

1881-012
Nansemond Co. (Suffolk)

Chancery Causes: Thomas E. Upshaw & wife vs Gdn of Mary T. Upshaw et al

Mcneal, Bills, Wood, Riddick, Elem, Webb

Nathl Reddick Spl. Com.

In acc. with suit of Upshaw
& ux vs. Peter B Prentiss Edm et als.
To 5-yc coms. in \$300. of purchase
money of property sold under decree

\$15.00

To 2-yc coms in \$1100 part of
above

\$22.00
\$27.00

Total amt Sales \$1400.

Received the above in full of Coms.
as special in above.

Signed

Nathl Reddick
Spl. Commr.

14 00
27
30
57
1343

\$30.

Received of Nathl. Riddick
Spl. Comm. in Manner E. Upshaw
et ux. vs Peter B. Prentiss & co. & also:
Thirty Dollars in full for services
rendered as attys in above suit
Oct. 12th 1880. J. Wither & Prentiss
attys &c

Know all Men by these Presents,

That we, *Nathaniel Riddick and A.C. Withers*

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA, in the just and full sum of *Twenty-five hundred (2500)* Dollars, to the payment whereof, well and truly to be made to the said Commonwealth, 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 *6th* day of *August* in the year one thousand eight hundred and *eighty*, and in the *105th* year of the Commonwealth. And we hereby waive our Homestead exemption, as to this obligation.

THE CONDITION OF THIS OBLIGATION IS SUCH, That if the above bound *Nathaniel Riddick*

^{was,} who ~~has~~ ^{this day} ~~qualified before the~~ ^{by a decree of the Circuit Court of Nansemond County,} pronounced on the *12th* day of *April*, *1876*, in the Chancery Cause of *Thomas E. Withers & wife, Plaintiffs, against Peter B. Prentiss, Guardian ad litem for Mary J. Withers & al: infants, Defendants, appointed a Commissioner to make sale of certain Real Estate, in said Cause described* ~~as such Commissioner, under said decree~~ shall faithfully discharge ~~his duties~~ ^{his duties as such Commissioner, under said decree}, then the above obligation to be void, or else to remain in full force and virtue.

Executed in
presence of
the Court. }

Nathl. Riddick

(Seal.)

A.C. Withers

(Seal.)

(Seal.)

(Seal.)

(Seal.)

Nathaniel Redick, Commr.

To Bond

Commenced th:

Aug: 6th: 1880 Executed Filed

CHANCERY SUMMONS.

The Commonwealth of Virginia,

To the SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON *Peter B. Prentiss, guardian*
ad litem for Mary S. Julia M. Richard W. Thomas E &
Judor S. Upshaw infants: under the age of twenty-one years,

to appear at the Clerk's Office of the *Circuit* Court of Nansemond County, at the Rules to be
held for the said Court, on the first Monday in *this* month, *January 1876*, to answer a
Bill in Chancery, exhibited against them
in the said Court by *Thomas E. Upshaw & Mary D. his wife*

and have then and there this Summons. Witness, *Peter B. Prentiss*
his office, this *1st* day of *January* 1876, in the *100th* year of the Commonwealth.

Teste:

Peter B. Prentiss Clerk of the Court.

Thomas E. Upshaw &
Mary D. his wife

25 } Sum. in Chy.

Peter B. Prentiss, guardian
item for Mary T. Upshaw
dal. in p. 10

To June: Rules 1876

1876. June: 1st
Service acknowledged
Peter B. Prentiss
guardian item

Thomas E. Upham wife } Recorded Jan'y 17 1881
Do } Bed House & Lot } Known all nearly here
Uphams & al } presents: That whereas

heretofore work in the
the day of July 1880 J W Nelson and Lucy
his wife conveyed unto the undersigned
Mary E. Upham wife of Thomas E. Upham
certain House and Lot, or parcel of land
lying in the County of Hardeman State of
Tennessee within the Corporate limits of the
town of Bolivar being a part of the 20th
addition to said town and known as lots
one and two. (182) In Block 22 twenty
two being the same upon which George M
Dugan lived for many years and the same
purchased at County Court sale by D L Jones
at sale of lands of J A Jarrette estate by
decree of Hardeman County Court afterwards
owned by George M Dugan and the same
conveyed to said J W Nelson by said Dugan
& wife by deed of May 5th 1874 Recorded in
Registers Office of Hardeman County Book
3 Page 106 Including in the bounds and
excluding from this sale however the Lot
at the north end of Block 22 sold by
G M Dugan to Mrs M A Paul which was
also included in his deed to J W Nelson
the Lot is Excluded and Excepted from the

said Conveyance Begins at the North west
Corner of said Block 22 and runs to a Plate
on La Fayette Street then South to Plate on
M'Neal Street then West with M'Neal Street
to West Marginal line of Polk addition then
North to Beginning and whereas the said
Conveyance from J W Nelson and wife to
the said Mary D Upshaw vested title to the
said real estate in the said Mary D Upshaw
for her sole & separate use and behoof free
from the debts, Contracts and liabilities of
her said husband for and during the term
of her natural life and at her death the
fee simple to descend and be vested in
such one or more of her children as the
said Mary D Upshaw might by deed or
will appoint and whereas the purchase
money for the said real estate is derived from
the sale of certain real estate situate lying
and being in the Town of Suffolk County
of Gloucester in the State of Virginia
devised to the said Mary D Upshaw and her
children by the will of her Mother Mary A
Webb duly admitted to Probate in Gloucester
and County Virginia. Now therefore this
Indenture Witnesseth; that in consideration
of the premises and of the sum of Five
dollars the said Mary D Upshaw

The said Thomas E. Upshaw joining with
her herein, with Intent to Execute the
aforesaid power of appointment doth hereby
appoint appoint and designate as the
owners of the remainder in the said House
& Lot in Bolivar Tennessee heretofore
described the children of the said Mary T. Upshaw
living at her death and their heirs and
assigns forever, provided however that if
any one or more of such children die inter-
late under age and without issue such por-
tions to go to the other surviving child or

Children of the said Mary T. Upshaw to the
Exclusion of their father the said Thomas
E. Upshaw. the Intent and meaning of
this Instrument being to vest in the said
Mary T. Upshaw and her Children the same
title and Interest in the said House & Lot
in Bolivar Tennessee which they derived
under the Will of Mary A. Webb to the real
estate in Suffolk Commonwealth County

Virginia Witness the following signatures
and Seals this 17th day of Jan'y 1781

Mary T. Upshaw (Seal)

Thomas E. Upshaw (Seal)

State of Tennessee, Personally appeared
Hardeman County before me W. C. Carson
Clerk of the County Court of said

County Thomas E. Upham & wife Mary E. Upham
the signers of the annexed deed with whom I am
personally acquainted and acknowledged the due execu-
tion of the same to be their act and deed for the
purposes therein contained and to have been done
on the day of its date and Mary E. Upham
when the said Thomas E. Upham being appeared
before me privately and apart from her said husband
and the said Mary E. Upham acknowledged the exe-
cution of the said deed to have been done by her
freely voluntarily and understandingly without
compulsion or constraint from her said husband
and for the purposes therein expressed & except
At the Union Court of said Court at office this
17 day of Jan'y 1881

W. C. Quinn Clerk.

The foregoing Deed was received and filed for regis-
tration in my office 17th day of Jan'y 1881 at 1 1/2
O'clock P.M. and is noted in Register file Book No 8
Page 217.

A. D. Simmons R.H.C.

State of Tennessee, I A. D. Simmons Register for said
Hancock County & State do hereby certify that
the foregoing is a true and perfect copy of a deed
as appears of Record in my office in Book 66
of Deeds Page 517-518 & 519. Given under
my hand at office this 19 day of Jan'y 1881

A. D. Simmons R.H.C.

$$\begin{array}{r}
 25 \\
 \underline{8} \\
 22 \quad 4 \\
 \quad \underline{2 \frac{1}{12}} \\
 4 \quad 4 \quad 5 \\
 \quad \underline{1 \quad 1 \quad 2} \\
 5 \quad 6 \quad 6
 \end{array}$$

J. E. Upshaw & wife

To \$

Mary J. Upshaw et als

Registers fees 15⁰⁰ Paid

By A. J. McNeal

R. S. Elam of lawful age and a resi-
dent of the Town of Suffolk Haver-
maud Conn^y, ^{after being duly sworn} deposes and says, that
he believes the fee simple value
of the said property known as the
Mary A. Webb lot and the same that ~~was~~
occupied as Tenant last year, to
be between hundred dollars and its
annual value one hundred dollars
that the property is much out of
repair and is constantly decreasing
in value, and that the houses are
in need of paint, plaster, and roofing
that the fences and out buildings
are rapidly going to decay, and that
the fences around the ground are
in many places entirely down &
that unless soon repaired the
lot will be unenclosed, and that
the interest of the infants can not
suffer unless they have the means
to (or some one for them) repairs the
said property for them, that unless
~~repaired~~ the property can not
be rented at all and the revenue
if long deferred will be very much
decreased in value, and almost
worthless, and that in the opinion
of the deponent the said infants

will be benefitted by such a sale
and investment, And further the
deponent swears not.

Signed. R. S. Elam

State of Virginia

Nansemond County Wm.:

This day, Robert S. Elam the deponent
personally appeared before me
Peter B. Prentiss Commissioner of the
Court for the Circuit Court
and made oath that the matters &
things set forth in the foregoing
affidavit are true to the best of
his knowledge and belief.

Given under my hand this 12th day April 1886.

Peter B. Prentiss.

Comm^r in Chy

Commissioners
Office Suffolk V^{ts}

April 12th 1876.

Your Commissioner begs leave
to report in obedience to a decree
of your honorable court rendered
at the April Term, ¹⁸⁷⁶, that after an
examination into the condition
of the premises mentioned in the
proceedings ~~mentioned~~ he ascer-
tains the fee simple value to be
Twelve Hundred dollars and its an-
nual value One hundred dollars
That the property is rapidly going
to decay and is much out of
repair, that the fences and out-
buildings are much decayed and
need immediate attention, that
unless soon repaired the property
can not be rented at all, and your
Commissioner being fully cognizant
of all the facts in the case states that
the infants are poor and can not re-
pair the said property and that it
will be within interest to sell the
same and invest the proceeds of sale
in United States Bonds, the said stocks
being exempt from taxes, and not needing
repairs.

Thomas E. Upshaw
Mary D. his wife

vsth

Peter B. Pentis guardian
ad litem for
Mary T. Upshaw & also
infants

Commissioner's
Report.

all of which form Commission
er's Report to report.

Peter B. Pentis.

Commissioner

Commissioner's Office
Suffolk Va 30 March 1881.

To the Circuit Court of
Hansemond County

Your Commissioner reports to the Court that in obedience to the decree pronounced on the 13. day of October 1880 in the Chancery cause of Thomas Ellpshaw & wife v Uphaw and others, he has made the inquiry directed by the said decree, and has no hesitation in saying that he believes the proposed investment of the fund under the control of the Court in this cause to be a judicious one, and that the deed to the house and lot in Bolivar Tennessee protects the interests of the infant defendants and gives them the same title to that property which they had under the Will of Mary A. Webb deceased to the real estate in Suffolk sold under decree of this Court in this cause. Your Commissioner herewith files the evidence upon which this report is founded and as a part of the same the affidavits of E. P. McNeal, L. Bills and R. H. Wood, and a copy of the Deed from T. Ellpshaw & wife to Mary D. Uphaw & her children for the house & lot in Bolivar Tennessee.

Respectfully Submitted
Robt. E. Prentiss
Comm'r in Chancery

Uphaw & wife

Commis Reports.

Dated 30 March 1881

Uphaw & Co

Thomas E. Uphaw & Mary D. his wife

vs { In Chcy:

Peter B. Prentiss Guardian ad litem for
Mary F. Julia M. Richard W. Thomas.

E. & Luder S. Uphaw. infants under
the age of twenty-one years.

The undersigned Jani
Commissioner Nathl. Riddick appointed as
such at the April Term 1876 before me
to report. That in accordance with in-
decree of this Court granted at the Aprl-
Term 1876 dated on the 12th Apr. of that
year said Commissioner proceeded
to advertise & did advertise in some newspa-
per published in Suffolk Co the property
in the proceedings mentioned and did
at the August term of the C. Ct. succeed in
selling the same to J. H. Mann for cash
for \$1400. which said amount after
paying costs and expenses of the said
sale and an atty. fee to A. W. Wither was
deposited in the Commercial Bank
of Suffolk, leaving a balance of \$1333.00 in
said Bank by and to Comm's Credit, For all
of which transactions your Commis-
sioner herewith files with this his
report his proper vouchers, and
makes the above his report. Signed
Nathl. Riddick - Commissioner

Emm. Riddick's
Report of Sale
Oct. 1880.

J. Nath Riddick of the Town of Suffolk State
of Virginia, do hereby certify that I was well &
intimately acquainted with Mrs Mary A Webb,
whose Will dated October 23th 1866, is duly re-
corded in the Clerk's Office of Hansemond County.
and I further certify that I know her wish
was to benefit her daughter Mrs Bray & Upshaw
by conveying on her during her life time, the Enjoyment
of all her worldly goods, free from the debts
of Thos. E. Upshaw, her husband.

I further certify that the House and Lot, men-
tioned in the Will aforesaid are both in very
bad condition, requiring repairs which will
cost several hundred dollars to prevent their
going to destruction; that without such
repairs, in a few years at most, the rent
of the House & Lot will scarcely equal the
taxes to be paid - without far reducing its asses-
sed value. I further certify that since the
death of Mrs Webb the premises have been
rented out, and that after paying taxes
& other ~~necessary~~ incidental Expenses,
Mrs Upshaw has not realized (I think)
2 per cent per annum on the assessed value
of the property. That Mrs Upshaw is poor &
not being able to make the needed repairs, the
object of her Mother in benefiting her daughter
if not wholly, will be nearly frustrated.
That Mrs Upshaw, with her husband & children

now resides at Bolivar, Tennessee, & that
I am assured by them that they have
no idea of ever again living in Virginia:
Given under my hand this October
13th 1875

Nath. Riddick

J. R. S. Elam of the Town of Suffolk, do
hereby certify that I live in the rented House
of M^{rs} Mary D. Upshaw; that I resided at
the same place during the year 1874; that
the House is in bad condition, needing repairs -
that the lot also is in bad condition needing
repairs - that in my judgment the work ~~expended~~
to prevent the property going to destruction will
amount to several hundred dollars.

Given under my hand this Oct. 13. 1875

J. R. S. Elam

State of Virginia

Hammond Co. to-wit:

This day personally appeared before me Alwithers
a Commissioner In Chancery for the County of
Hammond Nathl. Riddick and J. R. Elam
the parties whose names are signed to the writing
above and made oath that the ~~proceedings~~ therein
contained are true to the best of their knowl-
edge and belief. Given under my hand this the
13th day Oct. 1875

Alwithers
Comr. In Chcy &c

State of Tennessee } This day personally appeared
Hardeman County } E. P. McNeal, Leonidas Bills & R. H. Wood
before me W. C. Donow the un-
designated Clerk & Master of the County Court
of Hardeman County Tennessee and made oath
in due form of law that they and each
of them the said E. P. McNeal, L. Bills and R. H. Wood
are well acquainted with the House & Lot in Bohrian
Tennessee sold by J. W. Nelson wife to M^{rs} Mary D
Upshaw by Deed of 14th July 1880 known as Lots
one and two (1 & 2) Block twenty two (22) in the
Polk addition to said town excluding a certain
portion thereof described in the conveyance =
Affiants know the value of said property and are
satisfied the sum of Fourteen Hundred
and twenty five ^(\$1425⁰⁰) Dollars, the Consider-
ation for the purchase is a low price for
the same = The said property sold
here in open market at public outcry some
years since for over Thirty Six Hundred
Dollars (\$3600⁰⁰) = Affiants affirm that
it is abundantly worth at this time the
sum of Fourteen Hundred and
twenty five Dollars = and that in
their opinion it is manifestly to the

intent and advantage of said Mary
D. Upham & her children to have
such sum invested therein for them
as a Home -

The said Affiants are entirely disinterested
not of kin or in any way con-
nected with the parties concerned

Sworn to & subscribed
before me this July 10 1881

W. L. Donnan (Scrib.)

E. J. McNeal (Scrib.)

Samuel Pillsbury

H. H. Wood

Thomas E. Upshaw &

Mary D. his wife

vs. }

Peter B. Prentiss, guardian ad litem for
Mary T. Upshaw et al. infants.

This cause came on this day
to be heard upon the original bill
& exhibits filed, on the answer of
Peter B. Prentiss guardian ad litem
for Mary T. Upshaw et al. infants,
and was argued by counsel. And
the court doth adjudge order and decree
That one of the Commissioners of this
Court proceed to ascertain the
fee simple and annual value
of the land in the proceedings men-
tioned, and also as to whether the
said property is increasing or di-
minishing in value, the present
condition of said property and
whether or not the infants defen-
dants will suffer from a sale
of the said property and an invest-
ment of the funds in United States
Stocks, and make report to
Court.

Thomas E. Upshaw
Mary D. ⁺ his wife
vs ~~vs~~

}
Peter B. Hunt's guardian
ad litem for Mary T. Up-
shaw et als infants.

Decree
To be entered

Geo. T. Blod,
Clerk

Thomas E. Uphaw &

Mary D. his wife

vs #

Peter B. Dent's guardian ad litem

for Mary T. Uphaw et als infants.

This cause came on again
to be heard upon papers ~~formerly~~ read and
report of Commissioner ^{Dent's} depositions, and
was argued by counsel, And the Court
doth adjudge order and decree that the
premises in the proceedings mentioned
after being duly advertised in some
news-paper published in the town of
Yaffolk, be sold at public auction at
the Court House door with highest bidder
and that Nathaniel Reddick is hereby
appointed special Commissioner for
that purpose, who however shall before
entering upon the discharge of his du-
ties as such ~~execute~~ execute a bond condi-
tioned according to law in a penalty
of two thousand five hundred dollars
that the said property shall be sold
for cash as to so much as may be
necessary to pay the costs & expenses
of this suit, and the deferred payments
upon such credit as the said Commis-
sioner shall think best, he taking bond
for the said deferred payments with-
in the shortest exemption and
with good security, and file the same
with the papers in this cause, and
make report to Court,

Thomas E. Upshaw
Mary D. his wife

45 5

Peter B. Prentiss
guardian ad litem
for Mary E. Upshaw
et als. infants

Dr. cr
To be entered

Yours truly
P. B. Prentiss

Entered
O.B. No. 1. p. 311-

Thomas E. Uphaw et ux

v { In Chcy.

Peter B. Prentiss Esq. ad litem for Mary
T. Uphaw et als infants

This cause came on
this day to be again heard upon the
papers formerly read and upon
the report of Judge. Riddick Special
Comm: and was argued by Counsel
On consideration whereof the Court
doth adjudge order and decree
that the said report be filed with
the papers in the Cause together
with the vouchers & Certificate
of the Civil Bank in support
of the same. and that no exceptions
being taken to the said report, that
the same be confirmed.
And the Court doth further adjudge
order and decree that Robt. R.
Prentiss one of the Commissioners
of this Court, proceed to ascertain
& report, whether the lands proposed
to be purchased in lieu of those
sold, is a proper and good in-
vestment the value of the lands
so to be purchased, and partic-
ularly to report whether the

the investment will be an advance-
 Tagians one for the said Mary D.
 Upshaw and the infants in
 the proceedings mentioned, —
 The Court doth further adjudge
 order and decree that Nathl R. I.
 dick Spl. Comm. make such ar-
 rangements as he can looking
 to the payment of interest on the
 amount now in the Civil Bank,
 which said interest if so secured
 shall pass to and form a part
 of the amount now in bank and
 to the credit of this suit.

wife
 J. E. Upshaw
 vs. J. L. Chey
 Peter B. Smith
 App. ad litem &c.

Decree the
 entered
 Oct 1880

Geo. B. Smith

Entered O. B. Vol. -
 P-496

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Thomas E. Upshaw et ux.

vs & In Chancery:

Peter B. Prentiss Com: ad litem for Mary J. Upshaw
et alio infans

This cause came on this day to be again heard upon the papers formerly read and upon the report of Robert R. Prentiss Com: In Chancery, and was argued by Counsel.

On consideration whereof the Court doth adjudge order and decree that the said report of Robert R. Prentiss Commissioner In Chancery be filed with the papers in this Cause, and that no exceptions being taken to the said report that the same be confirmed. And the Court doth further adjudge order and decree that Nathaniel Riddick Special Commissioner pay over to Albert S. McNeal of Bolivar Tenn: the Attorney in fact of Mary J. Upshaw One Thousand Three Hundred and thirty Three Dollars with the accrued interest on the same, taking his receipt therefor and filing the same with the papers in this Cause. And that the money so paid over be invested in the house and lot in the town of Bolivar mentioned in these proceedings, and that a deed similar

J. E. Upshaw & Co.

vs. J. W. Chen

Peter B. Drenth & Co.

—

De en te be ent
April Term 1884.

Geot. B. Drenth

Entered O. B. No. 1

p. 572

(Chen)

to the one filed in Commissioner Prout's report be taken for the same by the said Mary D. Upshaw or her attorney, And thus remaining nothing further to be done in this cause, it is therefore ordered that the same be dismissed from the docket.

In the Circuit Court of Hancock County:

The joint and separate answer of Mary J. Julia M. Richard W. Thomas E and Juder S. Upham, infants, by Peter B. Prentiss, their guardian ad litem, to a Bill in Chancery exhibited against them, in the said Court, by Thomas E. Upham and Mary D. his wife

These Respondents say, that the facts and statements, set forth in said Bill, are, so far as they know or believe, true; but, being infants, under the age of twenty-one years, and ignorant of their rights, they submit the same to the Court, and pray, that no order or decree, may be made, in the premises, inconsistent with their rights

(Signed)

Peter B. Prentiss.

Gdn: ad litem

Thomas E. Upshaw &
wife

$\frac{4}{25}$ { Answer of Defendants
(all infants)

Mary J. Upshaw & al:
infants.

I, Mary A. Webb, of the Town of Suffolk, County of Nansemond,
and State of Virginia, do make, publish and declare this paper-
writing to be my last will and Testament, in manner and
form following: (That is to say)

First - I desire all my just debts and funeral charges
and expenses to be paid as soon after my decease, as practicable.

Second - I give, devise and bequeath unto my daughter, Mary
D. Upshaw, wife of Thomas E. Upshaw, for and during
the term of her natural life, all my property of every kind,
sort and description, whether real, personal or mixed, and among
which I here mention my House and Lot, in the Town of
Suffolk, and on which I reside, together with every thing con-
tained therein: Also all my interest of every Character, whether
in possession or expectancy, in the Albemarle Swamp Company,
located in the State of North Carolina: to have, hold
and enjoy the same, unto my said daughter for the term
aforesaid, for her own use, livelihood and support, free
and clear of and from all debts and contracts of
every and any description, whatever, of her said husband
Thomas E. Upshaw, now existing, or which may at any
time hereafter exist; it being my express intent and
meaning to, give all my property to my said daughter,
for and during her natural life, as though she were
a feme-sole, entirely free, ^{and clear} of and from any marital
rights whatever, of her said husband; and, after the death
of my said daughter, all of said property is to go, pass
and descend to her Children living at her death, and their
heirs and assigns forever: provided however, that if any

one or more of such children die intestate, under age and without issue, such portion or portions to go to the other surviving child or children of my said daughter to the exclusion of their father, the said Thomas E. Upham.

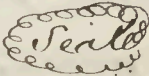
In Witness Whereof, I, the said Mary A. Webb, have hereunto set my hand and affixed my seal, this 25th day of October, AD, 1866.

Signed, Sealed, published and declared, by the Testatrix, Mary A. Webb, as and for her Last Will and Testament, in the presence of us, who, in her presence, at her request, and in the presence of each other, have hereunto subscribed our names as witnesses.

Peter B. Pentis

R. H. Riddick Jr.

C. H. Causey

Mary A. Webb. 

Virginia, In the County Court of Nauseland, February 10th 1873.

The Last will and Testament of Mary A. Webb deceased, was this day produced in open Court, proved by the oaths of Peter B. Pentis and C. H. Causey, two of the subscribing witnesses thereto and ordered to be recorded. And on Motion of Peter B. Pentis, who made oath thereto

and entered into a bond in the penalty of Five Hundred Dollars, with C. H. Cansey (who justified as to his sufficiency) his security, which bond being acknowledged by the obligors therein is ordered to be recorded; Certificate is granted him for obtaining Letters of Administration with the Will annexed of said Mary A. Webb, in due form.

Teste,

W. E. Schoon, Clerk

a Copy:

Teste,

Peter B. Prentiss, Clerk

Nausemen & Co: Co:

Clerk's Office

September 18th 1873-

Xand

Mary A. Webb's
Will
(a copy)

"B"

For, A. C. Wilkerson, Esq.
Atto: at Law

\$
fee for
recd. clerk

To the Honorable Judge of the Circuit Court
of the First judicial Circuit:

Humbly complaining sheweth
unto your Honor your petitioners, Thos.
E. Upshaw and Mary D. Upshaw his
wife;

That in the ^{year} 1873, Mary A. Webb the mother
of Mrs Mary D. Upshaw departed this life
leaving a will a copy of which is here
with filed and marked "B." and prayed to
be taken as a part of this petition, in
which will she, the said Mary A. Webb, devised
to her daughter one of your petitioners and
the wife of Thomas E. Upshaw, for and during
the term of her natural life a house and
lot in the town of Suffolk and on which
she then resided, situate on the west
side of the Main Street of said town,
which house and lot was after the death
of Mary D. Upshaw to pass and descend
to her children living at her death, and
their heirs and assigns forever. Your
petitioners therefore respectfully represent
that the houses upon the said lot are
much out of repair, and are remote from
the place of residence of your petitioners
that the property is constantly decreasing
in value owing to the inability of your

petitioners to repair the same. That it rents
for only one hundred and fifty-dollars in
its present condition and that if not re-
paired soon no tenant can be gotten at
all, thereby defeating the purpose of the
testatrix, in this that it will not benefit
Mary D. Upshaw during her life and
the remainder will be so impaired in
value as to deprive the children of
your petitioners of any benefit from
the said property, that the rents are
often uncertain of collection that it
is an expense to collect them through
an agent, and your petitioners respectfully
ask that an order be made directing
Nathl. Ridcliff to sell the house and lot
mentioned after giving bond in a penal-
ty of at least double the value of the property
and that he the said Nathl. Ridcliff be
directed to collect the money obtained for
the said property and invest the same
after paying expenses of sale in
United States Bonds, and collect the in-
terest on said Bonds & pay it over to
Mary D. Upshaw during her life and
at her death to divide the principal
equally between her children that may
then be living as directed by the will

herewith filed. Burs petitioners believe
and so state that all parties in inter-
est will be benefitted by the said sale
and investment; and would further state
that they have five (5) children, that they
are poor, and in urgent need of all the
revenue that can be derived from
the said property, and humbly petition
that, the order of sale may be made -
Sept. 22nd 1878.

Signed - J. E. Upshaw
Mary D. Upshaw

State of Tennessee } Personally appeared before me
Harrison County } J. Pontreux Jr. Clerk & Master of
the Chancery Court at Polivar Tennes-
see J. E. Upshaw one of the petitioners
in the foregoing & made oath in due form of
law that the facts stated in the foregoing pe-
tition are true to the best of his knowledge
information opinion & belief

Given to & subscribed } J. E. Upshaw
Before me Oct 4. 1875 }
J. Pontreux Jr.
Clerk & Master

Charges Paid

Petition of Mary D.
and Thos. E. Upham.
To Col. Ch. Mann. Co.

To The Honorable George Blaw Judge of the
First Judicial Circuit, In the Circuit
Court for the County of Hansemond.

Humbly Complaining, sheweth unto
your honor your orators Thomas E. Up-
shaw and Mary D. Upshaw his wife.
That in the year 1873 Mary A. Webb the
mother of Mary D. Upshaw departed this
life leaving a will, a copy of which
is herewith filed and marked "B" and pray-
ed to be taken as a part of this bill, in
which last will, she the said Mary A.
Webb. devised to her daughter (an only
child) one of your orators and the wife
of Thos E. Upshaw, "for and during the
term of her natural life a house and
lot in the Town of Suffolk and on which
she then resided situated on the west
side of Main Street in the said Town, which
house and lot was after the death of Mary
D. Upshaw to pass and descend to her
children living at and after her death
and their heirs and assigns forever".
Your orators therefore represent &
say, that the houses upon the said lot
are much out of repair, and are remote
from the place of residence of your orators
that the property is constantly decreasing
in value, owing to the inability of your

orators to repair the same, that it rents
for only one-hundred-and-fifty-dollars
in its present condition and that if
not repaired soon no tenant can be
gotten at all, that your orators reside
in Tennessee and never expect to make
Suffolk their home again, that the rents
arising or that should arise from the prop-
erty are very small and difficult and
inconvenient to collect, and attended with
considerable expense, that the whole pur-
pose and object of the Testatrix Mary A.
Webb was to provide for the Comfort of
her daughter as long as she lived and
at her death for her grand-children, as
far as she was able, that unless the
said property is sold that the intention
of the Testatrix will be entirely defeated, for
unless sold the property herein mentioned
will not benefit Mary D. Upshaw during
her life, and the remainder will be so
impaired in value, as to deprive the chil-
dren of Mrs Upshaw of any benefit from
it.

To the end therefore that justice may be done
in the premises your orators pray that
Peter B. Drutis guardian ad litem for Mary
J. Julia M. Richard W. Thomas E. and
Ludor S. Upshaw infants under the age of

twenty-one years may be made party de-
 fendent to this bill and that he be required
 to answer the same. That Nathl. Riddick
 be appointed Special Commissioner to sell
 the house and lot mentioned in the premises
 on such ^{terms} as to him may seem best. That after pay-
 ing the costs and expenses of sale &
 this debt, that the remainder of the
 purchase money be invested in
 United States bonds, that he the said
 Nathl. Riddick shall pay or cause to be
 paid the interest arising from said
 bonds during her life to Mary D. Upham
~~during her life~~ as her separate property
 free from the control of her said hus-
 band & his debts. and that after the
 death of the said Mary D. Upham
 the principal shall be divided equally
 between her children then living or
 their heirs, that the said Com. shall give
 bond for double the value of the property
 before entering upon his duties as such
 Commissioner, and that such other
 and further relief may be granted
 as is consistent with equity and
 good conscience, & your orators
 will ever pray &c

Attest p. 9.

Thos E. Upshaw et ux.

vs. S

S

Peter B. Drentis guardian
ad litem for Mary J.

Julia M. Richard W.

Thomas E. and Ludov S.

Upshaw infants. Defts.

To ^{Ign} ~~Ign~~ Rules 1876

(Bill)

For Bond 11. 1876

~~Wm. Upshaw et ux.~~
~~vs. S~~
~~S~~
~~Peter B. Drentis guardian~~
~~ad litem for Mary J.~~
~~Julia M. Richard W.~~
~~Thomas E. and Ludov S.~~
~~Upshaw infants. Defts.~~
~~To Ign Rules 1876~~

Thos. E. Upham & wife

vs J. Chy. Notes

Peter B. Prentiss, guardian ad litem for

Mary J. Upham & al: infants

1875. Octo 13th: Peter B. Prentiss, apptd by the Court guardian ad litem

1876. Jan: 1st: Sum. in Chy: issued to Jan: Rules, 1876.

" " 3rd: Bill filed

" " " Answer of Defendants, by Peter B. Prentiss, their guardian ad litem, filed, genl: repl: & Cause set for hearing, on Mo: of Platt's Counsel.

" April 12th: Decree for Sale.

" Octo: 12th: Continued

1877. Apr: 14th: Continued

" Octo: 15th: Continued

1878. Apr: 15th: Continued

" Octo: 14th: Continued

1879. Apr: 12th: Continued

" Octo: 14th: Continued

1880. Apr: 14th: Continued

" May: 6th: Commrs: Bond executed & filed

" Octo: 13th: Decree Confirming Sale &

1881. Apr: 11th: Decree to pay money & removing cause from the docket

Chry: Notes

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