

1856-010 Chancery Causes: James Clayton, admr of Silas Summerell vs Joseph B. Council
Sale of Wight County

Will: 1835, Silas Summerell, Southampton County

Other SURNAMES: Eley,
Council, Summeril,
Summerill

May Comm. 1853

Octo. 53. Deem for
accounts. p. 52.

James Clayton adm.
of Silas Sumner

res. 33 Cliff. paper

Joseph E. Courneil

1853. Sept. sides Bill
to exp. filed & cleared
now.

Octo. sides, etc. for
clearing.

Octo. 19. 1853. Genl. dem.
by bill to bill of Hlf.

Octo. 1853. Genl. dem. 1 pm
dem. account. & clear to
def. to file acc. in 60. days.

Jan. 2nd. 1854. ans. of
Sift. Comm. filed.

May 1854. Deem. - D. Bk. 29.

Sept. 16th. 1854. Report of
Comm. Hayden made.

Octo. 1854. Deem to am?

bill & last recd.

Sept. sides 1855 to am. Bill
for, Genl. Ed. & clear & nisi

May sides 1855
am. bill to am of
am. sides & let for
clearing.

Sept. 12. 1856

Sept. file.

May 19. 1856

Deem. p. 82.
to account at

Octo. 20. 1856

final dem.

To The hon^{ble} Richard H. Baker judge of the Circuit Court of Isle of Wight County In Chancery sitting, humbly complaining, sheweth unto your honor, your orator, James Clayton (sometimes & heretofore called administrator of the Will annexed of Silas Summerville &c.) - That the said Silas Summerville departed this life about the year 1835, seized and possessed of a considerable real and personal estate. having made and published his last will & testament which was duly admitted to probate and to record in the Clerk's office of Southampton County, a copy of which is herewith filed as a part of this bill. The said Summerville left a widow, named Sally who afterwards intermarried with one Joseph G. Council, and four children viz, Wm H, Rich^d, Thomas and Sally R. Summerville - who were the heirs at law of Silas Summerville &c, & who were equally provided for by his last will. Your orator on the day of

qualified as administrator with the Will annexed of said deceased, as a copy of the order of his ^{then with will &c.} qualification, will fully shew; and ~~with~~ as such took possession of the estate and proceeded to administer the same. It is needless to state the difficulties which, from the ^{so confused} embarrassed condition of your orator's testator's estate, he encountered in settling the same. Your orator states that, conceiving then it could be safely done, a division was effected of the negroes of said Silas Summerville &c, among those entitled; and in the division so made, the following negroes, viz Billy valued at \$600. Seph sr at \$500, Robert at \$500. Patience at \$100 & Edmund at \$100. were drawn by & delivered over to Joseph G. Council in right of his wife Sally, formerly Sally Summerville, that being her portion in fee simple, of said negroes, as will appear by said Council's receipt therefor, marked "Z." and here with filed as a part of this bill. She being entitled to 1/5th of said estate, and then being 1/5th of said negro estate. Your orator states, that afterwards many debts came against the estate of said deceased which

if your orator from his own funds, then not being any apt- of his executor to pay the same, nor has he had any since to satisfy them debts, for papers of which the said Council is and he by account is demanded,

he paid off & as will appear by his accounts returned before the Compt. & filed in the Clerk's Office of So.ampton County. Copies of which, marked "y" is here with filed as parts of this bill. That, as by said "accounts" appears, on settlement made of his fiduciary transactions, the estate of his testator was indebted to him in the sum of \$1528.39 of which 1/5th equal to \$305.67.4⁵ with Int, thereon from the 31st December 1844, the said Joseph G. Council, in right of his wife Sally & having received the ^{indemnity} her portion of her late husband's estate, was & is now, bound to pay & refund to your orator, as well on principle of Law & Equity & honesty, as by his express obligation in said exhibit "2" set forth, and your orator does hereby demand the same of said Council.

And your orator further states that about the year

his testator executed his ^{Will} for \$ to one Willis Elly (now

a Lunatic) - That the said bond, though diligent inquiries were made for the same, for several after the death of said said Sumner the obligor thereof, did not come to light until some three years ago. That ~~thereon~~ was introduced thereon, by the testator ^{Willis Elly}, though his next friend, he being at that time a Lunatic at Williamsburg, on the Circuit Court of Southampton County, Va, against your orator as owner of said Sumner the principal (obligor) in said bond, and a decree therefor was given by the said Circuit Court, against the estate, or adm of said Sumner, for the at the City of New York 1852, for the sum of \$1676.00, the amt, due thereon - as will appear by a transcript, or copy of said Decree, and if necessary a copy of the entire proceeding in said case. Now with held - all of which sum of \$1676.00 has been fully paid off, by your orator, out of his own funds - your orator states that the said Joseph G. Council in right of his said wife, and in consequence of having recd, her proportion of said Sumner's estate, to wit 1/6th thereof in fee, as well as by his said obligation, is bound to pay & refund to your orator 1/5th of the said \$1676.00, to wit, the sum of \$335.20, with Intest from June 20. 1853, and he claims and owns the same of said Council, as your orator has not

any appts belonging to his executor to meet; or discharge them concerned, or any part thereof. The evidence of his having paid the said sum of \$1676.00 is here with supplied, in the report of W. S. & within Council for said Elly - marked "2", and filed as a part here of. your orator will observe that the reason why he has not paid made the other legates of said Sumner's estate parties to this suit is, that they have paid him, their several proportion of the amount found due on the said "decree" current; and of amt decreed against him ⁱⁿ the suit of Elly & his next friend, on demand; but that the said Council has refused so to do contrary to Equity & just conscience. your orator states that the said Council is indebted to him in the sum aforesaid; and, as he is remediless in this matter, he prays, that the said Joseph G. Council may be made party defendant to this bill, & that he be compelled to answer the same. That this honorable Court will decree that he pay to your orator, the said sum, with interest, as herein before set out and described, and grant all other aid necessary relief as may be meet and fit in the premises - & he prays -

I am, Sir,
Yrs.

J. W. H. H. H.

W. H. H.

Clayton
L. M. H. Rice
Council

Sept. rules 1853 filed

Hon. Revd. H. Parker Judge of the Circuit Court of Isle of August Co.

The Complainant James Clayton, Prs, that his Amended Bill
humbly sheweth, that he exhibited his original Bill, in this
honble court against Joseph G. Council, calling upon him to
pay unto your ^{orator} his proportion of the several sums due to the
complainant, as therein & for the reasons stated. That the said
defendant answered the same; & an order was made directing
the commissioner of this court, to ascertain, & certify, & otherwise
the amount of the indebtedness of said defendant to the
Complainant. Your orator further states, that he filed as
an exhibit, the "Account" by showing the transactions
of your orator as ad. of Elias Sumner & Co., &
the indebtedness of said estate to him, 1/5 of which should
be paid by the defendant. Your orator, at that time
was not aware, ^{or his counsel rather was not;} that any account had ever been reviewed
returned before the county Court of Southampton in which
he had qualified. but it has since been discovered that
he has, as will appear by the accounts marked "A," and
here with filed - as a part of this Bill. By which Account;
the said defendant, Council, for the reasons stated in his original
Bill, owes to the said Compt, 1/5 of the sum of \$1518.39, with Int.
from 15 Decr. 1845; and he owes the further ^{amount} ~~sum~~ of 1/5 of \$1875.00.
as is alleged in the original Bill; and your orator prays, that
that this honble Court, will grant a decree for the same with
Interest, & costs, & thereon according to law & further & grant all
other relief as may be meet and fit in the premises - & Sent. h^{is}

James Clayton

Clayton
V
Counce

Transcribed by B. L. Counce

Revised July, 1855

The answer of Joseph G. Council to a Bill exhibited against him in the Circuit Court of Isle of Wight County by James Clayton some times called administrator ^{with the will annexed} of the estate Silas Sumrell dec^d.

The said respondent for answer unto so much of the said Bill as he is advised is material for him to answer unto answering says that he admits the statement of the said Bill to be true so far as it narrates the facts in reference to the family of the said Silas Sumrell and that this respondent married his widow and that the plaintiff qualified as administrator of the said estate with the will annexed and proceeded to administer the same. Your respondent does not however admit that the affair of the said estate were in the confused and embarrassed condition as pretended and alleged by the plaintiff but on the contrary believes that if there were any confusion or embarrassment that it was caused by the mismanagement of the plaintiff.

This respondent also admits that in the month of March 1840 he received from the plaintiff as administrator of the estate of the said Silas Sumrell the five slaves mentioned in the Bill for his wife's distributive portion of the slaves of the said estate and that he executed the receipt which is filed with the Bill but your respondent does not admit his liability to the said plaintiff for the demand made of him in the said Bill. It will not escape the notice of the Court

that eighteen years have elapsed since the Plaintiff became the administrator of Sumner's estate and that nearly nine years have elapsed since according to the statement of the Bill the plaintiff had a claim against this respondent for three hundred ^{and five dollars} and sixty seven cents and yet your respondent asserts that until the Bill was filed he never had the slightest intimation from the plaintiff although living near him and seeing him frequently of his purpose to make such a demand upon him and he relies upon this circumstance and the staleness of the demand as reasons why this court should not even if the account of his fiduciary transactions be duly correctly stated grant to the said plaintiff the relief which is now prayed for in reference to the said sum.

He moreover insists that he is not bound by the said settlement and claims the right to impeach the same should accounts be directed in this cause. In reference to the other claim the amount alleged to have been paid to the Committee of Clergymen this respondent requires that the plaintiff should exhibit full proof of the said claim and claims the privilege of making all legal and equitable defences when the plaintiff shall have filed a full record of the suit referred to in the Bill. This respondent was no party to the said suit and is not bound by the decree pronounced in the same.

This respondent states that his wife died in July 1844, that he never received any of the personal estate of the said Silas Sumner except the negroes already mentioned.

It has been ^{sometimes} since his attention was called to the management of the estate supposing that he would have no further interest therein.

Having been required to answer the Bill within sixty days from the adjournment of the last court and his Council not having access to the papers this respondent has not been as minute and explicit in his objections to the said settlement and to the demand now made of him as he would otherwise have been. He denies however his liability to the plaintiff and claims the right if it should become necessary to surcharge and falsify his settlement as administrator and requires full proof of the claim of the plaintiff.

Joseph Auncie

Sworn & Subscribed by the said J. S. Council before me,
this 6 December 1853.

Wm. Robinson
Notary Public
New York City.

Joseph G. Buncell

ats. $\frac{2}{3}$ Assurance.

Sumnerells adm.

January 2nd 1854
filed by Defto. atts.

The Answer of Joseph G. Council to an amended Bill filed
in the Circuit Court of Isle of West County against him
by James Clayton - This respondent for and on behalf
so much of the said Bill as he is answerer
is material for him to answer unto Answer
that he denies the correctness of the audit
filed in exhibit it with the said amended
Bill and that he is in any way bound
thereby. The said account shews that in
a suit instituted by this respondent several
years since against the said James
Clayton the plaintiff in this suit ^{an} ~~and~~
account of the transactions of the said
Clayton as administrator of Silas Som-
mell was stated in which account the
said administrator was charged with
undry items for money found in the
house of testator for corn and bacon
salt and negro hires amounting
to eight hundred and seven dollars
and forty six cents. Which account
was reported by Commissioners by ~~a~~
without exception by the said Clayton
and confirmed by the Court in said
suit and that the Commissioners has
stricken from the said audit the said
items improperly. Your respondent in-
sists that if bound at all for any part
of the amount appearing to be due to the
said Clayton on either of said accounts
he is only bound for his proportion of
the sum reported to be due in the suit to
which he was a party and that ^{he} cannot
be now be prejudiced by the subsequent
correction of said account.

He begs leave hereafter to file with his
answer a copy of said account relied
on by him and denies his liability
to the plaintiff in the premises

Joseph Laurence

Sworn to in open court.

J. P. Murray & Co.

Laurence

in Court of
the City of
Albany.

Clayton

Dec. 19. 1835. filed

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of

Isle of Wight

County, Greeting:

WE COMMAND YOU to summon

Joseph G. Council

to appear before the

Judge of the Circuit Court

of Isle of Wight County, at the Courthouse of said County, on the

first Monday of September

~~term next, to~~

being such day, to answer a bill in Chancery filed

in said Court against him by James Clayton, sometimes

called, administrator of Silas Sumner's Estate.

And have then there this writ.

Witness, N. P. YOUNG, Clerk of our said Court, at the Courthouse,

the

20

day of

August

1853,

78th

year of the Commonwealth.

N. P. Young, cl.

James Clayton Adm.
of Silas Sumner
n: 3rd Secd.

Joseph G. Council

To Sept. 2nd, 1833

Whitfield p. 1

Executed by delivering
a true copy of the
Within to Joseph
G. Council August
26th 1833 L. B. Edwards
For by Seal of

The Commonwealth of Virginia,

To the Sheriff of Isle of Wight County—GREETING.

YOU ARE HEREBY COMMANDED TO SUMMON *Joseph L. Council*

to appear at the Clerk's Office, of our *Circuit* Court for Isle of Wight county, on the first
Monday in *April* next, to answer *James Clayton Donahue*
called defendant of Atlas Summons &c.

of a plea of

damages

and have then and there this Summons.

Witness, NATHANIEL P. YOUNG, Clerk of our said Court, at his Office, this *20th*
day of *March*, 185 *5*, in the *99* year of the Commonwealth.

N. P. Young

Clayton admor. of
Summer Co

us. 3 Jan. 9 to
3 acc. Jan. 9
1 bill

To. Councils

To Acad. vol. 1185.

W. H. H. H. H.

Executed

J. Hall Stiff

Commissioner's Office
Smithfield Sept. 16th 1834

To the Circuit Court of Isle of Wight County

Pursuant to a decree of the Circuit Court of Isle of Wight County rendered on the 19th day of May 1834, in a suit in chancery depending in the said Court between James Clayton, adm^r of Silas Summerell dec'd Plaintiff & Joseph P. Council Defendant, the undersigned, one of the commissioners of the said Court, to whom was referred for settlement by said decree the account of James Clayton's administration of the estate of Silas Summerell deceased, of the Plaintiff's demand against the defendant, & of the amount of property paid & delivered by the Pl^{ff} as adm^r of aforesaid to the defendant, reports to the Court that on the 22nd day of August last he issued notices against the several parties aforesaid, requiring them to attend the settlement of the ~~said~~ accounts before him at his said office on the 5th of September, which notices were returned duly executed. That the Plaintiff by his counsel appeared before the commissioner in obedience to the said notice & filed as evidence ^{a certified copy of} an account of the transactions of the said Plaintiff as adm^r aforesaid, made pursuant to an order of the County Court of Southampton at its Nov. Term 1845, & confirmed by said Court at its January term 1846, marked A & herewith filed & the receipt filed with the complainant's Bill as exhibit (2), upon which evidence he has stated & settled the foregoing account of the said James Clayton's administration of the estate of the said Silas Summerell dec'd up to the 18th of Oct 1834 & on that day finds a balance due from said estate to the said administrator of \$4220.74. of which \$1026.35 is interest— In the account of the Plaintiff's demand against the defendant as one of the legates in right of his wife Sally late Summerell late widow of the said Silas Summerell, under the will of said testator, the defendant is charged with the sum of \$844.14¹/₂ being one fifth of the said balance, due the

said administrator, it appearing from the pleadings in the cause that was the defendant's proportion of said balance. The account of the amount of property received by said defendant from the Plaintiff as adm^r of Silas Sumnerell shows that the defendant has received negroes valued at \$1770.00 & is bound upon the refunding bond of the defendant filed as exhibit (Z) with Complainant's bill. The Commissioner further reports to court that after the completion of said account, he retained the same in his office ten days for the examination of the parties. Given under my hand as commissioner aforesaid, the day & year aforesaid.

C. B. Hayden

Time employed 3 1/2 hours - Fee \$2.50 charged to Plaintiff -

The Estate of Silas Sumnerell, In Account with James Clayton his Administrator with the will annexed.

1844 Dec 31	To Balance due the administrator on this date as per a/c of Commissioner Goodwin made pursuant to an order of the County Court of Southampton at its November Term 1845, & confirmed by said court on the 15 th of December, 1845	1518 39
1833 June 5 th	To this amount paid by said Administrator under a decree against him rendered in the Circuit Court of Southampton in the case of Willis Eley by Westfield, against him as Administrator of Silas Sumnerell -	1676 00
1834 Oct 18	" Interest on above Balance of \$1578.39 to date	892 83
"	" Interest on above payment of \$1676.00 - to date -	133 52
	Total Balance due the Administrator on this date -	\$4220 74
Joseph P Council		
In account with James Clayton Administrator with the will annexed of Silas Sumnerell deceased.		
1834 Oct 18	To 1/5 th of above balance of \$4220.74 -	\$844 14 4/5
Statement of the amount received by Joseph P Council in right of his wife Sally late Sumnerell, of James Clayton Administrator of Silas Sumnerell deceased -		
1840 March 17 th	Value of Slaves received by said Council of said Administrator as per ref ^d Refunding Bond of this date	\$1770 00

Sumner's Account
as in Charge
Joseph F. Council

Commissioner Hayden's
1st Report made under decree
of May Term 1834-

Sept. 10th. Returned filed.

7.50
2.56
7.13

A/c A.

The Estate of Silas Sumnerell

1844		In A/c with James Clayton his Administrator	
Dec	31	To Balance due Administrator on this date as per a/c A filed with Amended Bill	1518 39
1853			
June	20	" This amount paid by Administrator under a decree in Circuit Court of Southampton against him in favour of Willis Eley	1676 00
1856			
May	16	" Interest on \$1518.39 from Dec 31 st 1844 to date	1036 55
"	"	" do \$1676.00 " June 20 th 1853 to date	292 18
		Total amt due Administrator -	\$4523.12

A/c - B -

The Estate of Silas Sumnerell

In A/c with James Clayton his Administrator

1844			
May	4	To Balance due Administrator as per a/c filed with Defendants Answer to Amended Bill	817 34
1853			
June	20	" This amount paid by said Administrator under decree against him in Cir Ct of Southampton in favour of Willis Eley	1676 00
1856			
May	16	" Interest on \$817.34 from May 4 th 1844 to date	590 12
"	"	" do \$1676.00 " June 20 th 1853 to date	292 18
		Total amt due Admtr -	\$3375.54

A/c - C.

James Clayton, as Admtr of Silas Sumnerell

In A/c with Joseph P. Council -

1844			
Dec	31	By 1/5 th of \$1518.39 as per a/c A filed with Amended Bill	303 68
	"	1/5 of \$1036.55 int on do to May 16, 1856 -	207 31
	"	1/5 of \$1676 as per above A/c A	335 20
1856		" 1/5 of \$292.18 - interest on do as per A/c A -	58 43
May	16	Total amt due Admtr from J P Council -	\$904 62

A/c D.

James Clayton as Admtr of Silas Sumnerell

In A/c with Joseph P Council

1856			
		By 1/5 th of \$817.34 as per A/c B -	163 47
	"	1/5 of \$590.12 interest on do as per A/c B	118 02
	"	1/5 th of \$1676.00 as per A/c B -	335 20
	"	1/5 of \$292.18 interest on do as per do -	58 43
			\$675 12

A/c E.

James Clayton as Adm^r
of Silas Sumnerell

In A/c with Joseph P Council

1842
May 1 To this amt received by him as per A/c filed
with Answer to Amended Bill rejected
from A/c A filed with Pl^{ff} Amended Bill
as belonging to the widow of Sumnerell - 727 77
1836
May 16 " Interest on do to date 631 46 \$1359 23
1836
May 16 By this amt due him as per foregoing A/c C 904 62
" Balance as per deb't. 454 61 \$1359 23
1836
May 16 To Balance due Joseph P Council
as per contra \$454 61

Statement of the Amount received by Joseph P Council
in right of his wife Sally, late Sumnerell, of James Clayton
Administrator of Silas Sumnerell deceased.

1840
March 17th Value of slaves received by said
Council of said Administrator as
per rec^d & Refunding Bond of this date \$1770 00

Commissioner's Office
Smithfield April 12th 1835 -

To the Circuit Court of
Isle of Wight County;

Pursuant to a decree of the Circuit Court of the
County of Isle of Wight rendered on the 18th day of May 1835 in a
suit in chancery depending in said court between James Clayton
Administrator of Silas Sumnerell dec'd, Plaintiff & Joseph P Coun-
cill Defendant the undersigned, one of the commissioners of the
said court to whom was referred for settlement by said decree
the account of the transactions of said Clayton, as administrator
aforesaid, of the said Plaintiff's demand against the Defendant
& also of the value of the slaves or other property delivered
by the Plaintiff as said Administrator to the Defendant, reports
to the court that on the 1st day of April last by the consent of the
counsel of the aforesaid parties he made up the foregoing
accounts of the transactions of the said Administrator &c -
The decree aforesaid having directed that in taking the account
of the said Administrator's transactions, that A/c A filed with
Pl^{ff} Amended Bill, should be taken as prima facie correct, sub-
ject to surcharge or abatement & as no attempt was made to
falsify said A/c A except by the A/c filed with the Defen-
dant's Answer to the Amended Bill, the effect of which
account was reserved for the future decision of the court

the commissioner did not consider himself called on to decide be-
tween the two, & as the former A/c differed from the latter, in re-
garding certain credits as belonging to the widow of the testator
(the Defendant's wife) & not to the testator's estate, which amounts the
counsel for the parties admit to have been the subject of litiga-
tion in a suit at law the records of which is not filed in this
cause, the commissioner had not the material before him for
deciding this question, & he has hence made up two A/cs
A & B of the transactions of said Administrator. A/c A is
based on the A/c A filed with Plaintiff Amended Bill & shows
on the 16th of May 1836 a balance of \$4523.12 due from said
estate to the said administrator, of which amount \$3194.39, is
principal & \$1328.73 is interest. A/c B is based on the A/c
filed with the Defendant's Answer to the amended bill & shows
a balance of \$3375.64 due from the said estate to the said
administrator on the 16th of May, 1836. A/cs C & D, show the
the Plaintiff's demand against the Defendant, as based re-
spectively on the foregoing A/cs A & B - A/c C, based on Adminis-
tration A/c A, shows the sum of \$904.62, due from said Jos
P. Council to the Plaintiff, on the 16th of May 1836, of which
amount \$638.48, is principal & \$266.14 is interest. A/c D, ba-
sed on Administration A/c B, shows on the same date, a balance
of \$675.12, due from the said Jos P. Council to the said Plaintiff,
of which amount \$498.67, is principal, & \$176.45 is interest.
A/c E is a special statement of the Plaintiff's demand against
the Defendant, made at the request of the counsel of the lat-
ter, in which the Defendant is credited with the amounts
credited to the estate in the A/c filed with D^{ft}'s answer & ex-
cluded from the A/c filed with the amended bill, as belonging
to the wife of the D^{ft}, with interest on the amount from the
termination of the year in which it was charged in the said
administration A/c, & the Defendant is debited with the amount
due from him to the Plaintiff as shown by A/c G. The state-
ment of the value of the property received by him from the Pl^{ff}
as administrator aforesaid, shows that on the 1st of March 1840
he received from the said administrator negroes valued
at \$1770.00 - The commissioner further reports, that after the
completion of said account, he retained the same in his office
ten days for the examination of the parties. Given under my
hand as Commissioner aforesaid the day & year aforesaid
C. B. Hayden

Time employed 10. hours
Fee \$7.50 ch^d to Plaintiff

Clayton Academy of Summerall

as

Joseph P. Council

Tales Sep. 12. 1836

Commissioner Hayden's ^{2nd} Report -

At a Circuit Superior Court of Law and Chancery for Southampton
County holden at the Courthouse of said County on the
ninth day of November 1844.

Be it remembered that heretofore, to-wit: on the 23rd day of
November 1842, Joseph G. Council and Sarah his wife by their
counsel sued out of the Clerk's Office of the said Circuit
Superior Court a Subpoena and decree nisi against James
Clayton Administrator with the will annexed of Silas
Summrell dec'd William H. Summrell, Richard J. Summ-
rell, Sarah H. Summrell, and Thomas S. Summrell, which
Subpoena and decree nisi together with the return made
thereon is in the words and figures following, to-wit:
"The Commonwealth of Virginia, to the Sheriff of Southamp-
ton County, greeting: We command you that you summon
James Clayton, Adminr. with the will annexed of Silas Summe-
rell dec'd William H. Summrell, Richard J. Summrell,
Sarah H. Summrell & Thomas S. Summrell 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 at the said Court on the first Monday in January
next to answer a Bill in Chancery exhibited against them
in the said Court by Joseph G. Council & Sarah his wife,
And unless they shall answer the said Bill within two 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 them then this writ. Witness
Leicester B. Edwards, Clerk of our said Court, at the Courthouse,
the 23rd day of November 1842, in the 67th year of
the Commonwealth"

L. B. Edwards, c. l.

Return- "Executed" William A. Bell, Dy of William L. Everett, Shff.
And afterwards, to-wit: At Rules held in the Clerk's office
of the said Court on the first Monday in January 1843, came
the plaintiffs by their counsel and filed their bill against the

defendants in the following words to wit:

"To the Hon^{ble}. Richard H. Baker, Judge of the
Circuit Superior Court of Law and Chancery
for the County of Southampton, sitting in Chancery

Humbly complaining Shew unto
your Honor your complainants Josephy. Council (and Sarah his
wife late widow of Silas Summrell dec^d that in the year 1834
Silas Summrell departed this life the owner of considerable
estate consisting of Land, Slaves and chattels greatly more
than sufficient to pay and satisfy all his just debts, and previous
to his death made and published his last will and testament in
writing, which was proved in and admitted to record by
the County Court of Southampton, an authenticated copy of
which is herewith filed and prayed to be taken and
considered as a part of this bill. That the executors named
by the Testator in his will refused to qualify and James
Clayton qualified as adm^r. with the will annexed, and
took possession of his testator's property by virtue of his
said qualification. That he permitted the property to be
kept together and your complaint: Sarah remained with the
children on the plantation. Your complaint: further State,
that Silas Summrell left four children William H. Richard
J., Sarah and Thomas Summrell, all of whom were at the time
of his death infants of tender years, requiring to be raised,
supported and educated. That in pursuance of the wishes
of her deceased husband your complaint: Sarah did raise, support
and educate the children, but in so doing was compelled
to advance her own funds rather than sell any of the
property, as her husband Summrell has subjected his
estate to the fulfillment of the laudable wish to have his children
educated in a gradual manner. That your complaint: Sarah
was compelled to advance considerable sums particularly for
W^m H. Summrell who was educated as a physician and

consequently expended much more than his just proportion of the
income of the estate. And to whom your complaint: have frequently
applied to refund the money thus expended on him, but he has
always refused, contending that he was entitled to be educated
out of the estate. Your complaint: further State that James
Clayton the adm^r. has never settled any account of his
transactions with the estate of Silas Summrell and they desire
such settlement should take place (an abstract balance
may be due from him) may be paid over to your complaint: (and to
those entitled. Your complaint: further Shew unto your Honor that
a division of the Land and slaves of the decedent has been
made under a decree of the County Court of Southampton
according to the directions of his will upon the intermarriage
of Sarah his widow. That there are various unsettled
accounts between your complainants and the adm^r. and children
of Silas Summrell which from their multifarious and
complicated character cannot be properly and fairly
adjusted without a reference to a Court in Chancery.
That Richard J., Sarah and Thomas children of Silas
Summrell are still infants and unable to attend to their rights

On finding consideration of all which and in as much as
your complaint: are without remedy at Law (and only relievable
in a Court of Equity. To the end therefore that justice may
be done they pray your Honor to make James Clayton
adm^r. with the will annexed of Silas Summrell dec^d,
William H. Summrell, and Richard J., Sarah A. and Thomas
J. children of Silas Summrell, the last three of whom
are infants under the age of twenty one by some fit and pro-
per person to defend them, Defendants to this bill and
compel them to answer the allegations thereof, That the
defendant Clayton be directed to render before a Court of
this Court an account of his transactions in the estate of
his Testator also that an account of all the unsettled

Transactions between your compt. and the said Clayton as Com^{rs} of the
said Com between your compt. and the children of of Silas Sum-
ner, particularly an account of her advancements and disburse-
ments for them. And that your Honor will decree the settlements
and payment of the respective balances according to the rights
of the parties, and grant such other and general relief in
the premises as equity may dictate &c.

That your Honor will grant &c.

May it please your Honor &c.

Chambliss for compt.

Exhibit filed with the Bill.

Having been threatened with Death this day by Sam^l J. Franklin
who I consider to be in so high a state of excitement as to derange
his mental faculties without any cause whatever on my part
only for keeping him from starvation to guard vs. something
of the kind as it can do no harm. I have thought proper to make
this memo: in the first place I have been very negligent in
closing all my affairs about my Sheriffalty, and there are
a number of things not finally settled All Capt.

Murdaugh's acct. (and mine are to settle, he renders them in
such a way that it's almost impossible to understand them,
there are a number of executions on my Books which
he has received and given me no credit for. I wish
it distinctly understood that I attribute this entirely to
mistake (and not improper motives - all which
he has received I have marked at the top of the ex^{on}
received by S. M.) and under all that he has settled
I have written under settled, and the balance are not
settled but still due from him, - there will many
errors be found in his acct^s. returned, the first one
in his acct as well as I recollect is in Mrs. Bell's
Negro sold by him, has charged me in his acct with
paid on ex^{on} as well as I recollect of about \$90.

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After taking it out of the amt. which makes it stand charged
vs. me twice. (and I may have credit for it. Once. And a
number of other mistakes will be found. he received about
\$80. Patterson vs. Geo. Long & wife, which he has given me
no credit for. I have Long's certificate. Somewhere that he
received on the father's bond. In fact there are a great
many omissions & errors in his acct. Thro. out. his acct. are in
shot & bag. James Murdaugh I have not settled with
and he will be indebted. he has received some ex^{on} and
there are 2 in his favour, his acct. will be found in a large
Book for tax acct. (and other acct. will be found vs him, there
is an error made in his favour of \$100. in a settlement made
with him in subtracting, he is entitled to credits for his
acct. & for what insolvent acct. he has returned. Stephen
Murdaugh also one about \$150. and 1/2 which he got
of S. J. Tinsant vs. Goodwyn's estate which he charged me
with and kept my money for, when it was not worth
one cent. M. B. Broadway has rec^d from the Sheriff
for that estate more than he is entitled to, they hold
my bond for about \$160. and I hold his acct. (and a
memo: of Capt. Watts for money which he has re-
ceived. and of Col. Claiborn's for money rec^d of Edm^d's
Mr. Ingraham and me have unsettled acct. of Long standing.
I owe him a balance for land speculation. I have his
acct. for money at different times (and charge him \$100.
for closing acct. for him which he may well afford
to pay as it was not one priet. on a troublesome job.
I hold one acct vs him which he intended was for money
he paid for me thro. John Holmes in the bank at Rich-
mond, as Holmes paid the same sum for me in bank
say \$250. vs. if he did I sent it by him to be deposited
to the credit of Deati. Cooke. I never did borrow one
cent of him to deposit in my life (and the money which

he contracts for paying that debt was as well as I recollect
last about 2 yrs. afterward. I was in the habit about
that time of sending money to Richard for deposit for
D.C. of Genl. Mason, I sent by Capt. Jones at one
time \$1500. Mr. M^{rs} paid one cent of money
for me there to the best of my recollection, but twice.
Once was about \$900. for L.C. of M. which I paid
him before he sent it up. the other amt was \$300.
in part of the amt. which he owed me for Mason. And all
the while ^{high} hold us him he justly owes me. I recollect
the time and place about the \$1500. we were coming
from Solon Court and he asked me if I had any N.C.
money I told him I had \$250. which I could let
him have. And he requested me to bring it down to his
House the next morning. when I had promised to
meet to secure some money for him which was at the hands
of Josiah Hallman belonging to Miles Olney. By
examining the papers of time when Olney went away it shows
that I am correct. I know Mr. M^{rs} is an honest
man as was lived, but in this he is mistaken. it was
at a time when I was depositing some money which I owed
to my Brother with him. If I should die it is my last
request that Mr. Jas. B. M^{rs} and Doct. Richard
A. M^{rs} or both of ~~them~~ will take the manage-
mt. of my estate and assist my wife who I consider the
best woman in the world so to manage it as to raise
and educate our children. And shd there be any bus-
iness in any way I wish her to have it to use as she
pleases. I know this is drawing largely on the friendship
of those gentlemen, but I further know were they to die
there is nothing in earth I would not do to serve
their families, and therefore hope they will act. I
should ^{wish} to have my estate made the most profitable
it

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it could be, for the above purposes until my wife were to
marry which I hope for the benefit of our children and her
own happiness; she never would, but shd she do so it
would then be my wish that my estate be equally divided
between her and our children, otherwise to remain together
until Mr. H. Sumner come of age at which time I
wish him to receive his share and for each to receive the
same as they come of age. Should I die without any
other, I wish this to be considered my will and hope the
Gentlemen above named would comply with my request, at
all times giving my wife who is dearer to me than life it
self all the aid in their power and advising and controlling
our children as if they were their own. I have written
this in a great hurry and expect it is badly dictated.
but wish it accepted agreeably to its meaning. Given
under my hand and seal this 2nd day of October 1834.
Silas Sumner

A Court held for the County of Southampton the 20th day of July
1835. This last will and testament of Silas Sumner dec^d
was produced in Court for probat and there being no sub-
scribing witnesses thereto Jno. G. Mason & Jesse Orsany
being sworn deposed and sayeth that they are acquainted
with the hand writing of the said Silas Sumner and that
they verily believe the body of the said writing as well as
the signature thereto, to be in the proper handwriting of
the said Silas Sumner and the Court being thereof satis-
fied it is ordered that the said writing be read as
and for the last will and testament of the said Silas
Sumner dec^d. Whereupon Rich^d A. M^{rs} and
James B. M^{rs} the Exors therein named appeared
in Court and refused to take upon themselves the burden
of the execution of the said will. And thereupon on

motion James Clayton who made oath and together with John
Reneque and Jesse Bankford his securities entered into and
acknowledged above in the penalty of fifty thousand dollars each
and as the law directs. Certificate is granted the said James
Clayton for obtaining letters of administration on the said Silas
Summerville's estate with his will aforesaid annexed in due form.
Jesse.

James Rockwell, C.C.
A Copy, True.
L. R. Edwards, C.C.

And on the motion of the plaintiffs by their Counsel William J.
Seabell was appointed guardian ad litem to the infant defend-
ants to defend them in this suit.

And afterwards Term: At Rules held in the Clerk's office
aforesaid on the first Monday in March 1843. came the de-
fendant William H. Summerville by his Counsel and filed
his answer to the plaintiffs bill in these words:-

To the Hon: Richard H. Baker, Judge of the Circuit
Superior Court of Law and Chancery for the County of
Southampton. The answer of William H. Summerville to
bill of Complaint exhibited against him, James
Clayton and others in this Court by Joseph G.
Council and Sarah his wife.

This Respondent having &c for answer to so much of the
Complaints Bill as he is advised it is material for him to
answer, says, that the allegations of the Bill are mostly
true - that James Clayton did qualify as he is infor-
med you did act as he knows as admr. with the will annex-
ed, of this Respondents late father Silas Summerville decd.
and it is also true that his Administration Account
has never been settled and this respondent far from
objecting to such settlement desires that it should be
made as speedily as practicable. It is also true

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that Sarah Council who is the mother of this respondent and
the infant defendants did rear and educate this respondent
and his brothers & sisters so far as the infants have
been educated, and your respondent feels the gratitude and
filial love which as son should feel to a kind parent for
the opportunity which she allowed him to enjoy of improving himself
and acquiring an useful profession. Yet your respondent
is advised that under the will of his father the said Sarah
took the whole estate and the profits thereof charged with
the education of the children (and that she was only entitled
to the surplus after this was done. Your respondent is
advised that he is in no way responsible to the Complainants
for the education which he received while under the care
and control of his mother the complainant Sarah - that
he is not more responsible than any son is to his father
or mother for the education which he receives. The Com-
p't. Sarah had the whole estate of Silas Summerville until
her marriage with the comp't Jos. G. Council received
the proceeds of the farm &c. and while she may have
been liberal to this respondent, yet he is sure that she
never contemplated (even were it according to principles of
equity that she should do so) charging this respondent
with any amount which she appropriated for his edu-
cation - indeed she had the whole estate or the profits
of it, at her absolute disposal. Your Respondent is
willing to abide any settlement which this Court may
deem just & equitable, and having answered prayers &c.
dismissed with costs &c.

Gholson & Jones
for W. H. Summerville.
Southampton County, Dorset;

This day W. H. Summerville personally appeared
before me N. M. Seabell a Justice of the Peace for the
said County and made oath to the truth of the foregoing answer

to the best of knowledge & belief. Given under my hand this 20.
day of February 1843.

H. M. Tebrell, J. D.

To the answer aforesaid the plaintiffs by their Counsel replied generally.
and two months having elapsed as well since the filing of the
bill as since the service of the subpoena on the defendant Clayton
and he failing to appear and plead, answer or demur, on the
motion of the plaintiffs by their Counsel this cause was set
for hearing as to that defendant.

And afterwards, to wit; At a Circuit Superior Court of Law
& Chancery held for the County aforesaid on the 3rd day of
April 1843. on the motion of James Clayton (admr with
the will annexed of Silas Summrell decd. by Counsel
leave was granted him to file his answer in this cause.

Whereupon the said defendant filed his answer in the following words:

"The answer of James Clayton (admr. of Silas Summrell decd.

To The Honble R. H. Baker Judge &c.

This respondent saving to himself all benefit of just ex-
ception that may hereafter arise to the bill of the complainants.
For answer thereto or unto so much thereof as he is advised
it is at all material for him to answer, answering, says,
That it is true as set forth in the bill that letters of Administration
were granted him on the estate of Silas Summrell decd (and
that he has since been engaged in the settlement of said estate,
he represents that there were a great many debts outstanding a-
gainst the estate, some of which are still due and unpaid, that
he has had great difficulties to encounter in the payment of
debts, they amounting to a very large amount; at the sale
of the perishable property belonging to the estate, the widow
namely the wife of the complainant became a purchaser to the
amount of \$472.84/100 (and executed to your respondent
his bond for the amount which is still due (and unpaid
your respondent alleges that he has frequently at-
tempted to collect this bond in a friendly way refusing

the letter that the amount was needed to pay the debts of the
estate (and that he could not close the settlement without
that amount he states this fact to show that he is not
so much to blame for the tardiness of his settlement, (and he
here formally alleges that he is ready & willing to
settle his account finally in a short time after the bond
above referred to is paid he has returned an account of his
administration to the County Court (which is here referred to
and prayed to be taken as a part of this answer). (and
having nothing further to say he prays he may be hence
dismissed with his costs by him in this behalf expended.
And he will ever pray &c. It &c &c."

"Sutcliffe County, Texas,

This day James Clayton personally appeared before me
(J. D.) and made oath that the above answer contains the
truth to the best of his knowledge and belief. Given under
my hand & seal this 5th day of April 1843.

Demij: Griffin, J. D.

Exhibit filed with the foregoing answer.

"The Estate of Silas Summrell decd.

An account with James Clayton (admr.

1843				Dr	Cr	Notes
June	20	W. P. & Holmes acct		3 13		
Aug	11	" " Auditor of Public accounts		10 35		
Nov	31	" " J. D. Drum		11 11		
		" " Ditto		7 14		
		" " James Rogers		105 33		
		" " A. A. Atkinson for Parker		27 13		
Dec	23	" " H. C. Clarke	acct	17 00		
		" " Taxes & Eickert		125 00		
		By R. A. Urquhart's bond			1500 00	
		" L. N. Branch do			65 00	

[illegible]

[illegible]

Dec	By Sundry Small Bonds			125 09	
	To Commo. in ditto	6	40		
				3028 33	
				2731 74	
				296 39	324 39
	By Interest on the balance of 1837				174.00
	By Interest account brought down			498 39	
31	By Balance due the Estat.			794 78	with
	Interest on \$296. 39 paid thereof from this day till paid				

Respectfully Submitted

Comis fee \$12. charged to the Estn.

Jos. Cobb

A Court held for the County of Southampton the 20th day of May 1839. This Account Current of James Clayton's Administration on Silas Summerville's estate, was returned, and ordered to lie on the table for 14 or 15 days. And at a Court held for the said County the 17th day of June 1839, the said account having lain on the table and no exceptions being filed was confirmed and ordered to be recorded.

Justi. L. W. Edwards, C.C.

At Copy.

Justi. L. W. Edwards, C.C."

So the foregoing answer the plaintiffs replied generally.

And afterwards, Term: At a Circuit Superior Court of Law & Chancery held for the County aforesaid on the 11th day of April 1843. This cause was continued till the next Term.

And afterwards, Term: At Rules held in the Clerk's Office aforesaid on the first Monday, in May 1843, on the motion of the plaintiffs by Counsel this cause was set for hearing as to the defendant William St. Summerville. And afterwards, Term: At a Circuit Superior Court of Law

& Chancery held for the County aforesaid on the 30th day of October 1843. This cause was continued till the next Term.

And afterwards, Term: At Rules held in the Clerk's Office aforesaid on the first Monday in January 1844, the defendants Richard J., Sarah A. & Thomas S. Summerville by William J. Sebrall their guardian (ad litem) filed their answer to the plaintiffs bill in the following words, Term:

"To the Hon. Richard Parker, Judge of the Circuit Superior Court of Law and Chancery for the County of Southampton. The Separate & joint answers of Richard J., Sarah A., and Thomas S. Summerville by W^m J. Sebrall their guardian (ad litem) to a Bill of Complaint exhibited against them, James Clayton and others in this Court by Joseph G. Council and Sarah his wife.

These respondents saving & reserving &c. for answer to so much of the Complaints Bill as they are advised it is material for them to answer say that the allegations of the Bill are mostly true, that James Clayton did qualify as he is informed and did act as Administrator with the will annexed of Silas Summerville dec'd. (and it is also true that his Administration account has never been settled and these respondents here declare that they are anxious it should be settled as soon as possible. It is also true that Sarah Council who is the mother of these respondents did educate them up to as far as they have been educated, and they feel for it great gratitude. Yet &c. respects are advised that under the will of their father, the said Sarah took the whole estate and the profits thereof charged with the education of the children and that she was only entitled to the surplus after this

was done. Your reports are advised that they are in no way responsible to the Compt^{rs} for the education which they received while under the care and control of their mother. That the Compt^{rs} Sarah had the whole estate of Silas Summerville until her marriage with Jos. G. Council - received the proceeds of the farm &c. and while she may have been liberal to these test^{rs} yet they are sure that she never contemplated (nor was it in accordance with equitable principles that she should do so) charging these respts. with any amount which she appropriated for their education indeed she had the whole estate or the profits of it at her absolute disposal. Your reports are willing to abide any settlement which the Court may think just & equitable, and having answered prays to be dismissed with costs &c.

W^m. J. Atwell, quad^r &c. J. Holcomb & Downes for the Infants."

So the foregoing answer the plaintiffs by their Counsel replied generally.

And afterwards, Term: At rules held in the Clerk's Office aforesaid on the first Monday in March 1844, on the motion of the plaintiffs by their Counsel this cause was set for hearing as to the Defendants Richard I., Sarah A. & Thomas J. Summerville.

And afterwards Term: At a Circuit Superior Court of Law & Chancery held for the County of Southampton, on the 4th day of May 1844. This day this cause came on to be heard on the bill, answer of the defendants (and exhibits) and was argued by Counsel. On consideration whereof the Court doth enjoin as or as decreed that James Clayton administrator with the will annexed of Silas Summerville dec^d. under before William L. Goodwyn one of the Commissioners of

This Court an account of his transactions in the estate of his Testator, also the said Commissioners will state on account of all monies expended by the female plaintiff for and on account of each of her children William H. Richard J. Sarah and Thomas J. and that the said Commissioners make report to this Court with any matters special-ly stated deemed pertinent by himself or which may be required by either of the parties to be so stated.

Commissioner's Report.

"Estate of Silas Summerville, dec^d
In account with James Clayton, adm^r."

1835		Dr	Cr	Int
June 20	To paid P. M. Holmes act	3 15		
" "	" Auditor of Public accounts	10 35		
" "	" A. Downes act	4 44		
" "	" Ditto "	7 14		
" "	" James Longman "	105 33		
" "	" J. C. Stinson for Parker "	2 44		
" "	" W. L. Clarke "	47 00		
Oct 19	" " J. Holmes, Treasur School Commrs.	414 88		
" "	" J. R. Fairhall m ^d act	1 00		
	By A. A. Hughes acts bond		1500 00	
" "	" L. N. Branch do		65 00	
" "	" Thos. Atkins do		57 75	
" "	" Jas. Phipps do		134 23	
" "	" John Wykin do		257 39	
" "	" Wm. Crompton do		191 65	
" "	" R. M. Ford do		114 09	
		625 73	2314 36	
			625 73	
Dec 31	By bal: due the estate		1685 63	
1836				
Feb 4	To paid J. H. Hawkins act	7 50		

	"	"	Taxes & tickets for 1835	123	04		
	"	"	D. A. Boykin bal bond	77	23		
	"	"	J. Lenoir acct	3	75		
27	"	"	D. Bailey "	11	57		
	"	"	F. Lenoir bond	66	13		
	"	"	D. A. Boykin "	43	92		
	"	"	J. Anderson, prop: R. Anderson est:	45	36		
	"	"	R. H. Baker atty	34	30		
June 15	"	"	C. J. Stephenson bond	24	93		
	"	"	J. G. Council appraiser	1	00		
	"	"	J. F. Swathmey do	1	00		
	"	"	Gray Parker acct	1	57		
	"	"	B. Crumpler "	23	96		
Nov 10	"	"	Taxes & tickets	56	46		
			Amts: can. forward.	331	46	1688	63
1836			Amts: brought forward	537	46	1688	63
Nov: 10	"	"	To paid J. Luter est: bond	39	27		
	"	"	E. Whitehead acct	5	75		
	"	"	N. Luter "	30	00		
	"	"	W. J. Nottingham "	10	00		
	"	"	J. Crumpler "	7	30		
	"	"	D. Bond "	12	06		
	"	"	J. Crumpler "	64	13		
	"	"	E. Branch "	49	61		
Dec 11	"	"	Clinton & Kiddick "	9	00		
	"	"	W. G. Stephenson "	3	00		
	"	"	Cocones for inquest	5	00		
	"	"	F. Holmes treasurer school				
	"	"	Councils.	160	02		
	"	"	B. Daniel acct	30	00		
	"	"	A. Stephenson "	20	87		
	"	"	J. Barham in full due est:	417	21		
31	"	"	By John Boykins bond & Int			130	37

1836
Dec 31

"	"	"	A. Doles "			317	45
"	"	"	S. Doles "			209	00
"	"	"	Amount found in house			120	00
"	"	"	D. Bond bond & Int:			51	26
"	"	"	N. Bond "			34	33
"	"	"	J. D. Boykin "			106	00
"	"	"	J. Rice "			14	50
"	"	"	J. D. Wigham "			848	00
"	"	"	Mary Vick "			37	20
"	"	"	E. Johnson "			98	10
"	"	"	B. Branch "			7	96
"	"	"	F. M. Boykin "			34	91
"	"	"	John Harris "			202	44
"	"	"	W. Chapman "			16	85
"	"	"	R. Mercer "			23	99
"	"	"	M. D. Springfield "			28	75
"	"	"	J. Boykin "			4	53
"	"	"	R. Daniel "			16	58
"	"	"	J. Sheppard "			49	81
"	"	"	R. Hart "			4	34
"	"	"	E. Boykin "			34	44
			Amts: can. forward			1436	88
			Amount brought forward			436	88
			By E. Branch bond & Int			4	45
"	"	"	W. Bond "			35	00
"	"	"	J. F. Swathmey "			8	79
"	"	"	J. G. Council "			4	38
"	"	"	E. Jayne "			22	00
"	"	"	J. Barham "			223	00
"	"	"	N. Harris "			101	00
"	"	"	S. Pitt "			49	63
"	"	"	Witch & Gunn acct "			57	73
"	"	"	W. Harris bal "			22	51

1838	Amount brot forward				127 41
1839					
Feb 18	To paid J. B. Southall bond in part	200 00			
" "	" " Gary Gay act	13 48			
" "	" " Ditto "	27 76			
" "	" " S. Musgrave "	24 50			
19	" " E. Ely Judge	17 20			
		283 24		127 41	
		127 41			
Decr 31	To balance due the court	\$ 137 83			
1840					
April 20	To paid Taxes & tickets for 1839	27 06			
" "	" " J. A. Clayton act	7 30			
June 14	" " George Gay (2) "	27 37			
" "	" " J. S. French for S. B. Mason	83 37			
" "	" " Sheriff execution for A. A. Brown	3 16			
" "	" " Ditto do for S. Clunton Exr	378 33			
" "	" " ditto do for J. W. Sprattley	171 22			
		998 04			
	To Interest on \$998.04	39 88			
Decr 31	To balance due the court	1037 92			
1841					
March 10	To paid Taxes & tickets for 1840	33 16			
Nov 15	" " W. H. Day atty	15 00			
" "	" " Thomas Hall a/c	8 00			
Jan 1	By amt Sales due this day		1426 63		
" "	" " fees of J. L. Currier for Coun		130 00		
May 27	" " Sale of bacon		221 46		
" "	" " Negro hires		136 31		
		1116 08	1934 42		
			1116 08		
Decr 31	By balance the Estate		838 34		

1842					23
July 27	To paid W. O. Bailey Not.	7 92			
" "	" " John Dick "	32 42			
" "	" " A. Atkinson, atty	10 00			
Sept	" " Sheriff two executions	96 10			
" "	" " Sundry tickets	15 69			
	Am't Cas. forward	212 13	838 34		
1842	Am't brought forward	212 13	838 34		
	Comm. on \$1934.42 rec'd 1841	77 72			
			309 83		
Decr 31	By balance the estate		328 49		
1843	" Interest on bal. of 1841				3030
June 8	To paid S. H. Vank act	27 00			
19	" " W. R. Whitcomb bal due C. Kirby act	761 63			
Sept	" " S. Baykin act	30 00			
	Interest on bal. of 1842				3170
		818 63	528 49	82 00	
	Interest brought down		52 00		
		610 49	610 49		
Decr 31	To bal. due the court	208 14			
1844					
May 4	To paid J. B. Southall in full bond	339 70			
" "	" " paid J. S. French atty	49 50			
" "	To bal. due the administrator	\$ 517 34			
	In the above account no commissions are allowed the court except on the receipts of 1841. Some of the parties objected to allowing him commissions because he had not rendered an account within the time prescribed by law.				
	Respectfully Submitted				
	W. S. Goodwyn				
	Comms fee \$15.00 charged to the court				
	W. S. Goodwyn Court				

Account of Monies expended by Sarah Summrell, late widow
of Elias Summrell in account of her children William
Richard J. Sarah & Thomas S. Summrell.

On account of William S. Summrell.

1840

Feb. 1 Paid A. Murray for 18 months board \$105.00

1842 Do Do for money borrowed " 458.29

" 563.29

On account of Richard J. Summrell.

1839 Decr. 24. Station and books furnished by A. Ricks \$20.33

1840 Paid A. Murray for board & books " 42.01

" 62.34

On account of William S., Richard J., Sarah & Thos. S. Summrell.

1838 Paid Thomas & Adams act \$12.37

" " J. H. Hargraves " " 30.00

1839 " John Hargraves bond " 8.79

" " A. Stephenson act " 1.53

1840 " Southall & Jordan " " 84.90

" " Benj. Griffin " " 9.48

" " S. G. Byrnes bond " 4.82

" " J. B. Hargraves act " 43.76

1841 " J. M. Gentry execution for money borrowed 111.44

1842 " Wilson & Son act " 63.02

" " E. S. Halthorn note " 21.96

" " Meritt Briggs act " 3.89

1843 " " " " 29.24

1840 " R. Murray " " 477.44

The Commissioners found it impossible to state a separate
account of monies expended by Sarah Summrell for each
one of her children, as no such account was kept by
her. The Commissioners could ascertain in only two

instances. what amt. was expended for any particular
child which are above stated. He then stated
one general account against all the children.
Comms. fee 250 cts to 3. Respectfully submitted

J. G. Council. W. S. Goodwyn, Commr.

And now at this day, Court: At a Circuit Superior Court
of Law & Chancery before the County aforesaid in the day year
first herein aforesaid, Court: the 8th day of November 1844
It appearing to the Court that since the last term of this
Court the plaintiff Sarah Council has departed this
life, & that Jos. G. Council has qualified as her
Administrator. Upon motion of the said Jos. G. Council
Administrator of Sarah Council & by consent of parties
this cause is revived in his name as Administrator of
the said Sarah, (and this report this cause came on again
to be heard in the papers formerly read in the report of
Commissioner Goodwyn to which report there is no ex-
ception. On Consideration whereof the Court doth
adjudge, order and decree that the bill of the
plaintiffs, be dismissed, and that they pay to the defendants their
costs in this suit expended. But this decree is
made without prejudice to any suit which the de-
fendant Clayton Administrator &c. may think proper to
institute against the devisees & legacies of Elias
Summrell dec'd.

Clocks fee for transcripts
of Record \$ 3.48 3.

Transcript of Record,
Henry S. Howard, P.C.

Sumner's
Anti-

Council

Rec'd in return
ed with Commission
er Hayden's 3^d Report.

Pleas before the Judge of the Circuit Superior Court of Law and Chancery
for the County of Southampton at the Courthouse thereof on the ninth day of
November in the year one thousand eight hundred and forty six-

Be it remembered, that heretofore to wit, at Rules held in the Clerk's Office of the said Court on
the first Monday in March 1846 came Joseph G. Council administrator of Sarah R Council
by his attorney and filed his declaration against James Clayton administrator of Elias Summrell
which declaration is in the words and figures following to wit-

"Circuit Superior Court of Law & Chancery for the County of Southampton- Southampton
County Town- Joseph G. Council admor. of Sarah R. Council complains of James Clayton
admor. of Elias Summrell, in custody of a plea of trespass on the case, for that whereas
the said James Clayton admor. as aforesaid heretofore to wit, on the 25th day of December
1840 at the County aforesaid was indebted to the said Sarah R Council in her lifetime in
the sum of \$840. lawful money, as well for work and labour, care and diligence and
divers materials and necessary things in and about the said work by the said Sarah R
Council to and for the said James Clayton admor. as aforesaid at his special instance
and request, before that time done, performed, bestowed and provided, and for divers goods,
wares, and merchandises sold and delivered, and divers sums of money lent and advanced,
paid, laid out and expended before that time by the said Sarah R Council to and for
the use of the said James Clayton admor. as aforesaid, at his special instance and request, as
for divers sums of money, before that time, by the said James Clayton admor. as aforesaid
had and received to the use of the said Sarah R Council. And the said James Clayton
admor. as aforesaid being so indebted, in consideration thereof afterwards to wit, on the day
and year last aforesaid, in the County aforesaid, undertook and then and there faithfully prom-
ised the s^d Sarah R Council to pay the said sum of \$840. when he should be therunto
afterwards requested- Nevertheless the said James Clayton admor. as aforesaid not regard-
ing his s^d Several promises and undertakings did not, although often requested, pay to the
s^d Sarah R Council the said several sums of money or either of them or any part thereof
during her lifetime and to pay the same to the plaintiff her admor. as aforesaid since her
death, he has hitherto wholly neglected and refused and still does neglect and refuse to
the damage of the plaintiff of \$ and therefore he sues. Chambers & Mapsbury p. 9.
Whereupon the defendant being arrested and not appearing on the motion of the plaintiff
by his attorney, it was ordered that judgment be entered for the plaintiff against the
defendant for what damages the plaintiff ought to recover by occasion of the defendant's non
performance of the promise and assumption in the declaration mentioned unless the defendant
should appear at the then next Rules and answer the plaintiff's action.

At which day to wit. At Rules held in the Office of the said Court on the first Monday in April 1846. the defendant still failing to appear, on the motion of the plaintiff by his attorney it was ordered that the conditional judgment entered in this cause at the last Rules stand confirmed and that the plaintiffs ^{damages} be ascertained by a jury at the next Term.

At another day, to wit. At a Circuit Superior Court of Law and Chancery held for the County aforesaid on the eleventh day of November 1846. On the motion of the defendant by his attorney who pleaded non assumpsit with leave hereafter to plead other pleas. to which the plaintiff replied generally, the judgment obtained in the office is set aside. and the cause is continued till the next term at the defendants costs.

At another day, to wit, At a Circuit Superior Court of Law and Chancery held for the County aforesaid on the fourth day of May 1847. The defendant by his attorney this day pleaded payment to which the plaintiff replied generally - and the plaintiff wishing a discovery from the defendant to be used in evidence at the trial of this action filed written interrogatories to the defendant which he calls upon the said defendant to answer in column form on oath or affirmation - which interrogatories are in these words to wit.

"Interrogatories propounded by Joseph G Council to James Clayton, in the suit of Council vs. Clayton now depending in the Circuit Superior Court of Law and Chancery for the County of Southampton, under the act of the General Assembly in such case made and provided to be used as evidence in the said suit -

1 Did not the plaintiff and Sally his wife advance to you as admr. of Silas Summerville in the year 1840. the following amounts to wit. Bacon amounting to \$217.70 negro hires received of James C Jordan \$100. Corn \$150. negro hires of James W Jordan \$100. money loaned \$120. Corn \$80 in all \$827.70 -

Joseph G Council plaintiff in a suit now depending in the Circuit Superior Court of Law and Chancery for the County of Southampton vs. James Clayton Defendant, appeared in open Court and made oath that he has no means of establishing the facts embraced in the interrogatories propounded to the said Clayton but by the admissions of the said Clayton in answer to the said interrogatories -

L R Edwards cly

And it appearing to the Court by the affidavit of the plaintiff that answers to the said interrogatories would be material evidence in the cause, and that the interrogatories themselves are pertinent and such as the defendant would be bound to answer unto upon a bill of discovery in a Court of Chancery, the Court allows the said interrogatories and requires the Defendant to answer the same in writing and in column form on his oath or affirmation.

And now at this day to wit. At a Circuit Superior Court of Law and Chancery held for the County aforesaid on the day and year first herein aforesaid, to wit. on the ninth day of November in the year one thousand eight hundred and forty seven. came the parties by their attorneys and

thereupon came a jury to wit. A. N. Williams, Charles Fuller, A. J. Harrison, Robert Revell, Jonathan T. Griffin, Elijah Adams, William Whitney, Mills A Birt, Willis Bradshaw, John Bradshaw, Henry Kindred, and Joshua Poyson who being duly sworn the verdict to speak upon the issues joined, returned a verdict in the following words and figures to wit - "We the jury find for the defendant." Therefore it is considered by the Court that the plaintiff take nothing by his bill but for his false clamour be in mercy &c and that the defendant go thereof without day and recover against the plaintiff his costs by him about his defence in this behalf expended.

Plaintiffs costs \$5.53.

The following is a copy of the Execution and Sheriffs return made thereon. which issued upon the foregoing judgment. to wit.

"The Commonwealth of Virginia. To the Sheriff of Southampton County. Greeting. We command you that of the goods and chattels which were of Sarah Council at the time of her death in the hands of Joseph G. Council her administrator to be administered unto in your bailiwick you cause to be made the sum of five dollars and fifty three cents which James Clayton lately in our Circuit Superior Court of Law and Chancery for Southampton County hath recovered against the said Joseph G. Council admr. of Sarah Council dec'd for his costs by him expended about his defence of a certain action on the case at the suit of the said Council admr. as aforesaid, whereof the said Council admr. as aforesaid is convicted as appears to us of record. and how you shall have executed this writ make known at the Clerks Office of our said Circuit Superior Court of Law and Chancery at the Rules to be holden for the said Court on the first Monday in January next. and have them there this writ. Witness Littleton R. Edwards Clerk of our said Court at the Courthouse this 12th day of November 1847 in the 80th year of the Commonwealth.

L R Edwards cly

Return. "Satisfied. J. D. Maysburg Depy for J. Barnes Shff"

A true Transcript of the Record

Teste

L R Edwards cly

Commds adm

to { Copy Record

Clayton

Record P. filed
with Commissioner
Hayden's 3^d - Report

92 st. Colks for

said James Clayton as Admtr of Silas Summerell, of the Plain-
tiffs demand against the Defendant, & also of the value of the
slaves delivered by the Plaintiff as said Administrator to the
said Defendant. The foregoing account of the transactions of
the said James Clayton as Administrator of Silas Summerell
shows on the 18th of October 1835 a balance of \$3438.82, due
from said estate to said administrator. This account is based
on the Administration Ac filed with the Defendants Answer
to the Amended Bill, an ac made up in the chancery
suit (the record of which marked (M) is herewith filed) be-
tween the Plaintiff & Defendant in this suit, in which cer-
tain items amounting to \$727.77 are credited to the estate
as a part thereof, but which in the Ac A filed with the
Plaintiffs Amended Bill, are ~~excluded~~ as belonging
under the testators will to ~~this~~ widow the wife of the de-
fendant. Subsequent to Ac A, these items were the sub-
ject of a suit between the parties to this cause, in which
J. G. Council as Admtr of his wife failed to recover
them, as will appear from the record of said suit
herewith filed, marked P. Your commissioner has hence
treated them as a part of the testators estate. The statement
of the Plaintiffs demand against the Defendant is based
on the Ac of the said Admtr's transactions herewith return-
ed & shows a balance of \$687.76 on the 18th of Oct. 1835 due
from the Defendant to the Plaintiff as administrator
of said of which amount \$498.67 is principal, &
\$189.09 is interest. The statement of the amount of property
received by the Defendant ~~from the Plaintiff~~ as Admtr
of Silas Summerell shows that on the 17th day
of March 1840 he received slaves valued at \$1770.00.
At the request of the Defendants counsel, he has made
up a special statement of an Ac between the Plff
& Dfdt, in which the latter is charged with 1/5th of the
balance due the Admtr as shown by Ac A filed with
the Plaintiffs Amended Bill, with 1/5th of the amount paid
by the said Admtr to Willis Eley & credited with \$727.77
the amount of the items before mentioned regarded by Ac
A as belonging to the testators widow, which special state-
ment shows a balance due from the ~~Plaintiff~~ to the de-
fendant of \$602.30, on the 18th of October, 1835, of which
amount \$502.06 is principal & \$100.24 is interest. Your
commissioner further reports that after the completion of said
Ac's he retained the same in his office ten days for the examina-
tion of the parties. Given under my hand as commissioner afoe-
said the day & year aforesaid.

Time employed in examining

C. B. Hayden

records & stating of a report

9.50 hours - Fee - \$ 7.13 - 2nd Report } Chgd Plff
" " " 7.30 - 1st " }
Total Comis Fee - \$ 14.43

Clayton
Admte of
Sumnerell

Mr Chery

or

So G. Council

Commissioner Hayden's
3^d Report made
under decree of May
Term - 1854 -

Sept. 1. 1856. filed

The Estate of Silas Summerell

In A/c with James Clayton
his Administrator

1844	May 4	To Balance due Administrator on this date as per A/c filed with	
1853	June 20	Sdct's Answer to Amended Bill	817 34
1856		This amount paid by said Admtr under decree of Circuit Court of South-	
Oct 18		ampton in favour of Willis Eley	1676 00
		Interest on \$ 817.34 from May 4, 1844, to date	610 84
		do \$ 1676.00 from June 20, 1834 to ..	334 64 \$ 3438 82
1856	Oct 18	By Balance due Administrator as per debit	3438 82 \$ 3438 82

Joseph P Council

In A/c with James Clayton Administrator
of Silas Summerell deceased -

1844	May 4	To 1/5 th of \$ 817.34, due Admtr as per above a/c.	163 47
1853	June 20	" 1/5 th of \$ 1676.00 do -	335 20 498 67
1856	Oct 18	" 1/5 th of \$ 610.84, interest on \$ 817.34, per do.	122 17
		" 1/5 th of \$ 334.64, do \$ 1676.00 per do.	66 92 189 09
			\$ 687 76
1856	Oct 18	By Balance due Administrator as per debit of Principal -	498 67 498 67
		do of Interest per do -	189 09 189 09
			\$ 687 76

Statement of the Amount received by Joseph P Council
in right of his wife Sally late Summerell from James
Clayton, Administrator of Silas Summerell dec'd.

1840	March 17	Value of slaves received by said Council of said Administrator of Silas Summerell as per receipt Refunding Bond filed with Plaintiffs Original Bill of this date	\$ 177 000
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Special Statement made at the request of Defendants Counsel
Joseph G Council

In A/c with James Clayton Adminr
of Silas Sumnerell deceased.

1844	Dec	31	To 1/5 th of \$1578.39 due Administrator on this date per A/c A, filed with Amended Bill	303 68	
"	"	"	Balance due S. G. Council per contra	535 09	\$ 858 77
1842	Jan	1	By this amount received by Adminr as per A/c filed with Answer to Amended Bill rejected from A/c A, filed with Plaintiffs Amended Bill as belonging to the widow of Sumnerell.	727 77	
1844	Dec	31	Interest on do to date -	131 00	\$ 858 77
1853	June	20	To 1/5 th of \$1676.00 amt paid on this date by said Adminr to Willis Eley	335 20	
"	"	"	Balance due S. G. Council as per contra	502 06	\$ 837 26
1844	Dec	31	By Balance as per above A/c -	535 09	
1853	June	20	Interest on do to date -	282 17	\$ 837 26
1856	Oct	18	To Balance due Joseph G Council as per contra of Principal.	502 06	
"	"	"	do of Interest	100 24	\$ 602 30
1853	June	20	By Balance as per debit	502 06	
1856	Oct	18	Interest on do to date -	100 24	\$ 602 30

Commissioner's Office
Smithfield Sept-1st 1856

To the Circuit Court
of Isle of Wight County.

Pursuant to a decree of the Circuit Court of the county of Isle of Wight rendered on the 19th day of May 1855, in a suit in chancery depending in said court, between James Clayton Administrator of Silas Sumnerell deceased, Plaintiff, & Joseph G Council, Defendant, the undersigned one of the commissioners of the said court to whom was re-committed by said decree a former report of the transactions of said Clayton, as administrator aforesaid, of the said Plaintiff's demand against the said Defendant & also of the value of the slaves or other property delivered by the Plaintiff as said Administrator to the Defendant made under a decree herein of Oct. 18th 1855 - reports to the court, that on the 15th day of Aug last, by the consent of the Counsel of the aforesaid parties, he made up the foregoing account of the transactions of the

Clayton

th.

Secrecy.

Council

Summerville

This cause came on ^{again} to be heard on the bill
Answer & replication thereto & exhibits filed, and was argued by
Counsel; on consideration whereof the Court with ~~ad~~ ^{adjudge}
^{order} and decree, that a commissioner of this Court take ~~the following~~
~~acct.~~ an account of the transactions of James Clayton as admin-
istrator of the estate annexed of Silas Summerville decd, taking the
account filed with Comptainant's bill and an account taken
& filed in a suit at one time depending in the Circuit Court of
So. Hampton County, a prima facie correct, subject to surcharge
& falsified: & such other account deemed pertinent by himself
or required by the parties to be stated. report &c.

and that he also take an account of the
plaintiff's demand against the defendant
and also an account of the amount & or
value of the slaves & other property paid and
delivered by the plaintiff as admin^r to the defendant & which accounts the said
Court is directed to examine, state and
report, with any matter specially stated

secured treatment by himself or required
by the party to be so stated

James, Clayton ad
V. James
Boonville

To be entered
R. H. Baker
May Co. 1854.

Contd.

At a Circuit Court Courtroom and held for the County of Isle
of Wight on the 19th day of May 1834.

James Clayton adm^r of Silas Summrell dec^d.

Plff.

Against

$\frac{2}{3}$

In Chancery

Joseph L. Cornwell

Def.

This Cause came on again to be tried on the Bill answers
repletions thereto and exhibits filed & was argued by Counsel:
on consideration whereof the Court doth adjudge and decree
that a Commissioner of this Court take an account of
the transactions of James Clayton as adm^r & with the aid
assured of Silas Summrell dec^d. And that he also take an account
of the Plaintiff's demand against the defendant, and also an out-
of the account or value of the Slaves and other property paid and
delivered by the plaintiff as adm^r as aforesaid to the defendant,
which accounts the said Commissioner is directed to examine,
state and report with any matter specially stated deemed just-
ly himself or required by the parties to be so stated.

A Copy

Teste

A. P. Young. sc

Commissioner's Office Smithfield Aug 22/34

I have appointed the 5th of September for taking the a/c
required by above decree —

C. B. Hayden

Service acknowledged —

Robt W. Butler a counsel for plff.

Sumnerell. admr.

25. $\frac{1}{3}$ Copy Deane

Worcester

May 1854

Clayton adms. Summerell

^{vs}
Joseph G. Council.

This cause came on
this day to be heard upon the Bill and
a general demurrer thereto, and exhibits
filed with the said Bill, and was argued
by counsel on consideration thereof the
Court doth overrule the said demurrer,
and on motion of the defendant leave
is given him to file his answer
within sixty days from this time, =

Clayton

Council

To be entered

R. H. Baker

Oct. Term '53

Entered

Clayton acton

to L.

Concord

Oct. term 1852.

R. W. Whitford

Clayton admr of Siles Sumnerell

vs }
}

Council

On motion of the Plaintiff by his Counsel leave
is given ~~here~~ him to file an Amended Bill
and the cause is remanded to the rules for
that purpose -

At a Circuit Court held for the County of Isle of
Wight on the 18th day of May 1855.

James Clayton, Sometimes Called administrator of Silas
Summrell deceased. Plff

Against
Joseph G. Cornille

In Chancery

This Cause came on again to be
heard on the papers formerly read: And on the Amended
Bill and on the Answer of the Defendant to the said Bill
this day filed, and replections to the same and was argued
by Counsel, On Consideration whereof the Court, doth order
adjudge and decree, That a Commissioner of this Court
take an account of the transactions of James Clayton
as administrator with the will Annexed of Silas Summ-
rell deceased: during the account, Marked, A, filed as an
exhibit with the Amended Bill as *prima facie* correct
subject to be surcharged and falsified: That he also take
an account of the plaintiffs demand against the defend-
ant; And also an account of the Amount - or value of
the Slaves and other property paid and delivered by the pl-
aintiff as administrator &c. as aforesaid to the defendant;
which accounts the said Commissioner is directed to ex-
amine - state and report, with any matters specially
stated deemed pertinent by himself or required by the
parties to be so stated &c. The Court reserves for future
decision the effect and weight to be given in this
suit to the account referred to and relied on by the
defendant in his answer to the Amended Bill.

A Copy
Teste.

A. J. Young cc.

Clayton adm^r of Sumner

vs.

Loopy Decm

Los G. Sumner

May 1855

Clayton adm. re.

v.

Sealed

Council:

This Cause came on again to be heard on the papers formerly read: and the amended Bill ^{on} these proceedings to answer which ~~has been moved~~ by the defendant Council, ^{on} the answer of the defendant to the said Bill the day filed & published in the same is taken ~~for~~ ^{as} confessed to the said defendant; and was agreed by Council, on consideration whereof the Court, doth order, adjudge and decree, that a Commissioner of this Court take an account of the transactions of James Clayton as adm. with the will annexed of Elias Summerville decd., concerning the account, marked "A." filed as an exhibit with the amended Bill & prima facie correct-ly set to be surcharged and falsified; that he also take an account of the plaintiff's demand against the defendant; and also an account of the amount, or value of the slaves & other property paid and delivered by the plaintiff as adm. & as aforesaid to the defendant; which accounts the said Commissioner is directed to examine, state & report, with any matter specially stated deemed pertinent by himself, or required by the parties to be so stated &c. The Court reserves for future decision the effect and weight to be given in this case to the account referred to and relied on by the defendant in his answer to the amended Bill.

Clayton adm. ^{last}
~~pp~~ ^{See}

Memorials

Octo. 53-

To be entered

L. H. Baker

129

At a Circuit Court held for the County of Isle
of Wight on the 18th day of October 1855.

James Clayton, sometimes called administrator of
Silas Sumnerell deceased. Plff.

Against, ... M. Chancery.

Joseph G. Council Reft.

This Cause came on again to
be heard on the papers formerly read, and on the am-
ended bill and on the answer of the Defendant to
the said Bill this day filed, Replications to the same
and was argued by Counsel, On consideration whereof
the Court, doth order adjudge and decree, that a Commis-
sioner of this Court take an account of the transactions
of James Clayton as adm^r with the will annexed of
Silas Sumnerell dec^d, deeming the account Marked A,
filed as an exhibit with the amended Bill as prima facie
Correct subject to be discharged or falsified: that he
also take an account of the plaintiff's demand against
the defendant; and also an account of the amount or
value of the Slaves & other property paid and delivered by the
plaintiff as adm^r &c. as aforesaid to the defendant; which
accounts the said Commissioner is directed to examine
and report, with any matters specially stated deemed pertinent
by himself, or required by the parties to be so stated &c.
The Court reserves for future decision the effect and weight
to be given in the suit to the account referred to and relied
on by the defendant in his answer to the amended Bill.

Teste.

A. P. Youngce

A. Copy.

Teste.

A. P. Youngce

Summerell.³ Adrol.

28 1/2 copy Dueson

Council.

A copy

Oct 1855

Hayden ad.
D.

June

Counsel

This case came on to be again heard
on the paper formerly read, and the report of Commissioner Hayden
more pursuant to a decree ~~herein~~ entered, herein at the
Oct 1855 - and was argued by counsel: On consideration
whereof, and for reasons appearing to the Court, doth ^{the Court} ^{order} ~~adjudge~~
and decree that the said be re-committed, and with leave
to either party to file and take such other evidence as
they may desire which said account with the evidence report
to Court, with any other matters ~~required~~ ^{required} to be stated deemed
pertinent by himself or required by the parties to be stated

Clayton ad
V. Gene
Bournet

To be returned
P. W. Barker
May 6 - 1856

May 1856

Entered

17

At A circuit Court continued and held for Isle of Wight
County on the 19th day of May 1856.

James Clayton Administrator of Silas Sumnerell Plff.

Against

vs

In Chancery

Joseph G. Conneill

Defts

This Cause came on to be again
heard on the papers formerly read, and on the report of
Commissioner Hayden made pursuant to a decree ^{entered} here
in at the October term 1855. And was argued by Coun-
sel. On Consideration whereof, and for reasons appearing
to the Court, The Court doth ~~affirm~~ adjudge order and
decree that this report be recommitted with leave to
either party to file and take such other evidence as they may
desire - which said account with the evidence - report to
Court with any other matters deemed pertinent by himself
or required by the parties to be stated.

A Copy

Teste.

J. P. Young co.

(Eggs)

Clayton

or. *July* Co. Deere.

Council

May 1856

Clayton ad.

vs
Joseph G. Council

} Decree

This cause came on this day
again to be heard upon the papers formerly read
and the report of Commissioner Haydon returned 1st
and on the special statement of Commissioner prepared at instance
September 1856 to which no exception has been filed
of defendant in lieu of an exception
and was argued by counsel: On consideration where
the court ^{confirming the Report} doth order, adjudge and decree, that
the plaintiffs James Clayton ad. of Silos Summers
ad, recover of the defendant Joseph G. Council
the sum of six hundred & eighty seven dollars & seven
ty six cents, with interest on \$498.67 four hundred
and ninety eight dollars & sixty seven cents, a part
thence from the 18th Octo. 1856 - till paid and that the
costs of the plaintiffs and defendant in this suit
be borne equally by the parties

May 12
of
Council

Summerell's adm^o

or } Decem

Council

Octo. 21. 1856

To be entered
R. H. B.

25th Dec

The objection raised by the Council, to the decree, claiming that the account which was made up in a suit between the same parties in the Circuit Court is not to be considered as prima facie correct, but that the acct. should be made de novo. is as unjust as the objection is recent. At first, & even to day before the Court, the Council only objected to the exhibit "Y". The only effect may be to ~~cost~~ cause unnecessary costs: and perhaps injury to the plaintiff in the Loss of Voucher. Indeed I can conceive no reason for excluding the account made up in the said suit between these parties, which would not exist against one made up in a County Court. As to the decree in that suit I cannot say any thing, as I know nothing of it: If the Court shall object to its being considered as the basis of the decree for account asked for, because not made an exhibit, if this difficulty can be obviated by an amendment of the rule I should prefer to amend to make it an exhibit, for it would save much trouble time and costs, to bring the plaintiff from Dr. Sampson & a blind man too, to a Commissioner in Smithfield - Mr Taylor even to day said ~~that he did not know~~, that he was inclined to think the plaintiff was bound by the very account which by his votes he seeks to discard -

Whitfield 123

blayton }
✓

brunel

Delayed }
 4 } In Chancery
 Council }

The Counsel for defendants insists that the Commissioner in making up the account should be required to state the account generally without any instructions. In a former suit between same parties in which the present defendant was plaintiff and the present plaintiff was defendant, the sole object of said suit being to ascertain the amount due from Clayton adm^t of Somerset, an account was taken ^{and seventeen} ascertaining the balance of some Eight hundred dollars to be due to the adm^t and the plaintiffs bill was dismissed without prejudice to the right of the adm^t to recover of the distributees the said amount. When the Counsel drew the answer, the fact was not known to him, and forgotten by Council. The account filed by plaintiff was exhibited with the bill was an account reported in a suit between one Ely a pl^{tff} and Clayton adm^t of Somerset as defend^t in which suit Council was no party. It differed from the account taken in the suit first mentioned in the omission of three credits amounting to \$727.77. but conforms in all other essential particulars with the said account. The pleadings in this cause, do not show how the account if filed with the bill, nor does it show that an account was stated in the suit first referred to in this note. The bill does speak of an account re-

turned before the Commissioner and filed in the Clerk's office
of Southampton County, and refers to exhibit 3 as a copy
of such an account, which it might be inferred ~~as~~ ^{it} a
regular audit, tho' the fact is ~~that~~ was ~~mistake~~ the
account taken in the suit between Eley and Clayton.
Upon reflection it occurs to me, that this Court can-
not now judicially notice the fact that an account
was ever taken in a suit between the plaintiff & defend-
and that the proper decree is to direct the account
to be taken by the Commissioner of the Administration
of the estate of said deceased by James Clayton and
of the plaintiff's demands, and to receive as prima
facie correct any audits of the estate regularly re-
turned to the County Court of Southampton. The weight
to be given to any accounts that may have been
stated in the Circuit Ct of Southampton is a matter
which will come up for the ~~decision~~ ^{decision} of the Court when
the Commissioner's report comes in and the facts in re-
-lation thereto are more regularly in the record.

May 18th 1854

Respectfully Submitted by

J. Taylor

Counsel for defendant

Clayton

vs

Councils -

note of defendant

correct -

May 18 - 1854

Having been threatened with death this day by Saml. G. Boykin, who I consider to be in so high a state of excitement as to derange his mental faculties without any cause whatever on my part - only for keeping him from starvation, - to guard to every thing of the kind as it can do no harm, I have thought proper to make this note. In the first place I have been very negligent in closing all my affairs about my Sheriffalty, and there are a number of things not finally settled - all Capt. Mierdaugh's accts. and mine are to be settled, he rendered them in such a way that it is almost impossible to understand them. There are a number of executions money Books which he has received and given me no credit for. I wish it distinctly understood that I attribute this entirely to mistake and not improper motives. All which he has received I have marked at the top of the ex^{ts} received by S. M. and under all that he has settled, I have written under settled, and the balance are not settled, but still due from him. There will many errors be found in his accts. returned. The first one in his acct. as well as I recollect is in Mrs. Bell's negro sold by him, has charged in his acct. with paid on 24th as well as I recollect of about \$90. after taking it out of the amt. which makes it stand charged to me twice and I only have credit for it once. And a number other mistakes will be found. - he received about \$80. Patterson & Ino. Drey & wife, which he has given me no credit for I have Drey's certificate somewhere that he received on the fourth County bond. in fact there are a great many omissions & errors in his acct. thro. out his accts. are in shot Bag. James Mierdaugh I have not settled with, & he will be indebted. he has received some ex^{ts} and there are two in his favor his rec^{ts}. will be found in a large Book for Jay's accts. and other rec^{ts}. will be found to him. there is an error made his favor of \$100. in a settlement made with him in subdividing. he is entitled to credits for his rec^{ts}.

& for what insolvent acts he has refused. Stephen Muddough
also was about \$150. on ^{the} ~~of~~ which he bought of R.
Newson in Goodwyn's estate, which he charged me with (and
kept my money for when it was not worth one cent.
M. B. Goodway has rec^d from the shff for that estate more
than he is entitled to. They hold my bond for about \$160.
and I hold his rec^d (and a memo. of Capt. Rutts for
money which he has received and of Col. Blair's for
money rec^d of Comdr. Mr. Urquhart and me have
unsatisfied acts of long standing. I owe him a balance for land
speculation. I have his rec^d for money at different
times and charge him \$100. for clearing acts for him
which he may well afford to pay as it was not one for
it on a troublesome job. I hold one rec^d to him which
he contends was for money he paid for me Thos. John
Holmes in the bank at Richmond as Holmes paid
the same sum for me in bank say \$250. if he did
I sent it by him to be deposited to the credit of
Doct. Boeckle. I never did borrow one cent of him to
deposit in my life and the money which he contends
for paying that debt was as well as I recollect about
2 yrs afterwards I was in the habit about that time of
sending money to Richard for deposit for D. L. & Genl. Mason
I sent by Capt. Jones at one time \$1500. Mr. Urq^t never
paid me cent of money for me then to the best of my
recollection but twice once was about \$900. for D. &
M. which I paid him before he sent it up the other
amt was \$500. in part of the amt which he owed me
for Mason and all the rec^d which I hold to him
he justly owes me. I recollect the time & place about
the \$250. We were coming from Saxton Court and he asked
me if I had any N.C. money. I told him I had \$250.
which I could let him have and he requested me to bring it
down to his house the next morning. When I had promised
to meet to secure some money for him which was in
the hands of Josiah Holkman belonging to Mills. Eley.

by examining the papers of time when Eley went away it shows
that I am correct. I know that Mr. Urquhart is as honest
man as ever lived, but in this he is mistaken. it
was at a time when I was depositing some money
which I owed to my brother with him. If I should
die, its my last request that Mr. Jas. B. Urquhart
and Doct. Rich^d A. Urquhart one or both will take
the management of my estate, and assist my wife who
I consider the best woman in the world, so to manage
it as to raise and educate our children. and sh^d.
there be any surplus in any way I wish her to have
it to use as sh^d. pleases. I know this is drawing
largely on the friendship of those gentlemen, but I
further know were they to die, there is nothing in earth
I would not do to serve their families, and therefore
hope they will act. I should wish to have my
estate made the ^{most} profitable it could be for the above
purposes until my wife were to marry which I
hope for the benefit of our children and her own
happiness she never would. but sh^d. sh^d. do so it
would then be my wish that my estate be equally
divided between her and our children, otherwise to
remain together until all Mr. H. Sumner come of age.
at which time I wish him to receive his share
and for each to receive the same as they come of
age. Should I die without any other I wish this to
be considered my will. and hope the gentlemen above
named will comply with my request, at all times
giving my wife who is dearer to me than life itself
all the aid in their power and (advising and controlling
our children as if they were their own. I have written
this in a great hurry (and expect its badly dictated.
but wish it executed agreeably to its meaning. Given
my hand and Seal this 2nd day of October 1834.

Silas Sumner Seal

At a Court held for the County of Southampton the 20th day of July 1835.
This last will and testament of Silas Summerell dec^d was produced
in Court for probate (and there being no subscribing witness thereto Chas.
G. Mason & Jesse Drewry being) sworn depositions (and sayeth that
they are acquainted with the hand writing of the said Silas
Summerell (and that they verily believe the body of the said
^{Writing} as well as the signature thereto to be in the proper hand-
writing of the said Silas Summerell (and the Court being
thereof satisfied, it is ordered that the said writing be
recorded as (and for the last will and testament of the said
Silas Summerell dec^d. Whereupon Rich^d. A. Mughart
and James B. Mughart the Exors therein named appeared
in Court and refused to take upon themselves the burden
of the execution of the said Will. And thereupon
on motion of James Clayton who made oath and together
with John Denege and Jesse Lantford his securities
entered into and acknowledged a bond in the penalty of fifty
thousand Dollars conditioned as the Law directs. Certificate
is granted the said James Clayton for obtaining letters
of administration on the said Silas Summerell's estate with
his will aforesaid annexed in due form.

Teste.

James Rockelle, C. C.

Copy.

Teste.

Clayton

City.

Council

Filed Octo 3rd 1835

Henry S. Howard, D. C.

At Test

Received March 17th 1840 of James Clayton
Administrator with the will annexed of Silas Sumner
relatec. the following Slaves to wit, Billy Valued at
\$600. Jesse sen. at \$300. Robertson at \$500. Patience at
\$100 and Edmund at \$100. making the Amount of
\$1800. The sum of \$30. to be taken and paid to Lot 101.
leaving the Amount of \$1770 being the Amount
of each legatee's part of the Slaves ~~belonging~~ to the said
dec^d. est. for the reception of said Slaves I do hereby dis-
charge and acquit the said Clayton as adm^r. aforesaid
from any Claim against him. all of which I receive
in right of my Wife Sally, late Sumner's ^{being her} fee
simple interest in her dec^d. Husband's estate. and in order
to indemnify the said Clayton. I do hereby promise of
oblige myself my heirs executors of Administrators to
pay or Cause to be paid unto the said James Clayton as
Administrator as aforesaid my full proportion of all and
every debt or debts which hereafter may come against
the said estate after having exhausted all the The
Chattle estate together with all the Cost attending
the recovery of the same. Witness my hand and seal
the day and date above written

Witness

Per J. Griffin

Joel G. Bauncie

Clayton

no. 3
Refunding on a

Council

Sept. rules 1838 filed
with pt. bill

To G. Council
Refunding Bond

"Z"

Langston

14 3/4

Boonville

20 1/2

x

9

Blayton vs. Commonwealth
The Deft. by Counselor assigns the objection to the
of asking the case of rule in heaven on the amended bill
suggested by the same as proposed the next time

June 20th 1853 - Recd. of James Clayton the sum of sixteen hundred
and seventy six dollars in full of an execution issued on a decree
of the Circuit Court of Limestone in the Chancery suit of Willis
Ely by next friend against the said Clayton aduer: a Lelas Linnell
N. S. Goodwyn atty

Of the above amount the sum of nine hundred forty seven
dollars and 48/100, were reserved in my hands to pay the debt due the
Limestone Asylum March 6th 1853 - (\$761.55) together with attorney
fees, Sheriff's, Clerk's and Commissions fees

N. S. Goodwyn
the sum of twenty five dollars of the above amt reserved is refunded to Capt
Clayton, he having paid the Com. fees -

Teste
R. M. Phelps

Clayton

m.

1/2 Chy.
Est. G.

Conrad

Sept. (rule, 1853) filed
with bill.

9 to 1000 13
"left"

"2"

Estate of Elias Sumner die?

In account with James Clayton adm.

			Dr	Cr	Int.
1835					
June 20	To paid L. A. Holmes acct.		3 15		
"	" Auditor of public accounts		10 35		
"	" A. Denson acct.		4 44		
"	" Ditto "		9 14		
"	" James Joyner "		108 33		
"	" A. Atkinson for Parker		27 44		
"	" W. C. Clarke "		47 00		
Oct 19	" " G. Holmes Treasurer School Comm.		414 88		
"	" " J. B. Southall med. acct.		1 00		
	By R. A. Uregharts bond			1500 00	
"	" L. N. Branch do			65 00	
"	" Tho. Atkins do			57 98	
"	" Joel P. Johnson do			132 25	
"	" John Boykin do			251 39	
"	" Benj. Crumpler do			191 65	
"	" S. M. Pond do			114 09	
			625 73	2314 36	
				625 73	
				1688 63	
Decr 31	By Bal. due the Estate				
1836					
July 4	To paid J. H. Hawkins acct.		7 50		
"	" Taxes & tickets for 1835		125 04		
"	" D. A. Boykin bal. bond		97 23		
"	" J. Senor acct.		3 95		
27	" " P. Bailey "		11 87		
"	" " J. Senor bond		66 13		
"	" " D. A. Boykin "		45 92		
"	" " J. Anderson prop. R. Anderson Est.		48 36		
"	" " R. H. Baker atty.		34 50		
June 18	" " C. J. Thompson bond		24 95		
"	" " A. G. Council appraiser		1 00		
"	" " J. G. Gwallney do		1 00		

	"	"	Gray Barker	act	1 59				
	"	"	B. Crumpler	"	25 96				
Nov 10	"	"	Taxes & tickets		56 46				
1836			Amt. car ^o forward		551 46	1688 63			
Nov 10			Amt. brought forward		551 46	1688 63			
			To paid J. Suter est bond		39 27				
"	"	"	E. Whitehead	act	5 75				
"	"	"	N. Suter	"	50 00				
"	"	"	W. J. Attingham	"	10 00				
"	"	"	J. Crumpler	"	7 50				
"	"	"	D. Pond	"	12 06				
"	"	"	J. Crumpler	"	64 13				
Dec 4	"	"	E. Branch	"	49 61				
"	"	"	Benton & Riddick	"	9 00				
"	"	"	W. G. Stephenson	"	5 00				
"	"	"	Coroner for inquest		5 00				
"	"	"	J. Holmes treasurer School Com.		160 02				
"	"	"	B. Daniel	act	30 00				
"	"	"	A. Stephenson	"	20 87				
"	"	"	J. Barham in full bal. due Est.		417 21				
31			By John Boykins bond & Int.			130 51			
"	"	"	E. Dole	"		319 05			
"	"	"	P. Dole	"		209 00			
"	"	"	Amount found in house			120 00			
"	"	"	P. Pond bond & Int.			39 26			
"	"	"	H. Pond	"		34 33			
"	"	"	J. P. Boykin	"		106 00			
"	"	"	J. Love	"		14 50			
"	"	"	J. B. Vergutart	"		848 00			
"	"	"	Mary Vick	"		39 20			
"	"	"	G. Hanson	"		98 10			
"	"	"	B. Branch	"		7 90			
"	"	"	F. H. Boykin	"		34 91			
"	"	"	John Hanco	"		202 44			

	"	"	H. Chapman	"				16 85	
	"	"	R. Mercer	"				23 99	
	"	"	M. D. Springfield	"				28 95	
	"	"	J. Boykin	"				4 53	
	"	"	B. Daniel	"				16 88	
	"	"	J. Shepherd	"				49 81	
	"	"	R. Hart	"				4 34	
	"	"	E. Boykin	"				34 44	
			Amt. Car ^o forward				1436 88	1072 08	
1836			Dec 31				1436 88	1072 08	
			Amounts brought forward						
			By E. Branch bond & Int.					4 45	
	"	"	H. Pond	"				35 00	
	"	"	J. S. Swathmeyer	"				8 79	
	"	"	J. G. Council	"				4 38	
	"	"	E. Joyner	"				22 00	
	"	"	J. Barham	"				225 00	
	"	"	A. Harris	"				101 00	
	"	"	D. Bittle	"				49 63	
	"	"	Bittle & Simmons	"				59 75	
	"	"	H. Harris bal.	"				22 81	
	"	"	A. Holleman	"				8 14	
	"	"	J. Holmes Ret.	"				29 61	
	"	"	J. Crumpler	"				86 88	
	"	"	E. Branch	"				3 56	
	"	"	A. Claiborn	"				162 18	
							1436 88	1895 26	
							1436 88		
								3438 38	
Dec 31			To balance due estate						101.31
1837			" Interest on bal. of 1836						
Jan 25			To paid M. J. Crumpler	act			25 97		
"	"	"	A. B. Vaughan	"			7 33		
Feb 8	"	"	W. Folk	"			2 38		
"	"	"	R. L. Thomas	"			8 98		
"	"	"	P. Dole	Not			65 26		

		B. Griffin	"	102	25				
		W. Womble	"	12	24				
		J. Womble	"	24	78				
		J. Barnes	act.	1	45				
		A. Atkinson	atty	5	00				
		B. Lightfoot	act.	7	50				
		E. Ballard	bond	300	62				
Apr	10	J. Linn	act.	1	00				
		J. Linn Curator of S. Linn's Est.		164	60				
		P. Dole in full A. Dole's Est.		4	41				
		P. Linn	act.	2	50				
		P. Dole in full J. Dole's Est.		460	05				
		Ditto his act.		35	12				
		Amt's Car. forward		1240	22	3458	38	101.31	
1837	Apr	10	Amounts Car forward	1240	22	3458	38	101.31	
		To paid P. Dole in full E. Dole's est.		55	43				
		" " N. A. Sumnerill	act.	1	47				
		" " J. Jackson	"	25	00				
		" " B. L. Drew	"	41	19				
		" " J. Joyner	"	70	83				
May	1	" " P. Brown	Judge.	16	55				
		" " G. J. Stephenson	act.	44	07				
		" " J. W. Mansford	"	4	00				
		" " Murdaugh & Freyvant	"	9	45				
		" " J. Murdaugh	"	10	00				
Oct	14	" " P. M. Bailey	"	14	95				
		" " Taxes & tickets	"	40	46				
		" " J. Cobb Sundry tickets		133	26				
Decr	22	" " W. Stephenson	act.	7	50				
		By Sundry Small bonds & Int.				516	00		
				1714	38	3974	38	101.31	
						1714	38		
						2260	00		
Decr.	31	By Balance due Estate							
1838		" Interest on bal. of 1836							207.50

To Interest on \$998.04
 Dec 31 To balance due the adm.
 1841
 Mar. 10 To paid taxes & tickets for 1840
 Nov 15 " " W. H. Day atty.
 " " Thomas Hall's Eric
 Jan 1 By am't sales due this day
 " " rec of J. G. Council for corn
 May 27 " " Sale of bacon
 " " Negro hires

Dec 31 By balance due the Estate
 1842
 July 27 To paid W. O. Bailey note
 " " John Vick's
 " " A. Atkinson atty.
 Sep " " Sheriff two executions
 " " Sundry tickets
 " " Am't Car' forward
 1842 Amounts brought forward
 Comm's on \$1954.42 rec'd in 1841

Dec 31 By balance due the Estate
 1843 " Interest on the balance of 1841
 June 8 To paid A. Bonds act
 19 " " W. B. Whitehead bal. due E. Kirby's Est
 Sep " " J. Boykin act.
 Interest on bal. of 1842
 Int. brought down

Dec 31 To bal. due the adm.
 1844
 Mar 4 To paid J. B. Southall in full bond
 " " paid J. L. French atty.
 " " To bal. due the Administrator

59 88			
1057 92			
35 16			
15 00			
8 00			
	1426 65		
	130 00		
	221 46		
	156 31		
1116 08	1954 42		
	1116 08		
	838 34		
7 92			
82 42			
10 00			
96 10			
15 69			
212 13	838 34		
212 13	838 34		
97 72			
	309 85		
	528 49		
			50.30
27 00			
761 63			
30 00			
			31.70
818 63	528 49	82.00	
	82 00		
610 49	610 49		
208 14			
559 70			
49 50			
817 34			

In the above account no commissions are allowed the adm. except on the receipts of 1841
 Some of the parties objected to allowing him Comm's because he had not rendered an account
 within the time prescribed by law.

Respectfully Submitted
 Commrs for \$15.00 charged
 to the adm.
 W. L. Goodwyn Commr.

Account of monies expended by Sarah Summerville late widow of Silas Summerville
on account of her children William H. Richard J. Sarah & Thomas S. Summerville.

On account of William H. Summerville.

1840			
Feb. 1.	Paid R Murray for 18 Months board	\$	105.00
1842	D. D. for money borrowed	.	458.29
		"	563.29

On account of Richard J. Summerville

1839 Dec. 24.	Tuition and books furnished by A. Hicks	\$	20.53
1840	Paid R. Murray for board & books	"	42.81
		"	62.34

On account of William H. Richard J. Sarah & Tho. S. Summerville

1838.	Paid Thomas & Adams	act.	\$	12.51
"	" J. Urquhart	"	"	50.50
1839	" John Urquhart	bond		8.79
"	" A. Stephenson	act.		1.83
1840	" Southall & Jordan	"		84.90
"	" Benj Griffin	"		9.48
"	" S. G. Boykin	bond		4.82
"	" J. B. Urquhart	act.		45.76
1841	" J. M. Gurley. execution for money borrowed			141.424
1842	" Wilson & Son	act.		63.02
"	" O. S. Waltham	Note		21.96
1843	" Meritt Briggs	act.		5.89
1840	" R. Murray	"		29.64
				479.44

The Commissioner found it impossible to state a separate account of monies expended by Sarah Summerville for each one of her children, as no such account was kept by her. The Commissioner could ascertain in only two instances what amt. was expended for any particular child which are above stated. He then stated one general account against all the children - Commrs fee 12.50 ch.
to J. G. Council - Respectfully Submitted. W. S. Goodwyn Commr.

At a Circuit Superior Court of Law, and Chancery held for the County of Southampton on the 8th day of November 1844.

Joseph G. Council and Sarah his wife late widow of Silas Summerville dec^d. Plffs:

against

James Clayton administrator with the will annexed of Silas Summerville dec^d.
William H. Summerville and Richard J. Sarah A and Thomas S. children
of Silas Summerville by William J. Sebell their guardian appointed to defend
them in this suit. Defts.

It appearing to the Court that since the last term of this Court, that the Plaintiff Sarah Council has departed this life and that Joseph G. Council has qualified as her administrator upon motion of said Joseph G. Council administrator of Sarah Council and by consent of parties this cause is revived in his name as administrator of the said Sarah. And thereupon this cause came on again to be heard on the papers formerly read and on the report of Commissioner Goodwyn, to which report there is no exception. On consideration whereof the Court doth adjudge, order and decree that the bill of the plaintiffs be dismissed and that they pay to the defendants their costs &c in this suit expended. But this decree is made without prejudice to any suit which the defendant Clayton administrator &c may think proper to institute against the devisees and legacies of Silas Summerville dec^d.

Defts costs \$35.29.

Copies

Teste

J. R. Edwards Clk

Jerusalem 20
Nov 1st / 35-



Mr. Joseph G. Council
Kearsville
Dec of Night 6^o
11-11

His account is referred
to in Councils answer
to amendment of Bill and the
Com. will return it with
the report of Taylor

The Estate of Silas Sumner

In account with James Clayton Administrator.

1835				D	Cr	Int.
June 20	To paid S. H. Holmes	Act.		3 15		
"	" Auditor of public accounts.	"		10 35		
"	" A Denon	"		4 44		
"	" Ditts	"		9 14		
"	" James Joyner	"		108 33		
"	" A Atkinson for Parker	"		27 44		
"	" W. C. Clarke	"		47 00		
Oct 19	" S. Holmes Treasurer School Com.			4 14 88		
"	" J. B. Southall	Med. "		1 00		
	By R. A. Urquhart.	bond + Int.			1500 00	
"	" S. A. Branch	"			65 00	
"	" Thomas Atkinson	"			57 98	
"	" Joel Prepon	"			134 25	
"	" John Boykin	"			251 37	
"	" Benj. Crumpler	"			191 65	
"	" S. M. Pond	"			114 09	
				625 73	2314 36	
					625 73	
Nov 31	By Balance due the estate				1688 63	
1836						
Feb. 4	To paid J. H. Hawkins	Act.		7 50		
"	" Jones Vickets for 1835			125 04		
"	" D. A. Boykin	bal. bond		97 23		
"	" J. Denon	Act.		3 95		
"	" P. Bailey	"		11 87		
"	" F. Denon	bond		66 13		
"	" D. A. Boykin	"		45 92		
"	" J. Anderson his portion R. Anderson Est.	"		48 36		
"	" R. H. Baker atty	"		34 50		
"	" C. J. Stephenson	bond		24 95		
"	" A. B. Bennett appraiser.	"		1 00		
"	" J. S. Gunning	"		1 00		

		Gray Barker	act	1 59		
		B. Crumpler	"	25 96		
		Travis Vickers		56 46		
		J. Suter	bond	39 27		
		E. Whitehead	act.	5 75		
		N. Suter	"	50 00		
		W. J. Nottingham	"	10 00		
		J. Crumpler	"	7 50		
		D. Pond	"	12 06		
		Am't. Car. forward		676 04	1688 63	
Nov 10		Am't. brot forward		676 04	1688 63	
	To paid	J. Crumpler	act.	64 13		
Dec 4	"	E. Branch	"	49 61		
	"	Benton Riddick	"	9 00		
	"	W. B. Stephenson	"	5 00		
	"	Coroner for inquest	"	5 00		
	"	S. Holmes Treas. School Com.		160 02		
	"	B. Daniel	"	30 00		
	"	A. Stephenson	"	20 87		
	"	J. Barkham bal. due ad.		417 21		
31	By	John Boykin	bond & Int.	130 57		
	"	E. Dole	"	319 05		
	"	P. Dole	"	209 00		
	"	P. Pond	"	39 26		
	"	H. Pond	"	34 33		
	"	J. P. Boykin	"	106 00		
	"	J. Love	"	14 30		
	"	J. B. Urquhart	"	848 00		
	"	Mary Vick	"	39 20		
	"	B. Johnson	"	98 10		
	"	B. Branch	"	7 96		
	"	F. M. Boykin	"	34 91		
	"	John Harris	"	202 44		
	"	H. Chapman	"	16 85		

		R. Menner	"			23 99
		M. D. Stringfield	"			28 95
		J. Boykin	"			4 53
		B. Daniel	"			16 88
		J. Shepherd	"			49 81
		R. Hart	"			4 34
		E. Boykin	"			34 44
		E. Branch	"			4 45
		H. Pond	"			33 00
		J. S. Gwaltney	"			8 79
		J. S. Council	"			4 38
		E. Joyner	"			22 00
		J. Barkham	"			225 00
		H. Harris	"			108 00
		D. Bille	"			49 63
		Bille & Simmons	"			59 75
		H. Harris	bal.			22 81
		A. Holliman	"			8 14
		J. Holmes	Rest.			29 61
		J. Crumpler	"			86 88
		Am't. Car. forward		1436 88	4609 32	
		Am't. Brot. forward		1436 88	4609 32	
	By	E. Branch	bond & Int.			3 56
	"	J. J. Druster	"			65 00
	"	A. Glanborne	"			162 18
	"	Balance due estate		3203 18		
				4840 06	4840 06	
1836		Balance due Estate brought down				2403 18
Dec 31		Interest on balance of 1835				107 34
Jan 25	To paid	M. J. Crumpler	act.	25 97		
	"	H. B. Vaughan	"	7 33		
	"	W. Folk	"	2 38		
	"	R. L. Thomas	"	8 98		
	"	P. Dole	note	65 26		

		B. Griffin		102 25			
		W. Womble		12 24			
		J. Womble		34 78			
		J. Davis	act.	1 45			
		A. Atkinson	"	5 00			
		B. Lightfoot		7 50			
		E. Ballard	note.	300 62			
		E. Laine	act.	1 00			
		S. Love Curator &c		164 60			
		P. Dole in full A. Dole's Est.		441			
		Ditto " " I Dole		460 05			
			act.	35 12			
April		S. Laine	"	2 50			
		P. Dole in full E. Dole's est.		55 43			
		M. A. Summerville	act.	1 47			
		J. Jackson	"	25 00			
		B. L. Dyer	"	41 19			
		J. Joyner	"	70 83			
May		P. Brown	Judge	16 55			
		W. J. Stephenson	act.	44 07			
		J. W. Mansford	"	4 00			
		Murdough & Frequent.	"	9 45			
		J. Murdough	"	10 00			
Oct 14		J. M. Bailey	"	14 95			
		Taxes & Tickets	"	40 46			
		See Collt Sundry Tickets		133 26			
Dec 22		W. Stephenson	act.	7 50			
		By Sundry Small bonds & Int.			516 00		
	31	Balance due Estate		2204 80			
				3919 18	3919 18		
1837		Balance due Estate. Car. form.			2204 80	107.31	
Dec 31		By balance due Estate			2204 80	107.31	
1838		Interest on balance of 1830.				204.19	
Jan 15		To paid W. C. Parker atty.		50 75			

		M. Duggs	act.	15 00			
		P. Edwards	"	25 00			
		W. H. Day	"	5 75			
		M. Hancock	Judge	13 97			
		J. Pruden & W. J.	"	5 28			
		W. H. Laine	act.	45 93			
		B. M. Hancock in full of G. account		2563 86			
		Taxes & Tickets		37 55			
June 17		By Sundry Small bonds.				128 09	
Dec		Int. on bal. of 1837				132 28	
		Int. act. brot. down				305 50	
						2765 09	2770 67
						2765 09	
							5.38
1839	31	By Balance due Est.					
Feb 18		To paid J. B. Southwell in part	bond	200 00			
		Carry Over	act.	15 48			
		Ditto	"	27 76			
		R. Musgroves ad.	"	24 80			
19		E. Ely	Judge	17 20			
				285 24			
				5 38			
Dec 31		Balance due the Administration.		279 66			
		Interest thereon		16 77			
1840				27 06			
Apr 25		To paid Taxes & Tickets for 1839					
		J. Clayton	act.	7 50			
June 14		George Guy	2	27 57			
		J. S. French for C. Y. Mason		83 37			
		Shiff. Exemption for O. A. Brown		5 16			
		S. Blunts Esr.		518 33			
		J. W. Sprattley		171 22			
Dec 31		Balance due the Administration		1136 64			
		Interest thereon		68 19			
1841				35 16			
March 10		To paid Taxes & Tickets for 1840					
		W. H. Day atty.		15 00			

	Thomas Hall Crgr		8 00		
	By amount Sales due			1426 65	
Dec 31	Balance due Estate		163 66		
			1426 65	1426 65	
1842	Balance due estate brot down			163 66	
	Balance due Estate brot forward			163 66	
July 21	To paid W. O. Bailey	bond	7 92		
	" John Vick	"	82 42		
	" A. Atkinson Atty.		10 00		
Sept	" Sheriff 2 Crms.		96 12		
	Sundry tickets		15 69		
Dec 31	Balance due the administrator.			48 47	
			212 13	212 13	
1843	Balance due the Admrs: brot down		48 47		7 81
	Interest on balance of 1841				
June 8	To paid St. Pond	ad.	27 00		
	W. D. Whitehead bal: due. C. Kings at		761 63		
Sept	" J. Boykin	ad.	30 00		
	Interest on bal: of 1842		2 90		
			870 00		7 81
			7 81		
Dec 31	Balance due the Adm		862 19		
1844	May 4 To paid J. B. Southall in full bond		559 70		
	" J. S. French Atty.		49 50		
	" Ridley & Goodwyn Atty.		32 00		
	" Comm for former Act		15 00		
Dec 31	Balance due the Administrator.	\$	1518 39		
	with Interest thereon from this day till paid				
		W. S. Goodwyn Com			

Commissioners Office Nov. 24. 1845

Pursuant to an order of the County Court of Southampton made at Nov. Term 1845 I have stated and settled the foregoing account of James Clayton's admn: on the Estate of Silas Summerell dec^d and a balance due the said Clayton of fifteen

hundred eighteen dollars 39/100 with interest thereon from the 31st Dec. 1842 till paid.

Common fee \$10.
Ch^g to the Adm.

Respectfully Submitting

W. S. Goodwyn Com.

The Commissioner begs leave to state specially that the foregoing account was made up from the account reported by him in the case of Council & wife v Summerell's adm. & att: in the Sup. Court with some corrections. The account alluded to contained certain items charged against the administrator for money found in hand, corn & bacon sold and negro hires, making the sum of \$807. 46. which from the construction which has been to the will of Silas Summerell, the Comm. is of opinion, ought not to have been charged against the Administrator but that they belonged to the widess for the purpose of supporting & educating the children. Those items are omitted in this account. The present account contains a credit for the bond of J. J. Winter, and also two charges for small amounts which were omitted in the previous account. No Commission are allowed the adm. in consequence of his failure to return his accounts according to Law. All of which is respectfully Submitting

W. S. Goodwyn Com

At about held for the County of Southampton on the 15th day of December 1845 This account of James Clayton's administration on the estate of Silas Summerell dec^d was returned and ordered to lie on term for exceptions. And at about held for the County aforesaid on the 19th day of January 1846 the said account having been on Term and no exception being filed was confirmed & ordered to be recorded.

J. R. Edwards Clk

Attest

J. R. Edwards Clk

Account Current of
Silas Sumner's Est

Atty

A/c A filed by Atty with
Commissioner Hayden return-
ed with his report —