

1790-010

Southampton County

Chancery Papers: Rogers vs Lyttle

8/1790

other surnames: Little,  
Powell, Blunt, Gilliam

To the Right Justices of Southampton County sitting in Chancery -

John Rogers the complainant sheweth unto the Court that some

time ago a Judicial attachment was obtained by William Lytle against

Caleb Powell which was levied on sundry articles supposed to <sup>be</sup> the pro-  
perty of the said Powell and a return thereof made to

the Court of this County - Your Orator further shews that being entitled

to the said articles by virtue of a bill of sales he did therefore request

to be entered as special bail for the said Powell in order

that a defence might be made to the said attach<sup>t</sup> and that on the

trial thereof he might come in and interplead to establish his right

as aforesaid - but so it was, whether thro' the confusion about the table

or multiplicity of business, the clerk omitted to make an entry thereof <sup>either</sup> <sup>in consequence of which there was judgment</sup> <sup>by default</sup> <sup>of the</sup>  
~~entry~~ <sup>make the entry</sup> ~~and the said articles~~ <sup>there was afterwards a judgment by default and the said articles</sup>

so attached were condemned to be sold to satisfy the same and an order

of sale awarded thereupon - The circumstances having thus inci-

dentally happened, your Orator who had no particular desire to keep

the said articles (but being pushed for money) thought proper to propose

to the said William Lytle a reference of the prior claim

by which he had tiller thinking that mode more concise and speedy

than resorting to a Court of Equity for an Injunction - and that there-

fore the articles might be sold and the money arising therefrom should

be kept by the Clerk subject to the award of ~~Referees~~ ~~and~~ ~~the~~

~~the said Lytle~~ <sup>Mr William Richard</sup> ~~who were chosen for that purpose~~ <sup>Blunt & Gilliam</sup> to which proposition

the said Lytle <sup>consulted and</sup> ~~the said~~ <sup>Mr William Richard</sup> ~~Blunt & Gilliam~~

~~was accordingly chosen for that purpose~~ -

But now so ~~it being~~ ~~that~~ the said W<sup>m</sup> Lytle -

the debt combining & confederating with others whom your Orator  
requests may be made debts to this his bill whensoever they are  
discovered with an intention to injure your Orator in this behalf  
did afterwards iniquitously recede from his promise & agreement so as  
aforesaid made and now unjustly requires the Sheriff to pay him  
the money arising from the sale aforesaid - In consideration whereof  
and as your Orator is without redress in the premises without your  
equitable interposition - To the end therefore that the said William  
Lytle may on oath true answer make to the whole circumstances  
of this transaction in as full a manner as if they were singly and again  
repeated - particularly that he may set forth & discover whether your Orator  
did not desire himself to be entered special bail as aforesaid? whether he  
did not agree to the proposition of referring the title <sup>of the articles</sup> as aforesaid attached and  
sold, to the decision of the aforesaid Blunt & Gilliam who were mutually  
chosen for that purpose? Whether he not disavow making any claim  
to the money which might arise from the sale aforesaid, unless the same  
should be awarded to him by the said Referees? Whether if the right of  
the said articles was found in your Orator he did not agree to desist  
from any further proceedings in virtue of the aforesaid Attach<sup>t</sup>? and  
lastly, whether he hath not since that time ~~and subsequent to those~~  
~~premises~~ endeavored to get the money out of the Sheriff's  
hands contrary to his original agreement? which actings & doings are  
contrary to equity & good conscience - That the said debt, his agent, attorney,  
and all others concerned may be enjoined from proceeding in the business ~~until~~  
~~the further order of the Court~~ - that the Sheriff may be directed to retain the  
money in his hands subject to the further order of this Court - that the  
said debt may be compelled to refer the right of the said attached articles  
according to his former agreement - or that a new trial may be directed  
at law to try the attachment & the right of your Orator's claim upon their  
true merits - or that your Orator may be otherwise believed in the  
premises according to equity, as this Court shall please to award -

May it please the Court to grant a writ or writs of subpoena and  
injunction to the said debt <sup>to be</sup> directed, commanding him to

sworn to in open Court. this day of

1790.

Sworn to in Court Aug. 13. 1790. The Complainant -

J. Young jun<sup>r</sup>

J. Hill att. for

*Dr. J. C. Rogers*  
*or* *J. C. Little* *Sept. 13<sup>th</sup>*

*Aug 1790*

Know all men By these presents that we J<sup>r</sup>. Rogers  
& John Simmons  
are held and firmly bound unto W<sup>m</sup>. Little

In the sum of Fifty pounds  
Current Money of Virginia To the which payment well and truly to be  
made unto the said W<sup>m</sup>. Little and his heirs and  
assigns we bind our selves our heirs executors and assigns jointly severally  
by these presents sealed with our seals and dated the 13<sup>th</sup> Day of  
August 1790

The condition of this obligation is such that whereas  
the said J<sup>r</sup>. Rogers W<sup>m</sup>. Little hath obtained  
a Judgement at common Law against ~~the said~~ <sup>the said</sup> ~~Caleb~~  
Powell In the County Court of

Southampton for Eight pounds  
and costs & the said J<sup>r</sup>. Rogers hath obtained  
an Injunction to stay the execution of the said judgement until  
the <sup>matter</sup> ~~matter~~ in equity upon a bill for that purpose filed

If therefore the said John Rogers  
shall satisfy and pay the said judgement at common Law &  
all costs and Damages that shall be awarded to the said  
W<sup>m</sup>. Little In case the said Judg<sup>t</sup> shall be dissolved

Then the above obligation to be void or else to remain in full  
force

Sealed & Delivered  
in the presence of

J. Young  
~~J. Young~~

John Rogers

John Simmons