

1875-006
Nansemond Co. (Suffolk)

Chancery Causes: John R. Kilby for Henning E. Smith & Robert R. Smith vs Admr of William J. Smith

The Commonwealth of Virginia,

To the Sheriff of Nansemond County--Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON *Walter H Eley Sheriff & agent of*
Said Lem J Smith and Jennie Smith (widow of Lem J Smith decd.
& James William, Sallie & Jack Smith infants.

to appear at the Clerk's office of the *General* Court of Nansemond county, at Rules to be
holden for the said Court, on the first Monday in *July* next, to answer
Bill in Chancery, exhibited against *John R Kelly, Chas*
in the said Court, by *John R Kelly executor of Sarah J Elliott decd (who sues*
for the benefit & at the cost of Henryning & Smith and
W R Smith (suing for himself and all other creditors of
Wm J Smith decd

and have then and there this Summons. Witness, WILLIS E. COHOON, Clerk of our said Court, at
his office, this *25th* day of *June* 187*3*, in the *9th* year of the Commonwealth.

Copy

True

Willis E Cohoon

Clerk of the Court.

Cher

James Smith

of the Commonwealth of Virginia

Do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears on the records of the said Commonwealth.

Witness my hand and seal of office this 10th day of June 1864.

Attest
J. H. Smith
Secretary of the Commonwealth

James Smith
of the Commonwealth of Virginia
Do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears on the records of the said Commonwealth.

Attest
J. H. Smith
Secretary of the Commonwealth

James Smith

Know all Men by these Presents, That we _____

Wilbur J. Kilby and John R. Kilby

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA, in the sum of _____

six hundred _____

Dollars, to the payment whereof

well and truly to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with

our Seals, and dated this *8th*, day of *October* one thousand eight hundred and *seventy four*.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the said

~~who has this day qualified before the County Court of Nansmond County as~~

Wilbur J. Kilby, who has been appointed by a decree of the Circuit Court of Chausemand County pronounced at the May Term thereof 1874, a special Commissioner to see the one half interest of which William J. Smith died seized and possessed in an undivided tract of land, containing 239 acres situated in Chausemand County and bounded by the lands formerly owned by Samuel Croft R. R. Smith & others.

shall faithfully discharge the duties of his said office, then this obligation is to be void or else to remain in full force.

Signed, Sealed, acknowledged and delivered }
in the presence of

Wilbur J. Kilby

{ SEAL. }

John R. Kilby

{ SEAL. }

{ SEAL. }

{ SEAL. }

John R. Kilby Ex. etc.

v.

Wm J. Smith's Per. Rep.
Fals.

Court Bonds.

Filed 8th, Oct. 1874.

The Commonwealth of Virginia,

To the Sheriff of Nansemond County--Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON *Walter H Ely Sheriff and*
admr. of Wm J Smith decd. Jennie Smith (widow of Wm J Smith decd)
and. James, William, Sallie, and Jack Smith infants

to appear at the Clerk's office of the *Circuit* Court of Nansemond county, at Rules to be
holden for the said Court, on the first Monday in *July* next, to answer
Bill in Chancery, exhibited against *them*
in the said Court, by *John R Kelly Executor of Sarah J. Elliott decd.*
(who sues for the benefit and at the cost of Henning & Smith
and R R Smith) suing for himself and all other
creditors of Wm J Smith decd.

and have then and there this Summons. Witness, WILLIS E. COHOON, Clerk of our said Court, at
his office, this *25* day of *June* 1873, in the *97* year of the Commonwealth.

Willis E Cohoon Clerk of the Court.

July 3rd 1873. I acknowledge legal summons of within
process Jennie Smith Widow of Wm J Smith decd
dead.

W H Eley
Shff & adm
of W J Smith decd

W H Eley

car ch

Jennie Smith

W H Eley

W H Eley

To Jury Route

W H Eley

57

THE COMMONWEALTH OF VIRGINIA,

To the SHERIFF OF NANSEMOND COUNTY—Greeting :

WE COMMAND YOU, that of the Goods and Chattels of *Wm J. Smith*

in your bailiwick, you cause to be made *Three Hundred and Sixty Eight*
Dollars and forty six cents (\$368.46) with legal interest
 thereon from the 16th day of April 1862 till paid
 which *John R Kelly* executor of *Sarah J. Elliott* deceased

lately in our *Circuit* Court of Nansemond county, recovered against *him* for debt

Also, *Seven* Dollars, and *17th* Cents, which the
 said *John R Kelly* executor of *Sarah J Elliott* deceased

in the same court were adjudged for *his* costs, by *him* about *his* suit
 in that behalf expended ; whereof of the said *Wm J. Smith* _____ *is*

convict, as appears to us of record, and that you have the same at the Clerk's office of our *Circuit*
 Court, at Rules directed by the law to be holden in and for Nansemond County, on the first Monday in
January next, to render unto the said *John R Kelly* executor of
Sarah J Elliott dead.

of the *Debt* and costs aforesaid. And have then and there this writ.

Witness, *E. J. Williamson* ~~WILLIAM E. COHORN~~, Clerk of our said Court, at his office, this *22nd* day of
October in the year of our Lord, 186*9*, and in the *94th* year of our independence.

CLERK..... *\$367*
 ATTORNEY..... *3.00*
 SHERIFF..... *50*

WITNESSES.....
 W. E.

\$7.17

Copy
Teste

E. J. Williamson Clerk

William E Cohorn C. C.

Kelly P 9

John R. Kelly Esq. of
Sarah J. Elliott decd

vs { T. T. a

Wm J. Smith

vs { Jury Rules 1870

1868
adul. et
prod.

I can find nothing to satisfy the within execution or any
part thereof.

Wm Eley Esq.

copy sent

Wells & Burton
clerk

John R Kelly exth of Sarah J. Kelly & Pth }
 as } Inheritance
 Wm Ely Sheriff & adm^r of Wm Smith & Oth

This Cause came on this day to be again heard on the points formerly made herein and on the report of Court W. Kelly made on the 28th day of November 1874 in this cause, and was argued by counsel. On consideration whereof the Court doth confirm the said report to which no exception has been filed, and doth adjudge order and decree that the said W. Kelly Commissioner of said venue of the Clerk of this Court the three bonds of R R and H E Smith each for the sum of \$71.66²/₃ dated the 9th day of November 1874 and payable respectively twelve months, two years and three years after date, with interest from date which the said Clerk will deliver to the said Commissioner on his leaving a receipt therefor, and that the said Commissioner proceed to collect the principal thereof, when due and all interest thereon, or receive the same of the said R R Smith and H E Smith before due, if they shall offer to pay the same in which last case interest is to be charged to the day of payment only, and that the said Commissioner proceed to pay first all costs as yet unpaid in this Cause and then pay the debt due by William J. Smith deceased as mentioned in Commissioner Nelson Kelly's report of the 18th day of December 1873 in this Cause and the residue of any return see the further view of Court. And the Court doth further adjudge order and decree

that the said Comr make to the said R.R.
 and H&S with a deed with Special Warranty
 on the usual form for the one half interest of
 which Welling-Smith deed signed and proposed
 in the undivided tract, of land purchased under
 proceedings had herein when they the said
 R.R. and H&S shall have made the
 payment of said, and the said Commissioner
 will make what to suit his proceedings as
 hereinafter hereof.

1607
 Not Publicly in 1872
 Search of Records

27

W. H. G. Shurt. atty. at law of W. H. G.

Wm

Feb 2nd 1873

Commissioner's Office,
Suffolk, Virginia,
19th, March, 1875.

To The Circuit Court of Hanseman
County, State of Virginia:

In pursuance of a decretal
order of the said Court pronounced at the
February term thereof 1875, in a cause
in Chancery in the said Court depending
between John R. Kilby, Executor of Sarah
J. Elliott deceased, suing for the benefit
of H. E. & R. R. Smith and others, as plain-
tiff, and the Personal Representative of
Wm. J. Smith deceased, and others as
defendants, - a copy of said order being
herewith annexed: Your Commissioner re-
ceived of the clerk of said Court (having
left with him a receipt therefor), the three
Bonds of R. R. & H. E. Smith, each for the
sum of \$71.66 $\frac{2}{3}$, dated the 9th, day of
November 1874, and payable respectively twelve
months, and two and three years after date
with interest from date, and proceeded
to collect, and did collect, the principal
and interest thereof; and did pay out
the same as the said order directs and
as the following report will shew, to-
gether with the voucher annexed:

(see over)

By Principal of Three Bonds of R. R. and H. E. Smith, each for \$71.66 $\frac{2}{3}$	\$ 215 00
" interest from 9th. Nov. 1874 (date of Bonds) to 9 March 1875 - 4 m.	4 30
	\$ 219. 30
To amount retained to pay unpaid costs,	8 00
	\$ 211. 30
" paid H. E. & R. R. Smith in part of debt due to them by Wm J. Smith de- ceased, or his estate, as mentioned in the report of Court. Wilbur J. Kilby of 18th. December 1873, in this cause, for	211 30

Your Commissioner further reports to Court
that in pursuance of said decretal order
he has made to the said R. R. and H. E.
Smith a deed with special warranty in
the usual form for the one half interest of
which William J. Smith died seized and
possessed in the undivided tract of land,
of and where ^{the said one half interest was sold and} ~~was~~ purchased under proceed-
ings had in said cause.

Respectfully submitted
Wilbur J. Kilby, Court.

1875 March, 9th, Received of William J. Kilby Com.
The sum of two hundred and eleven and
 $30/100$ dollars as set forth in the above
report

\$211, $30/100$

H. E. Smith
R. R. Smith

Juv. R. Kilby Ex. suing for
H. E. & R. R. Smith & als.

v.

Wm. J. Smith's Rec. Rep. & als.

Cour's Report of
Collections & Payments.

Completed and filed in
my office 19th. day of
March 1875.

Wilbur J. Kilby
Cmr.

Filed 26 March 1875

At a Court held for Anderson County - October Term 1873
John R Kelly Executor of Sarah J Elliott &c
against
Walter H Eley Sheriff & of W J Smith &c.

Pliffs
Defts
In Chancery

This cause came on this day to be heard
on the Bill of the complainants taken for confessed as to Walter H Eley
Sheriff & committee of Wm J Smith decd, on whom process had been
duly executed and in failing to appear and make defence, and on the
answer of the infant defendants by W Eglehorn their guardian ad litem
and application to said answer, and on exhibits filed with the said bill
and was argued by counsel, On consideration whereof the Court doth
adjudge order and decree that a commission of this Court proceed to
state the following accounts to wit, 1st an account of the transactions
of W H Eley Sheriff and Committee of Wm J Smith deceased, 2nd and
account of the debts and demands against the said Wm J Smith or his
estate and their dignity, and 3rd an account of the real estate of
which said Wm J Smith decd seized and possessed and its full value
and annual value and make report to the Court with any matter
specially stated deemed pertinent by himself or that any of the
parties may require to be so stated.

Teste

Willis E. Cohen Clerk

John B. Stacey Esq of
Savannah Ga

vs

A. H. Stacey Comtee of W. Smith

con et

October Term 1873

Chas. J. Stacey

Commissioner's Office,

SUFFOLK, NANSEMOND COUNTY, VA.

24 November 1873

To
John R. Kilby, Executor of Sarah J. Elliott etc.,

Plaintiffs,

and

Walter H. Eley Sheriff and Committee of
Wm. J. Smith etc.,

Defendants.

You are hereby notified that I have fixed upon the 18 day of December next, to take and settle, at my office, the following accounts, to-wit:

1. An account of the transactions of W. H. Eley Sheriff and Committee of Wm. J. Smith deceased.
2. An account of the debts and demands against the said Wm. J. Smith or his estate and their dignity.
3. An account of the real estate of which said Wm. J. Smith died seized and possessed and its fee-simple and annual values.

required to be taken by the decree of Nausemond Circuit Court, rendered on the 12 day of October 1873 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.

Walter J. Kilby
Commr.

Service of the within notice is hereby acknowledged by us.

John R. Kirby pils. atty

W H Eley Chff. & com

W. C. Cleghorn Geo. adlitr

Commissioner's Office
Suffolk, Virginia.
18th. Dec. 1873.

To The Circuit Court of Hanover County;

In pursuance of a decretal order of The Circuit Court of said County, pronounced at The October term thereof 1873, in a cause in chancery in the said Court depending between John R. Kilby executor of Sarah J. Elliott deceased, suing for the benefit of H. E. and Ro. R. Smith and others, and the Personal Representative of Wm J. Smith, deceased, and others, a copy of said order being herewith annexed; the undersigned, your Commissioner, having given notice to the parties as will appear by the endorsements on the notice herewith returned, proceeded this day to execute the said order. The proceedings having been at length completed, the result is herewith respectfully submitted:

Account No. 1.

Dr. The estate of Wm J. Smith, deceased, in account with W. H. Edey, sheriff & Committee, Cr.

There have been no receipts
and no disbursements.

Account No. 2.

Of the debts and demands due by the said Wm J. Smith, deceased, or his estate and their dignity, to wit:

John R. Kilby executor of Sarah J. Elliott, deceased, suing for H. E. and R. R. Smith, against Wm J. Smith, deceased.

Judgment obtained in the life-time of said Smith the 22. April 1868 in the Circuit Court of Hanscum County for	\$ 368.46	
Int. from 16 April 1862 to 29 Sept. 1869.	164.69	
	\$ 533.15	

Credit 29 Sept. 1869

	12 92	
	\$ 520 23	
Int. from 29 Sept. 1869 to 12 April 1874 ^{on \$ 368.46}	100 23	
	\$ 620.46	

Costs of judgment

Total amt. of debt -	6 32	
	\$ 626 78.	

Your Commissioner has no knowledge of any other debts or demands due by the said Wm J. Smith deceased or his estate.

Account No. 3.

Of the real estate of which the said Wm J. Smith died seized and possessed and its fee-simple and annual values;

(1/2) One half of an undivided tract of land in Cypress Township in		
---	--	--

Haaseumund county, containing
239 acres, lately owned by James
C. Smith, deceased, and bounded
by the lands ^{formerly owned by} ~~of~~ Samuel Croft and
the lands formerly owned by R.
R. Smith; the value of the whole
tract being \$776. the value of the
undivided one half of said tract
J. Smith, deceased, is - \$388.00
and its annual value \$30.00.

Respectfully submitted
Wilbur J. Kilby
Commissioner,

Fee \$10.

John R. Kilby, Ex. for
H. E. & R. R. Smith & als.

v. { Court's Report

Wm J. Smith's Per.

Rep. & als.

Completed & filed
in my office 18th,
December 1873,

Wilbur J. Kilby
Court.

and possessed, in an undivided tract of land,

CONTAINING 220 ACRES,

situated in Cypress township, in said county, lately owned by Jas. C. Smith, deceased, and bounded by the land formerly owned by Samuel Cross, the land formerly owned by R. R. Smith, and the lands of others.

TERMS—The sale will be made on a credit of one, two and three years, (an amount sufficient to pay all costs excepted, which shall be paid in cash.) The purchaser will be required to give three separate bonds, with good security, for the deferred payments, to bear lawful interest from the day of sale, and the title to the land will be given when the last payment shall have been made.

WILBUR J. KILBY,

sep23-3t

Special Commissioner.

Suffolk, Va., Oct 2^d 1874

Mr William J. Kelley

To Suffolk Herald, Dr.

PER AND JOB PRINTING OFFICE,

Washington Square, over Commercial Bank.

Aug 27	To 30 8th Street Hand Bills "Smith"	2 ⁰⁰	
" "	" Land for Sale		
Sept 23	Pub: Land for Sale "Wm J Smith"		
	4 Inches 3 times	7 ⁰⁰	
	Paid		
	J. G. Helaw		\$ 9 ⁰⁰

At a Circuit Court held for Nansemond County, May Term 1874

John R. Kilby Executor of Sarah J. Elliott deceased (who sues for the benefit and at the cost of Henryng & Smith and R. R. Smith) suing for himself and all other creditors of Wm J. Smith dead.

vs

Walter H. Eley Sheriff of Nansemond County and Adm'r of Wm J. Smith dead, James Smith (widow of Wm J. Smith dead) and James, William and Jack Smith infants

Plffs.

In Chancery

Defts.

It being suggested to the Court that Jennie Smith the widow of Wm J. Smith deceased has died since the filing of the bill in this cause it is ordered that this suit be abated as to her and this cause come on this day to be again heard ~~on~~ the papers formerly read herein and on the report of Commissioner Welbur J. Kilby made in pursuance of the decree entered herein at the October term of this Court 1873 and completed and filed in his office on the 18th December 1873 and was argued by counsel: On consideration whereof the Court doth confirm said report to which no exception has been filed and doth adjudge order and decree that Welbur J. Kilby (who is hereby appointed a Special Commissioner for that purpose) proceed to sell before the Court House door of Nansemond County on some Court-day the one half interest of an undivided tract of land of which the said William J. Smith died seized and possessed described in account No 3 of said report as containing two hundred and thirty nine acres situated in Lynnhope Township in said County lately owned by James C. Smith deceased and bounded by the lands formerly owned by Samuel Croft, the land formerly owned by R. R. Smith and the lands of others, said sale to be made after due notice thereof shall have been given at the Court House door of said County for twenty days and by advertisement once a week for three successive weeks in the Suffolk Herald a newspaper published in the town of Suffolk Virginia and on a credit of one two and three years (an amount sufficient to pay the cost of this suit excepted which shall be paid in cash) the purchaser to,

^{thus separate}
 to give bonds with good security for the deferred payments becoming lawful.
 interest from the day of sale payable to said Commissioner who will retain the
 title to said interest in said lands until the further order of the Court. But
 no sale shall be made ~~under~~ hereunder unless the said Court shall have
 specified before the clerk of this Court in this office a bond in the penalty of \$100,
 with good security payable to the Commonwealth of Virginia and conditioned
 for the faithful performance of the terms of this decree and of all other decrees
 he may be required to execute in this cause. And the said Commissioner
 will make report to Court of his proceedings hereunder.

Atty

Teste

Willis E. Bohan clerk

John R. Kelly act. of S. J. Elliott

220

W. H. E. L. J. Shippard & J. H. H. H. H.

1871

May 2nd Cir. 20

Cash

clerk — \$5.24

Shiff — 1.00

att'y fees 16.00

Comm 10.00

\$32.24

advt 9.00

\$41.24

1300

LAND FOR SALE.

By authority, conferred by a decree of the Circuit Court of Nansemond county, pronounced at the May term thereof, 1874, I shall proceed to sell before the Court-house door of said county,

ON THE 12th DAY OF OCTOBER, 1874,

(that being Court day) the one-half interest of which William J. Smith died, seized, and possessed, in an undivided tract of land,

Containing 239 Acres,

situated in Cypress township, in said county, lately owned by Jas. C. Smith, dec'd., and bounded by the land formerly owned by Samuel Cross, the land formerly owned by R. R. Smith, and the lands of others.

TERMS---The sale will be made on a credit of one, two and three years, (an amount sufficient to pay all costs excepted, which shall be paid in cash.) The purchaser will be required to give three separate bonds, with good security, for the deferred payments, to bear lawful interest from the day of sale, and the title to the land will be given when the last payment shall have been made.

WILBUR J. KILBY,

Special Commissioner.

Commissioner's Office

Suffolk, Va. 23d. Nov. 1874

To the Circuit Court of Chausemond County:

The Undersigned, Your Commissioner, reports to the Court that in pursuance of the terms of a decree of the said Court pronounced at the May Term thereof 1874, in a cause in Chancery in the said Court depending between John R. Kilby, Executor of the estate of Sarah J. Elliott deceased, suing for the benefit of H. E. and R. R. Smith, as Plaintiff, and William J. Smith's Representative and others as defendants, a copy of the said decree being herewith annexed, he proceed to advertise for sale the one half interest of which the said Smith did seized and possessed in an undivided tract of land described in the proceedings in said cause as containing 239 acres, situated in Cypress Township in said County, lately owned by James C. Smith deceased, and bounded by the land formerly owned by Samuel Croft, the land formerly owned by R. R. Smith and the lands of others; and in pursuance of the said Advertisement did offer the said interest in the said land for sale at public auction before the Court House door of said County on the 12th. day of October 1874 on the terms

named in the said decree, when no purchaser could be found. But on the 9th. day of November 1874 the same was again offered for sale at the same place and on the same terms, when the said interest in said land was purchased by R. R. Smith for the sum of \$275; that amount being more than two thirds of the value of said interest in said land, as assessed.

The following is the account which Your Commissioner renders:

By proceeds of the said interest sold in the said land as above, — \$ 275 00

Of this amount, your Commissioner received in cash the sum of \$60.00, which he paid out as follows:

To paid attorney tax	for ret.	\$ 16 00	
" " Commissioner	"	10 00	
" " Clerk's costs,	"	5 24	
" " Sheriff	"	1 00	
" " for advertising	"	9 00	
" " Crier at Sale	"	5 00	
" 5 per cent Com ^r .		13 76	\$ 60.00

\$ 215 00

To three Bonds of R. R. ^{and H. E.} Smith, dated 9th. day of November 1874, payable respectively 12 months, two years, and three years after date, with interest from date, and filed with this report, each for \$71.66 $\frac{2}{3}$ =

\$ 215 00

Respectfully submitted

Wilbur J. Kilby, Com^r.

1874 12th, November.

Received of William J. Kilby, Commissioner,
the amounts set opposite our names below
and charged as paid to us in the forego-
ing account.

John R. Kilby atty \$16.00

\$ for clerk, ^{\$2.24} Shff. ^{1.00}

\$ Cris. H

} 11.24

William J. Kilby, Comr.

fee \$16, & commissions \$13.76, = 23.76

1875 Feb. 24th. Received of the Clerk of the Circuit Court of Hausmann County, The Three Bonds of R. R. and H. E. Smith filed with this report, dated 9th day of November 1874, and payable respectively twelve months, and two, and three years after date with interest from date, each for the sum of \$71.66 $\frac{2}{3}$; as per decree of said Court at February Term 1875.

Wilbur J. Kilby
Clerk

John R. Kilby Ex. etc.,

v. { Court's Report

Wm J. Smith's Per. Rep. &
als.

Report of Sale

Filed to record 1874

Kilby Ex. etc.

v.

Smith's Rep. & als.

This cause came on this day to be again heard on the papers formerly read herein, and on the report of Commissioner, W. J. Kilby made on the 23d. day of November 1874 in this cause, and was argued by counsel.

On consideration whereof the Court doth confirm the said report, to which no exception has been filed, and doth adjudge, order and decree that the said ~~William~~ W. J. Kilby, Commissioner aforesaid, receive of the clerk of this Court the three Bonds of R. R. and H. E. Smith, each for the sum of \$71,66 $\frac{2}{3}$, dated the 9th. day of November 1874, and payable respectively twelve months, two and three years after date with interest from date, — which the said Clerk will deliver to the said Commissioner on his leaving a receipt therefor; and that the said Commissioner proceed to collect the principal thereof, when due, and all interest thereon, or receive the same of the said R. R. and H. E. Smith before due, if they shall offer to pay the same — in which last case interest is to be charged to the day of payment only; and that the said Commissioner proceed to pay, first, all costs as yet unpaid in this cause and then the debt due by William J. Smith deceased as mentioned in Commissioner Wilbur

J. Kilby's report of the 18th. day of December 1873 in
this cause, and the residue, if any, retain till
the further order of Court.

And the Court doth further adjudge, order and
decree that the said Commissioner make to the said
R. R. and H. E. Smith, a deed with special warranty
in the usual form for the one-half interest, of which
William J. Smith did seized and possessed in
the undivided tract of land, purchased under pro-
ceedings had herein, when they the said R. R. and
H. E. Smith shall have made the payment aforesaid.

And the said Commissioner will make re-
port to Court of his proceedings in pursuance hereof.

Kilby Ex. etc.,

v.

Smith's Rep. & als.

Chautauque County Circuit
Court.

February Term 1875

Decree for collection

To be entered

Geo. B. Smith

~~Entered~~

~~Entered~~

John R. Kilby, Executor of Sarah J. Elliott's estate &c.
v.

Wm J. Smith's Representative & al.

It being suggested to the Court that Jennie Smith, the widow of said Wm J. Smith deceased, has died since the filing of the Bill in this cause, it is ordered that this suit be abated as to her.

And this cause came on this day to be again heard on the papers formerly read herein and on the report of Commissioner, Wilbur J. Kilby, made in pursuance of the decree entered herein at the October term of this Court 1873, and completed and filed in his office on the 18th. day of December 1873, and was argued by counsel.

On consideration whereof the Court doth confirm said report, to which no exception has been filed, and doth adjudge, order and decree that Wilbur J. Kilby, (who is hereby appointed a special Commissioner for that purpose), proceed to sell before the court house door of Nassau and County, on some court day, the one half interest of an undivided tract of land, of which the said Wm J. Smith died seized and possessed, described in account, number three, of said report, as containing two hundred and thirty nine acres situated in Cypress Township in said County, lately owned by James C. Smith deceased, and bounded by the lands formerly owned by Samuel Cross, the lands formerly owned by Ro.

R. Smith and the lands of others, - said sale to be made after due notice thereof shall have been given at the Court house door of said County, ^{Forty two days} and by advertisement, once a week for three successive weeks in the "Suffolk Herald", a newspaper published in the town of Suffolk, Virginia, and in a credit of one, two and three years (an amount sufficient to pay the costs of this suit excepted, which shall be paid in cash), and the purchaser to give three separate Bonds, with good security for the deferred payments, bearing lawful interest from the day of sale, payable to said Commissioner, who will retain the title to said interest in said land until the further order of the Court.

But no sale shall be made hereunder until the said Commissioner shall have executed before the clerk of this Court in his office, a Bond in the penalty of \$600, with good security, payable to the Commonwealth of Virginia and conditioned for the faithful performance of the terms of this decree and of all other decrees he may be required to execute in this cause. And the said Commissioner will make report to Court of his proceedings hereunder.

John R. Kilby, Executor of
Sarah J. Elliott, for etc.
v.

Wm J. Smith's Rep. & al.

May Circuit Court 1874.

Deene for sale.

To be returned.

Geo: V. Board

Continued

John R. Kilby Executor of Sarah J. Elliott dec'd (who
sues for the benefit and at the cost of Henning E.
Smith & Ro. R. Smith) suing for himself and all
other creditors of Wm J. Smith dec'd.

v.

Walter H. Ely Sheriff & Committee of Wm J. Smith
dec'd, and James, William, Sallie and Jack
Smith, Infants —

This cause came on this day to be
heard on the Bill of the Complainants, taken for confessed
as to Walter H. Ely Sheriff & Committee of Wm J.
Smith dec'd, on whom process had been duly executed
the ~~same~~ failing to appear & make defence, & on the
answer of the Infant Defendants by Willis E. Gibson
their guardian ad litem, & replication to said answer, &
on exhibits filed with the said Bill, & was argued by Counsel.

On consideration whereof the Court doth, adjudge, order &
decree, that a Commissioner of this Court, proceed to state
the following accounts — to wit: 1st an account of
the transactions of Walter H. Ely Sheriff & Committee
of Wm J. Smith dec'd — 2^d an account of the
Debts, ^{demands} against the said Wm J. Smith ~~and~~ his
estate and their dignity, and 3^d an account
of the Real estate of which said Wm J. Smith
died seized and possessed, and its fee simple
and annual value, (and make report to the
Court with any matters specially stated deemed
pertinent by himself, or that any of the parties may
require to be so stated.

Kelly & Foreman & Co

27

Smithy adw &c

1873

Act. Cir. Ct.

Dece. for acct.

To be entered.

Dec. 7 1873

Act. Term 1873

Entered

At a Court held for Anderson County April term
1873

On the motion of A. E. Smith it is ordered that the
estate of Wm. J. Smith deceased be committed to the
Sheriff of this County to be by him administered accor-
ding to law it appearing that the said W. J. Smith has
been dead more than three months and no adminis-
tration granted on his said estate

Teste

Wells & Cochran

W. J. Smith, Esq.
submitted to
Shuff

1873

to it

April 2nd 1873

to "

Judgment obtained in the Clerks Office of the Circuit Court of Mansfield and confirmed at a Court held for said County on the 22nd day of April 1868

John R. Milby Exor of Sarah J. Elliott dec^d, Plff
 v
 Wm. J. Smith } In Debt.
 Dft

The Judgment obtained at the rules not having been set aside and the plaintiff being now entitled to a final judgment: it is therefore considered that the plaintiff recover against the defendant three hundred and sixty eight dollars and forty six cents, the debt in the declaration mentioned with legal interest thereon from the 16th day of April 1862 till paid and his costs by him about his suit in this behalf expended, And the said defendant to. Mercyt

costs

Attest Test

clk - \$2. 82

at sta 3. 00

shff 50
 \$6. 32

W E Cothorn D

The above judgt was docketed May 1. 1868 and is entitled to a credit of \$12. 92 as of the 29th Sept 1869 as per note on judgt docket, Even was issued on the same on the 22nd Oct 1869 and returned by the sheriff no effect.

W E Cothorn c

A. B.

Cost \$100
Clerk \$282
attys & exp 300
shuff moneys
\$632

at a Circuit Court held. for Anderson County
April Term 1868.

John W. Kelly Executor of J. Sarah.

J. Elliott deceased

Plff

against

Wm J. Smith.

The Judgement obtained at the Rules not having been set
aside and the plaintiff being now entitled to a final
judgement: it is therefore considered, that the plaintiff
recover against the defendant, Three Hundred and
Sixty eight and Forty six cents the debt in the declaration
mentioned with legal interest thereon from the 16th day
of April 1862 till paid and his cost & twin about his
sick in his behalf expended, and the said defendant in
money &c

Atty

Teste

Wells & Cohen Clerk

J. R. Kelly Ex of S. J. Elliott

25

Rev J. Smith

#868

Ohio run.

cur. at-

= judgment

"A"

Dated May 1st 1868

Kelly for Smith &c
N

Smiths advow fee
Exhibits with Bill

Kilby Ex. &c.

v.
Smith's Per. Rep. &c.

This cause came on this day to be again heard on the papers formerly read herein, and on the report of Commissioner, Wilbur J. Kilby, made in pursuance of a decree of the Circuit Court of Tauxemund county, pronounced at the February Term thereof 1875, and was argued by counsel.

On consideration whereof the Court doth confirm the said report, to which no exception has been filed, and, nothing more remaining to be done in this cause, doth order that the same be removed from the docket of this Court.

Kilby Ex. &c.
v.
Smith's Per. Rep. &als.

Hausmann County
Circuit Court.

June Term 1875

Final decree

To be entered

Geo. B. Wood.

Entered

The Joint and separate answer of James,
William, Sallie & Jack Smith, infants by W. E.
Cohoon their guardian, to a Bill in chancery
filed against Wm. J. Smiths and others by
Whm R. Kelly, suing for Henning E. Mo. R. Smith
others, in the Circuit Court of Stanswold
County.

These Respondents say - That the facts
set forth in said Bill may be true, so far as they
know, but being Infants and ignorant of their
rights in the premises, submit the same to the
Court and pray that no order or decree may be
made in the cause, inconsistent with the same.

signed

W. E. Cohoon Guardian A. D. C.

Kelly for Smith
n

Smith's admt tal
answer of
Infants gifts.

To the Hon. Geo. Blow, Judge of the
Circuit Court of Nansemond County, Va.

Complaining shew unto the Court
your Complainant John R. Kilby Executor of
Sarah J. Elliott dec'd (who sues for the benefit
and at the costs of Hemming E. Smith & No. R. Smith)
suing for himself and all other creditors of
Wm. J. Smith dec'd..

your Complainant respectfully represents
to the Court and say, that in the life time of
one Wm. J. Smith, to wit. at the April term of the
Circuit Court of Nansemond County, Va. in the year
1868, your Complainant obtained a Judgment
against the said Wm. J. Smith for \$368.56. with
Interest from the 16th day of April 1862 till paid &
\$6.32 cts, which Judgment was docketed in the
Judgment docket book of Nansemond County
Court on the first day of May 1868, - all of
which will appear by a duly certified copy of
said Judgment & endorsement thereon, filed
herewith marked "A".

That the said Judgment became a Lien
on all the lands or interest in lands then held
by said Wm. J. Smith or to which he afterwards
became entitled - &

That the said Wm. J. Smith was at the
date of said Judgment the owner of one undivided half
of 239 acres of land, in Nansemond County Va.
about one mile from Sometown, adjoining the land

That an execution duly issued on said Judgment and was placed in
the hands of the Sheriff of Nansemond County, who returned the
same unsatisfied - as may be seen by a copy of said execution
& endorsement thereon, filed herewith marked "B".

of formerly owned by Samuel Croft, the land formerly owned
by R. R. Smith & by others - which land of 239
acres, formerly belonged to Jas. C. Smith the
father of said Wm. J. Smith, & now by said
Jas. C. Smith devised to his widow Elizabeth
Smith In life & then to ^{his children the} said Wm. J. Smith
& Richard Smith. - That the said Elizabeth
Smith has been dead for several years.

That the said Wm. J. Smith died on the
day of _____ Intestate, & that his estate
was committed to the hands of Walter H. Eley
Sheriff of Nassau County for administration
by Nassau County Court ~~at the~~ ^{on the} 21st Decr 1893
as may be seen by the order of Court filed herewith
marked "C" -

That the said Wm. J. Smith left as his
heir & distributees at law, a widow, named
Jennie & four children, to wit: James, William,
Sallie & Jack Smith, all Infants.

Your Complainant says that the share
in said land, belonging to the said Wm. J. Smith
was not from rents pay your Complainant's
demand in five years, (and that his said
Interest therein should be sold for that purpose.

In consideration whereof, and as this Court
has jurisdiction, to grant all adequate relief -

To the end your Complainant prays
that Walter H. Eley Sheriff & admor. of
Wm. J. Smith dec'd, Jennie Smith (widow)

and James, William, Sallie & Jack Smith
(the last four infants) may be made
defendants unto and answer the
allegations herein: That some proper person
may be appointed to defend the said infant
defendants - That the accounts of said
Walter H. Ely as such Sheriff & admr.
may be duly settled, & any estate in his
hands may be applied to pay your Com-
plainants' demand - That the said undivided
half of said Trade Mark, to which the said Wm.
J. Smith is entitled, may be sold and the
proceeds applied to the payment of your
Complainants' demand, (and that such other
and further relief may be granted, consistent
with Equity &c. (and your Complainant
will ever pray &c.

John R. Kelly Son

p. v.

Kelly son

Kelly for Smith &

n. } Bice

Wm J. Smith, Rep. tal

Trans? Cis. cr.

In the Circuit-Court of Van Horn County

S. J. Elliott's admr sal	Plffs	} In Chancery
v		
W. J. Smith's admr sal	Def	

Chancery Notes

1873 July Rules, Bill filed & decree nisi & Smith's
admr, abates as to Jennie Smith who
is dead, J. W. DeLoach appointed
ad litem for infant defts

1873 Aug Rules, status of infant defts filed Bill per
& Cause set. for hearing,

1874 May Term, Resp confirmed decree for sale of land

1875 Feb'y Term Decree for collection

Notes