

1883-01

Southampton County Chancery ~ Turner, Rosaline, vs Thomas - Persons L. (admin)
06:

Settlement of estate of father, Edward
J. Turner against (adms)

Turner, Helen D. - (widow)

Powell, Thomas B. -

Parker, A. B.

" , Mary C.

Claude, Joseph W.

Prince, Joseph H.

Peele - Rosaline

" - T. E.

To The Honorable George Blair judge of the
circuit court of Southampton County in chancery
sitting

Humly complaining your Orator
Rosaline Turner sheweth unto your Honor that
in the year 1858 her father Edward J Turner
departed this life intestate leaving considerable
estate both real and personal and his widow
Helen J Turner and your Orator a daughter
his heirs at law and that at the December
Term 1858 of the county court of Southampton
Thomas B Powell qualified as his administrator
giving bond in the penalty of \$10,000 with
Joseph W Cland and Joseph H Prince his securities
all of which will more fully appear by a
certified copy of his bond and qualification herewith
filed marked A and prayed to be taken as a
part of this

Your orator sheweth further that
soon after her father's death a creditors bill
was filed in the circuit court of Southampton
against his estate for a settlement of his estate
and payment of the debts, Thomas B Powell
your Orator and her mother being defendants
that there ^{were} various orders taken in the said
suit and that by a report made by Commissioner
Powers April 1st 1860 there was then due the

estate from the personal estate \$4244.91cts that
there was due from sale of real estate \$3500 which
\$935 - was to be paid the widow in lieu of dower
leaving the sum of \$1808.90cts in personal and
real estate in the hands of the administrator
to be applied to the payment of debts and the
amount of debts proved was \$1030.18cts leaving a
balance of \$879.73cts with interest from the 1st
of April 1860 due the estate after paying all
the debts proved as will more fully appear from
copies of the said accounts herewith filed
marked B and prayed to be taken as parts of
this bill. That at the November term 1860
Thomas B Powell was directed to collect the
said bond to wit the sum of ^{\$2333.33cts} ~~\$2446.00~~ and
after paying out the personal estate apply as much
of the said bond money as might be necessary
to paying the creditors whose claims were
proved and decreed to be paid and subsequently
Thomas B Powell reports that he had collected the
said bond and after exhausting the personal
estate in the payment of the debts proved against
the estate he then satisfies the remainder of
the debts with the amount collected but did not
return the receipts as many were lost, At
the May term 1870 this report ~~was confirmed~~ ^{without confirming this report} and
the case removed from the docket as will
more fully appear by copies of the said report

and decrees herewith filed marked C. D. E. and prayed
to be taken as parts of this bill

Your oration states further that in the year
1877 Thomas B Powell departed this life intestate
leaving considerable estate both real and personal
and leaving two children to wit Thomas B
Powell junr and Mary C Powell now married to
A B Parker and that persons I Thomas qualified
as his administrator

Your Oratrix now brings her suit for
a settlement of the estate of her father Edward
J Turner against his administrators representative
his heirs and Thomas B Powell securities and
the recovery of the balance of the estate that
may be due her, she states that she has
not brought this suit before because she
has but recently come of age being now
in her twenty fifth year she having ten
years from the time of her disability
remained to do so, she states further that
her mother Helen D Turner is not a
party to this suit either as plaintiff or
defendant because she is not interested
being barred from suing by the statute
of limitations

Your Oratrix states that the reason she
has not brought a suit before is that
about the time she came of age D Powell

did, and that it is but recently from ^{her} own
investigations she has found that ^{there} is a
considerable balance due. She states to
wit the sum of \$872 with twenty years
interest

In tender consideration where and
inasmuch as your Petition is without
remedy at law and only entitled to relief in
a court of equity where such matters are
peculiarly cognizable she therefore prays that
Persons S. Thomas administrator of Thomas
B. Powell dec'd, Thomas B. Powell junr, A. B.
Parker, and Mary C. Parker his wife, Joseph W.
Blanch, Joseph H. Prince may be made parties
defendants to this bill and that the court
would compel them as full and perfect answer
make to the allegations therein contained as if they
had been themselves more fully interrogated
that the court would direct all proper
accounts to be taken and the payment to
you - Petitioner of such sums of money as
may be found due to her from her father's estate
and that the court would grant such other
and general relief the justice considered as
equity may dictate and the nature of her case
may require and as in duty bound your Petitioner
will ever pray in

Shanda J. S.

To the Hon. George Nelson, Judge of the Circuit Court of
Southampton County, in Chancery Sitting.

Humly Complaining your
Oratrix Rosaline Turner Shurtleff unto your Honor that in the
year 1858, her father Edward J. Turner, departed this life
intestate leaving considerable Estate, both real & personal,
and his widow Helen J. Turner & your Oratrix a daughter
his heirs at law, & that at the December Term 1858,
of the County Court of Southampton, Thos B. Paine qualified
as his administrator giving bond in the penalty of \$10,000 with
Joseph W. Bland & Joseph H. Driscoll his Securitaries, and
of which will more fully appear by a Certified Copy of
his kind of qualification herewith filed & marked "A" & prayed
to be taken as a part of this bill.

Your Oratrix Shurtleff further sheweth that soon after her father's
death a Creditors bill was filed in the Circuit Court
of Southampton against his Estate for a Settlement of his
Estate & payment of his debts, Thos B. Paine your Oratrix
& her Mother being defendants. That there were various
Orders taken in the said suit, & that by a Report made by
Commissioner Dittler April 1st 1860, there was then due
the Estate from the personal Estate \$4244.91, that there
was due from Sale of real Estate \$3500 whereof \$935
was to be paid the Widow in lieu of dower, leaving the
Sum of \$1909.90 to be paid in personal & real assets in the
hands of the Administrator to be applied to the payment
of debts & the amount of debts proved was \$1030.18
being a balance of \$879.72 with interest from the 1st of
April 1860, due the Estate after paying all the debts
proved, as will more fully appear from Copies of the said
accounts herewith filed marked B. & prayed to be taken
as parts of this bill. That at the November Term 1860,

Thos B. Powell

15 Collect the said bond to wit,

the sum of \$2333. 83 cts + after paying out the personal assets ^{apply} so much of the said land money as might be necessary to paying the Creditors whose demands were proved & decreed to be paid, and Subsequently Thos B. Powell reported that he had collected the said bond & after exhausting the personal assets in the payment of the debts proved against the Estate he then satisfied the remainder of the debts with the amount collected, but did not return all the receipts as they were lost, at the May Term 1870, after this report, without confirming this report the Case was removed from the Docket, as will more fully appear by Copies of the said report & decrees herewith filed marked C. I. E. & prayed to be taken as parts of this bill. Your Orator states further that in the year 1877, Thos B. Powell departed this life, ^{but} leaving considerable ^{but} debts, real & personal and leaving two children to wit, Thos B. Powell Jr & Mary C. Powell now married to Chas. B. Parker of Westborough & Thomas C. Thomas qualified as his administrator.

Your Orator now brings her Suit for a Settlement of the Estate of her father Edward J. Turner against his administrators Representing his heirs and Thos B. Powell's Securities and the recovery of the balance of the Estate that may be due her. She states that she has only brought the Suit before because she has but recently come of age being now in her twenty fifth year, she having ten years from the time of her disability resumed to do so, she states further that her Mother Helen J. Turner is not a party to this Suit, either as Plaintiff or Defendant because she is not interested, being barred

from being by the Statute of Limitations.
Your Orator states that the reason she has not brought
a bill before is that about the time she became of
age Dr. Powell died & that it is but recently from her
own investigations she has found that there is a considerable balance due the Estate, to wit, the sum of
\$879. with twenty years interest.

In Her Honor's Consideration
whereof and in as much as your Orator is
without remedy at law, and only entitled to relief
in a Court of equity where such matters are
peculiarly cognizable, She therefore prays that James
& Thomas Adverses of Thomas B. Powell dec'd Thos B.
Powell Jr, A. B. Parker & Mary C. Parker his wife,
Joseph W. Leland & Joseph H. ~~Adverses~~, may be made
parties defendants to this bill & that the Court opened
Causel should as full and proper answer be made to the
allegations contained as if they had been otherwise
fully interrogated, that the Court opened direct
all proper accounts to be taken and the payments
to your Orator of such sum of money as may
be found due her from her father's Estate, and that
the Court opened grant such other & general relief
the premises considered as equity may dictate
and the Justice of her Case may require, and
as in duty bound your Orator will ever pray &c.
Shanda pr. q.

A. Copy.
J. R. Taylor, Secy

"Exhibit of"

Know all men by these presents, That we Thomas B. Purser
Joseph H. Prince & Joseph W. Clark, are bound & firmly bound
unto the Commonwealth of Virginia, in the just & full sum
of Ten Thousand dollars, Currency of Virginia, to the
payment of which well & truly to be made, we bind ourselves,
our heirs, Executors & administrators, jointly and severally,
firmly by these presents. Sealed with our Seals and
dated this 20th day of December A.D. 1858,

The Condition of the above Obligation is Such That
if the above bound Thomas B. Purser, as administrator
of Edward J. Turner, dec. Shall faithfully discharge
the duties of his said Office in truth, according to
law, then the above obligation to be void, or else to
remain in full force & virtue.

Thos B. Purser

J. W. Clark

Joseph H. Prince

Seal
Seal
Seal

Signed Sealed and
delivered in the
presence of the Court.

At a County Court held for the County of Southampton, on
the 20th day of December, 1858, On the Motion of
Thos B. Purser, who made oath & testified with Joseph H.
Prince & Joseph W. Clark, his Securities, (who justified
and were sworn as to their Sufficiency,) entered into
and acknowledged a bond in the penalty of Ten
Thousand Dollars, Conditioned according to law,
Certificate is granted him for obtaining letters
of Administration on the Estate of Edward J. Turner
dec. in due form. Teste, S. R. Edwards Clk

A Copy.

Teste, James R. Tyler J.C.

"Exhibit" "B"

The Estate of E. J. Turner decd.

In agreement with Thomas B. Power his executor.

1859																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																										
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			Dr	Cr	Int
	Amount Brought forward			4016 89	
1840	By Cash recd. of R. G. Turner			10 10	
	" " " " E. B. Clark			29 68	
	" " " " Same			21 20	
	" " " " Green Bay			4 00	
	" " " " Mrs. Turner			1 83	
	" " " " J. R. Jones			84 80	
	" " " " Sheriff of Greenock			24 50	
	To Paid Clerk's Ticket	4 00			
	" " Chamberlain & Chapinburg	70 00			
	" " John M. Barclay	75			
	" " Commission on \$8124.04	40 10			
Apr 1	By Int on (\$3444.88) for 6 months				103 34
	Balance due Int in principal	4141 57			
1840			\$4256 92	\$4256 92	103 34
April 1	By Balance due Int brought down				
	in principal			4141 57	
	Interest brought in			103 34	
				<u>\$4254 91</u>	
	Bal due Int with Int on \$4141.57				
	paid through from this day till paid				
					Respectfully Submitted
					Wm. H. Pritchard, Clerk
	A Copy				
	True				
					James R. Taylor, J.B.

"Exhibit B."

An account of an outstanding debt against
the Estate of Edward J. Turner dec. distinguished in
their priorities.

4 th				
✓ Ew Orig. Cr. of 436	Bound due R. J. Turner, December 25 th 1858	1000 00		
	Int thereon to April 1 st 1860,	76 00	1076 00	
	Bound due John P. Turner (Trustee) July 20 th 1858	136 00		
	Int thereon to April 1 st 1860,	13 94	149 94	
	Account due Susan Brown July 17. 1858	57 00		
	Interest thereon to April 1 st 1860,	5 84	121 84	
	Bound due Wm. G. Gooden April 8 th 1857	55 42		
	Int thereon to April 1 st 1860,	31 22	86 64	
	Bound due Wm. H. Walker January 1 st 1852	29 00		
	Interest thereon to April 1 st 1860	12 35	41 35	
	Bound due Mackay A. James March 13 th 1854	212 36		
	Int thereon to April 1 st 1860	54 36	266 72	
	Bound due Mackay A. James Jan 1 st 1858,	80 00		
	Interest thereon to April 1 st 1860	10 80	90 80	
	Account due Mackay A. James Jan 1 st 1857	3 00		
	Int thereon to April 1 st 1860	58	3 58	
	Account due Thos B. Russell Jan 1 st 1859	45 87		
	Int thereon to April 1 st 1860	3 42	49 29	
	Bound due J. J. Afford Oct. 28 th 1857	200 00		
	Int thereon to April 1 st 1860	30 66	230 66	
	Account due J. H. Stinson Apr 1 st 1856	1 17		
	Interest thereon to April 1 st 1860	27	1 44	
	Bound due Mary Russ Jan 23 rd 1856	110 00		
	Interest thereon to April 1 st 1860	27 15	137 15	
	Bound due Mary Russ December 25 th 1856	40 00		
	Interest thereon to April 1 st 1860	7 84	47 84	

Bound down Mary Reed April 1 st 1858	78	00		
Interest thereon to April 1 st 1860	9	86		
			87	86
Account down Charles Leonard Jan'y 1 st 1859	7	50		
Interest thereon to April 1 st 1860	55			
			8	05
Account down Sprickley & Jones Jan'y 1 st 1859	18	70		
Interest thereon to April 1 st 1860	1	40		
			20	10
Account down Alberto Barnes Jan'y 1 st 1859	3	00		
Interest thereon to April 1 st 1860	22			
			3	22
Account down Anthony Williams Jan'y 1858	5	50		
Int. thereon to April 1 st 1860	21			
			5	91
Account down Turner & Bros; Jan'y 1 st 1859	20	92		
Int. thereon to April 1 st 1860	3	06		
			23	98
Account down Webb & Herdson Jan'y 1 st 1859	5	90		
Interest thereon to April 1 st 1860	25			
			6	34
Account down Littleton McFarlane Jan'y 1 st 1859	11	85		
Interest thereon to April 1 st 1860	88			
			12	73
Account down Jacob Turner Jan'y 1 st 1859	1	87		
Int. thereon to April 1 st 1860	13			
			2	00
Account down A. D. Rice Jan'y 1 st 1858	123	17		
Interest thereon to April 1 st 1860	16	42		
			139	79
Account down A. D. Rice Jan'y 1 st 1859	222	81		
Interest thereon to April 1 st 1860	16	01		
			238	82

Account due Martha Mann Jan 1 st 1859	2.00		
Interest thereon to April 1 st 1860	15		2 15
Account due David Mangum January 1 st 1859	9 77		
Interest thereon to April 1 st 1860	72		10 49
Account due R. H. Blythe Jan 1 st 1859	1 00		
Interest thereon to April 1 st 1860	07		1 07
Account due Saml. Truitt Jan 1 st 1859	39 25		
Interest thereon to April 1 st 1860	294		42 19
Account due Samuel Truitt Jan 1 st 1859	7 10		
Interest thereon to April 1 st 1860	52		7 12
Bank due Samuel Truitt Oct. 13 th 1858	35 00		
Interest thereon to April 1 st 1860	2 81		37 81
Account due Samuel Truitt Jan 1 st 1859	157 73		
Interest thereon to April 1 st 1860	11 82		1 19 55
Account due W. H. Truitt Jan 1 st 1859	24 39		
Interest thereon to April 1 st 1860	249		24 88
Account due Saml. Gordon Jan 1 st 1859	2 75		
Interest thereon to April 1 st 1860	53		3 28
Account due P. H. Boock Jan 1 st 1859	357 01		
Interest thereon to April 1 st 1860	24 77		383 78
Bank due M. A. James for the benefit of E. D. Turner, Jan 1 st 1855	170 00		

Interest thereon to April 1 st 1860,	48 00		
		215 00	
Account due Joseph H. Peiner, January 1. 1859	5 54		
Interest thereon to April 1 st 1860	41		
		5 95-	
Account due Joseph Turner January 1 st 1859	3 33		
Interest thereon to April 1 st 1860	24		
		3 57	
Account due Patricio at Green Plain Jan ^y 1 st 1859	47		
Interest thereon to April 1 st 1860	08		
		55-	
Account due Potts & Mason Jan ^y 1 st 1859	24 06		
Interest thereon to April 1 st 1860	4 69		
		28 75-	
Account due Potts & Mason, Jan ^y 1 st 1855	121 02		
Interest thereon to April 1 st 1860	3 78		
		15- 80	
Account due Potts & Mason, Jan ^y 1 st 1856	47 21		
Interest thereon to April 1 st 1860	12 04		
		59 25)	
Bond due M. L. Dupree December 8 th 1855	2500 00		
Interest thereon to April 1 st 1860	53 76-		
		2551 76-	
✓ Bond due R. C. Turner December 25/59	1100 00		
Interest thereon to April 1 st 1860	17 60		
		1117 60	
Bond due William Turner Jan ^y 11 th 1856	104 16		
Interest thereon to April 1 st 1860	26 37		
		130 53	
Bond due William Turner March 28. 1856	10 00		
Interest thereon to April 1 st 1860	21 41		
		121 41	

Bank draw Kingston Williams, Nov. 8 th 1858	60 00		
Interest thereon to April 1 st 1860	4 25		
		54	25
Account draw Kingston Williams Jan. 1. 1859	5 82		
Interest thereon to April 1 st 1860	41		
		1	23
Bank draw James Gledy, Dec. 29 th 1858	76 19		
Interest thereon to April 1 st 1860	124 124		
		81	33
Account draw Cots & Bros. January 1 st 1859	15 00		
Interest thereon to April 1 st 1860	1 12		
		16	12
Account draw S. Mc Glinny, Jan. 1 st 1859	80 00		
Interest thereon to April 1 st 1860	2 25		
		32	25
Account draw R. J. Turner, January 1 st 1857	134 83		
Interest thereon to April 1 st 1860	324 89		
		171	72
Account draw R. D. Turner, January 1 st 1850	183 26		
Interest thereon to April 1 st 1860	33 97		
		147	22
Account draw R. J. Turner, Oct. 1 st 1858	120 00		
Interest thereon to April 1 st 1860	11 70		
		141	70
Total amount of debts inclusive of Interest to April 1 st 1860.		6030	18

Respectfully Submitted,
Wm. H. Prichard, Clerk.

A Copy

Sub. Jas R. Tyler & Co.

"Exhibit. "C."

Southampton Circuit Court, November Term 1840.

This day said Case came on to be again heard on the papers formerly read and ^{on} the Report of Commissioner Tho^s B. Pinell, the Commissioner who read the said Report in the bill & proceedings mentioned, to which report no exceptions had been filed and was argued by Counsel, On Consideration whereof the Court doth adjudge Order & decree, that Tho^s B. Pinell, receive from the Clerk of this Court, the Bond, filed with his Report in this Case, Collect the same and pay as much thereof as may be required to Satisfy the Creditors of Edward J. Turner, whose demands were Ordered to be paid by the Order of 21st of Dec^r 1840, after the personal assets in the hands of Tho^s B. Pinell assign^{ee} of said Turner, have been exhausted, & report to Court. But said Pinell is not to ask Writ of Habeas Corpus until he shall enter into Bond & Security in the Clerk's Office of this Court in the penalty of \$3000 - payable to the Assignees of Virginia Creditors to execute this decree.

Teste,

J. R. Edwards

A Copy,

Sub. Jas R. Egle, J. C.

(A)

4

The Estate of E. J. Turner, deceased,
In Account with Thomas B. Powell, his Administrator.

1859

Oct. 1 st	By Balance due estate per former report.	3444 88
Dec. 1	" amount of bond suit against Wm. A. Jones.	168 50
"	By amount of bond & interest against William Turner,	37 27
"	By amount of bond & interest against O. A. Smith	70 50
"	By amount of account received from Peterson Jory,	5 83
"	cash received of W. A. Jones,	68 90
"	" " " Littleton Jory,	6 96
"	" " " J. E. P. Turner,	1 06
"	" " " J. W. Leland & Co.	23 32
"	" " " Kinchen Williams,	31 39
"	" " " J. W. Leland, & Co.,	1 06
"	" " " Mrs. Turner,	13 78
"	" " " Th. W. Turner,	21 73
"	" " " R. A. Turner,	73 47
"	" " " J. A. Persons,	1 59
"	" " " Thomas M. Newsome,	4 24
"	" " " J. W. Leland,	4 77
"	" " " Thos. Westbrook,	17 75
"	" " " Mrs. Harris,	79
"	" " " J. C. Harris,	6 36
"	" " " C. Leland,	15 90
"	" " " L. E. Mason,	7 15
"	" " " M. C. Peete,	18 02
"	" " " Mrs. Reese,	4 77
"	" " " E. J. Turner,	12 19
"	" " " Th. J. Turner,	3 71
1860	" " " R. J. Turner,	10 60
"	" " " E. H. Turner,	7 42
"	" " " C. B. Leland,	29 68
"	" " " Same,	21 20
"	" " " Amos Pope,	4 00
	Amount carried forward	4136 90

	Amount brought forward	\$	4136 10	Int.
	By cash received of Mrs. Turner,		6 85	
	" " " " J. R. Jones,		84 80	
	" " " " Sheriff of Greenville,		26 50	
	To paid Clerk's Tickets,	4 00		
	" " Chaubless & Kasperburg,	70 00		
	" " John M. Gurley,	75		
	" Commission on \$812. ⁰⁴	40 60		
Apr 1 st	By interest on \$3444. ⁸⁸ for six months,		103 34	
	Balance due estate in principal	4141 57		
		4256 92	4256 92	103 34
1860	Apr 1 st By Balance due estate brought down in principal,		4141 57	
	Interest brought in		123 34	
	Balance due estate with interest on \$4141.57, part thereof from this date till paid.		4244 91	

Respectfully Submitted,
 W. S. Parlow, Comp.
 Comptroller in Chancery.

("B")			
An Account of all outstanding debts against Edward J. Turner, dec'd, distinguishing their dignities.			
H. C. Clapp.			
Bond due R. A. Turner, Dec. 25 th 1858,	1000 00		
Interest thereon to April 1 st 1860,	76 00	1076 00	
Bond due Mrs. Prouton, Trustee, July 20, 1858	136 00		
Interest thereon to April 1 st 1860,	13 94	149 94	
Account due Susan Brown July 17, 1858	57 00		
Interest thereon to April 1 st 1860,	5 84	62 84	
Bond due Mrs. S. Goodwyn April 8 th 1857,	55 42		
Interest thereon to April 1 st 1860,	31 22	86 64	
Bond due W. K. Walker, Jan'y 1 st 1852	29 00		
Interest thereon to April 1, 1860	14 35	43 35	
Bond due Mark A. James March 13, 1856	223 69		
Interest thereon to April 1. 1860,	54 36	278 05	
Bond due Mark A. James Jan'y 1. 1858	80 00		
Interest thereon to April 1. 1860.	10 80	90 80	
Account due Mark A. James Jan'y 1. 1857	3 00		
Interest thereon to April 1. 1860.	58	3 58	
Account due Thos. B. Powell Jan'y 1. 1859.	45 87		
Interest thereon to April 1. 1860	3 42	49 29	
Bond due J. J. Moore Oct. 28, 1857	200 00		
Interest thereon to April 1. 1860,	30 66	230 66	
Account due J. M. Newsom April 1. 1856	1 17		
Interest thereon to April 1. 1860,	27	1 44	
Bond due Mary Reese Jan'y 23, 1856,	110 00		
Interest thereon to April 1, 1860,	27 65	137 65	
Bond due Mary Reese December 25, 1856,	40 00		
Interest thereon to April 1. 1860,	7 84	47 84	
Bond due Mary Reese April 1. 1858,	78 00		
Interest thereon to April 1. 1860,	9 36	87 36	
Account due Charles Leonard Jan'y 1. 1859	7 50		
Interest thereon to April 1. 1860,	55	8 05	
Account due Spratley & Jones Jan'y 1. 1859	18 70		
Interest thereon to April 1. 1860,	1 40	20 10	
		2373 59	
Amount carried forward.			

Amount brought forward			2373 59
Account due Attiea Barnes Jan'y 1. 1859	3	00	
Interest thereon to April 1. 1860,		22	3 22
Account due Anthony Williams Jan'y 1. 1858	5	50	
Interest thereon to April 1. 1860,		41	5 91
Account due Turner & Co. Jan'y 1. 1859	40	92	
Interest thereon to April 1. 1860,		3 06	43 98
Account due Wible & Hardee Jan'y 1. 1859,	5	90	
Interest thereon to April 1. 1860,		44	6 34
Account due Littleton Meglone Jan'y 1. 1859	11	85	
Interest thereon to April 1. 1860,		88	12 73
Account due Jacob Turner Jan'y 1. 1859	1	87	
Interest thereon to April 1. 1860,		13	2 00
Account due N. F. Rivers Jan'y 1. 1858	123	17	
Interest thereon to April 1. 1860,		16 62	139 79
Account due N. F. Rivers Jan'y 1. 1859,	226	81	
Interest thereon to April 1. 1860,		16 01	242 82
Account due Martha Mason Jan'y 1. 1859,	2	00	
Interest thereon to April 1. 1860,		15	2 15
Account due David Mangum Jan'y 1. 1859,	9	77	
Interest thereon to April 1. 1860,		72	10 49
Account due R. H. Lythe January 1. 1859,	1	00	
Interest thereon to April 1 st 1860,		07	1 07
Account due Samuel Drewry Jan'y 1. 1859	39	25	
Interest thereon to April 1. 1860,		2 94	42 19
Account due Samuel Drewry Jan'y 1. 1859	7	10	
Interest thereon to April 1. 1860,		52	7 62
Bond due Samuel Drewry Octo. 13, 1858	35	00	
Interest thereon to April 1. 1860,		2 81	37 81
Account due Samuel Drewry Jan'y 1. 1859	157	73	
Interest thereon to April 1. 1860,		11 82	169 55
Amount carried forward,			3101 26

Amount brought forward			3101 26
Account due Thos. W. Dwyer, January 1. 1859	24 39		
Interest thereon to April 1. 1860,	2 49	26 88	
Account due Daniel Gordon January 1. 1857	2 75		
Interest thereon to April 1. 1860,	53	3 28	
Account due P. H. Booth January 1. 1859	357 01		
Interest thereon to April 1. 1860,	26 77	383 78	
Bond due Mark A. James for the benefit of E. P. Turner, January 1. 1853,	170 00		
Interest thereon to April 1. 1860,	48 00	218 00	
Account due Joseph H. Prince Jan'y 1. 1859	554		
Interest thereon to April 1. 1860,	41	5 95	
Account due Joseph Turner Jan'y 1. 1859,	333		
Interest thereon to April 1. 1860	24	3 57	
Account due Postmaster at Green Plain Jan'y 1. 1857	47		
Interest thereon to April 1. 1860,	08	53	
Account due Potts & Mason January 1. 1857	24 06		
Interest thereon to April 1. 1860,	4 69	28 75	
Account due Potts & Mason Jan'y 1. 1855,	12 02		
Interest thereon to April 1. 1860,	3 78	15 80	
Accounts due Potts & Mason Jan'y 1. 1856	47 21		
Interest thereon to April 1. 1860,	12 04	59 25	
Bond due M. L. Dupree December 8, 1853	200 00		
Interest thereon to April 1. 1860,	51 75	251 75	
Bond due R. A. Turner December 25, 1859	1100 00		
Interest thereon to April 1. 1860,	17 60	1117 60	
Bond due William Turner January 11, 1856	104 16		
Interest thereon to April 1. 1860,	26 37	130 53	
Bond due William Turner March 28, 1856	10 00		
Interest thereon to April 1. 1860,	2 41	12 41	
Amount Carried forward			5359 36

Amount brought forward,		5359 36
Bond due Kinchen Williams Nov. 4, 1858	50 00	
Interest thereon to April 1. 1860,	4 25	54 25
Account due Kinchen Williams Jan'y 1. 1859	5 82	
Interest thereon to April 1. 1860	41	6 23
Bond due James Sledge December 29, 1856	76 69	
Interest thereon to April 1. 1860,	14 64	81 33
Account due Cato & Mrs. Jan'y 1. 1859	15 00	
Interest thereon to April 1. 1860,	1 12	16 12
Account due L. McGleny January 1. 1859	30 00	
Interest thereon to April 1. 1860,	2 25	32 25
Account due R. A. Turner January 1. 1857	136 83	
Interest thereon to April 1 st 1860,	34 89	171 72
Account due R. A. Turner Jan'y 1. 1856	133 25	
Interest thereon to April 1. 1860	33 97	167 22
Account due R. A. Turner Oct. 1. 1858	130 00	
Interest thereon to April 1. 1860,	11 70	141 70
Total amount of Dpbs inclusive of interest to April 1. 1860.		\$6030 18

Respectfully Submitted,
Wm. N. Pretlow, Compt.

Commissioner's Office,
Jerusalem March 23^d 1860.

To the Circuit Court of Southampton County.

Pursuant to a decree of the Circuit Court of Southampton County rendered at the November Term 1859, in a suit in Chancery depending in said Court between Pretlow &c., plaintiffs and Turner's adm'r &c., defendants, the undersigned one of the Commissioners of said Court, to whom was referred for settlement by said decree, a further account of Thomas B. Powell's ^{as administrator} transactions of Edward J. Turner, decd, and also other outstanding debts against the said Turner's estate, reports to Court, that on the 16th day of January 1860, he issued notices against the several parties aforesaid, requiring them to attend the settlement and taking of the said accounts before him at his office, on the 8th day of February 1860, which were returned duly executed, and he also posted

a copy of said notices at the Courthouse door of this County on the day of issuing the same. at which time he examined the vouchers, stated and settled the foregoing account marked "A" of the said Thomas B. Powell's Administration in the estate of the said E. J. Turner, decd up to the 1st of April 1860, and on that day finds a balance due the said estate of \$4244.91 with interest on \$4141.57 part thereof from this day till paid. He also made up and completed the foregoing account marked "B" of the outstanding debts against the estate of E. J. Turner, deceased, which were proved before him and which inclusive of interest up to 1st day of April 1860, amounts to \$6030.18 which debts are all of the same, or 4th class of Dpbs. In reference to this account your Commissioner would state, that there being a slight error in the account of Dpbs returned at the last term of the Court, that he has copied the last account in this, that being the proper way of correcting the error, this account then includes the whole of the Dpbs against the estate of E. J. Turner, decd, with the exception of a bond due Mrs. R. A. Turner of \$1100.00, the 25th of December 1860.

The Commissioner further states 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 accounts, with the decree and notices aforesaid are herewith returned.

Given under my hand as Commissioner in Chancery aforesaid, the day and year first aforesaid.
Wm. N. Pretlow, Compt.

Compt. Fee \$20.00
Chgd to Plaintiffs

Turner

vs } Argument for Plaintiffs
Powell's Adm^r &c

This suit was brought by Rosaline Turner now Rosaline Tate a distributee, and the sole heir at law of her father Edward Turner to recover of the estate of Thomas B Powell late adm^r of her said father such sum of money as may be due her upon a proper settlement of his administration account, and especially to recover the sum of \$769⁷³ balance of funds in his hands derived from the sale of realty, after paying off the debts against the estate of his intestate E D Turner. The bill charges that that sum of money was left in his hands by decrees in the cause of Patton &c vs Turners Adm^r &c lately depending in this court; files copies of the accounts with and decrees ^{rendered} in that cause ascertaining the amount; and asks for the payment thereof and such other sums as may appear to be due her upon a further settlement of the account of said Thomas B Powell as adm^r of her said father E D Turner. On the threshold of the cause we are met with the answers of Person B Thomas adm^r and T B Powell heir of Thomas B Powell dec^d which set up the final decree entered

in the said case of *Pittman vs Furness* admitted and the accounts therein set forth as a bar to the plaintiffs action. The said answers simply state in general terms the purpose and effect of the said suit of *Pittman vs Furness* admitted, and no copy of the record in that case is filed with the said answers or either of them. We submit that the answers are not sufficient for the purpose, on the well established principle that an answer in chancery setting up as a defence, the dismission of a former ~~suit~~ ^{pending in same court matter} bill filed by the same complainants, is not sufficient unless the record ^{of the former suit} be exhibited.

Bank U.S. vs Beverly 1 Howard 134

But if the record in that case ~~should be~~ ^{has been} produced, and exhibited it would simply have amounted to the plea of former adjudication and could not have availed the defendant in his purpose to bar the action of the plaintiff. The principles governing such pleas are thus stated by Mr Robinson

"Thus Judges have said that the judgment or decree of a court of ~~competent~~ jurisdiction is final not only as to the subject matter thereby determined, but also as to every other which the parties ought have litigated, as incident to, or essentially connected with the subject matter of litigation. But the expression must be

applied and limited to a subject ~~legitimately~~
within the legitimate purview of the original
action both in respect of claim and defence;
to such matters as if now considered would
involve an inquiry into the merits of the former
judgment. With this limitation it may be cor-
rect to say that parties may often be precluded
from relitigating matters which might have been
set up in the former action ~~VII~~ Rob. Po: 13-14
or as it is put by Mr Justice Field in the case
of Hughes & U States 4 Wall 236, & afterwards
approved by the Supreme Court of Appeals of Va.
In order that a judgment may constitute a
bar to another suit, it must be rendered in
a proceeding between the same parties or their
primes, and the point in controversy must be
the same in both cases, and must be determined
on its merits. See also Russell & Place 4 Otto 606
Pleasant & Clements 2 Ligh 483. Chrusians
Adm^r vs Harman & also 29 Gratt 494

Applying these principles to this case it manifest-
ly appears that the plea of a former adjudication
in the case of Pettow & vs Turner Adm^r &c,
even if properly pleaded, would not affect the
right of the plaintiff to bring this suit.
It appears from the allegations of the bill and the
averments of the answer of Person & Thome as
Adm^r filed in this cause that the suit of

Pettow & Co. Executors adm^r, the final decree wherein it is claimed bars this suit, was a general creditors bill between the creditors of Edward J. Turner dec^d of the one part, and the adm^r heirs and distributees of the said Turner of the other part. There was no question raised in that cause between Rosaline Turner the plaintiff here, and Thomas B. Powell the adm^r on her father's estate, who was a co-defendant with her in that suit; and as between them under the pleadings in that cause the court could not have entered any decree. There was no point or question in controversy between them at all, the only question was between the creditors of Edward J. Turner on the one part & the personal and real representatives of the said Turner on the other, and its sole object was to ascertain the amount of the debts due by Edward J. Turner and compel their payment out of his estate. This suit is between the heirs & distributees of Edward J. Turner dec^d of the one part and his personal representatives of the other part, and its object is to recover the balance in the hands of said adm^r on a proper settlement of his accounts, after paying off the debts against the estate. The question in the first suit was altogether different, and was between ~~different~~ parties different from the parties here.

We come now to the case upon its merits
The bill sets up a claim for an amount of
money, the proceeds of the sale of real estate,
left in the hands of Thomas B Powell, which
sum is ascertained by Parker Cunn^r in his re-
port filed Nov^r 8th 1882 to be \$769²⁵ with inter-
est from April 1st 1860; which sum being the
proceeds of real estate is of course payable to the
plaintiff in the present cause who is the sole
heir at law of Edward J Turner

It is admitted by the answers of T B Powell
the heir and Person B Thomas adm^r of Thomas
B Powell dec^d that this sum was left in the
hands of Thomas B Powell after paying off
all the claims or debts proven and mentioned
in the account of debts referred to, a copy
whereof is filed in this suit; but they attempt
to shield his estate from the payment of the claim
by alleging that the said Thomas B Powell as
adm^r of Edward J Turner paid off other claims
against the estate of his intestate, not included
in the account of indebtedness referred to, which
more than consumed the balance in his hands;
and they exhibit two bonds due by Edward J
Turner to R A Turner each for the sum of
\$1100⁰⁰ payable respectively on the 25th of Dec^r
1859 and 1860, which they say were filed by
the said Thomas B Powell along with his

final report in the cause of *Prettor vs Durmus adm^r*, (and which the adm^r of the said Thomas Powell in his answer in this cause alleges were paid by the said Thomas Powell in his life time) neither of which it is claimed were included in the report of debts in the said cause of *Prettor vs Durmus*; and the payment wherof by the said Powell as adm^r consumed the whole sum left in his hands the recovery wherof is sought in this cause; The adm^r Person B Thomas in his answer herein further alleges that the difference between the amount paid by his ~~instator~~ Thomas Powell upon the two bonds aforesaid, to wit, the difference between \$24000 which his answer alleges he paid on account of the said two bonds, and the balance, admitted to have been left in his hands in the suit of *Prettor vs Durmus adm^r* was reimbursed and repaid to his said instator Thomas Powell "from funds received by said Powell as adm^r of said Durmus in North Carolina"

Now we desire to call the attention of the Court to the fact herein disclosed by the said answer that the said Thomas Powell adm^r did not in the suit of *Prettor vs Durmus adm^r* render a full account of his administration

per it is admitted by the answer of his ad^r
that after the said account of debts in the
said suit was taken and confirmed he the
said Thomas B. Powell actually paid out
for the estate an additional sum of \$2400⁰⁰
and that he received ~~for~~ ad^r of the said
Estate in North Carolina a further sum
of money, to wit, the difference between \$2400⁰⁰
the amt paid by him and the sum of \$ 679⁰⁰
left in his hands in the said acct of Pollard & Turner
ad^r amounting to \$1720⁰⁰

We claim that the said Thomas B. Powell ad^r
in Virginia where his intestate died, ^{& where he qualified} is oblig^d
to give a full and complete account of all
the moneys received by him as ad^r no mat-
ter from what source derived, and the answer
of his ad^r shows that he has not brought
into the account any money derived by
him from his qualification in North Carolina
for which he is clearly liable in V^a and in this
suit Trustall vs Pollard 11 Leigh 1; Rucker vs
Strat 33 Gratt 663

There is not the slightest pretense on the part
of the defendants that the intestate Thomas B.
Powell ever settled a full account of his
administration of the estate of Edward Turner
died; On the contrary in their answer they
allege that he did receive from North Carolina

since the settlement made in Prelow vs Durness
Adm^r a large sum of money, to wit, \$1720⁰⁰
which has never been included in any account
Was that all he received from North Carolina? or
from any other source after the account in
Prelow vs Durness Adm^r was settled? If so
we want the account settled to show it

The further allegation is made that even if there
is any balance due by the adm^r Thomas B
Powell or his estate on the settlement of his
administration account that it is due to the
legal holders of the two bonds due to R A
Durness & referred to as paid by the adm^r
Thomas B Powell out of funds of the estate
in his hands. Will it appear from the
proofs adduced before Comm^r Parker that
either of those bonds were paid to R A
Durness. They were deposited by her in the
hands of Thomas B Powell for collection
& were by him, according to the allegations
of the answer of his adm^r, filed in the
papers in the cause of Prelow vs Durness
Adm^r as vouchers for payments which he
had not in fact made. We do not believe
any such claim was made by Thomas B
Powell, certainly there is nothing in his
report rendered in the cause of Prelow vs
Durness Adm^r to indicate that he claimed

credit for the payment of the said two bonds
over and above the sum directed to be paid
by him, and ascertained in the previous
report of the Comm^r in that cause to be
justly due by the estate of Edward J Turner
The fact of their payment, as far as the record
shows, is presumed from the single fact
that the said bonds were filed by Thomas B
Powell with the papers in the cause of
Preliminary J Turner adm^r, but whether
as evidence ^{of debt} simply of debt of the estate of Edward
J Turner, or as receipts for payments by the
adm^r does not appear, and now in the
light of the facts adduced that the said
bonds had not in point of fact been
paid it would be more reasonable to con-
clude that they were placed there simply
as evidence of debt

However this fact does appear from the
answer sworn to by Person B Thorn as
the adm^r of Thomas B Powell, and no doubt
is derived from the books & accounts of the
said ~~Thomas~~ Powell in his hands; that
the said Thomas B Powell as adm^r of Ed
J Turner did receive from his qualification
as adm^r in North Carolina a sum of
money (\$1720²¹) sufficient to reimburse him
the said Powell the sum of \$2400²¹ alleged

to have been paid for the said two bonds, after deducting the \$679⁷³ left in his hands by the report in Pullow vs Turner adm^r

Now by reference to the account of debts from against the estate of Edward J Turner in the said Cause of Pullow vs Turner adm^r it will appear that one of these bonds, to wit the bond due R A Turner Dec^r 25th 1859 was included therein and constituted a part of the debt to be paid by Thomas B Powell out of the funds in his hands, after the payment whereof the said balance of \$679⁷³ remained. So then the account should be according to the statements of the answer & the record evidence adduced, rendered thus

Am ^t due by Thomas B Powell adm ^r	
apl 1 st 1860 per report Pullow adm ^r vs adm ^r	679.73
Am ^t received from qualification in N.C. as	
admitted in the answer of Powell's adm ^r	1220.27
Total in hands Thomas B Powell adm ^r	\$2400.00
By paid bond due R A Turner Dec ^r 25 th 1860	1100.00
	\$1300.00

And it thereby appears from the admissions of the said adm^r Person B Thomas that his indebtedness is still indebted to the estate of Edward J Turner in the sum of \$1300⁰⁰ with interest from April 1st 1860

This sum of money must of course be applied

first to repay to the plaintiff in this cause Rosaline Pute the amount of the proceeds of the sale of land descended to her from her father Edward J Turner which has already been applied to the payment of the debts of her said father, as appears from the records filed in this cause.

From the admissions of the answers in the cause it thus appears that the said Thomas B Powell in his life time never settled a full and final account of his administration and further that there is still in his hands admitted by the same answer a balance of about \$1300⁰⁰ with interest from 1860 and yet this Court is asked to discuss the plaintiff's bill because perforce in a former suit by the creditors of Edward J Turner against his admⁿ or his, an act of debts was taken, a sufficient sum put in the hands of his admⁿ to make them pay them all and a decree directing him to pay those debts & then dismissing the suit, the only object of which was already accomplished.

In one view of the case the objection of Prince seems for Thomas B Powell in his hands as admⁿ amounts to nothing. It may be true that the said Powell gave

a separate bond for the proper application
of the land money in his hands, and that
the sureties on his administration bond are
not responsible therefor; but it appears
that there is a further sum of some
five or six hundred dollars in his hands
as adm^r collected from North Carolina for
which the sureties on the administration
bond are liable.

It is therefore respectfully sub-
mitted that the plaintiff is entitled to a decree
for the payment of the amount admitted
to be due out for a decree for a further
account of the transactions of Thomas D.
Powell adm^r of all his transactions whe-
ther in Virginia or elsewhere.

All of which is respectfully submitted
Frederick Davis &c

Turner

as } Date

Powell's adm^r

Note of argument
by Frederick Davis
of counsel for plaintiff

10 0 33 85
 8 92 89
 12 0 6 90
 11.4.75
 423.87
 769.75
 146.3.61
 8.94.89
 2864.39
 723.25
 681.90
 479.85
 576.88
 303.91
 1030.88
 407.74
 776.63
 433.52
 303.68

 24.382.29

9 8 9 13 0

Turner

of Decr

Pawells adm^r &c

May term 1882

May Term 1882

To be entered

Georslow.

Turner

vs

Powell's adm^r &c

It being suggested to the Court that since the institution of this suit the plaintiff Rosaline Turner has intermarrit with D E Pate on motion of said Pate he is admitted a party plaintiff in this cause; And it being further suggested that Wm Briggs Sheriff of Southampton County has been duly appointed administrator d. h. n. of Edward J Turner dec^d on motion of said Wm Briggs Sheriff & adm^r as aforesaid he is admitted a party defendant and it is ordered that this suit henceforth proceed against him as defendant Whereupon this cause came on to be heard upon the bill of the plaintiffs with the exhibits therewith filed taken for confessed as to the defendants Wm Briggs Sheriff and administrator d. h. n. of Edward J Turner dec^d. A B Parker Mary C Parker and Joseph H Clano they still failing to appear plead answer or demurr and upon the answers of the defendants Person S Thomas administrator of Thomas B Powell dec^d; Joseph H Prince and J B Powell, with the exhibits therewith filed, and general replications to said answers, and was argued by counsel. On consideration whereof the Court without at this time passing upon any question of law or fact raised in the cause doth adjudge order and decree that Person S Thomas

administrator of Thomas B Powell dec'd do lay before
one of the Commissioners of this Court an account
of the transactions of his decedent T B Powell as
administrator of Edward J Turner dec'd.
Which account the said Commissioner will ^{audit} ~~take~~
state and report to court, taking as correct the
account heretofore settled by the said T B Powell
in his life time and confirmed by this Court
by its decree entered at the November term 1860
in the cause of Pellow & Co vs Turner adm^r
then pending in this Court; together with any
matter specially stated or demanded pertinent by
himself or which he may be required so to
state by any party interested

But the said Court before proceeding to take
the said account will give notice of the time
and place of taking the same to the plaintiffs
and to the said Person S Thomas adm^r &c
personally, and by advertising notice thereof once
a week for four weeks in some newspaper
published in this County, which notice when
so published shall be taken as equivalent to
personal service of the same on all parties
except the plaintiffs and Person S Thomas
adm^r as aforesaid

The answer of Jos H Prince to a bill of complaint exhibited in the Circuit Court of Southampton by Rosaline Turner or himself or them.

This respondent for answer to said bill - says. That he submits, in any aspect of the case, this suit ought to be dismissed as to him, for the following reasons. That from plffs bill, it is apparent no money can be had against respondent as one of the executors of Thos B. Powell, as Adminr of E. J. Turner decd. It is shown by plffs bill that the whole amount of personal assets that came into the hands of T. B. Powell as Adminr of E. J. Turner decd was \$4244.91 and it is further shown and admitted by said bill that the said Powell as Adminr as aforesaid paid off debts against his intestate Turner to amt of \$6030.¹⁸ which monies have consumed all the personal assets and made a balance of \$1785.²² to be paid from the real assets of E. J. Turner's Estate. This respondent is in no wise bound for the administration of the real assets - as T. B. Powell gave a bond as Comr of Sale with one James R. Peck as his surety as more fully appears from the answer of P. S. Thomas Adminr of T. B. Powell decd. filed in this suit. Wherefore

This respondent prays that this suit may
be dismissed as to him at plaintiff's costs.

J. H. Preece

Southampton County, Va.

Personally appeared before J. B. Preece, a
Notary Public for the County aforesaid in
the State of Virginia, Jos. H. Preece, and
made affidavit that the facts set forth
in the foregoing answer are true to the
best of his knowledge and belief. Given under
my hand Oct 26. 1880.

J. B. Preece - N.P.

Turner

vs 3

Powell's Adm'r.

Answer of

Jos. H. Preece.

...at the expense of their...
 ...could not have been a better investment...
 ...and unproductive, and the planters...
 ...of lands which are now left unused...
 ...immensely increased by timber culture...
 ...but our national resources might be...
 ...as so much clear gain. It is also...
 ...ive. To the country the timber crop...
 ...who have remained entirely unproductive...
 ...the return, and the land would otherwise...
 ...vestment was small in comparison with...
 ...at in the double, however, that the in-...
 ...the years of growth. There can be no...
 ...amount of attention it has had during...
 ...the cost of planting the grove or the...
 ...000. No particulars are given as to...
 ...through, and have been sold for \$27-...
 ...now from sixteen to twenty inches...
 ...for ordinary cultivation. The trees are...
 ...every spring and summer and was undisturbed...
 ...three years ago. The land was flooded...
 ...that was planted with walnut twenty-...
 ...from Wisconsin tells of a piece of land...
 ...properties. A correspondent writing...
 ...ramps and stony places into valuable...
 ...would soon convert their worthless...
 ...same money spent in planting timber...
 ...large and speedy returns, when the...
 ...tions, promising but never yielding...
 ...their surplus means in wildcat speculations...
 ...would be thirty farmers will risk...
 ...forethought, and too frequently our...
 ...the waste and idle for lack of a little...
 ...that our land owners are allowed to...
 ...nothing else, except poor pasturage...
 ...suitable for timber culture and for...
 ...there are millions of acres of land...
 ...become quite inadequate. Meantime...
 ...ply is diminishing and must ultimately...
 ...ally increasing, while the natural sup-...
 ...turning purposes is steadily and natu-...
 ...demand for special woods for manufac-...
 ...however, is fast passing away. The

Chambers, Va, Oct 20 1882

Mrs. Rosaline Turner

To Franklin Gazette Dr.,

Main Street, Gardner Building.

PLAIN AND FANCY JOB WORK DONE WITH NEATNESS AND DISPATCH.

1882
 Sept 28 To legal advt-(Approved)
 6 1/2 inches 4 weeks \$10.00

J. K. R. Griffin, proprietor of the Franklin Gazette
 published in Southampton County Va, do hereby
 certify the advertisement herewith was published
 in the above named paper four successive
 weeks

Oct 20 1882

K. R. Griffin

A T A CIRCUIT COURT HELD
for the County of Southampton at the
May Term thereof, 1882,
Rosaline Turner, plaintiff,
against

Person S. Thomas, administrator Thos. B.
Powell, dec'd, Thos. B. Powell, Jr., A.
B. Parker and Mary C. his wife, Joseph
W. Claud and Joseph H. Prince,
defendants.

IN CHANCERY.

EXTRACT FROM DECREE.—On consideration
whereof the Court, without at this term,
passing upon any question of law or fact
raised in this cause, doth adjudge, order and
decree that Person S. Thomas, administra-
tor of Thomas B. Powell, dec'd do lay be-
fore one of the Commissioners of this Court
an account of the transactions of his de-
cedent, Thomas B. Powell, as administrator
of Edward J. Turner, dec'd, which account
the said Commissioner will audit, state and
report to Court, taking as correct the ac-
counts heretofore settled by the said Thos.
B. Powell in his lifetime and confirmed by
this Court, by its decree entered at the No-
vember Term, 1860, in the cause of Pre-
low, &c., vs. Turner's administrator, then
pending in this Court, together with any
matter specially stated, deemed, pertinent
by himself, or which he required to be
stated by any party interested. But the
said Commissioner before proceeding to take
the said account, will give notice of the
time and place of taking the same to the
plaintiffs, and to the said Person S. Thomas,
administrator, &c., personally, and by ad-
vertising notice thereof, once a week for four
weeks, in some newspaper published in this
county, which notice, when so published,
shall be taken as equivalent to personal ser-
vice of the same on all parties except the
plaintiffs and Person S. Thomas, admini-
strator as aforesaid.

L. R. EDWARDS, Clerk.

COMMISSIONER'S OFFICE,
JERUSALEM, VA., Sept. 19th, 1882.

The parties interested. In the decree from
which the foregoing is an extract, will take
notice that, on the 20th day of October
1882, at my office, in the town Jerusalem,
I shall proceed to execute the same, when
and where they are required to attend, with
such books, papers, vouchers, and evidence
as will enable me to comply with the said
order of the Court.

W. H. PARKER,
Commissioner in Chancery.

Va, Oct 20 1882

Gazette Pr.

Gardner Building.

WITH NEATNESS AND DISPATCH.

6 (Approved)

H. Hecker

\$10.00

in of the Franklin Gazette
plus County R. do checky
ut-hen with was published
paper, four insertion

R. R. Griffin

This day N. R. Griffin, proprietor of the
Franklin Gazette, a newspaper published
in Southampton County - personally
appeared before me, a Commissioner
in Chancery and made oath that
the Kirk in admt - was published in
said paper for four successive
weeks

W. H. Parker,
Comm^r in Chancery.

the return, and the land would otherwise have remained entirely unproductive. To the country the timber crop was so much clear gain. It is clear that our natural resources might be enormously increased by timber culture of lands which are now left unused and unproductive; and the planters could find their groves a surer investment for the security of their funds.

Turner

vs.

Powell & Son

Answer of

J. B. Powell

Turner

vs 3 Answer of J. B. Powell.

Powell's Answer 4.

In this cause, respondent J. B. Powell who is a son of T. B. Powell decd. submits that this suit ought not to be maintained because, the plff. Rosaline Turner failed within six months from the time she arrived at twenty one to show any cause, why the final decree which was made in the suit brought by Joshua Panton against his father, for the settlement of the estate of E. J. Turner, should be set aside - and until that decree is set aside, respondent submits that no suit can be brought to determine any questions settled in that suit. But if we are mistaken in this view, then it is beyond all question that this suit ought not to be maintained, because the two bonds which J. B. Powell Adm. returned with his last report, and which are made exhibits in the answer of P. J. Thomas, more than consume the balance alleged against him in bill of complainants and these bonds have never been reported in any account of debts against estate of E. J. Turner. So that, if they have been paid, there

turned necessarily be a balance due
to Adams; and if they have not been
paid, then J. B. Powell & Adams of E. J.
Turner does owe them to the Plaintiff.
N. A. Eldridge. In any event therefore,
there is nothing due this complain-
ant and respondent submits that
this suit should be dismissed at
costs of plaintiff. And having answered,
he prays leave to be dismissed.

G. B. Powell

X

Sworn to before me this 29 day of
Oct 1881 G. H. Shuford (J. P.)

Summa

no 3 Decem

Powell's Admin 4c

In Vacation 1883

To be returned

Turner

on 3 Decree
Powell's admors

This day This cause came on again to be heard on the papers formerly made and the report of commissioner W. B. Parker made pursuant to a ~~order~~ of this court entered at the May term 1882 and the papers ~~Turner's~~ filed and was argued by counsel On Consideration whereof The court being of opinion That the estate of Thomas B Powell is indebted to that of Edward J Turner in the sum of \$769.83 with interest doth accordingly order and decree that P. L. Thomas administrator of Thomas B Powell do out of the assets in his hands to be administered of Thomas B Powell do pay to the plaintiffs the sum of \$769.83 with interest from the 1st of April 1860 till paid and the costs of this suit incurred by the plaintiffs And liberty is hereby granted to the plaintiffs to next to this court for further relief should this decree prove unsatisfactory

Turner

v { Sum. Chy

Turners adm γ^o

1880 October Rules

Executed by delivering
Persons S Thomas I. B. Powell
Joseph W Oland and
Joseph A Prince each
a copy of this Summons
on the 30th day of
September 1880. A. B.
Parties with or not residents
of this County
W W Briggs Shff

THE COMMONWEALTH OF VIRGINIA.

To the Sheriff of Southampton County.---GREETING:

We Command You to summon *Persons I Thomas admr: Thomas B. Powell dec^d*
Thomas B. Powell jr. A B Parker & Mary Lehis wife, Joseph W. Cloud & Joseph St. Pierre
to appear at the Clerk's office of our *Superior* Court for South-
ampton 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 Court by Rosaline Turner

and have then there this writ.

Witness: Littleton R. Edwards, Clerk of our said court, at the Court-House
this *21st* day of *September* 1880 in the *105th* year of the Common-
wealth.

L R Edwards cc

Turner

Sp. ch

Powells adm of

1880 October Rules

Shands. p. 9

Executed Octo^r 1 1880 by
delivering 2 copies of the
writing to Mary Parker,
A. P. Parker being absent
from home

L. P. H. Gray
Sheriff

Supox

THE COMMONWEALTH OF VIRGINIA.

To the Sheriff of ^{Superior} Southampton County.---GREETING:

We Command You to summon *Persons* *Thomas adma Thomas B Powell de?*
Thomas B Powell jr A B Parker & Mary Lehis wife Joseph W Blair & Joseph A Prince
to appear at the Clerk's office of our *Circuit* Court for South-
ampton 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 Court by Rosaline Turner

and have then there this writ.

Witness: Littleton R. Edwards. Clerk of our said court, at the Court-House
this *24th* day of *September* 188*0* in the *15* year of the Common-
wealth.

L R Edwards cc

The Answer of P. S. Thomas, Adm^r of
Thos B. Powell dees to a bill of Com-
plaint exhibited against himself
and others by Rosaline Turner, in the
Circuit Court of Southampton County.
This respondent for answer to the
said bill says--

That it is true, as alleged in Complainant's
bill that Thos B. Powell qualified as
Adm^r of E. J. Turner at the Decr
Term of the Circuit Court of Southampton
1858- giving bond in penalty of \$10,000
with sureties as named in the said
bill- and that it is further true
~~the~~ said Powell received personal
real assets belonging to the estate
of his intestate amounting to
the gross sum of \$6909-98- But
the said Powell received the personal
assets as Adm^r of said Turner,
and the real assets as a Commissioner
of Sale, of the Circuit Court, giving
an entirely different bond, which
is in the penalty of \$3000- with one
Jimmie R. Person as surety- dated
29th Apr 1861- which bond is filed in the
Chancery papers in the suit of "Pictowth,
vs Turner; Adm^r-. Respondent submits
that the Report of his intestate, Thos B.

Powell shows that all the money
he received in any capacity
belonging to Estate of E. J. Turner
has been accounted for, and
until that report, which is
furthermore corroborated by the
testimony of Com. Pactor is
done away with, the complain-
ant in this suit, who was
a defendant in the suit of
Pactor vs Turner's Adm^r has
no right to bring this suit.

The suit of Pactor vs Turner's
Adm^r was a chancery suit
brought by Joshua Pactor, a
creditor of E. J. Turner died for
himself & all other creditors of
E. J. Turner died vs Thos. B. Powell
Adm^r of E. J. Turner, Helen D.
Turner, widow of E. J. Turner &
Rosaline Turner, child of
E. J. Turner. There were various
orders in that suit, and several
accounts rendered, some showing
amt of personal assets, and
payments by Adm^r, and some
showing amt of debts due by
said E. J. Turner. The account
of debts shows that there were
debts to amount of \$6030.¹⁸
proved before Com. Pactor.

The amount of personal assets was
as stated in bill \$4244.91
Nett amt of Real assets 2465.00
Total amt of personal & Real assets \$6709.91
Total debts proved before

Comr. Pickett 6030.18
Leaving a bal of real assets = 679.73
But in the last report of J. B. Powell
as Comr. of Sale in the suit of Pickett
vs Turner's Admrs, he returns along
with the said report, debts against the
estate of E. J. Turner, which he paid,
which had not been hitherto reported
amounting to the sum of \$2400.,
which would leave a large balance
due the said Powell - and which
balance was paid from funds
received by said Powell as Admrs
of said Turner in North Carolina.
There can be no doubt of the validity
of these debts as they are bonds
under the hand & seal of the said
E. J. Turner decd.

But this respondent is satisfied
that this suit ought not to be main-
tained, and he has put himself
to the trouble to show it from the
above figures - a copy of the report
of said J. B. Powell, with a copy of each

of said bonds which were not reported to
Comm. Panton is filed herewith. And having
thus fully answered, respondent asks
that this suit may be dismissed at the
costs of the plaintiff.
Oct 21. 1880. E

P. S. Thomas as adm
D. B. Bruce decd

Southampton County Court.

J. D. Bruce, a Notary Public
for the County aforesaid in the
State of Virginia do certify that P.
S. Thomas whose name is signed
to the above answer personally
appeared before me in my said
County and made affidavit that
the facts therein set forth are true
to the best of his knowledge & belief.
Given under my hand Oct 26th
1880.

J. D. Bruce N.P.

~~P. S. Thomas as adm.~~

~~D. B. Bruce decd~~

1880 Nov 9. Filed

Turner

as $\frac{2}{3}$

Powell's Adm. R.

Answer of

P. S. Thomas

Adm. of T. B.

Powell's Adm.

1880 Nov 4 Filed

Petlow &c

Turner's Adm.

} Report

In obedience to a decree of the Circuit Court of Southampton County entered at its November Term 1860. Your Commissioner would report, that he proceeded to collect the Bond of \$2333.33 vs Jns. P. Jones & others and after collecting the same, and first exhausting the personal assets in his hands for the discharge of the liabilities against the estate of E. J. Turner decd. he then according to the decree, satisfied the remainder of the debts with the amount collected, herewith returning most of the receipts, some of which have been lost, they having been in possession of Wm. H. Petlow Comr. which were lost during the war.

T. B. Powell Comr.

According to my recollection, the statements made by Thomas B. Powell in reference to the receipts is correct

Wm. H. Petlow

On demand the 25th December next I do and promise to pay Rebecca A. Turner the sum of One thousand Dollars for value recd. Given under my hand & seal this 9th day of August 1858.

E. J. Turner

On demand 25th December 1859 I owe and
promise to pay Rebecca A. Turner the
sum of Eleven hundred Dollars for
value recd. Given under my hand
and seal this 9th day of August 1858

Edw. J. Turner (seal)

On demand 25th December 1860 I owe
and promise to pay to Rebecca A. Turner
the sum of Eleven hundred Dollars
for value recd. Given under my hand
and seal this 9th day of August 1858

Edw. J. Turner (seal)

The above are true copies of papers
filed in the Chancery Suit of Putlowe
vs Turners' Admr. lately pending
~~in~~ the Chancery side of the Circuit
Court of Southampton County, Va
which was removed from the Docket
at the May Term 1870.

Teste:

L. R. Edwards Clk.

"Pakiti" "E."

Parkington, Berwick County, May June 1870.

Dr. J. Parkington

For

James Adams & Co.

Nothing further appearing at the time
in this case, it is ordered that the County Clerk do
omit to remove from the records.

At City, Pa.

June,

James W. Hyatt, J. C.

James

No

James Adams & Co.

Bill of Pakiti

(See p. 8. 15.)

"Safety" 

Pr 2
Pr 2
Pr 2

24.

Turner's affidavit

Repts

In Obedience to a decree of the
Circuit Court of Portsmouth County entered at
its November Term 1866, I, John Commissioner, under report
that he proceeded to collect the Bond of \$2333.33 against
John Jones & others, & after collecting the same, & first
exhausting the personal assets in his hands for the dis-
charge of the liabilities against the Estate of E. J. Turner
decd. he then according to the decree, satisfied
the remainder of the debts with the amount collected
herewith returning up of the receipts, some of which
have been lost, they having been in possession of Wm. H.
Pratt, Commissioner, which were lost during the
war.

J. B. Pines, Commissioner

According to my recollection the Statement made
by J. B. Pines in reference to the receipts is
correct.

Wm. H. Pratt

A Copy

Filed

James R. Tyler, J.C.

Commissioners Office,
Jerusalem Virginia.
November 1st 1882.

In pursuance of a decretal order of the Circuit Court for the County of Southampton, pronounced at the November Term 1882, in a cause in chancery in the said Court depending between Rosaline Turner, plaintiff, and Person S. Thomas administrator of Thomas B. Powell, deceased, and others, defendants, an office-copy of which decree, is hereto annexed, the undersigned one of the Commissioners of the said Court, to whom was referred for settlement by said decree, an account of Person S. Thomas's transactions as administrator of Thomas B. Powell, as administrator of Edward J. Turner, dec'd, taking as correct the accounts heretofore settled by the said Thomas B. Powell in his life-time and confirmed by this Court by its decree entered at the November Term 1860, in the cause of Bretlow &c., vs Turner's administrator, then pending, having given due notice to the parties concerned, both by advertisement published, for four successive weeks, in the Franklin Gazette, a news-paper published in the Town of Franklin in this County, and by personal service of notice on Person S. Thomas, according to said decree, as will appear by

the advertisement and notice herewith re-
turned, proceeded on the 20th day of October
in the year A.D., 1882, to execute the said
order; and the proceedings having been thence
forward regularly adjourned from time to
time, and being at length completed, the
result is herewith respectfully submitted.
The undersigned, taking the report of the
Commissioner in the Cause of Pretlow &c., vs
Turner's Administrator as a basis, ascertains
that there was a balance in the hands of
Thomas B. Powell as administrator, on the 1st
day of April 1860, of \$4244. $9\frac{1}{4}$; That
there was in his hands, as Commissioner,
after the payment of \$935. 00 which the
widow of Edward J. Turner, dec'd, accepted
in lieu of her dower, in real assets, a bal-
ance of \$2565. 00 which added to the amount
of personal assets will make the sum of
\$6809. $9\frac{1}{4}$; That there were proved against
the estate of Edward J. Turner, dec'd, debts
outstanding to the amount of \$6030. 18 , which
being deducted from the sum of \$6809. $9\frac{1}{4}$,
in the hands of Thomas B. Powell, belong-
ing to the estate of Edward J. Turner, ^{will leave} a bal-
ance in favor of said Turner's estate of
\$769. 75 with interest thereon from the
1st day of April 1860. But this ^{was filed} ~~was filed~~ ^{for}
with Thomas B. Powell's last report in Pretlow &c. vs
Turner's Adminr, a copy of which is returned herewith

the defendants produced a bond of \$1100. ²⁰/₁₀₀ against the estate of Edward J. Turner, dec'd, which ~~the~~ ^{counsel for defense} contended had long since been paid; ^{but which had not been reported in any acct of debts} If, therefore, the Court, upon the evidence herewith filed, be satisfied that Thomas B. Powell should have paid this bond, then the estate of Edward J. Turner will owe him the amount of said bond with interest.

The undersigned herewith returns a deposition taken before him at the time of stating this account, together with a receipt from ~~from~~ Thomas B. Powell, filed with the deposition, to Richard Eldridge and Rebecca A. Eldridge, his wife, and a letter filed by defendants' counsel from R. A. Eldridge to Thomas B. Powell, requesting the loan of \$20. ²⁰/₁₀₀, and also a report from said Powell, corroborated by W^m H. Britton, showing what disposition he made of the funds in his hands, but which report was never confirmed by any decree of Court, - All which is respectfully submitted.

Given under my hand as Commissioner aforesaid the day and year first aforesaid.

Comm's fee \$30. ²⁰/₁₀₀ W. H. Parker,

Chgd to pay.

Commissioner in Chancery.

H. R. Griffin for order
publication
Chgd to pay. \$10. ⁰⁰/₁₀₀

Turner & Co
Es. En
Powell & Co

Southampton Circuit Court, May Term 1882

Re: *Rebecca Turner, Plaintiff*

vs. *John B. Pinner, Defendant*

In Chancery

John B. Pinner and John B. Pinner dec.

John B. Pinner, John B. Pinner & Mary C. his
Wife, Joseph W. Cloud & Joseph W. Pinner
Defts.

It being suggested to the Court that since the
institution of this suit, the Plaintiff *Rebecca*
Turner, has introduced against J. E. Pate, an
affidavit of said Pate, he is admitted a party
Plaintiff in this cause, and it being further
suggested that W. W. Briggs Sheriff of Southampton
County has been only appointed administrator
de bonis non of Edward J. Turner dec.

On the Motion of the said W. W. Briggs
Shff. & answer as aforesaid, he is admitted
a party defendant, and it is ordered, that
this suit be now forth proceed against him
as defendant;

Whereupon this Court
has now heard upon the testimony
Plaintiff and the exhibits therewith
filed, taken for confessed on the part of
defendants W. W. Briggs Sheriff and administrator
de bonis non of Edward J. Turner dec.

of John B. Pinner, Mary C. Pinner and
Joseph W. Cloud, they are finding

feeling to appear, filed, answer or demand, and
uppon the answer of the Defendant Person L.
Thomas (administrator of Thos B. Pinell dec.
Joseph H. Pinell of Thos B. Pinell, agent
John Exhibits therewith filed, & general
replecation to said answer, and upon argu-
ment by Counsel, the Court in consideration whereof the
Court directed, at this time suspending
upon any question of Law or fact raised
in this Cause, do hereby adjudge order and
decree, that Person L. Thomas (administrator
of Thos B. Pinell dec. do lay before me
of the Commissioners of this Court, an
account of the transactions & his receipts
Thos B. Pinell as administrator of Edward J. Turner
dec. Which account they said Court,
will audit, settle, in report to Court,
taking as correct the accounts heretofore
settled by the said Thos B. Pinell in
his lifetime, and (enforced by this)
Court, by its decree entered as the 2nd term
Term 1869, in the Cause of Paul George
vs. Turner's adm., then pending in this
Court, together with any matter
specifically stated decreed pertinent,
by himself or which may be
required to be stated by any party
interested. But the said Commissioners

before proceeding to take the said account
will give notice of the time and
place of taking the same to the
Defendants and to the said Person.
Thomas Arango personally, and by
advertising notice thereof, once a week
for four weeks, in some newspaper
published in this County, of which
notice when so published, shall
be taken as equivalent to personal
service of the same, on all
parties except the Plaintiff and
Person L. Thomas (administrator) is
affirmed.

C. J. Tyler
Deputy
J. R. Tyler J.C.

Illustrated School History
of the United States by
G. P. Lusk

For Sale
150 copies
Hartford

For Sale
100 copies
Close up

Rec^d of Mr Richard Eldridge &
Mrs R. A Eldridge The following
Bonds & accts to collect or return
One bond against E J Turner
due for One Thousand Dollars
due 25th ^{December} 1858, Subject to a credit
of Four hundred & Thirty Six Dollars
~~100~~ Another bond against The
same due 25 December 1859
for Eleven hundred Dollars
Another bond against The same
for Eleven hundred Dollars due
25th December 1860

One Bond against E A Cain
& Wm Old for One Hundred &
Ten Dollars due 25 December 1858
One acct against J C Harris
for Seven Dollars ⁵⁰/₁₀₀ J. B. Powell

AT A CIRCUIT COURT HELD
for the County of Southampton at the
May Term thereof, 1882,

Rosaline Turner, plaintiff,
against

Person S. Thomas, administrator Thos. D. Powell, dec'd, Thos. B. Powell, Jr., A. B. Parker and Mary C. his wife, Joseph W. Claud and Joseph H. Prince.

IN CHANCERY.

EXTRACT FROM DECREE.—On consideration whereof the Court, without at this term, passing upon any question of law or fact raised in this cause, doth adjudge, order and decree that Person S. Thomas, administrator of Thomas B. Powell, dec'd, do lay before one of the Commissioners of this Court an account of the transactions of his decedent, Thomas B. Powell, as administrator of Edward J. Turner, dec'd, which account the said Commissioner will audit, state and report to Court, taking as correct the accounts heretofore settled by the said Thos. B. Powell in his lifetime and confirmed by this Court, by its decree entered at the November Term, 1860, in the cause of Prellow, &c., vs. Turner's administrator, then pending in this Court, together with any matter specially stated, deemed, pertinent by himself, or which he required to be stated by any party interested. But the said Commissioner before proceeding to take the said account, will give notice of the time and place of taking the same to the plaintiffs, and to the said Person S. Thomas, administrator, &c., personally, and by advertising notice thereof, once a week for four weeks, in some newspaper published in this county, which notice, when so published, shall be taken as equivalent to personal service of the same on all parties except the plaintiffs and Person S. Thomas, administrator as aforesaid.

L. R. EDWARDS, Clerk.

COMMISSIONER'S OFFICE,
JERUSALEM, VA, Sept. 19th, 1832.

Turner

vs 3 Notices

Powell's Admiralty

11

Executed

P. Caron Deputy
for W. W. / Greys. S. H. P.

101-101

Commissioner's Office,

Jerusalem, Va., September 20th 1882.

To *Rosaline Turner,*

against

*Person S. Thomas, adm'r Thos B. Powell, dec'd,
Thos B. Powell, Jr., A. B. Parker, and Mary L. his wife,
Joseph W. Leland and Joseph H. Prince,*

You are hereby notified that I have fixed upon the 20th day of
next, if fair, if not, the next fair day thereafter (Sunday excepted) to take and
settle, at my office, the following accounts, to wit:

*An Account of the transactions of Person S. Thomas
as Adm'r of Thos B. Powell, as Adm'r of Edward
J. Turner, dec'd.*

required to be taken by a decree of Southampton Circuit Court, rendered at the
May term, 1882, in a suit in Chancery, depending in said Court; in
which you are parties, plaintiffs and defendants; 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. H. PARKER, Commissioner.

To the Sheriff of Southampton County to execute.

The deposition of Mr. Helen D. Turner taken before me for my information and herewith returned with my report for the information of the court

Mrs. Helen D. Turner being first duly sworn deposes and says as follows:

Quies. by W. B. Shands of Counsel for plaintiff,
Do you remember this receipt, ~~which is~~
~~Answer~~. Yes. This receipt was handed me by Mr. Eldridge after Mrs. Eldridge's death, with request that I should have the same lawyer collect the same. Mr. Eldridge was at that time going South. I presented this receipt to Dr. Powell through Mr. Geo. E. Reese, who refused to pay it, and said to

me subsequently that all Dr. ~~Lowell's~~ ^{Turner's} estate
had been lost by the war "gone up" by the
war. I boarded with Mrs. Eldridge two and
half years, to wit. the years 1867-'68 and
a part of '69, and Mrs. Eldridge told
me the money had not been paid. Mrs.
Eldridge died in 1869.

Sometime in 1866, as well as I remember,
Mrs. Eldridge wrote to Dr. Powell for \$100.⁰⁰
of her money and he replied that owing
to the war it had all "gone up". She then
wrote to him to lend her twenty dollars.
He sent her the twenty dollars and at the
same time wrote her that he would make
her a present of it.

And further this deponent saith not.

H. D. Turner.

Turner

vs $\frac{3}{4}$ Report
Powell's Adm'r et als

11

1882. Apr. 8th

The defendants by Counsel
except to the deposition of
H.D. Turner filed written
objections for two reasons -
1st because there was
no notice of the taking of
said deposition and 2nd
because it is not competent
evidence.

W.B. Price
p.o.

Pretlow &c.,
vs
Turner's Adm^r Report.

In obedience to a decree of the Circuit Court of Southampton County entered at its November Term 1860, your Commissioner would report that he proceeded to collect the Bond of \$2333.33, vs Mrs. R. Jones & others, and after collecting the same, and first exhausting the personal assets in his hands for the discharge of the liabilities against the estate of E. J. Turner, dec'd, he then, according to the decree, satisfied the remainder of the debts with the amount collected, herewith returning most of the receipts, some of which have been lost, they having been in possession of W^m H. Pretlow, Comp. which were lost during the war.

J. B. Powell, Com.

According to my recollection the statement made by Thomas B. Powell in reference to the receipts is correct.

W^m H. Pretlow.

Turner

vs 3

Powell's admors etc

Writ of Wm B Shanks

The statement of this case in a few words is
this Dr Edward S Turner of Southampton died in 1858
leaving his widow Helen S Turner and one small child
then at the breast
~~and was the son of~~ Rosaline Turner his son at law.
Thomas B Powell qualified as his administrator in
December 1858 and soon afterwards a creditors bill
was filed against Turners estate and after paying
all the debts against the estate there was a balance
due the same of \$749.73 etc with interest from the
1st of April 1860, and at the May term 1870 of the
Circuit Court of Southampton the same cause was
removed from the docket without making any order
whatever as to the disposition of this balance.
Now of course this balance belongs to the heirs at
law of Edward S Turner and I have brought
a suit against Thomas B Powell's estate and his
successors to recover a balance due from him
to Turners estate as shown by the records of
this honorable court.

The court will perceive at once that there
is no connection between this creditors bill and
the suit now pending further than to show
that in a suit heretofore instituted in this
court by the creditors of Edward S Turner

that after paying all the debts found there was
a balance in the hands of the administrator
Thomas B Powell undisposed of which belonged
to his heirs. It is as if a suit had been instituted
to recover a reported balance from ^{or over} the usual
administration accounts in the county courts
or any other monies or estate found in the hands
of an administrator. But the defendants in this
suit say this balance has been more than absorbed
by the payment of a \$1000 ^{bond} found in the papers of
Thomas B Powell and due from E. S. Turner to Mr
" Mrs Eldridge. When is the whole case if Powell
paid this bond then Turner states over him is
he did not turn in over Turner states the above
balance of \$789.73 is worth interest and what are
the proofs. The plaintiffs file with the commissioners
a receipt from T. B. Powell to the Eldridges for
three bonds one for \$1000 due 25th December 1858 one
\$1100 due December 25th 1859 and one for \$1100 due
Dec 25th 1860 two of these bonds were reported
in Commissioner Pullens report the other was not
but was found in Thomas B Powell's papers
after his death by his administrator Turner
Thomas we show by the testimony of Mr. Turner
that in Powell's lifetime that Mr Eldridge through
Mr Turner presented this receipt to T. B. Powell
and asked payment of the same and Powell
refused to pay not because he had paid it

but because Turner's estate had "all gone up
in the war" I suppose meaning it had been
lost. After this statement of Powell Mr Eldridge
died wrote to him asking the loan of twenty
dollars that letter only shows she believed
Powell told her the truth though he still
owed her large sums. The exception which
Mr Prince files to the deposition cannot be
sustained because the report of the commissioners
shows it was taken in his office for his own
information and that of the court after notice
duly given to the defendant Powell's admin-
istrator and by publication for one month
in the Franklin Gazette. It is a deposition
of a compelled witness taken after due notice
to the defendants and must be used as evidence.
There has been much said by both
Mr Davis and Mr Prince about Powell's
administration of Turner's estate in N. Carolina
but I consider that has nothing to do with
this suit here. There is a suit going on
in that state by the plaintiffs here to
recover a large balance due her there and
I will state this as evidence of the
justice of our claim that a sum of
money has been offered the plaintiffs in
full for all demands in both states but
not considering it enough it was declined

The point which Mr Pines makes that the court should not order the payment of this balance of \$769.73 to the plaintiffs because it would be absorbed immediately in the payments of debts is entitled to no consideration whatever for there is no one claiming but the heirs at law not only that no one can claim it but there now, should the court order the payment to them. Then any one establishing a debt against Thomas estate in a proper suit would be paid but unless then it belongs to Rosaline Turner and must be paid to her or her representative.

The plea of the statute of limitations set up by the defendants cannot be sustained. A suit on the bond of an administrator can be brought within two years after the right of action shall have first accrued with the further saving of two years from the time of an infant's surviving at age Rosaline Turner instituted this suit four years after coming of age she being only 28 years old now and the suit was instituted in 1880 we have nothing to do with auditor's bill of Pullman as Turner's administrator we have filed it as mere evidence to show that Turner's administrator after paying all the debts owing by the estate had a balance in his hands of \$849.73 due to the heirs at law.

5-
Since the institution of this suit Rosaline Turner interviews with Thomas & Peete and she has been made a party. All proper parties are before the court and the case is now ready for a hearing. I do not ask for any decree against the securities or any other party than the estate of Thomas B Powell. The administrator of D. Turner for the balance due from his estate to the plaintiffs should that decree prove unsatisfactory then I may ask for a further decree but there is at this time a auditor's bill pending against Thomas B Powell's estate to subject his lands and I am informed his estate is ample to pay and I can file this decree when I ask for him if granted in that suit and so get the money.

The court may ask why this long delay on the part of the plaintiff to assert her just demand. I answer she was a very small child when her father died she was only two years old when all her father's estate was swallowed up in debts except the small balance she claims as partly belonging to her. And she asks the court whose peculiar duty it is to protect the rights of infants to decree to her the sum of \$769.73 with interest from the 1st of April 1860 and I herewith submit a decree which I ask may be entered.

Wm B Shandor

Turn

to 3 Order
Porth adum me

we consent to this order

M^r J. B. Shanks for M^r J. B.
M^r B. Prince for M^r J. B.

To be in time

Nov 1882

Y. S. H. S.

Sumner

Oct 3 Decem
Powells adms re

By consent of counsel
~~entered as record in open court~~
it is agreed that a
vacation decree may be entered in this
cause

Turner

vs 3 Argument for defendants--

Powell's Adm'r &c.

In order to put the Court in possession of all the facts connected with this suit, I deem it prudent to make a short statement. In 1858, E. J. Turner, the father of the plaintiff in this suit, died, ^{intestate} and Thos: B. Powell qualified as his Adm'r at the Decr Term 1858 of the County Court of Southampton.

Soon thereafter, a creditors suit was brought in the Circuit Court of Southampton by Joshua Peckham for himself & all other creditors of said E. J. Turner decd, vs Thos B. Powell Adm'r E. J. Turner, Helen D. Turner, his widow & Rosaline Turner, his only child then an infant; but now the plaintiff in this suit. As stated in plaintiffs bill, a number of orders were entered in that suit and several accounts of debts & administration were taken & returned, all of which were made exhibits by plff in the bill, but a part of them have been lost from the record. In the account of debts that were returned were several debts due by E. J. Turner to his mother R. A. Turner, afterwards R. A. Edridge; but there was one bond due by E. J. Turner

to R.A. Turner for \$1100. which was not
proved in any account of debts,
taken in the suit of Pecton for &c. or
Turner's Admrs., and the difference
between the personal and real assets
and the debts proved in accounts
taken in Pecton &c. or Turner's Admrs.
leaving out this bond, about the validity
of which there is no dispute, would be
as stated in plaintiff's bill about
\$879.⁷³, due the estate of E. J. Turner.
But in a report made by J. B. Ponce
as Comr., ~~with~~ copy of which is Exhibit
D. with plff's bill, and also with the
answer of P. S. Thomas Admrs. of J. B. Ponce,
the said Ponce says he had collected
all the balance of the real assets,
and had paid off the debts, and he
returned the two bonds of \$1100. each
to E. J. Turner in favor of R.A. Turner
with said report. one of these bonds
having been reported in a previous
account of debts and one never
having been reported in any acct. of
debts. The original of these bonds is in
the chancery papers of Pecton for &c.
or Turner's Admrs. and copies of
them are filed with the answer of
P. S. Thomas Admrs. of J. B. Ponce
in this suit. At the May Term 1870

of the Circuit Court of Southampton, after
this last report of J. B. Powell had been
made in the aforesaid suit of Pectow &
vs Turner's Admrs. &c., an order was entered
removing that suit from the docket,
and it has never been re-instated.
This suit was brought by Rosaline Turner
who was a party in the suit of Pectow &
vs Turner's Admrs. in September 1880.
over ten years after the other suit
had been removed from the docket.
and five years after she had attained
her 21st year - as is admitted by her
in her bill of complaint. The point
raised by the answer of J. B. Powell jr
is that this plaintiff has no right to
bring this suit, because she has
never sought to shew any cause
against the final order in Pectow &
vs Turner's Admrs. & others. and that
she had only six months after attaining
her majority to do so. See Code Va 1883.
page 1125 section 10. The Counsel for plffs.
Messrs Francis & Davis, are mistaken in
their view of this point. It is not in
effect a plea of former adjudication.
But is a plea of limitation. It is idle
to say that every question and right

Sought to be settled in this suit could not have been settled in the suit of Pecton & or Turner's Admors & others. The Court had all parties in interest before it, had the personal real assets before it, and that was the suit to have settled and ended this controversy. There ought to be an end of litigation. And we ought not to be subjected to the expense of this suit, when there was a plain, simple and complete remedy provided elsewhere. We submit therefore that the point raised in the answer of J. B. Powell Jr. is conclusive and this suit ought not to be maintained. But we proceed further to show that the plaintiff here has no right of action against us. P. S. Thomas the Admors of J. B. Powell decd. who was the Admors of E. J. Turner decd. files his answer in this suit. In examining the account of debts that had been audited in the suit of Pecton & or Turner's Admors & others the fact that one of the \$1100. bonds of E. J. Turner due his mother R. A. Turner, copies of which are filed with said answer, had been proved escaped his attention

and that of his Counsel. so that the calculation in his answer is erroneous to the amt of one of those bonds. so that the balance due J. B. Ponce after exhausting all the real & personal assets received by him in 1892 belonging to his intestate, instead of being \$2400. would have been \$1300. or thereabouts. and this sum was in his opinion used by the said Ponce from his administration in North Carolina to pay him back what was due him. But the Counsel insists that the answer of Thomas, Adm^r of Ponce admits that Ponce received \$2400 from North Carolina and now he asks this Court to give a decree against the Estate of J. B. Ponce due for nearly twice the amount the suit was brought to recover; abandoning their claim for the balance they claimed was due, from the paper in Puttens & Turner Adm^rs, they now catch at this admission as the foundation upon which to set up a new claim. We are not going to evade or shrink in the least our full responsibility throughout when P. S. Thomas admitted in his answer that J. B. Ponce received funds from

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his qualification on the estate of the
said E. J. Turner died in North Carolina,
he admitted what was well known to
the Court for plaintiff who filed her
bill. We mean W. B. Thoms. and it was
also known to him that a suit was
then and is now pending in the Court of
North Carolina by this same plaintiff to
settle that account there. Yet no one
allegation about those funds is made
in plaintiff's bill, and to ask for a decree
against us for North Carolina assets,
when a suit is pending there,
would be doing us great injustice.
The truth is, T. B. Powell has vouchers
outside of all the claims reported in
Preston vs. Turner's Admrs. to the
amount of double the sum of
\$2400. and if the Court desires to be
convinced of that fact, by inspecting
the vouchers, they will be produced.
But the astonishing feature of this most
remarkable case is this. By decree
entered in this case at Nov. Term 1882,
it was ordered that a Comr. of this
Court state an account of Thos. B.
Powell's transactions as Admr. of
E. J. Turner's estate, taking as correct any

accounts heretofore stated by J. B. Pounce in his lifetime in the Chancery suit of Pulton &c vs Turner's Admors &c (see decree). The taking of said account was referred by plff to Comr W. H. Parker and he has returned his report in this suit, which was filed Nov: 8. 1882.

Plff or plffs Counsel have filed no exceptions to that report. Defendants by their Counsel excepted to the deposition of Helen D. Turner, filed with said report for reasons stated (see note endorsed on foot of report by J. B. Pounce, atty for defendants.) And now what does this Chosen Mouthpiece of the Court say in this report. After the usual preliminaries in all such reports, the result is stated as follows. We copy exactly. viz. "The undersigned, taking the report of the Comr in the Cause of Pulton &c vs Turner's Admors &c as a basis ascertains that there was a balance in the hands of Thomas B. Pounce as Admor on the 1st Apr 1860 of \$4244.91; that there was in his hands as Comr, after the payment of \$935.⁰⁰, which the widow of Edward J. Turner accepted in lieu of her dower, in real assets a balance of \$2565. which added to amount of personal assets

will make the sum of \$689.⁹¹ That there
 were owed against the estate of E. J. Turner
 debts to amount of \$6030.¹⁸ which being
 deducted from the sum of \$689.⁹¹ will
 leave a balance in favor of Turner's
 Estate of \$769.⁷³ with interest thereon
 from Apr 1. 1860.. But there was filed
 with Thomas B. Powell's last report in
 Putlow v. Turner, Adm'r v. a copy of
 which is returned herewith a bond of
 \$1100. against the estate of Edward J.
 Turner exec, which bond had not been
 reported in any acct of debts, which the
 Council for defence contended had
 long since been paid. If the Court
 upon the evidence should be of opinion
 that Thos. B. Powell should have paid
 this bond, then the estate of E. J. Turner
 will owe him amount of said bond
 with interest.. (See report of Commr.
 Parker filed & endorsed Nov 8. 1882.)
 This is the report of the Commr. to whom
 this whole matter has been referred.
 In his conclusion, the Commr. is in error
 in saying that if the Court should be of
 opinion that T. B. Powell has paid this
 \$1100 bond, then the estate of E. J. Turner
 owes him that amt. with interest.
 He meant evidently to say the est would
 owe him the difference between \$769.⁷³
 balance in Adm'r hands, & the \$1100. bond.

The Court will observe that after investigating this whole matter, Cour. Parker reduces the solution of this case to this. Whether the \$1100. bond returned with the last report of L.B. Powell in Patton v. Turner's Adm'r &c., and which had never been reported in any acct of assets, had been paid by the adm'r or not. If it had been paid, the estate of E.J. Turner was indebted to Powell. If it has not been paid then Powell the adm'r of Turner owes the \$769.⁷³ which Cour. Parker finds as the balance in his hands after paying all the assets reported, to the payment of that bond. The Court will note that this \$1100 bond is due by E.J. Turner to R.A. Turner, his mother. and it will be difficult to see from this record how this Plff has any right to this bond. Now does the evidence justify the conclusion that Powell adm'r of E.J. Turner has paid that bond? We think it does. The mere fact that Powell has the bond in his possession does not warrant the inference that he has paid it, because his possession is explained on some other hypothesis than that of payment. To wit, by the

Receipt which said Ponce gave to Richd
 Eldridge & R.A. Eldridge - his wife - who was
 R.A. Turner, the mother of E.J. Turner...
 and which receipt is filed with Commr
 Parker's report; and hence we yield
 that possession will not do in this
 case to raise the presumption of pay-
 ment. But we have the testimony of
 Ponce himself in his last report
 filed in *Pietro v. Turner's Admin.*,
 in which he reports that after collecting
 all the assets real & personal, he
 paid off all the debts, and returned
 a part of his vouchers. Some having
 been lost by Commr W.H. Pietro during
 the war, which report is corroborated
 by Mr. Pietro's making a note at foot
 of the said report. (See copy of said report
 filed with Commr Parker's report). There
 were never any exceptions filed to that
 report - and it is the positive testimony
 of the Adminr. speaking in the lifetime
 of all parties in interest. There is no
 dispute about the fact that this \$1100 bond
 was a joint debt of E.J. Turner and his
 mother R.A. Turner, who afterwards
 married Richd Eldridge. And if Ponce paid
 off the debts as he said he did, he must

have paid this bond. Why not this bond, as well as any other bond or paper described in his receipt? And if the papers described in that receipt have not been paid, why is it that Richd Eldridge or his wife R. A. Eldridge have never made any demands for them? It is a fact that R. A. Eldridge lived several years after the war, and her husband lived up to a year or so ago. But Commr. Parker returned with his report, a letter written by Mrs R. A. Eldridge, formerly Turner, to J. B. Powell some years after the war was over, in which she explicitly sought the loan of \$20. from this same J. B. Powell. Does this look like J. B. Powell owed her anything? In fact does it not fully corroborate the report of J. B. Powell filed in Preston v. Turner's Adm'r. &c. in which he said he had paid all the debts. We regret very much that this letter has been lost from the records, but Commr. for pett has seen it, Commr. Parker saw it & filed it with his report, and there is no doubt about the fact as we have stated it.

There is what purports to be a deposition by Helen D. Turner, mother of plaintiff filed with report of Comr. Parker - but we submit in all confidence that this paper can have no weight in this case; it was taken without any notice to defendants; is almost entirely hearsay, and in our judgment utterly incompetent - and we have excepted to it by endorsement on Comr. Parker's report. But is it not strange that if this receipt means what the deposition would have us believe, that no effort has ever been made by any one to collect one dime by reason of it from J. B. Powell, either in his lifetime or from his estate since his death? Yet such is the fact.

Now then, we again submit, Can it be contended that this plaintiff has any cause of action - If this bond has not been paid, it belongs to A. A. Eldridge, Adm'r. - if it has been paid, there is a balance due J. B. Powell from E. J. Turner's Est. Our conclusions then briefly stated are as follows -

- 1st That Rosaline Turner, the plaintiff in this suit, having failed within six months,

after attaining 21 Years old, to show any Cause against the final decree in the suit of Pector &c. vs Turner's Adm'r &c., in which suit she was a party, and where all her rights ~~comes~~ ^{should} have been asserted, she is now barred from bringing this suit by the statute before cited.

2nd No exceptions having been filed by plaintiff to the report of Court Parker. the balance ascertained by him to be due from Turner's Adm'r to his estate must be confirmed and that balance is \$769.⁷³.

3rd If the Court should be of opinion that J. B. Poncee Adm'r E. J. Turner does not pay the bond of \$1100. which was not reported in any act of debt or est E. J. Turner, then there is a balance due said Adm'r., and that balance is the difference between \$769.⁷³ and \$1100. - or \$330.²⁷.

4th If the Court should be of opinion that the \$1100 bond has not been paid. then J. B. Poncee owes the \$769.⁷³ to that bond. and that bond being due to R. A. Turner. this plaintiff has no Cause of action therefor. and

5th In any aspect of this case, this suit ought to be dismissed at plaintiff's Costs. and we have prepared decree to that effect.

Feb 8. 1883. 3

J. B. Poncee
att for Defgt

Turner
no 2

Powell A. Hunt.

Argument of
Deputy Counsel

Prince
with 3 Contract
Pute

Statement.

Ant Compromise	666.67
Ant Costs. Estimated.	66.50
	<u>\$733.17</u>

Recd May 21. 1883 of J B Prince
Atty. Seven Hundred and
thirty three 17/100 dollars in
full of this ~~account~~.

J E Pute

Office J. B. Prince,
Attorney at Law,

Practices in the Courts of Southampton County.

Jerusalem, Va., May 1st 1883

This is to certify that in consideration of the
sum of six hundred and sixty six 67/100
dollars - to be paid in thirty days - and also
in consideration of the promise that the
defendants in a chancery suit now
pending in the Circuit Court of Southampton
County ~~Thurmon~~ vs Powell Adams & others - will
pay all legal taxable costs in said suit, I
agree that at the next term of the Circuit
Court of Southampton, the said suit
may be dismissed and the order of
dismissal shall have the effect of
a bar to any further proceedings -
but this paper is not to effect any
claim I may assert in North Carolina

J E Putt

J B Prince for
defdts

Turner

at 3 dece.

Romelli Adm. 9.

In vacation

1883.

To be entered,

Turner

vs 3 Dece. In vacation.

Powell's Admrs &c.

This cause came on to be further heard on the papers formerly read, the report of Commr Wm. Parker filed Nov 8. 1882, with exhibits filed therewith, the exception of defects by Counsel to a position of Helms, Turner, and the arguments of Counsel. On consideration whereof, and the Court being of opinion that the plaintiff in this suit has no cause of action, doth and doth order & decree that she take nothing by her suit. and doth further order that this suit be dismissed at the costs of the plaintiff.

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~~106~~ ~~98~~ ~~91~~ 89
Turner

v } Stat. Rules

Powells adm. y^r

In Southampton Circuit Court.

Rosaline Turner

Plaintiff

against

Persons I Thomas administrator of Thomas B Powell dec'd Thomas B Powell Jr A B Parker & Mary his wife, Joseph W Cland & Joseph St Prince

Defendants

1880 Sep 21st Summons issued

Oct 14th Sum's Executed on Thomas adm. T B Powell, J W Cland & J St Prince & A B Parker & wife - Bill filed - Deceit Nisi.
- 2nd Defts.

Nov 14th Bill taken for Confessed & Cause set for hearing 8th

1882 May Deceit for act 1st

" Nov - Deceit to make a vacation order

Turner's Admur
or 3 Deers
Powell's Admur

Nov Term 1883

To be entered.

Geo. S. Blount

✓

Turner Admr.

vs } Decree.

Powells Admr.

This day this Cause came on to be further heard on the papers formerly and was argued by Counsel. On consideration whereof and it appearing to the Court that the whole matter in Controversy has been compromised and fully settled. it is ordered that the suit be dismissed. and that the dismissal shall have the effect of a bar to any further proceedings between the parties to this suit.

Sumner

Bill
as by Enclitics

Powell's adms 400

1880 October Rules