

1867-012

Chancery Causes: James DeMesters, etc.

Nelson County

v.

John W. Tilford, etc.

Coffey, Nash, Campbell, Messie, Bouldin,
Meddox, Wright, Lowman, Cash, Rexrode,
Meys, Massey, Embly, Thecker,
Moorman, Smith, Daniel, Brandon,
Cummins, Berger, Euro, Pettis, Harvey,
McClain, Graves, Carter, Jones, Stevens,
Giles, Blein, Perrow, Loving, McAlexander,
Blane, Taliaferro, Patteson, McCue,
McAlexander & Patteson I, Whitehead,
Fortune, Boulden, Burgher

Will: 1811, George Blein, Nelson Co.

To the Honorable Lucas P. Thompson Judge of the
Circuit Court of Nelson Co.

Humbly complaining shew unto you Honor
your orators and oratrices James Hemasters, John Hemas-
ters, Edmund Coffey, Morris Coffey, Egbert Coffey, Will-
iam Coffey, William Nash & Nancy his wife, Elizabeth
Coffey, G. W. Campbell, Jesse Massey and Parmelia his
wife, B. W. Campbell and his wife Lavica, Thomas H.
Bouldin and his wife Roda, Thomas Massey and his
wife Nancy, Nelson A. Maddox, Cary Campbell and
Belinda his wife, John J. Maddox, William Camp-
bell, Parmelia Campbell, John Campbell, Jesse
Campbell, Decker Campbell, Charles A. Camp-
bell, Robert Campbell, Edward Stephen Campbell
Vina Campbell, Marcellus Campbell, Nathaniel
Campbell, James Wright, Charles Wright Low-
man & his wife Parmelia, Martha Campbell, John
James Campbell, Francis Campbell, Sally Camp-
bell, Willis Cash & Betsey his wife Reyrod and
Nancy Ann his wife, Amanda Campbell, William
J. Campbell, George W. Campbell (son to Wm) William
J. Massey and Polly his wife, William Campbell & Betsey
his wife, Cary J. Cash & Martha Ann his wife, Addi-
son S. Massey & Secinda his wife, James Helaman
Campbell, William H. Bouldin and Emily his
wife, Eli Massey, Sally Massey, William Moorman
and Ann his wife, James Hemasters, Cornelius Hemas-
ters, George P. Hemasters, Embly & Nancy his wife,
Betsey Hemasters, Jacob Thacker & Sarah Ann his wife
and Elvira Hemasters

That George B. Bain departed this life in the

in the year 1811 after having duly executed his last will and testament, marked G. B. and hereunto exhibited as a part of this bill which bears date on the 28th of May 1811 and was admitted to probate in the County Court of Nelson the 29th of same month and year. After disposing of the personal property, the following clauses occur - "I also devise to the Overseers of the Poor for the County of Nelson now being and to their successors in that office the plantations whereon I now live after the death of my ^{said} wife, in case she should die without issue to have and to hold the same for the benefit of the poor of said County of Nelson, who I do hereby authorize to make sale thereof on such terms of payment as in their discretion may be most fit - the monies arising from which they are to invest in Bank Stocks or other public securities for the benefit of the poor of said County, the profits of which monies when so invested, they are to direct in such manner as they think fit, under the direction ^{& control} of the Court of said County and their successors for the purposes aforesaid. But it is my will and desire that my wife should have a life estate in said lands, to be enjoyed by her during life as she shall choose and if she should hereafter marry & have issue, then and in that case the said lands with all their appurtenances I devise to such issue equally to be divided amongst them if more than one. But if my said wife should die without issue, then after her death, the said lands to be held, sold & disposed of as before devised"

Rachel Blain the widow of the said George Blain died, intestate in the year ^{not} having married a second time and without issue of her body. She held possession of and resided on the land - about ^{two} hundred and two ^{being things in the Co. of Nelson} acres, thus devised by her husband up to the time of her death, with the exception of ^{two} acres which she sold and deeded in fee simple to the late Charles Perron.

Since her death the Overseers of the Poor of Nelson County have instituted proceedings - now pending and undetermined, to obtain possession of the said land.

Your Orator &c represent that they and others as will more fully appear hereafter are the heirs at law of the said Rachel Blain deid.

They are advised and believe that under the said Will, the said Rachel Blain deid took an estate in fee simple in the said land for the reason that the word "issue" used in the will is a word of limitation and not of purchase, and the words "in case she should die without issue" - "but if my said wife should die without issue" and other words of like import taken in connection with the life estate granted to her, created in her an estate tail, which, by the Virginia Act of 1776 abolishing estates tail and the Act of 1785 which went into operation in 1787, was enlarged into a fee simple estate, and the remainder to the Overseers of the Poor is void, dependent as it is upon an indefinite failure of issue in Mrs Blain. Nor can they take it as an executory devise of a fee upon a fee, it having been decided in Carter vs Tyler / Call p 165 of the Ct of Appeals, that the Courts will not construe that to be an executory devise which ^{&c in this connection, devised, manner used to embrace Orator &c.}

before would have been held to be a contingent remainder, tho' the enlarging the estate tail into a fee, by operation of law defeats the remainder over. The act of 1819 N.C. Ch. 99 § 26 is not applicable to this case, the will of Gen^l Blain being of prior date - 1811. Judge Tucker in his Commentaries Vol 1 Ch. 1X - remainders - after reciting the several acts in reference to this subject says: "To shew yet more distinctly to the student the effect of the changes in our laws by the acts above mentioned, I will put the simple case of a devise to A and if he die without issue then to B and his issue" he adds he says, "These words, 'if he die without issue' create an estate tail in a will but not in a deed" Pac. 288". He proceeds, - "Anterior to 1776 A would be tenant in tail remainder to B in tail. Between 1776 & 1787 A would be tenant in tail his estate converted into a fee - B's remainder would be void as too remote Carter vs Tyer. Between 1787 & 1819 A would be tenant in fee, B's remainder too remote and therefore void. Since 1819 A would be tenant in fee simple, subject to have his estate defeated by leaving no issue at his death or within ten months after and B's interest would be a good executory devise." The case stated, in its conveying words, is almost identical with the one presented by the will in question. The law "between 1776 & 1787" and "between 1787 & 1819" is the law of this case you observe an advised, and if correct in this, the Overseers of the Poor of Mehan are not entitled to the land devised by Gen^l Blain's will, and Rachel Blain

having died intestate your Orators & Oratrices & many of the Depts to this bill, being her nearest of kin and heirs at law and entitled to it against the pretensions of the sd Overseers of the Poor of Nelson Co or any one else.

Your Orators &c are further advised, and represent that the said devise to the Overseers of the Poor of Nelson Co. is void on other grounds set: 1st they being not a body politic had not the capacity to take, and secondly because of the uncertainty of the beneficiaries. Who are the poor of Nelson County? If this view is correct, and Rachel Blain took only a life estate under the will then George Blain's heirs would be entitled to the remainder - if he has any. So far as your Orators &c are informed, he died without heirs on the paternal or maternal side ascending, descending or collateral except his said wife Rachel, and under the laws of descent in Virginia she inherited the entire estate, and the life estate created by the will merged in the fee simple then cast upon her. In this aspect of the case, your Orators &c and others are likewise entitled to it as her heirs at law.

A small portion of the land, as above stated, was sold by the sd Rachel Blain in her life time to the late Charles Perrow: your Orators &c do not seek to interpose with that transaction, holding as they do, that she had the right as fee simple owner of the property so to dispose of it.

Joseph Harvey & Elizabeth Harvey are in possession of the lands, but as your Orators &c are informed

and believe, as mere squatters: or it may be Tenants
of Mrs Blain during her life, holding over without
rightful authority since her death.

It now behoves you to shew unto your
Hon^r of what ties and in what degree they and others
are related to the said Rachel Blain died, in order that
it may be determined what portions of sd real estate
each party in interest is entitled to receive.

The father of Rachel Blain was James Demastus
died who married twice and had issue by both marriages.
Rachel, was by the second and last marriage as
will more fully appear hereafter.

The said James Demastus' first wife was Campbell
now dead and by her he had

1st A son John Demastus ^(The elder) who died leaving, 1st ^{James} James Demastus
living in Augusta Co., 2^d John Demastus in Nelson, 3^d Nich-
olas Demastus dead leaving ^{daughter} nine ^{daughters} who married
Bergen and removed to Ky - presumed to be alive,
4th Jane who married ^{1st} Tilford and by this marriage
had Mrs W. Tilford of Ky Elizabeth J. Tilford who married
Lewis L. Smith of Ky, Jas G. Tilford, Nancy A. Tilford, who
married G. M. Daniel of Ky, Nicholas C. Tilford of
Ky, Lucinda Tilford who married U. S. Cummings of
Ky. The said Jane Demastus after the death of her first
husband Tilford, married Brandon ~~of Tennessee~~
and by this marriage had one son now living, Robert
W. Brandon of Tennessee; she is now dead, 5th Polly De-
mastus, (daughter of John Demastus the elder - named above) married
William B. Coffey - she is dead leaving Edmund Coffey, Maria
Coffey, Egbert Coffey, William Coffey, Nancy Coffey who
married William Nash, Elizabeth Coffey and Patsy Ann

Coffey who married Henry Massey and died leaving one child
George Gaden Massey who is an infant - all these reside in Nelson
and some it may be in Amherst.

2^d Betsey Demastus the second and last child of the said
James Demastus and his first wife Campbell.
she married George Campbell - both dead and all their
children dead, but many grand children living in
Nelson, Amherst and some in other states. This branch
is very numerous and names unknown.

The said James Demastus (father of Rachel Blain) married
for his second wife Stevens and had children
by this marriage:

1st Francis who married John Campbell - both dead
leaving, 1st G. W. Campbell living in Nelson or Amherst.
2^d Permelia who married Jesse Massey, both living in Nl:
or Amherst. 3^d Lavica who married B. W. Campbell, both
living in Nelson or Amherst. 4th Roda who married Thos
H. Boulden both living in Nelson or Amherst. 5th Betsey
who married John Maddox, both dead leaving three
children Nancy who married Thomas Massey both living
in Nelson Am: Nelson A. Maddox, Belinda who married
Cary Campbell both living in Nl: or Am: John J. Maddox
living in Nelson or Am: and Charles H. Maddox removed
to Ky unknown whether living or dead. 6th James Camp-
bell (son of Francis Demastus who married John Campbell as
above) dead leaving the following children, William
Campbell, Permelia Campbell, John Campbell, Jesse
Campbell, Hecker Campbell, Charles A. Campbells,
Edmond Stevens Campbell, Robert Campbell - all
in Amherst and James Campbell who is dead leaving
Genas, Marcellus & Nathaniel Campbell - all in Amherst

7th Nancy Campbell (daughter of Francis Demasters who married John Campbell as above) married Benj. Wright - she is dead & husband living leaving the following children: Myatt Wright in Ohio, James Wright in Gentry Co., Moses Wright in Ohio, George Wright in Ohio, Vica Wright in Ohio, Roda Wright in Ohio, and Charles Wright in Amherst. ^{then out of state not known whether dead or alive.} 8th

Myatt Campbell (son of Francis Demasters who married John Campbell as above) dead leaving three children living: Permelia Campbell married Lowman in Lewis Co. Va. Martha Campbell in Lewis Co. John James Campbell in Lewis Co. Francis Campbell in Lewis Co. Sally Campbell in Lewis Co. Betsy Campbell married Willis Cash in Nelson or Amherst. Nancy Ann Campbell who married Rexrode in Amherst, Amanda Campbell in Amherst, William J. Campbell in Amherst and George W. Campbell in Amherst. 9th Jesse

Campbell (son of Francis Demasters who married John Campbell as above) dead leaving Polly Campbell who married ~~Mr. J. Mays~~ of Nelson, Betsy Campbell who married William Campbell of Amherst, Francis Jane Campbell who married Joseph Euro of Illinois, Martha Ann Campbell married Cary J. Cash in Amherst, Roda Petis Campbell married Joshua Campbell - she died leaving children unknown, Lucinda Campbell married Addison S. Massey in Am. or N. H. James DeLanau Campbell ^{in N. H. or Am.} Emily Campbell ^{in Amherst} & Emily Campbell married William H. Bouldin in N. H. or Amherst. 10th Sally Campbell (daughter of Francis Demasters who married John Campbell as above) married John Massey - she died leaving Polly Massey in

Kentucky, Sally Massey in Kentucky; Franky Massey in Ky
Thomas Massey in Ky, John Massey in Ky, Charles Massey
in Ky, Eli Massey in Amherst, Sally Massey in Amherst,
and Ann Massey who married William Moor man
in Bedford: these out of Commonwealth - not known whether
living or dead.

2^d Edward Hemasters, (son of James Hemasters who married
for his second wife Stevens, father mother of Rachel Blain)
dead leaving 1 James Hemasters living in Va. 2 Cornelius
Hemasters living in Va - 3 Wyatt Hemasters, out of Va 4
Henry Hemasters out of Va. 5th Geo: E. Hemasters in N. Car.
6 John Hemasters out of Va 7 Nancy Hemasters who married
Emily in N. Car., 8 Betsy Hemasters in N. Car., 9 Sarah
Ann Hemasters married Jacob Thacker in N. Car. or Amherst,
10th Eliza Hemasters in Amherst.

3^d James Hemasters (son of James Hemasters, who married
for his second wife Stevens (see above) removed to
Alabama many years since and nothing known
of him.

4 Rachel Hemasters (daughter of James
Hemasters and Stevens) married George
Blain - both dead and no children.
Rachel Blain then had one half brother
John Hemasters. The son of James Hemasters &
his wife Campbell, and one half sister
by the same marriage, Betsy Hemasters who
married George Campbell. She had the
following full ^{sister} ~~brothers and sisters~~ the issue
of James Hemasters and Stevens who was his
second wife. 1st Francis who married John Campbell
2^d Edward Hemasters & 3^d James Hemasters

your orator^{ve} being without relief except in a Court of Chancery where matters of this sort are properly cognizable, pray that your Honor will construe the last will and testament of the sd George Blain and determine whether they and others as the heirs at law of the sd Rachel Blain, or the Overseers of the Poor of Adams Co: are entitled to the real estates therein devised, and if it be the opinion of the Court that the full simple title to said land was in Rachel Blain and your orator^{ve} and others are her heirs at law and as such entitled to it, they further pray that the sd land be sold and distribution of the proceeds of the sale be made according to the rights of the parties in interest, and such other and further relief as the nature of the case may require.

They also pray that John W. Tilford, Lewis L. Smith and Elizabeth J. his wife who was Elizabeth J. Tilford, James G. Tilford, G. M. Daniel & Nancy his wife who was Nancy A. Tilford, Nicholas C. Tilford, Robert W. Brandon, G. S. Cummins & Lucinda his wife who was Lucinda Tilford Bergen and Minifred his wife who was Minifred Demastus, the descendants and heirs at law of Nicholas Demastus died who was the son of John Demastus, George Gordon Massey an infant and the child of Henry Massey & Patsy Ann his wife (now dead) who was Patsy Ann Coffey. The descendants & heirs at law of George Campbell died & his wife Betsy died who was Betsy Demastus and daughter of James Demastus died, Charles H. Maddox, Myatt Wright, Moses Wright, George

Wright, Bica Wright, Roda Wright, ~~Moses Wright~~, Joseph Eero and his wife Francis Jane who was Francis Jane Campbell. The descendants and heirs at law of Joshua Campbell & his wife Roda Petis, now dead, who was Roda Campbell the daughter of Jesse Campbell died, Polly Massey, Ludy Massey, Franky Massey, Thomas Massey, John Massey, Charles Massey, Edward Massey, Myatt Demastus, Henry Demastus, John Demastus and the descendants and heirs at law of James Demastus who removed many years since to Alabama & presumed to be dead, Elizabeth Harvey, Joseph Harvey & Henry McClain, Thomas J. Graves, Thomas Carter, Jesse A. Jones, John Stroas & Thomas R. Giles Overseers of the Poor of Adams Co: the heirs at law of George Blain died and the Adm^r of Rachel Blain died when one shall be appointed, be made parties next to this bill - that a Guardian ad litem be appointed for the infant def^t George Gadam Massey, and that all the sd def^t be required to answer particularly and minutely the several allegations of this bill as if they were specially interrogated with reference to each and every part of it.

And your orator^{ve} will ever pray &c.

John H. M. Clear Counsel,
for the heirs of Rachel Blain.

Demasters fcs

vs. T. E. Dill
3

Tilford fcs
in same pag.

Filed or July 1859

In the name of God. Amen. I George Blane of Nelson County of sound mind and memory do make this my last will & Testament in manner as follows to wit: I desire that all my just debts be paid by my Executors herein after named. It is my will that my beloved wife Rachael Blane shall have all my household & kitchen furniture, all my slaves stock & personal estate whatsoever, after the payment of my just debts to hold & enjoy absolutely & at her own disposal.

I also devise to the Overseers of the Poor for the County of Nelson, now being & to their successors in that Office the Plantation whereon I now live after the death of my said wife, in case she should die without issue to have and to hold the same for the benefit of the Poor of said County of Nelson, who I do hereby authorize to make sale thereof on such terms of payment as in their discretion may be most fitt; the monies arising from which they are to vest in Bank Stock or other public securities for the benefit of the poor of said County, the proffitts of which moneys when so invested, they are to direct in such manner as they think fitt, under the direction & controul of the Court of said County & their successors, for the purposes aforesaid.

But it is my will & desire that my wife should have a life Estate in said lands, to be enjoyed by her during life as she shall choose, & if she should hereafter marry & have issue, then & in that case the said Lands with all their appurtenances I devise to such issue equally to be divided amongst them if more than one. But if my said wife should die without issue, then after her death, the said Lands to be held, sold, and disposed of as before devised. I do constitute and appoint Frederick Leabell, James Loving (son to John) & Abraham B. Warwick of said County my Executors. In testimony whereof I do hereby sign my name & affix my seal to this my last Will, hereby revoking & annulling all former Wills heretofore by me made, this twenty eighth day of May 1811. The words "County & Estate" interlined before signed & sealed.

Witnesses

George Blain 

Solm Matthews
Wm Loving
Roderick S. Taliaferro
Nelson Wright

At a Court held for Nelson County the 29th day of
May 1811.

This will was produced into court and proved by the
oaths of Solomon Matthews and Roderick S. Taliaferro, two sub-
scribing witnesses thereto and ordered to be recorded.

Teste

Spotswood Garland ck

A Copy

Teste - S. H. Loving, ck

Blain

Copy Mill.

George

Examined

(4. 13)

Feb 409

In Nelson County Court. Nov Term 1861.
Elizabeth Harvey. Plaintiff

against
D. A. Witt Sheriff of Nelson County
and as such agent of Rachel Blain dec'd. Defendant. } In case.

Judgment for the Plaintiff for the sum of \$72.57
with legal interest on \$56.⁵⁰ part thereof from
the 27th day of Nov. 1860, till paid, and costs
viz \$10.17. Execution issued November 2. 1860
with the following endorsement, viz: "None on behalf
of this execution except the costs, is for the benefit
of Mrs. Loving, per transfer filed". The Exec was
deliv^d to Dts. counsel.

Attesty

Teste - S. H. Loving, Ck



E. Harvey

vs. E. K. J. J. J. J. J.

Recht. Blain's Com

(A)

Hemasius &c

vs. John L. P. Thompson, Judge of
Orphans of Providence. The Civ: Ct of Adams

B. F. Taliaferro, your Petitioner represents
that Nellie Cash is indebted to him
in the sum of \$800 + int: and that the said
Cash is, he claims, interested in the
Blair fund. He files the evidence of
the indebtedness - see paper marked (Y) - and
asks to be made party defendant in this cause -
& have the said debt of said claim decreed
to him out of the interest of said
Cash:

Respectfully &c.

B. F. Taliaferro.

Bemasleis & Co

to

Mr Alexander H. Pallas

Petition of Galien

Willis Cash in A.
with B. G. G. G. G.

185-3	Dec ^r	25 th	%	visit to wife	\$ 2.50
-5-4	Jan ^r	12 th	"	"	2.50
	"	14 th	"	" & night ride	3.00
					<u>8.00</u>

I acknowledge the above acc^t to be just &
 May 2nd 1854
 H. Lovin
 Willis Cash
 mark

W. Cook

(3)

James Demastus Pff }
vs }
Telford & others depts } In Chancery

To the Hon. Lucas P. Thompson, Judge
of the Circuit Court for the County of Nelson.
Your Petitioner, W. S. Loving of
Elizabeth Harvey, begs leave to represent to your
honor that Elizabeth Harvey instituted her suit
in the County Court of Nelson County against
Rachel Blain's adm. to recover money due her
on an open account against the Est. of the said
Blain, and on the 27th day of November 1860
obtained a judgment in said Court against
said Blain's adm. for the sum of \$72.57.
with legal interest on \$56.56 part thereof from
the day of November 1860 till paid & costs ^{\$10.77}
of an execution, which judgment is herewith filed as a
part of this petition. ^{marked A} Your Petitioner states
that A. With Sheriff of this County and as
such, is adm. of said Rachel Blain, but
that no assets of his intestate has come into
his hands, although a considerable amount of
funds (much larger than your petitioner's debt)
belonging to her estate, is now in the hands
of Newton St. Loving, the Receiver of your honor's
Court. He is pleased then to abide ^{at} the future order,
in a suit now pending & undetermined
in your honor's Court in the name of James
Demastus Pff vs Telford & others depts. Your
Petitioner further states, that he owns by trans-
fer the whole of the judgment of said E. Harvey
vs Blain's adm. as will be seen, by reference
to a transfer herewith filed marked B. and

prayed to be taken as apart of this petition
Gorn petitioner therefore pray that honor
will make an order in said suit aforesaid
directing the said Deaton & Loring as receiver
in the aforesaid case of James Demastus vs
Tilford, to pay to Gorn Petitioner the amount
of the judgment aforesaid, and any costs by
him incurred by the filing of this petition V.
Wm. Loring

James Demastus vs
Tilford vs
Gorn Petitioner
Deaton & Loring
Loring vs

Hemastus &c

vs

Deacons of Poor &c.

To the Hon. Judge P. Thompson, Judge
of the Cir. Ct for the Co. of Nelson.

Your Petitioner Charles N. Patterson represents that James Hemastus, one of the parties in interest in this cause, has by an instrument of writing of date Jan^y 10th 1860. and duly filed make P assigned to him, the sd Patterson his entire interest in the estate of Rachel Blain dec'd. & Your Petitioner therefore asks to be made a party to the cause, and ~~that~~ ~~precept~~ that the share of James Hemastus be ordered to be paid to your Petitioner.

And he will so pay &c.

Charles N. Patterson
By Counsel.

Hemastus &c

vs

Deacons of Poor &c.

To the Hon. J. P. Thompson, Judge of
the Cir. Ct of Adm.

Your Petitioner represents that they have judgments vs James Hemastus, who is one of the heirs at law of Rachel Blain dec'd. A certified copy from the records of the Co. Ct of Nelson ^{Ch's Office} will show the amounts respectively of sd judgments. Your Petitioner, here being unable to make their money by the ordinary process of law and ask that they may be made parties kept in this cause - & the interest of the sd James Hemastus be subjected to the payment of their judgments.

Respectfully &c.

M^r Alexander Patterson.

Demasius & C

no 1

Process of Proc

Petition of Patton

vs
Mr Alexander Patton

January 10th 1860

I have this day Transferred
& Assigned to Charles A Patterson all ~~the~~^{my}
right Title & Interest in the proceeds of
the sale of the Tract of Land formerly
belonging to George Blain deceased and
decreed to be sold by Robt Whitehead
& John A Mc Que Commissioners of the
Circuit Court of Nelson & this is intended
to give to the said Patterson full possession
& Control of the same. Given from under
my hand & Seal this day & date above
written

Witness

James D. Martin

C. W. & L. W. King

Julia by A. Pallison
in unit of Inford & Co
:Census of Poor 25th Jan'y 1860

Edmund Coffey for Mc Alexander & Pallasos Def.

vs
James Newmasters

Justice's fees for \$16.55 with interest
from the 1st day of Jan'y 1856 the said
fees viz \$3: ¹⁰/₁₀₀. Filed & docketed
upon the judgment or lien docket in
the Clerk's office of Nelson County the 28th
day of November 1859

Mc Alexander & Pallasos

Def

vs
Same

Justice's fees for \$24.49 with int
from 1st Jan'y 1859 the said fees viz \$
Filed & docketed same time & place as
above.

Extracts

Teste S. M. Young clk

E. & Coffey for
McAloe & Patterson
and

McAloe & Patterson

vs.

Jas. Remasters.

Fee in each case 50¢
for both \$1.00

The separate answer of the Overseers of the Poor of Nelson County, to a Bill of complaint exhibited against them and others in Nelson County Court, by James Senanters and others.

These respondents saving to themselves all proper exceptions to said Bill, which might be taken now or at any time hereafter, for answer thereto say that they admit the death of George Blau, and the publication of his last will and testament; a copy of which is filed with the said bill; they admit that Rachel Blau was his widow, and that she died intestate without child, in the year 18
They are informed and believe, and therefore admit that the persons named in said bill are the legal heirs of the said Rachel but these respondents deny that the land devised by said will belongs to the said complainants and their co-heirs named as defendants.
It became the Overseers of the Poor are and have been a body politic and corporate, empowered to take their orders, under the Acts of Assembly and decisions of the Courts of this Commonwealth - and because there is no uncertainty as to the objects of the trustees bounty, they being "The Poor" of said County of Nelson, that persons being a legal and well defined, and meaning without controversy the registered paupers of said County, for whom provision is required to be made by the said Overseers.

and thereby became, as they are expressed
and believe, the said Richard Blain took
only a life estate under said will, and
the same is not converted into a fee simple
by reason of the language of the limitations over,
with a valid remainder to such children as
she might have by a second marriage, and
in default of such marriage and issue, remainder
to the said respondents.

They therefore pray that said complainants
are entitled to have partition of said land -
and their said bill should be dismissed -
but in order to end litigation as well with
the said complainants and their co-heirs,
as with the squatters on said land, against
whom their respondents have an action of
ejectment pending on the lower side of the
said Circuit Court of Nelson, said respondents,
are willing that the question of title may
be tried either in that action of ejectment
or by an issue in this cause, or by the Court,
without an issue, as the Court may deem
best. And having assumed they pray to be
hence dismissed with their costs.

Nelson County Court

This day Thomas R. Giles
one of the overseers of the Poor of Nelson County
made oath before me, that the foregoing as-
sessment is true to the best of his knowledge and
belief. Witness my hand this 28th day of Septem-
ber, 1859. Wm. J. Shepherd J.P.

Memoranda

↳ { Acts Or of the Poor

Ordeens of the Poor

M. 25-

Demasters &

4 3 Steps & Rules

Supra &

1859

Aug Bill filed & decree nisi
upon s^{ca} executed vs Home
defts. Jordan publication of
absent defts executed
Sept. Bill taken for contempt
& set for hearing.

Sept 3: leave to officers of poor
to file ans. 29 Decree to sell
the land in the Bill mentioned
1860

May 7. Decree for account &

1867

May 13. Decree Conf^g. Com^r's
fixing Counsel's fees & directing
Rec^r. to pay same out of any funds
belonging to this cause.

1859-0-0111

AT RULES HELD IN THE CLERK'S OFFICE OF THE
Circuit Court of Nelson County, on Monday the 1st day of
August, 1859:

James Demasters, John Demasters, Edmund Coffey, Morris Coffey, Egbert Coffey, William Coffey, William Nash and Nancy his wife, who was Nancy Coffey, Elizabeth Coffey, G. W. Campbell, (son to Jno. Campbell,) Jesse Massie and his wife Parmelia, who was Parmelia Campbell, E. W. Campbell and his wife Lavica, who was Lavica Campbell, Thomas H. Bouldin and his wife Roda, who was Roda Campbell, Thomas Massie and his wife Nancy, who was Nancy Maddox, Nelson A. Maddox, Cary Campbell and Belinda his wife, who was Belinda Maddox, John J. Maddox, William Campbell, Parmelia Campbell, John Campbell, Jesse Campbell, Decker Campbell, Charles A. Campbell, Robert Campbell, Edward Stephen Campbell, Vina Campbell, Marcellus Campbell, Nathaniel Campbell, James Wright, Charles Wright, ——— Lowman and his wife Parmelia, who was Parmelia Campbell, Martha Campbell, John James Campbell, Francis Campbell, Sally Campbell, Willis Cash and Betsy his wife, who was Betsy Campbell, ——— Rexrode and his wife Nancy Ann, who was Nancy Ann Campbell, Amanda Campbell, William J. Campbell, George W. Campbell (son to Wyatt,) William J. Mays and Polly his wife, who was Polly Campbell, William Campbell and Betsy his wife, Cary J. Cash and Martha Ann his wife, Addison S. Massie and Lucinda his wife, James Delaware Campbell, William H. Bouldin and Emily his wife, Eli Massey, Sally Massey, William Morman and Ann his wife, James Demasters, Cornelius Demaster, George E. Demasters, ——— Embly and his wife Nancy, Betsy Demasters, Jacob Thacker and Sarah Ann his wife, and Elvira Demasters,

Plaintiffs,
AGAINST
John W. Tilford, Lewis L. Smith and Elizabeth J. his wife, who was Elizabeth J. Tilford, James Y. Tilford, G. M. Daniel and Nancy his wife, who was Nancy A. Tilford, Nicholas C. Tilford, Robert W. Brandon, U. S. Curminis and Lucinda his wife, who was Lucinda Tilford, ——— Berger and Winifred his wife who was Winifred Demasters, the descendants and heirs at law of Nicholas Demasters, dec'd, who was the son of John Demasters, George Gordon Massie, an infant, and the child of Henry Massie and Patsy Ann his wife, (now dec'd,) who was Patsy Ann Coffey. The descendants and heirs at law of George Campbell, dec'd, and his wife Betsy, dec'd, who was Betsy Demasters and daughter of James Demasters, dec'd, Charles H. Maddox, Wyatt Wright, Moses Wright, George Wright, Vina Wright, Roda Wright, Joseph Euro and his wife Frances Jane, who was Frances Jane Campbell, the descendants and heirs at law of Joshua Campbell and his wife Roda Pettis, (now dead,) who was Roda Campbell the daughter of Jesse Campbell, dec'd, Polly Massie, Judy Massie, Franky Massie, Thomas Massie, John Massie, Charles Massie, Edward Massie, Wyatt Demasters, Henry Demasters, John Demasters, and the descendants and heirs at law of James Demasters who removed many years ago to Alabama, and presumed to be dead, Elizabeth Harvey, Joseph Harvey, and Henry McClain, Thomas J. Graves, Thomas Carter, Jesse A. Jones, John Stevens and Thomas R. Giles, overseers of the poor for Nelson county, and the heirs of George Blain, dec'd, and the administrator of Rachel Blain when one shall be appointed, Defendants,
IN CHANCERY.

The object of this suit is to have the last will and testament of George Blain dec'd, construed so as to procure an order for the sale of the real estate of which his late widow, Rachel Blain, died seized and possessed, and a distribution of the proceeds of the sale amongst the heirs at law of the said Rachel Blain dec'd, or those entitled under said will. Affidavit having been made that all of the defendants above named, (except Elizabeth Harvey, Joseph Harvey, and Henry McClain, Thomas J. Graves, Thomas Carter, Jesse A. Jones, John Stevens, Thomas R. Giles, overseers of the poor for Nelson county, and the administrator of Rachel Blain dec'd,) are not residents of this State: it is ordered that they do appear here within one month after due publication hereof, and do what is necessary to protect their interest—and that a copy of this order be published for four successive weeks in the *Lynchburg Virginian*, and posted at the front door of the Court House of this County, on the first day of the next County Court.

A Copy—Teste,
Jno. H. McCue, P. Q. O. LOVING, Clerk.
[aug 5-cw4w

Demarston vs Telford & Co

This cause came on this day to be further heard upon the papers formerly read, and the Report of the Receiver & Co showing that Mr Massey the purchaser of the land has paid off his bonds executed to Bonnet Milne and Whitehead, to which there is no exception. On consideration whereof the Court approving said report doth adjudge order & decree that the same be enforced, and doth further order and decree, that R Whitehead be and he is hereby appointed a Bon Mesurier, whose duty it shall be to convey the land in the bill and proceedings mentioned to the said ^{such of the devisees of} ~~Mr~~ Massey by deed with special warranty at said ^{grantor's} ~~Massey's~~ cost, according to the notes and bounds of the survey and plot filed among the papers of the cause -

Demosthenes de

vs. Gallus de

Tullius de

Epist. Tom '62

Entered Page 35

At a Circuit Court Continued and held for Nelson County at the Courthouse
on ~~Monday~~ ^{Saturday} the 28th day of September 1861

James Demasters, John Demasters, Edmund Coffey &c

Pliffs

against

John W Telford, Lewis S Smith & Elizabeth his wife
who was Elizabeth S Telford, Elizabeth Harvey, Joseph Harvey &

Defts

On the motion of Wm S Loring assignee of Elizabeth Harvey, leave is given
him now to file his petition in this cause, which is done accordingly, and thereupon
This cause this day came on again to be heard upon the papers formerly read, the
petition of Wm S Loring assignee of Elizabeth Harvey this day filed by leave of the
court and was argued by counsel: On consideration whereof and by consent of the
parties by their attorneys, the Court doth adjudge order and decree that Deaton H
Loring the receiver of this Court, who has by a former order in this cause been directed
to collect the purchase money of the Blain Land, do out of the monies now in his
hands arising from said Collections, pay to Wm S Loring assignee of Elizabeth
Harvey the amount of an execution in her name issued from the County Court
of Nelson County against Rachael Blains admt. for \$72.57 with legal interest
on \$56.56 paid thereof from the 27th day of November 1860 till paid and \$10.17
costs of said, and that said Receiver do also out of said fund pay to Wm S Loring
assignee &c his costs by him expended in filing his petition &

Attesty

Juste O Loring ck

Amount due

\$42.

Remains etc

to Copy Books

Station &c

amt due	\$ 72 57
Int on \$56. ⁵⁶ paid interest from 27 Nov 1860 to 14. Octo 1861.	} 2 98
Costs at Concord.	10 17
	<u>\$ 85 72</u>

Received Octo 19th 1861 of S. St. Loring
 Rec^r of Nelson Circuit Court the above
 sum of Eighty five ⁷²/₁₀₀ Dollars, less by
 amt his ch^r fees in the case, which in full
 of the within due, except my costs estimated
 hereon of \$1.⁵⁷ which the said Receiver is to pay
 to Loring ch^r out of the funds. In witness
 where in money \$77.55 Wm. St. Loring

Wm. S. Loring's book

Books for lease to the Station

Printing Station

at

Dece

copy

copy cost of Station

copy

36
15
10
56
20
20
20
<u>\$ 157</u>

At a circuit Court continued and held for
Nelson County at the Court House on Monday 7th
May 1860

James Hemasters John Hemasters & others } Pliffs
Against
John W. Sifford Lewis S. Smith & others. } Defs

This cause this day came
on to be further heard upon the papers formerly read
the report of John H Mc Cue, and Ro Whitehead Commissions
appointed by the acretal order herin of the last
term, to make sale of the land in the bill and proceed-^{ings}
mentioned, without exception, the petition of John
H Mc Cue C. A. Patterson Mc Alexander & Patterson and
B. Tallaferra, the exhibits herewith filed, and was
argued by counsel; On consideration whereof the Court
approving of said report doth satisfy and confirm the
same, and doth adjudge order and decree that Seaton
H Loving the receiver of this Court withdraw the bonds
of the purchaser of the land as they fall due, and collect
the same and make report to the Court. After paying
Ro Whitehead attorney for the overseers of the poor \$2.25:
out of the money collected on the first bond in accor-
dance with an order of the said overseers of the poor
a copy of which is filed in this cause, And the Court
doth further adjudge order and decree that the
Cause be referred to one of the commrs of the court
to ascertain by an publication who are the heirs of
Rachel Blain dec^d and in what proportion they or
their assigns are entitled to receive the fund
for distribution among them in this cause, To wit: the
one moiety of the net proceeds of sale after deducting
all the expenses of sale, costs of suit both plaintiffs
and defendaut, and such sum as he may allow
them counsel John H Mc Cue for his fee in this cause
The said Commr in his estimate of the compensation

To be allowed the said M^cLean, will govern himself by the contract made with ~~such~~ said M^cLean and a part of the heirs, filed with his petition, together with such other evidence, as he may adduce before him, of the fair and reasonable ^{value of his} services upon a quantum meruit; and said commissr will also take into his consideration, and report upon the petitions of B Tallesford & N Patterson and M^c Alexander & Patterson, asserting ~~claims~~ ^{rights} upon or rights by assignment or transfer of the shares of the heirs therein mentioned

A copy Teste Obaving M

Dated June 28th 1860 of J. M. Loving Receiver Two hundred & seventy five dollars agreed to the foregoing deed
John Whitehead -

James W. Wainwright & c

Copy accen

John W. Tallesford & c

599

599

\$928.57 2/3
 62.36
 \$866.21 2/3
 64
 \$879.88 2/3
 \$872.85 2/3

at 625 hrs

at court in hrs for error in calculations.

Wm a for 1st Bond due 1st May 1860 \$928.57 2/3

Stenard vs The Overseers of the Poor &c

This cause came on this day to be further heard upon the ~~bill~~ of the papers formerly read, and the report of John H. Mc Cue and Robt Whitehead, Comptroller appointed by the court order here of the last term, to make sale of the land in the bill and proceedings mentioned, without exception and was argued by counsel

the petitioners of the H Mc Cue, C H Patterson, M^r Alexander Patterson & Co Fall officers and the exhibit, Thomas et al

On consideration whereof the Court approving said report doth ratify and confirm the same - And doth adjudge order and decree that J H Loving the Receiver of this Court, withdraw the bonds of the purchasers of the land, as they fall due and call the same and make report to the Court - after paying to Robt Whitehead attorney for the Overseers of the poor \$225 out of money collected on the first bond, in accordance with an order of the said Overseers, a copy of which is filed in the cause

And the Court doth further adjudge order and decree that the cause be referred to one of the Commissioners of the Court, to ascertain by due publication who are the heirs of Rachael Blain dead, and in what proportion they ^{or their assigns} are entitled to receive the fund for destitution ^{among them with their heirs} in this cause - ^{and the one moiety of the net proceeds of sale after deducting all the expenses of} and make report to the Court - Sale

Cost of seal with copy & duty
 and such fees as he may allow this Counsel John H McClellan for his fee
 in this cause: The said Counsel in his statement of the compensation to be allowed
 the said McClellan will govern himself by the contract made with said
 McClellan and a part of the heirs filed with his petition together with
 such ^{other} evidence as he may ~~see~~ adduce before him of the fair and
 reasonable value of his services upon a quantum meruit - and said
 Counsel will also take into his consideration the stipul upon the petition
 of B. Schieffelin - C. H. Patterson & M^r Alexander & M^r McKee as a ruling
 basis upon or rights by assignment or transfer of the shares of
 the heirs therein mentioned -

Wm. A. Lewis
 Esq
 Counsel for the Parties

J. H. McClellan
 Esq
 Counsel for the Heirs

Wm. A. Lewis
 Esq

Stemantus &c

vs

Overseers of the Poor &c

This cause came on this day to be heard upon the judgment of the Court taking the bill for confessed, the answer of the overseers of the Poor of Nelson County, the exhibits and was argued by counsel. On consideration whereof the Court the Court is of opinion that the heirs of George Blain died, if any there be, have no right to the tract of land in the bill and proceedings mentioned, and that Elizabeth Starving and Joseph Starving have no right to said land, as against the Plaintiffs or the said Overseers of the Poor, and the heirs of Rachel Blain, and the said Overseers of the Poor having, by their Counsel, having entered into and filed among the papers of this cause a compromise of the cause so far as they are interested, the Court whereby it is stipulated as follows (here insert the compromise) a purchase of said compromise, doth adjudge order and decree that John H. Milne and P. Whitland be and they are hereby appointed Commissioners, whose duty it shall be, to sell to the highest bidder at public auction ^{on the premises} the land in the bill and proceedings mentioned, containing _____ acres, being the original tract devised to the said overseers of the Poor, of the quantity of _____ acres sold by Rachel Blain to Charles Pearson dead, upon a credit of 6. 12. 18 months, taking bonds with approved personal

Security from the purchaser and retaining the
the title as ultimate security - having first
duly advertised the time and place of sale
for thirty days, at two or more public houses
in the town of Longport, and at two or more
other public places in the County - and make
report to the Court - Said Court may require
cash enough to defray the expenses of the
sale - and may, if they deem it advisable,
sell said land in whole or in parcels to suit
purchasers -

19
Remains to
as { be seen -
Order of the Court

Wm
D. J. J.

Wm C 353

At a Circuit Court continued and held for Nelson County at the
courthouse on Thursday the 29th day of Sept: 1859

James Demastis, John Demastis, Edm^d Coffey &
Meris Coffey, Egbert Coffey, Wm Coffey vs the } Defts

Against

John W. Telford, Lewis S. Smith & Elizabeth his
wife who was Elizabeth Telford. the owners
of the Poor of Nelson County vs the } Defts

This cause came on this day to be heard on the judgment at
Rules, taking the bill for confessed, the answers of the overseers of the
poor for Nelson County, the exhibits and was argued by Counsel: on
consideration whereof the Court is of opinion, that the heirs of George
Blain if any there be, have no right to the tract of land in the bill
and proceedings mentioned, and that Elizabeth Harvey and Joseph
Harvey have no right to said land as against the plaintiffs or the said
overseers of the poor; and the heirs of Rachael Blain, and the said
overseers of the poor, having by their counsel entered into a compromise among
the papers of the cause a compromise of the cause so far as they
are interested, the Court doth in pursuance of said compromise,
whereby it is stipulated as follows: "Memo: of an agreement between
the heirs at law of Rachael Blain *de* and the overseers of the poor
of Nelson County: Whereas a suit of law is now pending in the
Circuit Court for Nelson County in the name of the overseers of the
poor of Nelson County, against Elizabeth Harvey & others and whereas
a suit has been instituted in said Court in the name of certain
parties styling themselves heirs of the said Rachael Blain, against
the said overseers of the poor of Nelson and others, the purpose of which
suit is to obtain a sale of the land owned by George Blain *de*, (the
Husband of said Rachael Blain *de*) in order to the division of the
proceeds among the heirs of said Rachael ~~Blain~~ and whereas the said
overseers of the poor of Nelson County, claim said land under the will
of said George Blain. Now to avoid further litigation on the subject,
to obtain a speedy sale of said land and receipt of the proceeds, and
to settle the question of title, as well on the part of the parties inter-
-ested as on the part of the purchasers, it is agreed between

the undersigned John H. McEae Counsel for the heirs of Rachael
Blain, and Robert Whithead Counsel for the Overseers of the poor in
said cause above named, that the Court in the said last named suit,
shall at the next Term, decree a sale of said land, and that the
proceeds of said sale shall be equally divided among the Heirs
of said Rachael Blain dec^d on the one side and the said Overseers
of the poor of Nelson County on the other: said compromise applying
to only so much of said land as was not sold to Charles Penow dec^d by
said Rachael Blain, and supposed to be about twenty five acres;
and it is further agreed that this compromise and agreement shall
be made a part of the judgment and decree of said Court, whenever
said cause for partition shall be heard for trial." Adjudge order
and decree that John H. McEae and Robert Whithead be, and they
are hereby appointed Commissioners whose duty it shall be to sell to the
highest bidder, at public auction on the premises, the land in
the bill and proceedings mentioned, containing acres, being
the original tract devised to the said Overseers of the poor, less
the quantity of acres sold by Rachael Blain to Charles Penow
dec^d, upon a Credit of to. 12. & 18 months, taking bonds with approved
personal security, from the purchasers and retaining the title as ultimate
security, having first duly advertised the time and place of sale
for thirty days at two or more public houses in the town of Farmington
and at two or more public places in the County; and make report
to the Court. Said Commissioners may require cash enough to
defray the expenses of sale, and may if they deem it advisable
sell said land in whole or in parcels to suit purchasers.

A copy

Teste O. Goring clk

James Donnelly &

10 M. Cooky Street

Providence of the Poor &c

6553

B,	144 acres - per acre -	\$ 16.95
	N. G. Blakem	Red White
	22 acres Mr. Wm. \$20.	
	30 do	25

At the instance of John H. McCune Esq
Counsel for the Claimants of the
"Blaine Land" in the suit of Demasters
&c vs the Overseers of the Poor &c,
we are of opinion that in view
of the fact, ^{that} the labor of said cause
was wholly on the Counsel & that
the parties were so scattered & poor
as to make the fee contingent
that \$500 — is but a fair & just
compensation for said Counsel
in said cause we are of opinion
that it is proper said fee should
be paid out of the funds in
said cause & turning to the ben-
fit of Mrs McCune's Clients.

Wm. Cabell

I concur with Mr Cabell, and believe that I advised
Mr McCune at the time — I being counsel on the
other side — that he was entitled to and ought to
charge a fee of that amount especially
as it was wholly contingent

Rephithead —

Demasters. &c.

W. } Certificates.

Jilford &c.

C. A. W.

This is to shew that we have bargained and sold unto John W Silford
of Ohio County Kentucky our entire Interest in the Estate of John
& Martha Demaster Deed formerly of Nelson County Va and
do hereby relinquish give up and assign unto the said John W
Silford our entire interest in said Estate In Testimony whereof
we have hereunto set our hands and seals
Ohio County Ky September 10th 1852

Test L. C. Smith
Thomas C. Smith

Elizabeth G. Smith Seal
Lewis L. Smith Seal

This is to shew that I have bargained and sold unto John W
Siford of Ohio County Kentucky my entire Interest in the Estate
of John & Martha Demaster Deed formerly of Nelson County
Va and do hereby relinquish give up and assign over to the said
John W Siford my entire Interest in said Estate In Testimony
whereof I have hereunto set my hand and seal
Grayson County Kentucky Sept 11th 1852

Test N C Siford James W Siford
Test Lewis S Smith

This is to shew that we have bargained & sold unto John W
Pilsford of Ohio County Ky our entire interest in the estate
of John & Martha Demaster Deed formerly of Mclendon County
Va and do hereby relinquish give over and assign to him all of
our entire interest in said Estate In Testimony whereof we have
hereunto set our hands and seals, Ohio County Ky September 9th 1852

Witnesses Walker Daniel
Witness Lewis L Smith

Nancy & Daniel Seal
George M. Daniel Seal

This is to shew that I have bargained and sold unto John
W Tilford of Ohio County my entire Interest in the Estate
of John & Martha Demasters Decd formerly of Nelson
County Va and do hereby relinquish give up and assign
unto the said John W Tilford my entire interest in said
Estate In Testimony whereof I have hereunto set my
hand and seal.

Caneyville Grayson County Ky

September 11th 1852

Test Lewis L Smith
S. W. Housh

R. W. Brandon Seal

This is to shew that I have bargained and sold unto
John W Tilford of Ohio County Kentucky my
entire Interest in the Estate of John & Martha
Demasters Decd formerly of Nelson County Va
and do hereby give up and assign unto the said John
W Tilford my entire Interest in said Estate In
Testimony whereof I have hereunto set my hand and seal
Grayson County Ky September 11th 1852

Test John E Haynes

Test Lewis L Smith

A. C. Dieford Seal

I hereby make over transfer and assign to
Seaton Loving of Nelson County Va for value
rec^d to my interest, (and the interests of Nicholas &
Silford, Robt. W. Brandon, Lewis Smith &
Elizabeth his wife formerly Silford, James Y.
Silford and Geo. M. Daniels his wife Nancy A.
formerly Silford, which said five interests
I have acquired by purchase) in the estates of
John & Martha Lemasters late of said
County, which said separate interests or
shares being the one seventh of \$425.43⁴ (which
is the one seventh of \$2985.03) and said \$425.43
being the share of the representatives of Jane
Brandon late Jane Silford and
formerly Jane Lemasters & daughter
of John & Martha Lemasters above
named, as appears by the Com. report
in the case of Nicholas Lemasters vs.
Geo Lemasters' adm^r & am depending
in the Circuit Court of said County of
Nelson. Given under my hand
and seal this 13th day of September
1852

John W. Silford (Seal)

Wartford Kentucky Sept 13th 1852

Mr. S H Loring
Sovington

Wa. Dear Sir I recd your favour of the 31st August
in due time and I have got the different Transfers which I enclose
by this morning's mail, which I hope you will find all right. I also
sign the Transfer enclosed by you. You will upon receipt forward
a check to me at this place, at my risk, payable to yourself, and
endorsed to me, or payable to my order, in regard to the 2 share,
of Jno Demaster which you spoke of in your letter being held
subject to the bal due by him on Administration Aff. I want
you to contend and do your best in having it applied in that
way and you shall be remunerated for so doing let me know
in your answer when the Judge will give his decision in the
matter or when the Court comes on at which it will be given

Yours Respectfully
John W Sifford

A. B. Please retain a copy of
the checks so if it should fail
to come to me in a reasonable
time I could write to you and
you ^{could} have it so arranged that
there would be no difficulty

J W S

James Telford formerly
Prankam's represent-
ative - to Tanspers
Jm Telford
and
Jm Telford
to Tanspers
J W Young

T

2

ms. 1111

2 743.40
~~100.00~~

2/2643.46

3/1321.73
440.58
3

1321.74
440.58

881.16

881.16

274

10

2 | 264

3 | 132

44

89

132

1321 73

440 24

881 49

1321 73

880 48

440 22

1320 7

Wm. Maples 2^d. Bond due 10th Nov 1860 \$938.62²/₃
Paid to 26 Nov 1860 - 16 days 2.50
Cr. \$941.12

By amt left on Hunt & James Peck 861.12
" " Chek on Howardville 80. \$941.12

941.12
470.56

470.56

Blair's

Land.

John Demarter 1st son & child of James Demarter left a daughter
named Nancy not mentioned in the bill. She died leaving a child
named Nicholas Demarter, who marri^d died leaving a
widow Mary Ann Demarter & four or five children.
Says Mr J. L. Whitehead.

Note.

No. /

Be it known that by virtue of an order of the County Court of Nelson county, dated the 22d, day of April, 1861, the county of Nelson will pay to

or assigns, on the first day of January 1866 the sum of *One thousand & eighty two 78/100.* dollars, with interest thereon from the date hereof till paid. Witness, WILLIAM P. SHEPHERD,

presiding Justice of the said Court this 24th day Feby 1861.

*Countersigned
S. St. Loring clk }*

Wm P. Shepherd J.P.

This bond is for the benefit of the Debt
of Deputies as Deputies. on Com. et.

J. H. Loving etc
[Signature]

Be it known that by virtue of an order of the County Court

of Nelson County dated the 25th day of April 1861 the sum of

dollars with interest thereon

due on the first day of January 1861

Justice of the said Court this 27th day of 1861

Witness My hand & Seal this 27th day of 1861

No. 1

Be it known that by virtue of an order of the County Court of Nelson county, dated the 22d, day of April, 1861, the county of Nelson will pay to

or assigns, on the first day of January 1865. the sum of

Two hundred forty ¹⁴/₁₀₀ dollars, with interest thereon

from the date hereof till paid. Witness, WILLIAM P. SHEPHERD,

presiding Justice of the said Court this 24th day of February, 1861.

Countersigned

S. M. Loving ch. }

W. P. Shepherd J.P.

This bond is for the benefit of the
Overseers of the Poor of Nelson Co.

J. A. Loving etc

By it known that by virtue of an order of the County Court

Nelson County, dated the 25th day of April 1861, the com-

mission will pay to

on the first day of January

the sum of

dollars with interest thereon

Witness My hand & Seal

this 20th day of February 1861

at the Court House of Nelson County, Va.

John A. Loving

Elizabeth Hawes admr n. Naehle Blaw's admr
Wlet -

Int on \$50.56 from 27 Nov 1860. to 14th Dec 1861.

\$42.57

2.98

Costs

10.14

\$85.72

amt of Dep and 30 Nov 1860 \$302.75

Int at 5 per cent for 10 mo + 12 days 13.10

315.85

amt cur of deposits. 315.85

\$230.13

85.72

6.17

79.55

45.

80.00

56

0

336

3

$$\begin{array}{r} 30 \\ 12 \\ \hline 360 \end{array}$$

$$\begin{array}{r} 30 \\ 14 \\ \hline 120 \\ 30 \\ \hline 1420 \end{array}$$

27

Read of Redditch and one of
the boys in the case of "Hemlock"
is the overseer of the Poor de fin
dellens. for for every sale
7th Dec. 1835 -

J. P. P. P.
Auctioneer

Widow Court house Dover the 2nd 1844

Dear sir

I wish you would enclose^{to} me a check on
one of the Richmond banks for the amount decreed to Robt Morgan
in the case of Deemasters vs Deemasters for which I have his order on
you which I shewed to you. I have ~~I~~ promised to let a Gentleman have
some money in a few days on the faith that I will get it from
you, please let me hear from you by returning mail I am yours
respectfully

Alexr Fitzpatrick

to
Seaton H Lovings Esq

A. Fitzpatrick's
 Letter, asking a check on
 Rev I Morgan's order as
 comm of Mark Demustus Jr
 ac.

ambrose

\$ 322.52

M. J. G. Nov 309.

Art on the 10th. 413

309.43

At one 13.09

To Mr 1904 18.09

amount

322.52

322.52

Sherrando Va March 16th 1861

Mr Whitehead

You will please pay to Mr.
Joseph Gray the amount coming to Nicholas
Demasters dec^d. as one of the heirs of
Hain dec^d.

James M Lewis Adm^r.
of Nicholas Demasters dec^d.

Wm Demastee's
assn

To } Transfer

Jos. Lyass

Filed 25. March 1866

Harvey M. Blain

lett

Int on \$56.56 from 27. Mar 1860

To . . . 27 May 1861 -

\$72.57

74.26 1.69

Cents 10.17

\$84.43

By 1.50.

Stat. 5.17

10

6.14

\$78.26

Dr M. Blackford

400

Certif of Deposto

To William S. Spring,

Please pay to Willis P. Wiles for me the amount of an Execution, which you have against the Estate of Rachel Blain, dec'd as atty. for me, or so much as is mine agreeable to contract between you and him for me, and any act, contract, or deed which he may make, relative to said debt. I do hereby, acknowledge and certify, that the same is my act, as binding on myself as I could do, and any contract said Willis P. Wiles has made or may make is my act, in the matter, as witness my hand and mark hereto annexed this 2d day of April 1861.

Witness

Elizabeth ^{her} Harvey
mark

I hereby transfer and assign over
for value received to Mrs. Loving
one half of an execution in
my name against Richard Allen
adw. said ex. & judgment was
obtained in the County Court of
a Nelson County for the sum of
about seven ^{and} two dollars with
out costs or interest. the other half
of said execution being already sent
Mrs. Loving by transfer heretofore
made by me to him. & this
transfer is for the other half of
said judgment & execution, he
having advanced the amount to
me of my half this the 6. June
1861.

W. P. Wiles. for
Elizabeth Loving

(13)

1872 Jan 23. Cash rec^d of Ro
withheld and by bond & Int. for statement
off my loan

\$393.32

5.90

\$387.42

Balance paid to

Alce Fortuna trustee

for rent

387.42

Mr. Withheld paid me \$5.

paid my Ans. & over the bal of .90¢

ASA

Children of John Demasius.

John alive. Nelson

James " Augustus

2 Nicholas Demasius dead & children

Mrs Winifred Bergen, alive Ky

[Lilford died & she married Branden]

(Jane, Lilford - dead leaving the following heirs.

Polz

Robt M. Lilford Ky -

Lucretia S. Smith & Elizabeth

J. Lilford his wife.

Das G. Lilford.

G. M. Daniel & Harney

A. Lilford wife - Ky.

Nicholas Lilford - Ky

Robt M. Branden ^{Tennessee}

~~Lucretia S. Smith~~

H. S. Cummings &

Lucinda his wife

Thomas a Lilford.

Norwood 7th August 9th 1867

Messrs. Whitehead & M'Leu "Comms^{rs}"

Will please pay Morris
Leffey Nineteen dollars & fifty cents it
being the amount due me from the Estate
of Rachel Blaine

Egbert Leffey
By Mayo Leabell

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Nelson County, Greeting:

YOU are hereby commanded to summon *Elizabeth Harvey, Joseph Harvey, and
Henry McClain, Tho S Graves, Thomas Leach, Sepe A Jones, John
Stevens and Thomas R Giles, overseers of the poor for the
County of Nelson*

to appear before the Judge of our Circuit Court of Nelson County, in the Clerk's Office of said Court, on the
first Monday in *August* next, to answer *a bill of Complaint exhibited*
against them to be in said court by James Demasters and
other plaintiffs

And have then there this writ. Witness, ORVILLE LOVING, Clerk of our said Court, at the Court-house, in
said county, the *16th* day of *July*, 185*9*, and in the *84* year of the
Commonwealth.

O. Loving ck

Edward Hemastus, ~~was~~ was a free son of
Nathaniel Blain.

His children are as follows.

Elizabeth S. Hemasters - alive - (Nelson)

Wyatt Hemasters - dead. leaves 2 children in Alabama

Nancy Embly - alive Nelson

George E Hemasters " "

Corneilus Hemasters " Augusta

Sarah Ann Thacker " Barbours

Elvira Hemasters " Antwerp

Henry Hemasters in New Spain Pensacola Co. 40 years ago

John Hemasters removed was in N. Florida. 20-11 "

James Hemasters removed West but been heard from

Polly Hemasters and children (see of number of 17)

Sanctified by Geo E Hemasters Aug 1864

Edward Demastres
children

!!!!!!

289
1067
144
12.07

294
23
882
588
6762
112

2 certificates 17 233 =

2. 227.50
\$ 460.43
84.43
\$ 376.07

amt. due 15 March 1861.
Int to 3 June. "

\$ 460.50
4.04
464.54

off to help on

84.43
\$ 380.11

111/2

15 July 61 @ 5-

135.00
29 1/3

873
145-

\$10.18

\$700.00

35.00

29 1/3

\$875-

873

145-

\$10.18

700

\$710.28

2896
1734

17.64
1.12
70

Amherst County Court Clerk Office April 25th 1858

I Saml M Garlande Clerk of Amherst County Court
certify that from an examination of the Land Books in
this County, that Charles Bryden is charged on said books
in the year 1823 with 270 acres of land, and on said books
for several years previous, but said land is not charged on
said books after the said year of 1823 but seems to have
been dropped - Said land is mentioned as being in the
County of Nelson, and I presume in consequence thereof
was stricken from the Land books of this County -

Teste

Saml M Garlande Clerk

Overseer of the Poor for the County of Nelson Dr.

1859

L. W. Hill ^{r.c} Capt Sur.

Sept. 1st	For running 740. ps. around the Blain land.	\$4.20
"	" making plat.	50
"	" Calculating quantity	50
"	" running 171 ps on Dennis Lot.	1.35
"	" making plat. 10 courses	52
"	" Calculating quantity 10 courses	52
"	" running 52 ps on Lot. of 22 Acres	5.2
"	" making plat. " " "	50
"	" Calculating " " "	50
"	" running 35 ps on 12 acre Lot.	3.5
"	" making plat. 30 courses "	1.20
"	" Calculating quantity " "	1.20
"	" running 165 ps. Extra	1.32
"	" Mileage	1.00

~~14.42~~

Overseers of the Poor
for the County of Nelson

\$14.42

I assign the within
Ticket of \$14.42 to

Thos. R. Giles for
Value Recd. of him

21 of Nov. 1857 M. A. Hill

By assignee
Go

Thomas R. Giles



456
400
15-91

Recd payment (\$14.42) in full of
P. H. Long Receiver. Octo 16. 1860.
Thos R Giles

I hereby assign & Transfer to Charles
A Patterson all the right Title & Interest
I now have or may have in the proceeds
arising from the Sale of the Tract of
Land held for life by Rachel Blair
which said land has been sold by
Robt Whitehead & Jas A McQue under
a decree of the Circuit Court of Gibson
County as the same is now for his
benefit & not mine Given from under
my hand this 5th day of March 1860

Witness

Peter Demasters

John Demasters

John Dimmock
to Mr. Mansfield
Chas. A. Patterson

July 25th April 1860

I request Judge Thompson to decree the payoff
of my pr according to contracts herewith
filed. The parties were so numerous, that
I found it impracticable to get all
their names. Many of the parties were
willing to give me one half or even more
if I should demand it. Some of the
parties expected to get any thing from
the suit

J. M. [Signature]

John H. Lewis 1850

We the undersigned having employed John H M Clew
our Attorney to institute such proceedings as he
may deem necessary for the recovery of a certain tract
of land lying in the Co: of Nelson, known as the Blain
tract it being the same of which George Blain died
Seised & possessed, do hereby promise and bind ourselves our
heirs &c To give and Convey to the sd W Clew One
Equal third part of so much of the sd land as
he may recover as his fee for his services in our
behalf. Witness our hands and seals this 15th day
of October 1858.

George E Semasters Seal
Elizabeth E Semasters Seal
Nancy E Emery Seal
Benjamin W Emery Seal
Lepe Maffie Seal
J J Maffie
C B Semasters Seal
Seal

Blair Estate
Contract with
J. H. Miller

Bonds deliv ^d to J. P. Fitzpatrick		\$2400.
1 of \$500. due 1 Jan 1862.	\$500.	
2 of \$200.	400.	
10 " 100.	1000.	
20 " 50	1000.	2400

J. M. Peters

2 of \$200	400	
5 of 100	500	
6 " \$50.	300	1200

John B. Boyd

1 of 200	200	
6 " \$100.	600	
8 of \$50	400	1200

To J. M. Peters

1 of \$500 due 1 Jan 1862. ~~\$500~~

Am't McKays' Cert. of Dep ^t due 10 Feb 1861	\$700
Int at 5 per cent. to 1 June "	1030

\$710.30

Rec^d of J. R. Long Receiver the above
 ment^d Cert. of Dep^t in lieu of \$700
 worth of Bonds.

off cash	10.30
W ^h S ^t d	<u>700.00</u>

J. M. Peters
 by Geo R. Giles

666: 67 - 1 Jan 1863
 666: 66 - 1 " 1864
 666: 67 " " 1865
 \$2000.00

2000 _____ 1863
 2000 _____ 1864
 2000 _____ 1865
 2000: _____ 1866.

2400
 1200
 1200
 4800
 1200
 6000

April 2000
 May 666 2/3 1 Jan 63
 Sam 94 64
 Sam 95 65

June 24. New at the Spring
 of Sandy @ River
 J. J. J.

Lynchburg Dec 6th 1854.

I hereby certify that Nathan Loring has this day deposited in my office, to be forwarded by mail, a letter enclosing a check drawn by Jos M Oley Cashier of the office of discount and deposits of the Bank of Va. at Lynchburg on the Cashier of the Lafayette Banking Company of Cincinnati "endorsed pay to the order of John M. Telford of Hartford Ky - said check is for \$56.⁶⁴ and dated the 5th of Decr 1854.

Said Loring has also deposited for a like purpose, a similar check for \$45.⁴⁸ - endorsed pay to Mrs Winifred Burgher of Sugar Grove, Butler Co: Ky. the letter containing this check is directed to Mr E. R. ~~Mrs Winifred Burgher~~ Sugar Grove, Butler Co Ky

R. M. Brown
D. M.

Post Masters
certificate of
checks forwarded to
Mrs. J. W. Gelford
& Mrs. P. C. Bunker

Statement of Wm. P. Curtis. I have deposited of - drawn to G.
 O. Petrus. Amt. due 15th July 1861 \$700
 Int. to 1 June 61 @ 5% int. 10.30
\$710.30

of Cash at R.

10.30
\$700.00

off to be paid to Wm. P. Curtis.

84.43
615.57

Wm. P. Curtis must pay me \$100. in Cash
 & I must hand him in that amt. in bonds.

100.00

Thos. P. Fitzpatrick 233
 Amt. 2 Certificates for 227.50
 due 15th March 61. \$460.50

Int. to 3 June 1861. 4.04

sent to Bank of Va. \$464.54

& check given J.P.G. for 450.00

74.54 to be done the fund.

15.57 as above

10.30 " do

\$40.51

25.87 Wm. P. Curtis hand

14.04

100
 40.51
\$59.49

1150 $\frac{1}{2}$
3450
575
40.25
52
740.82
111111 3

63450
57

John Lemasters, who died leaving
James Lemasters in Aug: as in (No 1)

John Lemasters in Nelson -
Nicholas Lemasters dead & children
removed out of State -

Mineford Lemasters married, Ber-
gen and by him had lives in Ky

Jane Selpmesters who married
Selpford: and by him had -

Ky } J. W. Selpford of Ky -
Elizabeth S. Selpford who married
Lewis L. Smith
Jos. Y. Selpford.
Nancy A. Selpford who married
J. M. Daniel.
N. C. Selpford.
Lucinda Selpford who married
W. S. Cummings of Texas -

Selpford died and she married
Lance Lemasters married -

Brandon and had a child
Robert W. Brandon.

C. DABNEY, Presd't.
WM. Q. SPENCE, Cas.

Branch Bank of Virginia,

Lynchburg, Nov 30 1860

A. A. Loring Esq
Rivers

Dear Sir:

Your favor of the 28 Inst with
inclosure, came duly to hand.

I inclose

Citizens Savings Bank Certificate of Deposit \$302.75

And have entered to Your Credit as Receiver \$300.

The future is impendable.

Respy Yrs
Wm Q Spence

W. M. Apes Bond to Crusiers of the Port

Due 10th day of May 1861. \$235.04
Int to 27 May " " 66
\$235.70

W. M. Apes Bond to Melroe & Co. due 10. May
1861. \$938.62

Int to 27 May 1861 — 2.65 941.27
1176.97

cents kept. 11.50
\$1188.47

1st ent. due 15 Feb 61. \$700

Int. to 27 May " 9.91 709.91

2 & 3 233
227.50
460.50 from 15. March

460.50
3.68 464.18
~~454.50~~
1146.35

Bonds 1176.97
1174.04
2.88
11.50
14.38

1174.09
14.38 1188.47

5.00
2.88
2.12

11.50
2.12
9.38

Cash of W. M. Apes.

709.91
464.18
1174.09

941.27
470.03
1411.30

Wm Napier

Statement of Bonds

235.85
941.89
 1179.72

40.82
941.89
 40.82

1883.74
953.49
 37.67
 480
34
 210

1177. 40. 235
40
 940.00
82.39
 161.8
 1170
445
 901

1177. 40. 944.00

1174 876.40 (32.06
382.22 7.01
242.0 39.07
234.8
720.44
15.6

42.95
42.95
 12.32
30.63
 15.29
40
 61.60

941.27
238.70
 1179.97

1176.57
81.68
 1263.25

Sugar Grove Ky March 6th 1855
Mr Seaton & Loving =

Dear sir =

I Received
yours some time since
enclosing a check drawn upon
the Banking company of Cincinnati
Ohio Amount \$ 75⁰⁰ - 48 cents which
we have sold for cash which you say
was the balance due my mother from her father and
mother's estate (viz) John & Martha ^{Demasters} deceased of Nelson
County Va you also send us a blank Receipt to fill
up & send to you - you will find the same filled
and enclosed in this letter myself and
mother unite in sending you
our sincere thanks for
your attention to my
mother's business and
assure you that we
believe it has been
done a lawful
~~manner~~ and satisfactory manner.

I remain your friend and humble
servant Respectfully

E C Burger

Sugar Grove Hill
March 16

Mr
Seaton. W. Lovin
Livingston
Va

Dear Sugar Grove Butler County Ky Dec 11th 1852
Mr Seaton & Loving

Dear Sir

I have received your favor dated Nov 16th enclosing the check for three hundred & ninty five dollar and 75^{cts} which I find on examination to be in proper form and can sell it for the money. I would have answered it sooner but yours was mis-sent and forwarded. My Mother is well pleased at your progress with her business all you have done meets her satisfactory approbation. She sends you her most grateful thanks for the course you pursued relative to her business and says ^(hand) she wants you to pursue the course you think most advisable to her interest ~~for the balance~~ and when the business is settled to send a check on for the balance of the money as you done before to E. C. Burgher Sugar Grove Butler County Ky

Yours Respectfully E. C. Burgher

E. C. Baughus
letter - acng
rept of Chells

Sugar brood by
Dec 14th

M^d - Seaton: N. Loving

had 21 Dec - 57
moved over
next - 20th
Lovingston

W. C. Baughus

62
P
62

62
P
62

Brookville Houston County Texas

Mr. Baton & Loving

Dear Sir.

^{answer,}
in. to your letter which came to hand about
The ^{last} of August about a small ^{sum} of money is coming
to my wife through her mother from her Father's
Estate Mr Demastes Sr. You mentioned in your letter
there was a suit which would be decided in Sept.
I omitted answer your letter until now. You speak of
my arranging with the Sug. McGowan he lives 200 hundred
miles from me you mentioned you could send a draft
on New York. I will accept the last proposition and will
run the risk of getting the Draft on New York Mr
John W. Helford of Kentucky stated in a letter to me
and my wife that he had re^d his part and Brother
and sister had also received their part coming
through there Grand Father Demastes Estate which three
Matters would ^{be} inherited if he had bin alive
you can send a Draft on New York at the risk of
my wife and my self it is a small sum

Yours Truly

October the 8. 1853

N S Cummins

Post Office Livingston

January 10th 1854.

Dear Sir This is to certify that J. St. Louis
has this day deposited in this office a letter
addressed to M. S. Cummings, Crockett,
Houston County Texas, enclosing a check

drawn by some Mary Cash of the Bank of
Vt & dated Richmond Janry 6. 1854. of
the Bank of America New York for

Twenty five dollars of coin - and No. 1174 - said
letter with the check to be forwarded by mail
as above addressed. - said check has upon it

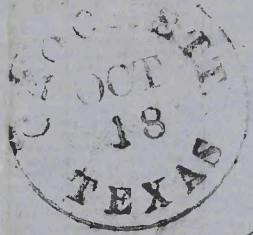
this endorsement - "Pay to the order of M. S.
Cummings of Crockett, Houston County Texas.

Signed J. St. Louis" - said check being
made payable to the order of J. St. Louis.

No 13 Thallon J. P. West

1854
Crockett
Houston County
Texas

Mrs Cummins
Letter directing
dfr to be sent to
Postmaster, Calif.



5

Mr Seaton, H. Loving
of Lovington
Wilson County
Virginia
Mar. 3

Demasters vs Demasters "

transfr to John Gilford Hartford N.Y.
 amt due to Jane Prarbens heirs \$83.26
 off ^{any} revenues Comrs. @ 5% et. 4.16
 79.10

off paid her suspension of attor^s fee \$12.38

" paid clark. & of additional costs .11 12.49
 \$ 66.64

off Mrs Cummings share which is 1/4 9.51
 57.13

off due me half due .43
 \$ 56.67

at my large
 Mrs Cummings wife }
 1/4 bought divs } \$9.51
 check sent for this amount 56.64

Mrs Winifred Burger's share \$83.26
 off my Comrs 4.16
 (Sugar Grove Falls Co. N.Y.) \$79.10

off paid her suspension of ans
 additional attor^s fee, or of compromise } 3.38
 \$75.72

off paid M. additional costs .11
 \$75.61

at Newbar 02
 check from and further sent 75.58

5664
 7548
 132.12

Lewmasteo
4 { Stalewen }
Lewmasteo

Item. of an agreement between the heirs at law of Rachel Blair died; and the Overseers of the Poor of Nelson County. Whereas a suit at law is now pending in the Circuit Court for Nelson County, in the name of the Overseers of the Poor of Nelson County, against Elizabeth Starving died and others - and whereas a suit has been instituted in said Court, in the name of certain parties styling themselves heirs of said Rachel Blair, against the said Overseers of the Poor of Nelson & others, the purpose of which suit is to obtain a sale of the land owned by George Blair died (the husband of said Rachel Blair died) in order to a division of the proceeds among the heirs of said Rachel - and whereas the said Overseers of the Poor of Nelson County, claim said land under the will of said George Blair - Now to avoid further litigation on the subject - to obtain a speedy sale of said land and receipt of the proceeds - and to settle the question of title, as well on the part of the purchasers, as on the part of the purchasers, it is agreed between the undersigned John H. Miller counsel for the heirs of Rachel Blair, and Robert H. Hethel counsel for the Overseers of the Poor, in said causes above named, that the Court in the said last named suit, shall at the next term decree a sale of

Said land, and that the proceeds of said
sale shall be equally divided among the
heirs of said Richard Blain dead, on the
one side, and the said overseers of the
Poor of Nelson County on the other - Said
compromise applying only to so much of said
land, as was not sold to Chas. Persons
dead, by said Richard Blain, and
supposed to be about twenty five acres -
And it is further agreed that this compro-
mise and agreement shall be made a part
of the judgment and decree of said Court
whenever said cause for partition shall
be heard for trial - Witness our hands this
16th day of July 1853.

Polk Whitcomb atty
for the Overseers of the
Poor of Nelson County -
John Wm Lewis atty
for the heirs of Richard Blain.

Steward's A
↳ & Comptroller
Officers of the Port

At a Circuit Court continued & held for Nelson County at the Courthouse
on the 7th day of May 1860.

James Demasters &c.

Plffs.

Against

Mo. W. Tilford &c.

Defts.

" and the Court doth further adjudge, order and
decree, that the cause be referred to one of the Commissioners of the Court, to
ascertain by due publication, who are the heirs of Rachael Blain deceased,
and in what proportions they or their ~~see~~ assigns are entitled to receive the funds
for distribution among them in this cause, to wit. the one moiety of the nett
proceeds of sale, after deducting all the expenses of sale, costs of suit, both plffs
and defts and such sum as he may allow their counsel Mo. H. McCue for his
fee in this cause: The said Com^r in his estimate of the compensation to be
allowed the said McCue will govern himself by the contract made with said
McCue and part of the heirs filed with his petition, together with such other
evidence as he may adduce before him of the fair and reasonable value of his
services upon a quantum meruit." &c. &c. said Com^r will also take

An Extract from the decree.

Teste. O. Loving. Clk.

Commissioner's Office
Fayetteville May 7th 1867.

To the Hon. Judge of the Circuit Court for the County of Nelson.

In obedience

to the foregoing decree, or so much thereof as authorizes one of the Commissioners of the
said Court, to ascertain and report what would be a "fair and reasonable" compen-
sation for the services of Mo. H. McCue Esq., as counsel for the heirs at law of said
Rachael Blain dec^d: your Com^r reports, that he has examined the record and
the evidence adduced before him and adopts and submits the sum
of Five hundred dollars as "a fair and reasonable compensation" for his
services, as counsel aforesaid - In this estimate, your Com^r was governed by the
certificates of William M. Cabell and Ho. Whitehead Esq^r. herewith filed marked
C. & W. filed by the petitioner and authorized, to be considered, by the decree:

had the Com^{rs} been left, to be "governed" alone by the "contract" of the said
McCue with some of the heirs, then the sum, to which, he would have been
entitled, as his fee, would have been \$457.24. the same being one third
part of his recovery.

Resply Submitted

Geo. S. Stevens Com^r

Demasters & Co

vs } Comm. Repat.

Telford & Co

Draw a check
making the allowance
HWS

Filed 7 May 1867

Statement of Sale of Blau Land

<u>22 a. 134 P</u> at \$20	\$456.75
126 " 111 "	
<u>12 " 78 "</u>	
139 " 29 " at 16.95	<u>2359.12</u>
	\$2815.87
Off Comm (1/2 by Messrs) \$67.41	
Expenses	<u>5</u>
	<u>72.41</u>
	2743.46
1" Bond	928 57 2/3
or by error	<u>62 36</u>
	\$866 21 2/3
2nd Bond	938 62 2/3
3rd do	<u>938 62 2/3</u>
	2743.46

The undersigned the Comrs appointed for the purpose, by the decree of the 29th Sept. 1859. in the case of "James Stewart & Co vs Ormsby & the Com of Guilford County &c", beg leave to report that having duly advertised the time and place of sale, they sold the land as above described to Mr Messrs, and took for them bonds for the same, which are herewith filed.

Respectfully
John N. M. Lewis

We also file a Plot of the land

Comrs

James Demastus Phipps
vs.
Tilford & others } done.

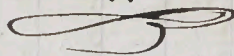
This cause this day came on again to be heard upon the papers formerly read, the petition of Mrs. Loving of Elizabeth Harvey this day filed by leave of the Court and was argued by counsel. On consideration whereof and by consent of parties by their attorneys, the Court doth adjudge order and decree, that Leaton A. Loving the receiver of this Court who has by a former order in this cause been directed to collect the purchase money of the Plain Land, do, out of the moneys now in his ^{hand}, arising from said collection, pay to William S. Loving of Elizabeth Harvey, the amount of an Execution in his name issued from the County ^{County} of Nelson County against Rachel Blains Adm^r for \$72.57, with legal interest on \$56.56 past thereof, from the 27th day of November 1860 till paid & \$0.17 costs of suit, and that said Receiver do also out of said fund, pay to Mrs. Loving of her ^{her} costs by him expended, in filing his petition aforesaid.

James Demastus Puff
vs } Note for
Telford V^c } Decree

We ~~agree~~ ^{consent} that this
decree may be enter-
ed in this cause

J. N. M. Lewis Counsel
for him of Rachel
Blain dec'd.

W. S. Loving
atty for Plaintiff

Enter
L.P.


Ademaster

vs

Gilford vs

This cause came on this day to be again heard, upon the papers formerly read, the report of Master Comr George S. Stevens filed May 7th '67 to which there is no exception and has argued by Counsel: On consideration whereof the Court approving doth ratify and confirm sd report, and doth adjudge order and decree that Seaton H. Loving as sd Receiver of the Court do pay to Robert Whitehead Trustee of Jane Fortune and Children and as such assignee of John H McCuen the sum of Five hundred dollars with interest thereon from 1st day of January 1860 till paid out of any ~~funds~~^{money} in his hands belonging to the fund in this cause. This decree is to be subject to the proceedings of the Law Slaying the collection of debts.

John H. McCuen has assigned to Robt Whitehead as Trustee of Jane Fortune & Children his fee in this case and the Court is requested to decree accordingly.

J H McCuen

Robt Whitehead Trustee

Remasius

us

Milford

Notes on Remasius

13 May 1867

Enter

N.W.S.

Enter Remasius with
a certain of the
date in interest,
N.W.S.

to
ent page = 186.

F. G. Delis Bond due 31 Decr 1860-

compromised Int to 31 " 1870. - 10 yrs

\$ 861.12

975.58

\$ 1836.70

2132928
 86412

 4265856
 2132928
 2132928
 12797568
 17063424

 183670695936
 861.12

 975.58

300.

³
699878400
 300
 2132928

807831900
 300
 2692993

$$\begin{array}{r}
 13 \) \ 975.58 \quad \overset{147}{73.04} \\
 \underline{911.11} \\
 64.47 \\
 \underline{58} \\
 5.2
 \end{array}$$

$$\begin{array}{l}
 37.52 - 6 \text{ months} \\
 \hline
 6.25 \text{ per month}
 \end{array}$$

Statement of
 Dr. Pelis Bond

230-60

Sub to 23 Jan'y

1892

157.72

293.32

of Waetons Cove, in the year
James Monton's removal
and that he keep the same
the usual gany of the same

abody
(

Mr. C. W. Watts S.M.

Copy order

—

99
8-02
493-5
725-2
6937
315-
315-

C. DABNEY, Pres't.
WM. Q. SPENCE, Cash'r.

Branch Bank of Virginia,

Lynchburg, Oct. 19 1860

J. H. Loving Esq.
Receiver

Dear Sir:

I have your favor of the 17
\$600

Just & Cr. Yr. acq. by enclosed.

& enclosed

Certif. Depos. No 17380 Citizens Savg. Bank

\$600.

There is a small Savings Bank here that pays 6 per Cent
on Deposits that stand twelve months & over - but I do not
supposed you want it to stand that long & the Citizens is
much the most reliable of any of them - However if you
wish it changed & will do so at any time you may wish.

Respy Yrs
W. Q. Spence

Alan Lantz

But at 4 per cent from 14 Oct
to 26 Nov

\$ 600
2.50
\$ 602.50

Debt due 26th day of Nov 1860 ——— \$300-
compounded Int to 26th Nov 1873 ——— 339.87

\$639.87

Am't of Mr Whitehead's Bond to J. A. Loring related
Co. Co. - belonging to the Blair Land fund, dated and due
the 27th day of November 1860 \$235.60
Int. accrued to 23 Jan'y 1872

11 yrs & 57 days }

157.92

\$393.52

Statement of
Re William
Bonis

393 32
5 90

387.42

393.32
194.66

\$587.98

393 32
5 90

\$387 42

1 Jan 58
and for 1 Jan 69
on

1033.33 1/2 Cash
63.35
1096.72 \$ 7.78

1.03 10 Jan 55

457.48
645.24
5.36

322
214
536

and 11 Aug 60

650.60
500.00
150.60

off the loan order
at 11/11/60

Simastus in Bellford

Amount of decr in favor of J. M. Cowd & by him assigned to Alice Weston's Trustee.

with Int from 1 Jan'y 1860 to 23 Jan'y 1872
12 years & 23 days.

\$ 500.

360 69
860 69

off Now paid

384 42
\$ 472 77

Int on \$472.77 from 23 Jan'y 72 to 23 Nov 73

49 99
\$ 522 76

10
2
30 00
12
360
23 00
60 | 11 8 00
19

472.776
283 8.62
2169 70
49 99
|||||

472.
21.63

Statement of debt due
to Alex. Fortune.

#387 42

Recd 23 July 1872 of J. H. Loring Re-
ceipt in the case of Menard's in the
Overseer of the Poor, or Tilford's in
order to and cost three hundred and
eighty seven & 1/2 dollars, on account
of the same demand on the 13 May 1867
to be paid to Elizabeth Foster of Jane
Mc Fortune, or out of Jas H Mc Luis
transfer - said Elizabeth having been
removed and myself substituted as
Trustee in her stead - Alex Fortune Trustee
for M J Mc Fortune

A. Fortune, Trustee

to J. Reuff

J. A. Loring, Trustee

1881 10 21 1881 10 21 \$387.42

\$300.

On demand we promise and bind our selves our
heirs &c to pay to S. H. Loving Receiver of the Circuit Court for
Nelson County three hundred Dollars for value received. the
Interest thereon to be paid annually on the 1st Jan^y in each and
every year - Given under our hands and seals this
26th day of November 1860.

John N. M. Owen Seal
Elisha C. Hills Seal
H. G. Pitzer
Aly J. Hills Seal

money belonging to the
Blain land fund }

Mr A M Lewis

\$300.

Blairland

amt Alex Fortunes Bond to Keenan, due
to Mrs Webber - due 3^o day of Octo 1862. - \$120.33

Sealed at \$2.¹⁰ - \$57.30
compounded int to 3 Octo 73 51.47
\$108.77

amt ditto due Mr Wynns Fielden
same amt, due same date

108.77
\$217.54

\$108.77

Lovings Bond due 13 Dec 61 \$14.¹⁵

compounded int to 13 Dec 73 .. 14.32 28.47
\$137.24

off New comers

Amount due Mrs Parker -
same, same date \$108.77
cost 8.31

117.08
\$324.62

A. Fortunio, ins. Biedorf

I hereby transfer, assign, and make over
to Roberthead Trustee for Mr. James Fortine
whatever fee I have charged to my clients,
or may be allowed, in the case of "Alexander
de vs The owners of the Ship of Nelson
Boat" in Nelson Circuit Court, for
my services to the heirs of Rachel Blair
in said cause, to be allotted and
received by said Roberthead ^{and} applied
to the payment of the bonds due by me
for the purchase of a tract of land of
said Roberthead Trustee as aforesaid
provided the same shall not have been
otherwise paid; and in that event to
be paid to me - (Please my hand to
said Dec 19th 1859 -

John W. Lee @

Dr. Whitehead's

27 Jan 60	\$1235 <u>00</u>
27 Jan 71	<u>157 19</u>
12 Jan 1872	\$392.79

14.13 = 11.1.15
 " "

155.43
<u>117</u>
59
<u>157.19</u>

1 Jan 60	\$500.
1 Jan 72	360
	<u>1.50</u>

on and of
 M^c Curran transfer

861.58
<u>392.79</u>
468.71

Hermastus & C

as

Orders of Porro et al.

Memorandum for

Bill & C

Galleys vs. Atto Giul

3 Sept 450 - Janus & Co

vs. LaFane & Co Sept 327.

=

Eclan's Adm. & Lencus -

terran Scherl et al.

2 Patton & Heats p 53.

Estates Qualities

Maths Leipzig p 33.

1 Tuchen 157.

6 Mump: 470

Lovings-ton, Nels-on Co. N. H. 1859

Mr Harrison,

My dear Sir,

You are acquainted
somewhat with the qualifica-
tions of Mr William B. Peters to
fill the vacancy in the chair
of Latin at the University, occa-
sioned by your resignation, and

hemasthes

(No 1)

Ans:

James Hemastus married ^{his} 1st wife ^{Miss} Campbell & had the following children

1st John Hemastus who died leaving James Hemastus living in Augusta Co.

2 Polly Hemastus married William B. Coffey - ~~both~~ both dead and their children living are, Edmund, Morris, Egbert, William, Nancy who married William Nash, Elizabeth, and Patsy Ann who married Henry Massie and died leaving one child George Gordon Massie ^{deceased} all in N. Va.

3 Betsy Hemastus, married George Campbell - both dead and all their children dead, but many grand children living in N. Va. & Kentucky and some in other States.

James Hemastus married in second wife a Miss Stevens and had children.

1 Francis, who married John Campbell both dead leaving -
1st G. W. Campbell

2 Permelia who married Jesse Massie living.

3 Lavinia who married B. H. Campbell both
living

4 Roda who married Thos H Boulden both
living

5^e Betsey who married John Maddox -
both dead - leaving three children -
Nancy, wife of Thomas Massie both
living, Nelson A. Maddox, Belinda
married Cary Campbell both living
John J. Maddox, Charles H. Maddox¹⁰
in Ky.

6^e James Campbell, dead leaving the
following children Williams, Permelia,
John, Jesse, Becker, Charles
A. Robert, Edward, Stevens, and James
who is dead leaving, Vinca, Marcellus,
& Nathaniel - all in Amherst.

7 Nancy Campbell married Benj.
Wright - Nancy is dead - husband
living - they had the following
children. Myatt¹⁰ in Ohio, James
in Sumner Co. Moses¹⁰ in Ohio, Guy¹⁰
in Ohio, Voca¹⁰ in Ohio, Rhoda¹⁰ in
Ohio, Charles in Amherst.

8^e Myatt Campbell dead leaving three
children living Permelia in Lewis
Co. and married Looman - Martha
in Lewis, John, James in Lewis. (Fran-
cis, Sally) in Lewis - Betsey married Willie
Cash, Nancy Ann married Rexrod
Amanda, William J. and George
W. all in Amherst.

9 Jesse Campbell dead leaving
Polly married Judan Moyer, Betsey
married William Campbell Amherst
Francis¹⁰ and married Joseph Euro in
Illinois - Martha Ann married Cary
J. Cash Amherst Roda¹⁰ Petis mar-
ried Joshua Campbell dead leaving
children - unknown - Lucinda
married Addison S. Massie,
James Heblanaw, Emily married
William H. Boulden.

10^e Sally Campbell married John
Massie - she dead leaving Polly¹⁰
in Ky, Lady in Ky, Franky in Ky
Thomas in Ky, John in Ky.

Charles in Ky, Ed^{2d} meerd in Ky, Eli, in
sally in Am. and Ann married
William Moorman in Bedford.

- 2^d Edmund Lemasters dead
leaving
- 1 James Lemasters in Va.
 - 2 Cornelius Lemasters in Va.
 - 20 3 Wyatt Lemasters out of Va.
 - 20 4th Henry " " " "
 - 5 George E. Lemasters in Va.
 - 20 6 John Lemasters out of Va.
 - 7 Nancy who married — Emig in ^{Adelphi} Va.
 - 8 Petsy in Adelm.
 - 9 Sarah Ann married Jacob Thacker
 - 10th Elvira in Amhurst.

20. 3 James Lemasters removed
To Alabama —

4 Rachel Blain.

Sally in Lewis - Betsy married
Mills Cash. Nancy Ann
married Rexrod. Amanda -
Williams J. ~~and~~ and George W.
all in Ansburt.

9. Jesse Campbell - dead leaving
Polly married Adam Meyer, Betsy
married W. Campbell, Francis Jane mar-
ried Joseph Euro Illinois. Martha
Ann married Cary J. Cash Ansburt.
Poda ^{Peter} married Joshua Campbell. dead
leaving children [names unknown]
Lucinda married Adira S. Massie
James Helanaw. Emily married
William H. Boddin.

10 Sally Campbell who married John
Massie. ^{she} dead leaving. Polly Ky.
Ludy Ky. Frank Ky. Thomas Ky.
John Ky. Charles Ky. Edmund Ky.
Eli. Sally in Ansburt. Ann married
Wm. Monman in Bedford.

2^d Child of Jas Lemasters & Miss Stevens.
Edward Lemasters is dead
leaving.

- 1 James Lemasters in Va.
- 2 ~~Peter~~ Melicus Lemasters in Va.
- 3 Wyatt. out of Va.
- 4 Henry - out " "
- 5 George E. Lemasters Va.
- 6 John Lemasters out of Va.
- 7 Nancy who married Emily in N. Carolina
- 8 Betsy. in N. Carolina.
- 9 Sarah Ann married Ned Tricker in Va.
- 10 Elvira. in Amherst.

3 James Lemasters removed to
Alabama.

4 Rachel Blain -

James Lemasters & - Cambell.
their children.

- 1 John Lemasters. dead. children living. James Lemasters
his boy in Augusta.
- 2 Polly Lemasters married, Wm B. Coffey -
their children living and. Edmund, Morris,
Egbert, William, Nancy - ^{married Wm Ash} and Elizabeth
all live in N. Carolina. ~~and Nancy who~~ ^{Patsey Ann}
married Henry Massie & died leaving one child -
George Gordon.
- 3 Betsy Lemasters married George Cambell.
both dead - and all their children
dead but many grand children
in N. Carolina & Amherst. & some in other
states.

James Lemasters married for 2^d wife Miss
Stevens and had children:

- 1st Francis who married John Cambell
both dead. leaving G. W. Cambell.
- 2^d Permelia who married Issac Massie -
^{Cambell}
- 3^d ~~Abigail~~ ^{Permelia} who married B. W. Cam-
bell - both living.
- 4th Roda ^{Cambell} married Thos H. Boulden -
both living.
- 5th Betsy Cambell married John Maddox
both dead - leaving the following
children: Nancy wife of Thos Massie

- both living, Nelson A. Maddox, Belinda who married Cary Campbell -
both living. John J. Maddox -
Charles H. Maddox in Ky -
- 6 James Campbell dead leaving
the following children. William,
in Permeles. John, Jesse, Lecker,
Charles A. Campbell, Robert F, Ed-
ward Stevens, Nancy. (James -
dead leaving children, son Vines,
Marcellus, & Francis) all
in Amherst.
- 7 Nancy Campbell ^{dead} who married Ben
Might. just dead. Her husband
living - leaving three children -
Wyatt in Ohio. James, Greenbrier
Co. Moses, Ohio. George Ohio.
Vice Ohio. Rhoda - Ohio. Ch-
arles Might in Amherst.
- 8 Wyatt Campbell dead lea-
ving three children living.
Permeles in Lewis Co. & married
Lawman. Martha in Lewis -
John James, in Lewis, Francis

George Blain of the County of Nelson,
by his will bearing date on the 11th day of May
1811, and admitted to probate in the County
Court of that County on the 29th day of May 1811,
after providing for the payment of his debts and
bequeathing to his wife, his personally, disposed,
in the following terms, of the plantation on which
he lived, viz:

"I also devise to the Overseers of the Poor for the
County of Nelson, now being and to their successors
in that office, the plantation, whereon I now live,
after the death of my said wife, in case she should
die without issue, to have and to hold the same for
the benefit of the poor of said County of Nelson.
Whom I do hereby authorize to make sale thereof
on such terms of payment as in their discretion
may be deemed most fit, the monies arising
from which they are to vest in bank stock or other
public securities for the benefit of the poor of said
County, the profits of which money when so invested
they are to divide in such manner, as they think
fit, under the direction & control of the County said
County.

and their successors for the purposes aforesaid.

But it is my will and desire that my wife should have a life estate in said lands, to be enjoyed by her during life as she shall choose, and if she should hereafter marry and have issue, then and in that case, the said lands, with all their appurtenances, I desire to such issue, equally to be divided amongst them, if more than one. But if my said wife should die without issue, then, after her death, the said lands to be held, sold, and disposed of, as before devised.

Since Mr Blain's death his wife has died, without marrying or having issue.

Certain persons have taken possession of the plantation, and the overseers of the Poor of Nelson, have brought suit to eject them.

Those persons set up the defence that the limitation to the Overseers of the Poor is void, because, First, they, not being a body politic, had not the capacity to take, and Secondly, because of the uncertainty of the beneficiaries, and Thirdly because, under the will, Mr Blain took the fee ~~simple~~ tail, which the statute enlarged into the fee simple.

"By the Act of May 1780 ch 22^o 10 Hen. Stat. an
 "Large page 288-9, the Overseers of the Poor were
 "commanded to be elected and were declared to be a
 "body politic and corporate to sue and be sued, and
 "were invested with the powers and duties of former
 "churchwardens and vestries.

"This character they still retain." By Tuckers
 judge, Chapter V. The Overseers of the Poor of Ohio
 7 Leigh 232-3.

what power, ^{the vestries had} of levying for the poor and receiving
 for their use the public and private bounty, the
 church records and Legislative records alike
 disclose. For their power to levy, see the act of Oct
 1779, 10 Hen Stat at large 197-8; and for their capacity
 to take and hold private donations for the use
 of the poor see the Act of Jan 30th 1806, 3rd Hen. Stat at
 Large (New Series), 262.

This act & continues to this day to be the law, hav-
 ing ^{been} carefully reenacted at every revision, see Rev.
 Code 1819, vol 2^o pages 267-8 §§ 12-13, and Code 1849-
 50 page 362 ch. 77 § 7.

This act underwent judicial review in The Overseers
 of the Poor of Richmond County v Taylor's Admin
 Gibbons'

Gibbes' Va Rep 336; and it was held that "a
 " charity for the benefit of the poor of a parish given in
 " trust to the minister and vestry, when these ceased to be
 " either, was vested in the overseers of the poor for the
 " parish by the act of 1805, and they may recover in equity."

It thus appears from the acts of the Assembly and the
 decisions of the Courts, that the Vestries, to whose powers
 the Overseers succeeded, had the capacity to take
 donations for the poor.

But it is equally apparent, from other acts of the
 Assembly, giving directions to the overseers in
 reference to these donations, that the Legislature
 recognized them, as having the capacity and the duty
 to take such donations and give them effect.

That as donations, made to the vestries would, when
 after the overseers succeeded to their powers, be ad-
 ministered by the vestries, until they ceased to exist,
 and, then by the overseers, under the act of 1805-6,
 so donations made ^{directly} to the overseers for the poor
 would be administered by them.

For an example, reference is made to the Act concerning
 the poor of the parish of Suffolk in Warrimond,
 13 Am Stat at Large ch 40 page 280; by which act, the
 Assembly

Openly recognizing the Overseers, as proposers of donations made for the support of the poor, directed the overseers, according to the donor's intention, to devote the same to the benefit of the poor of Suffolk parish, rather than the whole County of Housenord.

The overseers elected by the whole County might not possess the power to confine the donation to one parish of the County, or if they possessed it, they were abdicating^{it} whether on, or the other occasion gave birth to the act, it is clear the overseers must already have had the capacity to take & hold the donation, otherwise it could not have passed from the donors; but would have resulted back to them, and subsequent legislation could not have given them effect.

This act passed in 1791, long before the act above referred to of 1805-6

Among other acts, illustrative of the Legislative will that the Overseers should receive private donations for the poor may be cited a more recent act, passed since 1805-6 to wit in 1809-10, about the date of this will, to be found at page 94-2 of the Rep acts 1809-10 By this it was enacted, that the Overseers of the Poor of Essex

Exec, or their successors, collect of J. Montague, Ex-
 ceutor of Wm Jones, the legacy bequeathed by said Jones
 for the support of the Poor of South Farnham Parish,
 to be applied by them to the support of the poor,
 resident in that parish, and directed separate
 levies on the titheable of that parish from the levy
 on the residue of the County, if any levy at all
 was needed for that parish in addition to the dona-
 tion of Wm Jones.

This bequest was for a parish, instead of the entire Coun-
 ty, and the same remark is to be made about it, as the
 donation to the Suffolk parish.

While these acts show the sense of the Legislature
 that the overseers of the poor should be the recipients of
 the bounty of private contributors to the support of the
 poor, the act concerning the globe land equally shows
 that it was the policy to make them recipients of the
 public property which was to be devoted to the uses of
 the poor; they being directed thereby to sell the globe lands,
 & use the money for the poor or as directed by the voters.

With these acts of Assembly before us and the decisions
 cited, there seems to be no occasion to look after reasons
 to support the pretensions of the overseers to take & hold

for

for the poor Mr Blount's ~~does~~ bequest.

Had they have the matter in doubt, the inevitable inferences from the general policy and provisions of the Poor laws would remove it.

In all the legislation on the subject, the overseers directly, or the Counties are charged with the support of the poor. To effect this end, as one of the modes, they are empowered to build houses & hold them. And while to accomplish this the deliberate power of levying on the County for the expense is conferred, it is not seen that the power ^{to support the poor} is made to depend on the exercise of the power to levy for the cost.

That they would not have the power to support the poor without levying for the means, if they could get on without the levy; that they could not hold the same amount of property for the same end, derived by gift, which they might if received by levy; that they could not accept as a donation, a house, as a work house for the poor, which they might buy and levy for the price of.

Scarcely we have seen abundantly that there is nothing in the legislative policy of the State so to discourage the bountiful intentions of the charitable towards the poor

And if, in any case there could be felt to be cause of apprehension from accumulations of wealth in the hands of the Overseers, from private munificence to the poor, it could not be in such a case as this, where by the testator's direction, "the profits of the fund are to be applied under the direction and control of the Court of the said County;" which, makes it in effect simply an annual contribution to the county levy, so as to lessen the burthen on the poor, so as to lessen the amount of such levy. being in effect a donation to the County, for its poor.

There is nothing in the objection to the uncertainty of the beneficiaries. They are not more uncertain than were the beneficiaries in the case of under Mr. Taylor's will, (See the case cited supra from Gilmer's Rep 336) nor more so than the objects of the trust in other cases of in which grants are made ^{to} and to be administered by public corporations. It is enough that they are controlled & regulated by law.

The capacity of the Overseers to take being thus ascertained, it remains to inquire whether there was any thing for them to take; or all was given to Mrs. Blake.

Upon the point of the quantity of the estate taken
by M^r Bloin, Sely N June 6 Mony. 470 is referred
to, as entirely apposite; and conclusive to show
that M^r Bloin took only the life estate.

This is ~~clearer~~ ~~under~~ more clearly a life estate in
M^r Bloin than was the daughter in that case; for being
the same controlling words, that were found in the will
there, the word "issue" is used here, while "heir of the
body" were used there, and the word issue is the
more pliable ~~was~~ and yields more readily to the in-
tent inferred from other parts of the will. ~~See~~ ~~see~~
E Lewis on Perpetuities 304-5 (L.D. 52^d vol p. 210.)

There are here two ~~in addition to~~, in addition to
the significant words "equally to be divided", the
"words then and in that case" which were men-
tioned as significant in Timberlake v. Groves 6th
Mony 174; The words "then after her death"
which occur in the clause, "But if my wife should die
" without issue, then, after her death, the said lands
" to be held, sold & disposed of as before divided," have ~~always~~
as to personally ^{long} been held to be restrictive Lewis on
perpetuities 344-5, 52^d vol Law Library page 243
and if even ~~a~~ ~~diff~~ the same effect was denied to them
when relating to realty, it is not now.

See a full & learned discussion by M^r Lewis, on his book

on the Perpetuity 5th vol Law Library, pages 234-9

and in (5th vol Law Library pages 179-183.)

He remarks "if land be devised to A. in fee, and
 " if he die, without issue, then, as or after his decease,
 " to B; the words, "after his decease" seem with
 " sufficient authority to point to the death of the first
 " taker, as the time at which the failure of issue con-
 " tempted is to be ascertained; and after a discussion
 " of the cases concludes "upon the whole it must be
 " observed that no sufficient authority, at present existing,
 " for extending the restrictive force of the words, after
 " his decease, or the like, to limitations of real estate,
 " however well established the rule, in regard to similar
 " gifts of personalty. That the inference arising from such
 " expressions in favour of a confined signification of words,
 " importing a failure of issue, is equally strong, whatever
 " the nature of the subject matter of the gift, is plain;
 " and it is by no means clear that that presumption
 " will be restricted to limitations of personal property,
 " should occasion arise for an actual adjudication
 " on the question. &c. &c."

This occasion arose in England in the recent case of reputed
 in 9 Eng Law & Eq. Rep 88, Ex parte Davis in re, The will of
 Somerset & Weymouth R. N. Co., in which it was held that
 "a testator gave the residue of his property both real

" and personal, to his son, Matthew, his heirs, executors
 " administrators and assigns, with a proviso that in
 " case, his son Matthew should die without leaving
 " any lawful issue of his body, such part of his residuary
 " estate as might be in the nature of freehold, should,
 " at his death, be divided into two equal parts, one
 " half part, whereof he gave to his son, Charles, and the
 " other half to his daughter, Frances. Held, that the
 " testator's son, Matthew took an estate in fee in the
 " freeholds, with an executory devise over, to take
 " effect in the event of his dying without issue, living
 " at the time of his death.

The decision was made on the effect of the words
 "at his death", the case being likened to Doe. d. King
 v. Frost 3 B. & Ald. 346, which it was said turned on the
 words "on the decease".

The same effect was said to be attributable to such
 words by Gilchrist judge in Hall & Chaffee (now of the
 Court of Errors W.S.) in Hall v Chaffee 14. New Hamp. Rep
 215: in which case, "a testator devised land to his daughter
 " in fee; provided however, that if the said W. Chaffee should
 " die without issue, born alive of her body, to her her estate,
 " in that case it is my will & pleasure that she should have
 " the use and occupancy of the premises aforesaid during her
 " natural life, but that, after her decease the premises should

"
 " work back to my estate and be equally divided be-
 " tween my daughters, Hannah and Patsy, before men-
 " tioned and their heirs, to have and to hold to them
 " forever."

Judge Gilchrist said, *namine dependentem*, "now these
 " words "that after her decease the land should go to
 " Hannah & Patsy, would seem to point with sufficient
 " certainty to the death of M^{rs} Chaffee, as the time at which
 " the failure of issue, contemplated, is to be ascertained."
 " Perhaps if there were no other expressions in the
 " will, from which the testator's intent could be clearly
 " inferred, these words might be considered as suffi-
 " ciently pointing out the specific time, when the limi-
 " tation over should take effect."

And in the case of *Puecker v. Lambdin* 12. Smedes & Nor-
 " shall' (Nip.) Rep. 230, there is a case that a testator by the 4th
 " clause of his will provided, thus "I wish the property
 " I bequeath and bestow on S. A. Truly, to be given and secured
 " to herself, and her bodily heirs, should she marry; and, at
 " her death, should she have no issue, it is to go to her brothers
 " and sisters," and in the sixth clause thus verbi "and the
 " balance of my property to be divided between S. A. Truly and
 " M^{rs} Martha Truly."

The Court held that "the general words in the fourth clause
 " were broad enough to be transferred to the sixth clause

"and that the brothers and sisters of A. A. Truly took a
"valid executory devise."

Upon the high authority of Mr Lewis, supported by
these actual adjudications, and the well established rule
of construction of such words, when relating to personally,
which, in reason is as applicable to realty, it may well
be now insisted that the words "there after her death",
in this will, are restrictive and confine the duration
of Mr Bloom's estate to her life.

If the Courts have winced a disposition to construe
the words "in case the first taker die without issue", and
the like, after a grant of a life estate, as ~~some~~ ~~carrying~~
enjoying the life estate into an estate tail, stronger
than to hold such words as cutting down the fee simple
into a fee tail, for the benefit of the issue, there is no occa-
sion here to solicit its exercise. For, there is an express
grant to the issue; and not merely a grant to the wife
for life, remainder over to the survivors, in case she
die without issue. They would take their without enjoying
the life estate into a fee tail - by purchase under the
will.

Nor would any inconvenience result from construing
"issue" in this will to mean children; for the gift to the
issue is not contingent until the death of Mr Bloom, but
vests as the issue of her marriage are born.

As in *Williamson v Berry & Howard* Rep 495, where the first born child was held at its birth to take a vested estate in remainder, which opened to let in the other children to the like estates, as they were successively born and such vested remainders to become fee simple estates, absolute in the children living on the death of their father. See also on the same subject 2 *Jarvis* on wills 78 to 85 margin.

The children, as they are born thus taking vested estates if they die during M^{rs} Blain's lifetime, leaving children the latter would take their parts; and thus the trouble in the families be avoided.

The express provision then that "if she should have issue" "marry and have issue, then and in that case, the said lands" "with all their appurtenances, I devise to such issue, equally to be divided amongst them, if more than one," dispenses with the necessity of supplying a fee tail in M^{rs} Blain by securing ^{the plantation} to her issue and their families, if she has any living at her death, as purchasers, and at the same time enables the other intention of the testator to be carried out, without hurt to them, in favour of the poor of Nelson.

By this construction effect is given to all the testator's intentions.

It would thus appear that M^{rs} Blain took only the life estate, and on her death without issue the overseers of the Poor become entitled.

R. Whithead
Att'y for Overseers of Poor

Memorandum to
the { Committee of Council
Officers of the
Officers of the Post Office

39⁰⁷

Lowmington Feby 28th 1873

The 1st National Bank of Lynchburg,

Pay to William F. Taylor

James Demasters, John Demasters Edmund Coffey
Morris Coffey Egbert Coffey &

1859 To the Clerk of the Circuit Court of Nelson Co D^r
July Filing Bill vs Geo W Silford & 15.

Docketing 18. atto 10. Spa 25. 4 copies 50.

reg 18. Ret 35. Aug Order Sub 25. 3 copies

Geo Affidavit 30. Rule 50. Postage 12

Aug & Sept Rules 100. Sept J. Deuce 70

Copy 46. Court 25.

} \$ 5 89

O Lovingcek

J Demasters &

5.89

1.10

1.20

.30

\$ 9.19

	James Demasters, John Demasters, Edm ^d Coffey, Morris Coffey &	
1860	To the Clerk of the Circuit Court of Nelson county	Dr
Apr 3	Filing Rept of sale 25. Deed 15. decree 40. Copy 25	} 1.70
	Index cost 20. copy 20. cost 25. Acts cost 25	
	O Loving etc	

J. Demarest

170

James Demastes, John Demastes Edm^d. Coffey &

1862

To the Clerk of the Circuit Court Adams Co

Att

dolg^y Tilford & 18. Nov Sp^r J. Dince 36 copy 20. cont 36.

1 10

O Loving ck

J. Demasters &

H. 1. 10

James Demasters, John Demasters, Edmund Coffey, Muris
Coffey, Egbert Coffey and others.

To the clerk of the circuit court of Nelson County 5
Apr 2 Court vs Tilford & 25. Octo Court 25 " 50

P. Aving cek

J. Demartins &

50

Womaslus vs Tillford

Ans of decree in favor of Geo H. McCue & by him assigned to
No Whitehead Trustee for Jane Fortune & Alice Fortune has been subste=
tuted in Mrs Whiteheads acc & stood as trustee
with Interest from 1 Jan'y 1860 to 23 Jan'y 1872 - 124^o 23^o 00.

\$570.00

368.19

860.19

Off them paid

387.42

\$472.77

Ans on \$472.77 from 23 Jan'y 1872 to 23 Nov 73 - 1.10

49.99

\$522.76

20 / 110.109
383

Statement of debt due
to Alice Fortune - Transfers
of Mrs A M Case

224
88

Mrs Lebbin - 3 sets	\$108.77
Mrs Ryan - 1 set	108.77
Mrs Porter	117.08
	<u>\$334.62</u>

Dr. Demasters vs Tilford &c To S. M. Loving Receiver.

CR

1860					
June 25	To my Comrs on \$872.85 @ 1 1/4 per cent.	13	09		
" "	" Cash paid No Whitehead for fee	225	00		
Aug 16	" " " R. Giles. Mills Sur what	14	47	252	56
1861					
May 1	To Comrs on \$1918.37 @ 1 1/2	28	77		
" "	" State & Co Tax on \$1529.76	11	91		
Octo	" paid Mr Loving	85	72		
" "	" Mr Loving for amt due ad	1	57	12,797	
				380	53
	To bal due the funds			2410	64
				2790	22
1862					
Nov 1	To State Tax on half of funds on \$1205.34 @ 6 per cent	7	23	2	30
" "	" County do. 25 per cent.	1	81		
1863				9	04
	scale at 2 1/2				
received	" State and County Tax & unpaid tax	26	51	1	46
1864	To Paul as Receiver for Corp Tax \$72.31				
July 1	" County Tax do 4.38	7	69	3	83
1866	To State Tax	2		2	70
" "	" do on \$2.30 fund Nov 1862 to 8 Octo 68	82		10	59
" "	" " 1.71 " " 1863	48			
" "	" " 2.70 " " 1866	96		2	26
" "	" " 3.83 " 1 July 1864 - 4 yrs "	88		3	14
1874	To acct of Judt S. M. Loving on Petus - 35				
1875	To off for state tax of 1874 \$8.73. Co. do \$3.34			13	73
				46	87

1860					
June 25	Pay amt recd of Mr Maspee 1 st Bond 1860	872	85		
Nov 26	" " " " 2 ^d "	941	12		
1861	" Int on certifs of Depo.	2	75		
May 27	" Amt. recd of Mr Maspee his 3 rd Bond	941	27		
" "	" Int on certifs of Depo. recd of Maspee		10		
" "	" Int on Co. Bonds invested in do by virtue of Cr Ct. up to 1 Jan 61		32	63	
				2791	22
				\$2791	22
	To pay which there is due as follows. Bal due	\$2410	69		
	McLure's Bond for claims at 100	300	00		
	J. & Peter's Bond	861	12		
	Certifs of Depoite	230	13		
	County Bonds	974	50		
	S. M. L. over for \$1082.78 due 1 Jan 66	44	94		
	Half bal due to the Co	2410	69		
		1205	34 1/2		
1868	Octo 9. Pay cash of City S Bank				
	Mr C. M. Blackford Receiver - \$36.19	36	19		
	off due S. M. L. over	13	73		
	do due	22	46		
	off paid amt of Lovings debts	9	19		
		13	27		
	costs of said to com off	21	26		
1875	Octo 1 Pay cash of Mr. Blackford Receiver	\$5.57			
	off New cost	08			
	" " " on above \$36.19	54	62	13	27
	do due the fund	495		4	95
				18	22
	costs of said as above to com off	21	26		
	Bal due S. M. L.	3	04		

Wernustus

as } statement of
 } Receivers

Dilford & Co

Remaster in Telford
Statement

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