

1925-013 Chancery Causes: A.
Isle of Wight County

S. Johnson vs W. R. Hall et al

466

other SURNAMES: Stott, Wilson,
Chapman

466

IN THE CIRCUIT COURT OF ISLE
OF WIGHT COUNTY, VIRGINIA.

A. S. JOHNSON,

Complainant, 466

- against -

W. R. HALL, A. B. STOTT, JR.,
and J. R. WILSON, Commission-
ers of Election of Isle of
Wight County, Virginia, and
D. W. CHAPMAN,

Defendant.

B I L L.

NATHANIEL T. GREEN
BERRYMAN GREEN
ATTORNEYS AT LAW
NORFOLK, VIRGINIA

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

A. S. Johnson,

Complainant

v) Chancery.

W. R. Hall, A. B. Stott, Jr.,
and J. R. Wilson, Commission-
ers of election of Isle of
Wight County, Virginia, and
D. W. Chapman.

Issue summons for defendants to appear and answer complain-
and a bill in chancery, at the second August Rules, 1925.

N. T. Green. p.q.

To the Clerk of the Circuit Court of the County of Isle of Wight.

A. S. Johnson
n { Chancery 466
Comro of Election et al

Filed.

Aug. 8-75-

N. A. Edwards
clerk.

Bond taken ✓

Process issued.

VIRGINIA,

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY.

A.S. Johnson, Complainant,

v.

W.R. Hall, A.B. Stott, Jr., and
J.R. Wilson, Commissioners of
Election of Isle of Wight County,
Virginia, and D.W. Chapman, Defendants.

~~It having been learned by the plaintiff in this~~
cause that since the granting of the temporary injunction herein
the Commissioners of Election of Isle of Wight County named as
defendants herein have performed their duties as such Commission-
ers without recounting or interfering with or taking into their
possession the ballots mentioned in the bill in this cause, and
it being, therefore, suggested to the Court that the relief prayed
for in said bill is no longer necessary, it is now, ^{it is} On motion of
the plaintiff, [^] ordered that this suit be, and the same is hereby,
dismissed without prejudice.

In the Circuit Court of the
County of Lake of Wright

A. S. Johnson - Complainant

vs

466

W. H. Hall et al., Comms. etc
and D. W. Chapman.

Final decree

1925

Sept 8 - th

W. H. Hall
D. W. Chapman

Book 8
page 290

VIRGINIA,

CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

A. S. Johnson, Complainant

vs.

In Chancery.

W. H. Hall, A. B. Stott, Jr.,
J. R. Wilson, Commissioners of
Election of Isle of Wight County,
Virginia, and D. W. Chapman, Defendants.

Demurrer.

The defendant, D. W. Chapman, by protestation, not confessing or acknowledging all or any of the matters and things in the said bill of complaint contained, to be true in manner and form, as the same are therein set forth, doth demur thereto, and for cause of demurrer sheweth that the subject matter of the said bill of complaint is not a subject of equitable jurisdiction of this court, and that this court is without jurisdiction to try this case as stated in the bill of complaint, it being a political matter, and therefore cognizable only in a court of law; and for that the said complainant is not entitled to equitable relief as prayed by him in his said bill of complaint, as he has a full and complete remedy at law, either by writ of prohibition, to prevent an unlawful canvass of the votes as cast in the said County of Isle of Wight, or a writ of mandamus directing and compelling a canvass of the returns of said election according to law.

Wm H. Johnson
E. H. Williams
p.d.

D. W. Chapman
By [Signature]

Circuit Court of the County
of Isle of Wight.

A.B. Johnson Compt

vs.

W.H. Hall, et als.
Commissioners &c.
and D.W. Chapman Defts.

466

Demurrer,

E.H. Williams

Wm M. Crumpler

Attys for D.W. Chapman

1925

Aug 12.

Filed

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

.....
A. S. JOHNSON,

Complainant,

- against -

W. R. HALL, A. B. STOTT, JR.,
and J. R. WILSON, Commission-
ers of Election of Isle of
Wight County, Virginia, and
D. W. CHAPMAN,

Defendants.
.....

TO THE HONORABLE B. D. WHITE,

JUDGE OF THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

Humbly complaining, sheweth unto your Honor, your orator,
A. S. Johnson, the following:

1. That at the Primary Election, which was held on
August 4, 1925, in Isle of Wight County, Virginia, he and D. W.
Chapman were candidates seeking the nomination in said Primary / Election
as the Democratic candidate in the election to be held in November,
1925, for the seat in the House of Delegates of the State of
Virginia, to which said County of Isle of Wight is entitled.

2. That there are fourteen voting precincts in the
County of Isle of Wight, at which voting took place in said
Primary Election for the nomination of a candidate for the House
of Delegates aforesaid, and from each of said fourteen precincts
the judges have made due returns to the Clerk's Office, as provid-
ed by law, of the results of said election in each of said
precincts, and have also returned to said Clerk's Office, and to
the Clerk thereof, in accordance with law, the ballots cast in
said election.

3. That your orator is advised that on the face of said returns he received a majority of the votes cast for said nomination over the said D. W. Chapman.

4. That in accordance with the provisions of law, the election commissioners duly met at the Clerk's Office of the County of Isle of Wight to open the returns which had been made by the judges from the various precincts in Isle of Wight County at said election, and to ascertain from said returns the candidate for the Democratic nomination for the House of Delegates who had received the greatest number of votes in said County, but have not, up to this time, ascertained said result and reduced the same to writing, as required by law.

5. That the failure of said commissioners of election to ascertain said result has been due to a difference of opinion among them as to their duties and rights as said commissioners of election, it being contended by one or more of said commissioners and by your orator's opponent in said election, that in ascertaining said result the commissioners of election should open, inspect and have a recount of the ballots cast in said election, and it being the contention of your orator and one of said commissioners that the duty of said commissioners of election is simply to ascertain the result from the returns made by the judges to the Clerk's Office from the various voting precincts, which said returns of the judges consist entirely of a certification of the result in each of the voting precincts, contained in the poll books returned therefrom; and it being further the contention of your orator that, not only is it improper for said commissioners of election to recount said ballots, but that it is improper for them to inspect or re-open the same, or to interfere with the same in any way whatsoever. In fact, your orator is advised and be-

believes that said ballots so returned by the judges of election from each voting precinct are required by law to remain intact, and to be held inviolate and unopened by the Clerk of the Court of said County until otherwise directed by the Judge of said Court, or by some other authority in case it may be subsequently necessary and proper to order the same to be opened.

6. Under the circumstances above outlined, your orator is advised that he is entitled to an injunction restraining said election commissioners from recounting said ballots, or interfering with said ballots in any way, and requiring them to ascertain the returns of the result from the judges for the various voting precincts of said Isle of Wight County, as said returns appear from the certificates of the judges contained in the respective poll books of the respective voting precincts.

7. Your orator is advised that in one or more instances the ballots and returns are wrapped up together in the same bundle, and that said bundle will have to be opened to ascertain the returns from the poll books contained therein, and in such cases, your orator is advised that the duty of said election commissioners simply extends to the opening of said bundles and taking therefrom the poll books containing the proper return, and then resealing said bundles and said ballots, and delivering the same to the Clerk, or, if this cannot be done, it is the duty of said commissioners of election to summon before them the judges in such instances, and have them correct their returns in accordance with the law, by sealing said ballots separately from said poll books. But in no event shall said judges, or said commissioners of election interfere with said ballots in any other way, or recount or tamper with the same in any manner.

8. Your orator alleges that the commissioners of elec-

tion of Isle of Wight County, Virginia, are as follows:

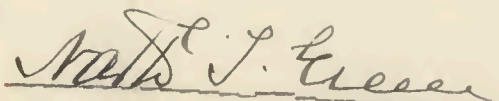
W. R. Hall,

A. B. Stott, Jr., and

James R. Wilson.

In tender consideration whereof, and being without remedy, save in a Court of Equity, your orator prays that W. R. Hall, A. B. Stott, Jr., and James R. Wilson, Commissioners of Election of Isle of Wight County, Virginia, and D. W. Chapman, aforementioned, may be made parties defendant to this bill, and required to answer the same, answers under oath being hereby expressly waived; that the said commissioners of election may be restrained from opening, recounting, or interfering in any way with the ballots returned by the judges in the election herein mentioned to the Clerk of the Circuit Court of Isle of Wight County, Virginia; that said commissioners of election may be directed and required to ascertain from the returns of the judges of said election from the various voting precincts in Isle of Wight County, Virginia, the result of said election, said returns being the certification of the results in said respective voting precincts, as certified by the respective judges in said precincts on the poll books returned therefrom, and that they be restrained from ascertaining the result in any other manner; that, if necessary, said commissioners of election be required and directed to summon before them the judges from any voting precinct from which returns are irregular, in form or shape, but in correcting such irregularities said election judges are not to be allowed to recount or interfere or tamper with the ballots returned by them, and that such other and further and general relief may be granted to him as to equity may seem meet, and the nature of this case may require.

And he will ever pray.

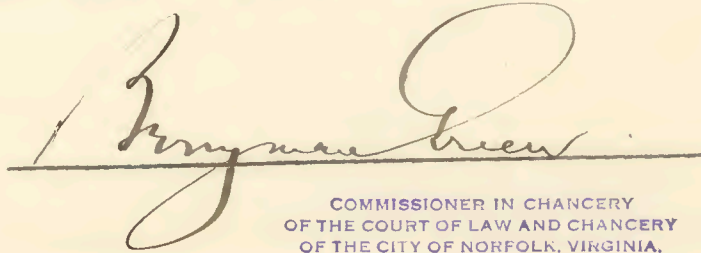

ATTORNEY.



STATE OF VIRGINIA,
CITY OF NORFOLK, to-wit:

This day, personally appeared before me, Berryman Green, a Commissioner in Chancery of the Court of Law and Chancery of the City of Norfolk, in said City, A. S. Johnson, and made oath that the matters and facts alleged in the foregoing bill are true, so far as made on his own knowledge, and so far as made on information derived from others, he believes them to be true.

GIVEN under my hand this 7th day of August, 1925.


COMMISSIONER IN CHANCERY
OF THE COURT OF LAW AND CHANCERY
OF THE CITY OF NORFOLK, VIRGINIA.