

1870-16

Southampton County Chancery

Burgess, A. S. H.

vs Clayton, James

Fraud in settling estate

Burgess, Richard W (admin.)

Clayton, Richard W.
" Murdock M.
McClenney, James M.
and

} Executors

Clayton, Murdock M. (admin)
of Clayton, H. P.
and

Clayton, John A.
Clayton, Richard A.

} infants
by L. R.
Edwards
ADL

104 37 27
Kelby p. 4
Rich. W. Bunge adm
of A. S. H. Bunge des

27. } chr.

Jan. Clayton's sum:
sol.

Ar. et. Scamp.

Buys, adw

1)

Clayton, Evy
& Exhibits filed
with Bicw

Kilby p. v

Burgh adw n

n $\frac{1}{2}$ Rice

Clayton's Em: tal

1868 October Rules

Cir. et. So. and pa

To the Hon. Richard H. Baker Judge of
the Circuit Court of Southampton County
Complaining, shew unto the Court
your Complainant, Richard W. Burgess
administrator with the will annexed of
A. S. H. Burgess deceased.

Your Complainant respectfully represents to the Court and says, That he qualified as admor. with the will annexed of his father the said A. S. H. Burgess decd. in the County Court of Southampton, on the 18th day of Sept. 1855. as will be seen by a copy of the order of Court granting said administration filed herewith & marked 'A'.

That one James Clayton died in said County on the day of 1859 having made his Last will and Testament which was duly proved & admitted to record by the County Court of Southampton on the 19th day of September 1859, and that said A. S. H. Burgess, & James M. McClenny, Richard W. Clayton & Mendoock M. Clayton the Executors therein named duly qualified as such — as will be seen by a copy of said will & order of Court endorsed thereon, filed herewith as part of this Bill & marked 'B'.

Your Complainant says That the said A. S. H. Burgess entered on the entire duties

of his Trust and aided at the sale of the Testator's estate and performed his full share of the duties connected with said estate, and by law and right, became & was entitled to his full share (one fifth) of all the Commissions to which the Executor was entitled.

That sometime after the sale, & after much of the duties had been performed the said A. J. H. Bursjef turned over to his co-Executors, the said Meredith M. Clayton, Richard W. Clayton and James M. McBlenny, the Bond, assets of said estate, to close up — but little remaining to be done, — and that the said A. J. H. Bursjef expected and thought a proper settlement had been made out by his Co. Exors. as by law required — But that instead of making no such account was rendered by them (as he would have done but for their having undertaken to do what was necessary to be done after the papers were placed in their hands,) until June term 1861, as will be seen by a settlement made out by Comr. Shand & recorded — a copy of which is filed herewith & marked 'C'.

That the said Comr. allows no Commissions because as he says the time has elapsed which by law entitled the Executor to Commissions — Now

Your Complainant says that the lapse of time was wholly the fault of said Co. Executors of said A. S. H. Bungey - That they the said Rich^d W. Clayton, Minnoch M. Clayton and James M. Clermy, were not only Exors. but Legates, and hence it made no difference to them whether Commissions were allowed or not as they would receive the same amount in any event, but as the said A. S. H. Bungey was no Legatee it severely affected him - That this delay on the part of his said Co. Executors, and then having an account made up as aforesaid was considered by said A. S. H. Bungey in his life time as a fraud on him & he determined to seek his remedy or vice versa by his letter to Mr. R. Kilby attorney at law, filed herewith marked "D"

That the receipts on which the Executors of said James Clayton dec'd. were entitled to Commissions amounted to \$25,319.42, making at 5 per cent the sum of \$126,849.70 of which said A. S. H. Bungey was entitled to one fourth or \$321.99 -

Your Complainant denies that the time had expired in which the said Commissions could allow Commissions - That in February 1861. the Convention then

in session in Richmond, suspended
the act of limitations and all similar
regulations, because of the then war
and because, at a later period the Legislature
allowed Administrators further time to make
their reports to Court - and without this the
fact that a war existed was then raging
was a sufficient reason why a short delay
should not deprive an Executor of his
commissions, where he had acted in good
faith as said A. S. H. Briggs had done.
but if it had been, as it was, in the power
of his Co. Exors. to have made said settlement
sooner, and they delayed, as they did, because
their self interest prompted such a course,
and no notice given by them to their said
Co. Exor; whereby he was kept in ignorance
of their action, still the said A. S. H. Briggs
should not be deprived his commissions, whilst
his Co. Exors. received theirs ^{tho. in another form} as Legates.

Your Complainant prays this Court to
correct this error and injustice to his Testator.

That by a final settlement made of
said James Clayton's estate there was the
sum of \$20,773.23 Balance in the hands
of the Executor for distribution to the Legates, as
will be seen by a copy of said account filed
herewith marked 'E' - That this large

balance was, in the hands of said
Richard W. Clayton, Mervock M. Clayton
and James M. McElenny, and no part
thereof in the hands of said A. S. H. Purpess
and which they distributed without the
knowledge of said A. S. H. Purpess to
the legatees of said James Clayton
decd, to wit - to said Richard W. Clayton $\frac{1}{4}$;
to Mervock M. Clayton also $\frac{1}{4}$; to
James^m McElenny also $\frac{1}{4}$; and to three
infant children to wit - Mrs. A. Clayton,
James K. P. Clayton & Rich^d. A. Clayton, jointly
the other $\frac{1}{4}$ -

That said James K. P. Clayton an
infant died on the day of 1864 &

That Mervock M. Clayton qualified as his
administrator in Southampton County Court on the
17th Oct. 1864 - a copy of the order of Court
granting such qualification is filed herewith
marked "D". That said Mervock M.
Clayton also qualified as guardian of said
Mrs. A. & James K. P. & Richard A. Clayton
in Southampton County Court on the 21st Dec.
1857 - see order of Court filed herewith
marked "G" -

That the said Mervock
M. Clayton as guardian of said John
A., James K. P. & Rich^d. A. Clayton received
large sums from said James Clayton's estate

much more than enough to pay their
share of your Complainants' demand.
(see copies of Guardian accounts filed
herewith marked "H")

That practically the fact is that
Richard W. Clayton, Murdoch W. Clayton
and James M. McElenny receive their
share of the Commissions in their in-
creased position, as Legates, made so be-
cause no Com. were charged, and that
thesaid Infants, receive the share
of Com. to which said A. S. H. Burgess
should have received, and now having
all parties before the Court, your
Complainant prays that the proper
parties may be compelled to pay the same.

In consideration whereof and as this
Court can grant all adequate relief, to the
End your Complainant prays that thesaid
Richard W. Clayton, Murdoch W. Clayton,
& James M. McElenny Executors of
James Clayton and Murdoch W. Clayton
admr of Jas. R. P. Clayton and John A.
Clayton & Richard A. Clayton may
be made defendants hereto & be required
to answer the allegations herein and
that all proper relief in the premises
may be granted your Complainant. to

Genl H. P. Patten &
John R. Kelly
Attys.

Burgess

3
Clayton's

Answer of R. W.
Clayton, M. M.
Clayton to James
M. M. Clayton

1869 May 4

The joint answer of Richard W. Clayton
Murdock M. Clayton and James M.
McClenny to a bill in chancery by
R. U. Burges Adm of A. S. B. Burges
vs them and others

These defendants for answer to the
said bill in as much thereof as it is
advisable for them to answer, answering
say, that they jointly and severally wholly
and utterly deny being guilty of any
fraud in the management of James
Clayton's estate, or of any fraud or
deceit towards their co-defendants D.
A. S. B. Burges, and that the fault was
wholly that of D. A. S. B. Burges that
this account was not settled soon.
And in proof or confirmation of what
they state that in April 1861 D. Burges
addressed a letter to James M. McClenny
requesting him to meet him at the
April court 1861. The 3^d Monday to settle
return the appraisement and account
of sales or they would lose their
commissions, that he requested these
defendants did attend at the county
court and that D. Burges failed to
come, that these ~~then~~ defendants
then carried the account of sales &
appraisement to the clerk's office and
that the clerk refused to receive them
for record because D. A. S. B. Burges
had not signed them, and they then
asked Mayor Edwards the clerk what

* To R. U. Burges M. Clayton asking him
to see M. M. Clayton as M. McClenny

would be the consequence of their not
being admitted to record and he replied
they would lose their commissions
a few days after court Rich^d W Clayton
went to see D^r Burgess and asked
him why he did not allow court
and his reply was he forgot it.
They say further that some of the
executors had anything to do with the
settlement of the estate after the sale
except Rich^d W Clayton who had the
whole and sole control and settlement
the same, and that this was so done
at the suggestion of D^r Burgess
himself.

For further answer they say that
it was in the power of D^r Burgess
to have settled his executorial account
at any time himself as it is well
recognized principle of law that each
executor can settle a separate
account of his transactions as a
fiduciary, they do not consider there
is any force in the objection made
that the stay laws gave them further
time, as they consider that the stay
laws do not apply to the settlement
of fiduciary accounts, But even if
there was it cannot apply in this
case as the eighth month had
elapsed before the passing of the stay
of 1861, they qualify at the September
term 1868 and the ordinance of the
court does not pay until April

30th 1861 upwards of nineteen months
and the papers were not placed in the
commissioners hands until June 1861
as will appear by the exhibits filed by
the plaintiffs. And one of the defendants
Murdock W Clayton who as guardian
of the infant children mentioned in
the bill objects to the allowance of
commissions dis suffer by his objection
personally as the will devised the
land to others and he lost the
commissions which he would otherwise
have received, And that in reality
Rich^d W Clayton is the only executor
who is a sufferer as he managed the
estate received the money and paid it out
and still would have been entitled
to all the commissions and having
fully answered these defendants ask
leave so to do.

Shades Jr.
" Kinder
Jas. M. McClellan
W. W. Clayton
R. W. Clayton

Southampton County to wit
This day Rich^d W Clayton, Murdock W
Clayton and James M McClellan
personally appeared before me a justice of
the peace for said county and made
oath that the facts in the above bill
are true to the best of their knowledge
and belief given under my hand this
7th of November 1868
J. C. Gaffin, J.P.

I James Clayton of the County of Southampton and State of Virginia
do hereby make and Ordain this writingth and for my last will and
Testament, in manner and form following Viz: Item 1st: I leave to my
beloved wife Mary A. Clayton during her widowhood, The Plantation
wherein I now reside and fifty acres of the Jones Plantation, to be
so cut of as to most benefit the former and least injure the latter
Plantation. Also all my interest in the Basing plantation, The
following Slaves namely, Sep^r, Edmund, Alfred, Phineas, Antony,
Delilah and her two children (Ostun & Bury), Henry, Indiana,
George, Malvina & child Dick Bird, I give them and their future
increase. One half of my household and Kitchen furniture, one
years provisions for family and stock. All my distillings, Cast
Apple mill paper Stands &c. Also the following property of her
own choice, Two horses, two Cows & Calves, ten Sheep, four Sows &
pigs, two Oxen & Yokes, two Warts and wheels, one set Cast
gear, four plows, two sets Sits plow gear & axes, 2 pr. Iron
wedges, one loom & gear, 2 Spinning wheels, 3 pr. Cards.
Item 2nd: After the death or marriage of my beloved wife I give and
bequeath to my two sons Allen A. Clayton and Julian F. Clayton,
all the above named property both real and personal, and all future
increase, to them and their heirs forever.
Item 3rd: I give and bequeath to my son Robert M. Clayton the Sum
of One Thousand dollars to him and his heirs forever.
Item 4th: I give and bequeath to my son Murdock M. Clayton,
my Plantation known as "Hedgeporth" to him and his heirs
forever.

Item 5th: I give and bequeath to my grandson James H. Prepon, the sum of Five dollars as his sole bequest.

Item 6th: The remainder of my Jones Plantation is to be sold to the best advantage and the proceeds be divided in three equal shares, my daughter Eliza C. McCluney to receive one share, my son Richard W. Clayton one and my three Grand-sons John A. Clayton, James H. P. Clayton and Richard A. Clayton is to receive the remaining one.

Item 7th: The remainder of my Estate not heretofore disposed of be sold and the proceeds be divided in four equal shares, my daughter Eliza C. McCluney is to receive one, my son Richard W. Clayton is to receive one, my son Murdock M. Clayton is to receive one, my three grand children John A., James H. P. and Richard A. Clayton is to receive the remaining one.

Lastly: I do hereby nominate and appoint Dr. A. S. H. Burges, James M. McCluney, Richard W. Clayton and Murdock M. Clayton my Executors to this my last Will and Testament, revoking all others Wills heretofore by me made. In Testimony whereof I have hereunto caused my Signature and Seal to be affixed this 28th day May 1858, in the presence of

Alfred F. Stephenson
Robert M. Jones
Graces A. Stephenson

James Clayton (Seal)

At a Court held for the County of Southampton on the 19th day of September 1859. This last Will and Testament of James Clayton decd. was proved by the Oaths of Alfred F. Stephenson, and Robert M. Jones two of the Subscribing witnesses thereto and thereupon Ordered to be recorded. And on the Motion of A. S. H. Burges, James M. McCluney, Richard W. Clayton and Murdock M. Clayton, the Executors therein named, who made Oath and together with W^m D. McCluney, Allen Edwards, Alfred F. Stephenson and Thomas J. Broster, their Sureties, (who justified on Oath as to their Sufficiency,) entered into and acknowledged a bond in the penalty of Eighty thousand Dollars, Conditioned according to Law, Certificate is granted them for obtaining a probate of the said Will in due form.

Teste,

Allen Edwards, Ck

Copy

Teste S. R. Edwards Ck

The answer of Richard A Clayton & John A Clayton the infants by L^R.
Edwards their Guardian ad litem ^{vs} to a bill in Chancery exhibited against them
& others in the Circuit Court of Southampton County by R. W. Burges attor. ^{vs} of
A. S. H. Burges dec^r.

These defendants being infants are ignorant of their rights
~~in their rights~~ in these premises and throw themselves upon the judgment and
protection of the Court and having answered Prays hence to be dismissed
vs

L^R. Edwards Gr. ad litem
vs

The Estate of James Clayton dec.

In Account with Richard W. Clayton. Murdock M. Clayton. James M. McClenney
 & A. S. H. Burges his Executors -

1861				\$	cts	\$	cts	Interest \$.	cts
June 15	By balance due the estate by last report					20393	92	566	81
	To paid Rich. W. Clayton	Account		150	00				
	" paid Geo. P. Boykin	"		37	50				
	" Balance			20206	42				
				20393	92	20393	92	566	81
	By balance					20206	42		
	" interest brought in					566	81		
June 16	By balance due the estate					20773	23		
	with interest on \$20,206.42 cts part thereof from this day till paid								

The Commissioner states specially that this account is merely supplemental to the last, one of the executors Rich^d W. Clayton having laid before him the two foregoing accounts which were not included in the previous settlement - All of which is respectfully submitted by
 Wm. B. Shands Commissioner

Commissioners fee \$2.
 Chg^s to the Executors 3

Southampton County. In the Clerk's Office the 3^d day of May 1862
 This account of Rich^d W. Clayton. Murdock M. Clayton. James M. McClenney &
 A. S. H. Burges' Executorial proceedings on James Clayton's estate was returned and filed
 for exceptions. And at a Court held for the said County on the 16th day of June 1862

the said account having lain one month and upwards in the Clerks Office and there being
no exception thereto, was examined, confirmed and ordered to be recorded.

Teste

L.R. Edwards *cl*

Attest

Teste

L.R. Edwards *cl*

Richard A. Clayton, a Minor

In account with Murdock M. Clayton his Guardian.

			Dr.		Cr.	
			\$	cts	\$	cts.
1861.						
Dec.	31.	By Balanced and by the last report			227	18
1862.		" interest on last years balanced			13	53
		" here of Negroes this year			49	00
Jan	15.	" Cash from James Clayton's Estate			1804	15
		" Cash from Sale of Girl Georgianna			308	70
		" interest on \$1804.15 cts for 4 Months			36	08
		To Commissions on \$2211.62 cts at 5 pr. Cent	110	58		
		" paid R. M. Jones account	13	10		
		" paid Clerk's Ticket	1	25		
		" paid Commissioner's fee	2	00		
		" paid T. M. Harris account	1	00		
		" paid Catherine Stephenson "		54		
		" paid Taxes	2	80		
		" Balanced	2306	75		
			2438	80	2438	80
Dec.	31.	By Balanced due the ^{ward} estate with interest from this day.			2306	75

Commissioner's fee for this }
 & copy, \$3. charged to the Cr. }

Respectfully Submitted by
 Wm B. Shands, Commissioner.

Smithampton County. In the Clerk's Office the 18th day of June 1863.
 This account of Murdock M. Clayton's guardianship of Richard A. Clayton
 was returned and filed for exceptions, and at a Court held for the said
 County on the 20th day of July 1863. the said account having lain on
 Minute and upwards in the Clerk's Office and there being no exceptions
 thereon, was examined, confirmed, and ordered to be recorded.
 Juste, S R Edwards, Clk

John A. Clayton, a Minor
In account with Murdock M. Clayton his Guardian.

1861.			Dr.		Cr.	
Dec.	31.		\$	cts.	\$	cts.
		By Balanced due by the last report			309	88
1862.		" Cash from James Clayton's Estate			1804	11
		" Cash from Sale of Girl Georgianna			308	76
		" hire of Negroes this year			49	00
		" interest on last years balance			18	59
		" interest on \$1804. 11cts 4 Months			36	08
		To Commissioners on \$2216. 54cts at 5 per cent	110	82		
		" paid Clerk's Ticket		1	25	
		" paid for Shoes		10	00	
		" paid Catherine Stephenson account		54		
		" paid R. M. Dols		13	10	
		" paid Commissioners fee		2	00	
		" paid Silman Harris account		1	67	
		" goods furnished Ward		12	62	
		" paid Taxes		3	35	
		" Balanced	2371	01		
1862.			2526	42	2526	42

Dec. 31. By Balanced due the Ward with interest from this day.

Commissioner's fee for this } Respectfully Submitted by,
+ Copy #3. Chgd to the Cr. } Wm B. Shands, Commissioner.

Southampton County. In the Clerk's Office, the 18th day of June 1863.
This account of Murdock M. Clayton's Guardianship of John A. Clayton, was returned and filed for exceptions. And at a Court held for the said County on the 20th day of July 1863, the said account having lain one Month and upwards in the Clerk's Office and there being no exception thereto, was examined, confirmed, and ordered to be recorded.
Teste,

SR Edwards, Ck

James R. S. Clayton, a Minor
In account with Murdock M. Clayton, his Guardian.

1861.			Dr.		Cr.	
Dec.	31.		\$	cts.	\$	cts.
		By Balanced due by the last report			116	80
1862.		" interest on last years balance			7	00
		" hire of Negroes this year			49	00
		" Cash from James Clayton's Estate			1804	15
		" Cash from Sale of Girl Georgianna			308	76
		" interest on \$1804. 15cts 4 Months			36	08
		To Commissioners on \$2204. 99cts at 5 per cent	110	24		
		" paid Commissioners fee		2	00	
		" paid Catherine Stephenson account		54		
		" paid Taxes		3	20	
		" paid Clerk's Ticket		1	25	
		" paid R. M. Dols account		13	10	
		" paid for Shoes		10	00	
		" goods furnished Ward		25	00	
		" goods furnished Ward		12	62	
		" paid Silman Harris account		1	68	
		" Balanced	2143	12		
1862.			2321	79	2321	79

Dec. 31. By Balanced due the Ward, with interest from this day.

Commissioner's fee for this } Respectfully Submitted by,
+ Copy #3. Chgd to Cr. } Wm B. Shands, Commissioner.

Southampton County. In the Clerk's Office, the 18th day of June 1863.
This account of Murdock M. Clayton's Guardianship of James R. S. Clayton, was returned and filed for exceptions. And at a Court held for the said County on the 20th day of July 1863, the said account having lain one Month and upwards in the Clerk's Office and there being no exception thereto, was examined, confirmed, and ordered to be recorded.
Teste, SR Edwards, Ck

The foregoing are true transcripts from the Record
Jute

L R Edwards. lly

Richard A. Clayton, a Minor

In account with Murdock M. Clayton his Guardian.

		Dr		Crs	
		\$	cts	\$	cts
1862.	Dec. 31.				
	By Balanced due by the last report			2305	75
1863.	" interest on last years balance			138	40
	" Negro hire this year			14	00
	" Cash from James Clayton's Est.			8	18
	To Commissions on \$160. 36 cts. at 5 per cent	8	02		
	" paid Irving Duck account	4	88		
	" paid taxes and tickets	53	27		
	" paid R. M. Doty m. d. bill	53	33		
	" paid for 22 Shares of Virginia				
	6 per cent State Stock	2332	00		
	" Balanced	16	83		
		2467	33	2467	33
Dec. 31.	By Balanced due the ward			16	83

The Commissioner reports that the Guardian purchased 22 Shares of Va. 6 per cent State Stock, per Value \$100. a Share, for which he paid \$2332. That he has subtracted the same from the Money balance due the ward, and the Guardian now holds 22 Shares of Va. 6 per cent State Stock for his ward and must account annually for the interest on the same.

Respectfully Submitted by,
W. B. Shands, Commissioner.

Commissioner's fee for this
copy, \$15. Chgd to the Cr.

Southampton County. In the Clerk's Office, the 19th day of April 1864.
This account of Murdock M. Clayton's Guardianship of Richard A. Clayton, was this day returned and filed for exceptions. And at a Court held for the said County on the 20th day of June 1864, the said account having lain on the Minute and upwards in the Clerk's Office, and there being no exception thereto, was examined, confirmed, and Ordered to be recorded.

Teste, S. R. Edwards, C. C.

John A. Clayton, a Minor

In account with Murdock M. Clayton, his Guardian.

1863.			\$	cts	\$	cts.
Dec. 31.	By	Balanced due by the last report			2371	01
1863.	"	Interest on last years balanced			142	26
	"	Negro hire this year			14	00
	"	Cash from James Clayton's Est.			8	18
	I	Commissions on \$ 104.44 at 5 per Cent	5	22		
	"	paid J. W. Suck account	7	34		
	"	paid taxes and tickets	53	27		
	"	paid R. M. Jones M. de Bill	53	34		
	"	paid for 20 and 3/5 Shares of Va. State Stock par Value \$100 a Share	212	13	00	
	"	Balanced	200	28		
			2535	45	2535	45
Dec. 31.	By	Balanced due the Ward			200	28

The Commissioner reports further that the Guardian purchased 20 and 3/5 Shares of Va. 6 per Cent State Stock par Value \$100 a Share for which he paid \$212.13. That he has subtracted the same from the Money balanced due the Ward, and the Guardian now holds 20 and 3/5 Shares of Va. 6 per Cent State Stock for his Ward and must account annually for the interest on the same.

Commissioner's fee for this
+ Copy \$15. Chgd to the Gr.

Respectfully Submitted by,
W. B. Shands, Commissioner.

Southampton County. In the Clerk's Office, the 19th day of April 1864.
This account of Murdock M. Clayton's Guardianship of John A. Clayton was this day returned and filed for exceptions. And at a Court held for the said County on the 20th day of June 1864, the said account having lain one month and upwards in the Clerk's Office, and there being no exception thereto, was examined, Confirmed and Ordered to be recorded.

Teste, S. R. Edwards, C. C.

James M. P. Clayton, a Minor

In account with Murdock M. Clayton, his Guardian. - Dr. Cr.

1863.			\$	cts	\$	cts.
Dec. 31.	By	Balanced due by the last report			2143	12
1863.	"	Interest on last years balanced			128	58
	"	Negro hire this year			14	00
	"	Cash from James Clayton's Est.			8	18
	To	Commissions on \$ 150.76 cts. at 5 per Cent	7	53		
	"	paid R. M. Jones M. de Bill	53	33		
	"	paid taxes and tickets	58	27		
	"	paid J. W. Suck account	3	00		
	"	paid for 20 Shares of Va. 6 per Cent State Stock, par Value \$100. -	2120	00		
	"	Balanced	51	69		
			2293	89	2293	89
Dec. 31.	By	Balanced due the Ward			51	69

The Commissioner reports that the Guardian purchased 20 Shares of Va. 6 per Cent State Stock, par Value \$100 a Share, for which he paid \$2120. That he has subtracted the same from the Money balanced due the Ward, and that the Guardian now holds for his Ward 20 Shares of Va. 6 per Cent State Stock, and must account annually for the interest on the same.

Commissioner's fee for this
+ Copy \$15. Chgd to the Gr.

Respectfully Submitted by,
W. B. Shands, Commissioner.

Southampton County. In the Clerk's Office, the 19th day of April 1864.
This account of Murdock M. Clayton's Guardianship of James M. P. Clayton was this day returned and filed for exceptions. And at a Court held for the said County, on the 19th day of June 1864, the said account having lain one month and upwards in the Clerk's Office, and there being no exception thereto, was examined, Confirmed, and Ordered to be recorded.

Teste, S. R. Edwards, C. C.

The foregoing are true transcripts from the record
Jute

L.R. Edwards & Co

"A"

The Estate of James Clayton decd.

In account with Richard W. Clayton, Murdock M. Clayton,
James M. McClenny and A. S. H. Burgess, his Executors.

1850.			\$	cts	\$	cts	\$	cts
June	13.	By Cash from 898. acres of Land Sold by the Executors -			4014	50		
June	13.	" Cash from Sale of Chattels & Negroes			19985	36		
		" Cash from Willis Bradshaw			90	95		
		" Cash from James Vick			34	79		
		" Cash from Jim Perda			13	00		
		" Cash from W ^m A. Atkinson			38	89		
		" Cash from John S. Lord			2	66		
		" Cash from Joseph Williams			4	38		
		" Cash from Endland Lawrence			16	63		
		" Cash from Sam Bowens			40	58		
		" Cash from Wilburn Stephenson			26	50		
		" Cash from Benj. H. Travis			9	58		
		" Cash from James G. Jones			13	38		
		" Cash from Levi W. Stephenson			12	50		
		" Cash from Allen Edwards			43	25		
		" Cash from John P. Boykin			27	45		
		" Cash from Irving W. Duck			74	32		
		" Cash from Levi W. Stephenson			29	79		
		" Cash from James H. Greer			29	65		
		" Cash from Mint Briggs			27	77		
		" Cash from John Boykin's Est.			67	65		

By Cash from J. F. Purdes	12	81
" Cash from George W. Spivey	24	52
" Cash from M. M. Clayton	22	22
" Cash from M. L. Ward	17	52
" Cash from R. M. Stephenson	12	50
" Cash from Calvin Lewis	4	88
" Cash from Goodman Stern	43	00
Amount Carried over	247	41 13

1860.

Amount brought over			24741 13
By Cash from Jesse B. Johnson			8 71
" Cash from A. F. Stephenson			9 75
To paid W. S. McClung acct.	24	50	
" paid Alfred F. Stephenson bond	575	00	
" paid Wilburn Stephenson "	233	49	
" paid M. L. Ward acct.	2	00	
" paid M. S. Butler "	14	82	
" paid M. S. Butler "	2	25	
" paid J. S. Branch "	12	80	
" paid H. B. + A. Bell "	6	12	
" paid Ashburn + Watkins "	8	37	
" paid Ashburn + Watkins "	41	81	
" paid M. M. McDermott "	31	59	
" paid A. F. Stephenson bond	1063	42	
" paid W. R. Stephenson acct.	1	40	
" paid James Holmes bond	259	22	
" paid Elizabeth Guitlow "	238	20	

To paid Wilburn Stephenson	acct.	7	37
" paid Thomas J. Brister	bond	79	89
" paid Sheriff's tickets		1	00
" paid W. B. Shands	acct.	20	00
" paid Calvin Lewis	"	9	00
" paid W. R. Stephenson	bond	42	37
" paid Alex. Faison	acct.	8	09
" paid John R. Killy	"	6	00
" paid Mordecai Bradshaw	"	9	40
" paid W. H. Hood	"	15	00
" paid Saml. Wells, Negro hire		2	00 00
" paid Sheriff's tickets		8	20
" paid M. M. Clayton	acct.	10	00
" paid Leigh + Bros.	"	31	50
Amount Carried over		296	97 24759 59

1860.

Amount brought over	29	69	97	24	75	95	9
To paid Clerk's ticket				10			
" paid Irvin W. Snook 3 accounts	12	5	90				
" paid Thos. J. Lord	10	80					
" paid Willis Bradshaw	8	4	13				
" paid Jas H. Preper	90	00					
" paid John P. Boystein	37	50					
" paid S. Solis	6	28					
" paid John Crumpler	30						
" paid W. B. Williams	6	00					
" paid Wilburn Hedgepeth	1	00					

To paid Eli W. Davis	acct.	10 00	
" paid G. W. Spivey	"	2 50	
" paid Calist Jackson	"	7 13	
" paid W. H. Sumner	"	18 00	
" paid Irving W. Duck	bnd	117 40	
" paid R. W. Clayton	acct.	64 37	
" paid Mirt Briggs	"	12 70	
" paid appraisers of the Estate		8 00	
" paid taxes		133 42	
" paid tickets		12 62	
" paid Bland Butler	acct.	30	
" paid R. Stephenson	bnd	133 29	
" paid A. T. Stephenson	acct.	10 96	
" paid Jas. G. Jones	bnd	37 45	
" paid Clerk's tickets		13 29	
" paid John J. Lord	bnd	154 61	
" paid George W. Eley	acct.	9 00	
" paid Jacob Senow	"	65 00	
" Balanced		20611 45	

24759 59 24759 59 ✓

Dec 31. By Balanced due the Estate
 1861. Amount carried over

1861. Amount brought over

By Cash from Edwin Bradshaw	
" Cash from Jas. M. McCluney	
" Cash from Jas. Griffin	
" Cash from W. Milby	
" Cash from O. J. Chapman	
" Cash from Patrick Giles	

Dr.	Cr.	Inr.
\$	cts	\$ cts
		20611 45
		125 19
		20 92
		4 25
		5 50
		6 25
		23 81

1861.	By Cash from W. H. Sumner	13 35
	" Cash from G. H. Gardner	13 00
	" Cash from A. S. Burgess	134 62
	" Cash from A. B. Urquhart	35 07
	" Cash from W. H. Jenkins	4 00
	" Cash from Thos. J. Baister	22 72
	" Cash from G. Horn & R. M. Harris	151 25
	To paid A. S. Burgess acct.	21 00
	" paid Thos. J. Baister	10 50
	" paid A. S. Burgess bnd	150 80
	" paid W. H. Jenkins acct	5 62
	" paid Saml Kelso, Negro hired	150 00
	" paid George H. Gardner acct	14 03
	" paid St. B. & A. B. Urquhart	5 16
	" paid R. M. Dole	377 00
	" paid A. S. Burgess	68 25
	" paid R. C. Wells	2 00
	" paid Singers Linn	15 00
June 15.	By interest on \$20611.45 cts for 5 1/2 Months	566
	To Balanced	20393 92

		21171 28	21171 28	566
	By Balanced		20393 92	
	" Interest brought in		566 81	
June 15.	By Balanced due the Estate with interest on \$20393.92 cts. paid thereof from this day till paid.		20966 20	

The Commissioner begs leave to state further that in the Settlement
of the said account he has allowed the Executors no Commissions
whatsoever. The point being raised before him, upon examination
he found they qualified at the September Term 1859. of the
County Court, and they placed their papers before him at the
Second Term 1861. of the same Court, it being a longer period
than eighteen Months, All of which is Respectfully Submitted
by W^m. B. Shands, Commissioner.

Commissioner's fee for this }
& Copy, \$12. Chgd to the Exrs. }

Southampton County: In the Clerk's Office, the 20th day of August 1861.
This account of Richard W. Clayton, Murdock M. Clayton, James M.
McCluney and A. S. St. Burge's executorial proceedings on James
Clayton's Estate, was returned and filed for exceptions. And at a
Court held for the said County, on the 21st day of October 1861, the
said account having lain one Month and upwards in Clerk's Office,
and there being no exceptions thereto, was examined, Confirmed,
and Ordered to be recorded.

Teste,

L R Edwards, C. C.

A Copy

Teste

L R Edwards C. C.

The Commonwealth of Virginia.

To the Sheriff of Southampton County—Greeting:

We command you to summon *Richard W. Clayton, Murdock M. Clayton, James M. McClenny*
Executors of James Clayton decd. & Murdock M. Clayton admr. Jas. H. P. Clayton & Richard
A. Clayton

if *they* be found within your bailiwick, to appear at the Clerk's Office of our
Circuit — Court of Southampton County, at the Rules to be holden for the said
Court, on the first Monday in *October next to answer a bill in chancery exhibitd against*
them in our said Court by Richard W. Burgess admr. &c. of A. S. H. Burgess decd.

and have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, this

22nd day of *September* A. D. 186 *8*, in the *93rd* year of the Commonwealth.

L. R. Edwards, clks

Burgis Eden
~ { Sims. Chy.

Claytons Ear^s.

1868 October Rules.

The Commonwealth of Virginia,

To the Sheriff of Southampton County—Greeting:

We command you to summon *John A. Clayton*

if *he* be found within your bailiwick, to appear at the Clerk's Office of our
District Court of Southampton County, at the Rules to be holden for the said
Court, on the first Monday in *October next to answer a bill in Chancery exhibited*
against him and others in our said Court by R. W. Burges admo. of J. S. N.
Burges de.

and have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, this
30 day of *September* A. D. 1868, in the *93^d* year of the Commonwealth.

L R Edwards

Burgess' ar.

v { Sum. Chy.

Claytons Exor:

1868 October Rules

Executed on ^{Sept 29th 1868} M. M. Clayton
& R. H. Clayton by posting a
copy on the front door of
their dwelling, there being
no ^{white} members of the family
over sixteen years at home
James M. McLenny & Rich.
A Clayton not residents of
my County.

W. G. Holmes Depy
for S. Kells Shff

The Commonwealth of Virginia,

To the Sheriff of Southampton County—Greeting:

We command you to summon *Richard W. Clayton, Murdock M. Clayton & James M. M. Clenny Executors of James Clayton dec. & Murdock M. Clayton admor. James W. P. Clayton & Richard A. Clayton*

if *they* be found within your bailiwick, to appear at the Clerk's Office of our
Circuit — Court of Southampton County, at the Rules to be holden for the said

Court, on the first Monday in *October next to answer a bill in Chancery exhibited against them*
in our said by Richard W. Burges admor. & of A. H. Burges dec.

and have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, this
22^d day of *September* A. D. 1868, in the *9th* year of the Commonwealth.

L R Edwards cl

1868 Oct 27th

Enclosed and
a true copy heretof
submitted is for Mr. McHenry
W. A. Phelps & Co.

Burges adm.
v } Sum. Chy

Claytons Exors vs
1868 November Rules.

Hausemond

me The Commonwealth of Virginia,

Norfolk

To the Sheriff of Southampton County—Greeting:

We command you to summon

James M. Clumy Executor of James Clayton decd

if he be found within your bailiwick, to appear at the Clerk's Office of our
Court of Southampton County, at the Rules to be holden for the said
Court, on the first Monday in November next to answer a bill in Chancery
exhibited against him & others in our said Court by R. U. Burges
admo: of A. S. H. Burges

and have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, this
5th day of October A. D. 1868, in the 93^d year of the Commonwealth.

L R Edwards Clk

Major General

I omitted "Mr a Clayton" name
in sent of Bump's adv — he is an
Infant. please inform — Bepleand
to file an answer for Mr. a. Clayton
Richd a Clayton 2 Infants.

Copy to Richd. Bump's great
on his father's estate & mark it 'a'
I put in Blount in Bice —

Please say to Mr Patton to
examine Bice father as he thinks
proper —

Yrs truly
John R Kelly
28 Sep 1868.

Put up this notice of sale
from

At a Court held for the County of Southampton on the 17th day of October 1854 -

On the motion of Murdock M Clayton who made oath and together with Robert M Ades & A. J. Stephenson his securities, who justified on oath as to their sufficiency) entered into and acknowledged a bond in the penalty of four thousand dollars conditioned according to law certificate is granted him for obtaining letters of administration on the estate of James H. P. Clayton dec^d. in due form -

Attest

Teste

L. R. Edwards Esq

At a Court held for the County of Southampton on the 21st day of December 1857.

The Court doth assign Murdock M Clayton guardian of John A. James W. P. & Richard A Clayton orphans of James E Clayton dec^d. Whereupon he together with Willis Bradshaw and ~~John A. Clayton~~ J. Stephenson his securities, who justified on oath as to their sufficiency & entered into and acknowledged a bond in the penalty of five thousand dollars conditioned according to law.

Attest

Teste L. R. Edwards Clk

Southampton County Court September 18 1865

A Writing bearing date the 17th March 1861 purporting to be the last Will and Testament of A. S. M. Burges dec^d together with a codicil thereto bearing date the 30th May 1863, was this day presented to the Court and there being no subscribing witnesses thereto James B. Ughent being sworn and examined as a witness, the Court after hearing the testimony are of opinion that the said writing bearing date the 17th March 1861 and the signature thereto, and the codicil bearing date the 30th May 1863 and the signature thereto are wholly in the hand writing of the said A. S. M. Burges dec^d therefore it is ordered that the said writings be recorded as the last Will and Testament and Codicil thereto of the said A. S. M. Burges dec^d. And on the motion of Richard W. Burges (no executor being named in the said Will or Codicil thereto) who made oath and together with Saml B. Kello. and M. D. Butler his Sureties, who justified on oath as to their sufficiency, entered into and acknowledged a bond in the penalty of five thousand dollars conditioned according to law, Certificate is granted him for obtaining letters of administration with the will and codicil annexed in due form.

A Copy

Test

L. R. Edwards Clk

Lyons 100 27

Reelins 100
Feb. 5/12

100

John R. Kilby, Esq.
Attor. at Law,
Suffolk, Va.

100.
1862.
Rec'd. N. Kilby, Esq.
at N. H. Kilby

Dear Sir:

Appleton - near Berlin, Va.

On the day of our December Court, I, casually, mentioned to you that a portion of the Executors of the Will of the late Capt. James Clayton, had, unknown to me, rendered a Report - which was confirmed by the Commissioner - depriving me of such commissions as the law allowed me, as one of the Executors of Capt. Clayton. -

On the discovery of this fraud I, at once, determined to seek the redress which our excellent Clerk, Mr. Edwards, advised me, as I understood him, was then to me - viz. to institute an action for debt to the Court of said Commissioner, against the estate of the aforesaid James Clayton. I was prevented by indisposition from attending the late Southampton Court. - Will you have the goodness to take the matter in hand for me, and to take such steps as may be necessary to effect my purpose, so soon as is practicable. Though I expect to see you at Lewis & Lewis, at our evening court, I deemed it expedient to apprise you of my design in the premises, thus early. -

J. R. Tilley, Esq. -
Feb. 13. 3d. 1862.

With great respect,
Yr. frd. & obdt. servt.
A. J. H. Purdy. -

Rich^d. W. Burges adw
with the wife annexed
of A. S. H. Burges dnt

27

Rich^d. W. Clayton, Murdoch
m. Clayton, James m.
m. Clancy & his A;
- Jas. H. P. & Rich^d. A.
Clayton - the last three
Infants

Jas. H. P. - dead &
Murdoch m. Clayton
his adw.
died 1867.

To Oct Rules 1866
So. amper Cis. Ct.

Burges' adm
v { Stat. Rules

Claytons Ex. v

In Southampton Circuit Court.

Richard W Burges administrator with the will annexed of A. S. H. Burges deceased

against
Richard W Clayton, Murdock M Clayton & James M McLenny Executors of James Clayton dec^d & Murdock M Clayton admor. of James H. P. Clayton dec^d and John A Clayton & Richard A. Clayton infants by L R Edwards their guardian ad litem

1868 Sept 22: Summons issued

" Oct. Rules - Sum^s ret^d Ex^r on M. M & R W Clayton. J M McLenny & Rich^d A Clayton not residents. Bill filed. L R Edwards assigned Ex^r ad litem to infant Def^s: John A & Rich^d A. Clayton - Ans. infants. Gen. Rep^r: Decree Nisi to Def^s. Richard W & Murdock M Clayton Ex^r. James Clayton dec^d & Murdock M Clayton admor. Jas. H. P. Clayton - Al. Sum^s to Def^s: Jas. M. McLenny Ex^r. James Clayton dec^d.

" Nov. Rules - Al. Sum^s to Def^s: M. McLenny Ex^r: returned Ex^r. D. Nisi to him. Bill taken for confessed as to affs. Rich^d W & M. M. Clayton Ex^r: James Clayton dec^d & as to M. M. Clayton admor: Jas. H. P. Clayton

" Dec. R. Bill taken for Confessed as to affs. M. McLenny Ex^r: Jas. Clayton & cause set for hearing of

1869 May. Ans^s of Affs. Gen. Rep^r. & Cont^d?

1870 Nov. Dumped