

1921-008

Chancery Causes: Miltor Dunston, committee of Josiah Dunston vs
Isle of Wight County Josiah Dunston, by & c + T. Julius Dunston

295

Plat

Other SURNAMES: Holland, Babb,
Saunders

Milton ~~vs~~ Dunston
in his own right
and as Committee
of Josiah Dunston
vs. 4 Cy 195
Josiah Dunston et al.
Bill and Exhibits

G. A. HARRIS

ATTORNEY AND COUNSELLOR AT LAW

SUFFOLK, VIRGINIA

STATE OF VIRGINIA:

County of Isle of Wight, to-wit:

I, W. J. Rhodes, a Notary Public in
and for the County and State aforesaid, do certify that
Milton T. Dunston in his own right and as Committee of Josiah
Dunston, the complainant in the above suit, this day personally
came before me in my county aforesaid and made oath that he
believes the several statements made in the foregoing bill to
be true.

Given under my hand this the 28 day of ^{Dec}~~November~~, 1918.

W. J. Rhodes
Notary Public.

ease-ment first above mentioned, as the offer of the said Virginia Railway and Power Company is much larger than would be awarded by Commissioners in condemnation proceedings, and he thinks the foregoing facts are calculated to show the propriety of such sale. And your complainant believes the rights of no person will be violated by such sale.

If the said Josiah Dunston were dead the following persons would be the heirs and distributors, viz: Milton Dunston and T. Julius Dunston.

In tender consideration of the premises and for as much as your complainant is remediless therein, save in a court of equity wherein such matters are cognizable and relievable, your complainant therefore prays that the said Josiah Dunston and T. Julius Dunston may be made parties defendant to this bill, and required to answer same, the said Josiah Dunston insane by his guardian ad litem to be assigned him, who may be required to answer this bill under oath, and the said T. Julius Dunston in proper person, though not under oath, which is hereby waived, that the said easment of right of way may be decreed to be sold and the proceeds invested as the Court shall direct; that all the proper allowances and counsels fees may be made in this suit; and that all proper accounts may be taken, inquires directed and such other and further and general relief may be granted as to equity and good conscience may seem meet and proper.

And your complainant will ever pray, etc.

Milton Dunston

In his own right, and as Committee of Josiah Dunston, an insane person.

line or lines; and provided further, that no building or structure other than fences shall be erected upon the said strip of land by the said Josiah Dunston. The said Virginia Railway and Power Company is a Corporation chartered under the laws of the State of Virginia and authorized by its Charter and the laws of the State of Virginia, to construct, maintain and operate an electric works for the supply and distribution of electricity for light, heat and power, and has acquired an easement of right of way to construct, maintain and operate an electric transmission line from its works, known as the Locks Power House in the County of Dinwiddie, Virginia, through the Counties of Dinwiddie, Prince George, Sussex, Southampton, Isle of Wight and Nansemond, and connecting with its transmission line between the County of Nansemond and its works in the City of Norfolk, Virginia, for the supply and distribution of electricity for light, heat and power at Norfolk, and has power to exercise the right of eminent domain for its uses and purposes aforesaid, according to the Statutes in such cases, made and provided, and has duly and legally determined to construct, maintain and operate said electric transmission line as above stated, which will necessarily pass over and across the land of the said Josiah Dunston, and as the said Josiah Dunston is now compos mentis, it is impossible for the said Virginia Railway and Power Company to make any agreement with him at this time, with reference to the said right of way, and therefore, has offered your complainant as Committee as aforesaid the sum of Four Hundred and Eighty (\$480.00) Dollars for said easement of right of way, provided the same can be properly acquired without the necessity of entering into condemnation proceedings.

Your complainant thinks that the interest of the said Josiah Dunston will be greatly promoted by the sale of the

The said real estate was derived by the said Josiah Dunston by deed from William S. Holland and Wife, bearing date the 28th day of February, 1899, and recorded on the 3rd day of April, 1899, in Deed Book No. 66, Page 595, in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia.

That this is all the property, real or personal, which the said Josiah Dunston owns.

Your complainant thinks that the interest of the said Josiah Dunston will be greatly promoted by the sale of the perpetual right, privilege and easement of right of way, One Hundred (100) feet in width, upon, through and across the above mentioned lands and property of the said Josiah Dunston, as shown by a blue print herewith filed, marked "B", and prayed to be taken as a part of this bill, to the Virginia Railway and Power Company, for the purpose of constructing, maintaining in and upon and through said premises with poles and towers, wires and other necessary apparatus and appliances, a line or lines for the purpose of transmitting power by electricity, together with the right, at all times, to enter upon the said premises for the purpose of constructing said lines and inspecting the same, and making necessary repairs and alterations thereon or extensions and additions thereto together with the right to cut away and keep clear of said lines all trees or other like obstructions that may, in any way, endanger the appliances or the proper operation of the same, reserving for the said Josiah Dunston the right to use the land herein above described upon which the said transmission line or lines may be erected for agricultural or any other purposes not inconsistent with the right herein above stated, provided such use shall not injure or interfere with the proper operation, maintenance or repair of or extension or addition to the said

VIRGINIA:

In the Circuit Court of Isle of Wight County.

Milton ~~T.~~ Dunston, in his own right and as)

Committee of Josiah Dunston)

vs.)

Josiah Dunston and T. Julius Dunston.)

To the Honorable B. D. White, Judge of the Circuit
Court of Isle of Wight County, Virginia:

Humbly complaining, sheweth unto your honor, your complainant, Milton ~~T.~~ Dunston, Committee of Josiah Dunston and in his own right, that he was appointed and qualified as Committee of the said Josiah Dunston before the Clerk of the Circuit Court of Isle of Wight County, Virginia, on the 29th day of November, 1918, as will appear from a certificate of the Clerk of the Court showing the same, herewith filed, marked "A", and prayed to be taken as a part of this bill. That the said Josiah Dunston is owner in fee simple of the following real estate situated in the County of Isle of Wight, Virginia, viz:

All that certain tract, piece or parcel of land beginning at the Southwest corner of the lands of W. T. Chandler, or that which was his, thence in straight line along the line of marked trees, straight to a small chopped pine on the North side of the old bogy track leading from the old saw-mill site of Robert Watkins, or that which was his, and Eley near to the William N. Bittle field; thence up the middle of said bogy way to the lands of Mrs. John H. Johnson; thence along her line to the lands of F. C. Johnson, or that which was his; thence along said Johnson land to the County Road; thence up said road towards Windsor to the land of John C. King and C. T. King, or that which was theirs; thence along the line of the said King's and A. B.P. Holland and W. T. Chandler, or that which was theirs, to the point of beginning.

Milton & Ducreston
 vs /cy 195
 Josiah Ducreston
 et al.

Answer of
 Guardian ~~Ad Litem~~
 and
 Insaue Defendant

G. A. HARRIS
 ATTORNEY AND COUNSELLOR AT LAW
 SUFFOLK, VIRGINIA

STATE OF VIRGINIA:

City of Suffolk, to-wit:

Sworn to before me in my city aforesaid by John K. Hutton,
guardian ad litem as aforesaid, this the 28th day of December
A.D. 1918.

G. A. Harris Commissioner
~~Notary Public~~
in Chancery ~~of~~ the
Circuit Court for the
City of Suffolk Va.

VIRGINIA:

In the Circuit Court of Isle of Wight County.

Milton T. Dunston in his own right and as Committee of)
Josiah Dunston)

vs.)

Josiah Dunston and T. Julius Dunston)

Answer of Josiah Dunston, insane by Guardian ad litem
and of Guardian ad Litem.

The answer of Josiah Dunston, insane, by John K. Hutton
(a discreet and competent attorney at law), his guardian ad Litem,
assigned to defend him in this suit and the answer of the said
John K. Hutton, Guardian ad Litem of the said Josiah Dunston, in-
sane defendant, to a bill of complaint exhibited against the said
Josiah Dunston, insane, and others, by Milton T. Dunston in his
own right and as Committee of Josiah Dunston, in the Circuit
Court of Isle of Wight County, Virginia.

For answer to said bill the said Josiah Dunston, defend-
ant, by his Guardian ad Litem, answers and says that being insane,
he does not know what his true interests are in relation to the
subject matter of said bill, nor does he know whether the state-
ments contained therein are true or not.

He confides the protection of his interests therein to
the care of the Court.

And the said Guardian ad Litem of said insane defendant
for answer to the bill answer s and says that he knows nothing
as to the truth and falsity of the statements therein contained.

He prays full protection for the insane defendant, and
now having fully answered, the defendant prays to be hence dis-
missed with his costs, etc.

By

Josiah Dunston, insane def-
John K. Hutton
Guardian ad Litem

John K. Hutton Guardian ad Litem of said insane defendant.

The answer of
 - J. Julius Dunston
 to Bill of Complaint.

Milton J. Dunston
 in his own right,
 etc
 vs. { Cg 295
 Josiah Dunston,
 et al.

G. A. HARRIS

ATTORNEY AND COUNSELLOR AT LAW

SUFFOLK, VIRGINIA

VIRGINIA:

In the Circuit Court of Isle of Wight County.

Milton ~~X~~ Dunston in his own right and as Committee of
Josiah Dunston

vs.

Josiah Dunston and T. Julius Dunston.

The ~~joint and~~ separate answers of T. Julius Dunston to
a bill in equity exhibited against him and others in the Circuit
Court of Isle of Wight County, Virginia, by Milton T. Dunston
in his own right and as Committee of Josiah Dunston.

This respondent saving and reserving, etc., for answer
to the said bill, says that he believes the statements therein
made are true.

This respondent does not object to the sale of the
Easement of right of way in the land prayed in the said bill;
and that he concurs in the prayer of the said bill.

And now having fully answered, he prays to be hence
dismissed with his costs, etc.

Signed T. J. Dunston .

Affadavit to foregoing answer waived.

G. A. Starnip

5
Dunston et al
vs
Chancery No 795
Dunston et al

Commissioner's
Report

CLERK'S OFFICE OF THE
COMMONS COURT OF THE COUNTY
OF ISLE OF WIGHT

770 19

Filed

In testimony whereof
I have hereunto set my hand and the seal of the Court
this 19th day of August 1919

The two days remaining
here for this report to be
is here & waived.

John H. Dunston
Guardian ad litem for
said defendant.

Clerk's Office
of Isle of Wight County
Isle of Wight, Va.

VIRGINIA: IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY.

Milton Dunston in his own right and as
Committee of Josiah Dunston,

Complainant

vs.

Josiah Dunston and T. Julius Dunston

Defendants.

This day came Milton Dunston in his own right and as Committee of Josiah Dunston, and by leave of Court filed his bill, verified by his oath thereto, and the exhibits therewith; and on his motion, John K. Hutton, a discreet and competent attorney at law, is assigned as the guardian ad litem to the insane defendant to defend his interest in this suit; and thereupon the said guardian ad litem filed the answer of the said insane defendant and his own answer on oath, to the bill of the complainant; and the adult defendant filed his own answer to the said bill; to which several answers the complainant replied generally; and thereupon by consent of all parties, by counsel, this cause is set for hearing and docketed; and by like consent came on this day to be heard on the bill of complaint and the exhibits therewith, the several answers of said defendants to said bill as above set out and the general replication of complainant to every one of the said answers, and was argued by counsel.

On consideration whereof, the court doth adjudge, order and decree that this cause be referred to one of the commissioners of this court, who is directed to inquire and report to the court as follows:

1. Of what estate, real or personal, the insane defendant is possessed and entitled, how acquired, and what are his respective shares or interest therein, where such estate is situated, and a description thereof, and what is the fee simple and annual values;

2. Whether the interests of said insane defendant will

be promoted by sale of easement of right of way in the bill mentioned and the investment of the proceeds of sale in other property;

3. Whether the rights of any person will be violated by such sale and investment;

4. Who will be the heirs at law or distributees of said insane defendant if he were dead, and whether all such persons, and all necessary and proper parties, are properly before the court in this cause.

Which said inquiries the said Commissioners shall make, after first, giving notice of the time and place thereof to all parties, or their counsel, and report the same to the court, along with any matter specially stated, deemed pertinent or required by any party to be so stated, together with the evidence taken by him.

By the consent of the adult parties, plaintiff and defendants, and the guardian ad litem for the insane defendant, in term time entered of record, it is further ordered that the papers in this cause may submitted to the Judge of this Court for such decision and decree, judgment, or order therein, in vacation as might be made in term.

A Copy.

Teste, *[Signature]*

Clerk.

VIRGINIA: CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

Milton Dunston, in his own right, and as Committee of Josiah Dunston, an insane person,.....Complainant,
and--

T. Julius Dunston and John K. Hutton, guardian ad litem for Josiah Dunston, an insane person,.....Defendants:

Take notice that the undersigned, one of the Commissioners in Chancery of the Circuit Court of the County of Isle of Wight, to whom has been referred a decree entered herein on the 3rd. day of February, 1919, a copy of which is attached hereto, will, on the 20th. day of February, 1919, proceed with the execution of said decree, and will appear in the town of Windsor, County of Isle of Wight and State of Virginia, at the store of C. W. Bailey, at ten o'clock A.M., and will take evidence to be used in making said report, at which time and place you are required to attend.

Given under my hand this 10th. day of February, 1919.

W. H. Johnson
Commissioner in Chancery.

We hereby accept due, legal and sufficient service of the above notice:

John K. Hutton
Guardian ad litem for
Milton Dunston.

A. Lee Saunders being duly sworn, deposes and says:

Q. Please state your name, age, residence and occupation? A.

A. Lee Saunders, fifty three years of age, live in Windsor in Isle of Wight County, am a farmer and I buy and sell some real estate.

Q. Are you acquainted with the land of which Josiah Dunston is possessed, near the said town? A. Yes sir.

Q. Where is Josiah Dunston? A. I understand he is in the Assylum for insane at Williamsburg.

Q. You have heard the questions propounded to Mr. J.W. Babb with reference to the proposed purchase of a privilege of easement to a perpetual right to erect and maintain transmission lines by the Virginia Railway & Power Co. across said land: be please to state what is your opinion with reference thereto? I am acquainted with the land and I think the whole is worth about three thousand dollars-there is right smart of good merchantable timber upon it, which makes it more valuable than would be otherwise- it being worth more than the land; it would rent for some seventy five dollars a year-I understand that it is renting for that now; I think it would be to the interest of the insane defendant to make sale of the privilege mentioned, and the price offered. I do not believe it would materially lessen the value of the land, nothing like the amount of the price offered, of four hundred and eighty dollars.

Q. If condemnation proceedings had been instituted to get this privilege do you think that the commissioners would have awarded as much as is herein mentioned? A. I do not think they would have made it any greater, hardly as much. In my estimation it is full value.

And further this deponent saith not.

A. Lee Saunders.

J. W. Babb being duly sworn, deposes and says:

Q. Please state your name, age, residence and occupation?

A. J. W. Babb, sixty one years of age, live in Windsor, in Isle of Wight County, Virginia, farmer.

Q. Are you acquainted with the land, near Windsor, in Isle of Wight County, osned by Josiah Dunston, over which is erected the transmiss-
ion lines of the Virginia Railway & Power Company? A. Yes sir.

Q. What is a fair fee simple value for the tract of land, and what
a fair annual value. It is worth about three thousand dollars, and
fifty or seventy five dollars is a fair rental annual value.

Q. The Virginia Railway & Powe Company has offered four hundred and
eighty dollars for that part of the land, or rather for the privilege
of a perpetual easement of right of way across the said land, which
is now opened and upon which their transmission lines are erected:
State whether or not, in your opinion, this is a fair price, and
whether or not it is ~~to~~ the interest of the insane defen ant, Josiah
Dunston, to make sale thereof? A. I understand it is a strip one
hundred feet in width over which the privilege to erect transmission
lines, and maintain the same, is sought. That being true then I think
the price offered a good price, and I also think it to the interest
of the insane defendamt to make sale of it.

Q. If condemnation proceedings had been instituted to take the property
above mentioned do you believe the commissioners would have awarded
as much or more than the amount above named? ,A. I do not think they
would have given any more, and considering the fact that the company
is paying the cost of this suit, they probably would not have given as
much.

And further this deponent saith not.

J. W. Babb

February 28th. 1899, of record in the Clerk's Office of said County in Deed Book No. 63, page 295, which adjoins the lands of Columbia A. Chandler et als., the purchase price of said land being the sum of \$800.00; that his title thereto is a fee simple title in the whole, the said deed containing the General Warranty Clause and the usual covenants of title, that, according to the testimony taken and submitted herewith the fee simple value of the said tract of land is about three thousand dollars, and that the annual value thereof is some seventy five dollars.

2. It appears from said testimony that the interests of the said insane defendant will be promoted by a sale of the easement of right of way, mentioned in the bill and proceedings of this cause, *for the sum of four hundred and eighty dollars* and the investment of the same, for the benefit of the said insane defendant, under the order of this Court.

3. If the said insane defendant were dead his heirs at law and distributees would be Milton Dunston and T. Julius Dunston, his two brothers, both of whom are properly made parties to this cause and before the court.

4. The rights of no person will be violated by a sale of the said easement of right of way mentioned.

5. It appears that should condemnation proceedings have been instituted to have subjected the land herein mentioned to the right desired that no more, if as much, would have been awarded by commissioners who might have been appointed, as is offered by the Virginia Railway & Power Company, herein, to-wit: four hundred and eighty dollars.

Respectfully submitted,

Wm. H. Jones, Commissioner

Commissioner's fee \$ _____

VIRGINIA: CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT:

Milton Dunston, etc.

vs: Chancery. No. 295.

Josiah Dunston et al.

To Honorable B. D. White, Judge of the Circuit Court of the County of Isle of Wight:

The undersigned, one of the Commissioners in Chancery of the Circuit Court of the said County of Isle of Wight, respectfully reports that the papers in the above entitled cause having referred to him for the execution of a decree entered therein, a copy of which is annexed hereto, entered on the 3rd. day of February, 1919, on the 10th. day of February, 1919, he notified the interested parties that upon the 20th. day of February, 1919, he would proceed with the execution of the said decree, and for that purpose would be in the town of Windsor, in said County, at the store of C. W. Bailey, at ten o'clock, to take evidence to be read with his report; that said notice is attached hereto, showing service thereof; that at the time and place mentioned he attended and took the testimony of A. Lee Saunders and J. W. Babb, competent witnesses, reduced the same to writing and returns the same herewith; that from the said evidence, and from the records filed in the Clerk's Office of this Court, your Commissioner is informed and reports:

1. That the said Josiah Dunston, the insane defendant, is possessed of a tract of land, situate in the said County of Isle of Wight, near to the town of Windsor, of one hundred acres, be the same more or less, which was conveyed to him by William B. Holland and wife, by their deed bearing date

be promoted by sale of easement of right of way in the bill mentioned and the investment of the proceeds of sale in other property;

3. Whether the rights of any person will be violated by such sale and investment;

4. Who will be the heirs at law or distributees of said insane defendant if he were dead, and whether all such persons, and all necessary and proper parties, are properly before the court in this cause.

Which said inquiries the said Commissioners shall make, after first, giving notice of the time and place thereof to all parties, or their counsel, and report the same to the court, along with any matter specially stated, deemed pertinent or required by any party to be so stated, together with the evidence taken by him.

By the consent of the adult parties, plaintiff and defendants, and the guardian ad litem for the insane defendant, in term time entered of record, it is further ordered that the papers in this cause may submitted to the Judge of this Court for such decision and decree, judgment, or order therein, in vacation as might be made in term.

A Copy,

Teste,

Johnston

Clerk.

VIRGINIA: IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY.

Milton Dunston in his own right and as
Committee of Josiah Dunston, Complainant

vs.

Josiah Dunston and T. Julius Dunston Defendants.

This day came Milton Dunston in his own right and as Committee of Josiah Dunston, and by leave of Court filed his bill, verified by his oath thereto, and the exhibits therewith; and on his motion, John K. Hutton, a discreet and competent attorney at law, is assigned as the guardian ad litem to the insane defendant to defend his interest in this suit; and thereupon the said guardian ad litem filed the answer of the said insane defendant and his own answer on oath, to the bill of the complainant; and the adult defendant filed his own answer to the said bill; to which several answers the complainant replied generally; and thereupon by consent of all parties, by counsel, this cause is set for hearing and docketed; and by like consent came on this day to be heard on the bill of complaint and the exhibits therewith, the several answers of said defendants to said bill as above set out and the general replication of complainant to every one of the said answers, and was argued by counsel.

On consideration whereof, the court doth adjudge, order and decree that this cause be referred to one of the commissioners of this court, who is directed to inquire and report to the court as follows:

1. Of what estate, real or personal, the insane defendant is possessed and entitled, how acquired, and what are his respective shares or interest therein, where such estate is situated, and a description thereof, and what is the fee simple and annual values;

2. Whether the interests of said insane defendant will

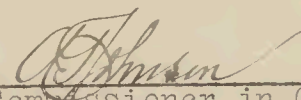
VIRGINIA: CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

Milton Dunston, in his own right, and as Committee of Josiah Dunston, an insane person,.....Complainant,
and--

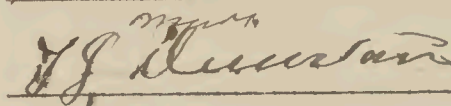
T. Julius Dunston and John K. Hutton, guardian ad litem for Josiah Dunston, an insane person,.....Defendants:

Take notice that the undersigned, one of the Commissioners in Chancery of the Circuit Court of the County of Isle of Wight, to whom has been referred a decree entered herein on the 3rd. day of February, 1919, a copy of which is attached hereto, will, on the 20th. day of February, 1919, proceed with the execution of said decree, and will appear in the town of Windsor, County of Isle of Wight and State of Virginia, at the store of C. W. Bailey, at ten o'clock A.M., and will take evidence to be used in making said report, at which time and place you are required to attend.

Given under my hand this 10th. day of February, 1919.


Commissioner in Chancery.

We hereby accept due, legal and sufficient service of the above notice:

VIRGINIA: CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

Milton Dunston, etc.

vs: Chancery. No. 295.

Josiah Dunston, et al.

I, John K. Hutton, guardian ad litem for the insane defendant, Josiah Dunston, do hereby certify that I have read the questions propounded by the Commissioner, as directed by decree entered in this suit on the 3rd. day of February, 1919, and that the said interrogatories were agreed upon, by me, as such guardian ad litem, prior to the date of taking the testimony submitted by the said Commissioner, in his report filed herein on the 20th. day of February, 1919.

Given under my hand this 20th. day of February, 1919.

John K. Hutton
guardian ad litem for the in-
sane defendant, Josiah Dunston.

8

Dunston etc

n of Cy No 293

Dunston et al

Repb.

~~Brought down~~

Filed

~~Enter the~~

Nov 7, 1919

the said Josiah Dunston, having executed a bond in the penalty of eight hundred dollars, before the Clerk of this Court; that upon inquiry, your Commissioner learns that said Josiah Dunston owns no other property than the land over which the easement of right of way mentioned herein has been granted; that said Milton Dunston, the brother and Committee, aforesaid, has possession or control of the said tract of land. Taking into consideration all the facts mentioned, and the general reputation of said Milton Dunston, your Commissioner recommends to the Court that the money paid for said easement of right of way be turned over to the said Committee, for the support and maintenance of the said Josiah Dunston, and to make the necessary improvements and repairs upon said property, and to be accounted for by said Committee, as the law, in such cases, requires.

Respectfully submitted,

A. Johnson

VIRGINIA: CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT

Dunston, etc.

vs) Chancery. No. 295

Dunston et al.

REPORT OF SPECIAL COMMISSIONER,

TO HONORABLE B. D. WHITE,

JUDGE OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF
WIGHT:

The undersigned, appointed a Special Commissioner, in this cause, by decree entered on the 12th. day of March, 1919, and who qualified, on the 14th. day of May, 1919, as such special commissioner, executing his bond for the sum of nine hundred dollars, as in said decree directed, together with The United States Fidelity and Guaranty Company as his surety, as is witnessed by a certified copy of said bond, filed in the papers of this cause, numbered 7, respectfully reports to court as follows: That he has executed the deed, as directed in said decree, conveying to the Virginia Railway and Power Company the easement of right of way in the Bill and proceedings mentioned, and has received from said Virginia Railway and Power Company the sum of four hundred and eighty dollars, which he now holds subject to the order of the Court, the deed aforesaid, having been delivered to said Virginia Railway and Power Company.

It appears from the proceedings in this cause that Josiah Dunston, the owner of the land, is an inmate of the Eastern State Hospital, having been, on the 27th. day of February, 1918, declared insane and committed to said institution; that on the 29th. day of November, 1918, Milton Dunston, a brother of said Josiah Dunston, was appointed and qualified as Committee of

Dunston

vs) No. 295.

Dunston, etc.

Report of Special Commissioner.

Filed January 26, 1921.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT:

Milton Dunston

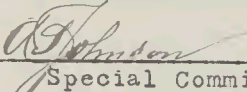
vs) Chancery. No. 295.

Josiah Dunston et al.

TO HONORABLE B. D. WHITE, JUDGE OF THE CIRCUIT COURT OF THE COUNTY
OF ISLE OF WIGHT.

The undersigned, Special Commissioner, in the above entitled cause, respectfully reports to the Court, that as directed in the decree entered herein on the 7th. day of November, 1919, he paid to Milton Dunston, Committee of Josiah Dunston, the sum of \$480.00; and, that he has collected from the Virginia Railway & Power Company all of the costs in the said suit, and has paid the same to himself, he being, also, the Clerk of the Court, and to whom said costs are due, and the receipt of which is hereby acknowledged.

Respectfully submitted,


Special Commissioner

VIRGINIA: CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

Milton Dunston, etc.

vs) Chancery. No. 295.

Josiah Dunston et al.

Received of A. S. Johnson, Special Commissioner in the
above mentioned cause, the sum of four hundred and eighty dollars,
directed to be paid by decree entered in the above entitled cause
on the 7th. day of November, 1919.

Milton Dunston
Committee of Josiah Dunston,

November 9th 1919

4

Decree of Reference

Milton D. Dunston

vs. & Cy 295

Joseph Dunston et al

~~1418~~ 1919
Feb'y '3

~~Dec 28~~

Enter this.

B. D. W.

We consent to the within
decree

(Milton, Dunston,

J. G. Dunston

John S. Odum
Guardian ad litem for
incapacitated defendant.

G. A. HARRIS

ATTORNEY AND COUNSELLOR AT LAW

SUFFOLK, VIRGINIA

C. B. 7

Page - 490

2. Whether the interests of said insane defendant will be promoted by sale of easement of right of way in the bill mentioned and the investment of the proceeds of sale in other property;

3. Whether the rights of any person will be violated by such sale and investment;

4. Who will be the heirs at law or distributees of said insane defendant if he were dead, and whether all such persons are properly before the court in this cause.

Which said inquiries the said Commissioners shall make, after first, giving notice of the time and place thereof to all parties, or their counsel, and report the same to the court, along with any matter specially stated deemed pertinent or required by any party to be so stated. *And all necessary and proper steps*
together with the evidence taken by him

By the consent of the adult parties, plaintiff and defendants, and the Guardian ad litem for the ~~insane~~ ^{insane} defendant, in term time entered of record, it is further ordered that the papers in this cause may be submitted to the Judge of this Court for such decision and decree, judgment, or order, therein, in vacation as might be made in term.

VIRGINIA:

In the Circuit Court of Isle of Wight County.

Milton ~~X~~ Dunston in his own right and as Committee of
Josiah Dunston, Complainant

vs.

Josiah Dunston and T. Julius Dunston Defendants

This day came Milton ~~X~~ Dunston in his own right and as Committee of Josiah Dunston, and by leave of Court filed his bill, verified by his oath thereto, and the exhibits therewith; and on his motion, John K. Hutton, a discreet and competent attorney at law, is assigned as the guardian ad litem to the insane defendant to defend his interest in this suit; and thereupon the said guardian ad litem filed the answer of the said insane defendant and his own answer on oath, to the bill of the complainant; and the adult defendants filed his own answer to the said bill; to which several answers the complainant replied generally; and thereupon by consent of all parties, by counsel, this cause is set for hearing and docketed; and by like consent came on this day to be heard on the bill of complaint and the exhibits therewith, the several answers of said defendants to said bill as above set out and the general replication of complainant to every one of the said answers, and was argued by counsel.

On consideration whereof, the court doth adjudge, order and decree that this cause be referred to one of the commissioners of this court, who is directed to inquire and report to the court as follows:

1. Of what estate, real or personal, the insane defendant is possessed and entitled, ^{how acquired} and what are his respective shares or interest therein, where ^{and a description thereof} such estate is situated, and what is the fee simple and annual values:

Dunston v Dunston Cy 295
 Decree Confirming
 Report of Commissioners
 and {

Directing Sale
 1914

Mar. 12.

Enter His
 P. W.

We consent.

John K. Murren
 Guardian ad litem for
 said defendants.

C. O. B. 7-45-

page 4

G. A. HARRIS

ATTORNEY AND COUNSELLOR AT LAW

SUFFOLK, VIRGINIA

Commonwealth of Virginia, in the penalty of \$900⁰⁰, and
conditioned for the faithful discharge of his duties hereunder.

The said Commissioner shall report his proceedings here-
under for the further order of this court.

and decree that *H. L. Johnson*, who is hereby appointed Special Commissioner for the purpose, ~~doth~~ convey to the said Virginia Railway and Power Company, upon the payment by said Company of the sum of Four Hundred and Eighty (\$480.00) Dollars, Cash, with Special Warranty deed, the following property, to-wit:

"An Easement of right of way One Hundred (100) feet in width, extending fifty (50) feet on either side of the center line beginning at the Windsor County Road at Station 582 plus 80 and extending westwardly over and across the property of the said Josiah Dunston to the land line between John Yates and said Dunston at Station 603 plus 69, as shown by a plat made by T.J. Wright, Jr., C. E., a copy of which is filed with these proceedings, for the purpose of constructing, maintaining in, upon and through said premises with poles and towers, wires and other necessary apparatus and appliances, a line or lines for the purpose of transmitting power by electricity, together with the right, at all times, to enter upon the said premises for the purpose of constructing said lines and inspecting the same, and making necessary repairs and alterations thereon or extensions and additions thereto; together with the right to cut away and keep clear of said lines all trees and other like obstructions, that may, in any way, endanger the appliances, or the proper operation of the same, reserving for the said Josiah Dunston the right to use the land hereinabove described upon which the said transmission line or lines may be erected for agricultural or any other purposes not inconsistent with the right hereinabove stated, provided such use shall not injure or interfere with the proper operation, maintenance or repair of or extension or addition to said line or lines; and provided, further that no building or structure other than fences shall be erected upon the said strip of land by the said Josiah Dunston or his assigns.

But the said Commissioner shall have no power to execute this decree until he shall enter into bond with sufficient security, in the Clerk's Office of this court, payable to the

DECREE CONFIRMING REPORT OF COMMISSIONER
AND DIRECTING SALE.

VIRGINIA:

In the Circuit Court of the County of Isle of Wight,

Milton Dunston in his own right and as committee of)
Josiah Dunston, an insane person.....Complainant)
vs.)
Josiah Dunston and T. Julius Dunston...Defendants)

This cause came on this day to be again heard on the papers formerly read and on the report of Commissioner A. S. Johnson, dated _____ 1919, and filed on the 20th day of February, 1919, to which report there is no exception taken, ~~the counsel for the adult parties and the guardian ad litem for the insane person, by endorsement on said report, having waived the ten days for exception, and on the depositions of witnesses returned with said report, and was argued by counsel.~~

On consideration whereof, it being clearly shown from said report and the evidence returned therewith, independently of any admissions in the answers, that the interests of the insane person will be promoted by the sale of his interest in the real estate hereinafter mentioned, and ~~the court being of the opinion~~ that the rights of no person will be violated thereby, and it further appearing to the court that the offer of four hundred and eighty (\$480.00), made by the Virginia ^{interest in the} Railway and Power Company for the/land hereinafter mentioned, is fair, and that it is to the best interest of Josiah Dunston, the insane defendant, that the same be accepted, the court doth approve and confirm said report, and doth adjudge, order

#9

Dunston et al

n of Cy 295

Dunston et al

~~Report of the~~
~~Comptroller~~

Filed Nov 7-1919

Deere.

1919

Nov. 7.

Enter this.

B. W. W.

Long p 518

which said

easement of right of way is granted, the Court doth adjudge, order and decree that the said A. S. Johnson, Special Commissioner as aforesaid, pay the said sum of four hundred and eighty dollars, paid to him as aforesaid, to the said Milton Dunston, Committee of the said Josiah Dunston; take his receipt therefor and file it with the papers in this cause, *which said sum shall be paid by said Committee in the maintenance of said*

The Court doth further adjudge, order and decree that the said Special Commissioner shall collect, from said Virginia Railway and Power Company, the costs of this proceeding, to final decree, pay the same, and make report thereof, filing with his report his vouchers for the payments he may make.

And this cause is continued.

John Dunston, and for the improvement of the land adjacent, and the repair of the building thereon

VIRGINIA: CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

Dunston, etc.

vs) Chancery. No. 295.

Dunston et al.

This cause came, on this day, to be again heard upon the papers formerly read, and upon the report of A. S. Johnson, appointed Special Commissioner herein, by decree entered on the 12th. day of March, 1919, this day, by leave of court, filed, and to which there is no exception, and was argued by counsel: On consideration whereof, it appearing from said report, that the said Special Commissioner has executed the deed, for the easement of right of way, mentioned in these proceedings, to the Virginia Railway and Power Company, and has delivered the same; and has collected the sum of four hundred and eighty dollars from the said Virginia Railway and Power Company, which he now holds, after having executed the bond required of him by the decree of the 12th. of March, 1919, aforesaid; and that Josiah Dunston, owner of the land over which the said easement of right of way is granted, is an inmate of the Eastern State Hospital, having been committed thereto, as an insane person, on the 27th. day of February, 1918; that Milton Dunston, a brother of said insane person, on the 29th. day of November, 1918, was duly appointed, and qualified, as committee of the said Josiah Dunston; that he executed, as such committee, a bond in the penalty of eight hundred dollars; that the said Josiah Dunston is the owner of no other property than the land in these proceedings mentioned; that it is expedient that the said money, received for the said easement of right of way, now in the hands of said special commissioner, be used for the maintenance of the said Josiah Dunston, and for the improvement of the land, and the repair of the buildings thereon, over

~ 11 ~
Milton Dunston, etc.

vs) Chancery. No. 295.

Josiah Dunston, etc.

Note for decree:

Enter January 26, 1921.

W. H. W.

Entered in Chancery Order Book

No. 8, page 45

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

Milton Dunston, etc.

vs) Chancery. No. 295.

Josiah Dunston, et al.

This cause came on this day to be again heard, upon the papers formerly read, and upon the report of A. S. Johnson, Special Commissioner, herein, this day, by leave of Court, and to which report there is no exception and was argued by counsel: and, it appearing from the said report, together with the receipt thereto attached, that the said Special Commissioner has paid to Milton Dunston, Committee of Josiah Dunton, the sum of \$480.00, as directed in the decree entered herein on the 7th. day of November, 1919; and that there remains nothing further to be done in this cause, it is adjudged, ordered and decreed that the said report be, and is, hereby, confirmed; and that this cause be stricken from the docket.

Houston

vs.

Houston

Exhibit

A.

Exhibit A

VIRGINIA: CLERK'S OFFICE OF THE CIRCUIT COURT OF THE COUNTY
OF ISLE OF WIGHT NOVEMBER 29TH. 1918.

This day came Milton Dunston, brother of Joseph Dunston, and made motion to be appointed as Committee of the said Joseph Dunston, who, it appears of record, was, while a resident of this County, adjudged to be an insane person on the 27th. day of February, 1918, and who is now an inmate of the Eastern State Hospital, at Williamsburg, Virginia; and the said Milton Dunston having executed a bond in the penalty of eight hundred dollars, payable and conditioned as the law directs, together with T. J. Dunston as his security, who justified, upon oath, as to his sufficiency, certificate was granted him as Committee of the said Joseph Dunston, an insane person.

A copy,

Teste, *[Signature]* Clerk.

London etc

23 Cy 293

London et al

Copy of Louis Roud

Filed 3/31/1919

No.

Know all Men by These Presents: That we A. S. Johnson,

principal

and The United States Fidelity and Guaranty

Company,

surety

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of NINE HUNDRED DOL-

LARS

to the payment whereof well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

And as to this bond we hereby severally waive the benefit of our Homestead Exemption, and also any right, claim or privilege to discharge any liability arising hereunder to the said Commonwealth, or by virtue of the said office or trust for which this bond is given, with coupons detached from the bonds of this State.

IN TESTIMONY WHEREOF, the said A. S. Johnson

principal

has hereto set his hand and affixed his seal

and the said The United States Fidelity and Guaranty Company,

surety

by W. G. Elam

, its duly authorized

agent and attorney in fact, has caused its corporate name and seal to be hereunto affixed, the said seal to be attested

by the signature of the said W. G. Elam

, its said agent and attorney

in fact, this, the 14th. day of May, A. D. 19 19

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the above bound A. S. Johnson, who was

appointed special commissioner, by the Circuit Court of the County of Isle of Wight, State of Virginia, by decree entered on the 12th. day of March, 1919, in the Chancery cause therein depending in which Milton Dunston, etc. is complainant, and Josiah Dunston et al. are defendants, (Docket No. 295) shall discharge and perform the duties required of him by said decree, and by any further decree to be entered in said cause,

~~shall faithfully discharge the duties of his office or trust as such~~

, then the above obligation to be void, or else to remain in full force and virtue.

A. S. Johnson [SEAL]

THE UNITED STATES FIDELITY AND GUARANTY CO.

(SEAL)

By W. G. Elam

Its duly authorized agent and attorney in fact.

Attest: W. G. Elam

Agent and attorney in fact.

Virginia: In the Clerk's Office of the Circuit Court of the County of Isle of Wight the 14th.

day of May 19 19, this bond was duly executed and acknowledged by the obligors to the same and ordered to be recorded.

A Copy Teste, Johnson Clerk.

A. S. Johnson, Clerk.