

1844-021 SOUTHAMPTON COUNTY
CHANCERY PAPERS

SIMMONS VS PAINE EXECUTOR OF MACLIN ^{val}

11/1844

other SURNAMES:
Pretlow, Payne,
French, Grizzard,
Chambliss,

Simmons by ye

v. } Papers

Payne Ex. Madin ye

1822 Nov. Final decree

Pliffs costs up to the filing the amended bill found

clerk...	\$ 8.49
staff...	1.92
Law Fees	<u>17.44</u>
	\$ 27.85

Pliffs costs since filing amended bill found

clerk -	\$ 14.46
staff -	4.00
room -	<u>15.00</u>
	\$ 29.46

Simmons.

v. } Statement.

Payne &c

1842.

Feb'y 28. Bill filed. Bond & security given
as per 2^d Ex^{pt}.

April R. Sp^a Ret^d Granted on Dft. Britton.
Payne no inhabitant. & Simmons not
found.

July R. Ans. of Britton. Gen. Rep.
New Sp^a v. Simmons -

Aug. R. Sp^a Ex^{pt} on Simmons. New
Sp^a v. Payne -

Sep. R. Sup^a Ex^{pt} on Payne. Set for
hearing as to Dft. Britton.

Oct R. Set for hearing as to Dft. Simmons

" D. Leave to amend bill &c

Nov. R. Set for hearing as to Dft. Payne.

1843

1843

June. R. Amended bill & process
aw^d to answer.

July " Sp^a Ex^{pt} on Dfts French,
Sebrill & Simmons. & Payne -

Aug. " Ans. Sebrill. & Rep. thereto.

Sep. " Set for hearing as to Dfts French
Simmons & Payne -

Oct. " Set for hearing as to Est. Sebrill.

" D. Decree for accounts &c

1844

Apr. 2^d Report.

May 7. Report recommended

Oct. 4th Report

1844

Nov. 7. Final decree

Sermon
vs
Primer et al } Bill.

3825 words

Received Feb. 28. Good Security
given & paid for it.

To the Hon^{ble}. James H. Ghalson Judge, First
Judicial District, Second Circuit.

Humbly complaining sheweth unto your
honor, your complainant Thomas S. Simons
an infant of tender years by John R. Chamblee
his next friend; that sometime about the year

Henry Maclin of the County of
Greenville qualified as Guardian at Law to
your complainant and in his character of
Guardian proposed himself of all the estate of
your Compt of every sort & kind whatsoever.
That after his qualification aforesaid, one
Daniel W. Simons of the County of Southampton
became indebted to your Compt and executed
to sd Maclin as Guardian to your Compt his
bond for \$317-47. with Zebulon L. Simons as
security, as will more fully ^{appear} by reference to a
certified copy of said bond herewith filed, which is
prayed to be taken as a part of this bill.
your Compt further sheweth, that since the
execution of said bond. The said Henry Maclin
has departed this life having by will in his life-
time appointed one Thomas Paine his sole Executor
who at the death of sd Maclin duly qualified as
Executor aforesaid; That sd Paine found the
above described bond amongst the papers of sd
Maclin and without any settlement of his
testator's Guardian account or settlement with
your Complainant, who is still unrepresented
by a Guardian at Law. instituted suit on sd
bond in Circuit Superior Court of Law & Chancery
for the County of Southampton and prosecuted the
same to judgment & execution, which is now
in the hands of the Sheriff of sd County for collection.
That the said Maclin ^{was} indebted to your Compt, to wit, an amount more
than the amount of the judgment above named, and
the aforesaid Paine is notoriously insolvent.

so that your Comptt ^{great delay and embarrasment, and perhaps} fears that he will
have to sustain a severe loss on account of
the failure of sd Paine to return & settle his
testators Guardianship aforesaid. To the end
therefore, that your Comptt may obtain relief
in the premises and for as much as he is
remediable at Law & only relievable in Equity,
where matters of this kind are alone cognizable
he prays your Honor, that the aforesaid Thomas
Paine, Thomas Pretlow Sheriff of Southampton
and Daniel W Simmons may be made parties
defendant hereto with apt and proper words
to bind them as such and the Commonwealth
with of Spa may be issued commanding them
to answer the allegations of this bill,
and further that your Honor will grant
an injunction; enjoining further proceedings
to wit, to restrain the sd Thomas Paine and
the Sheriff of Southampton from collecting
sd debt and the said Daniel W Simmons from
paying the same to any one other than the
Guardian that may hereafter be legally
appointed for your Comptt. and praying
such other general & special relief in the
premises as may be consonant to justice
and the rules of the Court your Comptt
will ever pray &c -

Richd & Goodwyn for

Supreme County to Wit

Comptt.

This day Thomas & Simmons appeared before
me Henry Mason one of the Justices of the peace of
the county aforesaid and made oath to the allegations contained
in the above bill. Given under my hand and seal this
13th day of Jan'y 1842

Henry Mason J.P.

Injunction is awarded as prayed for, on condition that ~~some~~
the Infant's next friend, or some other person do execute bond with
good security in the penalty of six hundred dollars, to the said Judge
Exor of said Machine, conditioned to satisfy and discharge whatever
debt may be rendered against him the said Infant, in the premises,
as also any damages which he, the said Exor may in any wise
sustain on account of the improper grant of this Injunction.

J. H. Shobard
Peterburg

~~15th Jan 1842~~
24th February 1842.

Simmons

vs
Simmons

Amended Bill

1843 May 15.

(570 words)

To The Hon^{ble}. Richard H. Baker Judge of
the Circuit-Superior Court of Law, and Chancery
for the County of Southampton, Your Compt^{ts}.
Thomas Simmons

Humbly complaining shews unto your Honor
by way of amendment to his original bill,
that since the filing of his said bill, he
has made diligent search and can find
where find that Henry Machin was qualified
as Guardian to your Compt^{ts} Thomas, and he
therefore charges that he never did qualify,
your Compt^{ts} believed he had qualified be-
-cause he was informed that ~~Henry~~ Simmons
who qualified as ad^{mn} on the estate
of ~~Henry~~ Simmons had paid over to said
Machin as your Compt^{ts} guardian the amount
appearing to be due your Compt^{ts} on the said
~~Henry~~ account current, to wit the sum of
\$77¹¹/₄ 48 cts with interest from December 25th 1833,
In paying which amount he passed over the
bond upon which suit was brought, and judgment
recovered as is stated in the original bill,
your Compt^{ts} is advised that this payment made
by ~~Henry~~ Simmons to said Machin who had no
legal authority to receive it is no discharge of
the said Simmons, and that for the residue

of the \$771.48 and interest after deducting the amount of
the judgment unpaid (the said Thomas Payne who
qualified as Exor. of Henry Machin gave no security is
notoriously insolvent having squandered the whole estate
left by said Machin) - The said ~~Henry~~ ^{Nancy} must account
to your Compt. Your Honor will thus perceive that
not only the interest of this Compt. but also the interest
of ~~Henry~~ ^{Nancy} Simmons who had ~~paid~~ the whole amount
due your Compt. to Henry Machin believing ~~him~~ ^{himself} ~~Guardian~~,
requires the interposition of this Court in the premises -
Your Compt. further shows that Henry Simmons departed
this life in the year 1833, and Nancy Simmons qualified
as his Adm. at January Term 1833 of the County Court
of Southampton and received assets of his estate sufficient
to discharge the debt due your Compt. - That after-
wards to wit in the year 1836 Nancy Simmons also
departed this life having just duly made, and
published her last will and testament, and N. M. Seale
qualified as her Exor. at Nov. term 1836 of the County
Court of Southampton and he has received assets of
his testator's estate sufficient to discharge the debt -
certificates of the qualification of the said Nancy Simmons
as Adm. of Henry Simmons, and of N. M. Seale as
Exor. of said Nancy are herewith filed as parts of this
Bill (marked A & B) -

In Tender consideration of all

which, and for as much as your Compt. is without
remedy in the premises except in a Court of Equity
where such matters are peculiarly cognizable

To The End Therefore that justice may be
done he ~~prays~~ ^{prays} that Thomas Payne in his character
of Exor. of Henry Machin, James S. French and N. M.
Seale Exors. of Nancy Simmons who was Adm. of
Henry Simmons ~~whereof~~ ^{of}.

~~Seale~~, D. W. Simmons and
may be made parties defendants to
this bill, and true answer make upon oath
to the allegations of this and the original bill -
that your Honor will grant a decree against the
said D. W. Simmons for the amount of the judgment
against him, and for the balance due your Compt.
from Henry Simmons, ~~as well~~
against N. M. Seale Exor. of Nancy Simmons who was
Adm. of said Henry, and grant unto Compt. such
other, and further relief in the premises as justice
& equity, and the nature of the case may require
And your Compt. as in duty bound will forever
pray &c &c - May it please &c

Paine vs. Simmons
Lothens

~~Pratt~~
~~Pratt~~

Answer of
T. Pratt

Simmons

v. } Ans. of Pratt.

Payne & Co

1842 June 28th

To the Hon. the Judge of the Circuit Sup.
Ct. of Law & Chancery for the County of
Southampton - The Separate answer of
Thomas Pretlow late sheriff of the County
of Southampton, to the Bill of complaint
in said Court exhibited against him &
others by Thomas S. Simmons are in part
suing by John R. Chambliss his next friend.
The Defendant saving and reserving to
himself now, and at all times hereafter
all manner and benefit of exception to
the errors and imperfections in said Bill
contained for answer says, that it is true
an execution came into his hands, or to
one of his deputies in favour of Thomas
Payne ~~and~~ of Henry Maslin vs. David
Simmons, who executed a fourth coming
Bond according to Law for the debt and
interest & costs, which was forfeited and
judgment had thereupon - That the
Defendant further says, that he has under-
stood, and believes it to be true, that some
time ago, the said Payne paid over and
transferred the said debt to one James
S. Fenner, who has called upon this Res-
pondent and required that the money
shall be made on the claim vs. Simmons
for his benefit, and in support whereof
he refers the Court to a paper herewith
filed, marked A and prayed to be taken
as a part of this answer - Your Respondent
is advised that the proper parties are not
before the Court in the said Bill of Injunction
and that it was improvidently awarded.
That Payne the Plff in said execution or

Fourth Coming Bonds ought to be made a
party defendant in ^{in the character of Exr of Henry Maclin} this matter, and that
if the estate of Maclin is in any wise indebted
to the Plff they have a right to proceed against
the securities of Maclin upon his Guardian
Bonds, and against the representative
of Maclin - This Respondent denies the
allegations in the Complainant's Bill &
calls for proof ~~of the same~~ and at the
same time is willing to in the premises
what may be correct & having answered
etc &

This day personally appeared before
a Justice of the Peace for the County
of Southampton Thomas Pettlow
who being duly sworn says that the facts
set forth in the above answer are true to
the best of his knowledge and belief
Given under my hand and seal
this 20th of June 1842 -

Sept. 20th 1842
J. P.

Answer of
Furuch

The Separate answer of James S. French
to a Bill of complaint exhibited in the
Circuit Sup. Court of Law & Chancery for
Southampton by Thos. Simmons v. Thomas
Payne Esq. of Henry Maclin. James S. French &
others -

This Respondent saving and reserving
to himself all fit and proper exceptions
to the many errors misstatements
and insufficiencies in Plffs Bill, for answer
thereto or to so much as he is advised it is
material for him to answer, answering says -
That as to whether Henry Maclin ever qua-
lified as Guardian to the Complainant
Thos. Simmons or not, this Respondent
does not know but infers as Maclin
^{in the original Bill is stated to be the guardian and}
is charged with having received the estate
of Thos. Simmons, that he must have qua-
lified as his Guardian - This Respondent
knows nothing of the sum said to be due
from Henry Simmons estate, or any thing
connected with the matter -

The Bond which is here enjoined, due Henry
Maclin Guardian, by Daniel & Zebulon
Simmons, this Respondent claims as
his property transferred ^{by T. Payne to him} at a time when ^{Mr. Wallace claims}
Thos. Payne Esq. of H. Maclin was able to pay
any sum which his testator might have
been found indebted to the said Thos.
Simmons - This apportionment was really
made just previous to the institution
of the suit at Law vs. Zebulon & Daniel
W. Simmons, although no apportionment
in writing was made at that time.

This Respondent denies that the Complain-
-ant Thos. Simmons has any claim what-
ever against the estate of H. Madine until
by a settlement of H. Madine's transactions
as guardian or quasi guardian of
Thos. Simmons there shall be found
a balance due the ward - and
is the more important, as he learns that Henry
Madine took charge of the complainant
at a very early age, and raised and
educated him. And he calls for proof of all the
~~complaints~~ ^{allegations} and having answered proofs to be hence
dismissed with his costs unreasonably
in this behalf ~~unreasonably~~ expended
J. S. French

This day personally appeared before
me James S. Maspentbury Justice of
the Peace for Southampton James S. French
who made oath that the statements made
in the above answer are true so far as
he knows, and believes them to be true
so far as derived from others

Given under my hand &
seal this 1st day of November 1843

J S Maspentbury (Seal)

Answer of
O. M. S. S. S.

Simmons

to } Answer

Payne &

1843 August Rules.

The answer of Nicholas M. Seabill Esq of Newry
Simmons answered to a bill of complaint exhibited
in this honorable court against him & others by
Thomas Simmons -

This defendant now and at all times hereafter
serving & arriving to himself, all manner of
benefit and advantage of exception to the mani-
fold errors, inaccuracies and insufficiencies, in
the said bill contained, for answers thereto as
to so much and such parts thereof as he is advised
it is material for him to make answer unto con-
sidering say, That it is true as charged in the
said bill, that he is the Esq of Newry Sim-
mons, and has rendered an account of his trans-
actions in that character, by which it appears that
on the 31st day of December 1841, he was indebted to the
said estate in the sum of \$ 935 ⁹⁸/₁₀₀, with interest
on \$ 751 ⁷¹/₁₀₀, which report he relies upon as a part
of his answer, and files a copy herewith -

This respondent considers it somewhat remarkable
that the complainant, after having charged in
his original bill, that Henry Maclen was his
guardian, and in that character had received
monies belonging to him as such, has at length
come to the conclusion, that he never did qualify
as his guardian - a discovery no doubt assisted
by the fact of the total insolvency of the estate of the
said Maclen - This respondent has no personal
knowledge of the matters charged in the said bill
& calls for strict and full proof of every
allegation, which seeks to charge the estate
of his testator - he also insists that the charge
sum which has been rejoined, ought to be applied
to the discharge of any claims, if there is any due
to the complainant, from Henry Simmons estate
& having fully answered pray, to be hence discharged
with his costs &c -

Southampton County Court -

Personally appeared before me a justice of the peace in
& for the County aforesaid, Nicholas M. Seabill and made
oath that the facts stated in the above answers upon his own
knowledge are true and then stated upon the information given
to believe to be true - Given under my hand and seal this
2 day of July 1843, August 1843 Mr. Mark P. (Seabill)

Oct. 1843

Simmons

or

Payne

} Securi

1843 October Term

Simmons

Payne & }
Payne & }

This day came the Pff by his
atto, and the Shas awarded in this cause bring
returned on the defendts Payne & Simmons
and they still failing to file their answer
altho, two months have elapsed as well since
the pff filed his original & amended bills as
since the service of the Shas upon the said defendts
On motion of the Pff, his bill original & amended
bills are taken for confessed as to the said
defendts Payne & Simmons. And on motion
of J. S. French & by consent of parties, his answer
is filed. Whereupon this cause this day came
on to be heard on the original & amended bills
& exhibits, the answer of Abigail Eor. of
Simmons & French, and replication
thereof, and was argued by counsel. On
consideration whereof, the court doth
order, that the defendt Payne render
before a court of this court, an account
of all monies rec^d by his testator Henry
Thaddeus on acc^t of the Pff, and all
proper & legal expenses paid for him
that the 1st Payne also render before the
1st court an account of his actings &
doings on the estate of his testator Henry
Thaddeus - And the court doth further order
that the defendt Abigail Eor. of Nancy Simmons
render before the 1st court an acc^t of the trans-
actions of his testator on the estate of Henry
Simmons dec^d, and an account of
his own transactions as Exec^r of the said
Nancy Simmons - Which 1st court is
directed to examine, take & settle said acc^ts, ~~with~~ ^{and}
make report thereof with any matters specially stated
ye. ye.

I acknowledge due service
of the within notice

Thos R Payne
I acknowledge due service
this notice
I acknowledge notice

For I both
com.

continued from
day to day until
the 18th day of
March next
See both com.

W. G. Goff

Common Office Jan'y 30th 1874
The parties are directed to attend and the
is continued to the 18th March next

W. M. DeLoe adms

I acknowledge due service of
the within notice

At a Court of Sessions Court of Law and Chancery held for
the County of Southampton on the 3^d day of November 1843.

Thomas Simmons an infant suing by John R. Chamberliss his next
friend Plaintiff -
against

Thomas Payne executor of Henry Machin dec^d James S. French and
Nicholas M. Gibrell executor of Nancy Simmons dec^d who
was administratrix of Henry Simmons dec^d.

This day came the plaintiff by his attorney and the subpoena
served in this case being executed on the defendants
Payne and Simmons and they still failing to file their answer
altho. two months have elapsed since the plaintiff
filed his original and amended bill and since the service
of the subpoena, upon the said defendants. On motion of the
plaintiff his original and amended bill are taken for con-
fessed as to the said defendants Payne and Simmons. And on
motion of James S. French and by consent of parties his answer
is filed. Whereupon this cause this day came on to be
heard on the original and amended Bill and exhibits the
answers of Gibrell executor of Simmons and French and
application thereto and was argued by counsel. On considera-
tion whereof the Court doth order that the defendant Payne
render before a commissioner of this court an account
of all moneys received by his testator Henry Machin on
account of the plaintiff and all proper and legal expenses
paid for him: that the said Payne also render before the
said Commissioner an account of his acting and doings
in the estate of his testator Henry Machin. And the Court
doth further order: that the defendant Gibrell executor
of Nancy Simmons and render before the said commis-
sioner an account of the transactions of his execution
in the estate of Henry Simmons dec^d and an account
of his own transactions as Executor of the said Nan-
cy Simmons. Which said commissioner is directed
to examine state and settle said accounts and make

report thereof with any matters specially stated decided
pertinent by himself or which may be required by the
parties or either of them to be so stated.

Acopy

Teste S. R. Edwards
6.6

Court Office Jerusalem Jan'y 1844

I have appointed Tuesday the 30th instant next
to take up the accounts directed by the above order
of the Court, on which day the parties interested are
required to attend at Jerusalem in the Court house
by Ten o'clock A.M. with their accounts vouchers
and evidence for examination and settlement.

Geo. Cobb Esq.

Simmons

2. } Copy. Order.

Martin's Env. 7ad

At a Circuit Superior Court of Law and Chancery held for the
County of Southampton on the 3^d day of November 1843
Thomas Simmons an infant suing by John R. Chambliss his next friend. *Plff*
against

Thomas Payne executor of Henry Maclin dec^d James P. French and Nicholas
M. Selwells executor of Nancy Simmons dec^d who was administratrix of Henry
Simmons dec^d *Defds*

This day came the plaintiff by his attorney and the subpoenas awarded
in this cause being executed on the defendants Payne and Simmons
and they still failing to file their answers all the two months have
elapsed as well since the plaintiff filed his original and amended
Bills as since the service of the subpoenas upon the said defendants
On motion of the plaintiff his original and amended Bills are taken
for confessed as to the said defendants Payne and Simmons: and on
motion of James P. French and by consent of parties his answer is
filed: Whereupon this cause this day came on to be heard on the original
and amended Bills and exhibits the answers of Selwells executor of
Simmons and French and replication thereto and was argued by Counsel
On consideration whereof the Court doth order that the defendant Payne
render before a Commissioner of this Court: an account of all monies
received by his Testator Henry Maclin on account of the plaintiff
and all proper and legal expenses paid for him: that the said Payne
also render before the said Commissioner an account of his doings and
doings on the estate of his Testator Henry Maclin: And the Court
doth further order: that the defendant Selwells executor of Nancy
Simmons dec^d render before the said Commissioner an account of the
transactions of his executrix on the estate of Henry Simmons dec^d: and
an account of his own transactions as Executor of the said Nancy Simmons
which said Commissioner is directed to examine state and settle said
accounts and make report thereof with any matters specially stated
deemed pertinent by himself or which may be required by the parties
or either of them to be so stated.

Attest

Wm. L. Edwards *CC*

Simmons

2 3 Decree

Payne

To be entered

R H B.

1824 May Term

Comrs. Office August 20th 1844

The plff Thomas & Simmons who is
now of lawful age attend before the Comr.
this day

Lucy G. Comr

Simmons

vs
Wm. Co. order
Cayne J. & Comr
Notice

1844 Oct 14

acknowledged service of the within notice
June 18 44
John S. Smith

Southampton Circuit Superior Court - May Term 1844
Thomas S. Simmons an infant - suing by John
R. Chambliss his next friend

Def

Thomas Payne Estt Henry Maclean dec'd James French } In Chy
and Nicholas M. Bell Estt of Nancy Simmons dec'd
who was admr. of Henry Simmons dec'd

Deft

This day this cause came on to be heard on the papers formerly
read the report of the Court made pursuant to the order of the 3^d
Nov^r 1843 and exceptions thereto, and was argued by Counsel
on Consideration whereof the Court sustaining said exception
doth order that so much of the said report as relates to the
accounts directed to be rendered by the defendant Payne be
recommitted with directions that the same be carried into
effect according to the decree aforesaid, and the said
Court is directed to audit state and settle said accounts
and report the same to Court, together with any matters
specially stated deemed pertinent by himself or which may
be required by either of the parties to be so stated

A Copy

Teste J. R. Edwards Clk

Clerks Office Jerusalem July 8th 1844

The parties interested in the accounts directed by the above
order of the Court, are required to attend at the Court house
in the Town of Jerusalem on Tuesday the 29th day of August
next by ten o'clock A. M. with their vouchers & evidence
for examination & settlement

Jen. Cobb Clerk

I understand of the above order

McChambliss for J. S.
Simmons

Simmons

v. } L. Dene

Payne &c

Notice to 19th Augt

Southampton Circuit Superior Court May Term 1844

Thomas T. Simmons an infant suing by John R. Chambliss his next friend Plff
against

Thomas Payne Executor of Henry Maclean dec'd James T. French and
Nicholas M. Sebell Executors of Nancy Simmons dec'd who was admr of Henry
Simmons dec'd } Defs

This day this cause came on to be heard on the papers formerly read the Report of
the Commissioner made pursuant to the order of the 3^d November 1843 and
exceptions thereto: and was argued by counsel on consideration whereof the Court
sustaining said exceptions doth order that so much of the said report as relates to the
accounts directed to be rendered by the defendant Payne be recommitted with directions
that the same be carried into effect according to the decree aforesaid: and the said
Commissioner is directed to audit state and settle said accounts and report the
same to Court together with any matter specially stated deemed pertinent by him
self or which may be required by either of the parties to be so stated

Attesty Teste J. Edwards Clk

Simmons L. }
" }
Payne L. } Deane

To be entered

R. H. B.

1844 Nov. 10th

To injoin the defendants Thomas Payne Esq. of Henry Maclari dec. and Thomas Rutten Sheriff of Southampton County from collecting and the Deft. Daniel W Simmons from paying the amount of a judgment recovered by the above named Thomas Payne Esq. Henry Maclari dec. against the Deft. Daniel W Simmons in the Circuit Superior Court of Law and Chancery for Southampton County on the 5th day of November 1841 for the sum of three hundred and Seventeen dollars forty seven Cents with legal interest thereon from the 19th day of August 1834 till paid & hold subject to a credit of \$90.47 Cents the interest up to the 20th May 1839 until the further order of the Court. Bond with security being given to satisfy and discharge whatever decree may be rendered against the said Thomas S. Simmons in the premises as also any damages which the said Payne Esq. as aforesaid may in any wise sustain on account of the in = proper grant of the said Injunction.

Teste J. A. Edwards Clk

Simmons

2 { Sp. & Inj

Maclari Esq

1842 April Rules

Executed on
Thos. Rutten Sheriff
by delivering him
a copy of the within
order of 21/1842

Thos. Payne no intelli.
and Daniel W Simmons
not found

J. A. Edwards Depy
Clk

THE COMMONWEALTH OF VIRGINIA,

^{Coroner}
To the ~~Sheriff~~ of Southampton County, Greeting:

We command you that you summon *Thomas Payne Executor of Henry Machin*
dec^d. Thomas Prillon Sheriff of Southampton County and Daniel W
Sammons

to appear ^{*before the Judge*} ~~at the Clerk's Office~~ of our Circuit Superior Court of Law and Chancery for the
County of Southampton, at the ^{*Courthouse of said County*} ~~Rules to be holden for the said Court~~ on the first ^{*day of*} ~~Monday~~
April Term next, to answer a Bill in Chancery exhibited against *them* in
the said Court by *Thomas S. Semmes an infant of Tender years by*
John R. Ashmbley his next friend

And unless ^{*two*} ~~they~~ shall answer the said Bill within ~~four~~ months thereafter, the Court will
take the same for confessed, and decree accordingly. And this ~~they~~ shall in no wise
omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON
R. EDWARDS, Clerk of our said Court, at the Court-house, the *28* day of
February 184*2*, in the *66* year of the Commonwealth.

L. R. Edwards

[One Copy to be delivered each Defendant.]

c 10.36

Simmons by J^d
to J^d Sp^r. in lch^y

Maclean Esq^r J^d
1842. August Rules.

Received
Wm. Hill J^d of
10 m. South J^d

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *Daniel M. Simmons* —

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in

August next, to answer a Bill in Chancery exhibited against *him* in the said Court by *Thomas J. Simmons an infant suing by John R. Chambliss his next friend*

And unless *he* shall answer the said Bill within ^{*five*} ~~four~~ months thereafter, the Court will take the same for confessed, and decree accordingly. And this *he* shall in no wise omit, under the penalty of £100. And have then there this writ, Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the *4th* day of *July* 1842, in the *66th* year of the Commonwealth.

L. R. Edwards Clk

[One Copy to be delivered each Defendant.]

To enjoin the defendants Thomas Payne Esq: of Henry Machin dec: & Thomas Drexler Esq: of Southampton County from collecting and the Dist: Daniel W Simmons from paying the amount of a judgment recovered by the above named Thomas Payne Esq: of Henry Machin dec: against the Dist: Daniel W Simmons in the Circuit Superior Court of Law and Chancery for Southampton County on the 5th day of November 1842 for the sum of \$317. 47 Cents with legal interest from the 19th day of August 1834 till paid - Subject to a credit of \$90. 47 Cents the interest up to the 20th May 1839. until the further order of the Court - Bond with security being given to satisfy and discharge whatever decree may be rendered against the said Thomas L. Simmons with the premises as also any damages which the said Payne Esq: as aforesaid may in any wise sustain on account of the improper grant of the said injunction.

Teste: J. R. Edwards

Executed by a copy

W. H. Hunt Esq:
C. W. M. Esq:

Simmons by J. W. H. in Chancery

Machin dec: & Drexler

1842 September 2nd

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of ~~Southampton~~ County, Greeting:

We command you that you summon

Thomas Payne Executor of Henry Machin dec^d.

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the

County of Southampton, at the Rules to be holden for the said Court on the first Monday in

September-

next, to answer a Bill in Chancery exhibited against ~~him~~^{others} in

the said Court by *Thomas S. Simmons an infant of tender years* by

John R. Chambliss his next friend

And unless *he* shall answer the said Bill within ~~four~~^{two} months thereafter, the Court will

take the same for confessed, and decree accordingly. And this *he* shall in no wise

omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON

R. EDWARDS, Clerk of our said Court, at the Court-house, the *1st.* day of

August-

184*2*, in the *67th* year of the Commonwealth.

L.R. Edwards Clk

[One Copy to be delivered each Defendant.]

Came to hand the 15th June 1843
1048

Executed by delivering a copy

J. H. Cuthbert

at H. H. H. H. H.

36

1048

Demmons

to } Dep. in City.

of Macdonald's Engr. Lab

1843 July Dates

THE COMMONWEALTH OF VIRGINIA

Greensville
To the Sheriff of ~~Southampton~~ County, Greeting:

We command you that you summon *Thomas Payne* in his Character as
Executor of Henry Maelin dec'd

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the
County of Southampton, at the Rules to be holden for the said Court on the first Monday in
July — next, to answer a Bill in Chancery exhibited against *him & others* in
the said Court by *Thomas Simmons*

And unless *he* shall answer the said Bill within ~~four~~ *two* months thereafter, the Court will
take the same for confessed, and decree accordingly. And this *he* shall in no wise
omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON
R. EDWARDS, Clerk of our said Court, at the Court-house, the *5th* day of
June 1843, in the *67th* year of the Commonwealth.

L R Edwards Clk

[One Copy to be delivered each Defendant.]

6.56

Simmons

W. } Sp. in Coly.

Machine in: 2^d

1843 July 11th

Executed

William A Bell Dy of
William E Corliss Shuff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *James T. French. N. M. Sebrill*
Executor of Nancy Simmons dec'd who was administratrix
of Henry Simmons dec'd J. D. W. Simmons

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the
County of Southampton, at the Rules to be holden for the said Court on the first Monday in
July next, to answer a Bill in Chancery exhibited against *them & another* in
the said Court by *Thomas Simmons*

And unless *they* shall answer the said Bill within ^{*two*} ~~four~~ months thereafter, the Court will
take the same for confessed, and decree accordingly. And this *they* shall in no wise
omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON
R. EDWARDS, Clerk of our said Court, at the Court-house, the *5th* day of
June 184*3*, in the *67th* year of the Commonwealth.

R. Edwards

[One Copy to be delivered each Defendant.]

Simmons

vs
Payne &
A. Grizzard
deposition

1871, Oct 1st

Simmons }
 vs } In Chancery
 Payne }

The deposition of Henry Grizzard who is of lawful age, and being duly sworn, to give evidence in the suit of Thos. S. Simmons against Thomas Payne Estt of Henry Maclin decd. and taken this 20th day of August-1844 at the Court house, in pursuance to Notice to the above parties, saith, That he this deponent lived one year with the said Henry Maclin he thinks in the year 1838, and that this deponent frequently heard the said Maclin say that he intended to keep an account of the plaintiffs Thos. S. Simmons' board and other expenses furnished him, and that if the said Simmons died before he became of age, or before him the said Maclin's death, that in either Case he the said Maclin would charge the said Simmons board but if on the contrary the said Simmons should survive him the said Maclin, that in that Case, he did not intend to charge him the said Simmons for anything. ^{By Maclin died in 1839 & the deponent lived with the said Payne till 1844.} ~~He~~ furnished him whatever; and further this deponent saith not-

Henry Grizzard

Sworn to before me & and
 Subscribed between the hours
 of Ten o'clock and three o'clock
 this 20th day of August-1844
 Geo. B. Connor

Summons } Comrs
vs }
Machius Extra } Report

April 2^d 1844.

March 23^d 1844

Simmons
vs
Machin's Exrs &c } In Chancery

The Court first directs that the defendant Payne render before a Commr. of this Court an account of all monies received by his testator Henry Machin, on account of the plaintiff, and all proper and legal expences paid for him.

Secondly, that the said Payne render before the said Commr an account of his actings and doings on the estate of his testator Henry Machin, - Thirdly that the defendant Sebell extr.^r of Nancy Simmons dec^d render before the said Commr an account of ~~the~~^{her} transactions as executrix on the estate of Henry Simmons dec^d, and an account of his own transactions as Extr.^r of Nancy Simmons dec^d. & to report &c &c.

The Commr.^r gave notice to the parties in this Case to attend at his Office in the Town of Jerusalem on the 30th of January 1844, and all of them having failed to attend the notice was continued to the 18th of March 1844 on which day John R. Chambliss the next friend to the plff, N. M. Sebell and James V. French attended; Thomas Payne failed to attend but wrote a letter to the Commr, which is herewith filed, stating that he did ^{not} deem his attendance necessary, inasmuch as he had no papers relative to his transactions as Extr.^r of Henry Machin dec^d, and further states that he qualified as executor on Machin's estate, but was not required to give to give security, as he was the principal legatee under the will of the said Machin; and that he kept no account of his transactions as executor aforesaid.. He states that he supposes Machin's estate to have been worth at the time of his qualification about twenty five thousand dollars, though it was estimated at a much larger sum and that his testator did not ^{over} two hundred dollars..

That he has no property of his own, or of his testators to satisfy the plaintiffs demand - Payne also states that he did not intend to charge the plaintiff with board & other nece-

- say expences, but thinks he ought to be allowed a reasonable compensation, which the Comr. presumes may be done under some decisions of the Court; The amount which the plff. was entitled to from Henry Simmons estate and which he suppose Henry Maclean received was \$771.48. The interest on this sum amounts to \$46.28 of annum which the Comr. thinks a reasonable compensation for all necessities furnished the plff. - The ^{Comr.} presumes the plff. lived with the testator during his life & then with the defendant - Paynes until he broke up, which he is informed was in the latter part of year 1841. The plff. should therefore recover the original sum of \$771.48 with interest thereon ^{from} the 31st day of Decr. 1841 till paid -

This same Comr. audited and reported upon the transactions of Nancy Simmons on Henry Simmons estate, and also of Chas. M. Sebell on Nancy Simmons estate; copies of which said reports are filed in this case; he has given them an examination and finds them correct.

James S. French objects to a report on this account unless the defendant Payne is present - his statement is also filed

Comr's fee \$10. for 10 hrs
Charged to the plff }

Respectfully Submitted
Geo. C. C. Comr

J. V. French
exceptions

Filed with Genl.

Colts report

Apr. 2^d 1844

J. S. Funch counsel for R. M. Subrell & for himself, objects to the settlement of the account at this time, because Dr. Payne is not present. He requires that Dr. Payne should present his vouchers, paid for Simmons, which can be obtained with a little trouble - The existence of some of which he is ^{himself} ~~aware~~ of, also that Dr. Payne should show what was the age of his ward when he went to live with his testator, ^{how long he remained} and the manner in which he has been raised and educated -

J. Pagne's
Letter to the
Comm.

Mr. J. J. Cobb
Comm. on Chan-
ge of Capital
Law

Filed with Horn-Cobbs
report. Apr. 2. 1844

Wicks Ford March 17th 1844 -

Dear Sir

I intended going to W'ampton court to-day and to have appeared before you on Tuesday as Commissioner in the case in which you gave me notice. But as I can find no papers of Mr. Henry Machin's touching the matter and as I have none that I kept as Mr. Machin's Exor. I am at a loss what to do. I do not think but that there ought to be some thing allowed me as Guardian for necessities. as I am not able to pay the claim either out of mine or Mr. Machin's means. Although I never intended charging Tho^s. Simmons - which was the cause of my not keeping an account.

I have no property or means and I was Mr. Machin's Exor. and principle legatee and gave no security - I regret this state of things and would be glad I had the ability to pay the claim. If my attendance can be of any consequence under the circumstances you must continue the matter or dispose of it as you think best and proper. I think Mr. Machin's estate was estimated at about sixty thousand dollars when I qualified as Exor. but I do not think it was worth more than twenty five thousand and he did not owe two hundred

I am Yrs. Most respectfully
Tho^s. Payne

Simmons } Comd.
vs }
Payne &c } Report

1844 October 4th

Simmons }
vs } In Chancery
Payne }

The Court having sustained the exceptions to the former report, ordered that as much of the said report as relates to the accounting, and as relates to the accounts directed to be rendered by the said Payne, be recommitted with directions that the same be carried into effect according to the decree aforesaid.

The Commissioner issued ^{notice} to the parties to appear before him on the 20th day of August 1844. John R. Chambliss and James S. French acknowledged the notice before Comr. and the Comr. was then informed by them that the defendant Payne had left this state and was living at Margaretsville in North Carolina. The Comr. was about to give notice in one of the Petersburg papers, but Mr French told ^{him} it would be unnecessary, that he would write him, ^{Payne} and wished the Comr. to do the same; I did write him by mail requesting him to attend or if he would not, to remit me any papers he might have relating to the subject - Mr French told the Comr. the day before the time appointed to take up the account that he had also written to Payne by Payne's own servant who took the letter directly to him, but has received no information from him - The plaintiff Simmons who is now of lawful age, was the only one of the parties that appeared before the Comr. who introduced a witness Henry Grizzard whose deposition the Comr. took, and is filed with this report. This witness states that he lived with Henry Maclin in 1838 at which time the plaintiff Simmons also lived with him, and that he frequently had heard H. Maclin say that he intended to keep an account of the plaintiffs board & other expences; and if the said Plaintiff died before he arrived of lawful age he intended to claim his account but if he the plaintiff arrived ~~to be~~ of lawful age, or in the event he Maclin should before that time he did not intend to receive anything for what he might furnish the plaintiff. This witness states Henry Maclin died in the year 1839, and that the plff lived with the defendant Payne from

that time till 1841 when ~~he~~ ^{he} broke up, which was about two
years - No other papers or evidence, having been furnished
the Comr. to form any account as directed by the Court. The
can therefore only state the balance due the plaintiff which
is \$771.48 with interest thereon from the 31st day of December
1841 till paid - The Pff directed the Comr. to say he was wil-
ling to take a decree from the principal without any
offset from the defendant Payne

Respectfully submitted
J. S. Comr

Comr. Aug 20th 3 Hours
Sept. 19th 2 do
\$5.00
Charged to the pff

The Jeff asks a name according to this, I think; - That Mackin
and Payne are involved, see Payne's letter above
with con: report - That ~~Payne~~ is involved &
is apparently charged in the original bill -

He must be counsel
of Robt.

Ammon
Payne

decre to be entered
according to this
statement, but without
prejudice to Mr. Liberty
admit. if he sh. think
proper to sue Payne
admit. or not. of
N. Mackin.

R. H. P.

Acct. due J.S. Simmons (see 6th report p 31. Dec. 1841. \$ 771.48
Int paid to 20th May 1844 — 107.70

Acct. of H.W. Simmons bond \$ 317.47 879.18

Int from 19. August 1834 }
to May 20th 1839 } 90.45
407.92

Then paid 90.00
\$ 317.92

Int from 20. May 1839 }
to 20th May 1844 } 98.20
on principal } 413.12
\$ 466.06

The am I have thereon to pay is.

H.W. Simmons for \$ 317.92
with interest from 20. May
1844 on \$ 317.47 —

and of Lieutell & Co.
for Nancy Simmons \$ 466.06
with interest from 20. May
1844

Summers by 20

v }

Maclean's over 20

Faded with rounded bill

The estate of Henry Simmons dec^d
In account with Nancy Simmons adm^r.

1833				Dr	Cr
Feby	4	By Cash found in the house		"	" 243 12
		To paid Jno Scarborough acct		3 53	
		" " David Manly "		2 10	
		" " Tho. R. Gray atty "		5 00	
		" " Peter Turner "		25 00	
		" " James Bell "		20 00	
apl	22	" " ditto Bond		14 10	
		" " H. B. Vaughan acct		3 00	
		" " Eliza Buell "		7 62	
		" " G. I. James "		3 32	
		" " R. Halcornle "		75	
		" " W. Davis Crayon		2 00	
may		" " Tho. R. Gray atty		6 30	
		" " Charles Simmons		20 06	
		" " H. Putnam ex ^{on}		36 34	
		" " Sunday Clerks tickets		6 93	
		" " Jno Simmons		2 25	
		" " H. G. Heath		10 00	
		" " J. Demagne		13	
		" " J. R. Strong Lco		17 54	
		" " Tho. A. Simmons		21 25	
		" " My acct retained		249 61	
		" " Doct. Levee acct		10 00	
Oct	10	By John Urquharts Bond & Int		"	660 30
		" ditto ditto		"	1234 75
		" Nelson Lykes do 9. 28.		"	9 28
		" Geo Simmons do		"	8 35
		" H. Underhill do		"	5 52
		" Wm New do		"	20 00
		" John Simmons do		"	6 38
		" Lewis Thorpe do		"	415 41
		" Benjo Simmons do		"	23 60
		" J. L. Simmons do		"	109 50
		" J. W. Beale do		"	19 81
		" J. W. Simmons do		"	336 12
		" W. L. Everett & A. P. Peels do		"	204 84
		" Jno. H. Jones do		"	45 74
		" Bal B. Wyche do		"	3 54
		amounts Carr ^d forward		\$527 03	3366 26
		amounts Brought forward		527 03	3366 26
		By Jno Simmons Bond		"	208 91
		By Jno Urquharts acct		"	8 13
		" Jno Simmons "		"	3 60
		" Wm. C. Parker "		"	12 00

1833
may

Oct 10	Wm Parsons	" 32	" "	50	
	Henry Heath	"	" "	75	00
	Lewis Thorpe	"	" "	14	23
	W. J. Leland	"	" "	6	97
	To paid N. D. Land Guardian of J. P. Chappell				
	in full of his acct as Guardian			123	00
	" " Benge Simmons acct			17	07
	By amount sales due the 25 th Dec 1833			" "	497 40
	To Comt on \$4193. 24			209	66
				878	76
	To paid for Coffin			10	86
	" Comrs & Clerks fees retained			7	86
	By Balance due the estate				3295 76
	To Matthew Williams in right of his wife } Charlotte			823	94
	Thos. S. Simmons a Minor by Henry } Maclin his Guardian			823	94
	Nancy Simmons			823	94
	Thos. A. Simmons			823	94
				3295	76

Respectfully Submitted
Jesse Cole

Comrs fee \$5.00 charged }
to the same.

At a Court held for the County of Southampton the 20th day of January 1834: This account current and Master Commissioners report of Nancy Simmons administration on the estate of Henry Simmons deceased having been returned for more than two months and no exceptions being taken thereto was confirmed and ordered to be Recorded

Jesse James Rockwell Clerk

An order was made at February Court 1834 which is hereto annexed commanding that report to the Comt. for re-examination: upon which it appears that a bond credited in the report as due from Wm L. Everett & A. P. Peck for \$204.84: was collected by the intestate in his lifetime and a fee paid to John G. Mason at attorney \$5.00 had been paid since this report was made: these amounts are therefore deducted from the above report & distribution among the distributees again made from which it will appear that each will have to refund the sum of \$32.46 as the following statement will show to wit

By Balance due the estate sent forward	\$3295. 76
deduct Everett & Peck's Bond \$204. 84	
do fee to John G. Mason 5. 00	209. 84
which leaves the Balance to be divided	\$3085. 92

To Matthew Williams & wife proportion	\$471. 48
" Thos. S. Simmons do	471. 48
" Nancy Simmons do	471. 48
" Thos. A. Simmons do	471. 48
	3085. 92

Comrs fee \$1.00 charged
to the same.

Jesse Cole Clerk

At a Court held for the County of Southampton the 21st day of April 1834: This amended account current and Master Commissioners report of Nancy Simmons administration on the estate of Henry Simmons deceased was returned and ordered to be Recorded

Jesse James Rockwell Clerk

Attest J. H. Edwards

I am this moment about to leave for
the South, and can not attend to the
matter, but Mr. Ridley - and he will
arrange it -

Yrs
G. R. Clambry

Maclean's Error

Copy done by
S. H. H.

Summons

Summons

Copy done by
Maclean's Error

317.47.

We bind ourselves our heirs &c to pay or cause to be paid unto Henry Maclin guardian of Thomas Simmons the just and full sum of Three hundred and Seventeen dollars forty seven cents - Witness our hands and seals this 19th day of August 1804.

Witness

L. R. Edwards

Dan^l W. Simmons (Seal)

J. L. Simmons (Seal)

Endorsement 1809 May 20th Rec^d. of D. W. Simmons ninety dollars & 47 Cents the interest of the within bond to this day.

L. R. Edwards

Southampton Circuit Superior Court - November 5th 1841
Thomas Payne Adm^r of Henry Maclin dec^d
against

Plff

In Debt

vs

Daniel W. Simmons & J. L. Simmons

The defendant Daniel W. Simmons still failing to appear on the motion of the plaintiff by his attorney it is considered by the Court that the plaintiff recover against the defendant Daniel W. Simmons the sum of three hundred and seventeen dollars forty seven cents the debt in the declaration mentioned with legal Interest thereon from the 19th day of August 1804 till paid and his costs by him about his suit in this behalf expended. And the said Defendant in Mercy &c This judgment is to be credited for ninety dollars & 47 Cents the interest up to the 20th of May 1809 - Jeff^s Costs \$ 6.94 Cents

• Hopy. Teste. L. R. Edwards Ck

Payne
to 3 order
Edwards

A

Simmons

to 3 Exhl. nations?
Payne & Sgt. Butler -

Baltimore Jan. 1. 1846

W. L. R. Edwards -

Be good enough to
hand over to James S. Fitch
a bond placed in your possession
for collection by Henry Machin in
his life time against Daniel and
Lebanon Simmons -

Wm. Payne

Simmons LC

v } A copy acc current

Payne LC

Filed with answer of Est. de Bell

Nicholas M. Selwell adm^r of Nancy Simmons dec^d

The Commissioner in auditing and settling the transactions of N M Selwell on Nancy Simmons estate committed an error in the addition of his disbursements for 1837 of \$70 too little which with interest on the same to December 1840 is \$17.60 making \$82.60 the account should therefore stand thus as follows

1840.

Dec ^r 31 By Balance due the estate of principal	\$821.71	Interest	196.87
deduct		70.00 do	17.60
	751.71		184.27

By Interest acc^d 184.27

" By Balance due the estate \$ 935.98 with interest
on \$751.71 paid thereof from this date well paid

Respectfully Submitted

Geo. Collet Horne

At a Court held for the County of Southampton on the 21st day of March 1842
This reformed account and Commissioners report of Nicholas M. Selwell's
administration on Nancy Simmons estate was returned and ordered to lie
one Term for exceptions: And at a Court held for the said County on the 18th
day of April 1842 This said account having lain one Term and no exceptions
being filed was confirmed and ordered to be Recorded

Teste J R Edwards Clk

Dimmocks vs Payne

The material party has
not answered and is not
before the court on process.
no mo: therefore, can be
made to Discontinue: more-
over the Bill sh^d. be am-
ended to bring Payne before
the court in his assumed
character & a settlement of
Machin's guar^{anty} account.

R. H. Butler

Simmons }
" }
Payne & }
}

This suit was brought by Thos. J. Simmons an infant by his next friend, praying an injunction to restrain Thos. Payne Exor. of Henry Macdon from collecting the amt. of a judgment obtained by him against Daniel W Simmons for \$317.47, with interest from 19. August 1834 until set to a credit for \$90 20th May 1839. Which judgment was recovered in the Sup Court of Southampton, on a bond executed by said Daniel W Simmons & J. J Simmons to Henry Macdon Guardian to the Poff. The governor upon which the injunction was prayed, was that Macdon had died, Payne has qualified as his Exr. was notoriously dishonest; & that the amt. collected by him, would be lost to the Compt. The bill charged ^{that} Macdon as Guardian of the Compt.

It was afterwards discovered that Macdon had never qualified as Guardian to the Poff; & leave was obtained to file an amended bill. This bill was filed May 1843, and makes new parties. (N M Seabrook Exor. of Nancy Simmons who was adm. of Henry Simmons, and Jas S. French) charges that he was entitled to receive from Henry Simmons estate \$771.48. with interest from 25. Dec. 1843 - that Nancy Simmons adm. of Henry was sufficient to pay this amt. & that Seabrook as her Exr. received sufficient amt. to pay it. That the payments made by Nancy Simmons to Henry Macdon, was illegal & not binding upon the Poff, as Henry Macdon had never qualified as Guardian, & therefore had no authority to receive it. The prayer is that Simmons may pay amt. of his bond to the Poff and that Seabrook Exr. of Nancy Simmons may pay the balance due after this is done.

Seabrook answers stating amt. in his hands as Exr. French answers denying the bond as his, by assignment for value, from Payne. The Bill was taken for complaint as to Payne & as to Daniel W Simmons. At October term 1843, a decree is pronounced

-ed ordering accounts - 1st That Payne render an account
of all monies m^d by his testator Henry Maslin on account
of the P^{er} & all proper & legal expenses paid for him - 2^d
his acc^t as Ex^r of Maslin - 3^d That Seabree render an acc^t
of M. Simmons; admin on the estate of Henry Simmons, & 4th
an acc^t of his own transactions as Ex^r of Nancy Sim-
mons.

The court returns an acc^t. Payne renders no
acc^t of his Executorship of Henry Maslin. or of expenses
paid for P^{er}; but says he is in debt, gave no security
Kept no acc^t. - That he did not intend to charge the P^{er}
but thinks he should be allowed something for it. (see
his letter) The court allows ^(Maslin) the whole interest on
the Maslin estate, & makes the balance due him (The P^{er})
\$771.48 with interest from 31. Dec. 1841.

He also states the acc^t. heretofore settled to be correct. Nancy
Simmons; acc^t. shows the balance to be due The P^{er} \$771.48
with interest as above. Seabree's acc^t. shows that there
is in his hands as Ex^r on Dec. 31. 1840, of \$938.98
with interest on \$751.71 paid then of from that day.

Gholson -

French contends that there is no testimony whatever
to show that Henry Maslin ever received any property
belonging to Thos. Simmons - There is a bond executed
to him as Guardian - but if that proves he received
anything it also proves he was Guardian - if under the
circumstances a decree can be rendered, it should
be against Seabree adm^r. of Simmons for the amount
due Thos. Simmons - and the bond implication
should be dissolved and French permitted to collect
and retain the same under his assignment.

Seabree
vs
P^{er} & Simmons
}
Statement of case
by
P^{er} & Simmons
vs
Seabree

In the amended Bill Payne in his individual character is not a party - ~~nor~~
The Impunction Bond is not signed either
by Thos. S. Simmons or his next friend
John R. Chambliss who sues -
There - ought not the security to be
forth coming bond to be made
a party - Has not ~~Seabell~~ ^{any} Simmons
ought to require Payne to answer & attend
^{before the court}

Seminens

v. } Inyon: bond

Maclins Exor:

Know all men by these presents that we Daniel W Simmons and Jeremiah Cobb
are held and firmly bound unto Thomas Payne Execu-
tor of Henry Maelin deceased in the just and full sum of Six hundred dollars
good and lawful money of Virginia, to be paid unto the said Thomas Payne Executor
as aforesaid his certain attorney his Executors, administrators or assigns To the payment
whereof well and truly to be made we bind ourselves our heirs executors and administrators
jointly and severally firmly by these presents. Sealed with our seals and dated this
28th day of February- 1842.

The condition of the above obligation is
Such that whereas Thomas J Simmons an infant of tender years by John R Cham-
bliss his next friend hath obtained from the Judge of the first Judicial district Second
Circuit an injunction to stay until the further order of the Circuit Superior Court of
Law and Chancery for the County of Southampton all further proceedings on a
judgment recovered in the said Court by the above named Thomas Payne
Executor of Henry Maelin dec^d against the above bound Daniel W Simmons
on the 5th day of November 1841 for the sum of three hundred and seventeen
dollars forty seven cents with legal interest thereon from the 19th day of August
1834 till paid and the costs. Subject to a credit of ninety dollars 47 cents the
interest up to the 20th of May 1839. Now if the said Thomas J Simmons shall
satisfy and discharge whatever decree may be rendered against him the said Thom-
as J Simmons in the premises as also any damages which the said Daniel Exor:
as aforesaid may in anywise sustain on account of the improper grant of the
said Injunction then the above obligation to be void or else to remain in full
force and virtue.

Witness
L R Edwards.

Daniel W Simmons (Seal)
Jer Cobb (Seal)