1843-008 Chancery Causes: James Chalmers vs Spencer Pierce et al

Dale of Wight County

other SURNames: Whitehead, DREW, Latimer, Tynes, Lattimer

This Indenture made this 26th day of January one thousand eight hundred and forty three, Between Spencer Pierce and Elizabeth his wife of the County of Isle of Wight and State of Virginia of the one part, and John S. Latimer (Trustee) of the County and State aforesaid of the second part, and Henry L Tynes of the County of Nansemond and State aforesaid of the third part. Whereas the said Spencer Pierce is justly indebted to the said Henry L. Tynes in the sum of one thousand one Hundred and seventy five dollars and forty eight cents, due by bond executed the 26th day of January 1843 and payable on demand, which sum of Money with the interest which may accrue thereon, the said Spencer Pierce and Elizabeth his wife are willing and desirous to secure to the said Henry L Tynes, his executors, administrators, or assigns, and for that purpose, do by these presents convey in Trust to the said John S Latimer, all the right title and interest which the said Spencer Pierce and Elizabeth his wife may have or claim in or to the herein after mentioned two tracts or parcels of land. This Indenture therefore witnesseth that the said Spencer Pierce and Elizabeth his wife for and in consideration of the premises, and also for the further Consideration of one dollar to the said Spencer Pierce in hand paid by the said John S Latimer at and before the sealing and delivery of these presents the receipt whereof is hereby acknowledged, they the said Spencer Pierce and Elizabeth his wife have granted bargained and sold, and by these presents do grant, bargain, sell, and convey unto the said John S. Latimer his heirs and assigns all the right, title, and interest which they the said Spencer Pierce and Elizabeth his wife may have or claim in and to the two tracts or parcels of land lying and being in the County of Isle of Wight, and the boundaries will more fully appear by reference to a deed of Trust executed by the said Pierce & wife for the benefit of Darden D Hare dated Augt 11th 1840 and of record in the Clerks Office of Isle of Wight County

together with all and singular the appurtenances to the said two tracts or parcels of land, To have and to hold the said two tracts or parcels of land and premises with their appurtenances unto the said John S Latimer his heirs and assigns to the use and behoof of the said John S. Latimer his heirs and assigns forever – Together with all the right, title and interest which the said Spencer Peirce may now have or claim, in or to the following Slaves and their future increase to wit: Mary, Isaac, Eliza, Robert, Dianna, Dick, Edmund, Archer, Adaline, Georgianna, Maryann, Parker, and Margaret, at the death of his Mother Milcah Peirce they being held by her as her dower slaves, upon this Special trust and confidence, that the said John S. Latimer shall permit the said Spencer Peirce to remain in quiet and peaceable possession of the aforementioned two tracts or parcels of land or the interest aforesaid with every of their appurtenances and take the profits thereof to his own use, also to remain in quiet and peaceable possession of the Slaves and their future increase, or the interest in said Slaves and their increase which is hereby conveyed, until the said Henry L Sykes, his heirs, executors, administrators or assigns shall require the sale of the interest in the land, and Slaves and their increase above mentioned, then and in that case (the said Spencer Peirce having failed to pay the debt aforesaid) he the said John S Latimer his heirs, exors. Admrs &c. shall proceed to sell the aforesaid interest in the land and Slaves above mentioned giving ten days previous notice of the time and place of sale, and with the proceeds first pay the costs and charges attending said sale and then pay off the aforesaid sum of One thousand one hundred and seventy five dollars and forty eight cents with such interest as may be thereon to the said Henry L Sykes, his heirs exors. or admrs. and afterwards pay the balance (if any) to the said Spencer Peirce or his heirs &c. The right and interest to the herein mentioned land and Slaves and the increase of the said Slaves I do for myself my heirs, exors & admrs. by these presents forever warrant and defend unto the said John S Latimer (Trustee) his heirs and assigns forever. In witness we the parties to these presents have hereunto set our hand and affixed our seals this day and year first above written

Signed sealed and delivered in presence of

Spencer Peirce (seal)
Jno. S. Latimer (seal)
H. L. Sykes — (seal)

In the Clerk's Office of Isle of Wight County January 26th 1843 – This Indenture was acknowledged by Spencer Peirce, Jno. S. Latimer and H. L. Sykes to be their act and deed, and admitted to record — A Copy Teste.

J. D. Wills D.C.

Pierre Lunt

and

a copy

to.

J. W. Murdaugh, printer, Portsmouth, Va,

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Isle of Wight **County, Greeting:**

WE COMMAND YOU TO SUMMON Benjamin Drew Sheriff of the County of Isle of Wight and Henry [illegible]

to appear before the Judge of the Circuit superior Court of Law and Chancery for the County of Isle of Wight, at the Court House of said county, on the first Monday in July next, being rule day, to answer a bill in Chancery in the said Court exhibited against him by James Chalmers

and if he shall fail to answer the Bill within two months thereafter, the Court will take the said Bill for confessed, and proceed to decree the matter thereof accordingly. And have then there this Writ.—*Witness* Nathaniel P. Young, *Clerk of our said Court, at the Court House,* this 22nd day of June 1843, in the 67th year of the Commonwealth.

N. P. Young clk.

James Chalmers

vs. Spa: in Chy.

Pence Vals:

To July Rules 1843.

Atkinson Sol.

Service acknowledged —

Sign, B. Drew. S.H.A.

22 June 1843.

J. W. Murdaugh, printer, Portsmouth, Va.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Isle of Wight *County*, Greeting:

WE COMMAND YOU TO SUMMON Spencer Pierce, John L. Lattimer and Henry L. Lyon

to appear before the Judge of the Circuit superior Court of Law and Chancery for the County of Isle of Wight, at the Court House of said county, on the first Monday in July next, being rule day, to answer a bill in Chancery in the said Court exhibited against them by James C. Calvert

and if they shall fail to answer the Bill within two months thereafter, the Court will take the said Bill for confessed, and proceed to decree the matter thereof accordingly. And have then there this Writ.—*Witness* Nathaniel P. Young, *Clerk of our said Court, at the Court House*, this 7 day of June 1843, in the 67 year of the Commonwealth.

N. P. Young C.K.

Executed June 8th 1843 on Spencer Pierce &
June 10th on John B Lattimore by delivering
a true copy of the within

A & Whitehead and
James T Edwards dpns
Sheriffs for Bunc: Drew Sheff

~~Service Acknowledged~~

Executed 15th June 1843 & a copy hereof
delivered to Henry L. Hynes —

John R Kilby dy
for Wm N. Godwin, Sheff
Beaufort County.

Clerks
Fees 3 Defendants
Pierce &
Lattimore
1843

Subscribed &
Sworn to
by Spencer Pierce
June 15th 1843

Chalmers

vs Eq. Bill &c.

Pierce, Tyer &c.

July rules 1843

July rules 1843 Bill &c.
filed & Sub. &c.

August rules 1843 Answer
by Plaintiffs.

Pltffs Sol

To the Judge of the Circuit Superior Court of Law and Chancery for the County of Bledsoe Sitting the humble complainant Shews to the Court your complainant James Chalmers of said County that having a claim against one Spencer Spencer he obtained judgment against him in the said County by confession of judgment in office of the Clerk of the Circuit Superior Court of Law & Chancery for said County on the 4 day of May A.D. 1843. for the sum of $100.73 with interest from 23 February 1843 till paid and costs

and thereupon the said Chalmers sued out of the office of the said Circuit Superior Court a writ of capias satisfaciendum against the said Spencer Spencer for the sum of $100.73 with interest from 23 February 1843 till paid and $6.03 costs which execution was duly levied upon the body of the said Spencer on the 17th day of May 1843 by A. A. Whitehead Deputy Sheriff for Benja. Pierce Sheriff of this County of Bledsoe Sitting that and in pursuance of the act of the General Assembly in such cases made & provided the said Spencer Spencer took the oath of insolvency and thereby discharged himself from confinement & keeping then in custody under the said execution on the said 17th day of May 1843 ~~and thereupon [illegible] to pay~~

als which with more fully appear by reference to a copy of said execution & return thereon, ~~copy of the schedule~~ annexed, which are herewith filed as part of this bill, and marked A ~~to~~ Your orator shows that at the time the said Spencer Pierce took the oath of insolvent debtor, and rendered his schedule the personal property therein named, was levied upon by a fieri facias then in the hands of the Sheriff of said County so that the personal estate that passed by virtue of the schedule, & which was liable to be sold as then suspended, by process not taken & discharge of the execution of your complainant —

Your orator further shows that the said Spencer Pierce and his wife, on the 20th of January 1863, made a certain deed usually called a deed of trust, to John S. Latimer of said County, in trust to secure and provide for the payment of a debt then due to one Henry L Tyers of Hammond County, amounting to the sum of $1075.48 on 26 Jany 1863, and by said deed they sold conveyed to said Latimer all the right, title and interest which the said Spencer Pierce might then have a claim in or to the following slaves and their future issue to wit Mary, Isaac, Eliza, Robert, Liana, Dick, Romeo, Archy, Adeline, Georgiana

Margaret, Packer and Margaret, at the death of his wife the said Pierce, they being held by her as her own slaves. the said Spencer then has a vested remainder in them to said slaves — all of which with more fully and at large appear by an office copy of said deed of trust herewith filed marked B, & it is to be considered part of this bill — the said deed was proved in the office of the Clerk of the County Court of Yalobusha & admitted to record 26 Jany 1863. — Your orator is advised & thus further shows that all the equitable interest or Equity of redemption that attached to said Pierce, vested in the ~~said~~ ~~Latimer~~ ~~Pierce~~ by the sale of Negroes in the County for the use of Your orator, but as this is only an equitable interest it cannot be sold by said Sheriff & in any way be reached except by the aid of this Court of Equity & it is supposed that the interest of the said Pierce in said slaves, is worth much more than the debt due to said Tyers and Your orator here shows that to be the part and office of said Tyers Your orator should have his debt paid to him — In tender consideration whereof, & as more fully as his said remedy in the premises, can be had in this Court, he prays that the said Spencer Pierce, John S Latimer, Henry L Tyers ~~and Spencer Pierce~~ ~~Latimer~~ ~~Pierce~~ Benja Lewis & H. of Yalobusha

be made agreeable to this decree that the said Steam Piner John S Eaton [illegible] of the Ship Wright be compelled to surrender this Ship and their inspection sales - that the said Court shall be closed under a decree of this Court, that a sale shall be made of the said Steam Boat and that the Court be directed out of any Balance that may remain to pay Demurrage and costs - and that the Fund shall be brought into Court to be disposed of as Your Honor may direct that Your Honor will make any other & further order in the premises that may be consistent with Equity and to the nature of Your [illegible] and may the exigency of the case require

And as in duty bound &c

Wm Atherton Sol