

1891-07

Southampton County Chancery - Holmes, W. H. et al vs Lewis, James B. et al

creditors suit

Washington
Taylor & Co. { Taylor, Washington
Camp, James B.

Cobb, A. F. (Trustee)
Hundley, John A.
Doyle, Zachariah
Bradshaw, Martha Ann

To Hon Geo. Blow, Judge of the Circuit Court of
Southampton County.

Complaining shew
unto Your Honor, Your Orators W. N. Holmes, and
Washington Taylor & James D. Camp, partners in trade
under the name of Washington Taylor & Co, of the City
of Norfolk Va, that James D. Lewis of the County of
Southampton is indebted to Your Orators as follows:
to the said W. N. Holmes in the sum of \$447 ²/₁₀₀ with
legal interest thereon from the 6th day of Nov 1884
till paid and \$8⁶⁶ Costs of suit, judgment having
been obtained therefor at the May term of this Court
1885; an abstract of said judgment being herewith filed
as part of this Bill, marked "A", and to the said
Washington Taylor & Co in the sum of \$298 ²/₁₀₀ with
interest thereon from the 3^d day of May 1884 & costs of
suit \$8 ⁵⁶/₁₀₀, judgment having been obtained therefor
at the same term of this Court, an abstract of said
judgment being also filed herewith as part of this
Bill and marked "B". That Executions issued upon
said judgments in favor of Your Orators were re-
turned "no effects". The said James D. Lewis is the
owner of some Real Estate, in the said County
of Southampton, consisting of a valuable farm
of 175 acres, the assessed value of which is \$
but the actual market value of which, is consid-
erably more. That on the 26th day of September
1882 the said James D. Lewis and wife executed

led a Deed of Trust on the said land, to secure to
Jahes A. Hurdley the payment of the sum of
\$1000⁰⁰ claimed to be due by bond of said Lewis
for that sum, said Deed having been recd
to A. F. Cobb Trustee, and a copy thereof is filed
herewith as part of this Bill & marked "C." And
on the 14th day of January 1885, the said Jas. B. Lewis
executed another Deed of Trust upon the said land to
A. F. Cobb Trustee, to secure to Zachariah Doyle
of the said County the sum of \$500⁰⁰, said to be due by
bond of Jas. B. Lewis for that sum dated the 1st day of
September 1884; & also to secure to Martha ^{and} Bradshaw
of the said County the payment of \$200⁰⁰, said to be
due by bond dated the 1st day of April 1882, a copy
of said Deed being filed herewith as part of this
Bill & marked "D." As the said Deeds, if given
in good faith, for bona fide debts due by the said
Jas. B. Lewis, are prior to the lien of the judgments
in favor of Your Orators, yet Your Orators' judgments
constitute a lien on said land next in point of dig-
nity to the liens of said Deeds. But Your Orators
are advised and believe and therefore allege that
a large part of the debts due and secured by the
Deeds aforesaid has been paid, thereby reducing
the actual liens by reason thereof less than appears
by said Deeds; but if the same are now permitted
to remain without proceedings to foreclose the
same, the accumulations of interest thereon will

absorb the full value of the said land and leave nothing out of which Your Orator's fees can be paid.

In tender consideration whereof, forasmuch as Your Orators are without remedy save by the aid of a Court of Chancery where matters of the kind are alone and properly cognizable and relievable, Your Orators pray that the said James B Lewis, a. & Co. h. Ins'tee, John A. Hundley, Zachariah Doyle and Martha Ann Bradshaw be made parties Defendant to this Bill, and required to answer the same fully and particularly, on Oath; that one of the Commissioners of this Court be required to take, state & report to Court the following accounts: 1st An account showing the amount and value (fee simple and annuity) of the Real Estate of which the said James B Lewis stands seized; 2^d An account of all liens upon the said Real Estate, their nature, dignity and priorities, and whether any, & if any, what portion of said liens now remains unpaid, with any other matters deemed pertinent or which may be required by any of the parties; that Your Honor will decree a sale of the said land, and application of the proceeds thereof to the payment of these several liens thereon, according to their proper priorities & the amounts as ascertained to be actually due, and that Your Orators may have all such other, further and general relief in the premises, as the nature of

their case may require, or to Equity may seem
meet —

And Your Orators will ever pray &c.

Jos. H. Wright p. g.

Sanborn County, to wit:

This day, Wm. H. Holmes,
one of the Complainants in the above Bill of Com-
plaint, personally appeared before me in my said
County and made oath that the statements con-
tained therein are true to the best of his knowledge
information & belief —

Given under my hand this 11th day of Mch 1886

Jos. H. Wright J. P.

Wright p. g.

W. H. Holmes & al

v } For Chancery

Jas. D. Lewis & al

J. D. W. +
Exhibits

This Deed, made this 26th day of September, in the year one thousand eight hundred and eighty-two between James B. Lewis and Mary J. Lewis, his wife, of the one part: Witness: that the said parties of the first part - do grant unto the said A. T. Cobb - Trustee the following property to wit: One tract of land known as the "James B. Lewis Tract" - containing 175 acres. More or less, and bounded the lands of Galusha Lewis and others - it being the tract of land on which the said James B. Lewis and Mary J. his wife now reside.

In trust; to receive the payment of the sum of \$1000 - one thousand dollars in one bond executed by the said James B. Lewis and Mary J. his wife on the 26th day of September 1882, and payable to John A. Hundley or his order, two years from date.

In the event that default shall be made in the payment of the above mentioned bond then the Trustees, or being required so to do by John A. Hundley aforesaid their successors or assigns, shall sell the property hereby conveyed. And it is covenanted and agreed between the parties aforesaid, that in case of a sale, the same shall be made after first advertising the time, place and terms thereof, for thirty

days upon the following terms, to wit:

For cash as to as much of the proceeds as may be necessary to repay the expenses of executing this deed. The fees for drawing and recording this deed, if then unpaid, and to discharge the amount of money then payable upon the said bond, and if there be any residue of said purchase money, the same shall be made payable at such time and secured in such manner as the said James B. Lewis and Mary J. his wife executors, administrators or assigns shall prescribe and direct, or in case of their failure to give such direction, at such time and in such manner as the said Trustees shall think fit. The said James B. Lewis and Mary J. his wife, covenant to pay all taxes, assessments, dues and charges upon the property here by conveyed - so long as they or their heirs or assigns shall hold the same.

Witness the following signatures and seals -

James B. Lewis (C. S.)
Mary J. Lewis (C. S.)
maile

State of Virginia

County of Southampton, to wit:
I, R. A. Bristol, a Notary Public
for the County aforesaid, in the State
of Virginia, do certify that James B. Lewis,
whose name is signed to the writing hereto
annexed bearing date on the 26th day of
September 1882 has acknowledged the
same before me in my County-aforesaid.
Given under my hand this 26th day
of September 1882 -

R. A. Bristol
Notary Public.

State of Virginia

County of Southampton, to wit:
I, R. A. Bristol a Notary Public for the
County of Southampton, in the State of
Virginia, do certify that Mary J. Lewis -
the wife of James B. Lewis whose names
are signed to the writing hereto annexed
bearing date on the 26th day of September
1882 personally appeared before me in the
County aforesaid, and being examined by
me privily and apart from her husband,
and having the writing aforesaid fully
explained to her, the said Mary J. Lewis ack-
nowledged the said writing to be her act;

and declared that she had willingly ex-
ecuted the same and was not wish to re-
tract it.

Given under my hand this 26th day of
Sept: 1882 -

B. A. Bristol.

Notary Public.

In Southampton County Court Clerk's Office
Sept-29th 1882 This Deed of Trust from
J. B. Lewis and wife to A. F. Cobb Trustee
for the benefit of J. A. Handley was this
day received and together with the Certi-
ficates thereto annexed admitted to
record.

Teste J. F. Edwards - C. C.

A Copy Teste J. B. Prince C. C.

Lewis & wife
to J. B. Lewis
A. F. Cobb

Trustee for -
John A. Handley

a copy

1882 September 29th

Exh "C"

For \$11.00
chgs to J. B. Prince

Report of Com^{rs}
Assigning Homesteads
to St. Louis

1884 Aug. 18th

To the Judge of the County Court of
Punahou.

We, the Commissioners appointed by the
Court in vacation, in obedience to your
order, have appraised the property of
L. K. Erwin, mentioned in said inventory,
to be of the value of one thousand seven
hundred and thirty seven dollars and
fifty cents; the whole of which he claims
and is set apart as his homestead.

Zachariah Doyle -
Jennius W. Campbell Comm.
Robt. M. Edwards. }



J. B. Lewis
"Q"

Inventory to

for
Homestead



A Copy -

To Ezra Drake, a Constable of the County
of Southampton.

You are hereby notified that
J. B. Lewis, a householder and head of a
family, having heretofore failed to select
and set apart a homestead and personal
property exempt from levy or sale, accord-
ing to the provisions of the "Homestead Act"
and desiring now to avail myself of the
benefit of the exemptions provided for in
said Act, do this day file with you, a
Constable of the said County of Southamp-
ton, holding an execution against me in
favor of Alex. Barnes the following inven-
tory of the whole of the real and personal
property now owned by me to wit:

130 Acres of Land, more or less, lying in Southampton County, and bounded by the lands of John Camp, Salathiel Lewis and others valued at-	\$ 1500.00
2 Houses valued at-	100.00
1 Work Ox valued at-	25.00
1 Buggy valued at-	25.00
3 Carts valued at-	25.00
Farming implements - valued at-	15.00
1 Apple Mill ^{with mill} & Still valued at-	125.00
3 Sows & 9 pigs valued at-	20.00
Household & Kitchen furniture valued at-	50.00
Total value of property	1985.00

And I desire you forthwith to apply to
the Judge of the County Court of Southampton
to appoint three disinterested free-holders
of the said County to appraise the property
mentioned in the inventory filed with you,
in order that the homestead may be se-
lected from the same. Given under my
hand August-2nd 1884. J. B. Lewis (sign)

Southampton County, to wit:

I W^m H. Parker, a Commissioner
in Chancery of the Circuit Court for the
County of Southampton in the State of
Virginia, do certify that J. B. Lewis whose
name is signed to the above inventory
bearing date the 2nd day of August-
A.D. 1884, personally appeared before
me in said County and made oath that
the same is correct to the best of his know-
ledge and belief. Given under my
hand this 2nd day of August-A.D. 1884.

W^m H. Parker
Commissioner in Chancery-

Whereas, J. B. Lewis has filed an inventory under oath; of the whole of the property both real and personal, now owned by him, with Ezra Drake, a Constable of Southampton County; who has levied an execution on the same, and in which the said Lewis claims the benefit of a homestead and personal property, according to the provisions of the "Homestead Act"; and whereas, the said Constable has returned the said inventory to me as Judge of the County Court of Southampton - Then therefore, the County Court orders that Robt. Edwards A. F. Cobb, Zachariah Doyle and J. W. Campbell and they are hereby appointed Commissioners to appraise the said property at its cash value, and on the completion of the said appraisement, the said J. B. Lewis may select from such inventory property not exceeding in value \$5000. and if there be any property left, the said Constable may proceed to enforce the lien of his execution there on, and the said Commissioners will report their proceedings under this order of Court.

E. G. Karello - Judge.

A Copy

Teste

J. B. Lewis C. C.

J. B. Lewis
Deed of Amusement

"P."

Know all men by these presents that J.
 J. Lewis a householder and head of
 a family, do by virtue of an act passed
 by the General Assembly of Virginia,
 Approved June 27th 1870, hereby elect-
 and claim, as a Homestead, for the
 benefit of myself and family, ex-
 empt from levy, seizure, garnishing
 or sale, under any execution, order or
 other process, issued on any demand
 for any debt heretofore or hereafter
 contracted, the following real and
 personal property to wit: 130 acres
 of land, more or less, lying in South-
 ampton County and bounded by
 the lands of John Camp, Sathiel
 Lewis and others, and valued at-
~~\$1500.00~~ ————— \$ 1500.00

2 Horses valued at-	100.00
1 Work ox- " "	25.00
1 Buggy " "	25.00
3 Carts " "	25.00
Farming implements valued at-	15.00
1 Apple mill + still + fixtures " "	75.00
3 Cows + 9 pigs valued at-	20.00
House hold + kitchen furniture "	150.00

The whole amounting to \$1935.00
 Witness the following signature and seal May
 1st - 1886 - J. B. Lewis Seal

Lewis &

Is } Copy Dpt
O. F. Cobb Trustee.

Ex 6th "D"

Fee 50c

Chgo to H. Wright

This Deed made this 14th Day of January in the
year of our Lord one thousand eight-hundred and
eighty-five between James B. Lewis of the County
of Southampton Virginia, of the first part, and
A. J. Cobb Trustee, of the County of Southampton
Virginia, of the second part; with covenants: that
the said party of the first part, for and in con-
sideration of the sum of five dollars, paid by
the said party of the second part; the receipt where-
of is hereby acknowledged, forth grant and
convey unto the said party of the second part;
the following property, to wit: His right, title,
and interest in a certain tract of land known
as the James B. Lewis tract, it being the same
in which the said James B. Lewis now resides -
containing one hundred and fifty acres,
more or less, and bounded by the lands of
John Camp and others, for the more particu-
lar description of which reference is given
to deed of Conveyance of the same to the said
James B. Lewis lodged in the Clerk's Office of
Southampton County.

In Trust, to secure unto Zachariah
Doyle the payment of a bond executed by
James B. Lewis for the sum of five hundred
dollars, bearing date on the 1st Day of Septem-
ber 1884, and Martha Ann Bradshaw another
bond executed by said James B. Lewis for the

sum of two hundred Dollars, bearing date on
the 1st day of April 1882, in the order of the
priority that the lands aforesaid are mentioned
herein. Witness the following signature
and seal the Day & year above written,
J. B. Lewis Clerk

Pouhampton County, to wit:

J. R. A. Bristol, a Notary
Public for the County aforesaid, in the
State of Virginia, do certify that James B.
Lewis, whose name is signed to the writing
above, bearing date on the 14th day of January
1885, acknowledged the same before me in
my County aforesaid.

Given under my hand this 14 day
of January, 1885.
R. A. Bristol N. P.

Pouhampton County In the Clerk's Office
January 19th 1885 This Deed of Trust
from J. B. Lewis to A. J. Cobb trustee
for the benefit of Zachariah Doyle et al.
was this day received and together with
the certificate thereto annexed admitted
to record

Teste

J. B. Prince C. C.

A. Copy

Teste J. B. Prince C. C.

Norfolk Va. Feb 17th 1885

Mr. James B. Lewis
Do H. H. Holmes

Dr

184					
Nov	6	Bal. of A/c rendered	436.83		
	1	3 Bags Sol. S. I. Guano	1140	447.73	
		Interest from			
		Nov. 6 th 1884.			

A Copy - sent to

J. B. Prince & Co.

In Southampton Assizes Court.

May Term 1885.

W.H. Holmes

Pltff

against

W.B. Lewis

Def.

} In case

Judgment for the pteff against the deft. for
\$447. ⁷³ with legal interest thereon from Nov.
6: 1884. till paid & costs \$8.66.

Exact.

Teste L.B. Purvis c. l.

Mr Jas. B. Lewis

Bought of Washington Taylor & Co

1884									
Feb.	27	1 Bbl Oil	53 @ 9 1/2	504					
		1 Box Monday Soap	" 3.75	375					
		1 Box Candles	40 " 11	440					
		1 Box Candy	50 " 11	550					
		1 Bbl Canary Sugar	323 " 6 1/2	2180					
		1 Bag Coffee	135. 14	1890					
		1 Sack Fine Salt	135	135					
		1 Bbl Drips	55 @ 29	1595					
		2 Gros: Swiss Matches	" 75	150					
		5 lb. Spice	" 12	60					
		5 " Pepper	" 17	85					
		1/2 M. 1 lb. Paper Bags	" 1.10	55					
		1/2 M 6" " "	" 3.75	185					
		1/2 M 8" " "	" 4.40	220					
		1/2 M 10" " "	" 5.00	250					
		1 Ream 15 x 20 paper	@ 30	30					
		1 Ream 20 x 30 " "	" 60	60					
		6 Bbls Standard Flour	" 5.85	35.10					
		Box 25 Dray		100			123.74		
Apr	4	1 Bbl butter Crackers	49 @ 6 1/2	319					
		5 Bbls Standard Flour	" 5.85	29.25					
		1 Bbl Lemon Crackers	59 " 10	590					
		1 Box Monday Soap	@ 3.75	375					
		1 Box No. 4. Powders	bag 2.40	240					
		1 Box Candy	25 @ 11	275					
		Dray		40			47.64		
May	3	1 Box Butters	500 @ 9 1/8	4563					
		1 Bbl Canary Sugar	309 @ 6 1/2	2009					
		1 Bbl Cedar	47 @ 20	940					
		1 Box Candy	50 " 11	550					
		5 lb. Pepper	@ 17	85					
		5 " Twine	@ 18	90					
		1 Bag Coffee	130 @ 13 1/2	1755					
		1 Sack Fine Salt	@ 1.25	125					
		3 Bbls Standard Flour	@ 6	1800					
		2 Bbls Herring	@ 3.75	750					
		Box 25 Dray	50	65			127.32		
							298.70		
Total from May 3"/84.									

Acqy. Jests:

J. B. Jones & Co.

In Southampton Circuit Court.

May Term 1885.

Washington Taylor & James B. Leach partners in trade
as Washington Taylor & Co. plffs -

against

J. B. Lewis.

Def.

In case.

Judgment for the plffs against the def
for \$298.²⁰ with legal interest thereon from
May 3. 1884 till paid & costs \$8.86.

Ex tract.

Teste J. B. Lewis

Holmes Jr. 153

or 3 Stat Rules

Lewis Jr.

In Southampton Circuit Court.
W.H. Holmes, & Washington Taylor & Jos B.
Camp, partners in trade under firm
of Washington Taylor & Co. Plaintiffs

Against
J.B. Lewis, A.T. Cobb, trustees, Jno Attending, } In
Joelariah Doyle & Martha Ann } Chancery.
Bradshaw. Defendants

1886.

March 17. Summons to Aple Rules.

Aple Rules. " Exh. Rice & Exhibits filed. Answer nisi
or Defts.

May " .. Rice taken for confessed and Cause set
for hearing.

Lewis
ad 3 Answer
H.C.
Holmes et als

Wm. H. Parker f.d.

The separate answer of J. B. Lewis to a bill of Complaint exhibited against him, in the Circuit Court for the County of Southampton, by G. H. Holmes and others.

The respondent reserving to himself the benefit of all first exceptions to the said bill, for answer thereto, or to so much thereof, as he is advised it is material that he should answer, answers and says: That true it is that the said G. H. Holmes and the said Washington, Taylor & Co., each, at the time alleged in the bill, recovered a judgment against the respondent for the amount and costs therein specified, and that, executions issued therein which was returned "no effects." That true also it is that the respondent is the owner of some real estate in Southampton County, consisting of a farm of 175^{acres} more or less, and that, on said farm, as alleged in the bill, he has executed two several and distinct Deeds of Trust, namely, one in favor of John A. Hundley and the other in favor of Zachariah Doyle and Martha Bladshaw. But, ~~in neither of the said Deeds~~ the respondent positively denies that the

actual value of the said farm is largely in excess of the assessed value thereof, and in support of that allegation, he calls, if necessary, for strict proof. He also denies, in the absence of any proof, that a large part of the debts due and secured by the Deeds of Trust aforesaid have been paid, but, on the contrary, he states that only the interest on the debts therein secured has been paid.

The respondent admits, as alleged in the bill, that the judgments ^{heretofore} referred to are liens upon his real estate and are to be satisfied next in priority and dignity to the liens of the Deeds of Trust executed therein. But the said judgments having been obtained on open accounts and the respondent, before their recovery having declared his intention to claim the benefit of the homestead exemption, and since that time, having made and recorded his Deed, as will be seen by certified copies of the said accounts, the Inventory for Homestead and the Deed of Homestead, herewith filed as exhibits, marked M. N. Q. and V. and made a part of this answer, he submits that his real

estate cannot be subjected in satisfaction of the liens of the Complainants until his Homestead has been exhausted; and, therefore, he asks the Court to so declare.

The respondent denies all fraud, unlawful Combination and Confederacy, or any intimation thereof; and having fully answered the Complainants' bill, prays to be hence dismissed with his reasonable costs in this behalf expended, and he will ever pray &c.

J. B. Lewis *sign*

Virginia:

County of Southampton, to wit:
This day personally appeared before me,
W. J. Sebrill, Comr: in Chancery of Court Comt
for the County and State aforesaid, J. B.
Lewis whose answer is above written, and
made oath the statements contained in
the said answer, so far as made of his
own knowledge are true; and so far as
made from knowledge or information de-
rived from others, he believes to be true.

Given under my hand this 1
day of May 1886.

W. J. Sebrill,
Comr: in Chancery.

Clerk will copy a/c upon which
Judgments were obtained, Inventory
for Homestead & deed of Homestead,
marked m, n, o & p - & file as
Exhibits in suit of Holmes & W.
Lewis -

W. H. Parker -

Holmes et. als:

$\frac{1}{4}$  Sum

Lewis, et. als:

1886. April Rules
Cir: et.

Executed March 20th
1886 by delivering to
each of the within
named parties a copy
of this ~~summons~~

A. H. Vies

S. R. H.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County—Greeting:

WE COMMAND YOU TO SUMMON

*Jas. B. Lewis, A. J. Cobb, Trustees—
Jno. A. Humbley, Zaphariah Doyle and Martha Ann
Bradshaw*

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court
on the first Monday in *April* next, to answer a bill in Chancery exhibited against *them*

in our said Court by

*H. H. Holmes & Washington Taylor & Jas. B. Camp, partners
in Trade under the name of Washington Taylor & Co*

And this *they* shall in no wise omit; and have then there this writ.

WITNESS, J. B. PRINCE, Clerk of our said Court, this *17*th day of *March*, 188 *6*,
in the *110* year of the Commonwealth.

Testo:

J. B. Prince C. G.

~~98~~
Holmes & als. ~~147~~

r / du Chy - ~~86~~ 82

Lewis & als ~~84~~

Deceit for accounts ~~78~~

To be cleared

Rec'd: 1886.

May 6th 1886.

✓

In the Circuit Court of Southampton County
Holmes & als

vs

Lewis & als.

This cause came on this day to be heard upon the Bill and Exhibits filed therewith, and upon the answer of the Defendant J. D. Lewis & Exhibits filed with said answer, and the other Defendants failing to appear and plead, answer, or demur, was taken for confessed as to them, and whose process seems to have been duly served and was argued by Counsel. On consideration whereof the Court doth adjudge Order and decree that one of the Commissioners of this Court do take, state and return to Court the following accounts: 1st An account showing the amount of the Real Estate of which James B. Lewis stands seized, with its fee simple and annual values, 2^d An account of all liens upon said Real Estate, their nature, dignity and priorities, and whether any, & if any, what portion of said liens remains unpaid, together with any other matters not specially stated which may be deemed pertinent or required by any of the parties.