

1908-003

Nansemond Co (Suffolk)

Chancery Causes: Gracie G McClenny, infant vs Robert J McClenny et al

Gay, Matthews, Whitley, Edwards

Gracie G. McCluney who was by
Robert J. McCluney her next friend

^{4.}
Robert J. McCluney, Nannie L.
McCluney and George J. McCluney her
husbands.

Sumⁿ. in chancery to 1st April Rule Ct Ch.
1907

W. S. Moore & Corbitt J. J.

G M M Cleary
vs

R J M Cleary & Co

Papers in hand over

M Lerner & Co

Cape R. 15th Mar

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Robert J. McCluney, Nannie L. McCluney and George J. McCluney her husband*

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* ~~March~~ ^{April} Monday in *March* 1907, to answer

a Bill in Chancery, exhibited against *them*

in the said Court by *Gracie G. McCluney who sues by Robert J. McCluney her next friend*

and have then and there this summons.

Witness, *R. R. Smith* A. P. GOMER, Clerk of our said Court, at his office, this *16th* ~~18th~~ day of

March ~~April~~, 1907, in the *1914th* ~~1913th~~ year of the Commonwealth.

A copy—Teste:

Teste:

CLERK.

CLERK.

R. R. Smith
A. P. Gomer J.C.

p. q.

Gracie G. McElmury
Who sues by se

vs.

In Chancery.

Robert J. McElmury father

1907

~~Subscribed~~ Rules.

~~Third first~~ Monday.
~~March~~

Nansemond Circuit Court.

Process Book No.-----

Page-----

The acknowledgment due by the defendant under
the within summons April 1st 1907 -
Gracie G. McElmury
Robert J. McElmury
D. J. McElmury
D. J. McElmury

Know All Men by These Presents, That we Robert J. McClenney
and The United States Fidelity and Guaranty Company
his Surety by Richard L. Woodward Attorney in fact

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of
Four Thousand Five Hundred DOLLARS,

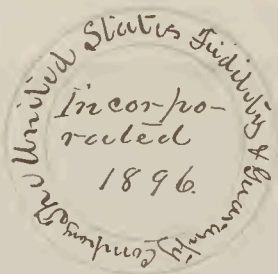
to the payment whereof, well and truly to be made to the Commonwealth of Virginia, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

And we waive the benefit of our exemption as to this obligation, and also waive any claim or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of the office, post or trust herein mentioned, with coupons detached from bonds of said State.

~~Sealed with our seal, and dated this~~ day of ~~in the year~~
~~of our Lord one thousand nine hundred and~~, and in the ~~year of~~
~~the Commonwealth.~~

In Testimony Whereof, the said Robert J. McClenney has
hereto set his hand and seal, and the said The United States Fidelity
& Guaranty Company has caused its corporate name to be hereto signed, and its
corporate seal to be hereto affixed, this 20th day of April in the year of our
Lord, one thousand nine hundred and Seven, and in the 131st year of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That ~~if the above bound~~ ^{whereas by}
a decree of the Circuit Court for the County of Nansemond
pronounced this day in the Chancery cause pending in
said Court between Gracie & McClenney vs. others Complain-
ants and Robert J. McClenney and others Defendants it was
decree that the offer of \$3,400.00 made by W. G. Saunders for
the undivided one half interest of Gracie & McClenney in
the real estate in the bill and proceedings mentioned be
accepted and that Robert J. McClenney is appointed as
Special Commissioner to accept & receipt for said amount
and to execute to the purchaser a good and sufficient
deed with Special Warranty for said interest. Now therefore
if the said Robert J. McClenney as Commissioner aforesaid
shall faithfully discharge and perform his duties as Commis-
sioner aforesaid under this decree and all other decrees he
may be required to execute in said cause then the above ob-
ligation to be void, otherwise to remain in full force and virtue.



Robert J. McClenney (SEAL)
The United States (SEAL)
Fidelity and (SEAL)
Guaranty Company (SEAL)
by Richard L. Woodward (SEAL)
its Attorney in fact.

VIRGINIA:

In the Clerk's Office of the Circuit Court of Nansemond County, on the 20th day
of April, 1907:

The above bond was executed and acknowledged before me by the obligors to the same
(the security ^{being approved} justifying), and ordered to be recorded.

Teste:

C. J. Gomer S.C.

Robert J. M. Clenny
To } Spec. Com. Bond
The Commonwealth.

1907
April 20

Recorded in Official
Bond Book No 2
Page 24.

A copy.

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Gracie G. McClenny, who sues by, etc.

v.

SPECIAL COMRS. REPORT.

Robert J. McClenny et als.

Your Commissioner, appointed by decree of the Circuit Court of Nansemond County entered in the above named cause on the 20th day of April, 1907, to collect from W. G. Saunders the sum of \$3400.00 and execute to him a deed, with special warranty, for the interest of Gracie G. McClenny in and to the George M. Gay place, including also a 15-acre parcel as shown in the papers of the cause, begs to report that he has collected the same; and the said Gracie G. McClenny, having on the 23d day of August, 1907, arrived at the age of 21 years, that he has paid out the said funds as follows:

By amount of purchase price	\$3400.00
By interest collected on portion of same not paid promptly	17.00
To commissions of Special Comr.	\$ 77.34
To paid to Gracie G. McClenny as per voucher attached	3339.66
	\$3417.00 \$3417.00

Respectfully submitted,

Jan 24th, 1908.

Robert J. McClenny

Special Commissioner.

Received, August 23d, 1907, of Robert J. McClenny, Special Commissioner in the Chancery cause of Gracie G. McClenny, who sues by Robert J. McClenny, her next friend, v. Robert J. McClenny and others, Thirty Three Hundred, Thirty-nine & 66/100 Dollars (\$3339.66), same being balance shown to be in his hands as such Special Commissioner from the sale of my real estate sold under and by virtue of the Chancery proceedings above described, the total purchase price being \$3400. with \$17.00 interest. I certify that on the 23d day of August, 1907, I arrived at the age of 21 years.

Given under my hand and seal this 24th day of January, 1908.

Gracie G. McClenny (SEAL)

Grace G. M. Clenny Esq.

v. } Spel. Comm. Report

Robert J. M. Clenny

Filed Jan 25 1908.

J. F. L.

VIRGINIA IN VACATION IN THE CIRCUIT COURT OF NANSE-
MOND COUNTY, APRIL 20th, 1907.

Gracie G. McClenny, who sues by Robert J.
McClenny her next friend -----Plaintiff.

vs.

Robert J. McClenny, Nannie L. McClenny and
George T. McClenny, her husband,-----Defendants.

This day this cause, which has by consent in writing of all parties been regularly submitted to the Judge of this Court for such decisions and decrees therein in vacation as might be made in term, came on to be heard upon sworn bill of complainant filed at rules, bill taken for confessed as to all of the defendants; upon the written offer of W. G. Saunders to purchase the property at \$3,400.00 and upon the depositions of Gracie G. McClenny, Robert J. McClenny, C. H. Edwards, T. D. Matthews and John J. Whitley, duly taken, subscribed ~~xx~~ and sworn to in pursuance of reasonable notice to all parties in interest, and was argued by counsel.

On consideration whereof, and it appearing from the evidence filed with the papers of the cause in support of plaintiff's bill, that the interests of Gracie G. McClenny will be promoted, and that the rights of no person would be violated, by the sale of the real-estate in the bill and proceedings mentioned, and the acceptance of the offer made by W. G. Saunders of \$3,400.00 for the undivided ^{one-half} interest of the said Gracie G. McClenny in the tract of land of 225 acres, more or less, and described in the bill and proceedings, and known as the George M. Gay Place and also a 15 acre tract adjoining more particularly described in the papers of the cause, and it further appearing that all parties in interest are before the Court, the Court doth adjudge, order and decree that the said

offer of \$3,400.00 for the property aforesaid be accepted and approved, and Robert J. McClenny, who is hereby appointed a Special Commissioner for the purpose, is directed, upon receipt of the purchase money of \$3,400.00, to execute to the purchaser, W. G. Saunders, or such persons as he may designate, a good and valid deed with special warranty for the undivided one half interest in the 225 acre tract of land and the 15 acre tract adjoining, in which deed the said Gracie G. McClenny and Robert J. McClenny, her husband, shall join.

But before the said Special Commissioner shall proceed to act hereunder, he shall enter into bond before the Clerk of this Court in the penalty of \$4,500.00, conditioned for the faithful performance of this, or any future decree that may be entered herein, and with security to be approved by the said Clerk, and said Special Commissioner will report to Court.

All of which is hereby certified to the Clerk of the Circuit Court of Nansemond County to be entered by him in his Chancery Order Book.

Robert J. McClenny

McLunny gave
v. 1st Deeree
McLunny sale

Entered April 20, 1909

Robert R. Huntis

Entered in Chancery
Order Book No 4
Page 139.

We, the undersigned parties, plaintiffs and defendants in the Chancery Cause of Gracie G. McClenny who sues by Robert J. McClenny, her next friend, against Robert J. McClenny, Nannie L. McClenny and George T. McClenny, her husband, pending in the Circuit Court of Nansemond County, do hereby consent that the papers of this cause may be submitted to the Judge of the Circuit Court of Nansemond County in vacation, for such decisions and decrees therein to be entered in vacation as might be made in term.

Given under our hands and seals this 1st day of April 1907.

Gracie G. McClenny (SEAL)

R. J. McClenny (SEAL)

N. L. McClenny (SEAL)

G. T. McClenny (SEAL)

Gracie G. McClenny
By *R. J. McClenny*
her next friend.

Vacation Home

IN THE CIRCUIT COURT OF NANSSEMOND COUNTY IN THE
CHANCERY CAUSE OF

Gracie G. McClenny, who sues by Robert J. McClenny, her
next friend,

v.

Robert J. McClenny, Nannie L. McClenny, and George T.
McClenny, her husband.

The depositions of Gracie G. McClenny and others were
taken before me, F. W. Lloyd, a Notary Public, in and for the
County of Nanssemond, in the State of Virginia, to be read in
evidence in the said Chancery cause above herein described,
taken in pursuance of notice to all parties in interest, as
will appear from a copy of same filed herewith, and taken at
the time and place as set forth in said notice.

Present:

J. L. McLenore, Counsel for Complainant.

April 18, 1907.

To Robert J. McClenny, Nannie L. McClenny and George T. McClenny.

Take notice that we shall, on the 18th day of April, 1907, 189 ,
at Suffolk, Virginia, in the office of McLimore & Corbitt ,
between the hours of 10 A. M. and 6 P. M., on that day, proceed to take the depositions
of Gracie G. McClenny and others, to be read in evidence in my behalf,
in a certain Chancery Cause depending in the Circuit court for the
County of Nansemond wherein you are defendants
and ; and if, from any cause, the taking of the said depositions
be not commenced on that day, or, if commenced, be not concluded on that day, the taking of the same will
be adjourned and continued from day to day, or from time to time, at the same place and between the same
hours, until the same shall be completed.

Respectfully yours,

April 10th, 1907.

Gracie G. McClenny, by
Robert J. McClenny, her husband,
by McLimore & Corbitt Attys.

We acknowledge due legal and sufficient service of the written notice April 10th, 1907.

G. J. McClenny
Nannie L. McClenny
R. J. McClenny

Form No. 404.

NOTICE TO TAKE
DEPOSITIONS.

v.s.

p. q.

March 25, 1907.

To Gracie G. McCleenny:

I hereby agree to pay you the sum of
Thirty-four Hundred 00/100 Dollars, (\$3,400.00), for your
one-half interest in the George M. Gay place and the 15 acres
adjoining, same to be paid as soon as a deed for the pro-
perty can be made.

Yours truly,

W. G. Saunders
by J. L. McLeary
his atty

McHenry by re
✓ 3 copies of
W. G. Saunders
McHenry vats.

Mrs. Gracie G. McClenny being duly sworn deposes and says as follows:

Q. What is your age, residence and relation to this suit?

A. Twenty years old, reside near Buckhorn, and am one of the defendants in the suit and the owner of the property under consideration, and to sell which this suit was brought.

Q. Do you think it will be to your interest to have the Court approve of the offer made for your one-half interest in the farm, and the fifteen (15) acres additional at \$3,400.00?

A. Yes. I think so for the following reasons:

1. I think the price is a fair one for the property.

2. The annual revenue which I have been receiving for same is not in keeping with what it should ^{be,} the value of the farm considered, and I am satisfied, indeed, I already have in mind an investment where the same amount of money will yield me a very much larger annual income.

3. Again the ^{property} as at present owned, being undivided, held jointly by me and Mr. W. G. Saunders is in an undesirable condition, I cannot improve it, nor can he and it is also difficult to rent the property and handle it to the best advantage under these conditions.

These are the principal reasons why I have thought it wise to sell the property at the price mentioned.

Q. Is there any other reason occurring to you that you have not mentioned, and is there any reason that you know of why it would not be desirable for the Court to confirm this sale to Mr. W. G. Saunders for the sum of \$3,400.00?

A. I know of no other reason, and see no reason why the sale should not be confirmed at this price.

And further this deponent saith not.

Gracie Gay McClenny

R. J. McCLENNY, being duly sworn, deposes and says:

Q. State your name, age, residence and your relation to the parties to the suit?

A. R. J. McClenney, 25 years old, reside near Buckhorn, and am husband of Gracie G. McClenney.

Q. You have heard the questions and answers of your wife in her deposition filed herewith in reference to the sale to W. G. Saunders of her half-interest in the George M. Gay farm and the fifteen-acre tract as described in the bill. What do you think of sale?

A. I concur with her in the answers which she has given, and believe it would be to her interest for the Court to approve of the sale of the property at \$3400.00, for the reasons as given by her in her depositions.

And further this deponent saith not.

R. J. McClenney

T. D. Matthews, being duly sworn, deposes and says:

Q. State your name, age, residence, occupation, and if you know the parties to this suit?

A. T. D. Matthews, age 47, Isle of Wight County, within a mile of the property in question, and I know the parties to this suit.

Q. How long have you been living in this neighborhood?

A. All my life.

Q. Are you familiar with the "George M. Gay Place?"

A. Yes, sir, as I am with any of the farms in the neighborhood.

Q. What would you think was a fair price, cash, for the entire farm?

A. I should think \$6000.00.

Q. What would you consider a fair cash value for the interest of Mrs. Grace G. McClenney in the property which she is selling, or endeavoring to sell, to W. G. Saunders?

A. I should think \$3400.00 was a good price for the land Saunders is buying. Saunders told me he had bought the property for \$3400.00 and I told him then that I did not think he would ever get his money back, as I had gotten it into my head that the entire property was not worth over \$6000.00.

Q. Is the condition of the farm improving or not?

A. I should not think it was improving. It don't look to me as though they had improved the farm land any, and the buildings are worse off than they were several years ago. The dwelling is only ordinary, and the outbuildings are very bad off and coming down all the time. There have been no repairs for 10 or 15 years to the buildings. The fences are rail, and in ordinary condition.

Q. Do you know for about what the whole farm is renting for?

A. It seems to me somewhere between \$250.00 and \$275.00, but

T. D. Matthews.

this was in April and included the crops which had been seeded and were in cultivation at this time.

Q. Do you think it would be to the interest of the infant, Grace G. McClenney, for the Court to allow her to sell her interest in this property for \$3400.00?

A. I think it is a good price, and I would think it was to her advantage. If it were mine, I would rather have that money out of it than to have a half interest in it.

And further this deponent saith not.

T. D. Matthews

John J. Whitley, being duly sworn, deposes and says:

Q. State, your name, age, residence, occupation, and if you know the parties to this suit?

A. John J. Whitley, age 42, reside in Nansemond County, am a farmer, and know the parties to the suit and the land in the proceedings mentioned.

Q. How far do you live from the land?

A. On the adjoining farm, about one mile from the land.

Q. I have read description of the property in the bill and proceedings, which includes the 225 acres tract, known as the "Geo. M. Gay Place," and which is owned jointly by the defendant, Grace G. McClenney, and W. G. Saunders, and the 15 acre tract adjoining. What would you consider this property worth, I mean the interest of Mrs. McClenney?

A. I told Will Saunders before he bought it that I thought \$5000.00 for the whole property was a good price for it. I offered him that for it. I think it well sold.

Q. When you say \$5000.00 for the property, do you include the 15-acre piece or not?

A. Yes, sir, I was including the whole thing. I told him ~~\$4500.00~~ that \$4500.00 for the dower, and \$500.00 for the little corner piece cut off from the road, was a good price.

Q. When you speak of the dower, do I understand that you speak of the 225 acre tract?

A. Yes, sir.

Q. What is the condition of this farm at this time?

A. Well, it is in poor shape, the buildings are all going to rack. The dwelling is old and worn, and I expect rotten. The porches are all rotten. The land is steadily going back, getting poorer.

Q. Do you not think it is to the interest of Grace G. McClenney for the Court to approve of the sale of her interest

John J. Whitley.

in the property for \$3400.00?

A. Yes, sir, I do, and think it a big price for it.

Q. For what is the property renting as a whole, if you know?

A. I understood it was renting last year for \$190.00, and the work that had been done on the farm up to the time it was rented, was added to this rental price. I would consider a fair or good rent for the property \$250.00 a year.

Q. In your judgment, could this land be conveniently partitioned in kind between the parties in interest?

A. I don't think it could without injuring the property.

And further this deponent saith not.

John J. Whitley

C. H. Edwards, being duly sworn, deposes and says:

Q. State your name, age, residence, occupation, and if you know the parties to this suit?

A. C. H. Edwards, age 47, live near Everetts, am a farmer, and I know the parties to this suit.

Q. Are you familiar with the tract of land mentioned in the complainant's bill in this cause, known as the "George Gay Place," a description of which I have read you?

A. I ought to be; I have been over it several times, and live on the opposite side of the road.

Q. How long have you known this property?

A. Thirty years.

Q. The 225 acres tract is now owned jointly by W. G. Saunders and Mrs. Grace G. McClenney. Under the circumstances, and in its present condition, what would you consider a fair cash value for the interest of Mrs. McClenney in this property, and the 15-acre tract?

A. I should not think it was worth much as he paid for it. \$3000.00, I would think, would be a fair price for it.

Q. What is the condition of the farm at this time as respects the buildings, etc?

A. The buildings are out of repair.

Q. Has the farm been improving or getting worse off for the past four or five years?

A. Worse off; getting poor and fences not kept up like they ought to have been.

Q. Do you know about how much the farm is renting for now?

A. It rented for \$270.00 last year, I think. That includes the whole farm, and this rent started in April and included all work that had been done on the farm up to that time.

Q. What would you say of \$3400.00 as a price for the interest of Mrs. McClenney?

A. I would say it was a plenty.

C. H. Edwards.

Q. Would it or not, in your judgment, be to her interest to sell the property for \$3400.00 rather than continue to hold her half interest in the farm?

A. I think it would be best for her interest to sell her half.

And further this deponent saith not.

C. H. Edwards

State of Virginia, To-wit:
County of Nausemond.

I, J. H. Seay, a Notary Public for the County of Nausemond, State of Virginia, do hereby certify that the foregoing depositions were duly taken, reduced to writing, and signed by the witnesses before me, at the place and time therein mentioned, pursuant to the annexed notice.

In witness whereof I have herewith set my hand this 18th day of April, 1907.

J. H. Seay
Notary Public.

My commission
expires
March 19, 1910

Gracie G. McClenny, ^{by}~~for~~, etc.,

v.

DECREE.

Robert J. McClenny, et als.

This day this cause came on again to be heard upon the papers formerly read, and upon the report of Robert J. McClenny, Special Commissioner, filed Jan. ^{25th}~~24~~, 1908, reporting disbursement of funds coming into his hands in accordance with the previous decree herein, which report is supported by proper vouchers, and to which no exceptions have been taken, and was argued by counsel.

On consideration whereof, the Court doth adjudge, order and decree that the said report be and the same is hereby confirmed; and the deed as reported made by the said Special Commissioner made firm and binding upon the parties.

And nothing further remaining to be done in the case, the same is ordered to be removed from the docket.

Grace G. McClenney by att

✓ } Decees

RJ McClenney & al

Enter this decree

Jan 25. 1908. J. F. L. W.

Entered in Chancery
Order Book No. 4.
Page 218.

TO THE HONORABLE ROBERT R. PRENTIS, JUDGE OF THE
CIRCUIT COURT OF THE COUNTY OF MANSEMOND.

Humbly complaining sheweth unto your Honor your complainant, Gracie G. McClenny, formerly Gracie Gay, infant, child of George Gay, deceased, who sues by Robert J. McClenny, her next friend, that the said infant, who has within the past few months intermarried with one Robert J. McClenny, is the owner in fee simple of a certain undivided one-half interest in a tract of land lying on the border line between the counties of Isle of Wight and Mansemond, and partially in each of said counties, said land being known as the George Gay Place, and bounded on the North by the lands of L. W. Brown, on the East by the County Road leading from Everetts to Exit, on the South by the lands of M. J. Saunders, on the West by the County Road leading from Isle of Wight Court House and Exit, containing two hundred and twenty-five acres, more or less. She is also seized of a small parcel of land adjoining the property above herein described, supposed to contain about fifteen acres, known as the _____ Place.

That this is all the real property owned by the said infant, and that her personal property amounts to scarcely nothing, being not in value more than \$400.00.

Your complainant has an offer made by W. G. Saunders for the entire interest ~~xxxxxxxxxxxx~~ in the real estate, same being one-half in the original farm, and all of the 15 acres, of \$3,400.00, which he thinks is an exceptionally good price for the property, and believes that the interest of the said infant, Gracie G. McClenny, will be accordingly promoted by a sale of the real estate above described at the price aforesaid, and the investment of the proceeds in other property, as pro-

vided by the Statute of Virginia.

Your complainant is forced to these conclusions because of the fact that the property at this time providing a revenue, is owned jointly by the said infant, Gracie G. McClenny, and W. G. Saunders, a condition which prevents the improvement of same, and the revenue being derived therefrom is quite small when the expenses have been taken. The buildings are in bad repair, and your orator believes it would be difficult to sell for the price offered if this opportunity is allowed to escape. The land is so located as to render it difficult to partition same in kind, being doubtful that this could be done without material injury to the property.

Your complainant believes that the rights of no person will be injured by such sale and the re-investment of funds.

If the said infant, Gracie G. McClenny, were dead, Nannie L. McClenny, the sister of said infant, would be her sole heir, for while she has half-brothers and sisters on the mother's side, the real estate is derived by descent from her father, who left surviving him only two children, namely, Gracie G. and Nannie L. Gay, both of whom are married, one married Robert J. McClenny and the other married George T. McClenny.

In tender consideration whereof, forasmuch as your complainant is remediless in the premises save by the aid of a Court of Equity wherein such matters are cognizable and relievable, your complainant prays that the said Robert J. McClenny, Nannie L. McClenny and George T. McClenny may be made parties defendants to this bill, and required to answer the same, in proper person, though not under oath, which is hereby waived; that the said land may be decreed to be sold to the said W. G. Saunders, if he shall pay therefor the sum of \$3,400.00, as set forth in your complainant's bills, and, if not, that it be sold in such manner as this Court may order,

and the proceeds invested accordingly; and that all proper enquiries may be directed, accounts taken, allowance for coun-see fees for complainant's counsel made, and all proper accounts taken, enquiries directed and such other and further and general relief may be granted as to equity and good conscience may seem meet and proper.

And your complainant will ever pray, etc.

GRACIE G. MCCLENNY

By R. J. McClenny
Her next friend

STATE OF VIRGINIA,
COUNTY OF NASEBOND.

To-wit:

I, A. Woolpert a Notary Public
for the County aforesaid, in the State of Virginia, do certify
that Robert J. McClenny, next friend of Gracie G. McClenny,
complainant in the above suit, personally came before me in my
County aforesaid, and made oath that he believes the several
statements made in the foregoing bill to be true.

Given under my hand this 1st day of April, 1907.

A. Woolpert
Notary Public
My commission expires May 17-1910.

Gracie G. McCluney who
sins by Robt. J. McCluney
her next friend.

V. Bill &c.

Robt. J. McCluney father.

McLamore & Corbett.
Atty's.

Gracie Edw Blumy who sum. &

v. Bill & Co

Robert J. Blumy & others

1908

January 25

Final Decree.

Costs
Clerk \$5.91
Tax 1.50
Airtel 15.00
\$22.41