

1886-013 Chancery Causes: Joseph F. H. Johnson vs Elizabeth McClenney, widow of Mial W. McClenney
Dale of Wright County
+ Mills Thomas McClenney, by VC

other surnames: Robertson,
Munford, McClenny, Duck,
Watkins

This deed made this 16 day
of January 1883 between W. L.
Watkins, Master of the first part,
J. W. Duck Sr. of the second part
and Jos. W. McCluney Sr. of the third
part; Whereas, by a deed dated
on the 7th day of June 1883, and
of record in the Clerk's office
in the County Court of Isled
Wright County, the said Joseph
W. McCluney in order to secure
to the said J. W. Duck the payment
of a certain bond for the sum of
seventy five dollars, executed by
the said Jos. W. McCluney and
payable to the said J. W. Duck,
bearing date on the 7th day of
June 1883, and payable on the first
day of December 1883 with interest
from date thereof, did convey
in and to the said W. L. Watkins,
a certain tract or parcel of
Land set forth and described in
said deed. - And whereas the
said bond has been fully
paid with all accrued interest,
and the said Jos. W. McCluney
desires that said property should
be released from said deed &

met, now therefore, this deed
witnesseth that said Mr. H. H. H. H.
in consideration of the premises,
and for the further consideration
of the sum of One dollar in
hand to him paid and with
the consent of the said Mr. Duck
testified to by his becoming a
party to this deed, and signing
and sealing the same, doth
grant, bargain, sell, assign,
release and confirm unto the
said Mr. W. M. McClenny his heirs
and assigns forever the said
tract or parcel of land with
its appertinances, inasmuch
said deed is hereby made for
further description, boundary
&c. of said tract or parcel of
land. To have and to hold
the said premises and appertinan-
ces unto the said Mr. W. M. McClenny
and his assigns forever,
and the said Mr. Duck doth hereby
release unto the said Mr. W. M. McClenny
and his heirs and assigns for-
ever, all his claim, title, right
and equities in and to the said
premises and appertinances

Witness, the hands and seals
of the parties the day and year
first above written

M. L. Watkins Seal
J. W. Buck Seal
Graph Wellb. Seal

Virginia

County of Isle of Wight to wit.

I, W. S. Holland a Notary
Public in and for the County
of Isle of Wight in the State of Virginia
do certify that M. L. Watkins and
J. W. Buck whose names are
signed to the deed above with
me personally appeared before
me in my said County and
acknowledged the same. Given
under my hand this 16th day
of January 1884 A.D.

W. S. Holland
Notary Public

This Deed,

Made the 24th

day

of September
and Eighty three

in the year of our Lord one thousand eight hundred
between Elizabeth McClenney

and

Wight

his wife, of the County of Isle of

and State of Virginia, of the one part; and

Joseph W. McClenney

of the said county & state

of the other part, WITNESSETH: That in

consideration of the sum of one hundred dollars cash in
hand paid the receipt whereof is hereby acknowl-
edged by said Elizabeth McClenney and
the said Elizabeth McClenney and
his wife, do grant with general warranty, unto the said Joseph W. McClenney

and to his heirs and assigns, forever, the

following real estate, to wit: All that tract, piece or parcel of land, situate, lying and being
in the County of Isle of Wight in the State of

Virginia, and bounded and described as follows:

All the land conveyed
by deed dated on the 3rd day of April
1882 from Frances A. M. Mumford to
myself on which there is a deed of
trust to James M. Butler Trustee - it
being the share of said Frances A. M.
Mumford in her father's real estate -
and it agreed by the parties that when
said deed of trust is released this
deed shall convey whatever right, title or
interest which may be released to
me or my personal representative -

together with all and singular the appurtenances belonging to the same.

And the said *Elijabeth McClenney* covenants that she has the right to convey the said land to the said grantee; that the said grantee shall have quiet possession of the said land; that she has done no act to encumber the said land; and that she will execute such further assurances of the said land as may be requisite.

Witness the following signatures and seals:

Witnesses:

W. S. Holland

Elijabeth ^{her} McClenney *mark* Seal.

Seal.

Seal.

State of Virginia,

To wit:

County of Nansemond,

I,

a Notary Public
in and for the county aforesaid,

in the State of Virginia, do certify that
the wife of

whose names are signed to

the writing above, bearing date the

day of

188 , personally appeared before me in the county aforesaid, and being duly examined by me privily and apart from her husband, and having the writing aforesaid fully explained to her, she the said

acknowledged the said writing to be her act, and
declared that she had willingly executed the same, and does not wish to retract it.

Given under my hand this day of
eighteen hundred and

Notary Public.

Virginia:

To wit:

County of *Wright*

I, *W. S. Holland* a Notary Public in and for
the said county, in the State of Virginia, do certify that *Elijabeth McClenney*
whose name is signed to the

writing above, bearing date the *24th* day of *September*
188 , has acknowledged the same before me in the county aforesaid.

Given under my hand this *24th* day of *September* 188 .

W. S. Holland

Notary Public.

In the clerk's office of the County Court of *Wright*
County, the *15th* day of *October* 1883, This deed from *Elijabeth*
McClenney to *Jos. A. McClenney* was admitted to record on
the annexed certificate of *W. S. Holland*, a Notary Public

Teste,

A. D. Young

Deed of Bargain and Sale.

Elizabeth McElenny

TO

Joseph W. McElenny

" Octo. 15th 1883.

Attd. on Cl. of MO.

"

Recorded DB 47
Page 320.

Tax for said \$2.²⁵
ak.

This Deed, made the 13th day of October

in the year of our Lord one thousand eight hundred and ~~seventy~~ eighty three between

Jos. W. McClenney

and

~~his wife, of the~~ County of Isle of Wight

in the State of Virginia, of the one part, and

Jos. F. H. Johnson

of said County and

State

of the other part, WITNESSETH: That in consideration

of the sum of,

Four hundred and fifty dollars
cash in hand paid the receipt whereof is acknowledged
by said Jos. W. McClenney and the said Jos. W.

McClenney

his wife, do grant with general warranty, unto the said

Jos. F. H. Johnson

and to his heirs and assigns, forever, the following real estate, to-wit:

All his right, title and interest of
any nature or character in law and Equity
in and to all the real estate of which
Mial W. McClenney died seized and poss-
essed - lying and being in the County
of Isle of Wight and State of Virginia
adjoining the lands of Lemuel Ely
Mills Robinson and wife, John Nelson
James Nelson and others including
as well the shares and interests of
all the heirs at Law of said Mial W. McClenney
heretofore purchased by said Jos. W. McClen-
ney as his own right &c. &c., it being
the bond released from the lien of a cer-
tain bond of Trust to M. L. Watkins trustee
to receive a certain payment of money (bond) to
J. W. Inck.

together with all and singular the appurtenances belonging to the same.

And the said

Geo. W. McClemy

covenants

that he has the right to convey the said land to the said grantee; that the said grantee shall have quiet possession of the said land; that he has done no act to encumber the said land; and that he will execute such further assurances of the said land as may be requisite.

Witness the following signatures and seals:

WITNESSES:

Geo. W. McClemy

[SEAL.]

[SEAL.]

State of Virginia,

County of

To Wit:

in and for the county aforesaid.

in the State of Virginia, do certify that

the wife

of

whose names are

signed to the writing above, bearing date the

day of

187 , personally appeared before

in the county aforesaid, and being duly examined by

privily and apart from her husband, and having the writing aforesaid fully explained to her, she the

said

acknowledged the said writing to

be her act, and declared that she had willingly executed the same, and does not wish to retract it.

Given under

hand this

day of

eighteen

hundred and seventy

VIRGINIA:

County of Isle of Wight

To Wit:

I. *W. S. Hallond* a Notary Public

in and for

the said county, in the State of Virginia, do certify that

Joseph W. McClemy

whose name is signed to the writing above, bearing

date the

13th

day of

October

1883

, has acknowledged the same

before me in the county aforesaid.

Given under my hand this

13th

day of

October

1883.

W. S. Hallond
N. P.

1
In the Clerk's office of the County Court
of Isle of Wight County, the 15th day of
Octo: 1883, This deed from Jos. W. McCluney
to Jos. F. A. Johnson, was admitted to
record on the annexed certificate
of W. S. Hallard a Notary Public.
Teste,

A. J. Young att.

McClenny Jos. W.
To 3rd of B. & S.
Jos. F. Johnson

Oct. 15th 1883.
A. K. on cty. of N. P.

Rendered D.B. 47
Page 327.

Tax & fees paid of 2.00
clk.

In the County Court of Isle of Wight County,
the 6th day of February 1882,

Ex parte Mrs. Elizabeth McClenney--

On the motion of Mrs. Elizabeth McClenney, it
is ordered that John M. Taylor, John M. Gay,
Joseph F. Johnson, B. L. Roberts, and W. S. Holland,
any three of whom may act, are appointed
Comms. for the purpose of assigning to
Mrs. Elizabeth McClenney, and her minor
children, to-wit: James W. & Mills, Thomas
McClenney, a Homestead to the value of Two
thousand dollars, in the real and personal
estate of which her husband died, seized
and possessed, said Homestead to continue
for the benefit of the said widow and
said minor children of said Mial W.
McClenney, so long as she remains his widow,
and when that event terminates, for the
benefit of said minor children until
they arrive at the age of twenty one
years, And the Comms. are hereby order-
ed to make report to Court of their
proceedings under this order--

To the County Court of Isle of Wight County.
Pursuant to an order of the said Court
made at the February term, 1882, a copy
of which is herewith filed, appointing

Commissioners to assign to Mrs. Elizabeth L. McHenry, widow of Mial W. McHenry deceased, and their two infant children: Jas. W. and Mills Thomas, the Homestead or personal property to which they are entitled to have and hold out of the estate of said Mial W. McHenry, the husband and father, who was a householder and head of a family in said county and died without having selected or had set apart in his life-time the Homestead or personal property aforesaid to which he was entitled under the Constitution and Laws of Virginia, the undersigned four of the Commrs. thus appointed, respectfully report that we find on the deeds books 93 acres of land after taking out the portion assigned as down, in value at — \$600.

And out of the personal property to make \$2000. limited amount of Homestead we have assigned the following personal property valued as opposite the articles:

2 carts & wheels	\$ 20.
50 bars of corn	200.
15 hogs	40.
4000 lbs. of B. fodder	50.
1 mule	60.
2 Horses	80.

Farming implements of all kinds	10.
3 Cattle	25.
1 pleasure Carriage & harness	20.
Household & Kitchen furniture	100.
66 bu. of peanuts -	104.
1 bond due by Jas. M. Saunders,	50.
	<u>\$1359.</u>

making in land and personal property,
 One thousand and three hundred and
 fifty nine dollars, (\$1359) - Given under
 our hands this 15th day of February, 1882.

W. S. Hallard Comr.

Jos. M. Taylor Comr.

Benj. L. Roberts Comr.

Jos. F. W. Johnson, Comr.

In the County Court of Isle of Wight County,
 the 3rd day of April, 1882. This report of the
 assignment of Homestead to the widow and
 minor children of Mial W. McClemy died:
 Having been filed in Court for one month
 and no exception being filed thereto,
 was confirmed and ordered to be re-
 corded.

Copies.

Teste,

A. D. Young clk.

Johnson J. F. H.
20. 3/4 On clay

McLennan et al.

Ex. A. & B. filed
with Bill.

Johnson
vs { Mr Chaney
McClenny & al.

This cause came on this
day to hear and on motion of
the plaintiff ~~that~~ it is ordered that
this suit be stricken from the docket
without prejudice and without costs.

Johnson
vs J. M. Chang
McClary et al

April 21, 1866

To be entered -

Geo. Brown.

Entered Dec 23

Joseph F. H. Johnson

Plff.

vs $\frac{1}{3}$ In Chancery

Elizabeth Mcclung et al.

Def.

This cause came on
this day to be heard and the Plaintiff's
bill of Complaint, ^{exhibits filed therewith} taken for confessed
as to the adult defendant the answer
by his guardian admitted of the infant
defendant a general replication thereto
and was argued by counsel on consid-
eration whereof the Court doth order
adjudge and decree that A.P.
Young, a Master Commissioner
of this Court take and report
to Court an account of the debts
outstanding and unpaid against
the estate of Michael W. McClung de-
ceased - that A.H. Ashburn, M.L.
Watkins, A.M. Gly, Ludlow Watkins
and S.J. Low any three of whom
may act, be, and they are
hereby appointed Commissioners
for the purpose of assigning to said
Elizabeth McClung widow and relict
of Michael W. McClung deceased and
set apart to M.F. McClung the infant
heir of said Michael W. McClung deceased
his share in the real estate of said

That W. McLenny died by meter and
bonds - That said Commers assign to
^{said} Elizabeth McLenny one equal third
~~of~~ quantity and quality of
the real estate of which said
W. M. McLenny died seized and
possed and meter report of this
proceedings to come

Johnson Jos. H. H.
vs E. J. M. C. C.
M. C. C. C. C. C. C.

22 April 1884

Secrecy

To be entered

The Commonwealth of Virginia,

TO THE SHERIFF OF ISLE OF WIGHT COUNTY, GREETING:

WE COMMAND YOU TO SUMMON *Elizabeth McLennan*
widow of Miss W. M. McLennan deceased ^{*mills*} and *Thomas*
McLennan an infant

to appear at the Clerk's Office of the Circuit Court of Isle of Wight County, at Rules to be holden for
the said Court, on the first Monday in *March* next, to answer *the bill*
in chancery of Joseph S. W. Johnson

of a plea of _____ for \$ _____ Damages \$ _____ And have then there this writ.

Witness, N. P. YOUNG, Clerk of our said Court at the Court House, the *29th*
day of *February* 188*4*, in the *508th* year of the Commonwealth.

N. P. Young

Johnson Jon. F. F.

v. 3 Sum 8
3 Am. Bill
in ch

McClenny Eliz. F. F.

To March 18. 1884.

V Holland pag.

We have in the within named
Elizabeth McClenny at her usual
place of abode. and below
the age of sixteen years.
to be the same on her
first floor. March 18. 1884.

W. St. Andrews. D. H. D.
H. H.

To the Hon^{ble} George Blom, Judge of the Circuit
Court of Isle of Wight County, March 1884.

Isle of Wight County, to wit:

The answer of Jellies Thomas McElm an infant
under the age of twenty one year, to the Bill
of Complaint filed in said court against
him & others by Joseph F. H. Johnson, Jr. N.C.
Granting his guardian ad litem appointed
to defend him in this suit. This defendant
by his said guardian ad litem for answer
to the said Bill or each part thereof as
it is material & proper for him to answer,
for answer says that, he is an in-
fant under twenty one year of age,
that he neither admits nor denies
the allegations of the bill, but being
an infant submits his interests to
the protection of the court and proce-
dures to be dispensed with his costs.

J. F. H. Johnson, Jr. ad
litem of J. F. McElm

John on J. F. H.
or ^{the} ~~the~~ In Ch.

McClurey & Co.

Assn of infant
Defendant

Texas State Pl. 1884

To the Honorable George Blow Judge
of the Circuit Court of Isle of Wight
County.

Your Complainant Joseph F. H.
Johnson of the County of Isle of Wight
humbly complaining doth represent to
your Hon.

That some time in the year
A.D. 1882 Abial W. McClenney departed
this life intestate leaving a consider-
able estate both personal and real, the
real estate consisting of a farm
about three miles from Windsor, and
leaving a widow and four children
to wit, Elizabeth McClenney widow of said
Abial W. McClenney, Joseph W. McClenney
who was at the time of the death of said
Abial W. McClenney an infant under the
age of twenty one years but who is
now an adult more than twenty one
years old, Sarah E. Roberts who was McClenney
Francis A. M. Mumford who was McClenney and M. J. McClenney The
last an infant under the age of twenty one
years, his heirs at Law and Distributors.

That on application, the County Court
of said Isle of Wight County at
the February term 1882 thereof the said
Court made an order appointing certain
persons therein named Commissioners for

the purpose of assigning her dower in said real estate to said Elizabeth McClenney widow of said Michael W. McClenney and for the further purpose of assigning and setting apart out of the property of which said ^{Mical W.} McClenney died seized and possessed a Homestead to said widow and said infant children a copy of which order or orders is or are herewith filed marked "A" and prayed to be read as a part of this bill, and in pursuance to said order said Commissioners made their report to said Court which was duly confirmed and ordered to be recorded a copy of which marked "B" is herewith filed and prayed to be read as a part of this bill

And that afterwards said Joseph W. McClenney purchased from two of said heirs at law, to wit: Sarah E. Robinson who was McClenney and Francis D. M. McClenney who was McClenney, their interest in and to all the real estate of which said Michael W. McClenney died seized and possessed as will more fully appear by deeds marked "6", "5" and "8" herewith filed and asked to be read as a part of this bill and

that afterwards said Joseph W. McCleary sold and conveyed to said complainant all his interest in and to said real estate as well his interest as heirs at law of said Abial W. McCleary as his interest as purchased from said heirs at law of said Abial W. McCleary deceased, all which will more fully appear by a deed marked "H" herewith filed as an exhibit and prayed to be read as a part of this bill.

And this complainant charges and alleges that there are no debts outstanding and unpaid against the estate of said Abial W. McCleary deceased, that at the time of his death he owed only a small and inconsiderable sum of money all of which has been paid off and satisfied.

That this complainant is advised that said widow is not entitled to a homestead as against her husband's heirs at law nor as against the assignee - That the assignee is entitled to the same right they, the heirs, are entitled to -

That the lands mentioned in this

bill belonging to this complainant on
claim and held by said Elizabeth
McClary as her Homestead for herself
and her said infant child.

That said Elizabeth McClary
has her dower assigned to her as
aforesaid to which she is entitled
under the law, and your complainant
is advised the Homestead Laws do
not alter, amend, or repeal the statute
of descent and distributions and
therefore the law as expounded by the
Supreme Court of Appeals in *Helm vs Helm*
et al. 30 Gratt. 404 gives to this complainant
the use and occupation ^{of his share} in the
lands of which said Abial W. McClary
died seized and possessed thereby an
nulling said orders and said report
of commissioners setting apart said
Homestead as aforesaid to said widow
and infant children so far as the same
may affect the right of your Comf.
Court. And this complainant further
charges that said widow has consumed
and wasted the entire personal estate
of said Abial W. McClary deceased, and
is now and has been committing waste
on said lands by cutting off valuable

able timbers and that others by her consent and permission are cutting and removing the timber from said land and that even some of the buildings and much of the fencing have been wantonly destroyed.

And whereas this Complainant is remediless save in a Court of Equity where such matters are cognizable he prays that Elizabeth McClemmy may be made a party to this suit and required to answer the same, but he waives an answer on oath under the late Statute in reference to the effect of an answer in chancery and that Meiers

Thomas McClemmy, infant, be also made a party to this suit and that a guardian ^{ad litem} be appointed to said infant who is under fourteen years of age to defend him in this suit - That Commissioners be appointed to divide the said land and to set apart to this Complainant the lands he may be entitled to the use and occupation of out of said real estate of which said Michael W. McClemmy died seized and possessed - That any and all necessary accounts be taken before

a Master Commissioners of This Court
and that this complainant have
set apart to him by meter and
bounds his portion or part of said
lands, that partition be made in said
lands between this complainant and
said infant heir.

and he prays for such
other and further relief as may
be agreeable to Equity and good
conscience and he will ever pray &c
Let a Subpoena go.

W. S. Hallond pr.

Joseph F. M. Johnson

VS $\frac{1}{2}$

Elijah Abbott Olney
and others

Complainants Bill

March Rs. 1884.

Bill $\frac{1}{2}$ filed, Dec. 1883. exp.
on adult def. & de. nisi.

Edu. addition of def. to
inst. def. & ans. filed &
genl. resp.

April Rs. 1884 -

Bill taken for confit
as to adult defts. and
set for hearing.

April: 1886. Final De