1893-004
Nansemond Co. (Suffolk)

Chancery Causes: Claus H. Bahrenburg etc vs Exr of Elisha Everett et al

Barrett, J. H. Bahrenburg & Son]

Bahnsburg &c
vs In Chancery
Everetts Exor. &c
Statement of Costs to Octo. 24th 1891

State Tax Attorney &c	$66.50
Clerk	5.89
R L Bruntis Commissioner	10.00
W N Howell Sheriff	2.00
A N Baker "	2.00
	$86.39

Teste:
A B Gomey Clerk

Office of N. E. Smith,

Treasurer Nansemond County.

Suffolk, Va., ... 189...

Elisha Turner

81. Peak Wright

N.E. 11 m. $18. Du acre

$800 bldgs. $144.

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Elisha Lee Everett Executor of the last will and testament of Elisha Everett deceased. Eliza A Everett widow of said Elisha Everett, the said Elisha Lee Everett in his own proper person, Mary E Everett wife of said Elisha Lee Everett, Addie Lee Everett, Lucy Jennings Everett, Mary Elizabeth Everett, Eliza A Barrett, Edna E Everett, Charles T Everett and Lellie May Everett, the last seven named being infants under the age of twenty one years

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the First Monday in March 1891, to answer a Bill in Chancery, exhibited against them ~~~~~~~~~~ in the said Court by Claus A Bahrenburg surviving partner of himself and John A Bahrenburg late merchant and partner in trade under the name and style of J A Bahrenburg and Brother suing for the benefit of himself and all other Creditors of Elisha Everett deceased.

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this 21st day of February 1891, in the 115th year of the Commonwealth.

Teste:

A P Gomer Clerk.

Execution This the 24th day of February 1891. Ex
delivering a true copy of This Summons to The
within named Elisha Lee Everett, Executor of The
Last will and Testament of Elisha Everett, deceased.
Eliza A. Everett, Widow of said Elisha Lee
Everett, and Mary E. Everett. Elisha Lee
Everett, and Mary E. Everett. Ea ske ne Person
This 24th Feb 1891
W. H. Howard SS

W J Kelly p.q.

Claus A Bahrenburg
and others
vs
In Chancery

Elisha Lee Everett Ex-
ecutor & als

1891
March Rules
First Monday.

Process Book
No 2. Page
Circuit Court

At Rules held in the office of the Clerk of the Circuit Court of Nansemond County, Va. on the second day of March 1891:

Claus H. Bahrenburg &als.
vs. } In Chancery
Elisha Everett's Exor. &al.

On the motion of the Complainant by Counsel, Lee Britt Esq. Attorney at Law, is appointed guardian to the defendants, Addie Lee Barrett, Lucy Jennings Everett, Mary Elizabeth Everett, Eliza A. Barrett, Edna E. Barrett, Charles T. Everett and Lillie May Everett, who are infants under the age of twenty-one years, to defend them in this suit.

A. P. Gomes Clerk
of the Circuit Court
of Nansemond County

Bahrenburg etc.

vs. } In Chy.

Everett's Ex'or. Sals.

Order appointing guardian ad litem to infant defendants.

The Commonwealth of Virginia
To the Sheriff of Nansemond
County, greeting:

Whereas a certain cause in Chancery has been depending in our Circuit Court for the County of Nansemond between Claus H. Bahrenburg, surviving partner of himself and John H. Bahrenburg late merchants and partners in trade under the name and style of J. H. Bahrenburg And Brother, etc. Complainant, and Elisha Lee Everett, Executor of the last will and testament of Elisha Everett, deceased, Eliza A. Barrett and others, Defendants, and before a final decree was had therein, to wit, on the 18 day of June 1891, said Eliza A. Barrett, an infant under the age of twenty-one years, to wit, of the age of eighteen months, departed this life, leaving, as we have been informed, her father, J. Pressley Barrett, as her only heir at Law; and whereas the said Complainant has applied for a scire facias against said J. Pressley Barrett according to the Statute in such case made and provided:

We command you that you make known to the said J. Pressley Barrett, heir at Law of

said Eliza A. Barrett that he be before the judge of our said Court at the Court-house of said County on the 10th day of October 1891 (being the first day of the next term of our said Court), to show if anything for himself he has, or can say why said cause and the proceedings therein had, should not stand and be revived against him and be proceeded in to a final decree and be in all respects in the same plight and condition as they were at the time of the decease of said Eliza A. Barrett and further to do and receive what our said Court shall in that part consider: and have then and there this writ

Witness A. P. Gomer, Clerk of our said Circuit Court at the Courthouse this 5th. day of October A. D. 1891 and the 116th. of our foundation

A. P. Gomer Clerk

I hereby acknowledge sufficient and legal service of the above process this 8th. day of October 1891

J. P. B. J. P. Burrell.

Bahrenburg etc.

vs. } In Chy.

Everett's Ex.or &c.

Scire Facias a-
gainst J. Pressley
Barnett.

Everett Waddey, Stationer and Printer, Richmond, Va. } Form No. 400.

Commissioner's Office,

August 26th 18 91.

To C. A. Bahrenburg surviving partner of himself and John A. Bahrenburg, late merchants and partners in trade under the name and style of C. A. Bahrenburg & Brother, suing for the benefit of himself and all other creditors of Elisha Everett, dec'd. against.—

Elisha Lee Everett, Executor of the last will and testament of Elisha Everett, deceased, Eliza A. Everett widow of said Elisha Everett, the said Elisha Lee Everett in his own proper person, Mary E. Everett wife of said Elisha Lee Everett, Addie Lee Everett, Lucy Jennings Everett, Mary Elizabeth Everett, Eliza A. Barrett, Edna E. Everett, Charles T. Everett and Lillie Ruby Everett, the last seven named being infants under the age of twenty-one years, and Lee Brill Guardian ad litem for the said infants.—

You are hereby notified that I have fixed upon the 16th day of September 1891, next, following

if fair, if not, on the next fair day thereafter (Sunday excepted), to take and settle at my office, the account s:

1. An Account of the transactions of Elisha Lee Everett, as Executor of the last will and testament of Elisha Everett deceased.
2. An Account of the debts due by the said Elisha Everett, or his estate, according to their dignity and priorities.
3. An Account of the real estate of which said Elisha Everett died seised and possessed, together with its fee simple and annual value.
4. An account of any matters specially stated deemed pertinent by me, or which any of the parties may require to be so stated.

~~And Elisha Lee Everett~~

required to be taken by a decree of the Circuit Court of the County of Nansemond rendered on the 16th day of April 1891, in a suit in chancery depending in said court, between you

at which time and place you are required to attend.

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

Robert T. Francis,
Commissioner

We acknowledge legal and sufficient service of this notice

Wilbur J. Kilby, Atty.
for the Plaintiff

Lee Britt
Guardian ad litem
for the infant defendants

I have executed and served this notice upon the within named Eliza A. Everett, Mary E. Everett, Elisha Lee Everett and the said Elisha Lee Everett as Executor of the last will and testament of Elisha Everett deceased, by delivering a copy to each of them in person this 4th. day of September, 1891.

Robert E Norfleet Deputy
for D H Barker Sheriff
of Nansemond Co

Bahnenburg etc

vs. } COMMISSIONER'S NOTICE.

E. Everetts Exrs.

Sept. 16. 1891.

I.

An Account of the transactions of Elisha Lee Everett, as Executor of the last will and testament of Elisha Everett, deceased:

The Executor has not reported any receipts or disbursements, or the possession of any personal assets, and the Commissioner has no information as to the existence of any such assets. —

II.

An Account of the debts due by Elisha Everett, or his estate, according to their dignity and priorities:

The only debt proved is the debt due to the Complainant C. A. Bahrenburg surviving partner of J. A. Bahrenburg & Brother

Principal	240 19	
Interest from July 1. 1888 to Nov. 1. 1891	48 03	
1891 Nov 1. Prin. & interest due		$288 22

III

An Account of the real estate of which Elisha Everett died seised and possessed, together with its fee simple and annual value:

All that certain tract or parcel of land in Sleepy Hole Magisterial District Nansemond County Va., adjoining the lands of Jno Willis Bidgood, J. P. Barrett, Cross Swamp & public road, and containing 80 acres, more or less.
Its Assessed value is $1458. Its real value is believed to be about $3000. and its annual value about $200. —

Commissioner's Office
Suffolk, Va., October 1. 1891.

C. H. Bahrenburg, Surviving partner &c.
vs.
Elisha Everett's Exector &c. -

To the Circuit Court of Nansemond County:

The undersigned one of the Commissioners in Chancery of this Court, begs leave to report, that at the request of the complainants counsel he has proceeded to execute the decree pronounced in this cause on the 16th. day of April 1891. -

On the 25th. day of August 1891, the notice was issued to the parties that the Commissioner would proceed to take the accounts and make the enquiries, which were directed by the said decree, at his office on the 16th. day of September 1891. - The said notice duly acknowledged by the complainants counsel and by the Guardian ad litem, and duly executed upon the adult defendants is herewith returned.

On the day thus fixed none of the parties appeared, and the case was continued from time to time until this day when the enquiries are concluded. -

On the preceding page the result of the Commissioner's labor may be found, and no further explanation seems to be necessary. -

Given under my hand this 1st. day of October 1891.

Robt. D. Pruden,
Commissioner in Chancery.

Fee $10. -

C. H. Baltzenburg, Surv. &c.

vs.

Report of
Comm. Pleas.
Dated Oct. 1. 1891.

E. Everetts Exr. &c.

1891. Octo 1st Filed.
A.P.G
Clerk

Bahrenburg etc.

vs.

Everett's Ex'or &als.

It appearing that the scire facias awarded on the 5th. day of October A.D. 1891 against J. Pressley Barrett, returnable to the first day of this term, has been duly executed on him and he having failed to show any cause why this suit should not be revived and prosecuted against him as the father and heir-at-Law of the ~~infant~~ defendant, Eliza A. Barrett an infant who has departed this life at the age of eighteen months, it is ordered that this suit be revived and henceforth be conducted and prosecuted against said J. Pressley Barrett, as one of the defendants and be in all things in the same plight and condition as at the time of the death of said infant, Eliza A. Barrett.

And thereupon this cause came on to be again heard on the papers formerly read, and, with the consent of said J. Pressley Barrett, on the Report of Commissioner Robert R. Prentis filed on the first day of October A.D. 1891 (being a Report of the transactions of Elisha L. Everett as Executor of Elisha

Everett deceased, of the debts due by said Elisha Everett, and of the real estate of which said Elisha Everett died seised and possessed, in pursuance of the decree entered herein on the 16th. day of April A. D. 1891) and was argued by Counsel.

On consideration whereof the Court doth approve and confirm said Report to which no exception has been taken, and doth adjudge, order and decree that so much of the real estate of which said Elisha Everett died seised and possessed, mentioned and described in the Bill, as may be necessary to satisfy the Complainants claim as stated in said Report together with the costs of this cause and the expenses of the sale including a fee of fifty dollars for the Counsel for the Complainant, be sold and that Wilbur J. Kilby, who is hereby appointed Special Commissioner for the purpose proceed to sell the same by public auction before the Courthouse door of this County on some County Court day, on the terms of payment ~~of the~~ by the purchaser of enough of the purchase-money in cash to cover the & said costs, expenses and fee and the remainder in ~~equal~~ one sum at the

end of six months with interest from the day of sale, - the purchaser to execute a bond* in evidence of the deferred payment* with good personal security and the title to the land to be retained untie the further order of Court.

But before proceeding to make said sale said Special Commissioner will advertise the time, place and terms of the sale by printed notices to be posted in the neighborhood of the land to be sold, at said Courthouse door and several public places in said County and by publication of the notice once a week for two successive weeks in a newspaper published in the Town of Suffolk in said County and will execute before the Clerk of this Court a bond in the penalty of $700 — dollars with good personal security payable to the Commonwealth of Virginia and conditioned for the faithful discharge of his duties under this decree and all other decrees he may be required to execute in this cause and will obtain of the said clerk a certificate of the due execution of said Bond and affix the same or a copy thereof to the advertisement

of the sale and make report to Court of his transactions under this decree.

And the Court doth further adjudge, order and decree that the papers in this cause be referred to one of the Commissioners of this Court who is directed to take, state and report to Court a further account of the debts due by Elisha Everett deceased according to their dignity and priorities,

Baltimore etc.
vs. } In Ch'y.
Everetts Ex'or &als

In the Circuit Court of Anne Arundel County October 15th 1891

Decree.
To be entered

true copy

Entered in Chancery Order Book, No 2. Folio 419

Bahrenburg etc.

vs.

Everett's Ex'or. Hdls.

This cause regularly matured and set for hearing at Rules, came on this day to be heard on the Bill of the Complainant taken for confessed as to the adult defendants, Elisha Lee Everett, Executor of the last will and testament of Elisha Everett deceased, Eliza A. Everett widow of said Elisha Everett, the said Elisha Lee Everett in his own proper person, and Mary E. Everett, wife of said Elisha Lee Everett, upon whom process had been duly ~~executed~~ served, they still failing to appear and ~~demur~~, plead ~~and~~ answer or demur to the said Bill, on the exhibits filed with said Bill; and on the answers of the infant defendants, Addie Lee Everett, Lucy Jennings Everett, Mary Elizabeth Everett, Eliza A. Barnett, Edna E. Everett, Charles T. Everett and Lillie May Everett, by ~~their guardian ad litem~~ Lee Britt Esq. Attorney at Law, their guardian ad litem appointed at Rules to defend them in this suit, with general replications to said answers

and was argued by Counsel.

On consideration whereof the Court doth adjudge, order and decree that the papers in this cause be referred to one of the Commissioners of this Court who is directed to take, state and report to Court the following accounts, to wit:

1. An Account of the transactions of Elisha Lee Everett as Executor of the last will and testament of Elisha Everett deceased.

2 An Account of the debts due by said Elisha Everett or his estate according to their dignity and priorities.

3. An Account of the real estate of which said Elisha Everett died seised and possessed together with its fee-simple and annual value,

4. An Account of any matters specially stated deemed pertinent by him, or which any of the parties may require to be so stated.

And the Court doth further adjudge order and decree that said Elisha Lee Everett render said account of his transactions as Executor aforesaid be-

fore said ~~Executor~~ Commissioner together with all necessary papers and vouchers in his possession or under his control relating to said transactions, to enable said Commissioner to state said account

Babenburg etc.

vs. } In Chy.

Everetts Ex'or. & al.

In the Circuit Court
of Jefferson County
April 16th, 1891

Decree
To be entered
C.W.H.

Entered See Chancery
Order Book No. 2.
Page 383.

Sept 15 1891

Mr Babcock

Dear Sir

I have been intending to write to you for several days but have put it off till now. What I want to say to you is in regard to the account I owed you I intended to pay you this season but my potato crop was no manner account I sold my grain was enough to pay for my grain at 220 bbl and it took all I then to settle it I don't want to have no law suit in it

I have got the bill to
pay. but it is all most
impossible for me to pay it
now I have got this to offer
which I hope you will
take up with I will give
you my note 12 month
with intrest with good
security. If you can take
it any thing off bill
I will be son so much
oblige, as I have to bare
the burden and my family
to support but if you can
not make no objection.
I will pay the full and
And if I can pay it before
the 12 month I will do
so let me hear from you

Respt —

E L Ernst C.

Folio

ALL CLAIMS FOR DEDUCTIONS MUST BE MADE ON RECEIPT OF GOODS OR NOT ALLOWED.

J. H. BAHRENBURG.
C. H. BAHRENBURG.

New York, July 1 1890

Mr. E. Everett in a/c with

SHIPPING ORDERS
Promptly
ATTENDED TO
And
SHIPPED WITH CARE.

BOUGHT OF

J. H. BAHRENBURG & BRO.

Commission Merchants & Dealers in all kinds of

COUNTRY PRODUCE,

Branch D. L. & W. Potato Yard, Hoboken, N. J. 108 MURRAY ST., near West.

1886 Sept	3	To	cash	50 00		
	24	"	"	25 00		
1887 March	2	"	30 Bags Guano, 3 tons @ 58 00	174 00		
		"	Drayage 1.50 Frt 3.60	5 10		
1888 July	16	" 31	Bags Guano 5361 lbs @ 57 00	152 79		
		"	Paid Frt	3 60		410 49
1886 Sept	6	By	Net Proceeds a/c Rund	15 15		
	13	"	" " "	8 95		
	15	"	" " "	10 10		
1887 June	10	"	" " "	28 22		
	13	"	" " "	50 00		
	23	"	" " "	37 24		
	29	"	" " "	20 64		170 30
July	1/88	To	Balance			$240 19
July	1/90	"	2 years interest on Bal.			28 81
						$269 00

Drivers P. O.
Va.

City & County of New York, ss:
Claus H. Bahrenburg,
being duly sworn, says he is one
of the firm of J. H. Bahrenburg
& Brother, 108 Murray Street, New York
City, N. Y.; that the annexed claim
against the estate of E. Everett, de-
ceased, is justly due and owing said
firm; that no payments have been
made thereon, except as shown in
the annexed bill of items, and
that there are no offsets or counter-
claims thereto, other than those stat-
ed in said foregoing itemized bill,
to the knowledge of deponent.
And deponent further says that
said annexed bill of items
contains the full account of
the transactions upon which this
claim arose, and is true and
correct in each and every
particular and the amount of
$269, as shown thereon is justly
due and owing by said estate
to said firm.

Claus H. Bahrenburg

Sworn to before me
This 9th day of July
1890.
Charles J. Carnes,
Notary Public Kings County,
Cert filed N. Y. Co.

Bahrenburg etc.

vs. } In Chy.

Everett's Ex'or. &c.

Exhibit B.
filed with
the Bill

In the name of God. Amen! I Elisha Everett of Nansemond County, of the State of Virginia, being sound in mind, but feeble in health, and having advanced to that period of life allotted to man, do make and ordain this to be my last will and testament, revoking all other wills heretofore made. —

Item I. I give and bequeath to my beloved wife Eliza A. Everett all of my property both real and personal during her life time, after her death the same to go to Elisha Lee Everett during his life time, after the death of the said Elisha Lee Everett, the same property to go to his children, if he die Childless then his wife, Mary E. shall have the property during her life time, at the death of the said Mary E. wife of Elisha Lee Everett the property shall come back to the children of W. J. Everett, deceased and of Emily S. Barnett, now living. This to include all of my property real and personal, not hitherto disposed of by deed to Wm. D. Everett, James Pittain and J. P. Barnett.

It is my wish and desire that my son Elisha Lee Everett be appointed my lawful Executor without security.

Given under my hand and Seal this the 26 day of May (1888) Eighteen hundred and Eighty Eight.

Witnesses: Elisha Everett [seal]
J. P. Barnett.
Lena Lee Stanwood
Emily S. Barnett

At a county Court held for the county of Nansemond on the 14th day of July 1890.

The last will and testament of Elisha Everett deceased was this day produced in Court and proved according to law by the oaths of J. P. Barnett and Lena Lee Stanwood two of the subscribing witnesses thereto and is ordered to be recorded. And on the motion of Elisha Lee Everett the Executor named in said will who made oath according to law and entered into and acknowledged a bond in the penalty of One Thousand Dollars conditioned as the

law directs but without security
(the said will directing that said
executor shall not give security)
certificate is granted him the said
Elisha Lee Everett for obtaining
a Probat of the said will in due
form.

Teste:

R. R. Smith clerk

A Copy

Teste:

L. P. Gomez D. C

Elisha Everetts
Will
1890
July 14th offered
for Probat & A R

Bahrenburg etc.
vs. } In Chy.
Everetts Ex'or &al.

Exhibit A.
filed with the
Bill

Recorded
See Will Book
No 4. pg 440.

Claus H. Bahrenburg etc.

vs.

Elisha Everett's Ex'or &al.

On the motion of the Complainant, by his attorney, who says that the claim of the Complaint as stated in the Bill, has been satisfied, it is ordered that this cause be dismissed.

6

Bahrenburg &c.

vs. } In Chy.

Everett's Ex'or &c.

In the Circuit Court of Nansemond County, Va. April 10 1893

Order

To be entered

Copy—

Entered in Chancery Order Book No. 2. Page 483.

C Ord Bk

Final Decree

Answers of Addie Lee Everett, Lucy Jennings Everett, Mary Elizabeth Everett Eliza A. Barrett Edna E. Everett, Charles T. Everett and Lillie May Everett, infants under the age of twenty-one years by Lee Britt Esq. Attorney at Law, their guardian ad litem, appointed to defend them in this suit, to the Bill of Complaint exhibited against them and others in the Circuit Court of Nansemond County by Claus H. Bahrenburg, surviving partner of himself and John H. Bahrenburg, late merchants and partners in trade under the name and style of J. H. Bahrenburg and Brother, suing for the benefit ~~and~~ of himself and all other Creditors of Elisha Everett deceased:

For answer to said Bill said Addie Lee Everett, Lucy Jennings Everett, Mary Elizabeth Everett, Eliza A. Barrett, Edna E. Everett, Charles T. Everett and Lillie May Everett by their said guardian ad litem answer and say, that, being infants of tender years, they are, by reason of their infancy, ignorant of the matters mentioned in said Bill and incapable of understanding, or taking care of their rights and interests. They, therefore, by their said guardian ad litem, commit

themselves and their rights and interests to the protection of the Court and pray that no decree may be pronounced, which will tend to their prejudice, or be against their interest. And now having fully answered they pray hence to be dismissed with their reasonable costs in this behalf expended and they will ever pray etc.

Addie Lee Everett
Lucy Jennings Everett
Mary Elizabeth Everett
Eliza A. Barrett
Edna C. Everett
Charles T. Everett
Lillie May Everett
by Lee Britt
Guardian ad litem

Answers of infant defendants by their guardian ad litem.

Baldwin Cir. Ct.
Ist Chy.
vs.
Everett's Admr. & als.

To the Honorable Chandler W. Hill
Circuit Court Judge for the County
of Nansemond, Va.

Complaining respectfully represents and shows unto Your Honor, Your Complainant, Claus H. Bahrenburg, surviving partner of himself and John H. Bahrenburg, late merchants and partners in trade under the name and style of J. H. Bahrenburg and Brother, suing for the benefit of himself and all other creditors of Elisha Everett deceased, the following case:

That on the 2nd day of June A.D. 1890, Elisha Everett departed this life leaving his last will and testament which was duly probated and admitted to record on the 14th. day of July 1890 in the County Court of Nansemond County and that at the same time, to wit, on the 14th. day of July 1890, in said County Court, Elisha Lee Everett qualified as the Executor of said will and took upon himself the administration of the estate of said Elisha Everett deceased, as will

appear by a copy of said will and a transcript from the records of said County Court, herewith filed and together marked Exhibit A.

That no appraisers of the personal estate of said Elisha Everett have been appointed, nor has any appraisement, or inventory of said personal estate been made, nor has the said Executor rendered any account of his transactions as required by law.

Your Complainant has, therefore not been able to ascertain whether the said Elisha Everett left any personal estate or not, but your Complainant believes and charges that he left none, ~~especially as no disposition is made by said will of any~~ liable for his debts.

That by a deed of bargain and sale dated the 4th. day of November 1865 and recorded the 13th. day of November 1865 and re-recorded the 23 day of September 1869 in the office of the clerk of said County Court, William J. Cohoon and wife sold and conveyed to said Elisha Everett, three hundred (300) acres of land, more or less, in

Sleepy Hole Magisterial District in said County.

That by a deed dated the 31st. day of January 1868 and recorded the 10th. day of February 1868 on page 410 of deed book No. 1 in said office, said Elisha Everett and Eliza A. his wife sold and conveyed to Edward Pearce forty (40) acres, part and parcel of said three hundred acres of land.

That by a deed dated the 20th. day of April 1876 and recorded the 23d. day of October 1876 on page 539 of deed book No. 5 in said office, said Elisha Everett and wife gave and conveyed to his son William P. Everett, one hundred acres, another part of said three hundred acres of land.

That by a deed dated the 8th. day of April 1887 and recorded the 11th. day of April 1887 on page 256 of deed book No. 18 in said office, said Elisha Everett and wife conveyed to his son-in-law J. Pressley Barrett eighty (80) acres, another part of said three hundred acres of land.

That said Elisha Everett died seised and possessed of the remain-

der of said three hundred acres of land, to wit, of eighty (80) acres of land, more or less, upon which he resided at the time of his death.

That said last-mentioned parcel of land is all the land of which said Elisha Everett died seised and possessed and is, therefore, all the real estate disposed of by him in the manner specified in said will.

That said Elisha Everett died indebted to said J. H. Bahrenburg and Brother in the sum of two hundred and sixty-nine dollars with interest on $240.19 part thereof from the first day of July 1890 till paid, as will appear by an itemized statement of the transactions of said Elisha Everett with them together with the affidant of your Complainant thereto attached, herewith filed as part of this Bill and marked Exhibit B.

That the said Elisha Everett did not in his life-time pay, nor has his executor aforesaid, since his death, nor any other person, or any part thereof, paid said sum of money to said J. H. Bahrenburg and Brother, nor

to Your Complainant since the dissolution of said co-partnership by the death of said J. H. Baksen-burg, but said Elisha Everett in his life-time failed and neglected and the said Executor since his death has failed and neglected to pay the same.

The said Executor has admitted the correctness of said indebtedness and promised to satisfy the same, but has failed to fulfill his promise.

Your Complainant believes and alleges that the said Elisha Everett died also indebted to other persons whose claims are yet unsatisfied, but is not advised of the amounts of such claims nor the names of such persons.

The devisees under said will, to whom the personal and real estate of which said Elisha Everett died seised & and possessed was devised, are Eliza A. Everett widow of said Elisha Everett, Elisha Lee Everett his son, the children of said Elisha Lee Everett, whose names are Addie Lee Everett, Lucy Jennings Everett and Mary Elizabeth Everett, ~~and who are~~ infants under the age of twenty-one years. Mary E. Everett, wife of said Elisha Lee Everett, the children of William T. Everett, whose names are Edna E. Everett, Charles T. Everett and Lillie May Everett ~~and who are~~ infants under the age of twenty-one years, and the child of Emily S. Barrett whose name is Eliza A. Barrett, ~~and who is~~ an infant under the age of twenty-one years;

In the progress of this suit, the Court will be asked to decree that proper counsel fees be allowed and

paid for the preparation of this Bill and the conduct of the proceedings out of such funds as may come under the control of the Court in this suit.

In Consideration whereof Your Complainant prays that Elisha Lee Everett, Executor of the last will and testament of Elisha Everett deceased, Eliza A. Everett, widow of said Elisha Everett, the said Elisha Lee Everett in his own proper person, Mary E. Everett, wife of said Elisha Lee Everett, Addie Lee Everett, Lucy Jennings Everett, Mary Elizabeth Everett Eliza A. Barrett, Edna E. Everett, Charles T. Everett and Lillie May Everett, the last seven named being infants under the age of twenty-one years, may be made parties defendant to this Bill and be required to answer all the allegations thereof, — the adults in their proper persons and the infants by their guardian ad litem to be appointed to defend them in this suit, but answers on oath are hereby waived; that the debts of said Elisha Everett may be ascertained and, with proper proof thereof, reported to Court; that the claim aforesaid of Your Complainant may be decreed to be paid to him; that an inventory and appraisement of the personal estate of said Elisha Everett may, if necessary, be made; that an account of the transactions of said Elisha Lee Everett as Executor aforesaid may be taken, stated and reported to Court; that an account of the debts due by the said Elisha Everett

deceased, including the debt due as aforesaid to Your Complainant, and an account of the real estate of which said Elisha Everett died seised and possessed, may be taken stated and reported to Court; that the said real estate ~~may~~ as well as the personal estate of which said Elisha Everett died seised and possessed may be subjected to the satisfaction of his debts, (and ~~to that end~~, the real estate sold, if necessary to that end), according to the priorities of said debts and their dignity, including the claim of Your Complainant; that all proper allowances of counsel fees may be made in this suit; that proper process issue and all proper orders and decrees may be made and enquiries may be directed; and that all such other, further and general relief may be afforded Your Complainant as the nature of his case may require or to Equity shall seem meet. And Your Complainant will ever pray etc

21 Feby. 1891.

Claus H. Babcock
By Wilbur J. Kilby his Counsel

Bahrenburg etc.

vs. } In Chy.

Everetts Ex'or. & al.

Bill

J. & Bakewell & Bro
vs
Elisha Lee Everett & als
In Chancery.

1891 Feby 21. Process issued returnable to March Rules first Monday (2nd).

" March 2nd. Process returned executed on each of the defendants Bill filed. and Decree Nisi vs defendants.

" " 16th. Decree Nisi confirmed and cause set for hearing.

I. & I. Bahnsburg & Bro
vs
In Chancery

Elisha Lee Everett Exr. vals
Chancery Notes.