1851-012 SOUTHAMPTON COUNTY CHANCERY PAPERS

SPARKE'S EXECUTOR VS. NICHOLSON et al

11/1851

other surnames: Goodwyn, Clarke, Shands, Edwards, Dorden, Milikin, Pope, Clarke v Pope; Spark, Massenburg, Darden, Goodwin, Murray, Rochelle, Briggs, Gurley

~~24~~ ~~15~~ 10

Sparks Exr

v. } Papers

Nicholson &c

Sparks Exr.

v. } Stat. Rules.

Nicholson &c

John M Gurley Executor of William A Spark decd.
against
Samuel P. Nicholson W. S. Goodwyn, W. D. Clarke W. B. Shands

1849 Febry 20th Subpoena issued
" March Rules. Subpa. retd. Executed. Bill filed
" May T. Leave to amend bill
" " R. Answrs of Dfts. Nicholson & Clarke G. Repts. thereto
" July " Amended Bill filed Spra: awarded.
" Aug " Spa retd. Executed.
" Oct. " Set for hearing
" Nov. T. " Decree for account
1850 Mar 30 Report.
" May. T. Report recommitted &c.
1851 May " Decree &c for Sale
" Nov " Decree &c.

31

Sporting Exer:

7 3 Bible Exhibits

Clark & others

Merch. sales

(B & B)

To the Hon. Judge of the Circ. Sup. Court of Law & Chancery for the County of Southampton — In Chancery sitting

Humbly complaining, showeth your complainant John McGurley, Exor. of William & Sparke decd. that sometime since, Samuel P Nicholson, of the County, aforesaid being, considerably indebted (in part to the said Sparke) and the said Sparke and L. B. Edwards of said County being responsible as securities of said Nicholson, in order to indemnify and save harmless his said securities executed a deed of trust to W. S Gordon trustee for the benefit of said securities bearing date the day of in the year and recorded regularly in the Clerks office of the County aforesaid; "A copy of which said deed of trust is herewith filed and prayed to be taken as part of this bill" but not long after the execution of the aforesaid deed, the trustee, at the request of the said Sparke and Edwards beneficiaries, advertised and sold the whole of the property therein conveyed, according, to the terms of said deed with the exception of the house and lot in Jerusalem, known as lot etc which was not sold; the said beneficiaries not desiring, to deprive the said Nicholson and his family of a home and home that after the sale above named, the said Nicholson remained in possession of the said lot for sometime pursuant to the terms of said deed until having made other arrangements, he gave up the said lot and it was for several years rented out for the benefit of the said Sparke; the debts for which the said Edwards was bound having been fully paid off by the trustee by the sale of property

Your complainant states that the property conveyed in said deed and sold as above stated was not sufficient to pay the debts ~~therein~~ therein provided for, and that a considerable amt. between five hundred and a thousand dollars, is still due the estate of the said Sparke on account of the debts provided for in said deed; the said Sparke in his lifetime having paid and assumed the payment of all those for which he was bound as security, and received from the trustee the whole proceeds of sale, after paying the debts for which the said Edwards was bound and reserving expenses &c — merely the whole proceeds of sale being due from the said Sparke, he having purchased

must of the property
~~by him~~ at the sale in order to secure himself against loss as far as possible — Your complainant further states that notwithstanding the facts herein before recited, the said Nicholson, in the year 1848 executed a deed of trust to W. B. Shonds trustee for the benefit of certain creditors therein named, bearing date the day of 1848 in which with other property, he conveys the same house and Lot in Jerusalem known as Lot No which was conveyed in the deed first named to the said Gordon as trustee for the benefit of the said Sporte and Eckenrode; a copy of the said deed is herewith filed as part of this bill — that pursuant to the terms of said last named deed, the said Shonds trustee, sold the said house and Lot at public auction on the day of in the year 1848, and one W. D Clarke became the purchaser at the sum of $152.50 — the existence of the first deed being fully known and the sale expressly forbid at the time by your complainants, all of which was contrary to wright and justice — In consideration of the facts herein stated, your complainant, being desirous of nothing more than justice and equity, prays, that an account may be taken by a commissioner of this court of the transacting of the trustee, W. S. Gordon under the first named deed of trust executed by the said Nicholson; and also an account between the said William A Sporte in his lifetime and the said Nicholson relative to the same, in order to show what balance, if any still remains due the said Sporte estate — that the Hon. Court will set aside the deed executed by the said Nicholson to W. B. Shonds trustee, bearing date the day of 1848, and the sale made pursuant to the same, by said trustee so far as the sale of the said house and lot is concerned, and that the same may be ordered to be sold and the proceeds of sale applied to the payment of whatever balance may be found due your complainant under the first named deed — Your complainant prays that Lemuel R Nicholson, W. S. Gordon trustee &c W. D Clarke and W. B Shonds trustee &c be made parties to this bill that they answer the premises and that your Honor will grant such other and further relief as your complainant may be entitled to receive and justice and equity may demand

and he will as in duty bound ever pray &c —

Ridley & Gordon
Attys

Sparks Exr:

v. } Amended Bill

Nicholson & others

1849 July Rules

To the Hon. Judge of the Circ. Sup. Court of Law & Chancery for the County of Southampton.

Humbly complaining, sheweth your complainant John M. Beasley Exor. of William A. Sparke dec'd. that sometime since he filed his original bill in this Hon. Court against L. P. Nicholson & others and begs leave to state in amendment hereto that the deed of trust executed by the said Nicholson for the benefit of certain creditors therein named was made an exhibit in his said bill, but the creditors therein named were not made parties. In consideration whereof your complainant prays that Lemuel P. Nicholson, William B. Shands trustee, W. D. & Clarke, Clarke & Pope merchants & partners, ~~John M. Beasley~~, L. P. Edwards, Richard Darden, Peter Edwards, Martha Mitchen, and W. S. Goodwyn trustee &c. be made parties to this bill, that they answer the premises, and that your Honor will by decree of Court order the sale of the said house & lot in the bill mentioned, and payment out of the proceeds, of your complainant's claim against the said Nicholson, and such other and general relief as he may require in order to effect justice in the premises and he will as in duty bound ever pray &c.

Mathews & Goodwyn
Attys

Gurley Exor of Spack

v

Nicholson &c

1819 Many Rules

The answer of W D Clarke Defendant to the bill of complaint of Jno. M. Gurley Exor of Wm. A Spark.

This Defendant now and at all times hereafter saving & reserving &c for answer to the said Complainants bill or so much thereof as he is advised it is material or necessary for him to make answer unto, answereth & saith; that he believes it is true as set forth in the Complainants bill that Samuel P. Nicholson did in the year 1842 execute a deed of trust to Wm S Goodwyn for the benefit of Wm. A Spark and L. R. Edwards, and that the property therein conveyed with the exception of the house and lot in the town of Jenalem was sold by the trustee pursuant to the terms of the said deed and for the most part purchased by the said Spark. And this Defendant further answering, saith that he has always understood and believes it to be true, that the property conveyed in said deed and sold by the trustee was sufficient to pay the debts therein provided for, and that the said debts were paid off: That the Complainant Jno. M. Gurley Exor of the said Spark since the death of his testator stated to this Defendant that the estate of his testator had no claim on the said house & lot, and he the Complainant should set up none the debts mentioned in the deed having been paid; and by this and similar statements confirmed the general belief that the said deed had been satisfied. In the year 1848 the said Nicholson having been in actual & continuous possession of said house & lot, since the execution

of the said deed to Wm S Goodwyn, conveyed said house & lot together with other property to Wm B Shands by deed of trust to secure certain debts therein named: The said Shands in pursuance of said deed proceeded to sell the property therein conveyed to the highest bidder at public auction and this Defendant became the purchaser of the house & lot which was conveyed to him by deed duly executed by the said Shands dated the day of 1848 and now of record in the Clerks Office of Southampton, a copy of which is herewith filed and prayed to be taken as a part of this answer - It is true the ~~Defendant~~ Complainant did forbid the sale not only of the house & lot but also of the greater part of the property conveyed in said last mentioned deed on the day it took place, but so inconsistent did here his conduct that this Defendant could not determine therefrom either what his rights or intentions were - This Defendant moreover states that the Complainant has now in his possession a stated account in the handwriting of the said Shands which proves beyond doubt that the property sold under the first mentioned deed was sufficient to pay off the debts therein provided for - All of which this Defendant is ready & willing to aver, maintain and prove &c, And having answered he prays that the accounts called for in the Complainants bill may be directed; that the Complainant may produce all the papers in his possession relating to the transactions growing out of the sale by the trustee Wm S Goodwyn in the year 1842 and in particular a stated account in the handwriting of the said Shands in which charging Nicholson with the debts mentioned in the deed first aforesaid and giving him credit for the property sold under said deed he strikes a balance in favor of the said Nicholson; And that he may be hence dismissed with his reasonable cost &c

W D Clarke

Chambliss & Wrasenburg pro Deft

Southampton County, to wit;
Wm D Clarke made oath before me a justice of the Peace in and for the said County, that the matters contained in the foregoing answer, so far as they are stated to be of his own knowledge are true and so far as he has heard them from others and declares his belief of them, he does believe them to be true. Given under my hand this 27 day of April 1849

W D Rasenburg J.P.

The above certified

Gurley Exrix of Spark
v
Nicholson &c

Answer

1844 May Rules

The answer of Samuel P Nicholson Defendant to the bill of complaint of Jno M Gurley Exor of Wm A Sparks

This Defendant now and at all times hereafter saving & reserving to himself the benefit of exceptions to the said complainants bill or so much thereof as he is advised it is material or necessary for him to make answer unto, answereth & saith: that it is true he executed a deed of trust in the year 1842 to Wm S Goodwyn Trustee for the benefit of Wm A Sparks and L R Edwards to secure certain debts therein mentioned and that said deed was recorded in the Clerks Office of Southampton as the Complainant states in his bill; and it is also true the property conveyed in said deed with the exception of the house & lot in the Town of Jerusalem was sold by the trustee and Wm A Sparks purchased nearly the whole of it: But this Defendant denies that there is anything now due the said Sparks on account of the debts provided for in the said deed, on the contrary he affirms that the property conveyed in the said deed and sold by the trustee was sufficient to pay the debts therein provided for: He furthermore states that the Complainant Jno M Gurley since the death of his testator has repeatedly said that he had no claim on the house & lot and should not set up none, that the debts in the deed had been paid off and discharged; and the said Complainant never asserted any right in said house & lot until the creditors of this Defendant set up a claim to certain slaves which the Complai-

named alleged were the property of his testator. The trustee Wm J Goodwyn kept no regular account of his transactions but this Defendant avers that the Complainant has now in his possession an account made out in the handwriting of the said Spark in which he charges this Defendant with the debts mentioned in the said deed due the said Spark together with those which he had paid off or assumed and gives credit for the amount of property purchased by him at the said trust sale, and on balancing the account brings himself in debt to this Defendant. In the year 1848, the debts mentioned in the said deed of trust having been fully paid, and the said house & lot having been in the possession of this Defendant or his tenant ever since the execution of the said deed, this Defendant conveyed said house & lot together with other property in a deed of trust to Wm Shands trustee to secure certain creditors therein mentioned: At the time the said last named deed was executed although the legal title was in the said Wm J Goodwyn, there was in equity & justice no incumbrance on the said house & lot. All of which matters & things this Defendant ready & willing to aver maintain and prove &c. And having answered he prays that the accounts called for in the Complainants bill may be directed, that the Complainant may produce the aforesaid account in the handwriting of the said Spark, and that he may be hence dismissed with his cost &c

Lewis P Nicholson

Chas Phillips Petersburg pro Deft

Southampton County, to wit;
Lewis P Nicholson made oath before me a justice of the Peace in & for the said county that the facts stated in the foregoing answer are true. Given under my hand this 25th day of April 1849

Geo W Newsome J.P.

Sporter Exm:
i
Nicholson &c

1848 Nov Term

Spartan Law:

v

Nicholson &c.

The plaintiff this day filed his bill in court praying for an injunction against the defendants, and it is thereupon adjudged and decreed, that upon the plaintiff or some one for him, executing a bond in the Clerks office of this court in the penalty of one hundred dollars with security who shall justify on oath as to his sufficiency, conditioned to pay and satisfy the defendants all such costs as shall be adjudged thereon, in case the said injunction be dissolved; an injunction is awarded to the plaintiff to restrain the defendant Edward W Mapenburg from selling or removing the slaves Dick, Jimmy Albert and Sam in the bill mentioned, until the further order of this court. And the sheriff of this court is required to take into his possession the said slaves and hire them out and return to court the bonds taken for their hire. But in case the defendants Samuel P Nicholson or some one for him shall enter into bond, with security who shall justify on oath as to his or their sufficiency in the penalty of fifteen hundred dollars payable to the plaintiff, conditioned to have the said slaves forthcoming to abide any decree that may be made in this cause and pay and satisfy the plaintiff, whatever may be awarded to him in this cause, the sheriff will return the said slaves to the defendant Nicholson, and return the said bond to the Court.

Sporting Cor:

i ξ decree

Nicholson

To be entered
R. H. Baker
Nov. 20. '49

1849 November

Sparks Exr:
v
Nicholson &c

Nov: term 1849

Decree

x ~~This day this~~ & the cause coming on to be heard on the bill, amended bill, exhibits filed, answers of Defendants Clarke & Nicholson replications thereto and examinations of witnesses and it is argued by counsel, On consideration whereof the Court doth order that a Commission issue to this Court, take an account of the transactions of W. S. Goodwyn as trustee under the deed of trust exhibited in this cause bearing date the 5th August 1842 so as to show what balance, if any, is due the Estate of Wm. A. Sparks from L. P. Nicholson, which said account the Comm: is directed to audit, state and report to Court with any matter specially stated deemed pertinent by himself or which may be required to be so stated by either of the parties

x The subpna upon the original and amended bills having been duly served and more than two months having passed since the service upon the defts Strand, Clarke, Clark & Pope & Edwards Dandridge & Spooner & Millichap & Wm. J. Goodwyn and they still failing to answer the same the said original and amended bills are taken for confessed against these defts

Sparks Esqr

To Jno Dunn

Nicholson Ga.

19th March 1830

Southampton Circuit Superior Court. November 9th 1849.

John M Gurley executor of William A Spark dec.d Pltff.

against

Samuel P. Nicholson, W. S. Goodwyn, W. D. Clarke & others Dfts.

} In Chancery

The Subpoena upon the original and amended bills having been duly executed upon the defendants Shands, Clarke, Clarke & Pope, L. R. Edwards, Darden, P. Edwards, Milliken & Goodwyn and more than two months having since expired and they still failing to answer the same, the said original & amended bills are taken for confessed as against these defendants; and the cause coming on to be heard on the bill, amended bill, exhibits filed, answers of defendants Clarke and Nicholson, replications thereto and examination of witnesses, and was argued by Counsel: On consideration whereof the Court doth order that a Commissioner of this Court take an account of the transactions of Wm S Goodwyn as traced under the deed of trust exhibited in this cause, bearing date 5th August 1842 so as to show what balance, if any, is due the said William A Spark from L. P. Nicholson - which said account the Commissioner is directed to audit, state and report to the Court with any matters specially stated deemed pertinent by himself or which may be required to be so stated by either of the parties.

A Copy

Teste. L. R. Edwards Clk

W. B. Shands -
Clarke & Pope
L. R. Edwards
Peter Edwards
Richard Darden
Martin Milliken - Henry B. Tiery

Sparks Exor:

i } order

Nicholson &c

To be entered
R. H. Baker
May 10 '50

May 7. 1850

Entered.

Sparkes Exor. &c

v

Nicholson & others

May term 1850

Decree

This day this cause came on again to be heard on the papers formerly read and the report of Comr. Fordyce made pursuant to the order of Nov. Term 1849 and the exceptions thereto and was argued by counsel, the consideration whereof the Court, without deciding any question arising from said exceptions and by consent of parties, doth order that said report be recommitted to the Comr. of this Court for resettlement; who is hereby directed to audit, state and report the same to Court with any matters specially stated deemed pertinent by himself or which may be required to be so stated by either of the parties

Gurley exor &c
vs } Copy order
Nicholson &c

Southampton Circuit Superior Court, May Term 1850.

John M. Gurley Executor of William A. Spark dec^d. pet
against
Lemuel P. Nicholson, William C. Goodwyn & others Defts } In chancery.

This day this cause came on again to be heard on the papers formerly read and the report of Commissioner, Goodwyn made pursuant to the order of November term 1849. and the exceptions thereto, and was argued by Counsel. On consideration whereof the Court without deciding any questions arising from said exceptions and by consent of parties, doth order that said report be recommitted to a Commissioner of this Court for settlement, who is hereby directed to audit, state and report the same to Court with any matters specially stated, deemed pertinent by himself or which may be required to be so stated by either of the parties.

A Copy Test L. R. Edwards Clk

Sporters Exr:

v. } Decree

Nicholson

Enter this Decree
R. H. Baker
May Co. '51

1851 May Term

13
14
15
16
17

Sprotes Exr:
v
Nicholson &c

May Term 1851

This day this cause come on again to be heard on the papers formerly read, and the report of Comr: Goodwyn made under the order of May Term 1850, to which no exceptions have been filed; and was argued by Counsel — On consideration whereof the Court confirming said report, doth adjudge, order and decree that the deed of trust executed by L. P. Nicholson to W. B. Rhodes, bearing date the 26th September 1848, and the sale of the property therein conveyed, by the trustee, so far as it includes a house and lot in the town of Jerusalem, known as Lot No 13 in the plat of said town, be and the same is hereby set aside and declared void and of no effect; and that unless the defendants, or some one for them, shall within thirty days, pay to John M. Gurley Exr: of Wm. A Spencer, the sum of $669.43 with Int thereon from the 31st Decr. 1842, then William S Goodwyn trustee in a deed of trust executed by the said Nicholson on the 5th August 1842, in which the aforesaid house and lot is conveyed, is hereby directed, after having given at least twenty days notice of the time and place of sale, at the Court House and other public places in the neighbourhood, to sell the said house and lot at public auction on a credit of six months, receiving so much in cash as will pay the expenses of sale, that he take from the purchaser bond with good security for the balance of the purchase money, and report his proceedings together with the bond to Court in order to a final decree; ~~and that such party in the meantime pay his own costs~~ But the execution of this decree is to be suspended until the said W. S Goodwyn has executed in the Clerks office, bond with good security conditioned according to law

Sparks Ewd
to { Duplicate
in chy:

Nicholas Dod

1849 March Term
Executed
Wm. N. Drongole Dep'y Sh
Jeptha Durden Sh'f

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Samuel P. Nicholson, W. S. Gardwyn trustee Dec'd. W. B. Shands trustee Dec'd and W. D. Clarke

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in March next, to answer a Bill in Chancery exhibited against them in the said Court by John M. Gurley Executor of William A. Spurk dec'd.

And unless they shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this they shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 20th day of February 1847, in the 73d year of the Commonwealth.

L. R. Edwards c.c.

[*One Copy to be delivered each Defendant.*]

6.S.6

Sparkes vs

Sp.a. Ady

Nicholson Ff

1849 August Term

Executed on the
16 day of July 1849
Wm. N. Wrongorle Ff
H. Jeffries Darden Ff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon Samuel P. Nicholson, William B Shands trustee. W. D. Clarke. Clarke & Pope merchants & partners. S R Edwards, Richard Darden. Peter Edwards. Martha Mellichem & W. T. Goodwyn Trustee.

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in August next, to answer a Bill in Chancery exhibited against them in the said Court by John M Burley executor of William A Sparke dec'd.

And unless they shall answer the said Bill within ~~four~~ two months thereafter, the Court will take the same for confessed, and decree accordingly. And this they shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the 2d day of July 1849, in the 73d year of the Commonwealth.

S R Edwards Clk

[*One Copy to be delivered each Defendant.*]

I accept the service of the
within Notice

Jno. M. Gurley
Atty. of Wm. A. Stark

Parish Civil
v.
Mich. Notice.

Received
Robert Pierce
Dep. Sh. Jackson Co.

To Mr. Jno. M. Gurley Exr. of Wm. A. Sparks

Sir

Take notice that on the 13th day of October 1849, between the hours of nine A. M. and six P. M. of that day at the office of Chambliss & Mapsenburg attys. in the town of Jerusalem I shall proceed to take the depositions of certain witnesses to be used as evidence for me in a suit now pending in the Circuit Superior Court of Law & Chancery for the County of Southampton, wherein I am ~~[illegible]~~ Deftt. and you the said Jno. M. Gurley Exr. of Wm. A. Sparks are Pltff.

Oct 3d 1849 W. D. Clarke

We acknowledge legal services of the within notice

Jno P Nicholson

Wm Clarke

Clarke & Pope

Jno M Scully

Ex of W A Speck

Wm B Shannon

L R Edwards

Ed. March 4th 1850. Martin A Rinney

Scully Exr.

v. Thos. Stokes

Nicholson &c

19th March 1850

John C. Bailey, Exr. of William A. Sparks, Samuel P. Nicholson
William B. Shands, W. J. Clarke, Charles O. Pope, L. R. Edmonds
Richard Darden, Peter Edmonds, Martha Militier

You are hereby notified, that pursuant to the order of the Circ. Sup. Court for the County of Southampton on the 9th of Oct. 1849, the undersigned Comr. will proceed to take the account therein required, on the 19th day of March next at his office in Jerusalem at which time and place you are required to attend with the necessary papers and evidence

W. S. Goodwyn Comr.

Feby. 10th 1850

Acknowledgment of service of the within notice

Nov 22 1851 Wm. Clarke

Sent A Nicholson

Ptf's Exr.

v } Notice

Nicholson &c

To be returned to Jny. Ct. 1851

Executed

Wm H Brigg SFR

for A Myrick SFR

Samuel P Nicholson, William D Cooke - You are hereby notified that on the 21st day of January next, at the office of the Commissioner in the town of Jerusalem, at 10 O'clock, pursuant to the decree of the Circuit Court of Southampton County at May term 1850, I shall proceed to take the account therein required, at which time and place you are required to attend -

W. S. Goodwyn Comr

Decr: 1st 1850 -

A True Copy of the within notice left with the wife of William D. Clark, he being absent April 1/1851 — Wm Murfee Jr

Wm Murfee Jr appeared before me and made oath that he had delivered a true copy of the within Notice

April 2nd 1851 Jno D Archibald

Notice to Clerk -

William D. Clark Esquire

Sir Take notice that I shall on Wednesday the 2nd Inst. between the hours of Sunrise and Sunset in the Town of Jerusalem, proceed to take the deposition of Doctor Robert Murray to be read as evidence in my behalf in a certain Suit now pending in the Circuit Court of Southampton on the Chancery side thereof wherein I am plaintiff and you and others are defendants at which time and place you may attend if you think proper

Yours

Jno. M. Gurley
Exr. of Wm. A. Spark

April 2/1851.

Sparks Exr.
Nicholas Ers
vs } Deposition
Nicholas Ex
Clarke

1849 October 13 handed
in by Mr Newcomb
Justice of the peace

The depositions of certain witnesses taken on the 13th day of October 1849 between the hours of nine A.M. & six P.M. at the office of Chambliss & Mapemberg in the Town of Jerusalem & County of Southampton to be used as evidence for the Defts in a suit now pending in the Circuit Superior Court of Law & Chancery for the County of Southampton between Jno M. Gurley Exor of Wm. A. Shack Pltff and Wm. S. Goodwyn, Wm. B. Shands, W. D. Clarke & Defts

William Briggs being first duly sworn deposeth and saith; I was present at a conversation which took place between Jno M. Gurley and William D. Clarke and recollect to have heard W. Clarke ask Gurley if he did not tell him in a previous conversation that if Nicholson or Nicholson Creditors had not set up any claim to the Negroes that he Gurley would not have set up any claim to the house and lot; and Gurley reply was that he did; and that he then said that if Nicholson or his creditors had not set up claim for the Negroes that he would not have claimed the house and lot: and further this deponent saith not

Wm. W. Briggs

The above deposition was sworn to and taken before me a Justice of the peace at the time & place mentioned in the Caption

G. A. W. Vaughan J.P.

Sparks Ex.

v. } Deposition

Nicholson Ex.

Handed in by B. & W. Newsom
S.P. April 2d. 1851 D.R.E.

Deposition of Robert Murray taken in the town of Jerusalem on the second day of April AD 1851 between sunrise & sunset, according to notice duly given to be used as evidence in a certain suit now pending in the Circuit Superior Court of Southampton County on the chancery side thereof, in which John M Gurley executor of Wm A Spark decd is plaintiff and William D Clarke & others are defendants, to be read on behalf of the plaintiff

The deponent Robert Murray, being first duly sworn on the Evangelists of Almighty God, deposes & says as follows -

I was the attorney of Alfred S Bailey administrator of James Scott. In May or June 1840 Wm A Spark brought to me a bond executed by Samuel P. Nicholson & others, payable to Alfred S Bailey administrator of James Scott for four thousand dollars; I took this bond and paid to Wm A Spark four thousand dollars: this bond remained in my possession about 18 months, when Wm A Spark got possession of it, and in exchange for the same, put into my hands a bond for the amount of principle & interest executed by said Spark & others, and made payable to Alfred Ricks guardian, which bond I transferred to said Ricks.

Robert Murray

The foregoing deposition of Robert Murray was taken sworn to, & subscribed before me, a justice of the peace in & for the county of Southampton State of Virginia, at the time and place mentioned in the caption. Given under my hand & seal this 2nd day of April AD 1851.

J A W Newsome J P (Seal)

Sports Exs:

2 3 Depositions

Nicholson &c

Filed with report of Com Goodwyn
Apl. 23. 1857

Deposition of Martha B Rochelle taken before the Comm: on the 21st day of January 1851, at the Commissioners office in Jerusalem to be read as evidence in a chancery suit now depending, in the Circ: Court of Southampton County in which J. M. Gurley Exr: Wellborn & Sporte is plaintiff and W. D. Clarke and L. P. Nicholson and others are defendants—

The deponent Martha B Rochelle having been duly sworn deposes and says as follows— Sometime since I think in the year 1845 or 1846, Dr Sporte sent me information that Benj Rochelle was indebted to my husbands estate and that Col. Rochelle's estate was indebted to Benj Rochelle, and that he, Dr Sporte then had it in his power to save the amt. I gave Dr Sporte permission to make the settlement with Benj Rochelle, under the impression that I should receive the amt. I think Dr. Sporte recd. from Benj Rochelle about $250 or 300 for my husbands estate— I applied to Dr Sporte for the amt: and he refused to pay it saying, that he, Sporte, held a claim against my husbands estate, a medical bill, which I was under the impression was due Sporte and Nicholson and which had been assigned to Dr Sporte by Dr Nicholson— I do not think, however, that the bal: due on the medical account of Sporte & Nicholson was as much as $300— And further the deponent sayeth not—

Martha B Rochelle—

The above deposition was taken, sworn to and subscribed before me at the time and place mentioned in the caption

W. S. Gordon Comr

Sporter Law:

v. } Com. Report

Nicholson &c 1850

1850 March 30th Rec.

W. S. Goodwyn Trustee for L. P. Nicholson

In account with W. A. Sparke and L. R. Edwards

1842			Dr.		Cr.	
Decr.	1	To amt sale of negro Orris	365	00		
		" " " Lisa	375	00		
		" " " Jimmy child	305	00		
		" " " Anthony	40	00		
		" " " Sylvia	280	00		
		" " Plantation	3000	00		
		" " J. D. Bryant's purchase at sale	16	90		
		" " D. H. Gromgoole " "	30	27		
		" " Simon Menefee " "	20	00		
		" " Matthew Wills " "	14	07		
		" " W. A. Sparke " "	208	69		
		" " G. A. R. Newsome " "	16	87		
		" " J. D. Wasenburg " "	7	00		
		" " acct. of C. Powell - rent of Lot	60	00		
		" " " J. Yates " "	65	50		
		" " " W. J. Whitney acct	43	23		
		" " " Cash on day of sale	9	77		
		To amt paid Sheriff two executions for which L. R. Edwards was bound			316	63
		" " " Trustee, commission (accepted)			25	00
		" " " Crier at sale			4	00
		" " " A. S. Bailey adm: bond & Int			4392	11
		" " " W. A. Sparke "			487	69
		" " " J. M. Gurley "			324	67
		" " " Craggs Thomas "			279	85
"	"	" Bal: due Trustee	973	15		
			5829	95	5829	95
		To Bal: due from Nicholson			$ 973	15

with Int thereon from this day till paid

Respectfully submitted

W. S. Goodwyn Comr

The Comr. states specially that the above account is made out from papers found among those left by W. A. Sparke and is believed to be correct-

Notwithstanding the account shows on its face that the proceeds of sale were received by the trustee and the debts paid by him, he did not in fact receive but the sum of $316.63 which was appropriated to the payment of tax executions for which L. N. Eckland was bound and provided for in the deed of trust; and the further small sum of $29.00 accepted by the trustee for Commissions and expenses of sale on the statement of Dr Sponte that the proceeds of sale would not be sufficient to indemnify him from loss - The balance of the proceeds of sale were delivered to Dr. Sponte, being himself the principle purchaser at the sale, and being responsible for all the other debts secured in the deed - The Com: has good reason to believe that the only amount ever received from L. P. Nicholson on account of certain bonds & accounts conveyed in the deed, is the amt: rec'd. of M. J. Whitney included in the above account - The bond stated in the act as paid Bragg & Thomas was not laid before the Com: - But it was secured in the deed of trust - and the Com: having good reason to believe that it was paid by Dr Sponte credited the amt: - If that amt should turn out to be an improper credit the balance due from Nicholson will then be $693.30 instead as stated

L. P. Nicholson laid before the Com: two papers showing an indebtedness from Dr. Sponte to him in 1840 & 41, before the execution of the deed of trust - The Com: has taken no notice of them in the above act.

He also produced to the Com: evidence of a payment to Dr: Sponte in the year 1845 - Aug: of $305.82. The Com: has taken no notice of that in the above account; as it will appear from the statement below that independant of the transactions growing out of the deed of trust, the said Nicholson is considerably indebted to the said Sponte - to wit -

Amt rec'd by Sponte from Nicholson Aug: 1845	$305 82
" due Sponte for slaves Dick, Jim & child	680 00
Int from Decb: 1 1842 —	

leaving a considerable balance due Sponte - The slaves above mentioned were left in the possession of Nicholson from the time of his sale with authority to redeem them at the price paid by Dr Sponte - they were never redeemed by Nicholson, but in 1848 or 9 said Nicholson conveyed them in a deed of trust; and they were sold for the benefit of his creditors by the trustee

All of which is respectfully submitted

W. S. Goodwyn Com:

Com: fee - $20-00
Shff do - 4.00
Chd to J. M. Easley Com: & Com: 3

Commissioners office
March 19th 1850

Sparkes Exr

v. } Comr. Patents

Nicholson

1851 April 22

William S. Goodwyn Trustee for Simeon P. Nicholson

In account with William A. Sparks and L. P. Edwards

1842			D.	C.	D.	C.
Decbr.	31	To amt sale of negro Orris	365	00		
		" " " Dick	375	00		
		" " " Jimmy & child	305	00		
		" " " Anthony	40	00		
		" " " Sylvia	280	00		
		" " Plantation	3000	00		
		" " J. D. Bryant's purchase at sale	16	90		
		" " D. H. Livingston "	30	27		
		" " Simon Manfee "	20	00		
		" " Mathew Wells "	14	07		
		" " W. A. Sparks "	232	56		
		" " G. A. M. Newsome "	16	87		
		" " J. D. Mapenburg "	7	00		
		" " recd of C. Powell - rent of lot	60	00		
		" " " John Gates "	65	00		
		" " " M. J. Whitney	43	23		
		" " " cash on day of sale	9	77		
		By " paid Sheriff two executions for which L. P. Edwards was bound			316	63
		" " paid Trustee commission (accepted)			25	00
		" " " Expns at sale			4	00
		" " " Bond & Int due A. S. Bailey & others			4392	11
		" " " " " W. A. Sparks			487	69
		" " " " " J. M. Gurley			324	67
"	"	To amt bal: due from Nicholson	669	43		
			5550	10	5550	10
"	"	To amt bal: due from L. P. Nicholson			$ 669	43
"	"	with Int thereon from this day till paid				

Respectfully submitted

W. S. Goodwyn Comr

Sparks Exrs
v
Nicholson &c

Commissioners office

January 21st 1851 -

Pursuant to the order of May Term 1850, the

Commissioners beg leave to report the above account showing a balance of $667.43 due from L. P. Nicholson to the estate of M. & J. Sparks decd. under the deed of trust bearing date the 5th August 1842 - the whole amt for which L. P. Nicholson was provided for in said deed, having been paid

The Comr. states specially that in order to find the bal. due, the above account is made up as though the whole proceeds of sale under the deed were actually received by the trustee and the debts paid by him - but the trustee, in fact received but a very small portion of them, an account of which will be found in statement marked (A) filed with this report. The bal. of the proceeds of sale were handed over to M. & J. Sparks at his request, who was the principle purchaser at the sale, and responsible for all the remaining debts secured in the deed. All the property conveyed in the deed, which was received by the trustee, or there is any evidence to show, was received by M. & J. Sparks, is strictly accounted for in the above account

L. P. Nicholson laid before the Comr. a receipt executed by M. & J. Sparks on the 20th July 1840 for the sum of $294.75 - also a note by the same for the sum of $98.00 executed 19th April 1841, both bearing date before the execution of the deed of trust - and in no manner connected with it - It also appears from evidence furnished by the said Nicholson that the said Sparks received from him, in Aug: 1845, the sum of $305.82, but there is nothing to show that this amt has any connection with the deed of trust - It also appears from evidence furnished by Sparks Exr. that subsequent to the sale under the deed of trust Nicholson took possession of the stores purchased by the said Sparks at the sale, under an agreement to pay what Sparks gave for them at the sale - to wit: Dick, Jimmy & child, and that said stores were afterwards sold for Nicholson's benefit - The said Exr. also laid before the Comr. a bond executed by said Nicholson for the hire of said stores for the year 1843 in the sum of $50 - and a receipt from said Nicholson for certain property loaned him by Sparks which has also been sold for the benefit of said Nicholson

The Comr. has taken no notice of three claims filed with this report in the above account they having no connection with said deed of trust - Below will be found a statement of them excluding the articles bond, the value of which is not ascertained

1845									
Aug:	1	By amt rec'd. by Sparks from Nicholson			305	82			
		" " " " "			294	75			
		" Int thereon from July 20th 1840			88	42			
		" amt rec'd. April 19th 1841			98	00			
		" Int thereon to date			24	77			
		To amt sale negroes Dick, Jimmy & child	680	00					
		" Int thereon from Jany 1 1844 to date	64	60					
		" amt bond & Int to date due Sparks	34	15					
		By bal. due from Sparks	12	63					
			811	98	811	98			
		By bal. due from Sparks brot down			$ 12	63			

The Comr. also begs leave to report the deposition of Robt. Murray and M. B. Brickell. W. A. Gordon Comr.

Comr. fees for this report $15.00
" former report 20.00
Stff. for ex. notices
Ctd to J. M. Surley Exr: Comr.

Southampton County to wit:

This day personally appeared before me, a justice of the peace for the county aforesaid, W. A. Gordon who made oath that the above charges of Comr. fees, to the best of his belief are according to law.

Given under my hand this 3 day of May 1857

J. P.

Sparks Ex

v } Geo: Deane

Nicholson Ap

Southampton Circuit Court - May 3rd 1851.

John M Gurley Executor of William A Spark dec. Pltff

against } In Chancery

Samuel P. Nicholson, W. S. Goodwyn, W. D. Clarke & W. B. Shands Dfts.

This day this cause came on again to be heard on the papers formerly read and the report of Commissioner Goodwyn made under the order of May Term 1850, to which no exceptions have been filed and was argued by Counsel: On consideration whereof the Court confirming said report doth adjudge, order and decree that the deed of trust executed by S. P. Nicholson to W. B. Shands bearing date the 26th September 1848 and the sale of the property therein conveyed by the Trustee so far as it included a house and lot in the Town of Jerusalem known as lot No. 13 in the plat of said town, be and the same is hereby set aside and declared void and of no effect: and that unless the defendants or some one for them shall within thirty days, pay to John M Gurley Exor. of Wm A Spark the sum of $669.43 with interest thereon from the 31st December 1842 then William S. Goodwyn trustee in a deed of trust executed by said Nicholson on the 5th August 1842 in which the aforesaid house and lot is conveyed, is hereby directed after having given at least twenty days notice of the time and place at the Courthouse and other public places in the neighbourhood, to sell the said house and lot at public auction on a credit of six months, reserving so much in cash as will pay the expences of sale, take he take from the purchaser bond with good security for the balance of the purchase money and report his proceedings together with the bond, to Court in order to a final decree. But the execution of this decree is to be suspended until the said W. S. Goodwyn has executed in the Clerks Office bond with good security conditioned according to law.

A Copy

Teste. L R Edwards Cl

Sportus Exr:
v } Comr: report
Clustu et al.

1857 July 21 Report ret^d
by Comr Goodwyn.

Nov: 7^h 1885 - Recd of L. B. Edmunds Clk P.O. the within
bond to be delivered up to John M. Gurly

M. S. Goodwyn atty

Spotts Exor:
&
Clark & others

Commissioners report

Pursuant to the decree of the Circuit Court for the County of Southampton at May Term 1851, the undersigned Commissioner begleave to report, that he made sale of the House and Lot therein directed, according to the terms of said decree and that John M Gurley become the purchaser at the price of three hundred and eighty dollars - After deducting the expenses of sale, there remaining due the sum of $362-00, according to statement below, for which amount the Comr: returns the enclosed bond of the said Gurley with good security, and herewith reports the same -

Amt sale of house and lot -		$380-00
To Commissioner &c -	$17.00	
" Amt paid for crying lot -	1.00	
	18.00 —	18.00
Bal. due —		$362.00

Respectfully submitted
N. S. Goodwyn Com

Sparks Exor

v. } Exhbt. with Bill

Nicholson &c

This Indenture made and entered into this 5th day of August 1842 between Lemuel P. Nicholson and Mary his wife of the first part and William T Goodwyn of the second part and William A Spark and Littleton R Edwards of the third part, all of the County of Southampton - Whereas the said Lemuel P. Nicholson is justly indebted unto the said William A Spark in the sum of $2445. or thereabouts due by bond executed sometime in the year 1841 and whereas the said Spark is bound as security for the said Nicholson, that is to say in a bond executed to Alfred T Bailey admor: for the sum of four thousand dollars, executed in 1841. also one to Bragg & Thomas of Petersburg for two hundred and sixty six dollars and 53/100 executed 23rd February 1842 - also one to Simeon Burley for three hundred and thirty dollars or thereabouts executed in the latter part of the year 1841. or early in the year 1842 - And whereas also the said Littleton R Edwards is bound as security for the said Nicholson in two forthcoming or delivery bonds taken upon executions sued out of the Clerks Office of the Circuit Superior Court of Law and Chancery for Southampton County, one in favour of Bragg Jones & Co. and the other in favour of Braggs & Thomas, the amounts and dates of which bonds are not recollected. And whereas the said Lemuel P. Nicholson is willing and desirous to secure and agrees to secure the payment of the sum of money aforesaid due the said Spark and also to indemnify and save harmless the said Spark and Edwards from sustaining any loss or damage whatever in consequence of their being his, the said Nicholson security in the several cases herein before ~~stated~~ mentioned by conveying unto the said William T Goodwyn the property hereinafter mentioned in trust Now therefore this Indenture Witnesseth that the said Lemuel P Nicholson and Mary his wife for and in consideration of the premises aforesaid as well as for the further consideration of one dollar to the said Lemuel P. Nicholson in hand paid by the said William T Goodwyn, the receipt whereof is hereby acknowledged have granted, bargained and sold, and by these presents do grant bargain ~~and~~ sell and confirm unto the said William T Goodwyn his heirs, executors, administrators or assigns the following property to wit, a certain lot situate in the town of Jerusalem in the County aforesaid and designated in the plat of said town as No. 13. being the same which the said Nicholson purchased of M.B. Brodnax together with all the buildings and improvements and appurtenances whatsoever to the same belonging or in any wise appertaining. Also the following slaves to wit Dick, Jenny, and child Orris, Silvia and Anthony, household and kitchen furniture farming utensils Stock of horses. ~~hogs~~ cattle and hogs. crop of every description Buggy & harness saddle and bridle, medicine, books &c and the following accounts one against the estate of James Rochelle for $800. one vs. estate of Thomas Bowers for $58. One note against Merit J Whitney for $60. also sundry accounts in the hands of _____. To have and to hold the lot of land aforesaid and all the buildings and improvements thereon and the appurtenances of every kind thereto belonging together with the aforesaid slaves and the future

increase of the females thereof and the other property hereinbefore conveyed unto him the said William S Goodwyn his heirs, executors and administrators and assigns forever In trust and upon condition nevertheless that, the property aforesaid shall remain in possession of the said Lemuel P Nicholson and for him to receive the benefit thereof untill the said William S Goodwyn shall be directed as hereinafter provided for to make sale thereof. And upon the further trust that if the said Lemuel P Nicholson shall fully pay off and discharge the debt hereinbefore mentioned due the said William A Spark with all interest thereon as also the debts ~~due~~ and interest thereon hereinbefore mentioned for which the said Spark and Edwards are bound seperately as his the said Nicholsons security on or before the 1st day of November 1842 then this Indenture shall be void, but should the said Nicholson fail to pay the said debts and interest on or before the said 1st day of November 1842 it shall and may be lawful for the said William S Goodwyn or in case of his death for his legal personal representative who is hereby authorized to act, upon being thereto required by the said William A Spark and Littleton R Edwards or either of them or the executors administrators of either of them to make sale of the lot ~~of the lot~~ aforesaid with the buildings and improvements thereon and the appurtenances thereto of every description together with the aforesaid Slaves and their increase and the other property hereinbefore conveyed at public auction to the highest bidder for cash or on such other terms as the parties may agree upon, having fixed on the day and place of sale at his own discretion and given reasonable public notice and out of the amount of sales after deducting the expences of this trust pay and satisfy the debt due the said Spark and the debts herein before mentioned for which the said Spark and Edwards are bound as security. but should the amount of sales after deducting the expences of this trust and of the sale prove insufficient for the payment of all of the debts herein before mentioned & intended to be provided for then no one of them shall be preferred but the nett amount of the sales shall be apportioned among them all. Should there be a surplus after satisfying the aforesaid debts it shall be apportioned among all the said Nicholsons other creditors. In testimony whereof the parties have hereunto set their hands and affixed their seals the day and year first herein before written.

Signed Sealed & delivered
In presence of

Lemuel P Nicholson (Seal)
Wm. A. Spark (Seal)
L R Edwards (Seal)

Southampton County In the Clerks Office the 5 day of August 1842
This deed of trust between Lemuel P. Nicholson of the first part, William S Goodwyn of the second part and William A Spark and Littleton R Edwards of the third part was acknowledged by the said Nicholson and Edwards two of the parties thereto and admitted to Record.

Teste. Augustus W Hart D.C.

A Copy

Teste. L.R. Edwards Clk

Nicholson vs. Shands Trustee

Sparkes Exr.

vs. } Exhibit with Bill

Nicholson

This Indenture made and entered into this 26 day of September in the year 1848 between Lemuel P. Nicholson of the first part William B Shands trustee of the second part and William D. Clarke and others of the third part. Whereas Lemuel P Nicholson is indebted to William D. Clarke in a bond for One hundred and sixty five dollars to which John M Gurley and Littleton R. Edwards are securities, in a bond to the same for One hundred and twenty five dollars and fifty six cents - in a bond to Clarke & Pope for sixty five dollars - also an account to Clarke & Pope for fifteen dollars and seventy five cents - a bond for one hundred and twenty five dollars or thereabouts (to whom due not recollected) to which George A W Newsom and others are securities - a bond due Richard Darden for one hundred and fifty dollars or thereabouts to which James Magee. Henry Blow and others are securities - a bond for Eighty dollars due Peter Edwards as guardian to which Littleton R. Edwards is security. also three bonds due Martha Milliken amounting to five or six hundred dollars to which Littleton R. Edwards. Nicholas M Sebrell and William A Sparks are securities which debts together with all other debts owing by the said Lemuel P Nicholson to which Littleton R Edwards is his security, the payment of which the said Lemuel P Nicholson is willing and desirous to secure. Now Therefore this Indenture Witnesseth that for and in consideration of the premises and for the further consideration of one dollar good money of Virginia to the said Lemuel P Nicholson in hand paid by the said William B Shands, at and before the sealing of these presents the receipt whereof is hereby acknowledged, he the said Lemuel P. Nicholson has given, granted, bargained and sold and by these presents does give, grant, bargain & sell to the said William B Shands a Lot in the Town of Jerusalem and County of Southampton known as Lot No. 13. in the plot of said Town together with its appurtenances and the following personal property and choses in action to wit. all the said Lemuel P. Nicholsons household and kitchen furniture not heretofore conveyed, the crop of corn peas, potatoes made the year 1848. his stock of hogs and all the property both personal and real now in said Lemuel P. Nicholsons possession not heretofore conveyed, and also a debt due to the said Lemuel P. Nicholson from Martha B Rochelle executrix of James Rochelle dec'd now pend for in the Circuit Superior Court of Southampton County amounting to between ten and eleven hundred dollars. To have and to hold the said real estate, personal property and choses in action to him the said William B Shands and to his heirs forever. And the said Lemuel P. Nicholson does hereby

covenant with the said William B Shands his title to the said real and personal estate and chose in action forever to warrant and defend against all and every person whatsoever. Upon trust Nevertheless that the said Samuel P. Nicholson shall be permitted to remain in quiet and peaceable possession of the above mentioned property until default shall be made in the payment of any of the above named debts, then upon request made by any of the above named persons the said William B Shands shall after having given due notice of the time and place of sale by advertisement at the Court=house door proceed to sell at public auction to the highest bidder for cash the aforesaid personal and real estate and collect the money due from Martha B Rochelle executrix of James Rochelle dec^d and out of the money arising from the sale proceed to pay all the debts mentioned in the foregoing part of this deed and all debts to which Littleton R Edwards is security - but the debt due Martha Milliken in three bonds amounting to between five and six hundred dollars to which Littleton R Edwards. Nicholas H Tebrell and William A Spark_ of which nothing is to be paid until the tract of land known as Millikens place is sold and the money arising from that sale or so much thereof as the deed permits be applied to the payment of the said Martha Millikens bonds, they having been secured to be paid along with other debts by deed of trust upon the said tract of land. and the balance of money, if any, pay over to the said Samuel P. Nicholson. In Witness of all of which the parties above mentioned have hereunto set their hands and seals the day and year above written-

Samel. P. Nicholson (Seal)
William B. Shands (Seal)

Southampton County - In the Clerks Office the 26th day of September 1848.
This deed of trust between Samuel P. Nicholson of the first part - William B Shands of the second part and William T. Clarke and others of the third part was acknowledged by said Nicholson one of the parties thereto and admitted to record.

Teste.

J R Edwards Clk

A Copy.

Teste - J R Edwards Clk

KNOW ALL MEN BY THESE PRESENTS, That we Wm. S. Goodwyn & E. W. Mapsburg

are held and firmly bound unto the Commonwealth of Virginia, in the just and full sum of One thousand Dollars, for the payment of which, well and truly to be made, we bind ourselves, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 16th day of May, 1851

The Condition of the above Obligation is such, That whereas the above bound W. S. Goodwyn has by a Decree of the Circuit Court of Southampton pronounced on the day of May 1851, in a cause therein pending wherein Spurk Exr. Plaintiff and Nicholson & c Defendant, been appointed Commissioner to make sale of certain Real Estate in the said cause described.—Now if the said W. S. Goodwyn shall faithfully discharge his duties as such Commissioner under said decree, then this obligation to be void, else to remain in full force and virtue.

Signed, Sealed, and delivered in presence of

W. S. Goodwyn L.S.
E. W. Mapsenberg L.S.
L.S.

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