

1892-018 Chancery Causes: Idan M. Dick & W. H. Dick vs John C. Thomas & al

Dele of Wight County

other surnames: Clements,
Atkinson, Gay, Young

Dick, Ida M. & husband

vs } Bill
Thomas J. C. & others

Verdict held 3rd Monday
in March 1890.

Bill & filed - occurs:
expt. & decrs. nisi.

4th of April. Verdict - Bill
taken for confessed &
case set for hearing

April term 1892

De Final

Thomas, be made parties defendant
to this bill & be required to answer
the same. Tho' your complainants
waive an answer on oath.

That the said Thomas be
required to take possession
of the property conveyed in
said deed & sell the same to
satisfy said trust, or that
a Comr be appointed in his
stead to make said sale; that
proper process issue & all
proper orders be made, and
that all such other further &
general relief may be granted
your complainants as the
nature of their case may
require, or to equity may seem
best. And your complainants
will ever pray, &c.

J. O. Parker, Esq.

mind at the time of making
the deed to be careful to
make one; that a doubt has
risen as to the validity of the
claim secured by said deed;
& that the genuineness of the
endorsement of Mary Gay to
Nancy P. Clements has been question-
ed, & that for these reasons he
declines to sell. Your com-
plainant contends that the
said John Thomas was careful
to make said deed; that the
claim secured therein is
a valid one; & that the
assignment by Mary Gay to
Nancy P. Clements is genuine
& true; & that your complain-
ant is entitled to have said
property conveyed in said
deed, sold to satisfy her debt.

In consideration whereof,
your complainants being
unable to sue in a court
of equity, your complainants
pray that the said John C.
Thomas, Com^r J. Thomas, substituted
trustee, Mary Gay, Nancy P. Clements,
Thos. J. Clements, & Kunkel & Kunkel

That your complainant is therefore
reduced to the necessity of making
her money out of the said
bond of J. C. Thomas.

That on the day of
1889, the original trustee in said
deed from J. C. Thomas having
died, Wm. J. Thomas was sub-
stituted as trustee in said deed
by the County Court of Isle of Wight
Co. That since that time your
complainants have requested
& asked the said substituted
Trustee to take possession of
& sell the property conveyed
in said deed, in accordance
with the terms thereof, in
order to satisfy the debt-
incurred therein which has been
assigned to your complainants.
But the said Trustee has refus-
ed & does still refuse to sell
said land under said deed,
because he says there is a
doubt as to the ability of
said J. C. Thomas to make said
deed, it being claimed that he
was not of sufficiently sound

The said Nancy P. Clements assigned & endorsed her interest in the said bond to your complainant Thos. Dick, to secure her the amount due her from her guardian & father & the husband of said Nancy P. Clements, Thos. J. Clements, that the bond of the said Thos. J. Clements as guardian, is utterly insolvent, & your complainant can make nothing by proceeding thereon; that the said Thos. J. Clements himself is insolvent, & your complainant can make nothing out of him. That on the 6th day of August 1885, the said Thos. J. Clements, your complainant then being an infant, made a deed of Trust, conveying certain property to secure, among others, the balance due your complainant, a copy of which deed is herewith filed & prayed to be read as a part of this bill & marked Exhibit "B". That your complainant cannot now find any of the property conveyed in said deed

+ 77/100 dollars as of that date. This
sum the said Thos J. Clements
failed & refused, to pay, but offered
as security therefor a bond, which
bond was given on the 13th day of
April 1885, by J. C. Thomas Co^{rs}
in favor of Mary Gay (or Josiah)
for the sum of Forty-three Hundred
& twenty dollars, & secured by a deed
of trust on the property of the
said J. C. Thomas, bearing same
date as the said bond & of record
in the clerks office of Isle of
Wight Co. a copy of which is
herewith filed, & marked exhibit
"A" & prayed to be read as a
part of this bill. That on the
6th day of August 1885, the said
Mary Gay indorsed & gave to Nancy
P. Clements, the wife of said Thos J.
Clements & mother of your com-
plainant, two thirds of the said
bond, as is shown by the indorse-
ment of said Mary Gay on the
back thereof, which bond is now
shown to the Court & prayed
to be read as a part of this bill.
That on the 23rd day of April 1889,

To the Hon C. W. Hill, Judge
of the Circuit Court of the
county of Isle of Wight, state
of Virginia.

Your complainants, Edw
M. Dick, (formerly Clements) &
W. N. Dick, humbly complain-
ing, sheweth unto your Honor,
That on the ^{1st} day of Feby,
1876, your complainant, Edw. M.
Dick, then being an infant of
tender years, ~~was~~ fathered
Thos J. Clements qualified as
his lawfull guardian in the
county court of Isle of Wight-Co.
That after that time he received
for your said complainant
divers sums of money from
the estate of ~~Wm~~ Atkinson, ~~decd~~,
the uncle of your complainant.
That on the 1st day of January
1887, your complainant then being
21 years old, demanded a settle-
ment of his guardianship the said
Thos J. Clements, & upon an
investigation it was found & agreed
that there was due your com-
plainant by said guardian, the
sum of Ten Hundred & forty-six

insolvent, and as to these matters he
demands proof.

And having answered he says
there is to be no proof with his reason-
able costs in this behalf expended, and
he will ever pay or

J. L. Thomas

Dick Daw Co.

v.

Thomas J. L.

Answer
J. L. Thomas

The answer of Dr. C. Thomas to the bill
of Complaint of Ida M. Dick and W. H.
Dick exhibited in the Circuit Court of
Suff. W. Right County against him and
others.

The Defendant saving and reserving to him-
self all right of exception to the Complaint
and bill of Complaint, he answers thereto
in as much thereof as he is advised that it
is material for him to answer, answer-
ing the same.

1 That on the 13th day of April 1885
when the Deed of Trust of that date to
John Walter Thomas was executed to
secure the fund of Mary Gay and
when the said fund was given, ^{as alleged by the said Complainants} he was
had been very sick for a long while, was
very feeble in body and was an imbecile
in mind and utterly unable to comprehend
and appreciate what he was doing and in
fact was non compos mentis.

2 That he does not know that Thomas J
Clements is indebted to his daughter to
any extent, nor does he know that the
Sisters in his grandmother fund are

Dick W. M.

v

Thomas J. C. M.

Answer of
W. J. Thomas
Justice

venue of the alleged parties.

And having answered this Defendant
prays hence to be discharged with his
reasonable costs in this behalf expended,
and he will ever pray &c

W. J. Thomas.
Substituted Trustee

At that date and was on that date unable to understand and to comprehend what he was doing. That if he did not have the legal capacity to make the deed and to execute the bond both are invalid and so is the possession of the said bond and of all assignments thereunder.

This Defendant has never refused to sell under the said deed; he has always regarded the deed as illegal, and has always said to the complainants that if the deed be not invalid he would sell under it; and he now says to the complainants if they establish the legal capacity of the said John L. Thomas at the date of the said deed and he can legally make any such deed, he will make that sale if the Court shall order him to do so.

3 That this Defendant knows nothing of the qualifications of Thomas J. Clements as the guardian of his son Stephen De M. Dick (formerly Clements); of the sureties on the guardian bond, of their insolvency, or of the insolvency of the said Thomas J. Clements and requires proof of the insol-

The answer of W. J. Thomas Trustee under
a certain Deed of Trust from Jas: C. Thomas
bearing date April 13th 1885 substituted
in the name, place, and stead of John
Walter Thomas to the file of Complaint
of Ida M. Dick and W. H. Dick ex-
hibited in the Circuit Court of John of Wayne
County against him self and others.

This defendant saving and reserving all
right of exception to the manifold errors and
imperfections ⁱⁿ of the said file of Complaint
contained, for answer thereto, or to so
much thereof as it is material for him
to answer answering saith

- 1 That he is not advised of the true
amount that may be due by Thomas
J. Clements to his daughter Ida M.
Dick and calls for proof of the same.
- 2 That it is in the knowledge ^{and belief} of this defen-
dant that Jas. C. Thomas when he
made the Deed of Trust of April 13th 1885
was not *compro morbis*. that he was
incapacitated for the legal performance
of any legal act - that he was prostrated
by sickness and disease prior to, & subsequent

This note is Secured by a
Bond of Trust. J. M. Thomas. Trustee

Aug 6th 1885 - I assign Two Thirds
of the Within Principal & Interest to
my daughter Nancy P. Clements and
the other one Third & Interest to my
daughter. Kunkhaffuch Thomas

Mary J. J. J.

Apr 23^d 1889. I hereby assign my interest in
this bond to Ida M. Dick as collateral
security for the payment of \$1046.⁰⁰ with
interest from Jan^y 1889 balance due her by
my husband, which account as guardian
for her.

N. P. Clements

1046.00
1889 701

No. 4320 (100). London and S. Thomas to pay
to or order to be paid unto Messrs
Hay of, Josiah... on the
Sunday, the 15th of January
1800. To the Bearer of this
Receipt, I have received of the
Messrs... the sum of £...
in full of the account of the
said... for the year ending
the 31st of December 1799.
I have also received of the
said... the sum of £...
in full of the account of the
said... for the year ending
the 31st of December 1799.
I have also received of the
said... the sum of £...
in full of the account of the
said... for the year ending
the 31st of December 1799.
J B Thomas

Wick. Ida M. ractors

co. 3

Thomas J. C. ractors

Secum dismissing

To be entered

cost

April 20, 1892

Costs #1

Dick. Ida M. v. Thomas

vs

Thomas. Geo. C. v. Dick

This day this cause came on
to be heard upon the ^{bill & exhibits filed} motion of the
plaintiffs by their attorney that
the same be dismissed at the cost
of the said plaintiffs.

Upon consideration whereof,
it is adjudged, ordered & decreed
that this cause be dismissed
without prejudice to the rights
of the parties, at the cost of the
plaintiffs, and stricken from the
docket of this court.

has acknowledged the same before me
in my county aforesaid
Given under my hand this 13th day of April
in the year 1885

Thos. J. Clements
Notary Public

In the clerk's office of the county court of Cole of
NIGHT county, the 20th day of April 1885, This
deed of Trust from John C. Thomas to J. W.
Thomas trust, was received and admitted
to record on the annexed certificate of T. J.
Clements a notary public at 15 minutes
past ten o'clock a.m.

Teste Geo M. Cooke D.C.
for N. P. Young clk.

A copy. Teste, N. P. Young clk.

Thomas J. W. Trustee
To
Thomas J. W. Trustee

a copy.
with
m. 3 inches
Thomas et al.
" E. H. A. Field
with the Bill

insured against loss by fire, in a sum
not less than ————— Dollars, and
assign the policy of insurance to the
said trustee as an additional security for
the payment of the debt aforesaid, and
if the said ——— fail to keep the said
buildings insured, as aforesaid, the said
trustee may cause the same to be insured,
and the premiums of such insurance shall
be a charge on the trust property aforesaid.
The said John C. Thomas covenants that
he will warrant generally the property
hereby conveyed, and will pay all taxes,
levies, and assessments upon said property
so long as he or his assignee shall hold the
same. And the said grantor hereby waives
the benefit of his Homestead Exemption, as
to the aforesaid debt and obligation, and
as to this covenant.

Witness the following signatures & seals.

J. C. Thomas (seal)
(seal)

County of Isle of Wight to wit:

I Thomas J. Clements, a notary public
for the county aforesaid, in the state of
Virginia, do certify that John C. Thomas
whose name is signed to the writing above
bearing date on the 13th day of April in
the year eighteen hundred and eighty five

described premises, and take the profits thereof to his own use, until default be made in the payment of the debt aforesaid, in whole or in part, and upon such default being made, the said J. Walter Thomas trustee shall, so soon thereafter as he shall be requested by the said Mary Gay of Josiah, her assigns or assigns, so to do, sell the above granted property at public auction, at such time and place, and upon such terms and conditions, as he may deem expedient, having first given notice of such time and place for at least ten days, by advertisements in one or more newspapers published in the county of Isle of Wight, and out of the proceeds of such sale, after paying all the expenses attending the execution of this trust: including commissions on said proceeds of sale to the said J. Walter Thomas trustee, shall pay to the said Mary Gay of Josiah, her assigns or assigns, the debt aforesaid, with interest thereon, or so much thereof as may remain ^{due} unpaid, and the balance, if any, to the said John C. Thomas or assigns. The said John C. Thomas covenants that he will during the continuance of this trust, keep the buildings upon the aforesaid property.

This Deed, made this 13th day of April in the year eighteen hundred and eighty five, between John C. Thomas of the county of Isle of Wight, in the state of Virginia of the one part, and J. Walter Thomas chosen trustee of the other part, Witness; that the said John C. Thomas doth grant unto the said J. Walter Thomas chosen trustee the following property to wit; The farm on which I ~~was~~ reside, containing by estimation, including another tract called the Turner tract one hundred and eighty acres, be the same more or less, adjoining the lands of Cornelius Chopman, John C. Thomas' estate, and one other tract adjoining the lands of J. Clements, Joseph Sprivy, and the lands formerly Elisha Gay's deceased, containing by estimation four hundred and twenty two acres, be the same more or less, with all the appurtenances attached to the same, In trust to secure to Mary Gay of Josiah of the county of Isle of Wight the payment of one bond dated the thirteenth day of April 1885, calling for Forty Three Hundred and Twenty Dollars, with waiver of Homestead act; and upon the further trust, that the said John C. Thomas shall remain in quiet and peaceable possession of the above granted and

J. J. Clements
to 3rd of trust.
N. P. Spring, Trustee

Dick et al.

m. 3/3 Inley,



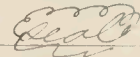
Shuman et al.

"
Expt. 12, filed
with the bill

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1 of the cost of executing this trust, apply the
2 residue according to the provisions hereof,
3 and the surplus, if any, pay according to law.
4 Witness the following signatures & seals

5 T. J. Clements 
6  

7
8 In the clerk's office of the county court of Isle of
9 Wight county, the 5th day of Oct. 1885, this Deed
10 of Trust from T. J. Clements to N. P. Young trustee
11 was acknowledged by the said Clements to be
12 his act, and admitted to record.

13 Teste G. M. Cooke D.C.
14 for N. P. Young clk.

15
16 A copy. Teste,

17 N. P. Young clk.
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23 By an order of the county court of Isle
24 of Wight county made on the 2nd day
25 of May 1884 John N. Wright was sub-
26 stituted as trustee in the foregoing deed
27 in place of N. P. Young the trustee
28 therein named.

29 Teste,

30 N. P. Young clk.
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32

1 of any description whatsoever, all choses in action
2 or judgments of every kind, and all the personal
3 property of any kind and description belonging
4 to the said Thos. J. Clements except such as is now
5 on the farm on which he resides in the said
6 county. In trust, to secure first to the said
7 children and wards of the said Thos. J. Clements
8 the sum of Five Thousand Dollars, due by him
9 as their guardian, with all interest due on the
10 same, and after payment in full of said obligation
11 they to pay the following individual debts of
12 the said Thos. J. Clements share and share alike,
13 to wit, to Barham^g Pollard of Norfolk, the sum
14 of seventy five dollars due by account, to James
15 A. Baker of Suffolk, the sum of One Hundred
16 and Ten Dollars due by note and accounts,
17 to S. Junius Carr of Windsor, the sum of One
18 Hundred and seventy five dollars due by note,
19 to Dr. Geo. H. Jordan the sum of Ten Dollars due
20 by accounts, and to John E. Strongfield the
21 sum of Twenty five dollars due by account.
22 with power to the said trustee to collect all such
23 bonds, notes, and other evidences of debt above
24 conveyed, and if necessary to foreclose all the
25 mortgages in favor of the said Thos. J. Clements
26 other than such as were made to secure
27 him against loss by reason of any endorsements
28 on negotiable notes for other parties (All of
29 which last names are excepted from this
30 conveyance), and also if necessary to sell
31 the undivided one half interest in the said tract
32 of Eighty acres of land, and after the payment

This deed made this 1st day of August 1885 between
Thos J Clement and Nancy P. his wife, of the first
part, and N. P. Young chosen as trustee for the purpose
herein ^{after} named of the second part.

Whereas the said Thomas J. Clements as guardian
for his three infant children, Ida M. Clements, W^m A.
Clements, and Eustace A. Clement became possessed
of a considerable sum of money devised to them
by their great uncle W^m Atkinson of the county
of Southampton in the State of Virginia
amounting in the aggregate to Five Thousand
Dollars, and the said Thos J. Clements desires to
secure the same to his said children and
wards, and also to protect his suitors upon his
bond as said guardian, and whereas also, the
said Thomas J. Clements is individually indebted
to sundry parties which debts he desires to
secure. Now therefore this Deed witnesseth,
that in consideration of the premises, the said
Thos J. Clements and Nancy P. his wife, do
grant and convey unto the said N. P. Young
trustee the following property to wit: An undivided
one half interest in a tract of land near Windsor
Isle of High-County Va, jointly owned by the said
Thos J. Clements and the estate of Jno. R. Clements
decd, and which was inherited from their brother
Richard Clements decd, and bounded by the
lands of Jno. C. Clements' estate, Benj W. Johnson's
land, and lands formerly belonging to M. H. Watkins
and M. L. Watkins and others. And 2nd All
monies due the said Thos J. Clements by bond
note, mortgages, open accounts or otherwise

Dick & wife

^{vs.}
Thomas

Certification of qualification of
J. J. Clemente as guardian

Exhibit

In the County Court of Isles of Wight
county, the 7th day of Feb'y 1898

On the motion of T. J. Clements he is
appointed guardian of his three children
Ida Mary, William Richard and Eustis
Atkinson, and thereupon together with John
A. Clements, John C. Thomas, and Wells L.
Watkins his securities who justified, entered
into and acknowledged a bond in the
penalty of Seven Thousand Dollars with
condition according to law.

A copy

Teste

N. P. Young Deputy
for N. P. Young clk.

Dick & wife

⁰⁷
Thomas

order substituting benefit
for J. W. Thomas

Exhibit

In the County Court of Isle of Wight county
the 3^d day of June 1889.

Nancy P. Clements assignee of
Mary Gay

Plff

vs. } on notice of motion of appointment of new trustee
Mrs C. Thomas and K. his wife

Defts

The notice in this case having been duly served
by consent it is ordered that W. J. Thomas
he and he is hereby appointed trustee in the
place and stead of Mrs W. Thomas deceased,
in a deed of trust executed by the said
Mrs C. Thomas on the 13th day of April 1885
to said Mrs W. Thomas, and recorded on
the 20th day of April 1885, in the clerk's
office of the county court of Isle of Wight
County, and substituted to all the rights
duties and responsibilities of said trustee
deceased.

A copy
Teste N. T. Young Deputy
for N. P. Young Clk.

Executed by delivering to the within named
© Thomas W. Brown Trust Mary
Gen. ~~Thomas P. Clements~~ & Kerechop
p. 100 Thomas, each a true copy
of the within summons March, 14th
1890.

R. A. Edwards Cliff.

Executed by delivering to the within
named Thomas P. Clements a true
copy of the within summons March 17th
1890.

Tenton. E. White Dept. Cliff

Form No. 300.

Rick Seacell et al.

SUBPENA
IN
CHANCERY.

{

v.s.

Sherris Geo. Co. et al.

✓ Geo. C. Parker p. q.

To 3^d Monday March Rules,

1890. Circuit Court.

The Commonwealth of Virginia,

To the *Sheriff* of the county of *Isle of Wight*, Greeting:

WE COMMAND YOU, That you summon *John C. Thomas, William*
J. Thomas,
substituted Trustee, Mary Gay, Nancy P.
Clements & Henry Hapstick Thomas

to appear at the Clerk's Office of the *Circuit* Court of the county of *Isle of Wight*
at the rules to be held for the said court on the *third* Monday in *March*, 18*90*.
to answer a bill in Chancery exhibited against *them* in our said court by *Ida*
Mc. Dick and W. S. Dick

And have then there this writ. Witness, *N. P. Young*, Clerk of our said
court, at the court-house, the *10th* day of *March*, 18*90*, and in the *114th* year
of the Commonwealth.

N. P. Young *clks*