1931-004
Nansemond Co (Suffolk) Chancery Causes: Suffolk Fertilizer Co vs R.F. Butler et al

Jones

VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

The Suffolk Fertilizer Company, Incorporated.....Complainant

v.

R. F. Butler and Ann F. Butler.....Defendants

To George E. Bunting, Clerk of the Circuit Court of Nansemond County:

Kindly issue process commanding the proper officer to summon R. F. Butler and Ann F. Butler to answer the bill of complaint of The Suffolk Fertilizer Company, Incorporated, to first July rules.

The Suffolk Fertilizer Co, Inc
By Counsel.

Thos L Hardaway p.q.

Rule Notes:

June 29,1927-Process issued,returnable to July Rules,1st Monday,1927
Bill filed June 29th, 1927; decree nisi July 11th, 1927.

VIRGINIA,
IN THE CIRCUIT COURT OF
NANSEMOND COUNTY.

The Suffolk Fertilizer Company, Incorporated

v.

R. F. Butler and Ann F. Butler

VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

The Suffolk Fertilizer Company, Incorporated.....Complainant

v.

R. F. Butler and Ann F. Butler.....Defendants

To Paul J. Powell, Clerk of the Circuit Court of Nansemond County:

Kindly issue process commanding the proper officer to summon R. F. Butler and Ann F. Butler to answer the amended bill of complaint of The Suffolk Fertilizer Company, Incorporated, to ~~first~~ December ~~rules~~ rules.

The Suffolk Fertilizer Co. Inc
By Counsel.

Holland & Woodward p.q.

VIRGINIA: IN THE CIRCUIT COURT
OF THE COUNTY OF NANSEMOND

THE SUFFOLK FERTILIZER CO.,INC.

v.

R. F. BUTLER and ANN F. BUTLER

Filed Nov. 13, 1929
By Anne J. Powell clerk
By Alvina Whitehurst D.C.

MEMORANDUM

The Artcraft Corporation
Printers and Publishers
Suffolk, Va.

Form No. 300. Code 1919, Sec. 6061

The Commonwealth of Virginia,

To the Shiriff of the County of Nansemond, *Greeting*:

WE COMMAND YOU, That you summon R. F. Butler and Ann F. Butler

to appear at the Clerk's office of the Circuit Court of the County of Nansemond at the rules to be held for the said Court on the 1st Monday in December, 1929, to answer a bill in chancery, exhibited against them in our said Court by The Suffolk Fertilizer Co., Inc.

And have then there this writ. Witness Paul J. Powell, Clerk of our said Court, at the court-house, the 13th day of November, 1929, and in the 154th year of the Commonwealth.

Paul J. Powell, Clerk
By Alivera Whitehurst, D.C.

27 Nov
29

F Butler vs Ralph F Butler
E B Rawls
J. C. Saylor

No. 300

The Buffalo Fertilizer Co. Inc.

vs. } SUBPOENA IN CHANCERY

R. F. Butler et al

Holland & Woodward ... p. q.

To First December ... *Rules,*

Nansemond County .. *Circuit Court.*

Everett Waddey Co., Stationers and Printers, Richmond, Va. } Form No. 300. Code 1919, Sec. 6061

The Commonwealth of Virginia,

To the Sheriff of the County of Nansemond, *Greeting:*

WE COMMAND YOU, That you summon R.F.Butler and Ann F.Butler

to appear at the Clerk's office of the Circuit Court of the County of Nansemond at the rules to be held for the said Court on the First Monday in July, 19 27, to answer a bill in chancery, exhibited against them in our said Court by

The Suffolk Fertilizer Company, Incorporated

And have then there this writ. Witness G.E.Bunting, Clerk of our said Court, at the court-house, the 29th day of June, 19 27, and in the 151st year of the Commonwealth.

G.E.Bunting Clerk

Executed on the 2 day of July 1927, within the County of Nansemond, State of Virginia, by delivering a true copy of the within summons notice, in writing, to R F Butler in person.

E B Rawles
Sheriff of Nansemond County

By J L Taylor
Deputy Sheriff of Nansemond County

Cen F Butler could not be found at his usual place of abode on the 2 day of July, 1927, so the within summons notice was executed on the said 2 day of July, 1927, within the County of Nansemond, State of Virginia, by delivering a true copy of the same, in writing, and giving information of its purport to R F Butler, Cen F Butler's Son, who was found at Cen F Butlers usual place of abode, and who is a member of Cen F Butlers Family, and above the age of sixteen years.

E B Rawles
Sheriff of Nansemond County

By J L Taylor
Deputy Sheriff of Nansemond County

No. 300

The Suffolk Fertlizer Co.Inc.

vs. } SUBPOENA IN CHANCERY

R.F.Butler et al

Thos.L.Woodward *p. q.*

To 1st July 1927 *Rules,*

Nansemond County *Circuit Court.*

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF SUFFOLK.

To

The Suffolk Fertilizer Company, Incorporated.

and

R. F. Butler and Anne F. Butler.

You are hereby notified that on Thursday, the 20th day of October, 1927, at my offices on the fourth floor, National Bank of Suffolk Building, Suffolk, Virginia, at 2:30 o'clock P. M. (at which time and place you are required to attend) I shall take, state and settle the following accounts which are to be taken, stated, and settled and reported to court in pursuance of a decree of the Circuit Court of the City of Suffolk, Virginia, rendered on the 10th day of September, 1927, in the suit in chancery pending in said court, to which you are parties and plaintiff and defendants, to-wit:

> "(1) Whether there are any delinquent taxes upon the said real estate.
>
> (2) The liens upon the said real estate, by whom held, their respective amounts and priorities.
>
> (3) Whether the rents and profits from said real estate will in five years pay off and discharge said liens and the costs of this suit.
>
> (4) Whether all the necessary and proper parties are properly before the court.
>
> Which said inquiries the said commissioner shall make and report the same to the court, along with any other matter especially stated deemed pertinent by himself, or which may be required by any person interested to be so stated."

If the execution of said decree be not commenced or, if commenced be not concluded on said day the same will be adjourned and continued from time to time, at the place above mentioned, until conclusion thereof.

Given under my hand as commissioner in chancery for the Circuit Court of the County of Nansemond, Virginia, this 3rd day of October, 1927.

M. Anderson Mavery
Commissioner in Chancery.

Due, legal and sufficient service of the above notice is hereby acknowledged.

The Suffolk Fertilizer Co. Inc
By Thos L. Woodward
Its Attorney

Suffolk Fertilizer Co. Inc.

v.

R. F. Butler & Anne F. Butler

Notice of taking of depositions

Executed on the 6 day of October 1927, within the County of Nansemond, State of Virginia, by delivering a true copy of the within summons notice, in writing, to R F Butler in person.

O B Knowles
Sheriff of Nansemond County

By J. L. Taylor
Deputy Sheriff of Nansemond County

Executed on the 6 day of October 1927, within the County of Nansemond, State of Virginia, by delivering a true copy of the within summons notice, in writing, to Mrs Annie F Butler in person.

O B Knowles
Sheriff of Nansemond County

By J. L. Taylor
Deputy Sheriff of Nansemond County

VIRGINIA

IN THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND

The Suffolk Fertilizer Company, Incorporated.....Complainant

v. ORDER CONFESSING AMENDED BILL AND ORDERING SALE.

R. F. Butler and Ann F. Butler.....Defendant

THIS CAUSE, came on this day to be heard on the papers formerly read, upon decree of this court entered on September 10, 1927, taking complainants' bill for confessed as to defendants, upon the petition of defendants filed by leave of court on November 15, 1927, upon the answer of defendants filed by leave of court on November 15, 1927, upon the report of M. Anderson Maxey, commissioner in chancery of this court, in which depositions were taken on the 20th day of December, 1927, and said report filed on October 20, 1930, to which said report no exceptions have been taken, upon proof of legal service of proper process to answer complainants' amended bill of complaint filed by leave of court, and the defendants still failing to plead, answer or demur to complainants' amended bill, the same is taken for confessed as to said defendants, R. F. Butler and Ann F. Butler.

ON CONSIDERATION whereof, and it appearing from the complainants' original bill of complaint that the real estate sought to be affected by this suit was improperly and erroneously described in the said bill, but that all of the parties hereto proceeded in this cause without knowledge of said error and as though the true description was set forth therein, and it further appearing to the court that the complainant has filed its amended bill in which the true description of the land, the conveyance of which is sought to be set aside in this suit, has been set forth in detail to which no answer has been filed, or other action taken by defendants. And it appearing that the deed from R. F. Butler to Ann F. Butler bearing date the 11th day of January, 1927, and recorded in the Clerk's Office of the Circuit Court of Nansemond County, in deed book 112,

page 391, conveying the land described as follows to-wit:

"All his undivided and one-fifth interest in and to the following real estate, located in Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows, save except the property previously sold by the said Carr D. Butler and wife, as shown by deeds of record in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, recorded in the following deed books in said county, viz; 98, page 429; 76, page 101; 74, page 411; and 74, page 242.

"Bounded on the North by the lands of Lemuel Babb, Joseph Smith, G. A. Redd and others; and the East by R. N. C. Powell and James Smith; on the South by the lands of Carr D. Butler, and Henry Rogers and on the West by the lands of Julius King; being the same lands conveyed to Carr D. Butler by deed bearing date the 30th day of January, 1911, by G. F. Batten, Trustee and duly recorded in the aforesaid Clerk's Office in Deed Book No. 70, page 316.

"That certain piece or parcel of land, situate, lying and being in the Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows: John Thomas Norfleet, Edwin King's estate, less a space of Fifty (50) feet square which is reserved for burial ground, with ingress and egress to same. Being the same land conveyed to Carr D. Butler by deed bearing date the 16th day of August, 1877, from Wilbur J. Kilby and John L. Fulgham, Commissioner's duly of record in the aforesaid Clerk's Office, in Deed Book No. 6, page 193,"

was made to hinder, delay and defraud the creditors of said R. F. Butler and particularly The Suffolk Fertilizer Company, Incorporated, in respect to the debt and demand set forth in complainants' bill, and likewise complainants' amended bill, ~~said bills having been taken for confessed as to defendants~~, it is adjudged, ordered and decreed that the said deed bearing date as aforesaid be, and the same is hereby set aside and held for nought but so far only as the said debt and demand of The Suffolk Fertilizer Company, Incorporated, is concerned, which is hereby declared a lien upon the real estate above described, and it likewise appearing from the report of M. Andersen Maxey, commissioner in chancery of this court to whom this cause was referred, that the rents and profits from the aforesaid real estate will not pay off and discharge the liens against the interest of the said R. F. Butler in the aforesaid land within five years, which interest is an undivided one-fifth, subject to the dower of Ann F. Butler, it is ordered, adjudged and decreed that Thomas L. Woodward, who is hereby appointed a Special Commissioner for the purpose, do make sale,

that unless the debt due complainants is paid within sixty days from this date together with the costs of this suit, then

subject to the confirmation of this court, of the aforesaid interest of R. F. Butler in the aforesaid land, at public auction, for cash, in front of the National Bank of Suffolk, in the City of Suffolk, after first advertising the time, place and terms thereof for ten days by printed hand bills posted in three or more conspicous places in Nansemond County, including the City of Suffolk, and by publication once a week for two successive weeks in the Virginian Pilot and Norfolk Landmark, a newspaper having general circulation in Nansemond County and the City of Suffolk.

But the said Commissioner shall not proceed with the execution of this decree until he shall first have given bond in the sum of One Thousand ($1,000.00) Dollars, conditioned as required by law, with surety approved by the Clerk of this Court, and said Special Commissioner is directed to report his actions hereunder to the court.

And this cause is continued.

VIRGINIA,
IN THE CIRCUIT COURT OF
THE COUNTY OF NANSEMOND

The Suffolk Fertilizer
Company, Incorporated
Complainant

v.

R. F. Butler and Ann F.
Butler
Defendants

ORDER CONFIRMING AMENDED
BILL AND ORDERING SALE

Entered February 14, 1931.

Jas. L. McLemore
JUDGE

Chancery Order Book
No. 6 Page 389

$246 97 Suffolk, Va., 9/15 1925

Dec 1st 1925 days after date I promise to pay to the order of THE SUFFOLK FERTILIZER CO., Inc., Suffolk, Va., *negotiable and payable without offset with costs of collection at the*

Two hundred forty six 97/100 Dollars

for value received; and we, the maker or makers, endorser or endorsers, hereby waive the benefit of our Homestead and Personal Property Exemptions as to this debt. And we hereby agree to continue and remain bound for the payment of this note and all interest thereon, notwithstanding any extension of time granted to the principal, and notwithstanding any failure or omission to protest this note for non-payment or to give notice of non-payment or dishonor or protest or to make presentment or demand for payment, hereby expressly waiving any protest and any and all notice of any extension of time or of non-payment or dishonor or protest in any form, or any presentment, or any other notice whatsoever.

No.

Due

P. O. Supp Rt 2

R. F. Butler

41.50

$1500.00 SUFFOLK, VA. June 10, 1920

On Demand DAYS AFTER DATE I PROMISE TO PAY, WITHOUT OFFSET, UNTO

C. D. Butler OR ORDER, NEGOTIABLE AND PAYABLE AT

68-123 **THE FARMERS BANK OF NANSEMOND** 68-123
SUFFOLK, VIRGINIA

Fifteen Hundred---------- ----------00/100 DOLLARS

FOR VALUE RECEIVED, WITH TEN PER CENT. FOR COST OF COLLECTION; AND IT IS AGREED UPON BY THE PARTIES HERETO THAT THE INTEREST ON THIS NOTE SHALL BE PAYABLE IN ADVANCE; AND WE, PRINCIPAL AND ENDORSERS, HEREBY WAIVE THE BENEFIT OF OUR HOMESTEAD EXEMPTION AS TO THIS DEBT.

(Signed) R. F. Butler

CREDIT $50.00

September 21, 1922

$1450.00 SUFFOLK, VA. June 10, 1925

On Demand DAYS AFTER DATE I PROMISE TO PAY, WITHOUT OFFSET, UNTO

Carr D. Butler OR ORDER, NEGOTIABLE AND PAYABLE AT

68-123 **THE FARMERS BANK OF NANSEMOND** 68-123
SUFFOLK, VIRGINIA

Fourteen Hundred and Fifty and ----------00/100 DOLLARS

FOR VALUE RECEIVED, WITH TEN PER CENT. FOR COST OF COLLECTION; AND IT IS AGREED UPON BY THE PARTIES HERETO THAT THE INTEREST ON THIS NOTE SHALL BE PAYABLE IN ADVANCE; AND WE, PRINCIPAL AND ENDORSERS, HEREBY WAIVE THE BENEFIT OF OUR HOMESTEAD EXEMPTION AS TO THIS DEBT.

(Signed) R. F. Butler

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY

The Suffolk Fertilizer Company, Incorporated.....Complainant

v.

R. F. Butler and Ann F. Butler.....Defendants

This day came complainant by counsel ans asked leave to file its amended bill in the above cause, and said leave is hereby accordingly granted.

VIRGINIA: IN THE CIRCUIT COURT
OF NANSEMOND COUNTY

THE SUFFOLK FERTILIZER COMPANY, INC.,

v.

R. F. BUTLER and ANN F. BUTLER

ORDER

Enter this 12 day of November 1929.

J. L. McGhorn

Chancery Order Book
No. 6 Page 291

Harrell & Woodward

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY

The Suffolk Fertilizer Company, Incorporated.....Complainant

vs.

R. F. Butler and Ann F. Butler..... .....Defendants

This day came one of the defendants, by his attorney, and filed a petition in writing, stating that he had a valid defense to the action started by the complainants and asked leave to file said answer stating therein his grounds of defense: Whereupon, on motion of the said defendant, by his attorney, leave is hereby granted allowing the answer of the said defendant to be filed in this cause.

VIRGINIA:

IN THE CIRCUIT COURT OF NANSE-
MOND COUNTY

The Suffolk Fertilizer Co., Inc.

.....Complainant

Vs.

R. F. Butler and Ann F. Butler

.....Defendants

ORDER

Entered Nov. 15. 1927.
Jas. L. McLemore.

Chancery Order Book
No. 6 Page 112

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

The Suffolk Fertilizer Company, Inc.....COMPLAINANT

Vs..... .....

R. F. Butler and Ann F. Butler.....DEFENDANTS

To the Honorable Circuit Court of Nansemond County:

Your petitioners, R. F. Butler and Ann F. Butler would respectfully show unto your Honor:

1st. That on June 10, 1920, R. F. Butler, one of the defendants to the action brought by the Suffolk Fertilizer Company, Inc., borrowed from his father, the late Carr D. Butler, deseased, the sum of $1500.00, which sum is evidenced by a note dated June 10, 1920, payable on demand, payable to C. D. Butler, at the Farmers Bank of Nansemond; that on said note there is a credit of $50.00, dated September 21, 1922. Copy of the said note being hereto attached.

2nd. That on June 10, 1925 the said R. F. Butler gave a renewal note for the above mentioned obligation, the amount of said note being for $1450.00, payable on demand payable to Carr D. Butler, payable at the Farmers Bank of Nansemond, for the said sum of $1450.00. Copy of said note is herewith filed.

3rd. That Carr D. Butler, now deceased, died intestate, leaving the following real estate, to-wit:

"All his undivided interest in and to that certain tract or parcel of land situate , lying and being in the Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows: Containing by estimation Sixty-three (63) acres, more or less, and adjoining the land of David Norris, or that which was his, Albert Smith's estate, Nimmiel J. Wright and Sylvester K. Ashburn, or that which was theirs. Being the same land which was conveyed by deed bearing date the 8th day of December, 1881, to Benjamin F. Powell (father of Bennie Powell) from Howard E. Miner and wife. Said deed being duly of record in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, in Deed Book No. 10, page 19. The intent of this deed is to convey all the interest whatsoever of the said Bennie Powell in the land heired from his father, Benjamin F. Powell, which said property is more particular described in the deed aforesaid, to which reference is made for a more detailed description."

4th. That the said Carr D. Butler left as his heirs, Ann

F. Butler, his widow, R. F. Butler, one of his sons, the latter being one of the heirs inheriting one-third of the aforementioned real estate, there being two other sons, which interest, it being an undivided interest, the said R. F. Butler conveyed to Ann F. Butler, in consideration of the cancellation of the aforementioned note, the said property on the eleventh day of January 1927, which deed was duly recorded in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book 112, at page 391.

(5) That the note was justly due the estate of the late Carr D. Butler; that Ann F. Butler, being the widow of the said Carr D. Butler, deceased, was entitled to half of the personal property, among which was the note aforementioned; that the aforementioned conveyance from R. F. Butler, to Ann. F. Butler was in settlement of this debt due Ann F. Butler, by reason of her husband's death, and which was a valuable consideration for said conveyance.

(6) That the Suffolk Fertilizer Company, Inc. brought action against R. F. Butler and Ann F. Butler, said action having as its object the setting aside of the aforementioned conveyance from R. F. Butler to Ann F. Butler and to subject said land to the payment of a debt due by R. F. Butler to the said Suffolk Fertilizer Company, Inc.; that the said R. F. Butler and Ann F. Butler were summoned to appear at the Clerk's Office of the Circuit Court of the County of Nansemond, on the first Monday in July 1927, there to answer a bill of chancery, exhibited against them in the Circuit Court by the Suffolk Fertilizer Company, Inc.

(7) That R. F. Butler, one of the defendants being wholly unfamiliar with the law regarding such matters appeared at the Clerk's Office of the County of Nansemond on the first Monday of July, 1927, at which place he spent nearly a day; that he had no further notice of any action having been taken, in this matter, until he received a letter from Mr. Thomas L. Woodward dated September 10, 1927, in which letter he stated that Judge McLemore had that day entered a decree setting

aside, and declaring null and void the deed transferring the interest of R. F. Butler in the "Carr Butler property", to Ann F. Butler; that the said R. F. Butler and Ann F. Butler were at that time still ignorant of the matter set out in the bill of complaint, filed by the Suffolk Fertilizer Company, Inc. on June 29, 1927, and not until the 20th day of October, 1927 while attending a hearing before M. Anderson Maxey, a Commissioner of Chancery, which hearing was held in persuance of a decree of the Circuit Court of the County of Nansemond, Virginia, rendered on the 10th day of June 1927 in the suit and chancery pending in said Court, at which hearing object of the said suit was brought to their attention.

In consideration whereof and for as much as your petitioners are remediless, save in a court of equity, where such matters are alone cognizable, your petitioners pray that they be allowed to file an answer to the bill of complaint, filed on behalf of the Suffolk Fertilizer Company, Inc. on June 29, 1927, in a certain chancery cause now depending in the Circuit Court of Nansemond County Virginia, wherein the Suffolk Fertilizer Company, Inc., is the complinant and your petitioners, the defendants; that the decree entered in the abovementioned matter, on the 10th day of September 1927, in which decree, it was adjudged, ordered and decreed that the deed from R. F. Butler to Ann F. Butler, bearing date of the 11th day of January 1926, and recorded in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book 112, page 391, be vacated; that the Commissioner in Chancery to which this cause has been referred, take all the necessary evidence in this matter, and to make a report to this Court, showing whether or not the petitioners have a valid defense to the action brought by the Suffolk Fertilizer Company, Inc., against your petitioners; to ascertain whether or not the deed from R. F. Butler to Ann F. Butler should be set aside on the grounds alleged in the bill of complaint above referred to; that the deed hereinbefore mentioned be allowed to stand, the same having been given for a good and sufficient consideration; that all proper orders and decrees be made, accounts taken and

inquiries directed, and that all such other, further and general relief be afforded your petitioner as the nature of this case may require or to equity which seems meet. And your complainant will ever pray, etc

R. F. BUTLER AND ANN F. BUTLER
By Counsel.
J Melvin Lovelace

Hegle Holland & Lovelace p.q.

VIRGINIA:

IN THE CIRCUIT COURT

OF NANSEMOND COUNTY.

The Suffolk Fertilizer Co., Inc.

.....Complainant

Vs.

R. F. Butler and Ann F. Butler

.....Defendants

1927. Nov. 15. filed. J.L.m.

PETITION

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY:

THE SUFFOLK FERTILIZER COMPANY, INC.,

v.

R. F. BUTLER and ANNE F. BUTLER

This cause came on this day to be heard on complainant's bill, proof of legal service of proper process on the said defendants, R.F.Butler and Anne F. Butler, in person, who have failed, and still fail, to appear, plead, demur, or answer the said bill, which is taken for confessed as to them, and was argued by counsel.

Upon consideration of which, it is adjudged, ordered and decreed, that The Suffolk Fertilizer Company, Inc., do recover of R. F. Butler the sum of Two Hundred and Forty-six Dollars and Ninety-Seven Cents ($246.97), with legal interest thereon from December 1, 1925, and fifteen per cent of said sum of Two Hundred and Forty-six Dollars and Ninety-seven Cents ($246.97) as and for cost of collection.

And it appearing that the deed from the said R. F. Butler to Anne F. Butler, bearing date the 11th day of January, 1926, and recorded in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book 112, page 391, conveying the land therein described to the said Anne F. Butler, was made to hinder, delay and defraud the creditors of the said R. F. Butler, and particularly The Suffolk Fertilizer Company, Inc., in respect to the debt and demand aforesaid, the allegations in said bill have been taken for confessed it is therefore adjudged, ordered, and decreed that the said deed bearing date as aforesaid be, and the same is hereby, set aside and held for naught, but so far only as the said debt and demand of The Suffolk Fertilizer Company, Inc., is concerned, which debt is declared a lien upon the said real estate.

It is also further adjudged, ordered, and decreed that this cause be, and the same is hereby, referred to one of the Com-

missioners in Chancery of this court to make a report showing, to-wit:

(1) Whether there are any delinquent taxes upon the said real estate.

(2) The liens upon the said real estate, by whom held, their respective amounts and priorities.

(3) Whether the rents and profits from said real estate will in five years pay off and discharge said liens and the costs of this suit.

(4) Whether all the necessary and proper parties are properly before the court.

Which said inquiries the said Commissioner shall make and report the same to the court, along with any other matter especially stated deemed pertinent by himself, or which may be required by any person interested to be so stated.

VIRGINIA:

IN THE CIRCUIT COURT OF NANSE-
MOND COUNTY

SUFFOLK FERTILIZER CO., INC.

vs.

R. F. BUTLER and ANNE F. BUTLER

DECREE

Entered Sept 10. 1925
J. L. McElmore

HOLLAND & WOODWARD
~~THOMAS L. WOODWARD~~
ATTORNEY AND COUNSELLOR AT LAW
SUFFOLK, VIRGINIA

VIRGINIA,

IN THE CIRCUIT COURT OF THE CITY OF SUFFOLK.

Suffolk Fertilizer Company, Inc.

v. COMMISSIONERS REPORT.

R. F. and Anne F. Butler

To the Honorable James L. McLemore, Judge of the Circuit Court of the City of Suffolk:

Pursuant to a decree of reference of your honor's court entered in the suit of which the above is the general style on the 10th day of December, 1926, I gave notice to the parties that on the 29th day of December, 1927, at 2:30 P. M. and at my said office aforesaid I would proceed to execute said decree; the said notice with service of the same acknowledged by counsel for the complainant and defendants is herewith returned.

I attended at the time and place so appointed and by agreement of counsel the meeting was adjourned to the offices of Holland and Woodward, Attorneys, 305 National Bank of Suffolk Building, Suffolk, Virginia, and in the presence of Thomas L. Woodward, counsel for the complainant and J. Melvin Lovelace, counsel for the defendants, I took the depositions of R. F. Butler, C. S. Butler, W. B. Jones and Thomas L. Woodward.

The said depositions are herewith returned, and after consideration of the same, together with the pleadings in the cause, I respectfully report:

That the original bill in this cause erroneously describes the property the deed to which is sought to be set aside in this suit but in the depositions and otherwise the parties have dealt with the true description of the property and since the entry of the decree of reference in this cause and since the

taking of the depositions aforesaid, counsel for complainant has filed an ammended bill in this cause in which the property is correctly described.

That there are no delinquent taxes against the property described in the ammended bill in this cause.

That there are the following liens of record upon said property:

1. A deed of trust upon the property known as the Wright Place in Chuckatuck Magisterial District, Nansemond County, Virginia, containing approximately sixty-five (65) acres, purchased by Carr D. Butler from G. F. Batten, Trustee, dated January 30th, 1911, duly recorded in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, in Deed Book 80, page 316, from Carr D. Butler and Fletcher A. Butler, his wife to L. P. Holland, Trustee, dated January 27th, 1926, recorded January 28th, 1926, in Deed Book 107, page 473, in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, to secure to L. F. Slade, of Hamilton, N. C., the payment of the sum of Two Thousand and no/100 ($2000.00) Dollars evidenced by a bond for said sum of even date with said deed of trust payable to the said L. F. Slade, on demand.

There are no deeds of trust on the property known as the Home Place containing approximately One hundred and one (101) acres purchased by Carr D. Butler from Wilbur J. Kilby and John L. Fulgham, Commissioners, by deed dated August 16th, 1877, recorded in Deed Book 6, page 193, in the Clerks Office of the Circuit Court of Nansemond County, Virginia.

2. A judgment of Cooper-Riddick, Co., Inc., against Ralph F. Butler for Fifteen and 29/100 ($15.29) Dollars with interest from May 13th, 1928, and $3.25 court cost, dated August 3rd, 1928, docketed August 11th, 1928, in judgment docket 6, page 49, in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, against which the Homestead exemption cannot be claimed.

3. A judgment of Carr S. Butler against R. F. Butler for Three Hundred Forty-four and 74/100 ($344.74) Dollars with interest from January 3rd, 1929, and $5.00 costs confessed in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, March 21st, 1929, docketed in said Clerk's Office March 21st, 1929, in judgment docket 6, page 80, in which said judgment the homestead exemption is waived.

Your commissioner is of the opinion that the rents and profits due R. F. Butler from the real estate mentioned in the amended bill in this cause will not pay off and discharge the liens against the interest of said R. F. Butler the same within five years.

All proper parties are properly before the Court having been served in person with process.

Respectfully submitted,

Oct. 21, 1930

B. Anderson Mayer
Commissioner in Chancery
for the Circuit Court of
Nansemond County, Va.

Fee ——.

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF SUFFOLK.

To

The Suffolk Fertilizer Company, Incorporated.

and

R. F. Butler and Anne F. Butler.

You are hereby notified that on Thursday, the 20th day of December, 1927, at my offices on the fourth floor, National Bank of Suffolk Building, Suffolk, Virginia, at 2:30 o'clock P. M. (at which time and place you are required to attend) I shall take, state and settle the following accounts which are to be taken, stated and settled and reported to court in pursuance of a decree of the Circuit Court of the City of Suffolk, Virginia, rendered on the 10th day of September, 1927, in the suit of chancery pending in said court, to which you are parties and plaintiff and defendants, to-wit:

"(1) Whether there are any delinquent taxes upon the said real estate.

(2) The lien upon the said real estate, by whom held, their respective amounts and priorities.

(3) Whether the rents and profits from said real estate will in five years pay off and discharge said liens and the costs of this suit.

(4) Whether all the necessary and proper parties are properly before the court.

Which said inquiries the said commissioner shall make and report the same to the court, along with any other matter especially stated deemed pertinent by himself, or which may be required by any person interested to be so stated."

If the execution of said decree be not commenced or, if commenced be not concluded on said day the same will be adjourned and continued from time to time, at the place above mentioned, until conclusion thereof.

Given under my hand as commissioner in chancery for the Circuit Court of the County of Nansemond, Virginia, this 10th day of December, 1927.

M. Anderson Mabry
Commissioner in Chancery

Due, legal and sufficient service of the within notice is hereby accepted.

R.F. Butler

Annie F Butler.

By J. Melvin Loveland their attorney

The Suffolk Tenteleyer Co., Inc

By Howard & Woodward

Its attorneys

VIRGINIA,

IN THE CIRCUIT COURT OF THE CITY OF SUFFOLK

The Suffolk Fertilizer Company, Incorporated

v.

R. F. Butler and Anne F. Butler

The depositions of R. F. Butler and others, taken before me, M. Anderson Maxey, a Commissioner in Chancery for the City of Suffolk, in the State of Virginia, pursuant to notice hereto annexed, the place therein being changed by agreement of counsel to the office of Holland & Woodward, 305 National Bank of Suffolk Building, on the 20th day of December, 1927, at 2:30 o'clock P. M., to be read as evidence on behalf of The Suffolk Fertilizer Company, Incorporated, in a certain suit of chancery pending in the Circuit Court of the City of Suffolk, in the State of Virginia, wherein The Suffolk Fertilizer Company is plaintiff and R. F. Butler and Anne F. Butler are defendants.

Present, Thomas L. Woodward, attorney for the plaintiff;
J. Melvin Lovelace, attorney for the defendants.

Mr. C. S. Butler, being duing sworn, deposes as follows:

By Mr. Woodward:

Q. Mr. Butler your father was named Carr D. Butler?

A. Yes Sir.

Q. Your mother was named Anne F. Butler?

A. Yes Sir.

Q. And you are the brother of R. F. Butler?

A. Yes Sir.

Q. At the time of your father's death, he had two pieces of land didn't he?

A. Yes Sir.

Q. How many acres are there in the home place?

A. Approximately one hundred and one acres.

Q. What is the name of the place other than the Home Place?

A. It is known as the Frank Wright Place.

Q. What is the fee simple value of the Home Place?

A. Around five or six thousand dollars.

Q. What encumbrances are on the Home Place?

A. None at all.

Q. What is the annual rental value of the Home Place?

A. $250.00 a year.

Q. What is the fee simple value of the Frank Wright Place.

A. Possibly $2500.00.

Q. What is the annual rental value of the Frank Wright Place?

A. It has never rented for over $100.00.

Q. What are the encumbrances on the Wright Place.

A. $2000.00.

By Mr. Lovelace.

Q. You are handling the affairs of your father's estate aren't you?

A. Yes Sir.

Q. In looking over your father's papers, did you find any note signed by R. F. Butler, payable to Carr D. Butler?

A. Yes Sir.

Q. Will you state whether or not these are the two notes?

Mr. Woodward: I object, on the ground that his question is not in the scope of your inquiry, nor properly before the Commissioner.

Mr. Maxey: The question is not within the scope of the Commissioner's inquiry, but in the bill it is alleged that R. F. Butler conveyed the property in question to his mother, Anne F. Butler, without consideration. If it should later develope that these notes are the bases of consideration for this conveyance, it should ~~therefore~~ be admitted.

A. Yes Sir. I found those notes.

Q. Will you state the amounts of those notes and dates?

A. The first note was given June 10, 1920, for $1500.00, payable on demand, to C. D. Butler, signed by R. F. Butler, marked on the face of that note "renewed." The second note is dated June 10, 1925, for $1450.00, payable on demand to Carr D. Butler. Both of the notes on the Farmers Bank of Nansemond, and signed by R. F. Butler.

Q. Did either of those notes show any credit, if so, how much?

A. The original note shows a credit of $50.00 on September 21, 1928.

By Mr. Maxey: Said notes filed as exhibits "A" + "B"

Q. Are you familiar with the handwriting of your father?

A. Yes Sir.

Q. Do you recognize anything on those papers as being in the handwriting of your father?

A. I can't say there is. The original one lookes like his signature and where it says "payable to."

By Mr. Lovelace:

Q. Did you ask your brother, R. F. Butler for payment of this note, or did you consult him about whether the note was paid or not?

A. To start with, all my father's papers and things were over to the Home Place where he died, locked up in a little desk with a drop top over it. I don't know what he did with the keym it was lost long before he died, and I don't suppose it had been opened for a long time. After his death it was taken across the road where my brother lives, Russell M. Butler's home, that was possibly three weeks after my father's death. We found thase two notes in there with some others, one of my own and one of my sister's. Of course, then I asked in regard to it and he told me that it was the note he had given my father for this money. The transaction happened while I was at the Army Supply Base.

By Mr. Woodward:

Q. Did your brother ever deny any liability on this note?

A. Not that I know of.

Q. Was any agreement reached as to settlement with the other heirs? Tell just what arrangements were made and with who, as to settlement of this note.

A. We were together at this boy's home (the night this transaction happened. I had the notes. He said he still owed the money and I asked how he was going to take care of these notes, and he said he would make his share of the property over to my mother. We weren't going to sell the property during our mother's life time, if we could help it.

Q. Did you discuss this matter with your mother as to whether or not this would be satisfactory?

A. I told her that this boy (R. F. Butler) was willing to do that if she would accept it.

Q. Who was the Administrator of your father's estate?

A. There was no administrator.

Q. Where is your Power of Attorney?

A. Mr. Walter Hosier advised me to have a paper drawn up which he drew himself, and all of us signed it, and I was to sell the crop, take the money and pay debts father owned as far as it would go, and have charge of renting the place.

Q; Did you file any account of what the estate brought?

A. No sir.

Q. Did you have that Power of Attorney recorded?

A. No, I have it in my possession now.

Q. What did you do with your share of the estate?

A. I have it yet just as it was left.

Q. What did R. F. Butler do with his share?

A. He made his share over to my mother.

Q. You didn't know anything about the debt of the Fertilizer Company at the time it was done?

A. I didn't know that there was a note standing out at all.

Q. What did you do with the personal property on the farm.

A. Sold it on the 20th day of December.

Q. What became of the money from that?

A. I used it as far as it would go to pay the bills.

Q. What indebtedness does the estate now owe?

A. Approximately $120.00 including this year's taxes.

Q. Where does R. F. Butler live now?

A. With R. M. Butler, his brother,

Q. Does he farm?

A. Yes, he has been farming with our brother.

Q. Did you make any attempt to get any money out of him for this year's crop?

A. I have not yet.

Q. Has his crop been sold?

A. No sir.

Q. Do you recall when we took testimony in this case previously in Mr. Maxey's office that you and your brother were to make some arrangements to pay this obligation and were given several weeks to do so and that you said nothing at the time about the indebtedness to your mother, if any, or about the notes you now have placed in the evidence?

A. I had them in my possession up there that day.

Q. Then you went to see Mr. Lovelace after you and your brother went out?

A. After I found out brother had a right to file an answer.

Q. Did you notify us anything about that.

A. No Sir.

Q. You went to see Mr. Lovelace for your brother?

A. I went with him up there.

Q. Does your mother read and write?

A. No sir.

Q. She is capable of handling business transactions however isn't she?

A. I can't say so.

Q. Then such arrangement as was made with your mother by R. F. Butler was made entirely through you?

A. Well not entirely through me.

Q. What credit did you allow on Mr. R. F. Butler's indebtedness to your father?

A. If he made the deed over to my mother I would give the papers back.

Q. Who wrote that deed?

A. Mr. George Bunting.

Q. Was that deed made after Mr. R. F. Butler heard from me as attorney for the Fertilizer Company?

A. I don't know.

Q. You knew about the fertilizer indebtedness did you not?

A. I did not.

Q. Do you know when the deed was dated to your mother?

A. I am not prepared because I haven't looked it up. It was made sometime in January. (January 11, 1927)

Q. When did your father die?

A. August 24, 1926.

Q. Where were you living then?

A. Hotel Elliott.

Q. Does your mother know all about this transaction?

A. I couldn't answer that.

Q. Didn't you say you had discussed it with her?

A. Yes Sir.

Q. There will be no trouble about your mother's recollection of that now would it?

A. I don't think it would be.

Q. Who attends to your mother's mail?

A. It goes to my sister's home on North Street, where she is now making her home. Of course, I don't know who reads the mail for her, she can 't read it.

Q. You din't endorse any claims or those notes made payable to your father?

A. No sir, I never saw them before I found it in the desk.

Q. When was that?

A. The first of September, 1926.

Q. Where was R. F. Butler living at that time?

A. Southland Hotel, Norfolk, Virginia.

Q. Why did you wait such a long time to get this deed?

A. I didn't ask for it until I got those notes.

Q. Did you ask for it, or did he offer to give it.

A. I can't remember whether I asked him for it or he offered to give it.

Q. When did you first talk to him about it?

A. The night we found those papers,

Q. What did he offer to do?

A. I just said I didn't know whether he offered to give the deed or whether I asked for it. I rather think I asked him if he still owed it and he said yes, but couldn't pay it, but would make his part over to our mother.

Q. You didn't have any security for the notes whatever did you?

A. No, I didn't know they were there.

Q. Why didn't you offer those notes for sale as a part of the assets of the estate?

A. I didn't know it had to be done.

Q. You offered the rest of the personal property didn't you?

A. I didn't know this was personal property. I felt that if he owed the money, it should be paid or secured, and I felt the only way to do it was by his share of the estate?

Q. Why didn't you have this deed made to your mother and the other heirs?

A. That was another think I didn't know it made any difference. She had her life right if given to her, and at her death it would go back to the heirs.

Q. Didn't you know that the heirs participated in the estate?

A. No. Sir.

Q. Why didn't you make the deed to all of them.

A. I can't answer because I don't know why. I just didn't. I thought it would be all the same making it to her.

Q. You don't remember the date of the Power of Attorney do you?

A. No, but I have it in my possession and I can get it.

Q. Please present that to the Commissioner.

A. All right.

Q. Why was there such an about face ~~chase~~ in the action of you and your brother from the time you were up to Mr. Maxey's office and asked for time to get money to pay this indebtedness and were allowed three weeks from what your contention is now.

A. Your proposition was that if we paid this, or made arrangements to pay it or secure it within three weeks, you would wait that long. At that time you had a paper showing that the Judge had signed a decree or order, and then I decided to see an attorney.

Q. And that was on the same date?

A. Yes sir.

Q. Then your idea is to assist your brother in anyway possible, not only to protect, as you claim the notes which you found, but to employ an attorney for the purpose of defeating the claim of the Fertilizer Company.

A. I didn't answer that question like that. I will help my brother any way I can to protect this $1450.00 note.

Q. Well it didn't make any difference to your brother one way or the other after the deed had been given to your mother did it?

A. What difference it made to him I don't know the difference that has been at your instance. It was a short while before we were

up to Mr. Maxey's office. I was up to my mother's one night and she showed me a notice of taking depositions and asked me what it meant. That was the first I knew anything about this action.

Q. Had your mother discussed this suit with you before?

A. No Sir.

Q. She discusses all her affairs with you doesn't she?

A. She discusses some of them I can't say all.

Q. You are your mother's advisor?

A. Not any more so than the other children.

Q. Was there any reason why your mother and brother should have filed an answer before then?

A. Not that I know of.

Q. Didn't you have a conversation with Mr. Jones with reference to this indebtedness of R. F. Butler and tell Mr. Jones that you didn't know anything about where your brother was and that the last time you heard from him he was at the Southland Hotel?

A. I can't remember saying that. I recall Mr. Jones asking me on one occasion if I knew where he was and I won't say whether I told him that he was at the Southland or boarding in Norfolk. He was working at the Southland for a while and the other part of the time he was boarding at some boarding house down there on Onley Road and I don't remember now where he was living at.

Q. But you did know that your brother owed the Fertilizer Company?

A. I didn't know that R. F. owed but I knew that R. M. did.

Examined by Mr. Lovelace:

Q. Mr. Woodward asked you about discussing this matter with your mother with reference to R. F. Butler giving her a deed in settlement of the note.

A. Yes Sir.

Q. You stated that you had discussed it with her.

A. Yes Sir.

Q. And a deed was given with her consent and knowledge of the whole transaction was it not?

A. I told her he was going to do it.

Q. Did you know at that time of any debt that R. F. Butler owed other than to the estate?

A. No sir.

Q. Was this deed given with any fraudulent intentions as far as you know of?

A. No sir, not on my part.

Q. Mr. Woodward asked you just now about looking after your brother's interest. Isn't it a fact that you are more interested in your mother's interest in this matter than your brother?

A. Absolutely, yes sir.

Q. It this deed was set aside, wouldn't it defeat your mother's interest?

A. I think it would.

By Mr. Maxey:

Q. Are there any delinquent taxes on this property, either piece?

A. None except the taxes for 1927.

Q. What are the liens against this property, I mean deeds of trust.

A. $2000.00 on the Wright Farm.

Q. Who holds that lien

A/ Mr. Pretlow Holland

R. F. Butler, being duly sworn, deposes as follows:

Examined by Mr. Lovelace:

Q. Mr. Butler, when you had the notice served on you by the Sheriff to appear at the Clerk's Office on a certain day, what did you do?

A. I went to the Court house on the first Monday in June.

Q. Did you know the subject of this suit until the day you were summonsed to Mr. Maxey's office.

A. Yes Sir.

Q. When was the first time you found out they were trying to set aside the deed you gave your mother?

A. Mr. Woodward wrote me. I couldn't say what date.

Q. This deed you gave your mother was it given with any idea of defeating the Suffolk Fertilizer Company claim that they had against you?

A. No Sir.

Q. Why was it that you gave this deed to your mother?

A. To secure the two notes.

Q. Did you discuss this matter with your mother before a deed was given?

A. Only through and by my brother, Carr Butler.

Q. Did you at the time the deed was given to your mother still owe the note of $1450.00?

A. Yes Sir.

Q. Is that the only form of payment you have made on that note, namely, the giving of the deed to your mother?

A. Yes sir, other than the curtail of $50.00 on the back of it.

Q. What was the consideration of that note?

A. It was to pay for some property that I bought from R. C. Rawles.

Q. Where was the property located?

A. It was part of the property that the negro undertaker, Crocker, now lives on.

Q. What became of the property that you bought with this money?

A. I sold it back to Mr. Rawles. The deed was given to Walter Rawles.

Q. Have you ever denied owing the Suffolk Fertilizer Company their claim.

A. No sir.

Q.

Examined by Mr. Woodward:

Q. Did you ever sign any note to your mother?

A. No sir.

Q. Did you ever owe your mother any money?

A. No sir.

Q. What date did your father die?

A. August, 1926, I don't remember what date.

Q. Had Mr. Jones been writing you about his note signed by you?

A. Yes Sir.

Q. Did he write you after your father died?

A. I was in Norfolk at the time.

Q. Didn't you get a letter from the Fertilizer Company in Norfolk?

A. No sir.

Q. Where did you hear from Mr. Jones?

A. Through you.

Q. Did Mr. Jones write you several times before you heard from me?

A. I don't remember.

Q. You recall talking to me about this transaction?

A. Yes Sir.

Q. Didn't you talk to Mr. Jones about it also?

A. Yes Sir.

Q. You talked to me about this transfer didn't you?

A. Yes Sir.

Q. And you talked to Mr. Jones about this transfer?

A. Yes Sir.

Q. Didn't you tell Mr. Jones in his office when you went to see him about this note that your mother didn't have anything to live on and that you gave her your share of your father's estate, both real and personal so that she would have something to take care of her?

A. No sir, not personal, I didn't have any personal property.

Q. How about the real estate, didn't you tell Mr. Jones that?

A. Yes sir, if she wanted to go back home she would have somewhere to go.

Q. Then your idea in turning the property over to your mother was so that your mother could have the entire farm to dispose of as she wanted to?

A. I couldn't when there were four other heirs besides myself.

Q. But you told Mr. Jones that you gave it to her didn't you?

A. Yes sir.

Q. Why did you tell Mr. Jones that you gave it to her?

A. I don't know why. I gave it to her if she wanted to go back home.

Q. That was so she would have a home?

A. For my fifth.

By Mr. Lovelace:

Q. What did you mean by giving the farm to her?

A. So she could go back home if she wanted.

Q. What was the consideration of your giving her the deed?

A. The two notes that Carr had there.

Q.

Mr. W. B. Jones, being duly sworn, deposes as follows:

Examined by Mr. Woodward:

Understand Mr. Commissioner, in offering the subsequent testimony we do not in any manner waive our objection as first outlined to the previous testimony of C. D. Butler and R. F. Butler.

Q. Mr. Jones, did you have a conversation with R. F. Butler with reference to the transfer of his property to his mother?

A. Yes sir, several times.

Q. What did Mr. R. F. Butler tell you about this conveyance to his mother?

A. I don't remember the exact words, but the gist of it was that he gave his mother his share of the estate.

Q. What conversation did you ever have with Mr. Butler with reference to a consideration for his transfer, or whether or not he had any defense to the suit that you were about to bring?

A. I asked him why he conveyed his portion of the estate to his mother and as I just told you he answered that he just gave it to his mother. There was nothing said about any consideration.

Q. Did he mention any notes to his father?

A. No, the first I heard of it was today. He first came in my office with R. M. Butler who owed us an account. I talked to R. M. Butler first and told him that we would hold off the action that we had taken against him if he would get the money shortly and pay us what he owed. Then R. F. Butler, in the presence of R. M. Butler, told me practically the same thing, but he never paid. He came to the office several times afterwards, and finally told me that he could not make his arrangements and again the question was brought up about his interest in the estate, and I told him at the time that we would be glad to work it out some way to secure the account, if he would get his mother to endorse his note, and I think that was the last time I saw him.

By Mr. Lovelace:

Q. You didn't ask him what the consideration was for giving the deed?

A. No I didn't ask him. He told me that he gave it to his mother.

Q. You didn't know anything about the notes and that was the reason the notes weren't mentioned.

A. I didn't know anything about the notes.

Q. He told you that he was going to pay you the debt if he could make arrangements didn't he, and he later came back and told you that he couldn't make arrangements, but would pay your later?

A. No. When he came back that time we talked about getting his mother to endorse the note and he was to let me know then.

Q. When was this conversation.

A. It happened soon after R. M. Butler paid his account. I can't remember exactly. I can produce it though.

Mr. Thos. L. Woodward, being duly sworn, deposes as follows:

Mr. R. F. Butler came to my office in response to my request and I talked to him with reference to his interest in the estate and the deed to his mother, and advised him our intentions with reference to the property. He told me that he gave this property to his mother for her home place and the gist of his statements then were to the effect that it wan an out right gift of something that he had no use for and that his mother would have a use for along with her interest in the estate. I got down the Code and explained to him the two sections of the Code that we proposed to set aside the deed to his mother and explained to him that while he might not have intended any fraud, that legal fraud from the standpoint of the statute was entirely different from this matter, and that as there was no consideration for the conveyance, then his creditors came first. He told me that there wasn't any consideration for it and that we would just have to go ahead, that he would try to make some arrangements to pay it as soon as he could. At a later time, he told me that his mother would not endorse with him and that she would sign a paper for nobody.

By Mr. Lovelace:

Q. When did this conversat on take place Mr. Woodward?

A. Sometime in April, 1927.

Q. He told you that there was no consideration for the deed?

A. Absolutely, that it was an outright gift.

Q. He told you to go ahead and set the conveyance aside?

A. He told me to go ahead that he would try to make arrangements to pay it if he could.

Q. Don't you think that he meant by that that you would have to take steps you deemed necessary because he did not have any money with which to settle the debt?

A. Absolutely not, we were talking about the conveyance to his mother.

Q. When was the first time you knew about the notes that I introduced today?

A. I can't say positively. I remeber about them in your answer and your answer was filed without notice to counsel for the Fertiliser Company, and so far as I know, without the other papers in the cause before the court.

Q. Then you knew nothing about the notes; all that you knew was that the conveyance had been made to his mother and you knew that no consideration for which this deed could have been given?

A. I knew what Mr. Butler said. Of course, it is a prima facia presumption as between kin people that a conveyance of that kind is without consideration, and I knew also that the burden was on him and I talked to him with reference to this phase of the case and that was when he told me what he did about giving the property to his mother. In the meantime, I had warranted his brother, R. M. Butler and I had held off warranting him hoping that he could make some arrangements to secure payment without having to go into a Chancery suit.

Q. Mr. Woodward, do you consider the payment of a note for $1450.00 sufficient consideration in that line?

A. I consider the aspects of the case as shown here to show clearly a transaction fraudulent in law.

Mr. W. B. Jones rebuttal testimony direct:

Mr. C. S. Butler said that I had never talked to him with reference to R. F. Butler, yet he acknowledged having remembered me asking him his address. At the time I discussed fully the account we had against him, and told him that we couldn't permit the matter to continue and that he would have to do something about it, and I wanted to get his address from him so that I cuild get in touch with R. F. Butler.

Examined by Mr. Lovelace:

Q. Mr. Jones, did you tell him at the time you asked for his address the reason you wanted it?

A. Yes sir, fully, and at the same time discussed our account with R. M. Butler which he later paid.

Mr. R. F. Butler's rebuttal testimony direct
Examined by Mr. Lovelace:

Q. Mr. Woodward has testified that you came to his office and told him that you gave your mother your interest in the land. What did you mean by that, that you had conveyed it to her or given it to her?

A. I meant I give it to her to settle the debt. I didn't think that Mr. Jones and Mr. Woodward had anything to do with family affairs.

Mr. J. M. Lovelace: Mr. Woodward has made several remarks about my not having given him notice of the filing of the answer in this matter. Is is usually customary to notify the opposing counsel of such, but I know of no ruling requiring it to be done; however, I did dictate a letter to Mr. Woodward in which I stated that I was enclosing a copy of the answer and bill of complaint, and I only found out several days ago that they were not mailed by the stenographer. He also intimated that the original papers might not have been before the court at the time these papers were filed. This, the court can pass on.

STATE OF VIRGINIA,
City of Suffolk, to-wit:

I, M. Anderson Maxey, a Commissioner in Chancery for the City of Suffolk in the State of Virginia, do hereby certify that the foregoing depositions were duly taken, signatures thereto being waived before me, at the place and time stated in the caption hereto attached.

In witness whereof I have hereunto set my hand at Suffolk, Virginia, aforesaid, this 20th day of December, 1927.

M. Anderson Maxey
Commissioner in Chancery

Suffolk Fertilizer Co-

v.

Butler

Commissioner's Report.

Filed Oct. 20, 1930
John H. Powell Clerk
By. M. K. Gardner D.C.

M. ANDERSON MAXEY
ATTORNEY AND COUNSELLOR AT LAW
SUFFOLK, VIRGINIA

VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

The Suffolk Fertilizer Company. . . . . Complainant

v.

R. F. Butler and Ann F. Butler . . . . . Defendants

This cause came on this day to be heard on the papers formerly read, and upon the decree of this court entered on February 14th, 1931, giving the parties defendant sixty days within which to settle complainant's claim and ordering sale of the property described in complainants bill upon failure to comply therewith, and was argued by counsel.

Upon consideration whereof as well as the oral motion of counsel for complainant to dismiss this cause of action for the reason that defendants have satisfied complainant's claim in full, the court doth adjudge, order and decree that the foregoing decree of February 14, 1931, be and the same is hereby revoked, the said Ann F. Butler being hereby reinvested with title to the real estate in question.

And nothing further remaining to be done in this cause, it is further ordered that the same be and it is hereby stricken from the docket of this Court.

VIRGINIA,
IN THE CIRCUIT COURT OF
THE COUNTY OF NANSEMOND.

The Suffolk Fertilizer
Company, Incorporated,
Complainant,

v.

R. F. Butler and Ann F.
Butler, Defendants.

ORDER CONFESSING AMENDED
BILL AND ORDERING SALE.

We Consent:
The Suffolk Fertilizer Co., Inc.
By Thos. L. Woodward
Its Atty

Enter Feb. 26. 1921.
J. L. W. Moore

Chancery Order Book
No. 6 Page 393.

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

The Suffolk Fertilizer Company, Incorporated.....Complainant

Vs.

R. F. Butler and Ann F. Butler.....Defendants

Answer of R. F. Butler, to a bill of complaint filed against him in the Circuit Court of Nansemond County by the Suffolk Fertilizer Company, Inc., Complainant.

The respondent reserving to himself the benefit of all just acceptions to the said bill of complaint, for answer thereto, or to so much thereof as he is advised it is material he should answer, answers and says:

(1) That on June 10, 1920 the respondent borrowed $1500.00 from C. D. Butler, his father, and for which loan the respondent gave a note to the said C. D. Butler, for the said sum of $1500.00, payable on demand, payable at the Farmers Bank of Nansemond, Suffolk, Virginia; that on the note aforementioned of $1500.00, the respondent paid, on September 21, 1922, the sum of $50.00, which amount is endorsed on the back of the said note; that on the 10th day of June 1925, the respondent renewed the aforementioned note of $1500.00, less the curtail of the $50.00, aforementioned; that at the time of the death of Carr D. Butler, father of the respondent, the said respondent still owed the estate of his father the said sum of $1450.00; that Ann F. Butler, mother of R. F. Butler was justly due one half of the personal property, left by the said Carr D. Butler, who died intestate, and the said note of $1450.00 being personal property, made the respondent liable to his mother, Ann F. Butler to the extent of half of the amount of the said, $1450., which amount was $725.00; that in settlement of this debt to Ann F. Butler, by reason of the aforementioned note, the said R. F. Butler, conveyed all of his undivided interest in and to, the real estate, of which his father, Carr D. Butler, died siezed and possessed of, which deed was dated January 11, 1927 and duly recorded in the Clerk's

Office of the Circuit Court of Nansemond County in Deed Book No. 112 at page 391; that said conveyance was done in good faith and before any action was started by the Suffolk Fertilizer Company, Inc., the same having been given for a good and valuable consideration, and after the respondent had talked with the representative of the Suffolk Fertilizer Company, Inc., in regard to the payment of the debt due and owing the said fertilizer company.

(2nd) That the aforesaid conveyance of the above referred to property by R. F. Butler to Ann F. Butler, was made in settlement of an outstanding debt due and owing by the said R. F. Butler to Ann F. Butler and was such a consideration as is deemed valuable in law; that aforesaid conveyance of the property by said R. F. Butler was not made with any intention to hinder, delay or to defraud any of his creditors and most especially the Suffolk Fertilizer Company Inc.; That Ann F. Butler had no notice or knowledge at the time of the said conveyance of any debt due said fertilizer company; that R. F. Butler was not at that time, nor is he now insolvent; that he owns an automobile which is worth considerably more than the amount of the claim of the Suffolk Fertilizer Company, Inc.; that he has certain crops now ready to harvest or which have already been harvested which will more than pay the indebtedness due the Suffolk Fertilizer Company, Inc., and against which crops there are no liens;

And now, having fully answered the complainant's bill, this respondent prays to be hence dismissed with his reasonable cost by him in this behalf expended.

R. F. Butler
Respondent

J. Melvin Lockhart
Counsel

STATE OF VIRGINIA,
CITY OF SUFFOLK, To-wit: R. F. Butler, the respondent named in the aforegoing answer being duly sworn, says that the facts and allegations therein contained are true, except as they are therein stated to be on information, and that so far as they are therein stated to be upon information he believes them to be true.

R. F. Butler
Respondent

Taken, sworn to and subscribed before me, Mabel Jakeman, a notary public of and for the City and State aforesaid, in my City aforesaid, this 2nd day of November, 1927.

Mabel Jakeman
Notary Public

My commission
expires Apr 26-1930

VIRGINIA:

IN THE CIRCUIT COURT OF NANSE-
MOND COUNTY.

The Suffolk Fertilizer Co., Inc.

.....Complainant

Vs.

R. F. Butler and Ann F. Butler

.....Defendants

1927. Nov. 15. filed &c.m

ANSWER

HUGH L. HOLLAND
ATTORNEY AT LAW
SUFFOLK, VIRGINIA

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND

The Suffolk Fertilizer Company, Incorporated.....Complainant

v. AMENDED BILL IN CHANCERY

R. F. Butler and Ann F. Butler.....Defendants

To The Honorable Circuit Court of Nansemond County:

Your complainant, The Suffolk Fertilizer Company, Inc., respectfully represents that on the 4th day of July, 1927, it exhibited in this court its original bill of complaint against R. F. Butler and Ann F. Butler, wherein it set forth the following:

"First: That on and prior to January 11th, 1927, R. F. Butler was indebted to your complainant in the sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), with legal interest thereon from December 1st, 1925, and 15% of said sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97) as and for cost of collection, evidenced by a cert in note for that sum, dated at Suffolk, Virginia, September 15th, 1925, and payable to your complainant on December 1st, 1925, which amount of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), with interest thereon from December 1st, 1925, and 15% of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97) as and for cost of collection is now due and unpaid.

"Second: That on the 11th day of January, 1927, the said R. F. Butler, by deed duly recorded in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book No. 112, page 391, conveyed to his mother, Ann F. Butler, the following real estate, to-wit:

"'All his undivided interest in and to that certain tract or parcel of land situate, lying and being in the Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows: Containing by

estimation Sixty-three (63) acres, more or less, and adjoining the land of David Norris, or that which was his, Albert Smith's estate, Nimrod J. Wright and Sylvester M. Ashburn, or that which was theirs. Being the same land which was conveyed by deed bearing date the 8th day of December, 1881, to Benjamin F. Powell (father of Bennie Powell) from Howard H. Miner and wife. Said deed being duly of record in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, in Deed Book No. 10, page 19. The intent of this deed is to convey all the interest whatsoever of the said Bennie Powell in the land heired from his father, Benjamin F. Powell, which said property is more particular described in the deed aforesaid, to which reference is made for a more detailed description."'

"Third: That the aforesaid conveyance of the above described property by said R. F. Butler was voluntary and without consideration deemed valuable in law; that aforesaid conveyance of the above described property by said R. F. Butler was made by said R. F. Butler with intent to hinder, delay, and defraud his creditors, especially your complainant, or which intent the said Ann F. Butler had notice and that at the time said conveyande was made, the said R. F. Butler was, and now is, insolvent."

And thereafter your complainant prayes as follows:

"In consideration whereof, and forasmuch as your complainant is remediless, save in a court of equity where such matters are alone cognizable, your complainant prays that R. F. Butler and Ann F. Butler be made parties defendant to this suit and required to answer the same, though answer under oath is hereby expressly waived; that proper process issue; that a judgment be entered in favor of your complainant against R. F. Butler in the sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), with interest thereon from December 1st, 1925, until paid, and 15% of said sum of Two Hundred and Forty-six Dollars and Ninety-seven Cents ($246.97) as and for cost of collection, and the cost of this suit, including reasonable counsel fees to the attorney prosecuting this suit; that the aforesaid deed executed by R. F. Butler, conveying to his wife, Ann F. Butler, the above described property be set aside and held void as voluntary and fraudulent in so far as the same affects the rights of your complainant and others similarly situated who may parti-

cipate in this suit on the above conditions, giving such priority to complainant's claims as it may be entitled; that all proper orders and decrees may be made, accounts taken and inquiries directed, and that all such other, further and general relief may be afforded your complainant as the nature of this case may require or to equity shall seem meet. And your complainant will ever pray, etc."

Your complainant further represents that the description set forth in paragraph "Second" of said original bill of complaint was erroneous, and did not contain the proper description of the property sought to be affected, and the said proper description of said property is as follows:

"All his undivided and one-fifth interest in and to the following real estate, located in Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows, save except the property previously sold by the said Carr D. Butler and wife, as shown by deeds of record in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, recorded in the following deed books in said county, viz; 98, page 429; 76, page 101; 74, page 411; and 74, page 242.

"Bounded on the North by the lands of Lemuel Babb, Joseph Smith, G. A. Redd and others; and the East of R. N. C. Powell and James Smith; on the South by the lands of Carr D. Butler, and Henry Rogers and on the West by the lands of Julius King; being the same lands conveyed to Carr D. Butler by deed bearing date the 30th day of January, 1911, by G. F. Batten, Trustee, and duly recorded in the aforesaid Clerk's Office in Deed Book No. 70, page 316.

"That certain piece or parcel of land, situate, lying and being in the Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows: John Thomas Norfleet, Edwin King's estate, lone a space of Fifty (50) feet square which is reserve for burial ground, with ingress and egress to same. Being the same land conveyed to Carr D. Butler by deed bearing date the 16th day of August, 1877, from Wilbur J. Kirby and John L. Fulgham, Commissioner's, duly of record in the aforesaid Clerk's Office, in Deed Book No. 6, page 136. The intent of this deed is to convey all interest of the said Benjamin F. Butler in the estate of his father, Carr D. Butler", which said property is more particularly described in the deed aforesaid, to which reference is made for a more detailed description;

And thereafter on motion of complainant and after notice to defendants, the court did decree that The Suffolk Fertilizer Company, Inc., recover of R. F. Butler the sum of Two Hundred Forty-Six Dollars and Ninety-seven Cents ($246.97), with legal interest thereon from December 1, 1925, and fifteen per cent. of said sum of

Two Hundred Forty-Six Dollars and Ninety-seven Cents ($246.97), as and for cost of collection, and the said court did furthe decree that the deed from the said R. F. Butler to Ann F. Butler bearing date the 11th day of January, 1926, and recorded in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book 112, page 391, conveying the land therein described to the said Ann F. Butler, was made to hinder, delay, and defraud the creditors of the said R. F. Butler, and particularly The Suffolk Fertilizer Company, Inc., and that the said deed be set aside and held for naught, so far as the said debt of The Suffolk Fertilizer Company, Inc., was concerned, which debt was declared a lien upon the said real estate, and the said court did further decree that the said cause be referred to one of the Commissioners in Chancery of this court to report any delinquent taxes, and liens, and their respective amounts and priorities, and whether the rents and profits from said real estate would in five years pay off and discharge said liens and the cost of this suit, and whether all the necessary and proper parties were properly before the court. And thereafter, pursuant thereto, the said cause was referred to M. Anderson Maxey, one of the Commissioners in Chancery of the Circuit Court of Nansemond County, and in accordance with notice duly given, depositions were taken in the office of Holland & Woodward, 305 National Bank of Suffolk building, Suffolk, Virginia, on December 20, 1927, supporting allegations of complainant's bill, but the report of said Commissioner in Chancery therein has not been rendered at the time of the filing of this amended bill.

Which foregoing description and allegations are pertinant and relevant to this cause, and constitute the bases of filing this amended bill, and for the purpose of embracing the above mentioned corrected description and original allegations, your complainant respectfully represents:

First: That on and prior to January 11th, 1927, R. F. Butler was indebted to your complainant in the sum of Two Hundred Forty-

six Dollars and Ninety-seven Cents ($246.97), with legal interest thereon from December 1st, 1925, and 15% of said sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), as and for cost of collection, evidenced by a certain note for that sum, dated at Suffolk, Virginia, September 15th, 1925, and payable to your complainant on December 1st, 1925, which amount of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), with interest thereon from December 1st, 1925, and 15% of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97) as and for cost of collection is now due and unpaid.

Second: That on and prior to January 11th, 1927, the said R.F. Butler, by deed duly recorded in the Clerk's Office of the Circuit of Nansemond County, in Deed Book No. 112, page 391, conveyed to his mother, Ann F. Butler, the following real estate, to-wit:

"All his undivided and one-fifth interest in and to the following real estate, located in Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows, save except the property previously sold by the said Carr D. Butler and wife, as shown by deeds of record in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, recorded in the following deed books in said county, viz; 98, page 129; 76, page 101; 74, page 411; and 74, page 242.

"Bounded on the North by the lands of Lemuel Babb, Joseph Smith, G. A. Reed and others; and the East by R. N. C. Powell and James Smith; on the South by the lands of Carr D. Butler, and Henry Rogers and on the West by the lands of Julius King; being the same lands conveyed to Carr D. Butler by deed bearing date the 30th day of January, 1911, by G. F. Batten, Trustee, and duly recorded in the aforesaid Clerk's Office in Deed Book No. 70, page 316.

"That certain piece or parcel of land, situate, lying and being in the Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows: John Thomas Norfleet, Edwin King's estate, less a space of Fifty (50) feet square which is reserve for burial ground, with ingress and egress to same. Being the same land conveyed to Carr D. Butler by deed bearing date the 1st day of August, 1877, from Wilbur J. Kilby and John L. Fulghum, Commissioner's, duly of record in the aforesaid Clerk's Office, in Deed Book No.6, page 193. The intent of this deed is to convey all interest of the said Benjamin F. Butler in the estate of his father, Carr D. Butler", which said property is more particularly described in the deed aforesaid, to which reference is made for a more detailed description;

Third: That the aforesaid conveyance of the above described property by said R. F. Butler was voluntary and without consideration deemed valuable in law; that aforesaid conveyance of the above described property by said R. F. Butler was made

by said R. F. Butler with intent to hinder, delay, and defraud his creditors, especially your complainant, of which intent the said Ann F. Butler had notice and that at the time said conveyance was made, the said R. F. Butler was, and now is, insolvent.

Wherefore your complainant prays that the said R. F. Butler and Ann F. Butler be made parties defendant to this amended bill, and required, but not on their oaths, to answer the same, as well as the original bill, the oaths to the answers to both the original and amended bills being hereby expressly waived; that proper process may issue to answer this amended bill and the original bill; that judgment be entered in favor of your complainant against R. F. Butler in the sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), with legal interest thereon from December 1, 1925, until paid, and fifteen per cent. of said sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), as and for cost of collection, and the costs of this suit, including reasonable counsel fees to the attorneys prosecuting this suit; that the aforesaid deed executed by R. F. Butler conveying to his mother, Ann F. Butler, the above described property, be set aside and declared void, as voluntary and fraudulent, in so far as the same affects the rights of this complainant and other similarly situated, who may participate in this suit, pay their proportionate share of the cost hereof, giving such priority to complainant's claim as it may be entitled; that all proper orders and decrees may be made, accounts taken, and inquiries directed, and that all such other, further, and general relief may be aforded your complainant as the nature of this case may require, or to equity shall seem meet.

And your complainant will every pray, etc.

The Suffolk Fertilizer Company, Inc.,

By Holland F. Woodward
Counsel.

Holland F. Woodward
p.q.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF NANSEMOND

THE SUFFOLK FERTILIZER CO., INC.,

v.

R. F. BUTLER & ANN F. BUTLER

AMENDED BILL IN CHANCERY

Filed Nov. 13, 1929
Jane J. Powell, clerk
By, Olivia Whitehurst, D.C.

HOLLAND & WOODWARD

ATTORNEYS AND COUNSELLORS AT LAW

SUITE 301-307 NATIONAL BANK OF SUFFOLK BUILDING

SUFFOLK, VIRGINIA

VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

The Suffolk Fertilizer Company, Incorporated.....Complainant

v.

R. F. Butler and Ann F. Butler.....Defendants

To The Honorable Circuit Court of Nansemond County:

Your complainant, The Suffolk Fertilizer Company, Incorporated, on behalf of itself and all other creditors similarly situated who may come in and contribute to the cost of this suit, respectfully represent the following facts:

First: That on and prior to January 11th, 1927, R. F. Butler was indebted to your complainant in the sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), with legal interest thereon from December 1st, 1925, and 15% of said sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97) as and for cost of collection, evidenced by a certain note for that sum, dated at Suffolk, Virginia, September 15th, 1925, and payable to your complainant on December 1st, 1925, which amount of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), with interest thereon from December 1st, 1925, and 15% of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97) as and for cost of collection is now due and unpaid. That said note constitutes a part of the capital employed in the business of the complainant and was taxed as such.

Second: That on the 11th day of January, 1927, the said R. F. Butler, by deed duly recorded in the Clerk's Office of the Circuit Court of Nansemond County, in Deed Book No. 112, page 391, conveyed to his mother, Ann F. Butler, the following real estate, to-wit:

> "All his undivided interest in and to that certain tract or parcel of land siutate, lying and being in the Chuckatuck Magisterial District, Nansemond County, Virginia, bounded and described as follows: Containing by estimation Sixty-three (63) acres, more or less, and

adjoining the land of David Norris, or that which was his, Albert Smith's estate, Nimmiel J. Wright and Sylvester K. Ashburn, or that which was theirs. Being the same land which was conveyed by deed bearihg date the 8th day of December, 1881, to Benjamin F. Powell (father of Bennie Powell) from Howard E. Miner and wife. Said deed being duly of record in the Clerk's Office of the Circuit Court of Nansemond County, Virginia, in Deed Book No. 10, page 19. The intent of this deed is to convey all the interest whatsoever of the said Bennie Powell in the land heired from his father, Benjamin F. Powell, which said property is more particular described in the deed aforesaid, to which reference is made for a more detailed description".

Third: That the aforesaid conveyance of the above described property by said R. F. Butler was voluntary and without consideration deemed valuable in law; that aforesaid conveyance of the above described property by said R. F. Butler was made by said R. F. Butler with intent to hinder, delay, and defraud his creditors, especially your complainant, of which intent the said Ann F. Butler had notice and that at the time said conveyance was made, the said R. F. Butler was, and now is, insolvent.

In consideration whereof, and forasmuch as your complainant is remediless, save in a court of equity where such matters are alone cognizable, your complainant prays that R. F. Butler and Ann F. Butler be made parties defendant to this suit and required to answer the same, though answer under oath is hereby expressly waived; that proper porcess issue; that a judgment be entered in favor of your complainant against R. F. Butler in the sum of Two Hundred Forty-six Dollars and Ninety-seven Cents ($246.97), with interest thereon from December 1st, 1925, until paid, and 15% of said sum of Two Hundred and Forty-six Dollars and Ninety-seven Cents ($246.97) as and for cost of collection, and the cost of this suit, including reasonable counsel fees to the attorney prosecuting this suit; that the aforesaid deed executed by R. F. Butler, conveying to his mother, Ann F. Butler, the above described property be set aside and declared void as voluntary and fraudulent in so far as the same effects the rights of your complainant and others similarly situated who may parti-

cipate in this suit on the above conditions, giving such priority to complainant's claim as it may be entitled; that all proper orders and decrees may be made, accounts taken and inquiries directed, and that all such other, further and general relief may be afforded your complainant as the nature of this case may require or to equity shall seem meet. And your complainant will ever pray, etc.

THE SUFFOLK FERTILIZER COMPANY, INCORPORATED

By Counsel.

Thos. L. Woodward p.q.

VIRGINIA,
IN THE CIRCUIT COURT OF
NANSEMOND COUNTY.

The Suffolk Fertilizer
Company, Incorporated

v.

R. F. Butler and
Ann F. Butler

Original Bill

Filed June 29th 1927
W. E. Bunting Clerk
M. K. Gardner D. C.

THOMAS L. WOODWARD
ATTORNEY AND COUNSELLOR AT LAW
SUFFOLK, VIRGINIA