

1907-022

Nansemond Co (Suffolk) Chancery Causes: Harvey M. Butler et al vs George Skinner et al

Phoenix Military Band, Lessiter, Tebo, Curry, Mitchell, Bowen, Darden,
Farley, Brinkley, Baker, Weyhmann, Merchants & Truckers Bank I

TO THE CLERK OF THE CIRCUIT COURT OF NANSEMOND COUNTY:

Harvey M. Butler, M. G. Lassiter and W. S. Tebo,
who are suing in behalf of the organization known as the
Phoenix Military Band, of Suffolk, Virginia.

v.

George Skinner, C. D. Curry, F. P. Mitchell,
A. D. Bowen, R. B. Darden, H. C. Farley, W. J. Farley,
Jake Brinkley ~~and~~ R. N. Baker *and Merchants & Traders*
Bank.

Issue Summons in Chancery to 3d Monday in October,
(Second Rules), 1907.

Pay \$1.50

James H. Corbitt
p. q.

Virginia, in Vacation. In the Circuit Court of

Nansemond County, October 9th, 1907.

Harvey M. Butler, M. G. Lassiter and W. S. Tebo, who
are suing in behalf of the organization known as the
Phoenix Military Band, of Suffolk, Virginia,-----Complainants.

v.

George Skinner, C. D. Curry, F. P. Mitchell, A. D. Bowen,
R. B. Darden, H. C. Farley, W. J. Farley, Jake Brinkley,
R. N. Baker and Merchants & Truckers Bank,-----Defendants.

On motion of the Complainants an injunction is granted
in accordance with the prayers of the bill, restraining the
said George Skinner, C. D. Curry, F. P. Mitchell, A. D. Bowen,
R. B. Darden, H. C. Farley, W. J. Farley, Jake Brinkley and
R. N. Baker and the Merchants & Truckers Bank, from distributing
the fund belonging to the Phoenix Military Band now deposited
in the Merchants & Truckers Bank, of Suffolk, Virginia, or
wherever same may be deposited, among the present members of
the said organization, and restraining them from distributing
the said money for any other purposes except for the purposes
of maintaining the said organization, and the said Merchants &
Truckers Bank is restrained from paying out the said money for
any purposes whatsoever except for the purposes of maintaining
the organization of the said band, until the further order of this
Court.

But before said Complainant shall have the benefit of this
order, they, or someone for them, shall enter into bond before the
Clerk of the Circuit Court of Nansemond County in the penalty of
\$200, conditioned to pay all such damages as may be incurred in
case the injunction may be dissolved. All which is hereby cer-
tified to the Clerk of this Court to be entered in the chancery
order book.

A copy of

Teste:

R. R. Smith Clerk

By A. G. Gomez D.C.

By A. G. Gomez D.C.

The bond required by the written
order has been given with security
deemed sufficient by me.

Teste: R R. Smith clerk
R C. H. Gomez D.C

Oct 9th 1907.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON

George Skinner
C S Curry D P Mitchell A D Brown R B
Laiden W C Failey W J Failey Jake
Brinkley R W Baker and Merchants
& Truckers Bank

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 *Third* Monday in *October 1907*, to answer

a Bill in Chancery, exhibited against *them*
 in the said Court by *Harvey M Butler M G Lassiter*
and W S Sebo who are suing in behalf
of the organization known as the Phoenix
Military Band of Suffolk Virginia

And have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *9th* day of
October, 190*7*, in the 13*th* year of the Commonwealth.

A copy—Teste :

Teste :

_____, CLERK. }

_____, CLERK.

R R Smith
By C S Brown & C

J. N. Corbett, p. q.

N. W. Darter
and Others

VS. IN CHANCERY.

George Skinner
and Others

1907

October Rules.

Third Monday.

NANSEMOND CIRCUIT COURT.

Process Book No.-----

Page-----

W. R. Myers

I have this 9th day of October, 1907, served a copy of the within injunction upon A. D. Bowen and R. B. Darden, in person, in the County of Nansemond, and executed same as to the Merchants & Truckers Bank by delivering a copy thereof to W. R. Myers, President of the within named Merchants & Truckers Bank, in the County of Nansemond, in which County is located the principal office of the said Marchants & Truckers Bank.

A. H. BAKER, SHERIFF,

By R. E. Corbett Deputy.

I have this 10th day of October, 1907, served a copy of the within injunction upon George Skinner, F. P. Mitchell, H. C. Farley, W. J. Farley and R. N. Baker, in person, in the County of Nansemond, and not finding the within named C. D. Curry at his usual place of abode, I executed same as to him by delivering a copy thereof to his wife, Mrs. Allie Curry, a member of his household over 14 years of age, whom I found there, to whom I explained the purport of same.

A. H. BAKER, SHERIFF,

By R. E. Corbett Deputy.

VIRGINIA. IN VACATION. IN THE CIRCUIT COURT OF
NANSEMOND COUNTY. OCTOBER 9TH, 1907.

Harvey M. Butler, M. G. Lassiter and W. S. Tebo, who
are suing in behalf of the organization known as the
Phoenix Military Band, of Suffolk, Virginia,----Complainants.

v.

George Skinner, C. D. Curry, F. P. Mitchell, A. D. Bowen,
R. B. Darden, H. C. Farley, W. J. Farley, Jake Brinkley,
R. N. Baker and Merchants & Truckers Bank,----Defendants.

On motion of the Complainants an injunction is granted in
accordance with the prayers of the bill, restraining the said
George Skinner, C. D. Curry, F. P. Mitchell, A. D. Bowen,
R. B. Darden, H. C. Farley, W. J. Farley, Jake Brinkley, R.N.
Baker and the Merchants & Truckers Bank from distributing the
fund belonging to the Phoenix Military Band now deposited in
the Merchants & Truckers Bank, of Suffolk, Virginia, or where-
ever same may be deposited, among the present members of the
said organization, and restraining them from distributing the
said money for any other purposes except for the purposes of
maintaining the said organization, and the said Merchants &
Truckers Bank is restrained from paying out the said money for
any purposes whatsoever except for the purposes of maintaining
the organization of the said band, until the further order of
this Court.

But before said Complainants shall have the benefit of this
order, they or someone for them, shall enter into bond before
the Clerk of the Circuit Court of Nansemond County in the pen-
alty of \$200, conditioned to pay all such costs as may be awarded
against the complainant and all such damages as may be incurr-
ed in case the injunction may be dissolved. All which is here-
by certified to the Clerk of this Court to be entered in the
chancery order book.

Attest

Teste:

R. R. Smith Clerk

R. J. Gomez D.C.

The bond required by the within
Order has been given with security
deemed sufficient by me.

Oct 9th 1907

Testes:

R R Smith Clerk
By A. P. Homer, S.

A Copy

Testes:

R R Smith Clerk
By A. P. Homer, S.

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON

George Skinner
C. A. Curry & P. Mitchell & D. Bowen
R. B. Larden & C. Failey, W. J. Failey
Jake Brinkley R. M. Baker and
Merchants & Traders Bank

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 *Third* Monday in *October 1907*, to answer

a Bill in Chancery, exhibited against *them*
 in the said Court by *Narvey M. Butler M. G. Lassiter*
and W. S. Tebo who are suing in behalf
of the Organization known as the
Phoenix Military Band of Suffolk
Virginia

And have then and there this summons.

Witness, R. R. SMITH, Clerk of our said Court, at his office, this *9th* day of
October, 1907, in the 13^{*2nd*} year of the Commonwealth.

A copy Teste:

Teste:

R. R. Smith, CLERK. }

R. R. Smith, CLERK.

Wm. A. Comer D.C.

Wm. A. Comer D.C.

J. W. Corbit, p. q.

*A copy for
Jake Brinkley*

VS. } IN CHANCERY.

1907

October Rules.

Third Monday.

NANSEMOND CIRCUIT COURT.

Process Book No.-----

Page-----

October 11, 1907.

The within named Jake Brinkley not found in my County.

A. H. BAKER, SHERIFF,

By *R. E. Mayfield*
Deputy.

Know All Men by These Presents, That we, Miles G Lassiter
and Harvey M Butler

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of
Two hundred DOLLARS,

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

And we waive the benefit of our exemption as to this obligation, and also waive any claim or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of the office, post or trust herein mentioned, with coupons detached from bonds of said State.

Sealed with our seals, and dated this 9th day of October in the year of our Lord one thousand nine hundred and Seven, and in the 132nd year of the Commonwealth.

~~In Testimony Whereof, the said~~ ~~has~~
~~hereto set his hand and seal, and the said~~

~~has caused its corporate name to be hereto signed, and its~~
~~corporate seal to be hereto affixed, this~~ ~~day of~~ ~~in the year of our~~
~~Lord, one thousand nine hundred and~~ ~~, and in the~~ ~~year of the Commonwealth.~~

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That ~~if the above bound~~ ^{whereas an}
^{injunction is awarded against the defendants}
^{George Skinner and others in a bill in Chancery}
^{filed in Vacation in the Circuit Court of Nansemond}
^{County in the cause between Harvey M Butler and others}
^{Complainants and George Skinner and others defendants}
^{restraining said defendants from distulating the fund}
^{belonging to the Phoenix Military Band now deposited in the}
^{MERCHANTS AND TRUCKERS BANK of Suffolk Virginia or wherever}
^{the same may be deposited among the present members of}
^{said organization except for the purpose of maintaining said}
^{organization &c But before said Complainants shall have the}
^{benefit of this order they or some one for them shall enter into}
^{bond before the Clerk of the said Circuit Court of Nansemond}
^{County in the penalty of \$200, Conditioned to pay all}
^{such Costs as may be awarded against the Complainant}
^{and all such damages as may be incurred in case}
^{this injunction may be dissolved.}

SEAL

SEAL

SEAL

SEAL

SEAL

VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County, on the 9th day
of October, 1907:

The above bond was executed and acknowledged before me by the obligors to the same
(the security justifying), and ordered to be recorded.

Teste:

C. J. Gomez D. C.

Miles G Lassiter
To { Injunction Bond
The Commonwealth.

1907
October 9th

Recorded in Official
Bond Book No 2
Page 41

A Copy

It appearing to the Court that the Clerk has entered the Injunction order granted October 9th 1907 in the Chancery Cause of Harvey M Butler M G Lassiter and W S Tebo who are suing in behalf of the organization known as the Phoenix Military Band of Suffolk Virginia, Against George Skinner Ed Curry H P Mitchell A D Bowen R B Darden H B Farley W J Farley Jake Brinkley R M Baker and Merchants & Truckers Bank in the Common Law order book instead of in the Chancery order book, it is ordered that said order be entered nume pro tunc in the Chancery order book which is accordingly done.

Harvey M Butler M G Lassiter
and W S Tebo who are suing in
behalf of the organization known
as the Phoenix Military Band
of Suffolk Virginia
Against in Chancery
George Skinner Ed Curry
H P Mitchell A D Bowen
R B Darden H B Farley
W J Farley Jake Brinkley
R M Baker and Merchants
& Truckers Bank

in vacation,
VIRGINIA, IN THE CIRCUIT COURT OF NANSEMOND
COUNTY, OCTOBER 9th, 1907.

Harvey M. Butler, M. G. Lassiter and W. S. Tebo, who are suing in behalf of the organization known as the Phoenix Military Band, of Suffolk, Virginia,-----Complainants.

v.

*George Skinner, C.D. Curry, J. P. Mitchell,
A.D. Bowen, R.B. Darden, H.C. Farley,
H.J. Farley, Jake Brinkley and R.N. Baker, --- Defendants.*
and Merchants & Truckers Bank,

On motion of the Complainants an injunction is granted in accordance with the prayers of the ~~said~~ bill, restraining the said George Skinner, C.D. Curry, J. P. Mitchell, A.D. Bowen, R.B. Darden, H.C. Farley, H.J. Farley, Jake Brinkley and R.N. Baker and the Merchants & Truckers Bank

from distributing the fund belonging to the Phoenix Military Band now deposited in the Merchants & Truckers Bank, of Suffolk, Virginia, or wherever same may be deposited, among the present members of the said organization, and restraining them from distributing the said money for any other purposes except for the purposes of maintaining the said organization, and the said Merchants & Truckers Bank is restrained from paying out the said money for any purposes whatsoever except for the purposes of maintaining the organization of the said band, until the further order of this Court.

But before said Complainants shall have the benefit of this order, they, or someone for them, shall enter into bond before the Clerk of the Circuit Court of Nansemond County in the penalty of \$200, conditioned to pay all such costs as may be awarded against the complainant and all such damages as may be incurred in case the injunction may be dissolved. *all which is hereby certified to the Clerk of this Court to be entered in the chancery order book.*

James S. Moore,

Enter October
9th. 1904.

James S. McInnis

Entered in Chancery
Order Book No 3
Page 513.

Entered in Chancery
Order Book No. 4.
Page 187.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Harvey M. Butler, M. G. Lassiter and W. S. Tebo,
who are suing in behalf of the organization
known as the Phoenix Military Band, of
Suffolk, Virginia-----COMPLAINANTS.

v.

George Skinner, C. D. Curry, F. P. Mitchell,
A. D. Powen, R. B. Darden, H. C. Farley,
W. J. Farley, Jake Brinkley, R. N. Baker and
Merchants & Truckers Bank,-----DEFENDANTS.

On motion of the Complainants, by counsel, the injunction
heretofore granted in this cause is dissolved, and the case
is dismissed from the docket.

H . M. Butler and others,
v. } FINAL DECREE.
George Skinner and others.

Enter this 18th day of
October, 1907.

James L. McInroe

*Entered in Chancery
Order Book No. 4-
Page 188*

TO THE HONORABLE JAMES L. McLEMORE, JUDGE OF THE CIRCUIT
COURT OF NANSEMOND COUNTY:

Your Complainants, Harvey M. Butler, M. G. Lassiter and W. S. Tebo, who are suing in behalf of the organization known as the Phoenix Military Band, of Suffolk, Virginia, respectfully represent to the Court that they are members of the said organization; that the other members of the said organization are George Skinner, C. D. Curry, J. P. Mitchell, A. D. Bowen, R. B. Darden, H. C. Farley, H. J. Farley, Jake Brinkley, ~~and~~ R. W. Baker and Max Heymann;

that the said organization was organized many years ago for the purpose of having a band in the Town of Suffolk to furnish music on public occasions and for the general benefit of the said town, including any military organization in the said town. That said band was organized by various parties associating themselves together under the said name.

A fund was provided by a general subscription from outside parties, and any of the then members who felt disposed to contribute for the purpose of providing instruments and music for the use of the said band, and for the purpose of keeping intact the organization. That from time to time the original members ^{move from Suffolk} have died, or have resigned from said organization and other members have been admitted, until at the present time very few, ~~if any~~, of the original members remain. That for some time the organization has been without a leader and band practice has ceased. Your Complainants have hoped, and do hope, in behalf of the organization, to obtain a leader and continue the organization, and believe, with reason, that such a leader can

be obtained. On the other hand the members George Skinner,
CD Curry, J. P. Mitchell, A.D. Bowen, R.B. Darden,
HC Farley, WJ Farley, Jake Brinkley and R.W.
Baker

are opposed to a continuation of the organization, and at a
meeting held voted to distribute among the ^{present} members of the
organization, in equal parts, the fund above referred to, con-
tributed and set apart for the purpose of maintaining the
organization, which fund is now deposited to the credit of the
organization in the Merchants & Truckers Bank, of Suffolk,
Virginia. The member, Max Weyhmann, not being present, has
taken no action in the said matter, but your Complainants be-
lieve that said Max Weyhmann is opposed to the distribution
proposed to be made by the members above mentioned. The said
Max Weyhmann is now out of this country and cannot be reached
at the present time.

Your Complainants believe, and therefore charge, ~~that~~
~~none of the said members has contributed anything to the fund~~
~~now in the said bank, and that the said fund was provided for~~
the purpose named long before ^{Some of the} said members who now wish to
distribute same, as aforesaid, were admitted to membership in
the organization. Your Complainants maintain that the said
fund in bank is a trust fund, to be used for band purposes,
and that the present members of the organization have no legal
right to use said fund for any other purpose, and certainly
have no legal right by a majority vote to distribute the said
fund among the members of the band.

Your Complainants represent to the Court that unless an
injunction is granted restraining the said George Skinner,
CD Curry, J. P. Mitchell, A.D. Bowen, R.B. Darden,

HC Farley, WJ Farley, Jake Brinkley and
RNBaker

from distributing the said money, and restraining the said Merchants & Truckers Bank from paying out the said money for the purposes of distributing the same among the members of the band, that the said trust fund will be so distributed and forever lost and diverted from the purposes for which it was raised and set apart.

In tender consideration whereof, and inasmuch as your Complainants are remediless in the premises save by the aid of a Court of Equity where matters of this kind are alone and properly cognizable and relievable, your Complainants pray that the said George Skinner, CD Curry, J. P.
Mitchell, A D Bowen, R B Darden, H. C.
Farley, WJ Farley, Jake Brinkley
and RNBaker

and the Merchants & Truckers Bank may be made parties defendants to this bill and required to answer same, but not under oath, the oath being expressly waived. That an injunction be granted restraining the said defendants, George Skinner^{CD Curry}
J. P. Mitchell, A D Bowen, R B Darden,
HC Farley, WJ Farley, Jake
Brinkley and RNBaker

present
from distributing the said money among the members of the said organization, and restraining the said bank from paying out the said money for any such purpose, and that such further and general relief may be granted your Complainants as to Equity

may seem meet, and the nature of this case may require.

And your Complainants will ever pray, etc.

James H. Corbitt
p.g.

M. G. Lassiter

STATE OF VIRGINIA,
COUNTY OF NANSEMOND.

To-wit:

This day M. G. Lassiter

appeared before me, a Notary Public in and for the State and
County aforesaid, and made oath that the statements ^{made} in the
foregoing bill are true. My commission expires March 19, 1910.

Given under my hand this 9th day of October, 1907.

J. W. Floyd
Notary Public.

J N Leobitt p.g.
N M Butterworths
W J In Chancery
George Skinner Vothers

1907
Octo 18th
Final Decree

costs
Clerk \$6.05
Tax 1.50
Shff 9.00
Atty 15.00

\$ 31.55