

1893-19

Southampton County Chancery

Clayton, Richard W, vs Presson, Wm. H.

(an infant)

Partition of real estate by sale of same.

Edwards, L. R.

G. A. L.

To The Honorable George Blount Judge of
of the Circuit Court of Southampton
in chancery sitting

Humbly complaining your
Orator Richard W Clayton sheweth
unto your Honor that he and
Wm H Poyson an infant of twelve
years are jointly possessed in fee simple
one moiety each of a tract of 120 1/2
acres of land in the county of
Southampton and bounded by the
lands of your Orator and Murphy
Wolfeputh that your Orator now
desires a partition of the said land
between him and Wm H Poyson or
if that cannot be done that the
said land may be sold and the
money divided between them and
as Wm H Poyson is an infant he
has to invoke the aid of this
court to effect his purpose

In Tender consideration whereof and
inasmuch as your Orator is without
adequate relief in a court of law
and only entitled to full relief in a
court of equity where such matters
are peculiarly cognizable he therefore

prays that Mr JB Paxon an infant of
tender years by some fit and proper his
guardian ad litem appointed for that
purpose may be made a party
defendant to this bill and that the
court would compel him as free
and perfect answer make to the
allegations therein contained as if he
had been himself more fully and
specially interrogated and that the
court would decree a division of
the said tract of land or if that
cannot be conveniently done that
the same may be sold and after
paying the costs of this suit the
purchase money equally divided
between your Orator and Mr JB Paxon
and that the court would grant such
other and general relief the premises
considered as equity may dictate and
the nature of his case may require
and as in duty bound your Orator
will ever pray etc

Shannon J. J.

Superior Circuit Court, Kansas Term 1877.

Richard W Clayton

Plff

against
Wm H. Propan, an Infant

Def

In Chancery

This day the Cause came on to be heard in the Plaintiff's
Bill, answer of the Infant defendant Wm H Propan by J R
Edwards his guardian ad litem, general replication thereto,
& was argued by Counsel, On Consideration of the
Court doct adjudge, Order & decree, that Rich-
d W. Stephens, Benj Bristol, & R A Bristol, all be and
are hereby appointed Special Commissioners for that purpose,
shall after reasonable notice to all the parties inter-
ested proceed to divide the tract of Land containing 120 1/2
acres, into two equal shares having regard to quality &
quantity, & if necessary employ 2 competent
Surveyors, to assist them & allot One share to Richard
W Clayton & One share to Wm H Propan & report to
Court, but if the said Commissioners should find it
impracticable to divide the land between the
parties, then let them report the facts to Court,
in Order to a further decree.

Attest,

By the Court,

R. Tyler D.C.

Clayton
is 3
Person

Commencement Report
July 20 - 1878

1878 July 20

W B Shaver

State of Virginia, Southampton Co.

21st November 1877.

To the worshipful Court (Circuit) of Southampton Co.

We the undersigned special Commissioners appointed by the Circuit Court, Southampton County, at its November term to divide the tract of land known as the "Golden Tract" between R. W. Clayton and Mrs. W. P. P. P., infant, and allot the same, do beg leave to report that we find it impracticable to divide said tract of land. Furthermore, we beg leave to state that the buildings thereon constitute about one half of the value of said property, and owing to the smallness of the tract and the scarcity of timber for fences &c., we find it impossible to divide so as to make either portion valuable or desirable to own, or without serious detriment to the parties interested.

Respectfully submitted,

R. A. Bristol,
R. M. Stephenson
Benj. Bristol

Received from Mundock Clayton
\$10 in full of fee in suit of
Clayton vs Purpois
Sept 11th - 1848

Wm. J. B. Shands
Attorney at Law

N. B. This receipt is a duplicate
of one lost
W. J. B. Shands

Rec^d of M. M. Clayton Special Commissioner to sell the lands in
the case of Clayton vs Breton rendered at the May term of the
Circuit Court of Southampton, one hundred and Eighteen Dollars
and forty eight Cents it being my portion of the Cash proceeds
of Sale of said Land, after paying Charges attending sale
of same

Aug 19/78

P. M. Clayton

Recd of R. W. Clayton ten dollars
for survey and map of land
known as Holden tract -

June 1st 1878

W. H. Hood

Recd. Sept. 14th 1878. of M. M. Clayton
one dollar (\$1.00) pay for services as Clerk in
the sale of the Holden tract of land

Eli H. Davis

Clayton

no 3

Person

Answer of W. H. Person

The answer of Wm B. Phipps an infant
by L. R. Edwards his guardian ad
litem to a bill in chancery in the
Sircuit Court of Southampton by
Rich^d W. Clayton vs him

This defendant for answer to
the said bill or as much thereof as
he is advised it is necessary for him
to answer answering says he
places the interests of his ward under
the care of this court whose peculiar
duty it is to protect the rights of
infants and leaving fully answered
prayer hence to be dismissed with his
costs

Charles J. A.

Southampton Circuit Court, May Term 1878.

Richard W. Clayton

against

Wm. H. Kippen, an Infant,

Plff.

Def.

In Chancery

This day this Cause came on to be heard on the Report of the Commissioners R. A. Bristow, R. M. Stephenson, and Benjamin Bristow, made pursuant to a decree of this Court, entered at the November Term 1877, & to which Report no exceptions have been filed & was argued by Counsel, On Consideration whereof the Court doth adjudge, Order & decree, that the said Report be confirmed, & it appearing to the Court, ^{that} from the said Report, the said tract of Land, containing, 120 1/2 acres, cannot be conveniently divided between R. W. Clayton & W. H. Kippen, the Court doth further adjudge, Order & decree, that Murdoch W. Clayton, who is hereby appointed Special Commissioner for that purpose, shall after having given at least thirty days notice, of the time & place of public advertisement in the neighborhood of the land, & at Jerusalem, proceed to sell at Jerusalem, on said County Court day, at public auction, to the highest bidder, the tract of land lying in Southampton County, known as the Colden tract, containing, 120 1/2 acres, on the following terms to wit: One half Cash, balance on a credit of twelve months, taking from the purchaser a bond with approved security, carrying interest from the day of sale, retaining the title until the further order of the Court. And the said Commissioner is directed, after paying the costs of this suit, & sale, to divide the residue of the Cash payment, into

two equal parts, Shares, & pay and then to Richard
 W. Clayton, & the other I have to the Land Guardian
 & the Defective Bond for the land to the Court
 of W. H. Trefor, & returned his receipts, along with his
 Reports for the Court, for its further decree,
 But the said Affidavit Mr Clayton, shall not pro-
 ceed to all under this decree, until he shall
 have executed, before the Clerk of this Court,
 a bond with good Security, in the penalty of
 Five hundred dollars, for a faithful performance
 of this & any other decree, which may be entered
 in this Cause.

A Copy,
 Dated,

Belk \$7.03
 Shiff
 Corn Tyler 5.00
 Law.

J. R. Tyler J.C.

Clayton
 20
 Trefor

Wm. James Stephens \$6.00

see receipt for - Stephens

To The Honl. Judge of Southampton Circuit Court.

Agreeable to your decree in the case of Clayton vs. Ripston
rendered at the May term of Southampton Circuit Court 1878,
I proceeded to sell the lands therein mentioned before the
Court House doct of my said County, and Mrs Fanny
Stephenson became the purchaser at six hundred dollars.
I have Appropriated according to the decree as follows

Amount Sales of Land		\$600.00
Commissions on \$300 ⁰⁰ at 5% each	\$15.00	
" " " \$300 ⁰⁰ " 3% "	9.00	
Clerks fees	7.03	paid L R E
Commissions " Tyler "	5.00	paid R. D.
Three Commissions to give the lands appraised by your Court two days each	6.00	
Ex. H. Dabie (Clerk) \$1.00. W. B. Thomas, etc.	11.00	
W. H. Wood. Surveyor	10.00	
R. W. Clayton. a Beneficiary	118.48 ¹ / ₂	
Fanny Stephenson, Guardian of W. H. Ripston	118.48 ¹ / ₂	
Rem. with the interest from day of Sale, with R. M. Stephenson as Security, and payable	300.00	
twelve months from date	\$600.00	\$600.00

All of which is respectfully Submitted.

W. H. Clayton
Special Commissioner

Clayton

No 3 Affidavits

Pipestone

State of Virginia
Southampton County.
State of Virginia — to wit: 3

This day Richard M. Stephenson, Benjamin Bristow, and Richard A. Bristow — all of the County aforesaid — personally appeared before me, a Justice of the Peace for and in the County aforesaid, and made oath that they know well the tract of $120\frac{1}{2}$ — one hundred and twenty and a half acres of land (known as "The Colden Tract") now held jointly by Richard W. Clayton and William H. Peepson an infant of tender years; — that they have recently examined said land by a personal inspection, and think and are, decidedly, of the opinion, that the interests of all the parties having rights therein will be promoted by a sale, as it cannot be conveniently divided, and any such division would necessarily lessen the value of their several interests.

Given under my hand this 15th day of September 1877.

M. D. Butler J.P.

Clayton

or { Sum. Chy

Prefson

1877 September Rules

The Commonwealth of Virginia,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—GREETING:

WE COMMAND YOU TO SUMMON

Wm M Phipson an infant of tender years —

if *he* be found within your bailiwick, to appear at the Clerk's Office of our Circuit Court of Southampton County 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 in our said Court by *Richard W. Clayton*

And have then there this writ.

WITNESS, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court House, this *22*^d day of *August*, 187*7*, in the *102* year of the Commonwealth.

L.R. Edwards *cc*

Clayton Report &

Prepared

Chas. Tyler.

1877. Oct. 18th Returned

Commissioner's Office,
Jerusalem, Va.

October 13th 1877.

To the Circuit Court of Southampton County,

Pursuant to a
decree of the Circuit Court of Southampton County in a
suit in Chancery depending in the said Court, between
Richard W. Clayton Plaintiff, & Wm. H. Tupper, an Infant,
Defendant, the undersigned One of the Commissioners in
Chancery of the said Court, do, solemnly & advisedly, for
Settlement, by said decree, "That One of the Commissioners
of this Court, inquire whether partition can be conveniently
be made of the whole, more or less of land held in joint tenancy
by Richard W. Clayton & Wm. H. Tupper, an Infant;
and if partition cannot be conveniently made, whether
the interests of all the parties will be promoted by
a sale of the entire tract, and the proceeds of sale
divided between the said Richard W. Clayton &
Wm. H. Tupper &c." Reports to the Court, that in his
Opinion, from the testimony of Richard W. Tupper,
Benjamin Beister & Richard A. Bruster, heretofore
filed, that partition cannot be conveniently made,
of the land aforesaid, & that a sale of the same
would be to the interest of all the parties &c.

All of which is respectfully Submitted to
the Court by,

Comr's fee \$5.00

Charged to
R. W. Clayton.

James K. Tyler,

Commissioner &c.

A. Copy List:

L. R. Edwards Co. Co

Maj: L. R. Edwards. please deliver to
R. M. Stephenson, ^{the Port} mentioned in the
above decree

Jan. 6th 1880 —

Wm W Blayton

Clayton
vs 3 Deem
Perpon

This day This cause
came on again to be
heard on the papers
formerly made and

was argued by counsel on consideration
whereof the court doth adjudge, order
and decree that M. M. Clayton special
commissioners do withdraw from the papers
in this cause the bond for \$300 executed
by Francis Stephenson and R. M. Stephenson
and collect the same amounting to the
purchase Francis Stephenson a deed
with special warranty, ^{for the tract of land} called Holden
containing 120 1/2 acres and pay one
half thereof to R. W. Clayton and the
other half to the lawful guardian of
W. H. Perpon and return his receipts along
with his report in order to a further decree

1880 July 11th Recd. etc. Clinton B. Co. \$300. date
15th day of July 1878. R. M. Stephenson
for M. M. Clayton

74
Clayton
vs 3 Decm
Payson

Nov Term 1879
To be entered
Geo. B. Bond.

~~17~~ ~~28~~ ~~31~~ ~~32~~ ~~33~~
Clayton } Stat: Rules 14

Person

~~Dis~~
p

In the Circuit Court of Southampton County.

Richard W. Clayton

Plaintiff

against
Wm H. Pearson an infant

Defendant

1877 Aug 22: Summons issued

" Sept. R Sum^s ret^d - Bill filed. L R Edwards assigned Gov. ad litem
to Deft. Ans^r of Deft. G. Rep

" Oct. Cause set for hearing &c

" Nov J. Decree &c.

1878. May .. Ref^d. & decree for sale

" Oct 21 Report of sale.

1879 Nov. J. Decree to withdraw & collect costs. Ex parte Howard &c.

~~1882 Nov Dismissed from the docket~~

Clayton

to 3 Decree

Prison

Nov Term 1877

To be entered

Geo T. Blount.

Clayton
vs 3, Deere
Parson

This day This cause came
on to be heard on the
plaintiffs' bill answer
of the infant defendant

W. H. Parson by L. R. Edwards his guardian
ad litem, general replication Thence and was
argued by counsel On consideration whereof
the court doth adjudge, order, and decree
that Richard M. Stephenson, Benjamin Brister
and Richard A. Brister who are hereby
appointed special commissioners for that
purpose shall after reasonable notice to
all the parties in interest proceed to divide
the tract of land containing $120\frac{1}{2}$ acres
into two equal shares having regard to
quality and quantity and if necessary
employing a competent surveyor to
assist ^{them} and allot one share to Richard
M. Clayton and one share to Wm
H. Parson and report to court but
if the said commissioners should find
it impracticable to divide the said
land between the parties then let
them report the fact to court in
order to a further order

Clayton
vs 3 Decree
Purson

This day This cause came on again to be heard on the report of the commissioners R. A. Bristow, R. M. Stephenson and Benjamin Bristow made pursuant to a decree of This court entered at the November Term 1877 and to which report no exceptions have been filed and was argued by counsel. On consideration whereof ~~and~~ The court doth adjudge, order, and decree that the said report be confirmed and it appearing to the court that from the said report the said tract of land containing $120\frac{1}{2}$ acres cannot be conveniently ^{divided} between R. W. Clayton and W. H. Purson, The court doth further adjudge, order and decree that Mordock M. Clayton who is hereby appointed special commissioner for that purpose shall after having given at least thirty days notice by public advertisement in the neighbourhood of the land and at Jerusalem proceed to sell at Jerusalem on some county court day at public auction to the highest ^{bidding} bidder the tract of land lying in Southampton County known as the "Holder Tract" containing $120\frac{1}{2}$ acres on the following terms to wit one half cash balance on a credit of twelve months taking from the purchaser

Bond with approved security carrying interest from the day of sale retaining the title until the further order of this court

And the said commissioner is directed after paying the costs of this suit and sale to divide the residue of the cash payment into two equal shares and pay one share to Richard W. Clayton and the other share to the lawful guardian W. H. Pypson, and return his receipt. The defendant bond for the land to the court along with his report for its further decree

But the said Murdoch M. Clayton shall not proceed to act under this decree until he shall have executed before the clerk of this court a bond with good security in the penalty of five hundred dollars for a faithful performance of this and any other decree which may be entered in this cause

Clayton

vs
Dene
Pypson

May Term 1878

to be entered

Levi B. B. 5.