

The State of South Carolina,
COUNTY OF *Fairfield*

*Thomas E. Dye and
Others*

Plaintiff &

against

*Bearer Creek Church
and others*

Defendant &

SUMMONS FOR RELIEF

and Complaint

Filed July 28th - 1896

*R. H. Jennings
J. E. McDonald
Plaintiff's Attorney.*

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

Original

AFFIDAVIT OF PERSONAL SERVICE.

v.s.

STATE OF SOUTH CAROLINA,

County of *Fairfield*

Samuel J. Clowry

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 *5th*

day of *Feb* A. D. 1896

J. G. Volney
N.P.

SHERIFF'S CERTIFICATE OF SERVICE.

v.s.

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. Clowry

State of South Carolina,

COURT OF COMMON PLEAS.

County of *Fairfield*.

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

SUMMONS FOR RELIEF.

against

*Beaver Creek Church, L. A. C. Est. W. H. Banks, (Complaint Served.)
M. C. Stone and C. J. Porter, as Deacons, and
William S. DeLam, as Clerk of said
Beaver Creek Church* Defendant

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 *Lux* office *No 3 Law Range, Wainchess* *A.C.* within twenty days after the service hereof, 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 *18th January* A. D. 1896

R. H. Jennings
Clerk

J. E. McDonald
Plaintiff's Attorney.

STATE OF SOUTH CAROLINA.
County of Fairfield.

In The Court Of Common Pleas.

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. 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. 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 legal descendants and the plaintiffs are the only surviving heirs at law

Wrenfield
See the Common Place

Thomas E. Dye and
others
Pawletts

vs

Bears Creek Church
and others,
Defendants.

Order of Reference

J. M. Arnold
Pp. 100 et seq.

Filed July 28th 1896.

R. H. Johnson

CLERK

East in Case No. 100
Vol. 228. 200

State of South Carolina } In the Court of
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. Mc Donald, 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
McCants Esq. as Special Referee to take testimo-
ny 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 15th day of March 1896.

We consent
Ragsdale Ragsdale
Syrus Atty

J. D. Witherspoon
Clerk of Court

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The State of South Carolina

County of Fairfield

In the Common Pleas

Thomas E. Dye and
Others.

vs.

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

Report of Referee.

James D. McFaulkner
Referee.

Filed July 28th 1896

R. H. Jennings
C. C. P.

Ent in 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. ~~Was~~ 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 left two children, to wit, John E. Beam and Jesse Beam, John is living and Jesse is dead, Jesse left three children, to wit, Elijah Beam, Sarah J. Weir and Mary E. Peay. Jemima Hoop-augh left 3 children at her death, to wit, William Hoop-augh, Elizabeth Weir and Julia Ann Dye.: George and Andrew Hoop-augh died before her death: George left a daughter, now Elizabeth S. Bradford and

Andre^H.left a daugheer, now H.Adilla Darby. The foregoig 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 brothet of John Dye. I know of 6 brother and sisters that John Dye left him surviving .They are the ones mentioned on 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

XXXXXXXXXXXXXXXXX
Plaintiffs rest.
XXXXXXXXXXXXXXXXX

It is admitted by counsel that Tabitha Dye ,the widow of Testator died in the possession of the land mentinned 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 Die, 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. McCaul
Refere.

30 May 1896.

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

Thomas S. Dye and
others,

Plaintiffs.

against

Beaver Creek Church.

L. A. F. Estes and others.

Defendants.

To the Court of Common Pleas:
Pursuant to an order of this
Court, dated 16th 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. McKim,
Referee.

30 May 1896.