



The State of South Carolina,  
COUNTY OF *Fairfield*

*Thomas E. Dye and  
Others*

Plaintiff's

against

*Bearer Creek Church  
and others*

Defendant's

**SUMMONS FOR RELIEF**  
*and Complaint*

*Filed July 28<sup>th</sup> 1896*

*R. H. Jennings  
J. M. Donald*  
Plaintiff's Attorney.

R. L. Bryan & Co., Booksellers and Law Stationers, Columbia, S. C.

*Original*

AFFIDAVIT OF PERSONAL SERVICE.

vs.

STATE OF SOUTH CAROLINA,

County of *Fairfield*  
*Samuel J. Clowrey*

being duly sworn, says that he served the  
Summons and Complaint in this action on  
the Defendant .

by delivering to *them* personally,  
and leaving with *them* copies of the  
same at  
on the *twenty fifth* day of  
*January* A. D. 1896  
and that he knows the person so served to  
be the one mentioned and described in the  
summons as *the*

Defendant

therein, and the deponent is not a party to  
the action.

Sworn to before me this *5<sup>th</sup>*  
day of *Feb* A. D. 1896

*J. G. Volney*  
*N. P.*

SHERIFF'S CERTIFICATE OF SERVICE.

vs.

STATE OF SOUTH CAROLINA,

COUNTY OF

I hereby certify that on the  
day of

A. D. 189 at

I served

on the above named defendant

the Summons and  
Complaint in this action, by delivering cop-  
ies thereof to personally, and  
leaving the same with

*S. P. Clowrey*

County of *Fairfield*

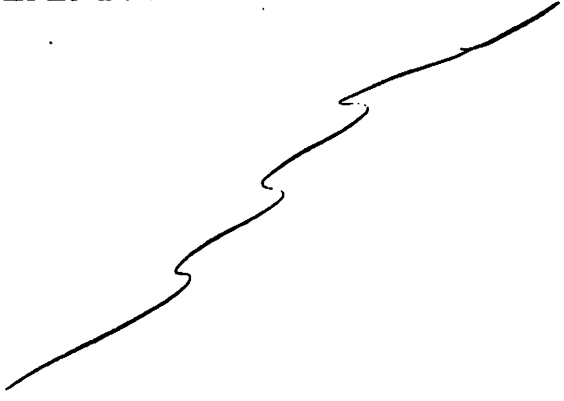
*Thomas E. Dye, Jennie Crowder, John E. Beam,  
Elijah Beam, Sarah J. Weir, Mary E. Peay,  
Martha Mobley, William Hoopangh, Elizabeth  
Weir, Julia Ann Dye, H. Adilla Darby and  
Elizabeth S. Bradford.* Plaintiff

SUMMONS FOR RELIEF.

against

*Beaver Creek Church, L. A. C. Ester, W. H. Bantz, (Complaint Served.)  
M. C. Stone and C. S. Porter, as deacons, and  
William S. Denham, as Clerk of said  
Beaver Creek Church* Defendant s

TO THE DEFENDANTS *above named*



YOU ARE HEREBY SUMMONED and required to answer the complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber at *Law* office *No 3 Law Range, Winchester* within twenty days after the service hereof, *A.C.* exclusive of the day of such service; and, if you fail to answer the complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the complaint.

Dated *18<sup>th</sup> January* A. D. 1896

*R. H. Jennings*  
*C. P.*

*J. E. McDonald*  
Plaintiff's Attorney

Thomas E. Dye, Jemima Crowder, John E. Beam,  
Elijah Beam, Sarah J. Weir, Mary E. Peay, Martha Mobley,  
William Hoopaugh, Elizabeth Weir, Julia Ann Dye,  
H. Adilla Darby and Elisabeth S. Bradford,

Plaintiffs.

Against

Beaver Creek Church, L. A. C. Estes, W. H. Banks, M. C. Stone,  
and C. S. <sup>Robinson</sup> ~~Robinson~~, as Deacons, and William S. Durham, as Clerk,  
of said Beaver Creek Church,

Defendants.

The plaintiffs above named complaining of the above named defendants allege:

- I-That the defendant, Beaver Creek Church, is an unincorporated association, in the County and State aforesaid, under the jurisdiction of the Baptist Church or denomination; that the defendants, L. A. C. Estes, W. H. Banks, M. C. Stone and C. S. <sup>Robinson</sup> ~~Robinson~~, are members and Deacons of said Beaver Creek Church, and William S. Durham, above named, is a member and the Clerk of said Beaver Creek Church; and as such members and Deacons, and Clerk, they are made defendants to this action on behalf of themselves and all other members of said Church, the said members being too numerous, for practicable purposes, to be ~~joined~~ joined as parties defendant to this action.
- II-That John Dye, late of the County and State aforesaid, departed this life on or about the day of December 1854, being seized and possessed of the following tract or parcel of land to wit, all that certain piece, parcel or tract of land lying, being and situate in the County of Fairfield and State aforesaid, containing one hundred and twenty seven and one half acres more or less, and being bounded by lands on N. C. McLurkin, Jacob Stone and S. Gladden.
- III-That the said John Dye, deceased, left a last will and testament, which was duly admitted to probate and filed in the then Court of Ordinary, for the then District of Fairfield, on the 12th. day of December 1855.
- IV-That in and by said last will and testament, the said testator, after providing for the payment of all his lawful debts, disposed of his property in and by the following words to wit: "all the balance of my personal and real estate, I give and bequeath to my beloved wife, Tabitha Dye, for her to dispose and live on during her life time, and if there is any thing at her deceast after left after her deceast & burial, I give and bequeath to the beaver Creek Church for poor children for their tuition."
- V-That the said Tabitha Dye, the life tenant, departed this life on or about the day of 1890, without having made any disposition of said tract or parcel of land.
- VI-That the plaintiffs are informed and believe that the attempted devise of the remainder in said property to the defendant, the Beaver Creek Church, is null and void, because the same is too vague, remote, indefinite and uncertain, and is incapable of being enforced at law or in equity; and that, as to said remainder, after the life estate aforesaid, the said John Dye, deceased, died intestate.
- VIII-That the said John Dye, deceased, died without leaving any living descendants and the plaintiffs are the only surviving heirs at law

Winfield

In the Common Pleas

Thomas E. Dye and  
others  
Plaintiffs

vs

Bearers Creek Church  
and others,  
Defendants.

Order of Reference

J. M. McDonald  
Plffs' Atty.

Filed July 28<sup>th</sup> 1896.

R. H. Jennings  
Clerk

Ent in Com. Pleas  
Vol 6

County of Fairfield } Common Pleas.

Thomas E. Dye and  
others,

Plaintiffs

vs

Beaver Creek Church,  
L. A. C. Estes and others  
Defendants

Order

of

Reference.

On motion of J. E. McDonald, Plaintiff's At-  
torney, and with the consent of Mess Ragsdale  
& Ragsdale, attorneys for defendants:

It is Ordered that it be referred to Samuel G  
McCant Esq. as Special Referee to take testimony  
as to the issues raised by the pleadings  
herein; and that he report the same to this  
Court with all convenient speed, with leave  
to report any special matter.

This Order of reference is made without  
prejudice to the right of defendants to de-  
mur, or make any other objection to the  
complaint if they be so advised.

This 15<sup>th</sup> day of March 1896.

We consent

Ragsdale Ragsdale  
Syracuse attys

J. D. Witherspoon  
Clerk of Court.

3  
The State of South Carolina

County of Fairfield

In the Common Pleas

Thomas E. Dye and  
Others.

vs.

Beaver Creek Church,  
L. A. L. Ecks and  
Others.

Report of Referee.

James D. McLaughlin  
Referee.

Filed July 28<sup>th</sup> 1896

R. H. Jennings  
C. C.

Entire Report Book p. 187

The State of South Carolina.  
County of Fairfield. In the Common Pleas.

2 B

Thomas E. Dye and others,  
Plaintiffs,  
against  
Beaver Creek Church, L. A. C. Estes and others  
Defendants

Reference held this 27 day of April 1896. Present J. E. Mc. Donald, Atty for Plaintiffs and G. W. Ragsdale Atty for Defendants:

It is admitted that the Defendants are in actual possession of the land in dispute. or rather that the Beaver Creek Church is in possession of the same.

Plaintiffs introduce in evidence the last Will and Testament of John Dye, filed in the Office of the Ordinary of said County of Fairfield on the 12 January A. D. 1855. also letters testamentary issued on the same to Tabitha Dye on the 18 day of September 1855

Thomas E. Dye, sworn says. I am one of the Plaintiffs in this action. ~~He~~ related to Mr. John Dye, he was an uncle of mine he died before the War. He made the Will in evidence. Tabitha Dye, the Executrix, was his wife: he left no children, he left no father or mother: he left six brothers and sisters at the time of his death, to wit, Daniel Dye, Geo. Dye, Polly Dye, Nancy Dye, Sarah Beam, and Jemima Hoop-augh. Nancy and Polly died unmarried. The other brothers and sisters are also dead. Daniel died leaving two children, to wit, Martha Mobley and Savilla Timms. George died leaving four children. to wit, those living at this present time, myself and Jemima Crowder. Sarah Beam



Thomas E. Dye. sworn says. I am one of the Plaintiffs in this action. ~~He~~ related to Mr. John Dye. he was an uncle of mine he died before the War. He made the Will in evidence. Tabatha Dye. the Executrix, was his wife: he left no children, he left no father or mother: he left six brothers and sisters at the time of his death, to wit, Daniel Dye, Geo. Dye, Polly Dye, Nancy Dye, Sarah Beam, and Jemima Hoop-augh. <sup>a</sup>Nan<sub>y</sub> and Polly died unmarried. The other brothers and sisters are also dead. Daniel died leaving two children, to wit, Martha Mobley and Savilla Timms. George died leaving four children. to wit. those living at this present time, myself and Jemima Crowder. Sarah Beam left two children, to wit. John E. Beam and Jesse Beam, John is living and Jesse is dead, Jesse left three children, to wit E.lijah Beam, Sarah J. Weir and Mary E. Peay. Jemima Hoopaugh left 3 children ~~at~~ her death, to wit William Hoopaugh. Elizabeth Weir and Julia Ann Dye.: George and Andrew Hoopaugh died before her death: George left a daughter, now Elizabeth S. Bradford and

Andrew H. left a daughter, now H. Adilla Darby. The foregoing named are all, so far as I know, the heirs-at-law of John Dye, deceased. *now living.*

*Thos. E. Dye*

R.L. Mobley being sworn says: I knew John Dye, deceased. he died a good many years ago, before the War. I married his niece Martha Dye, daughter of Daniel Dye the brother of John Dye. I know of 6 brother and sisters that John Dye left him surviving. They are the ones mentioned in the testimony of Thomas E. Dye, which I have just heard him give. This testimony is correct as to the other parties stated therein. *(by said Thomas E. Dye.)*

*R. L. Mobley*

~~XXXXXXXXXXXXXXXXXXXX~~  
~~Plaintiffs rest.~~  
~~XXXXXXXXXXXXXXXXXXXX~~

It is admitted by counsel that Tabitha Dye, the widow of Testator died in the possession of the land mentioned in the complaint without having made any disposition of the same during her lifetime.

Plaintiffs rest.

It is admitted by counsel on both sides that the testator John Dye, in his lifetime and at the time of his death was a member of Beaver Creek Church and that the said Church has now a membership of one hundred and forty five members about, and that it is a Church of the Baptist Denomination. and that it is unincorporated.

Reference adjourned.

*James S. McAuley*  
*Referee.*

30 May 1896.

State of South Carolina. } In the Court  
County of Fairfield. } of Common Pleas

Thomas E. Dye and  
others, }  
Plaintiffs. }  
against }  
Beaver Creek Church. }  
L. A. E. Estes and others. }  
Defendants. }

To the Court of Common Pleas:  
Pursuant to an order of this  
Court, dated 16<sup>th</sup> day of March 1896,  
whereby it was referred to me to take  
testimony as to the issues raised by the  
pleadings herein. I respectfully re-  
port that I have taken such tes-  
timony as by said order required,  
and herewith report the same in  
this Report.

Respectfully Submitted,  
James S. McCombs.  
Referee.

30 May 1896.