1909-067
Nansemond Co (Suffolk) Chancery Causes: P.J. Kernodle vs Suffolk Collegiate Institute

Brith, Lessiter, Thomas, Watkins, Gaskins, Duck, Smith, Lee, Dunbar, King

To Clerk of the Circuit Court of Nansemond County:

P.J.Kernodle- Complainant-

Againat

Suffolk Collegiate Institute,a corporation, and E.B.Britt,D.C.Lassiter, J.C.Thomas,M.L.Watkins,T.R.Gaskins,I.W.Duck,,R.R.Smith,P.H.Lee and D.B. Dunbar,trustees of the Suffolk Collegiate Institute.Defendants)

Issue summons in chancery to Rules on 3rd Monday in March?1895.

E. E. Holland,
P.Q.

D.C. Lassiter. Norfolk
D.B. Dunbar Norfolk

D.C.Thomas
M.L. Watkins
I.W. Duck

Shirley Dist. Isle of Wight Co. Va

Memorandum

CHANCERY SUMMONS.

The Commonwealth of Virginia, Isle of Wight-

TO THE SHERIFF OF ~~NANSEMOND~~ COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Suffolk Collegiate Institute a corporation and E B Britt D C Lassiter, J C Thomas, M L Watkins P R Gaskins, J W Duck, R R Smith, P H Lee and D B Dunbar trustees of the Suffolk Collegiate Institute

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 March 1895, to answer a Bill in Chancery, exhibited against them in the said Court by P J Kennodle

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this 12th day of March 1895, in the 119 th year of the Commonwealth.

Teste:

A P Gomer Clerk.

E. E. Holland p.q.

P. J. Kennodle

vs

In Chancery

Suffolk Collegiate

Institute a Corporation

1895

March Rules

Third Monday

Nansemond

Circuit Court

Process Book

No 2. Page

Copies of the Bill, Exhibits, Motion for Injunction & Order thereon, Answer & Exhibits, Motion to Dissolve Injunction & Order thereon, Demurrer, Motion to Dismiss Demurrer & Order thereon, Replication, Motion to Commission & Order thereon, Commission & Return thereon, Motion to Dismiss Suit & Order thereon, Motion to Reinstate Suit & Order

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Suffolk Collegiate Institute a corporation and E. B. Britt D. C. Lassiter, J. C. Thomas, M. L. Watkins S. R. Gaskins, J. W. Duck, R. R. Smith P. H. Lee and D. B. Dunbar trustees of the Suffolk Collegiate Institute

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 March 1895, to answer a Bill in Chancery, exhibited against them in the said Court by P. J. Kennodle

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this 12th day of March 1895, in the 119th year of the Commonwealth.

Teste:

A. P. Gomer Clerk.

1895. March 15th
Execution by summons upon
Suit Pending, a copy
of the writ, & endorsement
thereon, delivered in
person, at his office in the
Town, to J. Lucien Dunn, Clerk
which said Summons is returned
executed

Teste
W. H. Roberts
D.C.

E. E. Holland p.q.
P. J. Kennedy
vs. In Chancery
Suffolk Collegiate
Institute a corporation

1895
March Rules
Third Monday

Nansemond
Circuit Court
Process Book
No 2. Page 112

Execution this 15th day of March 1895
for costs in favor of the Plaintiff
Taxed as follows
Writ Summons & Return $2.00
Fee for Clerk
W. H. Roberts D.C.

Executed this 14th day of March 1895
by causing a copy of this writ and
endorsement thereon to be delivered
to the within named Suffolk Collegiate Institute, a corporation
Fee $2.00
R. L. Norfleet Dep.
for Sheriff

Executed this 15th day of March 1895
by causing a copy of this writ and
endorsement thereon to be delivered
to the within named Suffolk Collegiate Institute a corporation
Fee $2.00
R. L. Norfleet Dep.
for Sheriff

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE ~~SHERIFF~~ Sergeant OF ~~NANSEMOND~~ the City of Norfolk ~~COUNTY~~—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Suffolk Collegiate Institute, a Corporation, and E B Britt, D. C. Lassiter, J. C. Thomas, M L Watkins, T. R. Gaskins, I. W. Duck, R R Smith P. N. Lee and D B Dunbar, trustees of the Suffolk Collegiate Institute

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 March 1895, to answer a Bill in Chancery, exhibited against them in the said Court by P. J. Kennedy

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this 12th day of March 1895, in the 119th year of the Commonwealth.

Teste:

A. P. Gomer Clerk.

E E Holland p.q.

P. J. Kernodle

vs. In Chancery

Suffolk Collegiate

Institute a Corporation

1895

March Rules

Third Monday

Executed this 14th day of March A.D. 1895 by delivering copies hereof to D. C. Lassiter and D. B. Dunbar Trustees of the Suffolk Collegiate Institute (Sept. fee 1.00 paid)

J. B. Burke Sergt. Cty of Suffolk

by C. L. Quinn Deputy

Nansemond

Circuit Court

Process Book

No 2 Page

In the Circuit Court of Nansemond County:

Kernodle vs Suffolk Collegiate Institute and others.

This cause came on this day to be heard upon the bill taken for confessed as to the defendants, on whom process has been duly executed and they still failing to appear and plead, answer or demur, the exhibits filed therewith, and was argued by Counsel: On consideration whereof it appearing to the Court that in 1874 Joseph King and wife conveyed to E.B.Britt, D.C.Lassiter, J.C.Thomas, M.L.Watkins, T.R.Gaskins, I.W.Duck, R.R.Smith, P.H.Lee and D.B.Dunbar, and others whose names are mentioned in said deed but who have since departed this life, Trustees for the Suffolk Collegiate Institute, and their successors, the real estate mentioned in the said bill of complaint: and it further appearing that since the execution of said deed the stockholders of said Suffolk Collegiate Institute have authorized and empowered its officers to execute a deed of trust on said real estate, and that under said deed of trust the said real estate was sold and purchased by P.J.Kernodle, the complainant; the Court doth order, adjudge and decree that the said trustees whose names are mentioned above be authorized, empowered and directed to convey to said P.J.Kernodle, whatever interest, right or title they may have in said property by virtue of said deed from Joseph King and wife as aforesaid, by good and sufficient deed with special warranty. And this cause is continued.

Kennedy
vs Dixon
Suffolk Cir. Ins. Co.

April 9, 1895
To be Entered.
Robert C. Davis.

Entered in Chancery
Order Book No. 2.
Page 618.-

At a meeting of the Stockholders of "The Suffolk Collegiate Institute, held in the Hall of the Institute building, pursuant to notice, on the 24th day of June, 1886, the following resolution was offered and unanimously adopted:

"Whereas it is desirable, for the purpose of increasing the facilities of the Institution, to add other buildings and remodel those now here, and for this purpose additional funds are essential, and it seems impossible to secure the necessary funds by subscriptions to the capital stock of the Corporation; therefore,

"Resolved that the officers of the Corporation are hereby authorized to execute a mortgage on the property of the Corporation for a sum sufficient to cover the cost of such additions and improvements, not to exceed the sum of Forty-five Hundred dollars, and said mortgage shall be for the benefit of such party or parties as may be willing to loan the said amount." And whereas the said sum of Forty-five Hundred (4500) dollars was loaned to said Corporation by L. L. Kenrodt, and expended in making the desired additions and alterations on the buildings of the said

corporation, the said sum having been loaned in consideration of a Deed of Trust, securing the same, upon the property of said Corporation, pursuant to the resolution of the Board of Stockholders, above recited, and said additions and alterations having been completed,

Now therefore this Deed, made this the 28th day of June, 1887, pursuant to the Charter and Constitution of the said "The Suffolk Collegiate Institute", and also pursuant to the resolusion aforesaid, and to carry into effect the purpose and intent of the same, between "The Suffolk Collegiate Institute", of Suffolk, Va., by the Officers of the Board of Stockholders, to wit: J. T. Nurney, President; John H. Wright, Secretary; and P. J. Kennedy, Treasurer duly elected, of the first part and J. M. Lewis Trustee, of the second part, Witnesseth:

That the said party of the first part, doth grant, bargain, sell and convey unto the said J. M. Lewis Trustee ~~Trustee~~, the following property, to wit: That certain lot of land situated on the south side of Killy street, in Suffolk, Va., at the south east corner of Killy and Wellons streets, known as "The Suffolk Collegiate Institute" lot,

and bounded on the North by said Kilby Street, on the east by the lot of Joseph King; on the South by ____ Street, and on the west by Wellons street, together with all and singular the appurtenances belonging to said lot.

In trust, to secure to L. L. Kennedy the payment of the sum of Forty-five Hundred (4500) dollars, evidenced by a bond for that sum of even date herewith, executed by the President and Secretary of the Board of Stockholders of "the Suffolk Collegiate Institute" under its corporate seal, said bond being payable on demand with interest from its date.

In the event of default in the payment of said bond, when payment thereof shall be required, the said Trustee, when so required by said L. L. Kennedy, shall sell the property hereby conveyed, after thirty days' notice of the time, place and terms of sale in some newspaper published in the Town of Suffolk, Va., and in such other way as he may deem expedient, by public auction, either upon the premises, or at such other place as he may deem best, and out of the proceeds of such sale, after paying the expenses of executing this Trust, including a commission of three per cent., upon the gross amount of such sale, to said Trustee,

and the fees for preparing and recording this Deed, if there unpaid, he shall pay to said L.L. Kennodle the amount then due and unpaid upon said bond, if sufficient, and the surplus, if any, he shall pay as the law requires:

Witness the following signatures and seals

The Suffolk Collegiate Institute
By J.T. Turney Pres't Board of Stock-holders.

Jno. H. Wright Secty Board of Stockholders

P. J. Kennodle, Treas. Board of Stockholders.

Virginia,
Nansemond County, to wit:

I, E.E. Holland a Notary Public for the State and County aforesaid do certify that J.T. Turney President; Jno. H. Wright Secretary; and P.J. Kennodle Treasurer of the Board of Stockholders of "The Suffolk Collegiate Institute" whose names are signed to the writing above, dated the 28th day of June 1887, have each acknowledged the same before me in my said County.

Given under my hand this 30th day of June A.D. 1890 E.E. Holland, N.P.

County of Nansemond To Wit:
In the Clerk's Office of the County Court for the County of Nansemond the 2nd day of July 1890, this deed was presented, and with the Certificate annexed, admitted to record.

Teste:

R. R. Smith clerk

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The Suffolk Collegiate Institute

To

J. M Leavell Trustee for L L Kennedle.

"Exhibit C"

admitted to record July 2nd 1890. Examined verified and delivered R. R. Smith, Cl'k

Deed of Trust Recorded D. B. M. No 29 page 220 1890. December 27th Examined verified and Delivered

A. D. Gomes D.C.

Tax -- 450
Fee --- 125
Pd. $5.75

Whereas the property known as the "Suffolk Collegiate Institute" was conveyed to certain trustees instead of to the said corporation; and Whereas since said conveyance the stockholders of said corporation in regular meeting authorized and empowered the officers of said corpo tion to make a loan of $4500. on said property for the purpose of improvements and to borrow said sum from any party willing to loan same; and Whereas said loan was made by L.L.Kernodle and a deed of trust made on said property to secure same; and whereas said property has since been sold by the trustee named in said deed and purchased by P.J.Kernodle; and whereas as the surviving trustees named in said deed we now desire whatever interest we may have in said property to be likewise conveyed to said P.J.Kernodle, we authorize that a suit be instituted in our names as trustees, and without cost to us, for the purpose of getting permission from the Circuit Court of Nansemond County authorizing us to make said conveyance-

E.B.Britt

D.G.Lassiter

I.G.Brown

W.L.Watkins

J.R.Gaskins

R.R.Smith

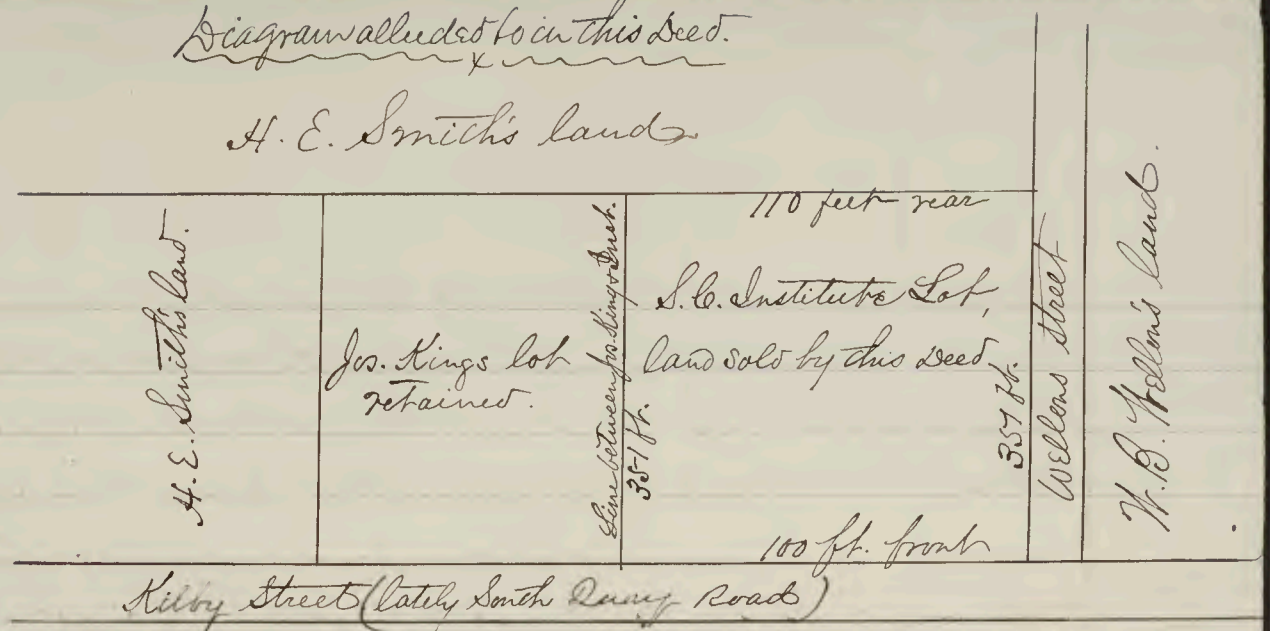
P.H.Lee by E.E.Holladay

"Exhibit B"

This Deed, made this 21th day of Novr. Eighteen hundred and Seventy two, between Joseph King and Sarah E.C. his wife of the one part, and W.B. Wellons, (Prest.) Jno. R. Copeland, T.J. Kilby, W.S. Riddick, D.B. Dunbar, P.H. Lee, T.R. Gaskins, E.F. Williamson, E.L. Eley, Jos. Booth, D.C. Lassiter, E.B. Britt, Jno. C. Thomas, I.W. Duck, J.T. Manning, J.T. Harris, R.R. Smith, H.D. Cowper, M.L. Watkins and A.W. Ballard, Trustees of Suffolk Collegiate Institute, of the other part, Witnesseth: That the parties of the first part in consideration of the sum of Two Hundred & Seventy two Dollars, do grant with general warranty unto the said Wm. B. Wellons (Prest.) Jno. R. Copeland, T.J. Kilby, W.S. Riddick, D.B. Dunbar, P.H. Lee, T.R. Gaskins, E.F. Williamson, E.L. Eley, Jos. Booth, D.C. Lassiter, E.B. Britt, J.C. Thomas, I.W. Duck, J.T. Manning, J.T. Harris, R.R. Smith, H.D. Cowper, M.L. Watkins, and A.W. Ballard, Trustees of said Suffolk Coll. Inst., and to their Successors in office forever, the following real estate to wit: A parcel of land on the South side of Kilby Street (recently called South Quay Road) fronting One hundred feet on said Street, and running back South, Three hundred & fifty one feet, the Southern line running east & west one hundred and ten feet: Bounded North by said Kilby St., West by Wellons St., South by H.E. Smith's land, and East by said King's land (lately bot. of H.E. Smith) — (a diagram of which is annexed) — together with all and singular the appurtenances belonging to said parcel of land now sold. — And the said Joseph King covenants that he has the right to sell said land: That he has done no act to encumber the same; That the Grantees shall have quiet possession of the same; and that he will execute all further assurances thereof when necessary and proper. Witness the following signatures & Seals.

Joseph King (Seal)

Sarah E.C. King (Seal)



State of Virginia
Nansemond County to wit:

I Willis E Cohoon clerk of Nansemond County, do certify that Sarah E. King the wife of Joseph King, whose names are signed to the writing above bearing date the 27th day of November 1872 personally be me in my office and being examined by me privily and apart from her said husband and having the writing aforesaid fully explained to her declared she the said Sarah E. King acknowledged thereto the said writing to be her act and deed and that she had willingly executed the the same and does not wish to retract it: I do further certify that Joseph King whose name is also signed to the writing above personally appeared before me in my said office and acknowledged the said writing to be his act and deed.

Given under my hand as clerk of the said Court this 27th day of November 1872.

Willis E Cohoon clerk

In the Clerk's Office of Nansemond County Court,
The 8th day of January, 1876.
This Deed was received, and with the certificate written thereon, admitted to record.

Teste,
Peter B. Prentis. Clerk.

1895 Mar 8th Examined
Verified and delivered
A. P. Gurney D.C.

Recorded in Deed Book No 5. p. 170

"A"
Joseph King & wife
To
W. B. Holland & others,
Trustees S. C. Inst.

1876.
Jany: 8th. Received in the Clerks Office, certified, for Re

To Hon.R.R.Prentis,Judge Circuit Court for Nansemond County,Virginia.

Your complainant P.J.Kernodle,humbly complaining,presents the following case:

That by act of the General Assembly of Virginia,inforce March 4th,I872,the Suffolk Collegiate Institute was duly incorporated; the charter granted thereby afterwards duly accepted,and the corporation duly organi zed.

That by deed from Joseph King and Sarah E.C.King,his wife,"A parcel of land on the South side of Kilby Street,fronting one hundred feet on said Street,and running back South three hundred and fifty one feet,theSouthern line running East and West one hundred and ten feet:Bounded North by said Kilby Street,West by Wellons Street,South by H.E.Smith'S lands,and East by said King's lands",was conveyed to W.B.Wellons,Prest.Jno.R.Copeland,T.J.Kilby,W.S.Riddick,D.B.Dunbar,P.H.Lee,T.R.Gaskins,E.F.Williamson, E.L.Eley,Jos.Boothe,D.C.Lassiter,E.B.Britt,Jno/C.Thomas,I.W.Duck/,J.N. Manning,J.T.Harris,R.R.Smith,H.D.Cowper,M.L.Watkins and A.W.Ballard,Trustees of the Suffolk Collegiate Institute,and to their successors in office forever.A copy Or the originak deed marked Exhibit "A" is herewith filed and asked to be read as a part of this bill.

That the buildings used by the said corporation were erected upon said lot, and said lot and buildings were used for the purposes of said corporation for a number of years,and that said trustees simply held said property in trust for the uses and purposes of said corporation.

That of the foregoing trustees E.B.Britt,D.C.Lassiter,J.C.Thomas,M.L.Watkins,T.R.Gaskins,I.W.Duck,R.R.Smith,P.H.Lee and D.B.Dunbar are the only survivors,all the othe rs named in said deed as aforesaid having departed this life.

That so far as your complainant knows or believes the successors of such as may have died have never been appointed.

That all of said surviving trustees with the exception of D.B.Dunbar have signed a paper writing agreeing that whatever interest they may have in

said property may be conveyed to your complainant,and mentioning also in said writing the manner in which your said complainant obtained possession of and his title to said property.Said writing marked "Exhibit B" is herewith filed and asked to be read as a part hereof.

That at a regular meeting of the stockholders of said corporation,held pursuant to notice, on the 24th day of June,I886,and at which a large majority of the stockholders were represented in person or by proxy,the following resolution was offered and unamimously adopted:"Whereas it is desirable for the purpose of increasing the facilities of the Institution to add other buildings and remodel those now here;and for this purpose additional funds are essential,and it seems impossible to secure necessary funds by subscriptions to the capital stock of the corporation:Therefore, Resolved, that the officers of the corporation are hereby authorized to execute a mortgage on the property of the corporation for a sum sufficient to cover the cost of such additional and improvements,not to exceed the sum of forty five hundred dollars,and said mortgage shall be for the benefit of such party or parties as may be willing to loan the said amount".

That by virtue of said authority from the said stockholders the said officers therein authorized borfowed from L.L.Kernodle the sum of forty five hundred dollars,and executed to him a deed of trust to secure said amount upon the property of the said corporation, including the real estate hereinbefore described.A copy of said Deed marked "Exhibit C" is herewith filed and asked to be read as a part of this bill.

That said sum was expended inmaking necessary additions and improvements to the property of said corporation,as authorized by said stockholders.

That default was afterwards made in the payment of the said sum of money borrowed of said L.L.Kernodle,and by his direction the property conveyed by said corporation in trust as aforesaid, was duly advertised and sold by his trustee.

That at said sale,your complainant,became the purchaser thereof,having made the highest bid therefor,and on the I5th day of March, 1894,received

from Jno.F.Lotzia, who had been duly substituted as trustee in said deed, in place of the original trustee therein named, a deed for said property. That your complainant fully complied with the terms of sale and supposed he was getting a good title to said property, but upon examination your complainant found that the legal title to said property seemed to be vested in trustees who held said property in trust for the Suffolk Collegiate Institute, and not in the corporation it self.

Your complainant charges that said property does or did in fact belong to said corporation, and that having purchased the said property as aforesaid, he is entitled to a deed from said trustees conveying whatever possible interest they might have in said property to him.

In tender consideration whereof and for as much as your complainant is remediless save in a court of equity where matters of this kind are alone and properly cognizable, your complainant prays that the said Suffolk Collegiate Institute, as a corporation, and the said E.B.Britt, D.C.Lassiter, J.C.Thomas, M.L.Watkins, T.R.Gaskins, I.W.Duck, R.R.Smith, P.H.Lee and D.B. Dunbar, trustees, may be made parties defendant to this bill and required to answer the same: (answers under oath being waived): that the said trustees may be authorized and required to execute a deed conveying to your complainant whatever title they may have to said property herein described by virtue of the aforesaid deed from Joseph King and wife to them and their successors: that proper process issue: and that all such other, further and general relief may be granted to your complainant as the nature of his case may require or to equity shall seem meet. And your complainant will ever pray, &c.

P. J. Kennedy,
By E. Eldredge,
K. & P.

P. J. Mercadier

vs. { Jn. Chancery

Suffolk Coll. Journals

E. E. HOLLAND,
ATTORNEY AT LAW,
SUFFOLK, VA.

Everett Waddey Co., Stationers and Printers, Richmond, Va.

P J Kernodle
Against In Chancery
Suffolk Collegiate Institute &c.

1895 March 12th. Process issued returnable to March Rules Third Monday

" " 18. Process returned executed on each of the defendants Bill filed and decree Nisi &s thereon.

" April 1st Decree Nisi confirmed and cause set for hearing

Chancery Notes

E E Holland pg

P J Kennedie

VS. In Chancery

Suffolk Collegiate

Institute a Corporation

1909

July 16th

Final Decree

P J Kennedie VS. E. Institute

Costs

Clerk.	620
Sheriff.	250
" Surv	1.00
" Depo	150
Jury	15.00
Atty	150.00
	$27.70