1866-006
Nansemond, Co.

Chancery Causes: Burwell Riddick's admr. vs John W. Keeling's admr.

Kelly, Godwin, KEELING & RIDDICK CO.]

THE COMMONWEALTH OF VIRGINIA, *Sergeant of the City of Portsmouth*

To the ~~*Sheriff of Nansemond County*~~ *—Greeting:*

YOU ARE HEREBY COMMANDED TO SUMMON Hugh H. Kelly and David I. Godwin administrators of John W. Keeling. deceased.

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to appear at the Clerk's Office of our Circuit. Court for the County of Nansemond, on the first Monday in March. next, 1866. being rule day, to answer a Supplemental bill in chancery, exhibited against Heirs by Willis S. Riddick. administrator of Burwell Riddick. deceased.

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and unless ——— Mary ——— shall answer the said bill by the next rule day thereafter, the Court will take said bill for confessed, and decree accordingly.

And have then there this writ. *Witness,* PETER B. PRENTIS, Clerk of our said Court, at his Office, this 14th day of February. 1866. and in the 90th year of the Commonwealth.

Peter B. Prentis. *Clerk.*

☞ The sheriff will, in his return, note the day on which this process is executed on each defendant.

THE COMMONWEALTH OF VIRGINIA.

To the Sheriff of Nansemond County—Greeting:

You are hereby commanded to summon Willis S. Parker Admr: of Burwell Riddick decd

Hugh A. Kelly and David J. Godwin Admrs: of John W. Keeling decd

to appear at the Clerk's Office of our Court for the County of Nansemond, on the first Monday in next, 1866, being rule day, to answer a bill in chancery, exhibited against them by

And have then there this writ. Witness, PETER R. PERRIS, Clerk of our said Court, at his Office, this day of 186 and in year of the Commonwealth.

Clerk.

The sheriff will, in his return, note the day on which this process is executed on each defendant.

(Cir: Co:)

Kelly p.q.

Summons in Chy:

To March Rules 1866.

Executed February 17 1866 by delivering a true copy hereof to Davis J Godwin Admr of Jno W Keeling decd

Wm M Fleming Sgt City of Portsmouth

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Nansemond County—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON Hugh H. Kelly and David J Godwin, administrators of John W. Keeling deceased.

to appear at the clerk's office of our Circuit Court for the County of Nansemond, on the first Monday in March next, 1866 being rule day, to answer a bill in chancery, exhibited against —— them ——— by Willis S. Riddick, administrator of Burwell Riddick, deceased. Supplemental

and unless —— they ——— shall answer the said bill by the next rule day thereafter, the Court will take said bill for confessed, and decree accordingly.

And have then there this writ. *Witness*, PETER B. PRENTIS, Clerk of our said Court, at his Office, this 14th day of February. 1866. and in the 90th year of the Commonwealth.

Peter B. Prentis *Clerk.*

☞ The sheriff will, in his return, note the day on which this process is executed on each defendant.

Kelly v. [illegible]

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of [illegible] County:

You are hereby commanded to summon

[illegible] Russell Kelly

[illegible]

to appear at the clerk's office of the [illegible] Court for the County aforesaid, on the first Monday in [illegible] next, then and there to answer a bill in chancery exhibited against [illegible] by [illegible] and others, and to do and receive what the said Court may think proper in the premises. And this he shall in no wise

Executed and a copy hereof delivered on the 16 day of Feby 1866 to Cornelia Brewer daughter of Hugh H. Kelly (for him), who is above 21 yrs of age and explained the same to her.

David J. Godwin an inhabitant

Wm. Eley Shff

By Wm. Thackery Dep

Teste: [illegible] Clerk

[illegible]

[illegible]

[illegible]

At a Monthly Court held for Nansemond County.
the 12th. day of February 1866.

Whereas the Record Book of this Court. wherein the following order was entered has been lost by the burning of the Clerk's office of this Court on the night of the 7th. day of February 1866: It is ordered that the same be re-entered of record. and is as follows.

"At a Quarterly Court held for Nansemond County the 8th. day of November 1858. on the motion of Hugh H. Kelly and David J. Godwin. who made oath as administrators. and together with Arthur E. Wilson Joseph J. Lawrence Albert K. Rawls. Jacob E. Kelly. Henry L. Tynes. Patrick H. Lee and Hugh K. Williams. their securities who justified entered into and acknowledged a Bond in the penalty of one hundred and twenty thousand dollars with condition according to law. Letters of administration on the Estate of John W. Keeling deceased. in due form are granted them; which bond is ordered to be recorded. A Copy: Teste. Peter B. Prentis. Clerk"

A Copy:
Teste.
Peter B. Prentis. Clerk.

(4)

To the Hon. Richard H. Baker, Judge of the Circuit Court for Nansemond County:

The undersigned, one of the Commissioners for the Circuit Court of Nansemond County, begs leave respectfully to report that on the 28th day of December, 1865, he completed the account of the partnership transactions of Burwell Riddick dec'd. and John W. Keeling dec'd. required to be made under decree of said Court at its October Term 1860, in the Chancery Cause then pending of Willis S. Riddick, adm'r. of B. Riddick dec'd. Vs. H. D. Kelly & D. J. Godwin adm'rs. of Jno. W. Keeling dec'd. That on said day having completed said account and made his report thereon — having first began the investigation on the 8th of Feby. 1861 by notice to ~~appear~~ the parties to appear at his office in Suffolk — that the taking of depositions and other necessary duties pertaining to the taking and completion of said account were began and continued, and adjourned from day to day, and from time to time at the request of parties or their Counsel, until the month of June, 1861, when your Commissioner being an officer of the Confederate States Army, was required to leave Suffolk, and continued absent in the discharge of his duties as said Officer until 1865.

Your Commissioner report that he notified the

parties

parties during the fall of 1865 of his intention to complete the said account and report, and accordingly on the the 28th day of December, 1865, he did so conclude and complete the same, and with his report filed it in his office for ten days as required by law: That on the 8th day of January 1866, the said account and report, with the evidence upon which the same was based, and all the papers filed in the Cause, were returned to the Office of the Clerk of the Circuit Court for Nansemond County: That on the 7th day of February 1866, the Office of the Clerk of the County and Circuit Courts for Nansemond County, in Suffolk, was destroyed by fire, together with all the records and papers filed therein, and at the request of the Plaintiff in the Cause of B. Riddick's adm's. vs. Jno. W. Kuhn's adms., this supplementary report in said cause is made and returned to Court.

Your Commissioner reports that after a full and fair investigation of the evidence filed in said Cause and before him, in settling the account of the partnership transactions of B. Riddick and Jno. W. Kuhn in their lifetime, continuing through a period of eight years - from 1850 to 1858 - he ascertained a balance of Principal and Interest to be now due the Estate of B. Riddick of ($29.540.47) Twenty nine thousand, five hundred and forty dollars and forty seven cents.

The Deposition of R. H. Riddick proved that Burwell Riddick was the managing partner of the concern and the agent who transacted its business: who hired hands, paid for getting lumber for provisions and otherwise charged with the disbursement of money. The same witness also testified as to the prices paid for getting such lumber, he being engaged in the same business during the period of this partnership. The Deposition of Henry Crosby, Commission Merchant of Philadelphia, who sold the lumber manufactured by this partnership, proved the quantity received and sold by him, and also that John W. Keeling up to 1853 had largely overdrawn his share or proportion of the fund in his, Crosby's, hands, arising from the sales made on partnership account.

The testimony of Geo. W. Riddick proved that B. Riddick paid an amt. of ($3919.20) Three thousand nine hundred and twenty dollars and twenty cents to Geo. W. Riddick & Co. for goods &c. furnished the partnership.

The testimony of A. K. Russell proved that B. Riddick had endeavored to effect a settlement of these accounts with his partner, Jno. W. Keeling, during the lifetime of the latter, who died in the month of September 1858, but without success

Your Commissioner also reports that Willis S. Riddick

Riddick, the admr. of B. Riddick decd, the plaintiff in said cause, filed a paper with your Commissioner, stating that he was privy to the fact that Jno. W. Keeling decd. during his lifetime had paid several sums of money on acct. of the partnership, and also had furnished hands on several occasions to work for the same, and as he did not wish to avail his decedent's Estate of the fact that the defendants had been unable to prove such payments, desired your Commissioner under these circumstances to credit the balance due his decedent's Estate based upon the evidence filed, on account of the said partnership transactions with the sum of ($14. 540. 47) Fourteen Thousand five hundred and forty dollars and ~~forty seven~~ cents as the amount of said credits; which being done reduced the balance due from the estate of Jno. W. Keeling decd. to Estate of B. Riddick decd, to ($15.000.00) Fifteen thousand dollars, which said amount was reported by your Commissioner as the Balance due.

Your Commissioner states that he has been enabled to make this Supplemental report from the fact that the former report was so recently made & returned - the facts in the cause being fresh in his memory, and being greatly assisted by pencil memoranda of the figures and calculations used in his former report.

Your Commissioner deems it peculiarly pertinent to report that the evidence upon which the balance reported was ascertained was full and entirely satisfactory to your Commissioner's mind;- there being no disputed or doubtful point presented by the papers:- only questions of fact relative to the payment of money.

Your Commissioner also deems it pertinent to state that his fee as Commissioner for said account & report, amounting to Two Hundred dollars was paid to him by the Plaintiff in the Cause upon the completion and return of the former report.

Given under my hand as Commissioner aforesaid, this 20th day of February, 1866.

W. L. Riddick
Commissioner

B. Riddick's advr.

vs:

Jno. W. Keeling's advrs.

To
Suffk. Reput.

Comr. Office, Suffolk, Va.
July 20th 1866.
Complaint filed in my
office.
W. L. Riddick
Comr.

1866. Nov 3rd Filed.

Riddick's adm^r

v

Kelling's adm^r

This cause came on this day to be again heard, on the papers and on the supplemental Bill ~~exhibited~~ filed in this cause & taken for confessed at the rules as to said defendants, and on the Report filed with said Bill formerly read, and on the Report of W. L. Riddick, Comm^r. made pursuant to the decree of the ___ day of October 1860, to which no exception has been filed and was argued by Counsel. On consideration whereof the Court doth confirm the said Report and doth adjudge, order & decree that Wm H Kelly & David J. Godwin adm^rs. of John W. Kelling dec^d, out of the estate of their Intestate, in their hands to be administered pay to the said plaintiff as ~~Deputy~~ adm^r. aforesaid the sum of fifteen thousand dollars, with Interest from this 17th day of April 1866 Five per cent & the costs of this suit — and that all proceedings had in this cause be made final and binding between the parties.

Riddick's admr.

v

Keeling's admrs.

1866

Apl Ct. Decree

To be entered
R. H. Baker
apl. 17. '66

Filed

Entered

To be Entered by Consent
J. F. Crocker
for admr's of Keeling
John R. Kelly
Plts. Atty.

At a Circuit Court held for Nansemond County the 20th day of April 1860.

Willis S. Riddick, administrator of Burwell Riddick deceased — Complainant

against } In Chancery.

Hugh H. Kelly and David S. Godwin administrators of John W. Kelly deceased — Defendants.

This day the defendants, by leave of the Court files their answer: and the cause came on to be heard on the Complainant's Bill and exhibit, filed therewith, and said answer and replication to the same, and was argued by Counsel: On Consideration whereof the Court, without now deciding any questions, involved in the cause, doth adjudge, order and decree that a Commissioner of this Court, take and settle the partnership transactions of Burwell Riddick & John W. Kelly deceased, and to that end may examine any of the parties to this suit, and compel the production of any Books or papers, deemed necessary to a full settlement of the same. And that the said Commissioner make report of his proceedings under this decree, with any matters deemed pertinent by him, or that any of the parties may require to be so stated.

A Copy,

Teste,

Peter B. Prentis. Clerk

Richards' adms

vs } Co. decree.

Kelly's adms:

Exhibit filed with
Supplemental Bill

To the Hon. Richard H. Baker, Judge of the Circuit Court of Nansemond County.

Complaining, shew unto the Court your Complainant Willis S. Riddick administrator of the goods, chattels and credits of Burwell Riddick deceased,

Your Complainant respectfully represents to the Court and says, That at a term March rules 1860, he exhibited his original Bill of Complaint in this Court against Stephen N. Kelly and David D. Godwin administrators of the estate of John W. Keeling deceased, stating:

That the said Burwell Riddick, departed this life Intestate, on the day of June 1859, at Leachville, in the County of Beaufort, and State of North Carolina; and that your Complainant in order to settle the estate of the deceased in Virginia, qualified in the County Court of Nansemond County as such administrator, on the 9th day of January 1860, and filed in said original Bill, a duly certified copy of such qualification —

That the said Burwell Riddick and the said John W. Keeling, of Nansemond County became jointly and equally interested & concerned in getting lumber, manufacturing shingles &c. out of Juniper, Cypress &c. and in carrying on the Swamping business generally, at and near Leachville aforesaid, & conducted their said business as partners, under the name and

style of "Keeling and Riddick"; and that the said Burwell Riddick, then a resident of Nansemond County, Virginia, was appointed as the agent of said firm, to take charge of and manage the said Swamping business, & that he, thereupon broke up his association where he had all his lifetime lived, and moved to Suffolk aforesaid, and took charge of said business on or about the first day of January 1848, and proceeded to open swamps, obtain hands, implements & all necessary material, for said business & to conduct and manage the same; & did so act & continue from that time, like his death in June 1859, a period of nearly twelve years, and for all which he was to receive a fair & reasonable compensation, which your Complainant charges was, at least one thousand dollars per year.

That no final settlement, was ever had by the said Burwell Riddick and John W. Keeling notwithstanding the said Burwell Riddick had for several years previous to his death made strenuous efforts to have a settlement with the said Keeling; and that the said Burwell Riddick did sometime in the year 1853, come to Nansemond County to press such a settlement, and did make some progress towards such a settlement, by which it became apparent that up to the end of the year 1854, there was over Four

thousand dollars due said Burnell Riddick as his part arising from profits on lumber sold and that unfortunately for your Complainant's Testator, the Carpet bag in which all the papers, book, &c relating to said business was, stolen from the Hotel when the said Burnell Riddick was stopping during the progress of the settlement, except one Book therein after referred to, which was not in said Carpet bag.

That as a further confirmation of what balance was then due, said Burnell Riddick up to the end of 1854. on the account as above named, your Complainant filed with his said Original Bill a paper in the hand writing of said Burnell Riddick found among his papers, by which it appeared that the sum of $4466.19 was due him besides payments on account of costs & expenses of certain suits — That he also filed with his said Original Bill a Book kept by said Burnell Riddick agent as aforesaid, wherein many items are entered during the years 1853 & 1854 as paid by him, the vouchers for which were stolen with the other papers as aforesaid, and which book had been often seen and inspected by the said Ithiel W. Keeling & fully recognized by him as correct — That the book of charges as paid by said Burnell Riddick for the years previously to 1853 and subsequent to 1854 was also stolen with the said Carpet bag & was on occasion a heavy loss to your Complainant's Intestate in consequence thereof. That the said

John W. Keeling did from time to time, draw and receive from the several Commission Merchants in Philadelphia, New York, Baltimore, Providence & Elsewhere, much the larger part of the proceeds of lumber sold by said Merchants for Keeling & Riddick aforesaid, and applied the same to his individual use, and that he still owes to your Complainant, Intestate, a large amount on that account — That sometime before the death of the said Burwell Riddick (but when your Complainant could not say) in consequence of dissatisfaction on the part of said Burwell Riddick with said Keeling, on account of the reception of so much more of said sales, by said Keeling than by him (the said Burwell Riddick) each party thereafter received of said Commission merchants, one half of the nett proceeds of sales, and each party paid a portion of the hand hire & other expenses, but by far the greater part were paid by the said Burwell Riddick, the active agent & immediate manager of the said business, and that besides, which there is due to him his wages and salary as agent aforesaid for the years 1855, 1856, 1857, 1858 and 1859, in addition to what was due him up to the end of 1854. That one of the important Books, belonging to said Keeling & Riddick & kept by said Riddick, to enter items in, relative to said business was loaned by said Burwell Riddick, to said Keeling to be soon thereafter returned, but never was, and

which your Complainants charges was then in the possession of said Kelling's administrators & which he required them to produce,

That the said John W. Kelling died on the 29th. day of September 1858 Intestate, and that Hugh H. Kelly and David. V. Brown qualified as his administrators in Nansemond County Court on the 8th. day of November 1858, and as such administrators took charge of said Intestate's estate, a duly certified copy of the order of Court granting such administration is filed herewith as part of this Bill and was also filed in the said original Bill as Exhibit (C), and that the said Kelling's estate was then believed to be more than ample to pay all his Debts

And your Complainant in his said original Bill prayed for a just and fair and equitable settlement of the transactions between said Burwell Riddick and John W. Kelling, concerning the business aforesaid —

And your Complainant also states that the process in said original suit was duly served and the cause in due time set for hearing — That the Defendants filed their answer, and that the Complainant took depositions in Philadelphia North Carolina and Virginia, and that at the April Term of this Court in the year 1860, a decree was duly entered, a copy of which is filed

herewith, directing a commissioner of this Court to take and state the partnership transactions of Burnett Riddick & Jno. W. Kelly deceased, and to end might examine any of the parties to the suit, and compel the production of any Book, or papers deemed necessary to a full settlement of the same. That under & by authority of said decree, Washington L. Riddick, one of the Commissioners of this Court proceeded according to law to state the accounts referred to and after a patient investigation reported a Balance due by John W. Kelly aforesaid to said Burnett Riddick of fifteen thousand dollars. - That to the great damage & inconvenience of your Complainant, the Clerk's office of this Court was on the night of the 7th of this month (February 1866) destroyed by fire and all the records therein & among them the papers in this case, and that now with the view to remedy the difficulty and have this cause reinstated, your Complainant files this his supplemental Bill -

In Consideration whereof and as this Court has power to afford due proper relief - To the end your Complainant prays that the said Wright W. Kelly and David D. Gordon as administrators of John W. Kelly dec'd, may be made defendants hereto & the

required to answer the allegations herein,
That a decree may be rendered your Com=
plainant as aforesaid

Kilby p. q.

Willis S. Riddick
adm^r. of Burwell Riddick
dec^d

vs Bill

John W. Keeling's adm^r

Nans^d. Cir. Ct.

Burwell Riddick's Admr^x

vs

Chy: Notes

Jno: W. Keeling's Admr^s:

1866. Feby: 14th: Sum^s in Chy: issd

" March 3rd: Comm^r: W L Riddick^s Suppl: Rep^t filed

" " 5- Suppl: Bill & Exhib^s filed

" " " Consl decree vs defts.

" April: 2d: Consl decree confm^d & cause set for hearing

" " May: 3rd: Supplemental Rep^t filed

" April: 17th Final Decree.

Chy: Notes