

1871-054

SOUTHAMPTON COUNTY
CHANCERY PAPERS

FRANCIS

VS. CLAUD

3/1871

In Southampton County Court.

Albert S. Francis

against

Joseph W. Cland

1870 May 18th Summons issued

" June Rules " Ret^d Ex² Bill filed. D. Nisi. 2^d

" July " Bill taken for confessed

" Aug. 6th Decree for acc^t

" Oct. 24th Report.

1871 March Dismissed

10. 3 6

1. 00

12 00

16 00

✓ 39. 36

Francis

✓ } Stat. Rules

Claud

Clk

✓ 10. 41

Sh

1. 50

Corr Tyler

12. 00

Law &

5. 50

✓ 29. 41

9. 35
106
1041

Francis
as 3 Bill
" activities
Clara

1870 Judge Rules

To the Honorable Joseph W. Vaughan judge
of the County Court of Southampton
in chancery sitting

Humbly complaining your
orator Albert L. Francis sheweth unto
your Honor that ^{at} The November Term
1869 of the circuit court of Southampton
your orator then a minor but now of
age by his next friend H. T. Francis
obtained a judgment on a bond for \$1,500
with interest from 15th March 1868 against
Wm A. Jones and Joseph W. Clouse which
judgment was docketed on the 5th of May
1870 and that an execution issued on the
same and has been returned no effect
or satisfaction all of which will more
fully appear by ~~a~~ certified copies of the
said judgment and execution herewith
filed marked A and B and prayed to be
taken as parts of this bill. Your orator
states that he does not intend to proceed
in this cause to enforce his judgment
against Wm A. Jones as he is informed
and he believes correctly, that there are
judgments liens ahead of his on the
lands of the said Jones that will more
than exhaust his real estate, but

will proceed only against the other obligor
in the bond Joseph W. Clance, Your orator
avows and charges that his judgment already
docketed is a lien and charge on the real
estate of the said Joseph W. Clance and by
section 9: chapter 18: code of Virginia edition
of 1860 may always be enforced in a
court of equity, he charges further that
the rents and profits of the said Joseph W. Clance
real estate will not pay off his judgment
lien in five years and is so a sale of his
real ^{estate} or a part thereof will be necessary to
pay his judgment.

In tender consideration whereof and inasmuch
as your orator is without remedy in a court of
law and only entitled to relief in a court of
equity where such matters are peculiarly
cognizable he therefore prays that Joseph W.
Clance may be made a party defendant
to this bill and that the court would compel
him as full and perfect answer maker to
the allegations therein contained as if he had
been therein more fully and specially
interrogated and that the court would
direct one of its commissioners to enquire
into and report to this court the actual and
annual value of all the real estate of
which Joseph W. Clance is seized and

proprietor and to report all judgments ^{against him} obtained
and docketed and their priorities and is
on the said reports it should appear that
the rents and profits of the said Jos. W.
Clance's real estate will not pay off the
said judgments in five years then that
the said real estate or as much thereof
as may be necessary may be sold to pay the
same and that the court would grant
such other and general relief the premises
considered as equity may dictate and
the nature of his case may require and
as in duty bound your orator will ever
pray he

Charles J. S.

Francis

no 3 Decm

Clance

It he entered

J. W. Mynhart
Judge

Aug 15th 1870

Francis

vs 3 Deane

Clance

This day this cause came on to be heard on the bill taken for compulsion as to the defendant Joseph W Clance on whom process have been duly served and he still failing to appear and place answer and answer to the said bill on the exhibits filed and was argued by counsel. On consideration whereof the court doth adjudge order and decree that one of the commissioners of this court enquire into and report to the court the actual and annual value of all the real estates whereof Joseph W Clance is seized and possessed and also all judgments that have been obtained against the said Joseph W Clance and docketed and this priorities and report to come to court together with any matters specially stated deemed pertinent by himself or which may be required to be so stated by any of the parties interested

Francis J. Secor
is
Claude

October 19th 1840.

Saukhampton County Court, August Term 1870

Albert S. Francis

Plaintiff

Sub Chancery

Defendant

against
Joseph W. Cland

This day this Cause came on to be heard on the bill taken for
compulsory as to the Defendant Joseph W. Cland, no return process had
been duly served, and he still failing to appear and plead,
answer & demur to the said bill, on the exhibits filed and was
argued by Counsel; the Court thereupon the Court doth
adjudge, order and decree, that one of the Commissioners of
this Court enquire into and report to the Court the actual and
annual value of all the real estate whereof Joseph W. Cland
is seized and possessed and also all judgments that have
been obtained against the said Joseph W. Cland and
heirs and their privies, and report the same to Court,
together with any matters specially stated deemed
pertinent by himself or which may be required to be
so stated by any of the parties interested.

Attest

James R. Tyler, C.C.

Francis

is 3/4 Dean
Clare

Francis

vs 3 Decm
Clance

This day This cause came on again to be heard on the papers formerly read, and the report of commissioner Tyler made pursuant to a decree entered at the August Term 1870 of this court and to which no exceptions have been filed and was argued by counsel. On consideration whereof the court doth adjudge order and decree that the said report be confirmed, and it appearing to the court from the said report that the lands of Joseph W Clance or some part thereof will have to be sold to pay the judgments liens shown the court doth further adjudge order and decree that Mr W Briggs sheriff of Southampton who is duly appointed for that purpose shall after having given at least twenty days notice by public advertisement both in the neighborhood of the lands and at the court house ^{on the premises} presence to sell at public auction to the highest bidder the following lands or as much thereof as may be necessary to satisfy the judgments reported by commissioner Tyler belonging to Joseph W Clance to wit one tract of 587 7/8 acres on Three creeks, one tract of 100 acres adjoining Mrs A. Jones, one tract of 360 acres adjoining

Mr A Jones, one tract of 3.5.3 acres adjoining
Mr A Jones, one tract of 5.7/8 acres adjoining
Mr A Jones, and one tract of 1108 acres
adjoining the lands of Mr A Jones. On the
following terms to wit sufficient cash
to pay the costs of this suit and expenses
of the sale including a fee of \$50 to
Mr B Shandas the plaintiffs attorney
and the balance of the purchase money
on a credit of one, two and three years
equal instalments taking from the
purchaser bonds with approved security
carrying six per cent interest from
the day of sale and return the
same together with his report to this
court in order to a further decree
But the said Mr W Briggs shall not
see any of the said land unless it
brings at least three fourths of its
value according to the last appraisement
and he must so report the fact to
the court

Francis

to } Sum^t Chy

Gland

1870 June Rules for B.

Executed.

W. C. Briggs skff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Southampton---Greeting:

We command you to summon

Joseph W. Bland

if ^{County} 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 June next to answer a bill in Chancery exhibited against him in our said Court by Albert L. Frances

And have then there this writ.

Osman White

Witness, ~~LITTLETON R. EDWARDS~~, Clerk of our said Court, at the Court-House, this 18 day of

May

A. D., 1870, in the 94 year of the Commonwealth.

C. White Clk

Francis } Carr's
es } John
Cland }

Executed

W W Briggs shff

Commissioner's Office,

JERUSALEM, *Augst 27th* 1870

To *Albert L. Francis and Joseph W. Claud*

You are hereby notified that I have fixed upon the *19th* day of *October* next, if fair, if not, on the next fair day thereafter, (Sunday excepted,) to take and settle, at my office, the following account to wit: *That one of the Commissioners of this Court enquire into & report to the court the actual & Annual Value of all the real Estate whereof Joseph W. Claud is seized and possessor and also all judgements that have been obtained against the said Jos W. Claud & docketed & their priorities and report to this Court.*

required to be taken by the decree of Southampton *County* Court, rendered ^{at} on the *August Term* 1870, in the suit in chancery depending in said Court, between

Albert L. Francis

Joseph W. Claud

*Plff and
Dft*

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.

Jas R. Tyler
HENRY S. HOWARD, Commissioner.

Francis

v } Com Tylers Report

Wland

1870 October 24.

An Accounts of Judgments against Jos W Claud & docketed in
in the Clerk's office & their priorities as follows

	Helen D Turner			
	Judgt. vs.			
	E. B. Claud, C. D. Barkham, J. W. Claud, T. B. Powell			
	& Jos H. Prince for	\$ 300	00	
	Costs		16	23
"	(Satisfied)	\$ 316	23	
	Ben E Pope Guardian of Sally Dudley			
	Judgt. vs.			
	E. B. Claud, Thos B Powell, J. W. Claud, Jos H Prince			
	& C. D. Barkham for	2500	00	
	Int. for 17 March 1860. to 10 March 1864	597	08	
		3097	08	
	Paid 10 March 1864	656	19	
Docketed		2440	89	
Dec 25th	Int. on same to 1st Oct 1870	1060	59	
1866	Costs	10	89	
"				3511 87
	Ben E Pope			
Docketed	Judgt. vs.			
Dec 25th	Wm. A. Jones & J. W. Claud for	1000	00	
1866	Int. for 26 th Sept 1861 to 1 Oct 1870	540	83	
	Costs	7	09	
"				1347 92
	Helen D Turner			
Docketed	Judgt. vs.			
Nov 4 th	E. B. Claud, Jos H Prince, Thos B Powell, C. D. Barkham			
1867	& J. W. Claud for	150	00	
	Int. from costs	16	23	
				166 23
	Amt found	\$ 522	602	

Amount brot over \$5226 22

Docketed
Dec 23rd 1867
Jas Drury Surg. Oblige &c for benefit of Thos Ridley
Judgt. vs
J. C. Claud, J. V. Claud, & Joseph W. Claud
for 295 00
Int: from 1st June 1862 to 1 Octo 1870 147 50
Costs 7 52
450 02

Docketed
June 1st 1868
George W. Vick's Shiffs ad Sarah M Ramsay
Judgt. vs
J. C. Claud & J. W. Claud for 162 62
Int: from 26th December 1862 to 1 Oct 1870 75 64
Costs 7 63
245 89

Docketed
June 1st 1868
W. S. Goodwyn Exor Paul Drury for W. S. Goodwyn
Judgt. vs
J. W. Claud for 150 00
Int from 9th Jan'y 1860 to April 10th 1863 29 25
179 25
Paid April 10. 1863 74 93
104 32
Int: on same to Oct 1st 1870 46 78
Costs 6 17
157 27

Docketed
June 1st 1868
W. S. Goodwyn Exor Paul Drury for W. S. Goodwyn
Judgt. vs
J. W. Claud for 350 00
Int: from 2 day of July 1858 to 1 Oct 1870 257 25
Costs 6 17
613 42
\$6692 62

Am't Paid up

Am't brot up \$6692 62

Docketed
May 7th 1869
Barton Bros
Judgt. vs
Jas W. Claud, J. J. Turner & E. L. Turner
merchants & as Claud Turner Bros. for 213 83
Int: from 25 July 1867 to 1 Octo 1870 40 64
Costs 7 66
262 13

Docketed
Jan'y 5th 1870
Albert L. Francis an infant who sues by A. S. Francis his next friend
Judgt. vs
Wm A. Jones & J. W. Claud for 500 00
Int: from 16th March 1868 to 1 Octo 1870 76 25
Costs 7 50
583 75

Docketed
May 21st 1870
N. S. Francis who sues for the benefit of Drury & Bailey
Judgt. vs
Wm A. Jones & J. W. Claud for 475 00
Int: from 16th March 1868 to Oct 1. 1870 72 43
Costs 7 50
554 93

Docketed
Aug 24th 1870
Albert L. Francis by N. S. Francis his next friend
Judgt. vs
Wm A. Jones & J. W. Claud for 500 00
Int: 16 March 1868 to 1 Octo 1870 76 25
Costs 7 81
584 06

Car'd over

\$8677 49

Am't brot over

\$8677 49

Docketed
Oct 5th
1870

Helen D. Turner

Judge vs

E. B. Claud, Jos H. Prince, J. B. Powell,

C. D. Barham & M. Claud, for

Int. from 1st December 1870 to 1st Dec 1872

700 00

700 00

Total Judgments

\$9377 49

Respectfully Submitted

James R. Tyler

Com^r

(B)

An Account of the real Estate, belonging to Joseph M. Claud, its actual and annual value as follows

No			Actual Value	Annual Value
1	Tract Land 387 7/8 Acres on Three Creeks		1763 63	105 00
"	2 Tract Land 100 acres adjoining W st Jones		2500 00	150 00
"	3 Tract Land 560 Acres " " "		2240 00	135 00
"	4 Tract Land 353 Acres " " "		1039 00	62 00
"	5 Tract Land 6 7/8 Acres " " "		20 62	10 00
"	6 Tract Land 1108 Acres " " "		4432 00	265 00
	Total Value		\$12,015 25	\$727 00

Respectfully Submitted

James R. Tyler

Com^r

Commissioner's Office
Jerusalem Octo 22nd 1870

To the County Court of Southampton County

Pursuant to a decree of the county court of Southampton County rendered at the August Term last in a suit in chancery pending, in said court between Albert L. Francis and Joseph M. Claud, the undersigned one of the commissioners of the said to whom was referred for settlement by said decree. That one of the commissioners of this court enquire into and report to the court the actual and annual value of all the real Estate whereof Joseph M. Claud is seized and possessed and also all judgments that have been obtained against the said Joseph M. Claud and Docketed, and their priorities, and thereupon the same to court, reports to the court, that on the 27th day of August last, he issued notices against the several parties aforesaid requiring them to attend the settlement of the said Account, before him, at his said office on the 19th day of October 1870, which were returned to your Commissioner duly executed. That the parties aforesaid appeared before your Commissioner by attorneys in obedience to said notice, and he thereupon stated and settled the foregoing accounts, up to the 1st October 1870 and finds the amounts of judgments, Interest, and costs to be \$9377. 49 cents. Also your Commissioner has made up an account of the actual and annual value of the real Est of said Claud, which said account is made (B). The Commissioner further reports to the court 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 aforesaid are herewith returned

Given under my hand as Commissioner aforesaid this day and year first aforesaid

James R. Tyler

Com^r

Commissioner's fee \$10.00
Clk^r to Plaintiff -
Clk^r's fee for Copies of
Judgments - \$3.00 -

"A B"

Francis by γ

γ } Ex. with Bill

Jones γ

Southampton Circuit Court. November 13th 1869

Albert L Francis an infant suing by Nathaniel J Francis his next friend Plff

against
Wm A Jones & J W. Cland

Defts } In Debt

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 Defendants five hundred dollars, the debt in the declaration mentioned with legal interest thereon from 16th March 1868, till paid and his costs by him about his suit in this, behalf expended.

Plffs Costs \$7.50

A Copy -

1 Docketed January 5. 1870

Teste, O White Clk

The Commonwealth of Virginia

To the Sheriff of Southampton County. Greeting.

We command you that of the goods and chattels of Wm A Jones & J W. Cland late in your bailiwick you cause to be made five hundred dollars with legal interest thereon from 16th March 1868 till paid which Albert L Francis an infant suing who sues by Nathaniel J. Francis his next friend lately in our Circuit Court of Southampton County hath recovered against them as well for a certain debt as for interest thereon, also the sum of seven dollar & fifty cents, which to the said Francis by & in the same Court were adjudged for his costs in that suit expended.

whereof the said Jones & Cland are convicted as appears of record, and how you shall have executed this writ make known at the Clerks Office of our said Court, at the rules to be holden for said Court on the first Monday in February next. and show them there this Writ -
Witness Osmin White Clerk of our said Court at the Courthouse, this 3rd day of December 1869 in the 9th year of the Commonwealth. - O White Clk

Shffs return. "No property out of which this fi. fa can be made or any part of it. GW Vick Dr for D. L. Dols shff

A Copy -

Teste

O White Clk