 9th of April I left and went over a neighbors, Peter Spivey's and carried them a bed and bed clothing but came back every day to my meals + work and continued so to do until the 7th day of June when I was cruelly assaulted by the said D. E. White in the presence of my wife and children and knocked down with his fist knocked and beaten by him without one word of protest from them when in fear of my life with and amongst them - the said D. E. White being an inmate of the house - I left and have not been back but from times for clothes and other articles of property - The former of the said D. E. White was sealed by me + by my own W. L. Gutchins as the agreement between us filed with my answer will show.

I have never threatened to send my wife and children to the Poor House but I have told them often that if they did not take care of what they had of what they got they would go to the Poor House - words that were not used as threats but as inducements to care and economy

The Deed of Trust of June 8th 1889 to C. R

Whitehead Trustee was not made to send my family to the Poor House but to pay out of the income in the care and support of them. Every article of property in the Deed of Trust mentioned except the buggy was bought by my money and was my property.

A. R. Whitehead advertised the sale with my knowledge and consent as I wished so much of the property sold as would pay my debt to John L. Underwood; and the advertisement was made at the instance and request of the said John L. Underwood; and the advertisement of sale was by printed Notices of sale as shown in my answer and they were posted in the neighborhood of the D. E. White farm and at three public places in the County. I

I was driven from home by the said D. E. White and by the cruel and inhuman conduct & behavior of my wife and children. Given under my hand this 19th day of December 1869.

Whaley
Jno L Underwood

I. J. his X mark Cutchin

Virginia

State of Wright County to-wit-

I R.S. Herman a notary public for the County of State of Wright whose name is signed to the above affidavit do certify that I. J. Cutchin whose name is signed to the affidavit above this day personally appeared before me and made oath that the statements con-

Cutchin

v

Cutchin

The Affidavit of
J. T. Cutchin
Filed 2nd Dec. Ra. 1889

Cutchin in the above entitled cause
the Plaintiff his Solicitor and
Counsel. Dismiss this suit with
costs. Dated this 20th
day of December A.D. 1889

The affidavit of A. R. Whitehead to the Bill of Complaint of W. L. Cutchin et al vs. Same and others in the Circuit Court of Dare County.

I. A. R. Whitehead of the County of Dare Wright- Trustee in the Deed of Trust of J. T. Cutchin mentioned in the Complainants bill do solemnly swear that I as such trustee did on the 25 Day of December 1887 advertise by printed hand bill, a copy of which is filed with the answer of J. T. Cutchin the sale of the said goods mentioned therein to occur on the day and at the place named; that I did this at the instance and request of the said John L. Underwood that I posted the notices of sale in the neighborhood of the property and at three public places; that all of my acts and conduct as such trustee were at the instance and request of Wm L. Underwood the beneficiary named in the aforesaid Deed of the said J. T. Cutchin the grantor in the said Deed. There were 2 pews, 2 Cows, 8 Hogs, 1 Clock, 1 Bureau & 1 Cupboard not sold

~~Executed and sworn to before me this 20th Day of December A.D. 1887.~~

~~A. R. Whitehead~~

~~Trustee~~

and I do further swear that as constable of the said county on the 21st day of April 1888 Execution for $14.40 and $.50 costs was placed

in my hands on a Judgment rendered by C. B. Hayden Jr. P. against Wilkerson (who is W. L. Culclasure) in a claim of W. J. Edwards against him and he stated and declared he had no property in the World and the Execution was not therefore levied on anything and is still in my hands a copy of which is herewith filed as a part of this affidavit; and that on the 13th day of April 1886 an execution was placed in my hands as constable that issued on the Judgment of John R. Pond Justice of the Peace for $7.16 & 10 cost against W. Culclasure in favor of Mrs. F. Jordan and it was never levied on any thing because from the day it went into my hand until the day of the appointed Sale and even since he has frequently declared he did not own a cent worth of property in the world, and a copy of the said Judgment & Execution is herewith filed as a part of this affidavit.

A. R. Whitehurst
Constable

Subscribed and sworn to before me Robt Thomas in the town of Smithfield on this the 20th of December A. D. 1889

R. S. Thomas J. P.

Culclasure
vs
Culclasure

Affidavit of
A. R. Whitehurst

Filed D. C. Sheriff Co. 1889.

The answer of Wm L. Underwood to the Bill of Complaint of W. L. & J. W. Culchin and C. M. Culchin by J. W. Culchin exhibited against him and others in the Circuit Court of Wright County

This Defendant saving and reserving all right of exception to the errors of the Complainants Bill for answer thereto says That he has been well and intimately acquainted with J. T. Culchin and his family all of his life and that he has never known him to desert & wilfully abandon his wife and children until July last when he assumed as in his answer and affidavit he left the farm of D. E. White where they all lived; That the said J. T. Culchin has worked for, and cared for his wife and family as well as he could under his circumstances; That he became the surety for the said J. T. Culchin in a bond to A. Buckley for a horse, ~~and paid no part of it, as~~ for him and the bond marked "A" is herewith filed as a part of this answer; That the said J. T. Culchin was indebted to this Defendant in the sum of $100 for rent of farm for 1888 for which he gave his bond bearing date on January 1st A.D. 1889 payable on demand and executed the Deed of Trust of June 8th A.D. 1889; That he delivered to the use of the said J. T. Culchin the Cart & wheels as mentioned in the answer of

The said I. T. Culchin ; that he owed him the Rent of the place and cultivation as mentioned in the said answer and affidavit and that he bought-pens for him as mentioned in the said answer ; that he instructed A. R. White head to sell that portion of the property mentioned in his advertisement of sale ; that the advertisement was at his instance and request and one of the notices of sale composed by him. And having answered he prays hence to be dismissed with his costs in this behalf expended And he will ever pray &c.

Jno. L. Underwood

W. Thos

I. John L. Underwood, one of the Defendants in the suit of Culchin V.S. I. V. & Co. Ltd. against Culchin I. T and thus do solemnly Swear that the said I. T. Culchin has not so far as this Defendant knows left or abandoned his Wife except since July last, that he has not been cruel to her, nor ever failed to provide for her and his children as well as his circumstances permitted ; that he was indebted to this Defendant in the sum of One Hundred Dollars or more and that he gave his bond and

executed the Deed of Trust as set forth in the Complainant's bill: That this Defendant won his Safety to A. Buckley for a horse and load part of the money & filed the bond with his answer: That he did deliver the Cart & wheels & the Sd of the said I. J. Culclin as set forth in the said I. J. Culclin's answer: That he sold him the plow & the cultivator and the Sd - the plow of P. D. Gwaltney & Co as set forth in his answer: That he instructed the said A Whitehead the Trustee to sell the articles advertised in the printed hand bill to pay his debt; But the advertisement was made by my request: That the printed Notice of Sale were posted some of them by me: That the debt is due and unpaid. That the injunction ought to be dissolved without cost to me, or to the said A. R. Whitehead Trustee. and that the articles ought to be sold to pay the debt aforesaid.
Given under my hand this 20th Day of December A. D. 1889

Wilcup

Jno L Underwood

Sworn to, and subscribed before me in the County of Isle of Wight this 20th Day of December A. D. 1889.

Lockhin

v

Lockhin

The Answer and
Affidavit of
Jno L. Underwood

//

Filed Ind. Dect. Ct. 1889.

The answer of A. R. Whitehead Trustee to the Bill of Complaint of W. L. & J. W. Culchin and C. M. Culchin by J. W. Culchin exhibited against him and others in the Circuit Court of Day Wright County

This Defendant saving and reserving all rights of exception to the errors of the Complainants bill for answer thereto or to so much thereof as he is advised that it is material for him to answer, answereth saith
That he is the trustee in the Deed of Trust of J. T. Culchin as mentioned in the complainants bill; that as such trustee he was directed and required by Jno L. Underwood the beneficiary in the Deed of Trust to advertise and sell a part of the property as mentioned in the said Deed of Trust; that he did advertise the sale of the land in manner by him printed hand bills as shown in the answer of J. T. Culchin; that the notices of said sale were posted in the neighborhood and at other places in the county, where the land lies for a reasonable time prior to the sale; that all of his acts were directed ordered & endorsed by the said J. L. Underwood and J. T. Culchin: And having answered he prays to be dismissed with his reasonable costs in his behalf most respectfully expended & he will ever pray.

A. R. Whitehead
Trustee

Calchin

v

Calchin

Answer of
A. R. Whitehead

Filed 2nd Dec. Re. 1889.

The answer of D. T. Cutchin to the Bill of Complaint of W.L. Cutchin and L.W. Cutchin and Catherine M. Cutchin against him and then pending in the Circuit Court of Bay Wright-County

This Defendant saving and reserving all right of exception to the said Bill answering says
That it is not true as the said complainants have alleged that he has several times in years past wilfully left and abandoned his wife and children and that he has never failed or refused to provide for them as he should have done. That he has always worked for them and provided for them to the very best of his ability.
That it is not true as the said complainants have alleged that he has ever been cruel to his wife, nor abused her and has never threatened her life nor has he ever been unkind to his children.
It is true that the said Catherine M. Cutchin has a violent and vindictive temper and on one occasion about Eight years ago last July, when this defendant had been to town with a steer team with a load of Irish potatoes in the month of July and had returned about eleven o'clock in the day and the steer was grazing she wanted to take him and take a lady

friend Hyne & one Lid Mulky & said-
this Defendant- did forbid his being
used and on his vowing & the complainant
him this Defendant- did say "he would
Kill or be Killed" meaning in the most-
earnest- and emphatic manner to ex-
press his objection to the use of the steer
and never imagining that the words would
be construed otherwise, and this is all
that this Defendant- can conceive
that can be twisted into a threat and
as to that seven years ago- to have passed
it- to oblivion.

This Defendant- has always tried to discharge
and has discharged to the full of his ability
all of his duties as husband to the said
Catherine M. Culchin, and all of his
duties as father to the said W. L. and
I. W. Culchin

That- it is not- true as the said complain-
ants have alleged that W. L. Culchin
owned of J. E. White his farm for the
benefit- of his mother, sisters, + Bro. Thos
as they have alleged, but the said farm
was on the first- day of January 1889
owned of the said J. E. White by this
Defendant- and W. L. Culchin as
the agreement- of the parties hereunto
fore marked "A" wh shows which
is prayed to be taken as a part- of this
Answer.

That it is not true as the said complainants have alleged that he deserted his family in March, but on the contrary in April last during the 3 days storm that prevailed on the 6th, 7th & 8th being greatly disturbed in inability to sleep he moved a bed and bed clothing to Peter Spivey's some two miles distant and came home every day to work and did continue to work until the 7th day of July when on that day I was driven from home when I was knocked down by the said L. E. White in the presence of the said W. L. Culclasure my son, in the presence of J. H. Kelly my son-in-law and almost in the presence of J. W. Culclasure my son and my wife who were in the basement only some two steps distant. As this assault was made on me in the presence of my family and as I was struck, knocked down, and kicked while knocked out and was further assaulted by him without one particle of help from my family and without one word of protest by them I went over to Peter Spivey's and have not been back since except for four times at intervals for clothes and on the demand of property belonging to me. This defendant has always as he has said been a loyal & true husband and father and would never have left the roof of his wife and children if he could have remained with them with safety to his life. This he

deply lamented, and if the fault were his he would repent-it- in sackcloth and ashes.

It-is not-true as the said complainant has alleged that he ever threatened to send Them to the Poor House and he cared not-one cent if he worked because all three of the boys are of age, one daughter is of age, one is married, and the two others are 13. & 15 and are able to earn a living; so if any threat was made it was idle & frivolous. This Defendant-admits that when he has something lying around too loose and uncared for he has said as thousand times have said "if You dont-take Care You will have to go to the Poor House", but-this was not-meant-as a threat; only as an admonition & as an incentive & underlying and a saving care.

This Defendant-denies that the Deed of Trust-of the 8th day of June A.D. 1889 was executed with any other thought, purpose, intent, or object-, except-to secure an honest-debt- which is itself shown on the very face of the Deed - the debt of $100- bearing 8 per cent. And every article mentioned in the said Deed of Trust except perhaps the buggy is the property & the sole and absolute property of This Defendant and the claim to the buggy was & is vested in the acts and admissions of the said

W.L. and D.W. Critchlow. The mare Daisy was sold in exchanged for a horse which this Defendant bought of A. Buckley in which Jno L. Underwood was secretly who paid the purchase bond.

The Cart and which is a part of that which was bought of the said Jno L. Underwood by me through my son by whom I paid the money in payment, & the balance made by Jno Underwood & paid for by me.

One light-blood double Dixie plow, and one edge cultivator was also bought by this Defendant of the said John Underwood. The other plows were bought by me, or one of them by Jno Underwood for me of P. D. Gwaltney Jr & Co

The cows I raised. I also raised the sows and pigs. They were from cows & sows that I bought & paid for. The clock was bought from money for peanuts that I raised. And all of the household and Kitchen furniture was bought by my money.

A. R. Whitehead, the trustee in the deed did by the authority of the said Jno L. Underwood at his instance and request, and with my full assent advertise that he would sell on the 13th day of December 1889 at the farm owned by D. E. Whitehead 1 Bay Horse 3 Cows, a lot of hogs a buggy and farming implements and he did advertise the sale

The buggy was purchased by me & obtained by Virtue of the sale made by A. R. Whitehead Trustee as aforesaid of the said Jno L. & Jno W. Underwood,

by Printed Hand bill a copy of which is herewith filed as Exhibit "B" as a part of this answer and this Notice was posted in the neighborhood of the property and at other public places in the County. As the Defendant is done to the best of this Defendant that so much of the property may be sold as shall may be necessary to that end, and the balance except the household and Kitchen furniture be delivered to this Defendant. And having answered he prays that the injunction may be dissolved, that the Justice may be allowed to sell enough of the property conveyed to pay a first and lawful debt and that the balance with the exception aforesaid may be delivered to this Defendant, that he may be discharged with his costs in this behalf expended & he will ever pray &c

Witness
Jno C Anderson

I. J. Tyler Culchin
mark

Virginia
Rockingham County to wit-

I. I. J. Culchin do solemnly swear that the statements contained in the above answer are true and correct to the best of my information

Wm. Rearwed second bailiff.

I Thy X Mark Cuchin

Sworn & subscribed to before me a Notary
public in the County of Burleigh Dak Ter.
on this 19th day of December A. D. 1889

R. S. Thomas
N. Public.

Eulchin

v

Eulchin

Answer
D. T. Eulchin

Filed 2d. Dec. Feb. 1889
"

To the Hon. C. W. Hill, judge of the Circuit Court of Isle of Wight County:

Your orators W. L. Cutchin, J. W. Cutchin and Catherine M. Cutchin the wife of J. T. Cutchin by her Son and next friend J. W. Cutchin show to the Court:

That said J. T. Cutchin fo several years past has at times deserted, left and wilfully abandoned his said wife and their children, failing and refusing to provide for them as he should have done. That said husband and father has for a long time been very cruel to his said wife, abusing her and threatening her life and has also been very unkind to his children, acting as though utterly destitute of the instincts and impulses of a husband or father. That at the beginning of the present year the family occupied the farm of Mr. J. E. White in said Isle of Wight County rented and secured by your orator W. L. Cutchin for his said mother, his sisters and brothers, part of whom are still small children, that in March of this year said husband and father again deserted and abandoned his said family, and although a well and hearty man, did not even assist your orators in making the crop which was lately levied on to pay a debt of said father for which his said son W. L. Cutchin was surety, that on several occasions in the first part of this year said J. T. Cutchin declared his purpose to send his family to the "Poor House" by depriving them of the means of a living, and without then revealing to them his plans, your orators are informed that on the 8th day of June 1889 he attempted to convey all the property which your orators owned in the world by a deed of trust to A. R. Whitehead trustee, a certified copy of which is herewith filed as an exhibit marked "A" and asked to be taken and read as a part of this bill of complaint. Your orators charge and allege that the property in said deed of trust named, included and attempted to be conveyed was not at the time of the making and execution of said deed the property of said J. T. Cutchin and that he had no interest therein to convey, but they aver that the buggy therein named was and is the property of your orators W. L. and J. W. Cutchin, that the cart and wheels therein named was and is the property of said W. L. Cutchin; that the mare called "Daisy", the sow and pigs, the three cows, the clock, the household and kitchen furniture, plows and other property therein named was and still is the property and separate estate of Catherine M. Cutchin, it having been acquired with money derived from her fathers estate and by her own earnings independant of her said husband, and that said husband had no right to convey it at all. That several times during the last ten years said J. T. Cutchin has had his property or a part of that of his wife's sold to satisfy different executions against him:

But notwithstanding these facts the said A. R. Whitehead has informed your complainants very recently that he intends to sell most of said property on the 13th day of December 1889, and very recently posted at Fergusson's Store in said county in the neighborhood of said farm a notice on paper which was taken down by one of your orators and is herewith filed as an exhibit marked "B" and asked to be taken and read as a part of this bill. Your orators say that said notice is radically defective and is illegal. On its face it gives only eleven days notice when the law requires thirty days, it does not state even inferentially that the beneficiary in said deed ever requested or ordered sale, in fact it does not even allude to any beneficiary by name

or in general terms, and it advertises property for sale not even attempted to be conveyed by said deed of trust as will appear by a reference to the two exhibits. Here your orators aver that no " "house-hold and kitchen furniture," and no "farming implements" have been acquired by said J. T. Cutchin "by gift or by purchase" or otherwise, and they say that none is conveyed by said deed even by its own terms. That the pigs which your orators suppose to be alluded to in said deed have been fed, raised and fattened with corn belonging to your orators and upon that pork they are dependant for something to eat while they make another crop.

Your orators say that while said deed of trust was recorded in June of this year, they, nor either of them, ever heard or knew of it till a few days ago.

They are informed and believe that it is the purpose of said trustee under the instruction of said J. T. Cutchin to sell, not simply property enough to pay the debt in the deed of trust mentioned, but that it is the intention to sell all the property your orators own and by so doing to carry out the threat made to send them to the "Poor House".

And whereas your orators are remediless save in a court of equity where such matters are alone and properly cognizable they pray that J. T. Cutchin, A. R. Whitehead trustee and Jno. L. Underwood be made parties defendant to this bill and required to answer the same, an answer on oath is hereby waived as provided by statute, they pray that the said defen-dants their employees, agents and attorneys be restrained and forever prohibited from selling any part of the property in said deed of trust mentioned till the further order of this court, and being exceedingly poor they pray that the penalty of the said injunction bond be made as small as possible, they pray that the question of ownership of said property may be investigated and determined by this honorable court, and that an issue out of chancery may be ordered and tried by a jury at the bar of this Court as to whether said property belongs to said J. T. Cutchin or to your orators, They pray that said notice may be declared insufficient and illegal, that said deed of trust may be construed by the Court, and that said property may be declared to be the property of your orators, and that the right of said J. T. Cutchin to encumber said property may be investigated and determined, that all such other further and general relief may be afforded your complainants or orators as their case requires or to equity and good conscience may seem meet, and they will ever pray &c.

Virginia.
County of Isle of Wight:

I, W. L. Cutchin do solemnly swear that the statements contained in the foregoing bill in chancery are true, to the best of my knowledge, information and belief.

W. L. Cutchin

Subscribed and sworn to before me at Windsor in Isle of Wight County this 9th day of December 1889.

W.S. Holland

Com'r. in Chan'y. &c.

An injunction is awarded the plaintiffs in accordance with the prayer of the bill restraining said A. R. Whitehead trustee, J. T. Cutchin and Jno. L. Underwood their employees, agents and attorneys and all other persons from foreclosing said deed of trust, from selling any of the property therein named till the further order of the Circuit Court of Isle of Wight County, but before this injunction shall take effect, one of the plaintiffs or some one for him or her shall enter into a bond in the penalty of $50 before the clerk of the said court with surety by said clerk deemed sufficient, payable to the Commonwealth of Virginia and conditioned to pay all costs and damages by reason of the injunction herein awarded.

C Mott Judge &c

To the clerk of the Circuit Court of Isle of Wight County,
December 9th 1889.

W.S. Holland P.Q.

Cutchin &c. et. als.

Vs.

Cutchin et.als.

Bill of Complaint.

Dec'd. 12th 1889. filed
Summs. iss'd with order
of injunction. Bond
executed.

Def'ts. Rls. 3d Monday
Demurrer or. def'ts.

Jany. Rls. 1890.
Set for hearing.

April Term 1895
Final