1861-014 SOUTHAMPTON COUNTY CHANCERY PAPERS LITTLE vs. SPARK'S EXECUTOR + J

12/18.61

other surnames. Gurley

Little

& 3 Papers

Burley

Bills

To } Stat. Rules

Gurley

	96
	18.20
	65
Clerk	19.62
Stff	2.00
Com	67.64
Ord. P.	6.50
	$ 95.76
Law	$ 16.50
	$ 112.26

Dfts Cost

Clk	$ 3.45
Dem	15.00
	$ 20.45

In Southampton Circuit Court.

Thomas P. Settle

against.

John M Gurley as Exor. of Dr. William A Spark dec'd. and in his own right.

1856 Aug. 26th Bill with order indorsed thereon awarding Injon. filed & Summs. issued

Sept. R. Summons ret'd Executed. & Decree nisi vs Defts.

" " 15th Bond & security given & release of errors filed according to the terms upon which Injon granted.

" Oct. R. Bill taken for confessed.

" Nov T. Cause set for hearing &c

" Answer by leave.

" Decr. 26 Scire Facias issued to revive in the name of Abram. Riddick Exor of Thomas P. Settle dec'd. rtble to February Rules next.

1857 Feby R. Sci. Fa. ret'd Exd. & Suit revived &c

" May T. Decree for acct.

" July 31st Report returned

" Nov T Decree for further accts

1858 Nov. T. Decree for Pltff & decree suspended 60 days.

Thomas P. Little

vs. Bill &c.

John M. Gurly Executor
of Wm. A. Shark dec'd &c.

1836 Aug. 4 Rec'd

So. ampton Cir. Ct.

(2674 words)

To the Hon: Richard A. Baker, Judge of the Circuit Court of Southampton County, Virginia—

Complaining shew unto the Court, your Complainant Thomas P. Little of Hertford County, State of North Carolina —

Your Complainant respectfully represents to the Court and says— That prior to the year 1846 he was indebted to D^r. William A. Spark of said County of Southampton, in a note or Bond for about six hundred dollars, and also in an open account of several hundred Dollars.

That the said Spark being largely indebted to one Lewis Bishop, requested your Complainant to become his security to a Bond to said Bishop, & accordingly on or about the 27^th day of November 1846, a Bond was duly executed to said Bishop by said Spark with your Complainant as security for the sum of Two thousand three hundred and sixty eight 20/100 dollars, payable two years after date with Interest from the date thereof— a duly certified Copy of said Bond is filed herewith in the record filed herewith & marked (A.).

That the said William A. Spark died on the 6^th of June 1848 having first made his Last will & Testament which was duly admitted to record in the County Court of Southampton County Virginia, on 17^th July 1848 and thereby appointed John M. Gurly his Executor who duly qualified as such in said County Court on same day and as such Executor took charge of the real estate, slaves & other property of said Deceased, and has as such

Executor sold the same,— That previous to his death, the said William A. Spark had been absent in Mexico as an officer in the United States Army, and no sufficient and convenient opportunity had presented itself to your Complainant to settle with said Spark —

That the said John M. Purdy as Executor of said William A. Spark dec? called on your Complainant for a settlement and accordingly on the 29th day of August 1848 your Complainant, Consolidated the Bond & account he owed said Spark and executed his Bond to said Purdy as Executor of said Spark for $1257.85c — being the amount of principal & Interest of said Bond & account then due — That at this period to wit: the 29th of August 1848, the Bond of $2368.20, to which your Complainant had become security to Lewis Bishop for said Spark was not due, and your Complainant then fully believed that Spark's Estate was amply sufficient to pay all his debts & that said Purdy as his Executor would promptly pay the debt due said Bishop when due. — But so it is, your Complainant charges, that greatly to his surprise, when the debt due to Bishop as aforesaid became due the said Purdy as Executor aforesaid refused to pay the same — That in the mean time said Bishop had died & one Henning D. Smith had duly qualified as his administrator in Southampton County Court, and thus obtained possession of said Bond of $2368.20, and did on the day of assign the said Bond to one Richard Darden, who instituted suit thereon in the then Circuit Superior Court of Law and Chancery for Southampton County against John M. Purdy as Executor as aforesaid, and did on the 4th day of May 1849 in said Court obtain judgment for the same against said Purdy as Executor aforesaid, & on which judgment an Execution duly issued & which was returned by the Sheriff of Southampton County "no effects" — And that soon thereafter to wit: on the day of your Complainant was ~~threatened with a suit~~ sued on said Bond by said Darden assignee as aforesaid, and to save Costs &c, your Complainant paid to said Darden the amo: of said Bond & Judgment & had the same assigned to him — all of which will more fully appear by reference to a Copy of the record filed herewith as part of this Bill marked (A).

That the said Bond & Judgment was paid off by your Complainant on the 18th March 1850 ~~on the 18th day of March 1850~~ and amounted to the large sum of $2864.83c — (two thousand eight hundred and sixty four Dollars and eighty three cents.

That the said John M. Purdy has demanded payment of your Complainant of the Bond above named of $1257.85, executed by your Complainant & him as such Executor, for debts due his Testator's estate, and has

+ proceed to collect the same by execution only restrained by this Hon. Court;

instituted suit thereon, in his own name, against your Complainant in the County Court of Hertford, in the State of North Carolina & has obtained a judgment therefor, in the superior court of law of said County & State, and he unless he can be restrained by this Honorable Court. That the said John M. Gurly never qualified as Executor of the said Spark in any of the Courts of the State of North Carolina, & hence, your Complainant is advised he cannot in said State from any of its Courts obtain that relief he seeks and which he is advised Equity will grant— Your Complainant charges that the said Bond of $1251.85, belongs to the estate of said William A. Spark and should be accounted for as such, and that it is liable to all the Equities it would have been if it had been made payable to said William A. Spark— That the Debt paid by your Complainant as security for said Spark as aforesaid, he is entitled to have set off against the Bond aforesaid of $1251.85; That the said Bond of $1251.85 has not been, nor the original items thereof have not been, accounted for by said Gurly as Executor as aforesaid, and that the Executorial accounts of said Gurly have never been recorded— That your Complainant charges that there is a large Balance in said Gurly's hands as such Executor yet undisbursed, and whilst the Estate of said Spark is insolvent as your Complainant has understood, yet he claims that he has not only the right to have his claim against said Spark's estate set off as aforesaid, but that for any Balance that may then be due your Complainant on the debt paid by him as security aforesaid he has a priority of claim on the assets in the hands of said Gurly as Executor as aforesaid— That the judgment rendered against said Gurly as Executor as aforesaid on the 4th day of May 1849, in favor of Richard Darden assignee of Henning D. Smith admr. of Lewis Bishop dec'd, was as the law then was, entitled to be paid prior to all other debts of the same class on which there were no judgments— That the Bond was, itself, of superior dignity to all open accounts— That by the payment of said debt as aforesaid by your Complainant the security thereto, and by virtue of the assignment of said judgment to your Complainant he became entitled to be substituted, as he is advised, to all the rights of the judgment Creditor against the assets of said Spark's Estate in the hands of said Gurly his Executor— your complt. has been informed that said Gurly pretends to claim the assets in his hands arising from said estate as his own, but this your Complt. utterly denies, he has any right to do. In Consideration whereof, and forasmuch as a Court of Equity can alone grant your Complainant adequate relief, to the End therefore your Complainant prays that John M. Gurly as Executor of D. William A. Spark dec'd, and in his own right may be made Defendant hereto, and be compelled to answer on oath the several allegations herein— That the said Gurly as Executor as aforesaid may be required to settle his transactions, before a Commissioner of this Court— That the said John M. Gurly, as Executor aforesaid, and

in his own right, and his agents, attorneys and all others, may be ~~xxx~~ enjoined and restrained from further proceedings, and from collecting or attempting to collect of your Complainant, or any Executor of the said complaint. the Bond and debt or the Judgment thereon as aforesaid of $1257.85 and the interest thereon — that your Complainant may be allowed to offset said debt of $1257.85 & interest with the debt paid by him as security as above set forth — that any assets in said Gurly's hands as Executor aforesaid may be applied to the payment of your Complainants demand and the judgment assigned to him as aforesaid; and that all further orders and decrees and all other relief may be granted to your Complainant, that may be proper in the premises and consistent with Equity &c and &c.

Whitfield
Kilby & P. V.

State of Virginia
Southampton County } to wit:

This day Thomas P. Little came before me a Justice of the peace for said County & made oath that the facts set forth in the above Bill of Complaint, are, so far they depend on his own knowledge true, and so far as they depend on information derived from others, he believes to be true. Given under my hand this 27. day of July 1857

S. B. Kello J.P.

An Injunction is awarded the complainant to stay until the further order of the Court, all proceedings on the judgment in the Bill mentioned against the plaintiff: But the effect of this Injunction is to be suspended until the plaintiff shall enter into bond with one or more securities in the clerks office of the circuit court of Southampton county in a penalty equal to double the amount of the bond of $1251.85. in the bill mentioned, without interest with such condition as the law requires, and until he shall also file with the said clerk a release of errors at law in the said judgment and proceedings

To the clerk
of the circuit court
Southampton

Recd. V. H. Baker
July 22. 1856

Little

vs. ~~Amos~~

Gurley

1856 Nov. 8 filed by Lewis

To the Hon.ble Judge of the Circuit Court of Southampton County.

The Answer of Jno M. Gentry in his own right and as Executor of William A Spark - dec.d to a bill of complaint exhibited against him by Thomas P. Little.

This respondent saving, and reserving all benefit of just exception to the errors and imperfections, and misstatements contained in the said bill, for answer thereto, or to so much thereof, as he is advised it is material he should answer, and says. That. The subject matter of this suit has been a cause of litigation, in the Courts of the State of North Carolina, and the same been decided by the supreme Court of that State, as will appear by a copy of the record, of the proceedings herewith filed as a part of this answer, - and relied upon as a bar to this suit -.

That Wm A Spark. was appointed an officer in the United States army & ordered to Mexico, in the year 1847. and previous to his departure, constituted, upon respondent his attorney in fact, by the execution of Power of Attorney giving him full power to receive Money, & settle his transactions of any sort, to sell & convey personal & real estate, and do all things proper to be done about the business of the said Spark -. That among the papers are to Spark. were claims against, the Complainant Thomas P. Little - That he applied for a settlement, which was declined by the Complt. on the ground that he had some small accounts, against Spark. which should be credited - and after Sparks death which occured, on the 4th June 1848. in a distant State, and before he was returned to Virginia - from the Mexican war, and after some respondent qualified as Exor of Spark - which he did. on 17th July 1848. in the County Court of Southampton - he applied to the Complainant, for what he was indebted to Spark - on the settlement, Little, exhibited his Account for $1251.85. dated 29th August 1848 - Which

This said land was executed, no mention, was made, no claim
apited - no objection offered - on account of any liability of
Lillie for Shark - yam respondant never knew, or heard
that Lillie was security for Shark, until, a suit was
instituted, in the Supreme Court of Saint Vincent, against yam Respt.
of Shark - and he had then administered the opits, and
more, that had come to his hands -

Yam respondant further answers, and says that after the execu-
-tion of the bond of 1257.85c. before referred to, he managed the cane,
-plaintiff and for several years, on his frequent promises to pay.
and he at no time offered any objection, or claimed any offset.
until, after suit was instituted against him, on the said
bond, in the Court of pleas & quarter Sessions, for the county
of Stafford N.C. in the year 1852 - then for the first
time. did he opit, that he had paid money as security
for Shark - during all the time, from the time, yam
respondant - applied to the complainant, to pay what he
was indebted to Shark. to the time of the filing of the
bill of injunction, in N.C. as appears from the record
herewith filed. that is from 1847. to 1852 - The
complainant has permitted yam respondant to remain
in profound ignorance of any offset, to the bond
of $1237.85c. the collection of which he now seeks to
injoin -. and his transactions, with Shark's estate
have been examined, mean the while, that the
said bond, was a part of the opits undisputed of his
Testators estate, and a Court of Equity will not per-
-mit, the delay of the complainant to permit this de-
-mand. to operate to the prejudice of this respondent.
in the discharge of his transactions, as Shark's Exor.

This respondant further states, that while he acted
as the agent of Dr. Shark - under the powers of attorney
before referred to, copies of which are herewith
filed - he paid large sums of money - amounting
with the interest, and compensations covenanted to be
paid for his services. at the time of Shark's death, to the
sum of $5615.40c. as appears by a copy of an account
rendered by a Court of this Court, in the suit of Lindsey and
Shark, Exc Shark, which is filed as a part of this answer.
and yam respondant, is advised he has the right to
retain this amount, out of the opits of Dr. Shark's estate
over and above all other demands -

This respondant further answers. that he has settled his
transactions as Exor of Wm. A Shark, in the aforesaid
suit. above mentioned, a copy of which is herewith
filed as a part of this answer, by which it appears
that he was indebted to the estate, on 31st Dec. 1854.
principal and interest, in the sum of $2307.36c. while
Shark was indebted to him on 4th June 1848, in
the sum of $5615.40c - above stated. which will leave
a large balance, due yam respondant - That
all the debts, paid by yam respondant, as Exor of
Shark. after he had notice of the bond, of $2368.20c. due
to Richards. were debts of superior dignity. to that bond
viz cost. The debt of $270.47c. paid to James Magill. on
19th of April 1850 -. so that the Court will permit
~~That, the~~ That this debt, ~~also~~ the collection of which
The Plaintiff seeks to injoin has been in fact administered
and is the individual property of yam respondant.
for which he has obtained. an individual judgment. and
which he should not be restrained from collecting.
and if the Plaintiff is allowed to offset, by his demand
against Shark's estate, great injury will accrue
to yam respondant, and great injustice & wrong be
committed on his rights

This respondant, states. that the said Complainant
in this bill, heretofore in 1852 -. filed his bill, in the Supe-
-rior Court of Law and Equity. for Westera County. N.C.
to which bill, this respondant was the only defendant. That
the said suit was heard, and finally determined, in favour

of this respondent, by the Supreme Court of North Carolina at the December Term. 1855. of said Court, and this respondent avers, that the said bill now exhibited against him, by the said complainant is for the same matters as the said bill, which has been ansd by the Supreme Court of N.C. which will appear by a copy of the record of the said suit, herewith filed - and on which former judgment this respondent, relies, as if more fully & specially pleaded in this suit. -

And your respondent. having answered, the bill of the complainant - prays, that the Injunction awarded in this cause may be dissolved and the bill of the complainant dismissed -

as in duty bound.

Jno. M. Gurley

North Carolina County. to wit.

This day Jno M. Gurley personally appeared before me a Justice of the Peace, for the county aforesaid & made oath to the truth of the foregoing answer, to the best of his knowledge and belief.

Given under my hand this 5th day of November 1856.

Jesse Griffin J P

Little

v

Emily Ev

1857

may et.

To be entered

R. H. Baker

summ. Inj: move to
be before cond.

K.

Little vs. Gurley Ex^r

This cause came on this day to be heard on the Bill & exhibits, the answer of the Defendant & exhibits, & replication to said answer and was argued by Counsel; On Consideration whereof the Court doth adjudge, order & decree that a Commissioner of this Court (without settling any of the principles of this cause) take the following accounts —

1st an account of the transactions of Jno. M. Gurley as Ex^r of Wm A Spark dec.d — taking the account filed with the Bill as prima facie correct subject to be surcharged and falsified —

2d an account shewing the amount and character of the debts paid by said Gurley as such Ex^r from & after the 16th Day 1849 (the day of issuing the writ in the suit of Rich.d Darden & ux vs. said Gurley Ex^r aforesaid) —

3. an account shewing the amount & character of debts paid by said Ex^r on & after 4 May 1849 at which time there was a judgment in said suit of Darden & ux —

4th an account of the transactions of John M. Gurley as agent of Wm A Spark, under the powers of attorney from Spark to Gurley filed in the cause, taking the accounts filed herein as correct subject to be surcharged & falsified

and make report to Court with any matters specially stated deemed pertinent by himself or required by any of the parties to be so stated

Liddle's Exr

vs 3 Casks of Beer

Spinks Exrs 3l

Smithsonian Circuit Court. May Term, 1857.

Abram Riddick. Exector of Thomas D. Little dec'd pltff.

against

John M. Gurley, as Extr. of Dr. William A. Spark dec'd. and in his own right Deft

This cause came on this day to be heard on the Bill exhibits the answer of the Defendant exhibits replication to said answer and was argued by Counsel. On consideration whereof the Court without deciding any of the principles of this cause doth adjudge order and decree that a Commissioner of this Court take the following accounts

1st An Account of the transactions of John M. Gurley as executor of Wm A. Spark dec'd. Taking the account filed with the Bill as prima facie correct subject to be surcharged and falsified.

2nd An Account showing the amount and character of the Debts paid by said Gurley as such Extr. from and after the 16th day of January 1849 the day of issuing the writ in the suit of Richd. Dundon assignee against said Gurley Extr. as aforesaid.

3rd An Account showing the amount and character of Debts paid by said Executor on and after the 4th May 1849 at which time there was a judgment in said suit of Dundon assignee.

4th An Account of the transactions of John M. Gurley as agent of Wm A. Spark under the powers of Attorney from Spark to Gurley filed in the cause taking the accounts filed herein as correct subject to surcharge & falsified and make report to Court with any matters Specially stated deemed pertinent by himself or required by any of the parties to be so stated.

Test,

L. R. Edwards, C.C.

Littles Exr

vs

Sparks Exr

1857 Nov. Ch.

Decree

To be entered

R. H. Baker

Nov. 6. 1857.

Littles Exor. v. Sparks's Exr.

This cause came on this day to be again heard on the papers formerly read & on the Report of Com^r. Howard, made pursuant to the decree of May term 1837 to which no exception has been filed and was argued by Counsel: On consideration whereof the Court doth, dissolve the Injunction awarded in this cause & doth decide that the debt due by the plaintiff's Testator (Thos. P. Littles) of £1251:85 with Interest from the 29th day of August 1828, (and the costs (being amo^t of Judg^t in the Court of Pleas & Quarter Sessions of Perquimons Co. N.C.) to Wm. M. Gayle, Executor of Wm A. Spark dec^d, shall be set-off, by the debt of £2368:20 with interest from the 27th of Nov. 1846 due by Wm A. Spark to the plaintiff's Testator (Thos. P. Littles) as appears by Exhibit (A) filed with the bill, in this cause —

Whereupon the said Wm. M. Gayle, by his Counsel doth consent and agree that the said sum of £1251:85 and interest aforesaid may if the same has been, paid by said Littles or others for him, be paid over to the plaintiff or his attorney for said Littles estate or whoever may have paid the same —

And the Court doth further adjudge order & decree that the said Com^rs report be recommitted to him, and that he proceed to take the following additional accounts — 1st an account shewing the Balance due to the plaintiff's Testator of the said £2368:20 & Interest & costs after deducting the said sum of £1251:85 aforesaid & Interest & costs.

2d an account of the proceeds of real estate sold by said Gayle as Exor. of Wm A. Spark and the amount to which the several debts due by said Spark, paid by said Gayle either as,

agent or Executor, and also the balance due to the plaintiffs Testator — are severally entitled

3— a statement shewing the amount and character of the several sums paid ~~by~~ ~~him~~ as agent for said Spark, and as Executor of said Spark —

4. a statement shewing the character of the debts due to Wm A Spark & the said plaintiffs ~~Intestate~~ Testator.

5. an account of all ~~his~~ assets (other than assets from real estate) received & paid by him as Executor of Wm A Spark dec'd —

6. an account of all outstanding debts due to Wm A Spark dec'd not ascertained in any of the foregoing accounts.

Which accounts ~~said Com~~ the said Com, are to report the same to Court with any matter specially stated deemed pertinent by him or that may be required by any one of the parties to be so stated —

And that notice of the taking of said accounts be published by said Com, once a week for four successive weeks, in some convenient newspaper ~~in one of the papers published in Abbeville~~ ~~the service of actual notice on the parties~~, and that such publication be equivalent to personal service of such notice on the parties or any of them

Lillis Exrs

vs Copy Decree

Sparks Exrs &c

Southampton Circuit Court, November 11th 1857

Abram Riddick executor of Thomas P. Little dec'd Plaintiff

against

Jno. M. Gurley executor of Wm A. Spark dec'd and in his own right . . . . . Defendant.

This cause came on this day to be again heard on the papers formerly read and on the report of Commissioner Howard, made pursuant to the decree of May Term 1857, to which no exception has been filed and was argued by Counsel, On consideration whereof the Court doth dispose the Injunction awarded in this case & doth decide that the debt due by the plaintiffs testator, Thomas P. Little of $1251.85 with interest from the 27th day of August 1848 and the costs being amount of Judgment in the Court of Pleas & Quarter Sessions of Northampton County, North Carolina to Jno. M. Gurley, executor of Wm A. Spark dec'd shall be set off by the debt of $2368.20 with Interest from the 27th of November 1846 due by Wm A. Spark to the plaintiffs testator (Thomas P. Little) as appears by exhibit (A) filed with the bill in this cause. Whereupon the said John M. Gurley by his Counsel, doth consent and agree that the said sum of $1251.85 and interest aforesaid may if the same has been paid by said Little or others for him be paid over to the plaintiff, or his attorney for said Little's estate or whosoever may have paid the same. And the Court doth further adjudge, order and decree that the said Comm'r. report be recommitted to him and that he proceed to take the following additional accounts:

1st An account shewing the balance due to the plaintiffs testator of the said $2368.20 & Interest & costs after deducting the said sum of $1251.85 aforesaid & Interest & costs.

2nd. An account of the proceeds of real estate sold by said Gurley as Exr of Wm A. Spark and the Amount to which the several debts due by said Spark paid by said Gurley either as agent

or Executor and also the balance due to the plaintiff's testator as
severally entitled.
3d. A Statement shewing the amount and character of the several Debts
paid by Gurley as agent for said Spark and as executor of
said Spark.
4th. A Statement shewing the character of the debt due by
Wm. A. Spark to the said plaintiff's testator.
5th. An account of all assets (other than assets from real
estate) received by said Gurley as executor of Wm. A.
Spark. dec'd.
6th. An account of all outstanding debts due by Wm.
A. Spark dec'd. not ascertained in any of the foregoing
accounts. Which accounts the said Commissioner will report
to Court with any matters specially stated deemed pertinent
by him or that may be required by any one of the parties
to be so stated. And that notice of the taking of
said accounts be published by said Commissioner once
a week for four successive weeks in some convenient
Newspaper and that such publication be equivalent
to personal service of such notice on the parties or any
of them.

Copy,
Teste,
Henry L. Howard, D.C.

Letter
to
Gurley.

To be entered.
R. H. Baker

1838 Nov. Bunk

Ludlow vs Gurley

On motion of the defd John M. Gurley
it is ordered that the decree entered herein
at this term be suspended for the term
of sixty days for the purpose of allowing
said Gurley time to apply for a supersedeas
to the said decree upon the condition
of his giving bond with sufficient security
before the clerk of this court in the pen-
-alty of a sum equal to double the amount of
the said decree with a condition re-
-citing the said decree and the intention
of the said Gurley to prosecute a petition
for such supersedeas and providing for
the payment of all such damages as
may be sustained by reason of such
suspension in case the supersedeas
to the said decree should not be
allowed & be effected within the
time aforesaid.

Little

vs

Gurley

1854

Nov

decree

to be entered

R. M. Parker

Littles Exr

vs

Lusby &c.

This cause came on this day to be again heard on the papers formerly read & on the report of Henry S. Howard, Com. made pursuant to the decree of the 11th day of Nov. 1857, to which there is no exception and was argued by counsel; on consideration whereof the Court doth confirm the said report, except as to the account entitled "Wm A. Spark, In account with John M. Lusby, Agent" as to which no opinion is given either approving or disapproving of the mode of settlement thereof — And it appearing by said Report that the proceeds of the real estate referred to in the cause have been applied to pay a lien thereon, doth adjudge, order & decree that John M. Lusby Executor of Wm A Spark and pay to Abram Riddick the Executor of Thomas P. Little and the sum of $2019.50, balance due by Wm A Spark to said Little as appears by said report, with Interest thereon from the 2d. day of May 1858 till paid, and that the plaintiff recover of the said Defendant, his costs expended in prosecuting this suit — and liberty is reserved to the plaintiff, if necessary, to apply for such relief against the securities of John M. Lusby as Executor aforesaid as may be proper. — — —

Gurley
Do & Co: decree
Rittles ecor

Recv: December 23d 1861

Southampton

Virginia: At a Supreme Court of Appeals, held at the State Courthouse, in the City of Richmond, on Tuesday, November 12th 1861.

John M. Gurley, appel:
against
Abram Riddick executor of Thomas P. Little deceased, appee: } upon an appeal from

a decree pronounced by the circuit court of Southampton county, on the tenth day of November 1858, in a suit in which the appellee was plaintiff, and the appellant in his own right and as executor of William A. Spark deceased was defendant.

This day came the parties by their counsel, and the court having maturely considered the transcript of the record of the decree aforesaid and the arguments of counsel, is of opinion, for reasons stated in writing and filed with the record, that there is no error in the said decree; therefore it is decreed and ordered that the same be affirmed, and that the appellant do pay unto the appellee, damages according to law, and also, his costs by him about his defence in this behalf expended.

Which is ordered to be certified to the said circuit court.

Appellee's costs in the Court of Appeals $168.34.

A copy.
Teste.

J. Allen C.C.

THE COMMONWEALTH OF VIRGINIA:

To the Sheriff of Southampton County—GREETING

We command you to summon John M Gurley as Executor of William A. Sparks and in his own right

to appear at the Clerks office of our Circuit court of Southampton county at the Rules, to be holden for the said court on the first Monday in September next, to answer a bill in Chancery exhibited against him in our said court by

Thomas P. Little

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said Court at the Courthouse, this 4th day of August 1856 in the 81st year of the Commonwealth.

L R. Edwards clk

To injoin the Defendant as Executor and in his own right and his agents. attorneys and all others from further proceedings on the judgment in the bill mentioned, recovered in the Superior Court of Law for Hertford County State of North Carolina by the Defendant in his own name, on a bond executed on the 29th of August 1848 by the plaintiff to the Deft as Executor of William A. Sparks for $1251. 85 cts untill the further order of the Court But this injunction is not to take effect untel the Plff. Shall give bond in the Clerks Office of the Circuit Court of Southampton County with good Security in a penalty equal to double the amount of the Bond of $1251. 85 cts without interest with Such Condition as the Law requires, and untel he Shall also file with the said Clerk a release of all errors at Law in the said judgment and proceedings

Teste

L R Edwards Clk

Executed on the 9th ult
Gurley by advising
him a copy of
the within
N Blow
Dft's Sol for $ to bill
$2 R

Bill filed
vs
Sparks &c
Gurley
1856 September Rules

1856 September 15th the plaintiff has filed a release of all errors at Law and given bond & Security according to the condition of the terms upon which the injunction was granted

L R Edwards Clk

Little

&

Barley

Ilion Dec. 20. 1856

At a Court held for the County of Southampton on the 15th day of December 1856

An authenticated copy of the last Will and testament of Thomas P Little dec'd was this day produced in Court and ordered to be recorded. And on the motion of Abram Riddick one of the Executors therein named who made oath and together with Orman A Bryant & Elijah Joyner his Securities (who justified on oath as to their Sufficiency) entered into and acknowledged a bond in the penalty of three thousand dollars conditioned as the law directs certificate is granted him for obtaining a probat of the said Will in due form, Liberty is reserved to John Vann the other Executor therein named to join in the said probat when he shall think fit.

A Copy

Teste. J R Edwards Clk

The Commonwealth of Virginia. To the Sheriff of Southampton County.
Greeting Whereas in a suit in Chancery has been depending in our Circuit Court of
Southampton County between Thomas P Little plaintiff and John M Gurley as executor
of D. Williams & Sparks dec^d and in his own right Defendant and Sundry Proceedings
were therein had, but before a final decree was rendered therein the said Thomas P Little
departed this life having first made and published his last Will and Testament in writing
and Abram Riddick one of the Executors therein named has taken upon himself the burthen
of the execution thereof and applied for a Scire Facias against the defendant. Therefore we
command you that you make known to the said John M Gurley as executor of D. Williams
& Sparks dec^d and in his own right that he be at the Clerks Office of our said Circuit Court
at the Rules to be holden for the said Court on the first Monday in February next to shew
cause if any he can why the said Suit should not be proceeded in to a final decree, and
have then there this writ. Witness Littleton R. Edwards Clerk of our said Court at the
Courthouse this 20th day of December 1856 in the 81st year of the Commonwealth.

L. R. Edwards CC

Executed by delivering a copy of this
within to said Wm Burley

Wm C Briggs Shff.

Filed
Sci. Fa.
Burley
1854 February Rules

Commissioner's Office
Jerusalem, June 25th 1857.

To Abram Riddick Executor of Thomas A. Little dec'd. plaintiff

John M. Gurley as Executor of Dr. William A. Spark dec'd. and in his own right defendant.

You are hereby notified that I have fixed upon the 21st day of July 1857, to take and settle at my Office the following accounts:
1st An account of the transactions of John M. Gurley as executor of Wm A. Spark dec'd. taking the account filed with the Bill as prima facie correct subject to be surcharged and falsified.
2nd An account showing the amount and character of the Debts paid by said Gurley as such executor from and after the 16th day of January 1849, the day of issuing the Writ in the suit of Richard Darden assignee against said Gurley as ex'r. aforesaid.
3rd An account showing the amount and character of Debts paid by said Ex'r. on and after the 4th day of May 1849, at which time there was a judgment in said suit of Darden assignee.
4th An account of the transactions of John M. Gurley as agent of Wm A. Spark under the powers of attorney from Spark to Gurley filed in the cause taking the accounts filed herein as correct subject to be surcharged & falsified, required to be taken by the decree of Southampton Circuit Court rendered at the May term 1857, in a suit in Chancery depending in said Court in which you are parties plaintiff and defendant; at which time and place you are required to attend. Given under my hand as Commissioner in Chancery of the said Court the day and year first aforesaid.

To the Sheriff of Southampton County to execute

Henry S. Howard Comm.

Henry S. Howard Comm.

Little's Executor

vs } Cam's Notice

Garby &c.

So July 21st 1857.

Executed.

Geo. Vickery

for Wm. Briggerhoff

Indorsed: Service of the within Notice for Wm. Riddick Esq. on behalf of Thomas P. Little &c.

COMMISSIONER'S OFFICE,
Jerusalem, January, 6th, 1858.

TO Abram Riddick, executor of Thomas P Little, dec'd, Plaintiff,
against,
John M Gurley, executor of Wm A Spark, dec'd, and in his own right, Defendant:

You are hereby notified, that I have fixed on the 16th day of February, 1858, to take and settle, at my office, in the Town of Jerusalem, the following accounts—

1st An account showing the balance due the Plaintiff's estate of the said $2368 20, and interest and costs after deducting the said sum of $1251.85, aforesaid, and interest and costs.

2d An account of the proceeds of real estate sold by said Gurley as executor of Wm A Spark, and the amount to which the several debts due by said Spark paid by said Gurley, either as agent or executor, and also the balance due to the plaintiff's testator are severally entitled.

3d A statement showing the amount and character of the several debts paid by Gurley as agent for said Spark, and as executor of said Spark.

4th A statement showing the character of the debt due by Wm A Spark, to the Plaintiff's testator.

5th An account of all assetts, other than assetts from real estate received by said Gurley, as executor of Wm A Spark, dec'd.

6th An account of all outstanding debts due by Wm A Spark, dec'd, not ascertained in any of the foregoing accounts.

Required to be taken by the decree of Southampton Circuit Court, rendered on the 11th day of November, 1857, in a suit in chancery depending in said Court, in which you are parties Plaintiff and Defendant; at which time and place you are required to attend.

Given under my hand, as Commissioner in Chancery of the said Court, the day and year first aforesaid.

HENRY S HOWARD,
Commissioner.

ja 9—s4w

OFFICE OF THE SOUTHERN ARGUS,
NORFOLK, VA., 7 Feby — 1858.

I Abram Leonard editor & one of the publishers of the Southern Argus, a newspaper published daily in the City of Norfolk, State of Virginia, do certify that the annexed Legal Notice in the case of Abrm Riddick ex^r of Thos P. Little vs. John M Gurley ex^r of Wm A. Spark dec^d & in his own right pending in the Circuit Court of the County of Southampton has been published once a week for four successive weeks in the said newspaper, commencing on the 9th day of January 1858.

Ch'g of Publication $6.50—

A. Leonard

6.50

Tillis Exr

vs } Comm's Report.

Gurley &c

1857 July 31st Returned

The Estate of William A. Spark dec'd.

In account with John M. Gurley his Executor.

			Dr.		Cr		Interest
1848							
Sept'r	25	By Cash rec'd from Sale of Land			800	00	
Oct	4	To paid Tax account	4	68			
"	"	" " Clerk's Ticket	22	74			
"	"	" " Costs of Suit in Surry	24	18			
"	"	" " Jesse Drury auctioneer	7	00			
"	"	" " auctioneer for selling Land	5	00			
"	"	" " J. D. Mapenburg bond & Int.	3972	16			
Dec'r	23	By Cash rec'd from the United States Government			432	60	
"	"	To paid J. Y. Mason note & Int.	156	00			
"	"	" " Samuel D. Nicholson acct	12	00			
"	31	By hire of negroes due this day			203	00	
"	"	" Balance due the estate			2770	36	
			4205	96	4205	96	
"	"	To Balance brought down	2770	36			
Jan'y 1821	13	By cash rec'd this day			3	26	
"	"	" " " " " from sales of negroes			5684	00	
"	"	To Cash paid Benjamin Griffin Bond	66	14			
"	"	" " " G. H. Crump part Bond	1100	00			
Feb'y	19	" " " Ditto " "	340	00			
Aug't	22	By Amount Sales due sold November 22d 1848			555	52	
Sept'r	25	" Cash from Sale of Land			800	00	
"	"	To paid H. D. Moore appraiser	1	00			
"	"	" " Clerk's tickets	10	54			
"	"	" " Sheriff's tickets	12	00			
Dec'r	31	To Interest on $2770.36 three months	41	55			
"	"	" Balance due the estate	2701	19			
			7042	78	7042	78	
"	"	By Balance due brought down			2701	19	
April 1850	19	To paid James Magetta note which he paid as security for Wm A. Spark	270	67			
		Amounts carried forward	270	67	2701	19	

1850		Amounts brought forward	270	67	3701	19			
April	21	To paid Josiah Manny Med asst	4	00					
"	"	" " Sheriffs tickets	4	50					
July	16	By Sale of Negro Tom sold this day			200	00			
"	"	To paid Thomas R. Jenkins bond	1456	14					
Sept.	25	By cash rec'd from Sale of Land			800	00			
Nov	6	To paid Wm Mundy Constable costs	4	63					
"	"	" Commissions on $1000.00	50	00					
Dec	31	By interest on the balance of 1849.					162	07	
"	"	To balance due the estate	1911	25					
			3701	19	3701	19	162	07	
"	"	By balance brought down			1911	25	162	07	
1851 June	16	To paid Richard A Crump's decr'd.	490	00					
Aug	19	" " Ditto "	104	73					
"	"	" " Sheriff's tickets	2	50					
Sept.	16	" " Geo. W. Crump's bal. on bond	1136	16					
Dec	16	By Cash rec'd from Sale of lot in Jerusalem sold by Commissioner	3		362	00			
		To Commissions thereon	18	10					
"	31	By interest on $1911.25 eight months					76	43	
"	"	To balance due estate	321	76					
			2273	25	2273	25			
"	"	By balance brought down			321	76	238	32	
1854 Feby	15	" Cash rec'd of Albert Mabry on bond			1500	00			
"	"	To Commissions thereon	75	00					
Dec	31	By Interest on $321.76 to date					73	90	
"	"	" " " $1425.00 five months					35	63	
"	"	To balance due estate	1746	76					
			2021	76	2021	76			
"	"	By Balance brought down			1746	76	369	05	
1856		" Cash rec'd from Edward Diggs			250	00			
		To Commissions thereon	12	50					
Dec	31	By Interest on $1746.76 to date					233	60	
"	"	To balance due estate carried forward	2184	26			602	63	
			2196	76	2196	76			

1856									
Dec	31	By Amount brought forward					2184	26	602 63
1857 Nov	7	" Interest on $2184.26 to this day							111 75
"	"	" " brought in column of Principal							714 40
							714	40	
"	"	" Amount of principal and interest due the estate this day with interest on $2184.26 from this date till paid					2898	66	

Respectfully Submitted,

Henry S. Howard, Com.

(No 2) "A."

An Account showing the amount and character of the debts paid by said Gurley as such Executor of Wm A. Spark from & after the 16th June 1849, the day of issuing the writ in the suit of Richard Dawson assignee against said Gurley Executor as aforesaid.

1st Class = Charges of administration & Fiduciary Debts.

1849 Sept	25	To paid N. D. Moon appraiser	$ 1.00.
"	"	" " " " Clerks fees	10.31
"	"	" " " " Sheriffs fees	12.00
1850 April	19	" " Jos. Manny, Med. asst	4.00
Nov	6	" " Wm Mundy, Constable fees	4.63
1851 Jany	16	" " Richard A Crump, admr. &c of C. Rochelle, part under a decree of the Circuit Court, bring a Fiduciary Debt	490.00
Aug	19	" " Richard A Crump, admr. &c of C. Rochelle, balance under a decree of the Circuit Court bring a Fiduciary Debt	104.73
"	"	" " " " Sheriffs Fees	2.50
		Amount of 1st Class Debts carried forward	$ 629.40

Amount brought forward $629.40

2nd Class - Debts on Specialties

1849 Febry	19	To paid	George H. Crump part of Bond executed to him by John M. Gurley as agent of William A. Spark which was executed for a decree against Spark as Executor of C. Rochelle decd (See Copy of Certificate or Bond herewith filed)	340.00
1850 July	16	"	"	Thomas R Jenkins, Bond	145.6.14
1851 Sept.	16	"	"	George H. Crump balance of Bond executed to him by John M. Gurley as agent of William A. Spark which was executed for a decree against Spark as Executor of C. Rochelle decd (See Copy of Certificate or bond herewith filed)	113.6.16

Amount of 2nd Class Debts $2932.30

3rd Class - Debts on Open Accounts

1850 April	19	To paid	James Magee a Bond or Debt which he paid as security for William A. Spark.	270.67

Amount of 3rd Class Debts. 270 67

Total Amounts of Debts paid by John M Gurley as Executor of said William A. Spark decd since the 16th day of January 1849 the day of issuing the writ in the suit of Richard Durden assignee against said Gurley Executor as aforesaid. $3832.37

(No 4)

William A Spark

In account with John M. Gurley, agent

			Principal Amount paid		Principal & Interest at 6 per cent		Principal & Interest at 12 per cent	
1847 April	7	To Amt of note due Jno M. Gurley & Int. to Dec. 25th 1847	390	68	407	47	424	27
June	21	" paid Richmond Enquirer & " " " " "	3	00	3	13	3	30
July	30	" " J R Anderson note & " " " " "	402	79	412	32	422	26
Nov	9	" " Dick A Crump " & " " " " "	839	57	863	93	868	31
Dec	25	" Amount due agent this day	1658	04	1689	09	1720	17
"	"	By Amount rec'd from Sale of Negro Jack this day	436	00	436	00	436	00
"	"	To Balance due agent this day	1222	04	1253	09	1284	17
"	"	" paid Nancy James Bond & Int to 15th Jany 1849	27	62	28	34	31	07
"	"	" " Wm Bowers acct & " " " " "	43	79	48	68	37	58
1848 Jany	1	" " " H. V. Niemeyer " " " " " "	1	47	1	55	1	63
"	"	" " " H. M. Sebrell bond & " " " " "	40	76	43	26	43	76
"	"	" " " Elizabeth Johnson " " " " " "	67	00	71	22	75	45
"	"	" " " H. M. Sebrell acct " " " " "	31	27	33	23	33	17
"	"	" " " Wm Murfee acct " " " " "	2	00	2	06	2	12
"	"	" " " Sundry Small accts " " " " "	9	87	10	46	11	05
"	3	" " " Davis Barrett bond " " " " "	130	07	139	57	148	67
"	"	" " " Eliza Wiggins acct " " " " "	12	00	12	72	13	44
"	17	" " " Benja Griffin bond " " " " "	203	00	215	18	227	36
"	18	" " " Richard H Beaman " " " " "	2202	49	2348	78	2375	08
Feby	28	" " " Jas D. Massenburg Lawyer & " " " " "	153	61	161	79	169	97
"	"	" " " Job Holland due bill & " " " " "	4	88	5	42	5	37
Mar	20	" " " Richmond Enquirer & " " " " "	3	00	3	24	3	48
"	21	" " " John Moon acct & " " " " "	63	03	68	20	71	27
May	3	" " " H. M. Sebrell (Admr) acct & " " " " "	15	82	16	45	17	18
June	1	" " " Thomas Ridley bond & " " " " "	316	85	327	13	337	41
Aug	18	" " " Benja Griffin " " " " " "	33	62	34	45	35	29
1849 Jany	1	" " " Jesse D. Bachman acct " " " " "	69	11	69	28	69	45
"	"	" " " Clarke & Dobie " " " " " "	43	35	43	35	43	46
		Amounts carried forward	4642	35	4855	94	5077	43

1849			Amounts brought forward	4642	53	4858	94	5077	43		
Jany	1st	To paid Jesse S. Bacham acct Int. to 15th Jany 1849		23	27	23	32	23	38		
"	1st	" " James Maget " " " " " "		74	00	74	18	74	37		
"	15	" " Bishop & Urquhart acct		10	00	10	00	10	00		
"	"	To Interest on $1222.01 to this day				77	39	154	79		
"	"	To balance due the agent this day		4785	82	5043	83	5339	97		
		with interest on $4785.82 from this day									

The Commissioner reports that the following claims are included in the foregoing account which have been paid off by John M. Gurley since the death of Wm A. Spark, which took place the 1st June 1848. Viz:

1849											
Jany	1	To paid Jas. S. Backam acct Interest		69	11	69	28	69	45		
"	"	" " Clerk & Pope " " "		43	23	43	35	43	46		
"	"	" " Jesse S. Backam " " "		23	27	23	37	23	38		
"	"	" " James Maget " " "		74	00	74	18	74	37		
"	15	" " Bishop & Urquhart acct		10	00	10	00	10	00		
		Total Amount		219	63	220	13	220	66		
The Commissioner reports that if these claims are deducted from the foregoing account, the correct balance due agent will be				4566	19	4823	70	5719	31		
on the 15th day of Jany 1849.											
						Principal		Interest at 6 per cent		Interest at 12 per cent	
So. Interest on $4785.82 to 7th Nov. 1857				4785	82	5043	83	5339	97		
8 years 9 Months & 22 Days						2530	33	5060	70		
Total Amount				4785	82	7574	16	10400	67		
To Interest on $4566.19 to the 7th Nov 1857				4566	19	4823	70	5719	31		
8 years 9 Months & 22 Days						2414	57	4829	14		
Total Amount				4566	19	7238	27	9948	45		

The Commissioner is of opinion that the last is the correct balance due John M. Gurley as the agent of William A. Spark Nov. 7th 1857.

Respectfully Submitted,

Henry S. Howard Comr.

("B")

An Account shewing the amount and character of the debts paid by the said Gurley as such executor of Wm A. Spark from and after the 15th Jany 1849, the day of issuing the writ in the suit of Richard Darden & ses against said Gurley, Executor as aforesaid.

1st Class. Charges of administration & Fiduciary Debts.

1849				
Febry	19	To paid George A. Crump part of Bond executed to him by John M. Gurley as agent of William A. Spark which was executed for a debt against Spark as executor of C. Rochelle dec'd (See copy of Certificate & Bond herewith filed)		340.00
Septr.	25	" " Clerk's fees		10.54
"	"	" " H. D. Moore, appraiser		1.00
1850	"	" " Sheriff's fees		12.00
April	19	" " Josiah Thomas Marshall		4.00
Nov	6	" " Wm Minge Constable's fees		4.63
Jany	16	" " Richard A. Crump Admr. &c of C. Rochelle dec'd part under a decree of the Circuit Court being a Fiduciary Debt		490.00.
Aug	19	" " Richard A. Crump Admr. &c of C. Rochelle dec'd balance under a decree of the Circuit Court being a Fiduciary Debt		104.73
	"	" " Sheriff's Fees		2.30
Septr.	16	" " George A. Crump balance of Bond executed to him by John M. Gurley as agent of William A. Spark which was executed for a decree against Spark as executor of C. Rochelle dec'd (See Copy of Certificate & Bond herewith filed)		113.16
		Amount of Debts of 1st Class (Carried forward)		$2105.56

Amount brought forward $2105.56

2nd Class - Debts on Specialties.

1850 July	16	To paid Thomas R. Jenkins Bond.	$1456.14	
		Amount of 2nd Class Debts		$1456.14

3rd Class - Debts on Open Accounts.

1850 April	19	To paid James Magee a Bond or Debt which he paid as security for William A. Spark	270 67	
		Amount of 3rd Class Debts		$270.67
				$3832.37

Total Amount of Debts paid by John M. Gentry as Executor of said William A. Spark dec'd since the 16th Day of January 1849, the day of issuing the writ in the suit of Richard Darden, assignee against said Gentry Executor as aforesaid.

Respectfully Submitted

Henry S. Howard, Com.

(No. 3) (C)

An Account shewing the amount & character of Debts paid by said Executor on & after 4th May 1849, at which time there was a Judgment in said suit of Darden assignee.

1st Class - Charges of Administration and Fiduciary Debts

1849 Sept.	25	To paid H. D. Moon appraiser	1.00	
"	"	" " Clerk's fees	10.54	
"	"	" " Sheriff's fees	12.00	
1850 April	19	" " Josiah Many Med bill	4.00	
Nov.	6	" " Wm Magee Constable's fees	4.63	
1851 Jany	16	" " Richd A. Crump Com'r of C. Rochelle part under Decree of the Circuit Court, being a Fiduciary Debt	340.00	
		Amount Carried forward.		$522.17

Amount brought forward $522.17

1851 Aug	19	To paid Richard A. Crump Com'r of C. Rochelle balance under a decree of the Circuit Court being a Fiduciary Debt	107.73	
"	"	" " Sheriffs' fees	2.50	
		Amount of 1st Class Debts		$629.40

2nd Class - Debts on Specialties.

1850 July	16	To paid Thomas R. Jenkins bond	$1456.14	
1851 Sept.	16	" " George A. Crump balance of Bond executed to him by John M. Gentry as agent of William A. Spark which was executed for a decree against Spark as executor of C. Rochelle dec'd. (See Copy of Certificate in Bond herewith filed)	1136.16	
		Amount of 2nd Class Debts		$2592.30

3rd Class - Debts on Open Accounts

1850 April	19	To paid James Magee a Bond or Debt which he paid as security for William A. Spark	270.67	
		Amount of Third Class Debts		270.67
		Total Amount of Debts paid as per this account.		$3492.37

"D."

An Account shewing the amount and character of Debts paid said executor on & after the 4th May 1849, at which time there was a Judgment in said suit of Darden assignee.

1st Class - Charges of Administration & Fiduciary Debts

1849

1849					
Sept.	25	To paid	H. D. Moon appraiser	1.00	
"	"	"	" Clerk's fee	10.34	
"	"	"	" Sheriff's fee	12.00	
1850					
April	19	"	" Josiah Mauny 3rd Dft. Cost	4.00	
Nov.	1	"	" Wm. Mingee, Constable's fees	4.63	
1851					
Jany	16	"	" Richard A. Crump Adm. &c of C. Rochelle		
			part under a decree of the Circuit Court,		
			bring a Fiduciary Debt	490.00	
Aug	19	"	" Richard A. Crump Admr &c of C. Rochelle		
			part under a decree of the Circuit Court		
			bring a Fiduciary Debt.	104.73	
"	"	"	" Sheriff's Fees	2.50	
Sept.	16	"	" George A. Crump, balance of Bond executed		
			to him by John M. Gurley as agent of		
			William A. Spark, which was		
			executed for a decree against Spark		
			as executor of C. Rochelle dec'd.		
			(See Copy of Certificate & Bond		
			herewith filed)	113.16	
			Amount of 1st Class Debts		1765.56
			2nd Class - Debts on Specialties		
1850					
July	16	To paid	Thomas R. Jenkins, bond.	1456.14	
			Amount of 2nd Class Debts		1456.14
			3rd Class - Debts on Open Accounts		
1850					
April	19	To paid	James Magee a Bond or Debt		
			which he paid as security for		
			Wm. A. Spark	270.67	
			Amount of 3rd Class Debts		270.67
			Total amount of Debts paid as per this account.		3472.37

Respectfully Submitted

Henry S. Steward, Comm.

Commissioners Office
Jerusalem, July 27th. 1857.

Abram Riddick Executor of Thomas D. Little dec'd Plaintiff
against
John M. Gurley as Executor of Dr. William A Spark dec'd and in his own right Defendant

In Chancery.

To the Circuit Court of Southampton County:

Pursuant to an order of the Circuit Court of Southampton County rendered at the May Term 1857, in a suit in chancery depending in the said Court between Abram Riddick Executor of Thomas D. Little dec'd plaintiff and John M. Gurley as Executor of William A Spark dec'd and in his own right defendant, the undersigned one of the Commissioners of the said Court to whom was referred for settlement by said order; "1st An account of the transactions of John M Gurley as executor of Wm. A Spark dec'd. taking the account filed with the Bill as prima facie correct subject to be surcharged, and falsified. 2nd An account showing the amount and character of the Debts paid by said John M Gurley as such executor from and after the 16th day of Jany 1849, the day of issuing the writ in the suit of Richard Darden assignee against the said Gurley as exr. aforesaid. 3rd An account showing the amount and character of Debts paid by said executor on and after the 4th day of May 1849 at which time there was a judgment in said suit of Darden assignee. 4th An account of the transactions of John M. Gurley as agent of Wm. A. Spark under the powers of Attorney from Spark to Gurley filed in the cause taking the accounts filed herein as correct subject to be surcharged and falsified," reports to the Court that in the 25th day of June 1857, he issued notices against the several parties aforesaid requiring them to attend the settlement of the said accounts before him, at his said Office, on the 21st day of July 1857 which were returned to your Commissioner duly executed. That the parties aforesaid appeared before the Commissioner by Counsel & the said Gurley also in person in obedience to the said notices and he thereupon examined the Vouchers, settled and stated the foregoing account marked "No 1" of the said John M. Gurley's transactions as executor of the said Wm. A. Spark

dec'd up to the 7th day of November 1847, and on that day finds a balance due the said estate from the executor aforesaid of $28.78.66 of which $14.40 is interest, - And he also made up the foregoing account "No 2" marked "A" & "B". in two ways, shewing the amount and character of the Debts paid by said Gurley as such executor from and after the 1th day of Janry 1849, the day of issuing the writ in the suit of Davison assignee against the said Gurley as Extr. aforesaid. In the account marked "A." the Commissioner has placed two Debts paid by the Executor to George H. Crump, the one for $310.00 Debts paid by the Executor to George H. Crump, the one for $310.00 and the other for $1136.16 in the 2nd Class of Debts as Debts on Specialties, and in the account marked "B." he has placed them in the 1st Class of Debts - as Fiduciary Debts, without deciding to which Class they belong. He also made up the foregoing account marked "No 3" in two ways "C" & "D." shewing the amount of Debts and their character paid by said executor on and after the 11th day of May 1849, at which time there was a judgment in said suit of Davison assignee. In the account marked "C" the Commissioner has placed a Debt paid by the executor to George H. Crump for $1136.16 in the 2nd Class of Debts as a Debt on a specialty and in the account marked "D." he has placed it in the 1st Class of Debts, as a Fiduciary Debt. He also made up the foregoing account marked "No: 4" of the transactions of John M. Gurley as agent of William A. Spark under the powers of attorney from Spark to Gurley. The Commissioner further reports to the Court that after the completion of the said accounts, without retaining them in his office five days for the examination of the parties, at the instance of the parties aforesaid, he immediately returns the same with the deeds and notices aforesaid to the Court.

Given under my hand as Commissioner in Chancery of the said Court, the day and year first aforesaid.

Henry S. Howard, Comr.

Commissioners fee for this account $25.00
" " 2 copies of 3 $12.40
" same $6.20 each
Double postage on 1 copy 1c $ .24
Charged to Abram Riddick Exr. $37.64

Certificate or Bond referred to in Accounts Nos. 2 & 3 marked "A". "B". "C" & "D".

$2273.37

I hereby certify that on the 20th day of September 1847, I executed a note as the agent of William A. Spark to George H. Crump for the sum of twenty two hundred and seventy three Dollars 37 cents in consideration of said Crump's proportion of a Judgment obtained agt Spark as executor of C. Rockelle after deducting said Spark's effects to which bond I bound myself as security to said Spark, said bond has been lost by said Crump, this Certificate is therefore executed to said Crump in consideration of said lost bond to which I acknowledge myself bound as said Spark's security as originally. Witness my hand & Seal this 1st day of June 1848.

Test
W. A. Mapsonbaird.

Jno. M. Gurley (Seal)
agent for Wm. A. Spark

Janry 15th 1849. Recd. of Jno. M. Gurley, Extr. of Wm. A. Spark dec'd the sum of Eleven hundred Dollars in part of the within obligation
Geo. H. Crump

Feby 19. 1849. Recd three hundred and forty Dollars in part of the within Note
Geo. H. Crump.

Sept. 16. 1851. This Bond is discharged by Jno M Gurley.
R. H. Whitfield
Atty for Crump"

A Copy, Test,
Henry S. Howard, Comr.

Lillis Executor

vs 3d Comm's Report

Sparks Executors &c.

1858 March 31st.

Abram Riddick, Executor of Thomas R. Little dec'd plaintiff

against

John W. Gurley, Executor of William A. Spark) dec'd
and in his own right.

1st The Account Showing the balance due the plaintiffs estate of the said $2368.20 and interest and costs after deducting the said sum of $1231.85 aforesaid and interest and cost.

Amount due the plaintiff 29th Nov. 1816		$2368.20
Interest thereon to May 3rd 1838		1629.78
Total Amount due May 3rd 1838.		$3997.98
Offset due 29th August 1818.	$1231.85	
Interest thereon to May 2nd 1838.	726.63	
Total Amount due May 2d 1838	$1958.48	$1958.48
Balance due plaintiff's estate May 2d 1838.		$2039.50

Respectfully Submitted

Henry D. Howard, Com.

2nd The Account of the proceeds of the real estate sold by said Gurley as executor of Wm A. Spark and the amount to which the several debts due by said Spark paid by said Gurley either as agent or executor and also the balance due to the plaintiffs estate are severally stated.

The Account of the proceeds of the real estate sold by said Gurley as executor of Wm A. Spark.

1818			Dr.	Cr.	Int.
Sept.	25	By Cash from sale of land		800 00	
1819 Sept.	25	" Interest thereon to date			48 00
"	"	" balance due	800 00		
			800 00	800 00	48 00
"	"	By balance brought down		800 00	48 00
		Carried Over.			

1817											
Sept.	25	" Amounts brought forward			800	00	48	00			
"	"	By Cash from Sale of land			800	00					
1850											
Sept.	25	To balance due	1600	00							
			1600	00	1600	00	48	00			
"	"	By balance brought down			1600	00	48	00			
"	"	" Interest thereon to date					96	00			
"	"	" Cash from Sale of land			800	00					
"	"	To Commissions on $800.00	40	00							
"	"	" balance due	2360	00							
			2400	00	2400	00	144	00			
"	"	By balance brought down			2360	00	144	00			
1838											
May	2	" Interest on $2360.00 to date					1076	16			
"	"	To balance due	2360	00							
			2360	00	2360	00	1220	16			
"	"	By balance brought down			2360	00	1220	16			
"	"	" Interest " "			122	016					
"	"	" Total Amount of proceeds of real estate due this day inclusive of Interest			3580	16					

Respectfully Submitted

Henry S. Noxard, Com.

William C. Spark

In Account with John H. Gurley, Agent

		Principal Amount paid	Principal & Interest at 6 per cent	Principal & Interest at 12 per cent
1817				
April 7	To Jno. H. Gurley note & Int to Dec 25/17	3906 8	107 17	4314 27
June 21	" paid Richmond Enquirer acct	5 00	5 15	5 30
July 30	" " J. R. Anderson note	4079	4132	4226
Nov 9	" " Richard C. Crump's bond	8393	8639	8834
Dec 25	" Amount due agent this day	16580 7	16870	17201 7
"	" By cash rec'd from sale of Hen. Park this day	1360 00	1360 00	1360 00
"	" To balance due agent this day	12220 7	12530 7	12841 7

Carried Over.

1817											
Dec	25	" Amount brought forward					12220	04	12330	07	12841	17
"	"	To said Henry & James Bond & Int. to 15th Jany 1819					27	62	28	34	31	07
"	"	" " " Brown acct					1379		48	68	51	38
1818												
Jany	1	" " " C. V. Niemeyer "					147		1	55	1	63
"	"	" " " N. M. Sebrell bond & "					4076		43	26	45	76
"	"	" " " Elizabeth Johnson "					67	00	71	25	75	45
"	"	" " " N. M. Sebrell dft "					31	27	33	22	35	17
"	"	" " " Mrs. Thrift acct "					2	00	2	56	2	12
"	"	" " " Sundry Small accts "					9	87	10	46	11	05
"	3	" " Davis Bassett bond "					1500	7	159	37	168	67
"	"	" " Elija Higgins acct "					12	00	12	72	13	44
"	17	" " Benj. Griffin bond "					2030	0	2151	8	2273	6
"	18	" " Richard H. Beaman "					2122	49	2248	78	2375	08
Feby	22	" " Jas D. Maupin Taxes & "					153	61	161	77	169	97
"	"	" " Job Holland due bill &					4	88	5	12	5	37
Mar	20	" " Richmond Enquirer &					5	00	5	24	5	48
"	21	" " John Moore acct &					650	3	682	0	711	7
May	3	" " N. M. Sebrell's adm. "					15	82	16	45	17	18
June	1	" " Thomas Risley bond &					3168	5	3321	3	3314	1
May	18	" " Benj. Griffin "					3362		3445		3529	
1819												
Jany	1	" " Jesse S. Barham acct "					6911		6928		6945	
"	"	" " Clarke & Dove "					4325		4333		4346	
"	"	" " Jesse S. Barham "					2327		2337		2338	
"	"	" " James Hazel "					7400		7418		7437	
"	15	" " Bishop's & Negro hire					1000		1060		1000	
"	"	" Interest on $12220.04 to this day							773	7	1547	7
"	"	To balance due the agent this day					47858	7	50433	3	53377	7

with interest on $17858.7 from this day

The Commissioner reports that the following claims are included in the foregoing account which have been paid off by John H. Gurley since the death of William C. Spark which took place the 6th June 1818 — Viz:

1819											
Jany	1	To paid Jesse S. Barbour acct & Int			69	11	69	28	69	40
"	"	" " Clarke & Rose " " "			43	28	43	35	43	46
"	"	" " Jesse S. Barbour " " "			23	27	23	32	23	38
"	"	" " James Bagett " " "			74	00	74	18	74	37
"	15	" " Bishop & Urquhart "			10	00	10	00	10	00
		Total Amount			219	63	220	13	220	66
The Commissioner reports that if these claims are deducted from the foregoing account, the correct balance due agent will be on the 15th Jany 1819					45	66	19	48	23	70	31	19	31
To Interest on $1788.82 to 3rd May 1858. 9 years 3 months 17 days					1788	82	3043	83	3833	97
							2667	69	5333	38
		Total Amount			1785	82	7713	52	10679	35
To Interest on	$	1366.19 to 2nd May			1366	19	4823	70	31	19	31
1858 9 years 3 months 17 Days							2547	17	50	94	34
		Total Amount			1366	19	7370	87	10213	63

The Commissioner is of opinion that the last is the correct balance due John B. Gurley as the agent of William A. Spark May 2nd 1858.

The Amount paid by said Gurley as executor of William A. Spark dec'd. due by said Spark

			Principal amount paid		Principal & Int. to May 2d 1858.	
1848						
Octo	14	To paid Jay account	41	68	7	29
"	"	" " Clarks ticket	22	94	36	13
"	"	" " Costs of suit in Lassey	22	18	34	93
"	"	" " Jesse Dreany Auctioneer	9	00	11	17
"	"	" " Auctioneer for selling Land	5	00	7	87
"	"	" " J.D. Mayenberg bond & Int.	3972	16	6256	15
		Amount Carried forward	4035	96	6356	54

1848		Amount brought forward	4035	96	6356	54
Dec	23	To paid John B. Gurley Note & Int	156	00	244	67
"	"	" " Samuel D. Nicholson acct	20	00	31	23
1849 Jany	13	" " " Benjamin Griffin bond	66	14	103	07
"	"	" " G.H. Crump part bond	1100	00	1713	25
July	19	" " " Ditto " "	340	00	527	85
Sept	25	" " " W.D. Moore appraiser	1	00	1	32
"	"	" " " Clerks tickets	10	37½	15	98
"	"	" " " Sheriffs "	12	00	18	19
1850 April	19	" " " James Bagett and which he paid as security for Spark	270	67	401	24
"	21	" " Josiah Mimms Med acct	4	00	5	93
"	"	" " " Sheriffs tickets	4	50	6	67
July	16	" " " Thomas R. Jenkins bond	1436	14	2129	60
Nov	6	" " " Co. Marshal Constable costs	4	63	6	70
1851 June	16	" " " Richard A. Crump Decree	470	00	692	12
Aug	19	" " " Ditto "	101	73	146	88
"	"	" " " Sheriffs tickets	2	50	3	57
Sept	16	" " " George A. Crump bal on bond	1136	16	1592	03
		Total Amount due by Spark and paid by Gurley as exctr.	9208	97	13996	87

1st

The Amount to which the several Debts paid by Gurley as agent of Spark are entitled of the proceeds of the real estate before Deducting the several claims paid by Gurley since the death of Spark at 6 per cent on the same to May 2d 1858 — $ 1163.97

The Amount to which the Debts paid by Gurley as executor are entitled of the proceeds of the real estate May 2d 1858 under 1st Statement — $ 2112.31

The Amount to which the plaintiffs balance of Debt is entitled of the proceeds of the real estate May

2nd 1838 under 1st Statement. $303.98

$3380.16

2nd

The Amount to which the several Debts paid by Gurley as agent of Spark are entitled of the proceeds of the real estate before deducting the several claims paid by Gurley since the death of Spark at 12 per cent Interest on the same to May 2d 1838. $1432.48

The Amount to which the several Debts paid by Gurley as Executor are entitled of the proceeds of the real estate May 2d 1838 under 2d Statement $1577.47

The Amount to which the plaintiff's balance of Debt is entitled of the proceeds of the real estate May 2d 1838 under this the 2d Statement — $270.21

$3550.16

3rd.

The Amount to which the several Debts paid by Gurley as agent of Spark are entitled of the proceeds of the real estate after deducting the several claims paid by Gurley since the death of Spark at 6 per cent Interest on the same to May 2d 1838 $1178.59

The Amount to which the several Debts paid by Gurley as executor are entitled of the proceeds of the real estate May 2nd 1838 under this the 3rd Statement. $2143.33

The Amount to which the plaintiffs balance of Debt is entitled of the proceeds of the real estate, May 2nd 1838, under this the 3d Statement $308.52

$3550.16

4th

The Amount to which the several Debts paid by Gurley as agent of Spark are entitled of the proceeds of the real estate after deducting the several claims paid by Gurley since the death of Spark (am) at 12 per cent on the same to May 2nd 1838. $1374.38

The Amounts to which the several Debts paid by Gurley as executor are entitled of the proceeds of the real estate May 2d 1838 under this the 4th Statement $1910.80

The Amount to which the plaintiffs balance of Debt is entitled of the proceeds of the real estate, May 2nd 1838, under this the 4th Statement. $264.98

$3550.16

The Commissioner is of opinion that the Statements 3 & 4 will show the correct apportionment. — Statement 3 if the agent be allowed only 6 per cent Interest on the amounts paid by him for Spark is the correct apportionment. and Statement 4. if he be allowed 12 per cent on the same.

Respectfully Submitted

Henry S. Howard,

3rd A Statement shewing the Amount and character of the Several Debts paid by Gurley as Agent for said Spark and as executor of said Spark.

1st The Amount and character of the several debts paid by Gurley as agent for said Spark.

1st Taxes &c

1848				
Feby	22	To paid J. D. Shaffenburg Sheriff Taxes		$153.61

2nd on Specialties

1847				
Nov.	9	To paid Richard A. Crump bond		$859.57
Dec	25	" " Nancy James "		27.62
Jany 1848	1	" " R. H. Isbell "		10.76
"	"	" " Ditto assignee "		31.27
"	"	" " Elizabeth Johnson "		67.00
"	3	" " Davis Bassett "		150.07
"	17	" " Benj" Griffin "		203.00
"	18	" " Richard A. Beaman "		1122.19
"	1	" " Thomas Ridley "		316.83
June				33.62
Sany	18	" " Benjamin Griffin		
		Total Amount paid on Specialties		$3852.25

3d On promissory Notes

1847				
April	7	To Amount of note due John H. Gurley		$370.68
July	30	" paid J. R. Anderson & not.		102.79
1848				
Feby	22	" " Job. Holland "		14.88
		Total Amt paid on promissory Notes		$718.35
		Amount Carried forward		$4504.21

Amount brought forward $4504.21

4th On Open Accounts

1847				
June	21	To paid Richmond Enquirer acct		$ 5.00
Dec	25	" " Wm Bowers "		45.79
1848				
Jany	1	" " N. B. Niemeyer "		1.47
"	"	" " Wm Murfee "		2.00
"	"	" " Sundry Small accounts		7.87
"	3	" " Eliza McGiggins acct		12.00
Mar	20	" " Richmond Enquirer "		5.00
"	21	" " John Moore "		63.03
May	3	" " R. M. Sebells Admr. "		13.82
1849				
Jany	1	" " Jesse S. Barham "		69.11
"	"	" " Clark & Pope "		43.23
"	"	" " Jesse S. Barham "		23.27
"	"	" " James Magee "		74.00
"	15	" " Bishop & Urquhart "		10.00
		Total Amount paid on Open Accounts		$381.61
		Total Amount paid by Gurley as agent,		$5185.82

(A.)

2nd The Amount and Character of the Several Debts paid by Gurley as Executor of Spark.

1st Charges of Administration &c Taxes

1848				
Octo	21	To paid Tax account		$ 21.68
"	"	" " Clerk's Tickets		22.91
"	"	" " Costs of Suit in Surrey		24.18
"	"	" " Jesse Downey Auctioneer		9.00
"	"	" " Do "		5.00
Dec	23	" " Samuel P. Nicholson Med. Attendance to Negroes 3		12.00
		Amount Carried forward		$77.80

1848				
Dec. 23		Amount brought forward		$77.80
1849				
Sept. 25		To paid H. D. Moore appraiser		1.00
" "	"	" Clerk's tickets		10.31
" "	"	" Sheriff's tickets		12.00
1850				
April 21	"	" Josiah Mauny Mod. acct		11.00
" "	"	" Sheriffs tickets		11.50
Nov. 6	"	" Wm Menefee Constable costs		11.63
1851				
Aug 19	"	" Sheriff's tickets		2.50
				$116.97
		Total amount of Charges of Administration &c		$ 116.97

2nd Fiduciary Debts.

1849				
Jany 15		To paid George N. Crump's part of bond executed to him by John M. Gurley as agent of Wm A. Spark which was expended for a decree against Spark as executor of C. Rochelle dec'd. (See Copy of Certificate & bond herewith filed)		$1100.00
Feb 19	"	" Same - Same &c.		340.00
1850				
June 16	"	" Richard A. Crump's admr. &c of C. Rochelle, part under a decree of the Circuit Court being a credit on any Debt		190.00
Aug 19	"	" Same balance under said Decree &c.		104.73
Sept. 16	"	" Geo. N. Crump's bal. Bond executed to him by John M. Gurley as agent of Wm A. Spark which was executed for a decree against Spark as executor of C. Rochelle dec'd. (See Copy of Certificate of bond herewith filed.		113.16
		Total Amount of Fiduciary Debts paid		$3170.89
		Amount Carried forward		$3287.86

		Amount brought forward		$3287.86

3rd Debts on Specialties.

1848				
Octo 1		To paid J. D. Shapenberg bond & Int		$377.16
1849				
Jany 15	"	" Benjamin Giffen " "		66.14
1850				
Jany 16	"	" Thomas R. Jenkins " "		1456.14
		Total Amount of Specialty Debts paid		$3471.44

4th Debts on Promissory Notes

1845				
Dec 23		To paid J. G. Mason note &c		$156.00
		Total Amount of Debts on promissory notes		$156.00

5th. Debts on Open Accounts

1850				
April 19		To paid James Mayo a bond debt which he paid as security for William A. Spark		$270.67
		Total Amount of debts on open accounts		$270.67
		Total Amount of debts paid by John M. Gurley as executor of William A. Spark dec'd.		$208.97

Respectfully Submitted
Henry S. Howard, Com.

(B.)

2nd The Amount and Character of the several Debts paid by Gurley, as executor of Spark).

1st Charges of Administration & Taxes &c.

1848				
Octo 1		To paid Tax Account		$1.68
		Carried forward.		

1848		Amount brought forward		$ 41.65
Octo 4	To paid	Clerk's tickets		22.94
" "	"	Costs of suit in Sussex		21.18
" "	"	Jesse Dewey Auctioneer		7.00
" "	"	Do "		5.00
Dec 23	"	Samuel P. Nicholson Bro't Attendance to negros		12.00
1849 Sept 25	"	A. D. Moore appraiser		1.00
" "	"	Clerk's tickets		10.84
" "	"	Sheriff's "		12.00
1850 April 21	"	Josiah Penny Bro't out.		1.00
" "	"	Sheriff's tickets		1.50
Nov. 6	"	Wm Morfee Const. Costs		1.63
1851 May 19	"	Sheriff's tickets		2.50
		Total Amount of Administration Charges		$ 116.97

2nd Fiduciary Debts

1851 Jany 16	To paid	Richard A. Crump adm. &c of C. Rochelle part under a decree of the Circuit Court being a fiduciary Debt		$ 119.00
May 19	"	Ditto balance under said Decree &c		$ 101.73
		Total Amount of Fiduciary Debts		$ 394.73

3rd Debts on Specialties

1848 Octo 4	To paid	J. D. Mayenburg bond & Int	$ 372.16	
1849 Jany 16	"	Benjamin Griffin " "	16.14	
		Amounts carried forward.	$ 1038.30	$ 711.70

1849		Amounts brought forward	$ 1038.30	$ 711.70
Jany 16	To paid	Geo. A. Crump part of fund executed to him by John M. Gurley as agent of Wm A. Spark which was executed for a decree against Spark as executor of C. Rochelle dec'd. (See Copy of Certificate in bond herewith filed)	$ 1100.00	
Feby 19	"	Ditto Same &c &c	340.00	
1850 July 16	"	Thomas R. Jenkins, bond &c.	1136.14	
1851 Sept 16	"	George A. Crump balance bond executed to him by John M. Gurley as agent of Wm A. Spark which was executed for a decree against Spark as executor of C. Rochelle dec'd. (See Copy of Certificate in bond herewith filed)	$ 1136.16	
		Total Amount of Specialty Debts paid		$ 8070.60

4th Debts on Promissory Notes

1848 Dec 23	To paid	J. J. Mason Note &c	$ 136.00	
		Total Amount on promissory notes paid.		$ 136.00

5th Debts on Open Accounts.

1850 April 19	To paid	James Mazet bond on Debt which he paid as security for Wm A. Spark	$ 270.67	
		Total Amount of Debts on open accounts paid		$ 270.67
		Total amt of Debts paid by John M. Gurley as exr of Spark.		$ 7208.97

Respectfully Submitted
Henry S. Howard Com.

4th A Statement shewing the character of the debt due by Wm. A. Spark to the plaintiffs testator.

It is a debt due by bond dated the 27th day of November 1846 signed by Wm A Spark and Thomas S. Lillie payable to L. W. Bishop two years after date with interest thereon from date - and assigned by H.S. Smith, admr. of said L.W. Bishop to Richard Dudley suit commenced in same in Circuit Court of Southampton County on 16th day of Jany 1849, and Judgment in the same the 21st day of May 1849, for $236.20 with legal interest thereon from the 27th day of November 1846, till paid and costs $6.33.

Respectfully submitted
Henry S. Howard Comm.

5th An account of all assets, other than assets from real estate received by said Guley as executor of Wm. A. Spark dec'd.

1848				
Dec	23	By cash rec'd from United States Government	432	60
1849				
Jany	16	" " " this day	3	26
"	"	" " " " " from Sale of Negroes	568	00
Aug	22	" " from Account of Sales	533	32
1850				
July	16	" " " Sale of Negro Boys	200	00
1851				
Dec	16	" " " " " Lot in Jerusalem sold by Commissioner under Decree	362	00
1854				
Feby	15	" " " Albert Mabry on bond	1500	00
1856		" " " Edward Diggs	250	00
		Total Amount	$ 3787	38

Respectfully submitted
Henry S. Howard, Comm.

The Commissioner states specially at the instance of the Counsel for the plaintiff, That Wm A Spark during his life, towit: on the 27th day of November 1846 executed a deed of Trust to Littleton R. Edwards on his real estate to secure a debt of fourteen hundred & ninety two dollars and eleven cents due to Alfred Ricks as guardian of John & Mary Dudley, which Debt or the greater part of it was still due at the death of the said Spark and his real estate being found for it, the Executor had to pay the said Debt due Ricks or James D. Mapsenburg as assignee of Ricks before he could dispose of the real estate. And the Debt due Mapsenburg assignee &c being more than the amount for which the real estate sold, (for which the real estate was bound) if the proceeds of the real estate be left out of the Executorial account altogether and an equal amount, that is to say: $2400.- (the amount for which the real estate was sold) of the Debt due Mapsenburg assignee &c be also deducted or left out of the said Executorial account, the account will stand precisely as the Executorial account heretofore reported by your Commissioner. That is, there would be $2858.66 principal & interest due the estate by the executor on the 27th day of November 1857, with interest on $2154.26 from that day till paid

Respectfully Submitted
Henry S. Howard,
Commissioner

Commissioners Office
Jerusalem March 27th 1858.

To the Circuit Court of Southampton County:

Pursuant to an order of the said Court, rendered the 11th day of November 1857, in a suit in Chancery depending in the

said Court between Abram Riddick Executor of Thomas P. Little dec'd plaintiff and John M. Gurley executor of William A. Spark dec'd and in his own right defendant, the undersigned, one of the Commissioners in Chancery of the said Court, reports to the Court that on the 6th day of January 1838. he issued notices which were published for four successive weeks in the Southern Argus a paper published in the City of Norfolk of the time and place of the taking of the several accounts required to be taken by the said decree or order. And in pursuance of the said Notices your Commissioner Stated & settled and made up the foregoing accounts as required by said ordendecree. The Commissioner further reports that after the Completion of the said accounts he retained them in his office ten days for the examination of the parties, which with the Decree and notices he respectfully reports and returns to Court.

Given under my hand as Commissioner in Chancery of the said Court, the day and year first aforesaid.

Henry S. Howard, Com.

Commissioners fee $30.00
Publishing charge $6.50

Certificate Bond refered to in Accounts of character of Debts paid by Gurley as Executor of Spark.

"$22 33/100 I hereby certify that on the 20th day of September 1837, I executed a note as the agent of William A. Spark to George H. Crump for the sum of three hundred and seventy three dollars 33 cents in consideration of said Crump's prosecution of a judgment obtained agt Spark as executor of C. Rochelle after deducting said Spark's effects to which end I bound myself as security to said Spark, said bond has been lost by said Crump, This Certificate is therefore granted to said Crump in consideration of said lost bond to which I acknowledge myself bound as said Spark's security originally Witness my hand & seal, this 1st day of June 1838

Teste.
W. A. Mapsenburg

Jno. M. Gurley (Seal)
agent of Wm A. Spark"

Jany 15th 1839. Recd of Jno. M. Gurley Exr. of Wm. A. Spark dec'd the sum of Eleven hundred Dollars in part of the within obligation.

Geo. H. Crump.

Feby 19. 1839 Recd three hundred and forty Dollars in part of the within note

Geo. H. Crump.

Sept. 16. 1837. This bond is discharged by Jno. M. Gurley

R. H. Whitfield
Atty for Crump."

A Copy, Teste,
Henry S. Howard, Com.

The Commissioner has reported the Account of the amount and character of the Debts paid by Gurley as executor of Spark in Two ways. as will appear by reference thereto - In the 1st Account reporting the Debt paid to Geo. H. Crump as a pending Debt. and in the 2nd as a Specialty Debt. The Commissioner also reports that no other outstanding Debts were presented & proved before him against the estate of the said Spark.

Given under my Hand, as Commissioner in Chancery of the Circuit Court of Southampton County this day of March 1838.

Henry S. Howard, Com.

Letter 64

v. 3 Stat.

Garley

Amount Decree

Int from 2d May 1858 till 21 Feby 1859 // 201.50

98.95

Pffs Costs. 112.26

2230.71

Damages & Costs C. from 21st Feby 1859 till 23d Dec. 1861. // 379.95

Costs C. Appeals. // 68.34

C. C. 96

// 69.36

Error 88

Darden &c.

&c. } Copy Recd

Sparks Expr

(A. 1

9 l. st.

Pleas before the Judge of the Circuit Superior Court of Law and Chancery for the County of Southampton at the Courthouse of the said County on the fourth day of May in the year one thousand eight hundred and forty nine.

Be it remembered, that heretofore to wit on the Sixteenth day of January in the year aforesaid came Richard Darden Surv. assignee of L.W. Bishop by his attorney and sued out of the Clerks Office of the said Court a Writ of Capias ad respondendum against John M Gurley executor of William A Spark dec'd which writ with the endorsement and return thereon made is in the words and figures following -

"The Commonwealth of Virginia. To the Sheriff of Southampton County Greeting - We command you that you take Jno. M Gurley executor of William A Spark dec'd if he be found within your bailiwick and him safely keep So that you have his body at the Clerks Office of our Circuit Superior Court of Law and Chancery for said County, at Rules to be holden for said Court on the first Monday in February next to answer Richard Darden Surv. assignee of L.W. Bishop of a plea of Debt for twenty three hundred and sixty eight Dollars - Damage twenty Dollars - And have then there this Writ. Witness Littleton R Edwards Clerk of our said Court at the Courthouse the 16th day of January 1849 in the 73d year of the Commonwealth.

L.R. Edwards Clk"

Endorsement "Debt action of Debt to recover money due by Specialty on which Wm. A Spark & Thos. P. Little were co-obligors - No bail required. Kindred pg".

Return - "Executed. Wm. W. Bromgoole Deputy of J. Darden Shff".

And at another day to wit. At Rules held in the Clerks Office of the same Court on the first Monday in February 1849 came the plaintiff by his attorney and filed his declaration against the Defendant in the following words to wit -

"Circuit Superior Court of Law and Chancery for Southampton County to wit. Richard Darden Surv. assignee of B. T. Smith Administrator of L. W. Bishop alias Lewis L. Bishop, complains of Jno. M Gurley executor of the last Will and Testament of William A. Spark deceased being in custody &c. of a plea that he render to the said plaintiff the sum of Two thousand three hundred and sixty eight dollars and twenty cents with legal interest thereon from the twenty seventh day of November one thousand eight hundred and forty six, which from the said plaintiff he unjustly detains. For this, to wit, that heretofore, to wit on the twenty seventh day of November in the year one thousand eight hundred and forty-six at the County of Southampton, the said Wm. A Spark, together with

one Thos. P. Dillke who is not sued in this suit.) in his lifetime by his certain writing obligatory sealed with his seal and to the Court now here shown, the date whereof is the day and year last aforesaid, promised to pay or caused to be paid to the said L.W. Bishop, or his assigns, two years after the date thereof, the just sum of $2368.20 cents with interest from the twenty seventh day of November one thousand eight hundred and forty six as aforesaid - And the said plaintiff saith that after the making of the said writing obligatory, to wit. on the nineteenth day of April in the year one thousand eight hundred and forty seven at the said County of Southampton, the said H. T. Smith as administrator of the said L.W. Bishop made an endorsement on the said writing obligatory and subscribed his name thereto, and thereby the said H.T. Smith assigned the said writing obligatory to the said Richard Darden for value received, whereof the said Jno. M Gurley then and there had notice - And the said plaintiff avers that the said Testator in his lifetime, although often requested, did not pay the said Sum of $2386.20 cents with lawful interest as aforesaid or any part thereof and that the said Defendant although thereunto often requested hath not since the death of the said Testator, paid the said Sum or any part thereof either to the said L.W. Bishop or H.T. Smith before notice of the assignment of the said writing obligatory or to the plaintiff since the said assignment to him of the said writing obligatory, but the same to pay hath hitherto wholly refused and still doth refuse to the damage of the said plaintiff $20.00. and therefore he brings his Suit. Knibb'd p.q."

Whereupon the defendant being arrested and not appearing on the motion of the plaintiff by his attorney it was ordered that judgment be entered for the plaintiff against the Defendant for the debt and interest in the declaration mentioned and costs, to be levied of the goods and chattels of the deceased in the hands of the defendant to be administered, unless the said defendant shall appear at the next Rules and answer the plaintiffs action - At which day, to wit, At Rules held in the ... Office of the said Court on the first Monday in March 1849 the defendant still failing to appear on the motion of the plaintiff by his attorney, it was ordered that the last order made against him in this cause be confirmed.

And now at this day, to wit. At a Circuit Superior Court of Law and Chancery held for the County aforesaid at the Courthouse thereof on the same day and year first herein mentioned to wit. on the fourth day of May in the year aforesaid. The judgment obtained at the Rules not having been set aside and the plaintiff being now entitled to a final judgment it is therefore considered that the plaintiff recover against the Defendant two thousand three hundred and sixty eight dollars and twenty cents with interest thereon from the 27th day of November 1846 till paid, the debt and interest in the declaration mentioned and his costs by him about his suit in this behalf expended. To be levied of the goods and chattels of the deceased in the hands of the Defendant to be administered - and the said Defendant in Mercy &c.

Plaintiffs Costs $6.55 cents.

The following is a copy of the writing obligatory and endorsement thereon, on which this action was founded.

"Two years after date with interest from date I promise and bind myself my heirs, exctrs &c to pay to L.W. Bishop for value rec'd the just and full Sum of two thousand three hundred and Sixty eight 20/100 Dollars - As witness my hand and Seal this 27th day of Nov: 1846.

Wm A. Spark (Seal)
Thos P. Dillke (Seal)"

Endorsement. "I assign the payment of this bond to Richard Darden as to myself and also as Admr. of Lewis L Bishop dec'd. H.T. Smith."

The Execution which issued in this case together with the return made thereon is in the words and figures following to wit.

"The Commonwealth of Virginia: To the Sheriff of Southampton County - Greeting - We command you that of the goods and chattels of William A Spark dec'd in the hands of John M Gurley his executor to be administered here in your bailiwick you cause to be made the Sum of Two thousand three hundred and sixty eight dollars and twenty cents with legal interest thereon from the 27th day of November 1846 till paid which Richard Darden Surv. assignee of H.T. Smith administrator of L.W. Bishop alias Lewis L Bishop lately in our Circuit Superior Court of Law and Chancery for Southampton County hath recovered against the said Gurley executor as aforesaid for debt. also six dollars and 55 cents which to the said Darden assee &c in the same Court were adjudged for his costs by him about his suit in that behalf expended. Whereof the said Gurley Extor. is convict as appears to us of record. and how you shall have executed this writ make known at the Clerks Office of our said Circuit Superior Court of Law and Chancery at the Rules to be holden for the said County, on the first Monday in July next. And have then there this Writ. Witness Littleton R Edwards Clerk of our said Court this 17th day of May 1849 in the 73d year of the Commonwealth.

L.R. Edwards Cl"

Return. "No effects. Wm N. Dromgole Dep'ty. of Jos'ha Darden Shff."

On the back of the execution is the following assignment towit-

" For value received I assign the within execution to Thomas P. Little for value received without recourse to me hereafter- Richard Darden."

A Copy

Test

L. R Edwards Clk

Spark

To } Power of Attorney

Gurley

(Copies)

Settle

vs } Ex. with Affs. and

Gurley

I hereby constitute and appoint John M. Gurley my lawful attorney for me and in my name to sign all receipts, collect all monies due me either individually or as executor of the estate of C. Rochelle and to sell any property held by me which he may deem necessary to pay all liabilities. He is also hereby empowered to sell the tract of land wherein I now live and purchased by me of L. C. Bryant and to make a deed for the same which deed shall be binding upon in all respects as if signed by myself. In Witness whereof, I hereunto set my hand and affix my seal this 4th day of April 1847.

Test

John Moore Jr.
Edward Diggs

Wm A. Spark (Seal)

Whereas I have appointed this day Jno. M. Gurley my attorney to settle and arrange all my business as well individual as that appertaining to the estate of C. Rochelle. Now I do hereby agree upon all settlements of accts or business appertaining to the estate of C. Rochelle he shall receive such commissions as I should have been entitled to if such business had been settled by me in person and upon all monies rec'd and paid out for me in my individual capacity he shall rec. five pr. cent Commissions and in every case when he may find it necessary to make any advance for me in money he shall receive upon such advance 12 pr cent pr. annum until repaid. The property to remain subject to his general control till all liabilities which he may have incurred shall be paid except in the event of his death in that case to be subject to the control of myself or any other agent whom I may appoint. In Witness whereof I have hereto set my hand & seal this 4th day of April 1847.

John Moore Jr.

Wm A. Spark (Seal)

I hereby certify that the foregoing are true copies of the Power of

Attorney from Wm A. Spark to John M. Gayley embraced in Commissioner Shands' report in an Exparte suit pending in the Circuit Court of Southampton County by John M. Gayley Executor of Wm A. Spark dec'd for a settlement of his transaction as executor aforesaid.

Henry S. Howard, Deputy Clerk of
Southampton Circuit Court.

William A. Sparks

Will

A Copy

464

New Orleans — April 29th 1847.

I make and declare this to be my last Will and Testament — I wish my land in ~~the County of~~ Southampton to be sold by my Executor, also my interest in the Steam-boat McDowell, the proceeds of which together with the money due me to be applied to the payment of my debts. If this should not be sufficient to pay my debts then such of my negroes as may be necessary. The balance of my negroes I wish hired out and the proceeds to be paid over yearly to my sister Elizabeth V. Parker during her life and to be paid to her in person and to no one else. After her death I leave to my friend Jno M Gurley if he be alive my two servants Ab Isaac (and Solomon now with me) and request that he give them their time, my intentions being to free them, if Mr. Gurley be not alive then I give the said servants their freedom. — The balance of my Property of every description except five hundred dollars I leave to be equally devided between my Nephews and nieces Eustace Parker and Juliet Parker children of my sister E. V. Parker Octavia and Ludlow Diggs children of my Niece Fanny Diggs and Philip Oldner son of my Niece Octavia Oldner — As guardian I advanced for my niece Octavia Oldner who was Octavia Spark about fifteen hundred Dollars which I did not claim of Mr. Oldner and expended about five hundred Dollars of the principal of her estate. If Mr. Oldner should claim this sum I revoke that portion of my Will in relation to his son. I appoint my friend Jno M Gurley my Executor and in addition to his Commissions I give him five hundred dollars or Six hundred and forty acres of my Texas land to be drawn for by lot as the balance is divided.

Wm A. Spark.

At a Court held for the County of Southampton on the 17th day of July 1848

A writing bearing date the 29th day of April 1847 purporting to be the last Will and Testament of William A Spark dec'd was produced in Court in order to proved and there being no Subscribing witness to said Will Lemuel P. Nicholson and James D Mapsenberg being Sworn deposeth and saith that they are well acquainted with the hand writing of the said William A Spark and verily believe that the Signature of the said William A Spark to the said writing subscribed as well as the body of the said writing to be in the proper hand writing of the said William A. Spark. Whereupon it is ordered that the said writing be recorded as and for the last Will and Testament of the said William A Spark dec'd. And on the

motion of John M Gurley the Executor therein named who made oath and together with John W Gurley and Harrison D Maxwell his Securities entered into and acknowledged a bond in the penalty of twenty thousand dollars conditioned as the law directs. Certificate is granted him for obtaining a probat of the said Will in due form.

Tested

L R Edwards bb

A Copy

Test. L R Edwards bb

Little

v } Ex. with ans: Dft.

Gurley

(3)

William A Spark

In account with John M Gurley his agent.

				Principal amount paid	Principal & interest due to Jany. 15th 1849 at 6 per cent.	Principal & Interest up to Jany. 15th 1849 at 12 per cent
1848						
Feby	22	To paid	James D Mossenburg Jacks.	153 61	161 79	169 97
1848 Mar	20	"	" Richmond Enquirer acct.	5 00	5 24	5 48
1847 April	7	"	Amt. of note due Jno. M Gurley	390 68	432 20	473 72
1849 Jany	1	"	paid Jesse S. Barham acct.	69 11	69 28	69 45
1849 Jany	1	"	" Clarke & Pope "	43 25	43 35	43 46
1849 Jany	1	"	" Jesse S. Barham "	23 27	23 32	23 38
1848 Jany	1	"	" A. V. Niemeyer "	1 47	1 55	1 63
1848 Feby	22	"	" Job Holland due Bill	4 88	5 12	5 37
1849 Jany	1	"	" James Magee	74 00	74 18	74 37
1848 Jany	17	"	" Benjamin Griffin bond	203 00	215 18	227 36
1848 Aug	18	"	" Ditto "	33 62	34 45	34 89
1848 Mar	21	"	" John Moore acct.	65 03	68 20	71 27
1848 Jany	3	"	" Davis Barrett bond	150 07	159 37	168 67
1848 Jany	1	"	" N. M. Sebrell "	40 76	43 26	45 76
1848 Jany	1	"	" Thomas Ridley "	316 85	327 13	337 41
1848 Jany	1	"	" Elizabeth Johnson "	67 00	71 22	75 45
1848 May	3	"	" N. M Sebrells adm acct.	15 82	16 45	17 18
1848 Jany	1	"	" N M Sebrell assigne bond	31 27	33 22	35 17
1847 July	30	"	" J. R Anderson Note	102 79	438 03	473 27
1847 Dec.	25	"	" Nancy James bond	27 62	28 34	31 07
1848 Jany	18	"	" Richd. H. Beaman bond	2122 49	2248 78	2375 08
1847 Dec.	25	"	" William Bowers acct.	45 79	48 68	51 58
1847 June	21	"	" Richmond Enquirer "	5 00	5 47	5 95
1849 Jany	15	"	" Bishop & Urquhart "	10 00	10 00	10 00
1848 Jany	3	"	" Eliza Riggins "	12 00	12 72	13 44
1848 Jany	1	"	" William Morse "	2 00	2 06	2 12
			Amounts carried forward	4316 38	4578 59	4812 40

			Amounts brought forward		4316	38	4578	59	4842	40
1848											
Jany	1		To paid Sundry small accounts		9	87	10	46	11	05
1847											
Nov.	9		" " Richard A. Crump bond		859	57	920	59	982	61
			To balance due the agent		5185	82	5509	64	5836	06

The Commissioner reports that the following claims are included in the foregoing account which have been paid off by John M Burley since the death of William A Spark which took place the 6th June 1848 last.

1849											
Jany	15	To paid Bishop & Urquhart		acct.	10	00	10	00	10	00
1849											
Jany	1	" "	Jesse S. Barham	"	69	11	69	28	69	45
"	"	" "	Clarke & Pope	"	42	25	43	35	43	46
"	"	" "	Jesse S. Barham	"	23	27	23	32	23	38
"	"	" "	James Mayet	"	74	00	74	18	74	37
			Total Amount		218	63	220	13	220	66

The Commissioner reports that if these claims are deducted from the foregoing account the correct balance due agent will be $ 4967 19 5289 51 5615 40

The Commissioner is of opinion that this last is the correct balance due John M Burley the agent of William A Spark

William H Cobb Comr

The Estate of William A Spark

In account with John M Burley his executor.

			Dr.		Cr.	
1848.						
Sept.	25	By cash rec'd from Sale of land			800	00
Oct	4	To paid tax accounts	4	68		
"	"	" " Clerks tickets	22	94		
"	"	" " Costs of Suit in Sussex	21	18		
"	"	" " Jesse Drewry Auctioneer	9	00		
"	"	" " Auctioneer for selling land	5	00		
"	"	" " S. D. Mapsenburg bond & Interest	3972	16		
Dec	23	By cash rec'd from the United States Government			432	60
"	"	To paid S. D. Mason. note & Int.	156			
"	"	" " Lemuel P Nicholson acct	12	00		
"	31	By hire of negroes due this day			203	00
"	"	To Balance due the Executor			2770	36
			4205	96	4205	96
1849		To Balance due brought down	2770	36		
Jany	15	By cash rec'd this day			3	36
"	"	" " " from sales of negroes			5684	00
"	"	To Cash paid Benjamin Griffin bond	66	14		
"	"	" " " B. H. Crump part bond	1100	00		
Feby	19	" " " Ditto "	350	00		
Aug	22	By account Sales land sold Nov. 22nd 1848			555	52
Sept	25	" Cash from sale of land			800	00
"	"	To paid A. D. Moore appraiser	1	00		
"	"	" " Clerks tickets	10	54		
"	"	" " Sheriffs tickets	12	00		
Dec	31	To interest on $ 2770.36 three months	41	55		
"	"	By balance due the Estate	2691	19		
			7042	78	7042	78
1850		By balance brought forward			2691	19
		Carried forward				
1850		By balance brought forward			2691	19
Apr.	19	To paid James Mayet a note which he paid as Security for Wm A. Spark	270	67		
	21	To paid Josiah Mowry Med acct.	4	00		

								Interest
"	"	"	Sheriffs ticket		4	50		
July	16	By Sale of negro Tom sold this day				200	00	
"	"	To paid Thomas R Jenkins bond		1156	14			
Sep	25	By cash rec^{d} from Sale of land				800		
Nov	6	To paid Wm Mercer Constable costs						
		" Commissions on $1000		50	00			
Dec	31	By interest on the balance of 1849						161.47
"	"	" balance due the estate		1905	88			
				3691	19	3691	19	161.47
1851		By balance brought down				1905	88	161.47
June	16	To paid Richard A Crump's decree &c		490	00			
Aug	19	" " Ditto "		102	73			
"	"	" " Sheriffs tickets		2	50			
Sep	16	" " George H Crump's bal on bond		1136	16			
Dec	16	By cash rec^{d} from Sale of lot in Jerusalem sold by Commissioner				362	00	
		To Commissions thereon		18	10			
"	"	By Interest on $1905. 88 eight months						76.23
"	"	" Balance due the Estate		516	39			
				2267	88	2267	88	
1852		By balance brought down				516	39	237.70
1854		" Interest on $516. 39 to Dec. 31st 1854						92.94
Feby	15	By Cash rec^{d} of Albert Mabry on bond				1500	00	
"	"	To Commissions thereon		75	00			
Dec	31	By Interest on $1425.00 five months						35.63
		Amounts Carried forward		75	00	2016	39	366.27
1854		Amounts brought forward		75	00	2016	39	366.27
Dec	31	By balance due the estate		1941	39			
"	"	" Costs		2016	39	2016	39	366.27
"	"	By balance brought down				1941	39	366.27
"	"	" Interest brought in Columns of principal				366	27	
"	"	" Amount of principal and Interest				2307	36	
		with interest on $1941. 39 from this date till paid						

(4.63)

The Commissioner reports that S R Edwards who is interested in the foregoing account of John M Burley's executor of Wm A Sparks objected to the Exor being allowed Commissions on the receipts which he had failed to render before a Commissioner according to law. The Commissioner therefore has not allowed the executor Commissions on any receipts previous to July 1st 1850. The Commissioner deems it proper to state the nature of the interest of S R Edwards in the account of John M Burley executor of Wm A. Sparks. He states that on the 15th day of January 1849 Wm A Sparks with Clements Rochelle S R Edwards, John M Burley and N M Sebrell his securities executed a note to Isse Langford for the sum of $1030. that since the death of the said Sparks, Rochelle and Sebrell. judgment on the said bond was obtained against the said Burley and Edwards as surviving obligors, and that on the 15th day of July 1850 the said Burley fully paid off and discharged the execution which issued on the said judgment, and the said Edwards insists that in the settlement of the account of John M Burley as Executor of Wm A. Sparks the estate should be charged with this amount as the said Burley had monies in his hands sufficient to discharge the same. The said debt is allowed the Exor in the foregoing account. The said Burley claims that there was no assets in his hands applicable to the payment of this claim as the said Sparks was indebted to him as agent in a much larger amount than there were assets in his hands sufficient to pay. He claims that by several powers of attorney executed by the said Wm A. Sparks to him on the 4th day of April 1847 (Copies of which are inserted in the report of Commissioner Shands) the said Sparks constituted him his lawful attorney and agent for certain purposes which will be seen by reference to said powers of attorney That as agent aforesaid he paid off and discharged claims against the said Sparks to the amount of several thousand dollars, and claims that by virtue of the said powers of attorney he is entitled to be allowed the amount thus paid off in his account as executor of the said Sparks in preference to the debt in which the said S R Edwards is interested. The said S R Edwards objects to this amount paid as agent being allowed him on the ground amongst others, that the said powers of attorney are void on the ground of usury.

The account of John M Burley as agent of Wm A Sparks is contained in the former part of this report. The said account shows the amount of principal paid by Burley, the amount of principal at six per cent and the amount of principal at 12 per cent interest. The Commissioner reports that if the principal account paid by the agent is allowed the executor in his account aforesaid on the 15th day of January 1849 the balance due the executor on the 31st day of December 1854 will be $2376. 76 That if the principal and interest at 6 per cent be allowed, the balance due on the same day will be $2820.37 That if the principal and interest at 12 per cent be allowed the balance due on the same day will be $51.64.15.

The Commissioner reports specially that there are claims still due the estate of Wm A Sparks amounting to two or three thousand dollars. That the Executor states that he is endeavouring to collect the said claims, but is unable to state positively whether he will succeed in doing so.

The Commissioner reports that Wm A Sparks departed this life on the 6th day of June 1848

and that John M Gurley qualified as his Executor in the County Court of Southampton on the 17th day of July 1848. He further reports that the said John M Gurley sold the real estate of the said Sparks on the 25 day of Sept. 1848. for one third cash and the balance on a credit of one and two years. That he sold the slaves of the said Sparks on the 15 of January 1849 for cash. except one which was sold on the 15 day of July 1850 for cash. and that he sold his chattel estate on the 22d day of Nov. 1848 on a credit of nine months. That all of the before mentioned property, real and personal was sold by him as the Executor of the said Sparks. The said Executor states that he sold no property as the agent of Sparks. The foregoing account of his transactions as executor of Sparks will show the respective periods at which he received any monies due the estate, and also at what times he paid the same out. At the request of L.R. Edwards the Commissioner returns with this report the receipts and vouchers of the said John M Gurley both as executor and agent of Wm A. Sparks

Respectfully Submitted

Wm W. Cobb Comr

Commrs. fee $15.00
charged to John M Gurley
Exor &c

Wm W. Cobb.

Gurley Exor. of Sparks &c

Commissioners Office
March 22nd 1855.

In obedience to a decree of the Circuit Court of Southampton County rendered at November Term 1854 the undersigned Commissioner of said Court gave notice to the parties interested that he would proceed to take the accounts required by said decree, at his office, on the 20th day of February last At which time and place the said parties appeared before him and he proceeded to make up the foregoing accounts which are herewith returned with the decree and notice

Wm W Cobb Comr

(Decree and Notice)

Southampton Circuit Court November Term 1854

John M Gurley Executor of William A. Sparks dec'd On account removed from the County Court of Southampton and exceptions filed by L R Edwards

This day this cause came on to be heard on the said account and the exceptions filed thereto and was argued by Counsel. On consideration whereof the Court without deciding any other question involved in this cause, doth adjudge, order and decree that the said accounts be recommitted to a Commissioner of this Court for examination and settlement, and the said Commissioner will include in his report 1st An account of all the transactions of John M Gurley as Executor of Wm A. Sparks up to the date of this settlement.

2nd The time of the testators death and of the Executors qualifications.

3rd The several periods at which Gurley sold the property real and personal of the testator and in what character the same was sold.

4th The agency account of Gurley showing in the usual way the date of the several payments, Showing the amount of principal, the amount of principal and lawful interest, and the amount of principal with twelve per cent interest.

The Commissioner will report the several accounts and Statements to this Court with any matters specially stated deemed pertinent by himself or which may be required by either of the parties to be so Stated.

Teste

Henry S. Howard DC.

Commissioners Office. Jerusalem Va
Jany 1st 1855.

To John M Gurley Executor of William A Sparks dec'd and L.R. Edwards

You are hereby notified that I have fixed upon the 20th day of February next to take and Settle, at my Office, the following accounts required to be taken by a decree of the Circuit Court of Southampton rendered at Nov. Term 1854 thereof.

1st an account of the transactions of Jno M Gurley as Exor. of Wm A Sparks up to the date of Said Settlement.

2nd The several periods at which Gurley Sold the property real and personal of the Testator and in what character the same was Sold.

3rd The time of the Testators death and of the Executors qualification.

4th The agency account of Gurley Showing in the usual way the date of the Sveral payments. Showing the amount of principal, the amount of principal and lawful interest and the amount of principal with twelve per cent interest. At which time and place you are required to attend.

Given under my hand as Commissioner in Chancery of the said Court, the day and year first aforesaid.

Wm W. Cobb Com

Sheriffs return. "Executed on each by delivering a copy of the within.

J C Edwards DS for
E. Rollo Shff"

Thos. B Little –
Bartonsville P.O.
Hertford County
N.C.

Little
v
Hurley

Ex: with answer of Defts.

Winton

Thos B. Little
Bartonsville
Hertford Co.
N.C.

Rule
Brookshire v Dubose
2 Jones Eq: 276

State of North Carolina, Ss:-

In the Supreme Court of North Carolina begun & held at the Capitol in the City of Raleigh on the thirtieth day of December in the year of our Lord one thousand eight hundred & fifty five, by & before the Honorable Frederick Nash, Chief Justice, & the Honorable Richmond M. Pearson & the Honorable William H. Battle, Judges of the same Court.

Be it remembered that at in Term time the Transcript & other papers in the suit between Thomas P. Little, plaintiff, in equity, & John M. Gurley, defendant, were filed in the office of said Court, that is to say:

Transcript. State of North Carolina - Hertford County
At a Superior Court of Law & Equity held for said county, Spring Term 1852
Thomas P. Little agt John M. Gurley - Bill of Injunction filed to Spring Term 1852 - Copies of Subpoenas issued - Answer of defendant filed the 23 November 1852 - Fall Term 1852 continued - Spring Term 1853 Motion made to dissolve the Injunction - Motion overruled & injunction continued to the hearing - Replication to the answer & Commissions. Fall Term 1853 continued - Spring Term

1854 cause set for hearing with leave to take testimony - Fall Term 1854 By consent of the parties, It is ordered that the papers be sent up to the Supreme Court

Bill - State of North Carolina - Hertford County In Equity to Spring term 1852 - To the Hon. the Judge of the Court of Equity of the county of Hertford - The Bill of Complaint of Thomas P. Little complainant against John M. Gurley defendant - Humbly complaining sheweth unto your Honor your orator Thomas P. Little that prior to the year 1846 one William A. Spack of the county of Southampton, State of Virginia held a note payable by your orator for about the sum of six hundred dollars & your orator was also indebted to him by open account to the amount of several hundred dollars, but the exact amount he is unable now to state, & that before your orator had come to any settlement with the said Spack, he the said Spack about the Spring of the year 1843 departed this life having first duly made & published his last will & testament in writing which in the same year was duly proved according to rules of law in the proper Court of the said county of Northampton

State of Virginia, & the said John M Gurley who was named as Executor to the said will was then & there duly qualified as such. Your Orator further shows to your Honor that during the lifetime of the said William A. Spack he & your Orator were upon terms of great intimacy & kindness, & the said Spack being largely indebted to one Lewis Bishop of said county of Southampton requested your Orator to become his surety in a note to the said Bishop to which your Orator readily consented - & on the 27 day of November 1846 a note was accordingly executed by the said Spack with your Orator as his surety to the said Bishop as follows: "Two years after date with interest from date I promise & bind myself my heirs executors & to pay to L. W. Bishop for value received, the just & full sum of two thousand three hundred & sixty eight $\frac{20}{100}$ dollars, as witness my hand & seal this 27 day of November 1846. W. A. Spack (Seal) Thos P. Little (Seal)

And your Orator further shows that the said Bishop not very long time after departed this life intestate in the said county of Southampton, & that by the proper Court of said county letters of administration

upon his estate were duly granted to one Benning
T. Smith who on the 19th of April 1847 in writing
endorsed & assigned the said note to one Rich-
ard Darden of said Southampton county.
Your Orator further shows to your Honor that
when the said Spack died he was in possession
of a considerable real & personal estate & was
considered by your Orator, & he believes the pub-
lic generally, as entirely solvent & good for all
his debts, & his estate was considered by your
Orator long afterwards as amply sufficient
for that purpose. In the month of August
1848 your Orator was called upon by the said
John M. Gurley Executor of the said Spack
to come to a settlement with him, & your Orator
then fully believing that the estate of the said
Spack was perfectly good for his debts, & not
supposing he could be compelled to pay the
said note to the said Bishop or any part
thereof, on the 29 day of August 1848 came to
a settlement as desired, & then executed his
note for the sum of $1251.55 payable to the said
Gurley as Executor of the said Spack, it being
the amount of principal & interest upon his
indebtedness aforesaid, then ascertained
to be due by your Orator. Your Orator
further shows to your Honor that contrary
to all his reasonable hopes & expectations

the said Gurley never paid the said debt or any part of it, originally due as aforesaid to the said Bishop - But your Orator shows that the said Richard Darden instituted suit upon the said note against the said John M. Gurley as Executor of the said Spark in the circuit superior court of law & chancery in the said County of Southampton, in the month of January 1849, & the said John M. Gurley making no defence to the said action, a final judgment was rendered against him in the said court in the month of May 1849 for the said debt & interest to be levied of the goods & chattels of the deceased in his hands - and thereupon an execution issued to the sheriff of said county against the said Gurley which was returned by him "no effects" - all which will more fully appear reference being had to a transcript of the record from the said court which is herewith filed & is prayed to be taken as part of this your Orator's bill of complaint. Your Orator further shows that the said Darden not being able to make his money out of the said Gurley demanded payment of your Orator as the surety to the said note, & your Orator then executed to the said Darden his individual note for the said debt, & then took an assignment to himself of the said

judgment against the said Gurley & which appears upon the said transcript - and on the 24th of February 1852, your Orator paid off his said note to the said Sanders amounting principal & interest to the sum of $3265.63 - Your Orator further shows to your Honor that during the time of all these transactions he was & still is a resident of Hertford County North Carolina, & the said Gurley, a resident of Virginia & without qualifying as Executor of the said Spark in this State he caused suit to be instituted in his own name, not naming himself as Executor, against your Orator upon the said note, so executed as aforesaid by your Orator to him, in the County Court of Hertford, & the case was subsequently taken by appeal to the Superior Court, in which at the Fall term 1852, he obtained judgment against your Orator for the principal & interest of the said note, amounting to about the sum of $1558 97 besides his costs in the said suit, & now threatens to collect the same by execution out of your Orator, & your Orator apprehends he will do so unless restrained by the interposition of this Honorable Court. All of which actings & doings on the part of the defendants are contrary to equity & good conscience & tend to the manifest wrong & injury of your Orator in

the premises - In tender consideration where-
of, & for as much as your Orator is without ade-
quate remedy save in this Honorable Court
To the end therefore that the defendant may
upon his corporal oaths full true & perfect an-
swer make to all & singular the matters
herein stated, not only as to his own knowledge
but as to his information, hearsay & belief, as
fully & completely as if the same were herein-
after repeated & he specially interrogated
thereto, & that he may answer the premises -
and that your Honor will by injunction to
be issued to the defendant, his agents & attor-
neys, restrain the defendant from proceeding
further to the collection of the said judgment,
& that at the final hearing of this cause he
may be perpetually enjoined from the collection
of the same, & for such other & further relief
as your Orator's case may require, may it
please your Honor to grant to your Orator
the States writ of subpoena to be issued
with a copy of this bill to the defendant,
commanding him to appear &c - and as
in duty bound your Orator will ever pray &c.

Thos. Bragg. Solr. -

Thomas P. Little makes oath that the facts
set forth in the foregoing bill of complaint
so far as stated as of his own knowledge

are true - those otherwise stated he believes to be true

Thos P. Little

Sworn & subscribed before me, Clerk of the Superior Court this 29 September 1852 -

J. A. Dunn Clerk

State of North Carolina, Ss: Upon the complainants entering into bond according to law let the Clerk & Master in Equity for the county of Hertford issue a writ to injoin the defendant as prayed for until the further order of this Court - Let the usual writs of subpoena be also issued. Given by me at Chambers, in Winton, this the 29 day of September AD 1852 Witness my hand & seal. M. E. Manly

Judge of the Courts of Equity for N.C.

Exhibit - Pleas before the Judge of the Circuit Superior Court of Law & Chancery for the county of Southampton at the Court House of the said County in the fourth day of May in the year one thousand eight hundred & forty nine - Be it remembered that heretofore, to wit, on the sixteenth day of January in the year aforesaid came Richard Darden Esq assignee of L. W. Bishop by his attorney & sued out of the Clerks office of the said Court a writ of capias ad respondendum against John M. Gurley Executor of William A Spark deceased which writ with the endorsement

& return thereon made is in the words and figures following, to wit: The Commonwealth of Virginia to the Sheriff of Southampton county, Greeting: We command you that you take John M. Burley executor of William A. Spark deceased if he be found within your bailiwick, & him safely keep so that you have his body at the Clerk's Office of our Circuit Superior Court of Law & Chancery for said county, at Rules to be holden for said Court on the first Monday in February next to answer Richard Darden Sen assignee of D W Bishop of a plea of debt for twenty three hundred & sixty eight Dollars - damages twenty dollars - and have then there this writ. Witness Littleton T. Edwards Clerk of our said Court at the Court House, the 16th day of January 1849, in the 73d year of the Commonwealth

L. T. Edwards C.C.

Endorsement - An action of debt to recover money due by specialty on which William A Spark & Thomas P. Little were co-obligors. No bail required - Kindred P.Q. - Return Executed by W. St. Dromgoole Deputy of R. Darden Shff. - And at another day, to wit, At Rules held in the Clerk's Office of the said Court on the first Monday in February 1849 came the plaintiff by his

attorney & filed his declaration against the defendant, which declaration is in these words: Circuit Superior Court of Law & Chancery for Southampton county, to wit: Richard Darden Senior assignee of M. T. Smith (administrator of L. W. Bishop alias Lewis L. Bishop) complains of John M. Burley executor of the last will & testament of William A. Spark deceased, being in custody &c of a plea that he render to the said plaintiff the sum of two thousand three hundred & sixty eight dollars & twenty cents with legal interest thereon from the twenty seventh day of November one thousand eight hundred & forty six which from the said plaintiff he unjustly detains - For this, to wit, that heretofore, to wit, on the twenty seventh day of November in the year one thousand eight hundred & forty six, at the county of Southampton, the said William A. Spark (together with one Thomas P. Little who is not sued in this suit) in his lifetime by his certain writing obligatory sealed with his seal & to the court now here shown, the date whereof is the day & year last aforesaid, promised to pay or caused to be paid to the said L. W. Bishop or his assigns two years after the date thereof the just sum of $2368 20 with interest from the 27 day of November 1846 as aforesaid - And the said plaintiff saith that after the making of the said writing obligatory

to wit, on the nineteenth day of April in the year one thousand eight hundred & forty seven, at the said county of Southampton, the said H. I. Smith as administrator of the said L. W. Bishop made an endorsement on the said writing obligatory, & subscribed his name thereto, & thereby the said H. I. Smith assigned the said writing obligatory to the said Richard Daiden for value received, whereof the said John M. Gurley then & there had notice. And the said plaintiff avers that the said testator in his lifetime, although often requested, did not pay the said sum of $2368.20 with legal interest as aforesaid or any part thereof, & that the said defendant altho thereto often requested hath not, since the death of the said testator, paid the said sum or any part thereof, either to the said L. W. Bishop or H. I. Smith before notice of the assignment of the said writing obligatory or to the said plaintiff since the said assignment to him of the said writing obligatory, but the same to pay hath hitherto wholly refused & still doth refuse to the damage of the said plaintiff $20 - and therefore he brings his suit. Kindred p.q. whereupon the defendant being arrested & not appearing, on the motion of the plaintiff by his attorney it was ordered that judgment be entered for the plaintiff against the de-

fendant for the debt & interest in the declaration
mentioned & costs, to be levied of the goods & chattels
of the decedant in the hands of the defendant to
be administered, unless the defendant should ap-
pear at the next Rules & answer the plaintiffs action.
At which day, To wit: At Rules held in the Office
of the said Court on the first Monday in March
1849, the defendant still failing to appear, on the
motion of the plaintiff by his attorney it was or-
dered that the last order made against him
in this cause be confirmed. And now at
this day, To wit: At a Circuit Superior Court of
Law & Chancery held for the county aforesaid on
the day & year first herein mentioned, to wit,
on the fourth day of May in the year aforesaid,
the judgment obtained at the Rules not hav-
ing been set aside, & the plaintiff being now en-
titled to a final judgment, it is therefore con-
sidered that the plaintiff recover against the
defendant two thousand three hundred & sixty
eight dollars & twenty cents with interest there-
from the 27 day of November 1846 till paid, the
debt & interest in the declaration mentioned
& his costs by him about his suit in this behalf
expended, To be levied of the goods & chattels
of the decedant in the hands of the defend-
ant to be administered - and the said de-
fendant in mercy &c. Plaintiffs costs $6 55

The following is a copy of the writing obligatory & endorsements thereon, on which this action was founded: Two years after date with interest from date, I promise & bind myself my heirs exctrs & to pay to L.W. Bishop for value received the just & full sum of two thousand three hundred & sixty eight $\frac{20}{100}$ dollars - as witness my hand & seal this 27 day of Nov 1846. Wm A Spark (seal)

Thos P. Little (seal)

Endorsement. I assign the payment of this bond to Richard Darden as to myself & also as adm of Lewis L. Bishop dec'd. April 19. 1847

H. J. Smith

The execution which issued in this case together with an endorsement & return thereon made, is in the following words & figures, to wit:

The Commonwealth of Virginia to the Sheriff of Southampton county, Greeting: We command you that of the goods & chattels of William A. Spark deceased in the hands of John M. Gurley his executor to be administered & late in your bailiwick you cause to be made the sum of two thousand three hundred & sixty eight dollars & twenty cents with legal interest thereon from the 27th day of November 1846 till paid which Richard Darden Ser assignee of H. J. Smith administrator of L.W. Bishop

alias Lewis L. Bishop lately in our circuit Superior Court of Law & Chancery for Southampton county hath recovered against the said Gurley executor as aforesaid for debt also six dollars & 55 cents which to the said Darden ass[d] &c in the same Court were adjudged for his costs by him about his suit in that behalf expended whereof the said Gurley executor is convict as appears to us of record - and how you shall have executed this writ make known at the Clerks office of our said circuit Superior Court of Law & Chancery at the Rules to be holden for the said Court on the first Monday in July next - and have there this writ. Witness Littleton R. Edwards Clerk of our said Court this 7th day of May 1849 in the 73d year of the Commonwealth -

L. R. Edwards, C. C.

Endorsement - For value received I assign the within execution to Thomas P. Little for value received without any recourse to me hereafter - Richard Darden

Return: Rec'd effects &c Drumgoole Dep[ty] of Jeptha Darden Shff.

State of Virginia. Southampton county, to wit I Littleton R. Edwards Clerk of the Circuit Court of Southampton county in the State

of Virginia, to which Court all the records & papers of the former circuit Superior Court of Law & Chancery for the said county have, by operation of Law, been transferred, do hereby certify that the foregoing is a true transcript from the records of judicial proceedings of the said circuit Superior Court of Law & Chancery, & contains the records & proceedings of a certain action of debt lately depending therein between Richard Darden assignee of H. T. Smith (administrators of L. W. Bishop alias Lewis L Bishop) plaintiff & John M. Bailey executor of William A. Spark dec'd defendant with all things touching the same as fully & wholly as they exist among the records & proceedings of the circuit Court aforesaid. In testimony whereof I hereto set my hand & annex the seal of the said Court this 14 day of July A.D. 1857.

(18)

A. R. Edwards, C. C.

Virginia, Southampton county, to wit:
I Richard H. Baker only Judge of the circuit for the said County of Southampton in the State of Virginia do certify that Littleton R. Edwards who hath given the preceding certificate is clerk of the said Court & that his said attestation is in due form

Given under my hand this 17th day of July 1851. Richd H. Baker

Answer. State of North Carolina. Hertford County. In Equity. To the Honorable the Judge of the Court of Equity of said county. The answer of John M. Gurley to the Bill of Complaint of Thomas P. Little filed against him in this Honorable Court. This defendant saving, reserving &c for answer to so much of said bill as he is advised it is material to answer, answering says. This defendant admits that William H. Sparks late of Southampton county Virginia, departed this life in the Spring of 1848, having first made & published a last will & testament which was duly admitted to probate in the County Court of Southampton, Virginia, & letters testamentary were granted to this defendant at term 1848, & by virtue of his letters, he took into his possession the personal effects of his said testator. The said deceased had been for several months absent from his home engaged as pay master in the United States Army then prosecuting the Mexican war, & during his absence this defendant had been acting as his agent. While thus acting this defendant had in his

possession the note for about eighthundred dollars & the accounts mentioned in Complainants bill. The said note & accounts were frequently presented to the complainant & payment demanded. The complainant at no time denied the validity of said claims or his liability to pay - neither did he, at any time, apprise this defendant of any offset, or his liability as surety for the said Spark, but on the contrary the complainant asked indulgence which was extended to him in consequence of feelings of friendship & entire confidence in his ability & disposition to pay. After the death of the said Spark & the qualification of this defendant as his executor, the said notes & accounts were again presented & payment demanded, & on the 29th of August 1848, the complainant executed his note to this defendant as executor of William A. Spark for the sum of $1250.85 without claiming any offset or making known his liability as surety of the said William A. Spark. While acting as executor of the said Spark this defendant has made advancement for said estate upon the faith of the said note & accounts, knowing the

complainant to be a man of large means & relying upon his frequent promises to pay at some future day. In consequence of these advancements the estate of his testator is indebted to him more than two thousand dollars & he has but little if any other means of reimbursing himself except the claims of the complainant, all the assets of the said estate having been exhausted except a few claims of doubtful solvency. Further answering this defendant states that the said William A. Spark qualified as executor of one Clement Rochelle & this defendant became one of the securities to his bond. A suit has been instituted upon the said bond & a decree in chancery obtained upon the same which including interest & costs amounts to about six hundred & the same has been paid off & discharged by this defendant out of his individual funds. This defendant further answering says that he has no recollection of having heard anything of the debt due Richard Darden mentioned in complainants bill until a suit was executed on him by the Sheriff of Southampton, Virginia, & this defendant having no assets with which to satisfy said debt did not plead to said suit for the reason, that according to the laws of Virginia in that proceeding, the plaintiff

could only have execution against the goods & chattels of his testator in his hands. This defendant of his own knowledge knows nothing of the manner in which the debt due Richard Barden has been discharged though he has no reason to doubt the settlement made by complainant on that subject. This defendant further answering says that the complainant had promised to accept service of a writ in Virginia but failed to do so, & this defendant then caused a writ to issue in his name as executor of William A. Spark returnable to term of the Court of Pleas & Quarter Sessions of Hertford county where complainant resided & at the return term the complainant appeared by his attorney & pleaded among other things "ne unques executor", & upon the trial the case was decided in favor of the complainant, & thereupon this defendant appealed to the Superior Court & on motion was allowed to amend his declaration & declare in his own name, & there obtained in his own name upon the said bond. This defendant admits that he is a resident of Virginia & has been so during the whole time & he has never qualified as executor in North Carolina. He further admits

that the defendant is a resident of South Carolina. This defendant insists that the claim now attempted to be set up is no offset either in Law or Equity, & it is against equity & good conscience that it should now be allowed, as this defendant relied upon the promises of complainant, regarded it as a good debt & has fully accounted to creditors for the amount - This defendant prays that the injunction may be dissolved & he dismissed hence with his reasonable costs. D A Barnes for John M. Gurley maketh oath that the matters & things set forth in the foregoing answer and stated to be of his own knowledge are true, & those otherwise stated he believes to be true sworn & subscribed before me Jno M. Gurley 23 Nov 1852. Jo. M. Montgomery Cr. C.

And now at this term, to wit, December Term 1855, as aforesaid, This cause coming on to be heard upon the bill, answer, proofs & former orders, & being debated by Counsel & duly considered by the Court, their Honors declare their opinion to be, that inasmuch as the defendant's testator was not, at the time of his death, a resident of this State, & that letters testamentary issued to the defendant from a foreign court, the plaintiff hath no equity in this state to call

upon said defendant for an account of his administration of the assets of the estate of his said testator: Therefore, It is ordered adjudged & decreed that the bill be dismissed with costs to be taxed by the proper officers & that execution may issue as well against Abram Riddick & John P. Bridger, sureties for the prosecution of this suit as against the plaintiff.

I, Edmund B. Freeman, Clerk of the Supreme Court of North Carolina, do hereby certify that the foregoing is a true transcript from the records of said Court.

In testimony whereof I hereunto set my hand & affix the seal of said Court at Office in the City of Raleigh this 13th June AD 1856. E. B. Freeman Clk

North Carolina, To wit: I, Frederick Nash Chief Justice of the Supreme Court of North Carolina, do certify that Edmund B. Freeman who has given the preceding certificate is Clerk of the said Court & that his attestation is in due form. Given under my hand this 13 day of June AD 1856

F. Nash Chief Justice of said Court

Little

= } Cr. Record

Gurley

Pleas before the Judge of the Circuit Court of Southampton County at the Courthouse thereof on Friday the 12th day of November one thousand eight hundred and fifty eight

Be it remembered that heretofore to wit on the 4th day of August in the year 1854 came Thomas P Little by his attorney and filed with an order indorsed thereon by the said Judge awarding an Injunction, in the Clerks Office of the said Court, which bill and order are in the words and figures following to wit.—

here insert the bill, exhibit & order

And thereupon a Summons with the order of the injunction indorsed thereon issued from the Clerks Office of the said Court against John M Gurley as Executor of William A Spark and in his own right which Summons with the order of Injunction indorsed thereon and the return thereon is in the words and figures following to wit.

(here insert them)

And at another day to wit. At Rules held in the Clerks Office of the said Circuit Court of Southampton County on the first Monday in September 1856 the Summons awarded against the Defendant being returned executed on him and he failing to appear on the motion of the plaintiff by his Counsel it was ordered that his bill be taken for confessed as to the said defendant unless he should appear and plead answer or demur to the said bill at the next Rules.

And at another day to wit In the Clerks office of the said Court on the 15th day of September 1856 the plaintiff. gave bond and security and filed a release of all errors according to the terms upon which the injunction was granted, which bond and release of errors are in the Words and figures following to wit.

here insert them

And at another day to wit At Rules held in the Clerks Office of the said Court on the first Monday in October 1856 the said Defendant still failing to appear on the motion of the plaintiff by his attorney his bill is taken for confessed as to the said Defendant

And at another day to wit At Rules held in the Clerks Office of the said Court on the first Monday in in November 1856 On the motion of the plaintiff by his Counsel this cause was set for hearing as to the defendant

And at another day to wit. At a Circuit Court held for the said County of Southampton at the Courthouse on Saturday the 8 day of November in the year 1856 the defendant by leave of the Court this day filed his answer to the plaintiffs bill— which answer is in these words (here insert it) and exhibits)

And at another day to wit. On the 20th day of December 1856 the plaintiff having died on the motion of Abram Riddick executor of his last Will and Testament, by his attorney, a writ of Scire Facias is issued from the Clerks Office of the said Court to revive this suit in the name of the said Executor against the said Defendant returnable to the February Rules next of the said Court which writ with the return thereon is in the words and figures to wit.

(here insert it)

And at another day to wit. At Rules held in the Clerks Office of the said Court on the first Monday in February 1857 the Scire Facias issued in this cause being returned executed on the Defendant it is ordered that this suit be prosecuted in the name of

Abram Riddick as executor of Thomas P Little dec^d against the said Defendant
And at another day to wit At a Circuit Court held for the said County &c on the 5th day
of May 1857 This cause came on &c (here insert decree &c) The following is a copy of the Rep^t
of the Com^rs made under the foregoing decree dated 31st July 1857.
Their copy Com^rs Report &c
And at another day to wit at a Circuit Ct &c on the 11th day of November 1857 This
cause came on &c (here insert decree.)
The following is a copy of the report made under the foregoing decree dated March 31. 1858
(here copy it)
And at another day to wit At a Circuit Court held for the said County of Southampton on the
10th day of November 1858. This cause came on &c (here insert decree)
And now at this day to wit At a Circuit Court held for this said County of Southampton at &c
on the same day and year first herein mentioned to wit on Friday the 12th day of November 1858
On the motion of &c (here insert order)

Pet^rs Costs	95	76
Def^t	20	45

Petersburg
October 23. 1861

L. R. Edwards Esqr
Clerk Cir: Court &c
Dear Sir.

In the Transcript of the record of the case of Little v Gentry in your Court upon which I obtained an appeal to the Court of Appeals for Wm Gentry. I do not find a copy of the bill of Wm Spurlock. It has occurred to me that it may have been omitted in making out the Transcript. Will you be good enough to look into the original papers and inform me whether the bill is among them? If you find it, send me a copy, certifying that it was filed in the suit above mentioned. If it is not in the

Dear Sir, will you do me the kindness to have a copy sent to me from the Copy Office? Charge to W. Gurley.

Very Obt. Svt.

Thos. L. Jones.

Littles Encr.

to

Sparks Encl

Memo. for
Ct. by LRK.

Sittler Exor.

vs

Sparks Exor.

This case has been before the Court on written memo. of the Counsel: and the first part of the case as regards the offset has been decided & settled — and now the only question to consider, is whether Mr Sittler can retain out of the assets in his hands as Exor: of Spark the amo. advanced by him for Spark under the power of attorney —

This question has been considered already by ~~yo~~ the Court & decided as will appear by the note of the Court already filed in the cause — It appears by the Comrs report that all the proceeds of Land (which the Court decided to be equitable assets) were subject to a deed of Trust to Mr Mapenburg thence by leaving out of Sittler's Exr. acct. the proceeds of Land & also Mapenburgs debt, leaves the result precisely the same — to wit: leaves a Balance due by Sittler & the estate of $2898.66 (see 1st Report also Special statement in 2d. Report.) more than enough to pay the plaintiffs demand —

The doctrine of retainer, superior dignity of a Jud. or Bond vs. Exor. over other Bonds not sued on (under old Law) have all been considered by the Court. — We have nothing more to say —

John R Kilby
p. q.

Gould

Ti } Release Errors

Burley

Know all men by these presents that I Thomas P Little of Hertford County in the State of North Carolina, in consideration of the terms upon which an injunction has been granted me by the Judge of the Circuit Court of Southampton County to a judgment of the Superior Court of Law for Hertford County State of North Carolina recovered by John M Barclay in his own name on a bond executed on the 29th of August 1848 by the said Thomas P Little to the said John M Barclay as Executor of Williams et. Sparks for $1251.85 ch. do hereby release all and every error or errors in Law in the said judgment and proceedings. Given under my hand & Seal this 15th day of Sept. ~~August~~ 1856

Tho.s P Little (Seal)

Title

To } Injun. bond

Gurley

Know all men by these presents that we Thomas P. Little of Hertford County North Carolina and Abram Riddick

are held and firmly bound unto John M Gurley in the sum of Two thousand five hundred and three dollars and Seventy cents to the payment whereof well and truly to be made we bind ourselves our heirs. Executors and administrators jointly and Severally firmly by these presents. Sealed with our Seals and dated this 15th day of September 1856.

The Condition of the above obligation is Such that whereas the above bound Thomas P. Little hath obtained from the Judge of the Circuit Court of Southampton County an injunction to stay until the further order of the said Court, all proceedings on a judgment obtained in the Superior Court of Law of Hertford County State of North-Carolina by John M Gurley in his own name on a bond executed on the 29th of August 1848 by the said Thomas P. Little to the said John M Gurley as Executor of William A Sparks for two hundred and fifty one dollars eighty five cents - Now if the said Thomas P. Little shall pay and Satisfy the judgment aforesaid and all Such costs as may be awarded against him and all Such damages as shall be incurred in case the injunction be dissolved then the above obligation to be void or else to remain in full force and virtue.

Tho. P Little (Seal)
Abram Riddick (Seal)

Southampton County In the Clerks the 15th day of September 1856
The above bond was acknowledged before me in my office aforesaid, by the obligors thereto and Abram Riddick ——— the Security made oath that his estate after the payment of all his just debts is worth the Sum of $2503.70 the penalty of the said bond

L R Edwards Clk

Sittles Extor

v. } Suspension bond

Sparks Extor

Know all men by these presents that we John M Gurley

are held and firmly bound unto Abram Riddick executor of Thomas P. Little dec^{d} in in the just and full Sum of Four thousand five hundred dollars. To the payment whereof well and truly to be made we bind ourselves our heirs. Executors and administrators, jointly and severally firmly by these presents. Sealed with our seals and dated this

day of 185

The Condition of the above obligation is such that at a Circuit Court held for the County of Southampton on the 12th day of November 1858 on the motion of John M Gurley it was ordered that a decree of the said Court entered at the same Term in a Suit depending between Abram Riddick Executor of Thomas P Little dec^{d} plaintiff and John M Gurley executor of Wm A. Spark dec^{d} and in his own right defendant. by which it was adjudged, ordered and decreed that John M Gurley Executor of Wm A Spark dec^{d} pay to Abram Riddick the Executor of Thomas P. Little dec^{d} the Sum of $2019.50 balance due by Wm A. Spark to said Little as appears by report of Henry S. Howard Commissioner with interest thereon from the 2^{d} day of May 1858 till paid. and that the plaintiff recover against the said defendant his costs expended in prosecuting said Suit be Suspended for the term of Sixty days for the purpose of allowing the said Gurley time to apply for a Supersedeas to the said decree. upon condition of his giving bond with Sufficient Security before the Clerk of the said Court in the penalty of a Sum equal to double the amount of the said decree conditioned &c &c. Now if the said John M Gurley shall pay all such damages as any person may Sustain by reason of the said Suspension, in case a Supersedeas to such decree Should not be allowed and be effectual within the time so specified then the above Obligation to be void or else to remain in full force and virtue—

Signed Sealed & delivered
In Presence of } (Seal) (Seal)

Sillers Exor

v } Supr. bond

Sparks Exor

Know all men by these presents that we John M Gurley John W Gurley & Edward W Masenburg are held and firmly bound unto Abram Riddick executor of Thomas P. Little deceased in the just and full sum of Four thousand dollars. to be paid unto the said Abram Riddick executor as aforesaid his certain attorney his Executors. administrators or assigns. for the payment whereof well and truly to be made we bind ourselves. our heirs. Executors and administrators. jointly and severally firmly by these presents. Sealed with our Seals and dated this 21st day of February A.D. 1859.

The Condition of the above obligation is such that whereas the Clerk of the Supreme Court of appeals at Richmond has issued a writ of Supersedeas in the name of the Commonwealth to directed commanding the said from all further proceedings on a decree of the Circuit Court of Southampton County pronounced on the tenth day of November 1858 in a suit in which Abram Riddick executor of Thomas P Little deceased was plaintiff and John M Gurley in his own right and as Executor of William A. Spark deceased was defendant he altogether superseded, which decree before the Judges of the said Supreme Court of appeals. at the State Courthouse in the City of Richmond. for cause of error in the same to be corrected, on the petition of the said John M Gurley they had caused to come - but on the said writ the said Clerk of the said Supreme Court of appeals has endorsed that it is not to be effectual until the petitioner shall enter into bond with sufficient security, in the Clerks Office of the said Circuit Court in the penalty of four thousand dollars conditioned as the law directs. and a certificate of the execution thereof, together with the name of the security shall be endorsed by the Clerk of the said Court. Now if the said John M Gurley his Executors or administrators. shall prosecute the said writ with effect. or shall well and truly pay the amount of the decree aforesaid of the said Circuit Court in case the said decree be affirmed or the writ of Supersedeas be dismissed, and shall also pay all damages, costs and fees which may be awarded against or incurred by the said John M Gurley then the above obligation to be void or else to remain in full force and virtue —

Witness
L R Edwards Clk.

Jn. M. Gurley (Seal)
Jn. W. Gurley (Seal)
E W Masenburg (Seal)

John W Gurley & Edward W Mashburn the securities to the within bond justified on oath before me. as to their sufficiency.

S R Edwards Clk Cir. Ct
Southampton County.