

1873-03

Southampton County - Chancery

Burke, J. S.

vs

Burke, Anne L. et al

"Sale of property to settle"
infants share

J. S. Burke

John W. Burke +

Anne S. Burke infants

J. S. Burke guardian
for Burke infants

To the Hon George Blaw Judge of the Circuit
Court of Southampton County Virginia.

Humbly Complaining sheweth unto
the Court, your Complainant J I Burbage
of the County of Southampton State of Virginia

That on the 1st day of January 1866 your
Complainant was seized of a tract of land
lying in the County of Southampton. Containing
100. acres more or less, and bounded on
the west by the lands of Thomas Croft and
Richard Barrett, on the north and east by the
Blackwater river and on the south by the
lands of Lawrence Gardner.

That on the 25th day of February
1866 your Complainant made a deed con-
veying the real estate above described to John
W Hallett in trust for the following uses and
purposes - as will be seen by ^{a copy of} the deed filed
herewith as an exhibit - and marked "A" -

the said trust, Jno W Hallett was to hold
the property aforesaid during the joint lives
of your Complainant, J I Burbage, and
Annie O Burbage his wife, for the sole
and separate use and support of the said
Annie O Burbage and the issue of their marriage
free from the debts & control of the said J I
Burbage, at the death of the said J I Burbage
should his wife be then living then for the
use and support of the said Annie O Burbage

and the children, if in a fit state of mind
marriage, during her widowhood, should be
marry, then to the care and support of the child-
ren is one of the marriage.

that previous to the execution of said deed aforesaid there were three children issue of the ^{said} marriage aforesaid, to wit, Ann L Burbage, Thomas J Burbage and John W Burbage.

That subsequent to the execution
of the deed aforesaid, to-wit on the
20th day of September 1866 Wm Lou Burby
was born, lawful issue of said marriage.

That on the day of 18
to more fully protect and guard the interest
of the beneficiaries under the trust deed above
mentioned, a decree was rendered by the Circuit
Court of Southampton County directing a sale
of the real estate embraced in said deed and
a Commissioner appointed to carry out said
decree

That the land sold for the sum of \$3500.00
and that after paying the just debts of your
Complainant, - Costs of suit and expenses of
sale there was a balance of \$3884.22, as will
be seen by copy of Grantee's account filed herewith
as an exhibit and marked "B"

That at the Term of the Circuit Court
in the year 18 an order was made appointing

By the circuit Court of South and Louisa County
appearing Thomas J. Pettow Guardian of the
estate of the children issue of the marriage
of your complainant & the said Amin O. Budge
as will be seen by a copy of said order filed herewith.
Attest Exhibit and marked "C"

That on the 7th day of December 1866 Wm Low Burdette
a lunatic, under the trust deed aforesaid, died
under the age of 21 years unmarried and without
issue - and that the said Wm Low Burdette, owed no
debt or funeral expenses, & that no administration
of the estate of the said Wm Low Burdette is necessary - That the
only complaint is this, that at law & distribute
the said Wm Low Burdette is entitled to his share of the
estate of the said Wm Low Burdette, and that the said
Wm Low Burdette is entitled to his share of the estate of the
said Wm Low Burdette, and that the said Wm Low Burdette
is entitled to his share of the estate of the said Wm Low
Burdette, and that the said Wm Low Burdette is entitled to
his share of the estate of the said Wm Low Burdette.

That your Complainant - having, to clothe, board and ed-
ucate a large and expensive family, is greatly in need
of the decedent's ched: than to which you Complainant
is entitled under the law, the sum of \$971.07 -
of which \$327.02 should be paid by each of the said Thos
J. Heritage & Mrs. W. Heritage & Arthur L. Heritage
your Complainant - therefore in consideration of the premises prays
that the honorable Court will decree a partition account
of the estate & a full & complete payment of his share made
to him, And for as much as your Complainant is unable to

in the premises done in a Court of Equity, when another of this kind
 are peculiarly Appropriate it is prayed that Anne &
 Burdette, John W Burdette, ^{and also unplea 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844}

Griffin p v

Respectfully
J. L. Furber

* That was much as there was no power vested
 by the trust deed aforesaid, in the trustee to
 convert the land therein described into personal
 estate, and from the terms thereof it was
 clearly the intention of the grantor to convey
 an estate of inheritance to pass by the statute
 of descent, the sale of said land under
 a decree of the Court failed to change
 its character and therefore remains as realty
 to pass under sec 12 of Chapter ~~128~~ 128 (1860)
 to those who would have been entitled
 to the land had it not been sold

1872 Nov. Rules

Burke

Burke
 Ball

The answer of Anne L. Bunsage
John W. Bunsage & Thomas J. Bunsage
by L. R. Edwards this prudence at
last, assigned them by the Court to
defend this interest, in this suit to the
foregoing bill.

The defendants having and
having themselves all benefits of
first exceptions to said bill, answer
and say, that being infants under 21
years of age and ignorant of the law,
they entrust their interest to the Court
and protection of the Court. And
having answered, pray to be dismissed

VC

L. R. Edwards Gm J^r

The answer of Thomas J. Pultow
guardian of Annie L., Jno W. & Thomas
J. Burbage, to a Bill in chancery
exhibited against him & others in the
Circuit Court of Southampton County by
Thomas J. Burbage.

This Respondent says that
the facts stated in the said Bill are
true, & if the Court decide that the
said Thomas J. Burbage is entitled to
the share of the funds in your Respondents'
hands as distributees of said ~~undivided~~
Burbage, an infant deceased, that then
the sum will be \$971.07 & that each
of said Annie L., Jno W. & Thomas J.
Burbage, should pay to said Thomas J. Burbage
the sum of \$327.02 as stated in said
Bill, Your Respondent submits the
matter to the Court

Thos. J. Pultow
Jr. &
per Mr. R. Kelly

Thomas J Burbage a minor

1869 On account with Thomas J Pettlor Sr his Guardian

May 5	By cash received of Tho J Pettlor Jr	\$	123.39
July 1	" " " of Norfolk Trust Company	-	1171.35

Abstract from the Record

Teste L R Edwards Ck

John W Burbage a minor

1869 On account with Thomas J Pettlor Sr his Guardian

May 5	By cash received of Tho J Pettlor Jr	\$	123.39
July 1	" " " Norfolk Trust Company	-	1171.35

Abstract from the Record

Teste L R Edwards Ck

Annie L Burbage a minor

1869 On account with Thomas J Pettlor Sr her Guardian

May 5	By cash received of Tho J Pettlor Jr	\$	123.39
July 1	" " " Norfolk Trust Company	-	1171.35

Abstract from the Record

Teste L R Edwards Ck

I went to the residence of J. J. Prentiss
 on the 28th day of October 1872, and he
 being absent from home, I delivered a
 copy of this Summons to A. H. Prentiss who
 is a white member of his family and is
 wards of 50 years of age. I also gave
 information to him of the purpose.

W. H. Briggs

W. H. Briggs

to Sum. City

W. H. Briggs

1872 also.

Rules last

Monday in October

1872 also.

W. H. Briggs

W. H. Briggs

The Commonwealth of Virginia

To the Sheriff of Southampton County, Greeting:

WE COMMAND YOU to summon *J. I. Burbage, John W. Burbage & Annia L. Burbage infants & J. I. Burbage Guardian of J. I. Burbage & Annia L. Burbage*
if they be found within your bailiwick, to appear at the Clerk's Office of our *Circuit* Court of Southampton County, at the *November Rules of the said Court* to be holden for the said Court, on the *last* Monday in *October* 1872 to answer a bill in chancery exhibited against them in our said Court by J. I. Burbage ..

And have then there this writ. Witness, *S. R. Edwards* ~~OSWIN WHITE~~, Clerk of our said Court, at the Court-house, this *21* day of *October* A., D., 1872., in the *97* year of the Commonwealth.

S. R. Edwards

Novem ber 1872

Burkeys

vs

Burkeys & others } Decree

This Cause ^{was docketed} came on this day to be heard by Consent of parties and the assent of the Court. On the plea of the Complainant and exhibits filed thereunto, and on the answer of Thomas J. Patterson in person of Annie L. John W. and Thomas J. Burge jr, and on the answer of the said Annie L. John W. and Thomas J. Burge jr by L.R. Edwards their friend and attorney. And was argued by Counsel. And consideration whereof the Court doth decide that Thomas J. Burge jr for the further of the William Low Burge is entitled to that portion of the funds in the hands of Thomas J. Patterson jr, to which William Low Burge was entitled. And doth adjudge, order, and decree that Thomas J. Patterson pay to the said Thomas J. Burge jr, the sum of \$327.02 out of the funds in his hands as guardian of Annie L. Burge, and the like sum of \$327.02 out of the

fund in his hands as fundum of
John W Bumbage. And the balance
of \$327.04 out of the funds in his hands
as fundum of Thomas J Bumbage
Jr. And that the said Thomas
J Bittam be account for said
payments in his personal accounts
in making report to Court

Debit

To by interest

W. B. Bumbage

68

Guthrie

Burbage

n 3 chs

Burbage Jue

To be Enlist

Guthrie

Cir. Ct. Southern

Burbage

m. }

Acce

Burbage &c.

May 26. 1873. :-

7. be entered

Geo. T. Bion

Bentley as Bentley &c.

By this way this cause came to be
again heard on the papers. for many read
and by consent of parties, it is ordered
that the case be decided in this cause at
Nov. Term 1872. In the same is presented
and set aside and by like consent, it
is ordered that this suit be dismissed.