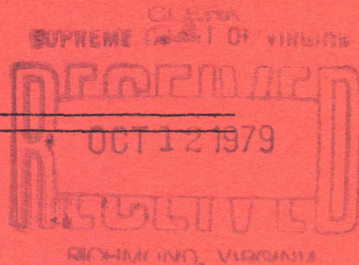


221 VA1098



IN THE
SUPREME COURT OF VIRGINIA
AT RICHMOND

RECORD NO. 790491

THOMAS H. FORRER,

.....Appellant

V.

NED BROWN,

.....Appellee

APPENDIX

Frederick W. Payne
GEORGE R. ST. JOHN ASSOCIATES
416 Park Street
Charlottesville, Virginia 22901

Counsel for Appellant

TABLE OF CONTENTS

	<u>Page</u>
Bill of Complaint.....	1
Answer and Cross-Bill.....	4
Transcript of Proceedings of April 28, 1979	
Reporter's page 1, line 9, et seq.....	7
Reporter's page 6, line 20, et seq.....	13
Reporter's page 10, line 18, et seq.....	15
Reporter's page 33, line 8, et seq.....	30
Final Order.....	36
Assignments of Error.....	41
Assignments of Cross-Error.....	42
Record of <u>County of Albemarle v. George W. Cary, et al.</u>	
Bill.....	43
Order Permitting Amended Bill.....	45
Order of Publication.....	46
Decree Confirming Sale to Ned Brown Authorizing Conveyance.....	47
Final Decree.....	48
Record of <u>County of Albemarle v. Effie White, et al.</u>	
Bill.....	49
Amended Bill.....	52
Second Amended Bill.....	55
Affidavit and Application for Order of Publication.....	59
Order of Publication.....	61

	<u>Page</u>
Clerk's Certificate of Compliance with Order of Publication.....	62
Commissioner's Report.....	63
Decree Confirming Report.....	64
Decree Authorizing Conveyance.....	66
Final Decree with Commissioner's Report.....	67
Record of <u>County of Albemarle v. Joseph</u> <u>Christopher Cary, et al.</u>	
Bill.....	70
Decree Dismissing Suit.....	73
Deed from George Gilmer to Thomas H. Forrer.....	74
Deed from George Gilmer to Ned Brown.....	77
Certificate of Ned Brown with plat attached.....	80

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

THOMAS H. FORRER,
Complainant

V.

NED BROWN
Esmont, Virginia,
Respondent

Filed in the Circuit Court Clerk's Office
the 1 BILL OF COMPLAINT, March 22
V. 5.00
for 25.00
Docket 30.00
Tested Shelly J. Donahue

Comes now your complainant, Thomas H. Forrer, by counsel, and represents as follows:

1. That on or about 14 February 1966, 10.5 acres, more or less, in Albemarle County, Virginia, were sold at public auction for delinquent real estate taxes by George Gilmer, Commissioner in the cause of County of Albemarle v. Effie White and others, pursuant to order of this Court entered in said cause on 27 September 1965 and spread in COB 49 p.268. Said real estate was described as 10.9 acres in the Scottsville Magisterial District, being shown on the Albemarle County tax map as sheet 128, parcel 72.

2. That your complainant attended said auction and was the highest bidder at \$625 for said land, and the sale was confirmed by order of this Court entered 9 March 1966 and spread in COB 49 p.415.

3. That pursuant to said order, your complainant paid \$625 to George Gilmer, Commissioner, in or about March 1966, and George Gilmer, Commissioner, conveyed said land to your complainant by deed dated 11 March 1966, which said deed your complainant had recorded in the Clerk's Office of this Court on 6 August 1973, DB 534 p 403. Said deed was delivered to your complainant on or about 11 March 1966 and said Commissioner made his final settlement of accounts on or before 15 December 1966, as shown by final order of this Court entered 15 December 1966, COB 50 p 160.

4. That since your complainant acquired 10.5 acres, more or less, he has found that Ned Brown, the respondent, claims to have acquired the said property in 1954, also at a tax sale, but no deed was ever recorded therefor.

5. That in 1969, three years after your complainant paid for and acquired title to said land, the respondent obtained a deed from George Gilmer to the same property, which said deed was dated 7 July 1969 and recorded in the Clerk's Office of this Court on 7 July 1969 in DB 461 p 189. That said deed dated 7 July 1969 recites that Ned Brown obtained a deed in 1954, but that the same was never recorded, and that the cause in which the land was sold to Ned Brown, County of Albemarle v. George W. Cary, was ended by decree entered 25 January 1955, COB 43 p 441.


6. That at the time your complainant attended the auction of the property on or about 14 February 1966 and at the time he paid for the property, in or about March 1966, and at the time the said deed was delivered to your complainant, in or about March 1966, your complainant did not know that there were any claims of, or against, said property by Ned Brown or any other party, and had no notice thereof, either actual or constructive.

7. That the said deed of George Gilmer, dated 7 July 1969 to Ned Brown constitutes a cloud on the title of your complainant.

WHEREFORE your complainant prays that said deed dated 7 July, 1969 to Ned Brown be removed as a cloud on the title of your complainant, and for all such other and further relief as to equity may seem mete.

THOMAS H. FORRER

By Counsel



Jack. N. Kegley, Counsel
230 Court Square
Charlottesville, Virginia

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

THOMAS H. FORRER,

Complainant

v.

ANSWER AND CROSS-BILL

NED BROWN,

Respondent

Comes now your Respondent, Ned Brown, by counsel, and to the allegations contained in Complainant's Bill of Complaint says as follows:

1. That he has no knowledge of the course of events contained in the allegations by Complainant listed in his paragraphs 1, 2, 3 and 6.
2. That your Respondent denies the allegation contained in paragraph 4 inasmuch as the deed conveying the George W. Cary property to him was recorded and can be found in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 461, page 189.
3. That your Respondent admits the allegation contained in paragraph 5 of Complainant's Bill.
4. That your Respondent denies the allegation contained in paragraph 7 of Complainant's Bill.

WHEREFORE, your Respondent, having fully answered the allegations contained in Complainant's Bill, and possessing a good and valid deed to the property which is the subject of this suit, said deed having been recorded several years before any deed to said property acquired by Complainant, your Respondent prays that Complainant's Bill be dismissed.

AND PICKFORD
Horneys at Law
COURT SQUARE
CHARLOTTESVILLE
VIRGINIA

And further, your Respondent represents unto the Court, by counsel, this to be taken in the nature of a Cross-Bill, as follows: FILED
1977 JUN 27 PM 4:24

1. That your Respondent purchased the George W. Cary property from George Gilmer, Commissioner with said sale being ratified by your Honor's Court by Order dated January 25, 1955, of record in C.O.B. 43, page 441.

2. That since acquiring said property, your Respondent has made use of and claimed title to said property openly, notoriously, adversely, hostilely and continuously against all persons and continues to do so, being in possession of said property under color of title.


3. That your Respondent had no knowledge of any subsequent suit regarding said property. That in 1969, your Respondent obtained a replacement deed for the earlier misplaced one from George Gilmer, Commissioner and recorded the same, again without any notice either actual or constructive of any claim to said property by Complainant.

4. That the deed to Complainant from George Gilmer, Commissioner, bearing date March 11, 1966, of record in the Clerk's Office of the Circuit Court of Albemarle County, in Deed Book 534, page 403, constitutes a cloud on Respondent's title.

WHEREFORE, your Respondent prays that the said deed to Complainant be annulled and held for naught as a cloud upon Respondent's title, that the tax suit resulting in Complainant's deed be declared null and void as to Respondent, and for such other and further relief as the Court deems mete, Respondent reserving the right to supplement these pleadings.

NED BROWN

By Counsel

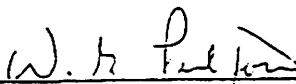


Pickford and Barkley
230 Court Square
Charlottesville, Virginia 22901
Counsel for Respondent

PICKFORD
AND BARKLEY
Attorneys at Law
230 COURT SQUARE
CHARLOTTESVILLE

CERTIFICATE

I certify that I mailed a true copy of the foregoing Answer and Cross-Bill to Jack N. Kegley, Counsel for Complainant, 230 Court Square, Charlottesville, Virginia, on June 27, 1977.



W. G. Pickford

1 April 28, 1978
2 Court convened at 10:20 A.M.

3 THE COURT: Mr. Pickford, you are representing
4 which side?

5 MR. PICKFORD: I am representing Mr. Brown. The
6 case is a matter of law Your Honor and I think we can stipulate
7 the facts - they are all pretty much a part of the record but
8 I will let Mr. Kegley cover that.

9 THE COURT: All right sir. All right, Mr. Kegley,
10 you are the complainant in this action which is brought to
11 acquire title...

12 MR. KEGLEY: Remove the clouds.

13 THE COURT: What's the cloud on it? Two differ-
14 ent people claiming the same property?

15 MR. KEGLEY: Two different deeds.

16 THE COURT: Do you want to proceed with an open-
17 ing statement?

18 MR. KEGLEY: Yes sir. I think possibly all of
19 this can go in by stipulation - Gale and I discussed that very
20 briefly yesterday. It involves recording statutes, who is the
21 bona fide purchaser and matters of that nature. Generally
22 speaking I'll be just a little more specific. Mr. Brown, the
23 defendant in this case - the respondent - purchased a piece of
24 property at a tax sale in 1954 - he never did record his deed.
25 After he purchased it in 1954 the taxes again went delinquent

1 and there was another tax suit instituted in 1959 which resulted
2 in another tax sale in 1966.

3 THE COURT: Who is the defendant in the second
4 tax sale?

5 MR. KEGLEY: There is no question about the
6 regularity - I don't think - of either one of the tax suits -
7 we are not questioning that.

8 THE COURT: The record holder rather than the
9 actual deed holder I take it.

10 MR. KEGLEY: Right. So, 1966 my client Mr.
11 Forrer had an adjoining farm that he had bought the year before
12 received a notice - a handbill in the mail that this property
13 was being sold so he came over and bid it in at the action -
14 \$625.00 and paid Mr. Gilmer, the Commissioner of the sale that
15 day. Then the sale was approved in March of 1966 by the court
16 and then in March of 1966 Mr. Gilmer mailed to Mr. Forrer his
17 tax deed. Mr. Forrer...

18 THE COURT: Now, how do you call that a tax deed?

19 MR. KEGLEY: Well, not a tax deed - it was a
20 deed from the Special Commissioner of record in Chancery - taxes.

21 THE COURT: It wasn't a tax deed - it was a
22 Commissioner's Deed.

23 MR. KEGLEY: Yes, both of these were Commissioner's
24 Deeds.

25 THE COURT: All right, it's a big difference

between a tax deed and a Commissioner's Deed.

MR. KEGLEY: Mr. Forrer was not aware of the fact that he had to record his deed - nobody had told him that he was suppose to record his deed and in 1973 he was - in conversation with another attorney - found out that he was suppose to record his deed - he thought his tax bill had been included in his tax bill on the farm and things like that so in 1973 he gets his attorney to record the deed and in doing some checking he found out that Mr. Brown had obtained from Mr. Gilmer in 1969 another deed and in that 1969 deed from Mr. Gilmer it recited that Mr. Brown had lost his deed given to him fifteen years earlier - in 1955 - and this was a replacement deed. So, in 1973 was the first time Mr. Forrer knew there was any conflict about the title or anything like that. Now, I'll go over these dates a little more specifically if the court will indulge me. The tax suit out of which Mr. Brown brought the property resulted in an auction on the 12th of July, 1954 and Mr. Brown at that time bid \$110.00 for this property. In 1954, in July - the same month - the order approving the sale to Mr. Brown was confirmed - was entered by the Court. On the 25th of January, 1955 the final order approving the accounts and dismissing the suit was entered in the suit in which Ned Brown was involved. Then thereafter the taxes went delinquent again so in 1959 or 1960 - I am not real positive of which year - I don't think it's critical there was another suit instituted for the sale of

1 delinquent taxes. That resulted in a public auction on the
2 14th of February, 1966 and on that day Mr. Forrer - was the
3 successful bidder and paid six hundred and twenty-five dollars
4 to Mr. Gilmer for this land. On the 9th of March, 1966 the
5 order was entered affirming the sale and on the 11th of March,
6 1966 that was the day the deed was executed to Mr. Forrer and
7 Mr. Forrer will testify that he received the deed from Mr.
8 Gilmer in the mail. In 1969 - the 7th of July to be exact -
9 Mr. Gilmer made out another deed to Mr. Brown reciting that
10 the first deed had been lost. There was no proceeding or re-
11 opening of the case which could have been done in 1969. That
12 deed to Ned Brown was recorded on the 17th of July, 1969.

13 THE COURT: Your papers say the 7th - which is
14 it?

15 MR. KEGLEY: The deed was dated the 7th of July.

16 THE COURT: It says it was recorded on the 7th -
17 the 17th, excuse me.

18 MR. KEGLEY: On the 6th of August, 1973 that is
19 when Mr. Forrer had his deed recorded and found out shortly
20 thereafter that Ned Brown had a deed from another tax suit to
21 the same property.

22 THE COURT: What was done with the proceeds of
23 the suit in which Mr. Forrer bought the property?

24 MR. KEGLEY: I would presume - without knowing -
25 I haven't check this far - that it was distributed to the heirs

1 of George Carey because all of this land all of this time was
2 assessed in the name of George Carey.

3 THE COURT: That was because Mr. Brown didn't
4 record his deed?

5 MR. KEGLEY: Right. We'd also want to stipulate
6 that at the time that Mr. Forrer bought this property in 1966
7 and even up until 1973 he had no actual knowledge or any know-
8 ledge whatsoever or intimation that Ned Brown either had a
9 deed to this property or claimed it or had any interest in it
10 whatsoever - in otherwords, it was strictly a bona fide pur-
11 chase.

12 THE COURT: Can both sides stipulate that the
13 property was unoccupied?

14 MR. KEGLEY: Yes sir.

15 THE COURT: Neither side was in possession of it
16 I take it?

17 MR. PICKFORD: No sir, there is no improvements-
18 it may be some intermittent grazing - I can't stipulate that -
19 that he was a bona fide purchaser or that he had any notice.

20 THE COURT: I understood the notice is not
21 stipulated. As to the time he purchased it or as of the time
22 he recorded his deed or both?

23 MR. PICKFORD: At the time he purchased it at
24 the tax sale he wasn't a bona fide purchaser.

25 THE COURT: He was not?

1 MR. PICKFORD: No sir.

2 THE COURT: All right, you are on notice then -
3 you will have to prove that Mr. Kegley. It may be that the
4 defendant will have to prove it - I am not sure but anyway it
5 is not stipulated.

6 MR. KEGLEY: Now, there is one other matter -
7 there is a defense put in here by Mr. Brown that he owns this
8 property by adverse possession. I have got the evidence and
9 would be ready to go forward with that but I think it might
10 save a lot of court time if you look at the interrogatories -
11 I think we would be entitled to summary judgment on that one
12 aspect. If they could prove everything that they give in the
13 interrogatories as being the proof of adverse possession they
14 would not be entitled to it by adverse possession.

15 MR. PICKFORD: There is a cross bill filed there
16 too - it's a part of the cross bill and after filing and in-
17 vestigating this case it's not sufficient evidence to prove
18 adverse possession.

19 THE COURT: So, that's out of the case.

20 MR. PICKFORD: May I add a little more to Mr.
21 Kegley's opening statement? Those facts up through the point
22 that Mr. Forrer purchased the property are adequate - the tax
23 sale in which Mr. Brown purchased it in 1954 and Mr. Brown
24 didn't record his deed - he lost it - his testimony will be.
25 The taxes weren't paid and thereafter the second tax suit was

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22 that Mr. Forrer purchased the property are adequate - the tax
23 sale in which Mr. Brown purchased it in 1954 and Mr. Brown
24 didn't record his deed - he lost it - his testimony will be.
25 The taxes weren't paid and thereafter the second tax suit was

1 commenced and I think we can stipulate that Mr. Brown wasn't
2 a party to it. I can't stipulate that that suit was regular
3 because Mr. Brown wasn't a party, he had no notice of it. I
4 think that's going to be the main contention - that he didn't
5 know the second tax suit was even commenced - he wasn't made a
6 party to it. After the suit had been completed in 1966 Mr.
7 Forrer got his deed nor did he record his, nor did he pay the
8 taxes - from '66 to '67 to '68 the taxes weren't paid and in
9 1969 a third suit was instituted by Mr. Gilmer - the same
10 counsel for the county who had conveyed it to Mr. Brown back
11 in 1956 so we had three tax suits. In this case Mr. Brown was
12 named as a party and Mr. Forrer wasn't. When Mr. Brown got the
13 papers he apparently contacted Mr. Gilmer and wanting to save
14 his property paid off the taxes and the other costs that
15 accrued and got himself this deed and properly recorded it
16 four years before Mr. Forrer recorded his and he had gotten it
17 in '66. This is a matter of record and I am willing to stipu-
18 late this too.

19 THE COURT: That doesn't have to be stipulated -
20 the court will take judicial notice of its own records Mr.
21 Pickford.

22 MR. PICKFORD: This is Mr. Brown's replacement
23 deed and it was recorded in 1969. After '69 Mr. Brown paid
24 the taxes - I believe his testimony will be he paid the taxes
25 up until 1973 and when he went to pay them that year he was

1 here one of which is the issue of adverse possession is no
2 longer before the court and it involves the question of who
3 had title and whether the second suit in which Mr. Forrer
4 purchased was a bona fide transaction or whether it was any-
5 thing but accounting itself and of course that has already
6 been revealed in part by this case as to what the law is, the
7 type of inquiry that a purchaser at a judicial sale is requir-
8 ed to make. You all have apparently stipulated that no one
9 was in possession of the property which would have given rise
10 to any duty to inquire of the person in possession which is a
11 paramount consideration where you have title disputes. If Mr.
12 Brown had been in possession of the property obviously he
13 would have had to have been contacted whether he had the deed
14 or not but not being in possession the question then becomes-
15 what title if any was transacted and sold at the suit in which
16 Mr. Forrer bought the property. All right, Mr. Kegley.

17
18 THOMAS H. FORRER, Having been duly sworn was
19 called and testified as follows:

20 DIRECT EXAMINATION

21 By: Mr. Kegley

22 THE COURT: THE court has before it the copy of
23 the deed - in Deed Book 534 at page 403 which will be marked
24 as an exhibit for the plaintiff in this case - exhibit number
25 one.

1 PLAINTIFF'S EXHIBIT Number one so received by
2 the Court and marked at this time by the Court Reporter.

3
4 Q What is your full name?

5 A Thomas Herring Forrer.

6 Q What is your occupation?

7 A I am a civil engineer.

8 Q Do you own another farm adjoining this?

9 A Yes sir I do.

10 Q What year did you purchase that farm?

11 A 1955.

12 Q Did you after that move to West Virginia?

13 A Yes sir I did.

14 Q What is your occupation in West Virginia?

15 A I work in research - highway research - the
16 highway department out there.

17 Q Did you receive any kind of notification or
18 anything on the sale of this property prior to the time you
19 bought it?

20 A Yes sir, I received - I believe you call it
21 handbills from Mr. Gilmer who stated this property adjoined me
22 and was coming up for tax sale and if I was interested to
23 appear at this time and place and make my bid.

24 Q Had you had any knowledge prior to receiving
25 that handbill that it was being sold?

1 A I had no knowledge of the property other than
2 I knew it existed on the plat but I didn't know anything about
3 it.

4 Q Did you come to the tax sale?

5 A Yes sir I did.

6 Q Where was that?

7 A Held on the steps of this courthouse.

8 Q How much did you bid on the property?

9 A Six hundred and twenty-five dollars.

10 Q Did you pay Mr. Gilmer that day?

11 A Yes sir, I paid at the time I purchased the
12 property.

13 Q Was that the 14th of February, 1966?

14 A It was.

15 Q Did anybody at that time or after that tell
16 you that you should record the deed?

17 A Nobody told me anything about recording the
18 deed.

19 Q Why didn't you record it?

20 A My limited experience with the purchase of
21 property has been through lawyers and they took care of that
22 for me and I was really not aware of what they had done and
23 since Mr. Gilmer - I knew - was an attorney I thought he would
24 have taken care of that.

25 Q When did you receive the deed?

1 A I don't remember exactly - I estimate it was
2 several weeks - two or three weeks later.

3 Q How did you receive it?

4 A In the mail.

5 Q From Mr. Gilmer?

6 A From Mr. Gilmer.

7 Q Did you at anytime have any indication,
8 knowledge or inkling that Mr. Ned Brown had any interest what-
9 soever in this property?

10 A I wasn't aware of it whatsoever.

11 Q When was the first time you became aware of
12 the fact that he claimed it?

13 A When I got a letter from my attorney who was
14 going to record the deed for me - he told me I should have it
15 done - Mr. Gilmer had not done it - that it was up to me to do-
16 when he took it - I submitted it to him and then he let me
17 know later that there was some complication on it - about this
18 situation.

19 Q What year was that?

20 A 1973 I believe.

21 Q From the year you owned your farm - 1955 -
22 up to 1973 about how often did you see this land?

23 A I went there I would say about every six
24 months - something like that.

25 Q Did you ever see any indication that anybody

1 was using this land - living on it or otherwise occupying it?

2 A No, no indication of anything on it.

3 Q Is it fenced in?

4 A It is not fenced.

5 Q That's all - Mr. Pickford.

7 CROSS EXAMINATION

8 By: Mr. Pickford

9 Q Mr. Forrer, from the time you got your deed
10 in 1966 when is the first year you paid taxes on that property?

11 A I don't remember particularly - the taxes on
12 that land I think at that time were three or four dollars or
13 something like that and all through that period I think - we
14 are all aware of the fact that taxes go up slightly.

15 Q The question is, when did you pay them?

16 A As I say, I do not recall because I got a tax
17 statement - I assumed that included this property.

18 Q This property is now under land use -is that
19 right - land use taxation?

20 A Yes.

21 Q Is that because you requested that it be
22 placed under land use?

23 A Yes.

24 Q What year was that?

25 A Well, whenever they sent around this thing to

1 the property owners - I don't remember - it hasn't been too
2 long.

3 Q The records indicate it was transferred to
4 land use in 1973.

5 A I would say that's reasonable.

6 Q The records also indicate that's the first
7 time you paid taxes on this property, is that correct?

8 A That's after this - it had become my notice
9 at that time so I would say it must be it.

10 Q Is it fair to say you didn't pay any taxes on
11 this property until 1973 - until you got notice of another
12 claim?

13 A Until I realized I hadn't been paying any.

14 Q At the time of the purchase in 1966 did you
15 or did you have anybody on your behalf make any inquiry about
16 the title through the records in the clerk's office?

17 A No, I was delivered a deed from Mr. Gilmer and
18 I assumed that it was valid and I didn't see any need to have
19 it checked.

20 Q So your answer to that is no, you didn't make
21 any inquiry?

22 A No, I made no inquiry.

23 Q In 1973 when you became interested in this
24 property were you aware that Mr. Brown had had it surveyed and
25 the plat was on record?

1 A What do you mean became interested in 1973?

2 Q Well, you got notice - you testified that
3 someone else had an interest in the property - at that time
4 you went to the tax office and asked that it be transferred
5 into your name and into land use, is that correct?

6 A If it was in 1973 there was nothing parallel
7 with the transfer of that property into land use - that was
8 part of the farm - that's the time I had the other farm trans-
9 ferred also.

10 Q Did you check the records at that time?

11 A My lawyer did all of the checking.

12 Q Did he report to you?

13 A As Mr. Kegley said - that's when I learned
14 there was this misunderstanding about this property.

15 Q Did you learn that it had been surveyed and
16 a plat put to record by Mr. Brown?

17 A No I did not.

18 Q Are you aware of it now?

19 A I am aware of it.

20 Q That's all.

21 Witness stood aside

22
23 THE COURT: Any other evidence Mr. Kegley?

24 MR. KEGLEY: No sir.

25 THE COURT: All right, Mr. Pickford.

1 NED BROWN, Having been duly sworn was called
2 and testified as follows:

3 DIRECT EXAMINATION

4 By: Mr. Pickford

5 Q Mr. Brown, you have heard the testimony - do
6 you recall what happened to the first deed you got from Mr.
7 Gilmer?

8 A Well, the first time that - the first time
9 I knowed anything about this property was when Mr. Gilmer sent
10 me the suit ticket - that this thing had to be paid in so many
11 days.

12 Q That was in 1969?

13 A Right.

14 Q Let's start back when you first purchased it
15 in 1956.

16 A When I first purchased it in 1956 I cut all
17 the wood off of it - over next to Mr. Forrer's line - I cut
18 all the wood off of it and hauled the wood out of there. I
19 said, well, I got my money back now - I said, I am go let this
20 land go back - let it be resold again.

21 Q What became of your deed at that time?

22 A Well, at the time I was running around I tell
23 you the truth and I was living in a little house trailer by
24 myself and I would lay papers here - you'd have all kinds of
25 crowds coming in and I couldn't read the papers no way and I

1 might have burnt the papers up through mistakes you know and
2 the only time I knowed about this man having - I never knowed
3 he had it until this thing come up here now but I couldn't pay
4 my taxes on it - that's the only thing I know anything about.

5 Q Did you have any notice - did you have any
6 knowledge of the suit in 1966 where Mr. Forrer got his deed?

7 A I didn't have no idea Mr. Forrer owned it -
8 I didn't have any idea Mr. Forrer owned it. I use to know
9 him - he'd go 'round the road - he knowed me - if he'd owned
10 it - the time he had his land surveyed down there - I remember
11 it but exactly I can't keep up with it because I can't read
12 it - Huffman and Foster come down there and told me - they
13 said - you know that over yonder on your ^(inaudible) / creek - that
14 piece of land you bought for taxes - I said, yeah, he said,
15 well, Mr. Forrer done took half of it and I said, what - he
16 said, yeah, he said he got a sign up on half of your creek - I
17 said, that's the creek I want when I put my cattle in there -
18 he said, by God he done took it all and I said, well - I
19 thought sure Mr. Forrer would say something - I cut all the
20 timber and he never did come up in there you know so the piece
21 of land about this far next to his creek - after he put the
22 line up there - there was good timber going up the creek you
23 know.

24 Q If you had known about this suit would you
25 have redeemed the property - come in and redeemed it - paid...

1 A Oh yes sir, yes sir - no question about that.

2 Q When is the next time you heard anything
3 about this property from anybody?

4 A I didn't know nothing about this property
5 until I went down in the courthouse and the lady wouldn't let
6 my wife pay it.

7 Q When was that?

8 A Now you done asked me something - the first
9 year he got the sale ticket - tax ticket.

10 Q Do you remember being served suit papers in
11 1969 from Mr. Gilmer?

12 A Yes sir. I don't know what year it was -
13 Peggans - the first time they hired this colored cop around
14 here - he come in my store up yonder - I was running a store
15 and got married the second time - I was working hard, trying
16 to get out of debt and I wasn't paying too much attention to
17 it and he brought this little thing in there one evening and
18 throwed it at me you know - me and him never could get along
19 so good - he said, here it is - it's got to be in in so many
20 days so I come over here the next week or two - I think the
21 next evening and I went to see your brother and I left it up
22 to him.

23 Q Let me ask you - can you read or write?

24 A No sir, all I can do is make an X.

25 Q When you got these papers did you pay Mr.

1 Gilmer anything at that time?

2 A Yes sir, I paid him up in full.

3 Q What was that payment for - what did that
4 payment consist of?

5 A Made me pay interest on his money and made
6 me pay it all up in full for the back time - I think at the
7 time I had it two years or maybe three years when he sent me
8 this thing - I can't swear right to the minute.

9 Q At that time you paid the delinquent taxes
10 that were due on it?

11 A Yes sir, I paid everything - I paid Mr. Gilmer
12 and paid the taxes up in full.

13 Q Did you and Mr. Gilmer have a conversation about
14 this prior tax suit in '56?

15 A Yes sir. I talked with him once or twice
16 down in the long hall and he said, boy - you don't need no
17 better deal than this.

18 Q Did you tell him what happened to your first
19 deed?

20 A Yes sir I told him.

21 Q This deed that you got in '69 replaced the
22 one you had?

23 A That's right - I believe the lady was named..

24 Q That doesn't matter - did you go to record it
25 right away?

1 A Yes sir, I recorded it right there and your
2 brother was standing beside me when it was recorded.

3 Q Did you continue to pay the taxes?

4 A Yes sir, I kept all the taxes up 'til Mr.
5 Forrer or whoever stopped it - took my name off the book down
6 there - I don't know who took it off.

7 Q When did you find out about that?

8 A The year I went in there to pay the taxes.

9 Q Do you remember when that was?

10 A Exactly - I really don't. The only thing I
11 didn't get - they would let me pay that last tax - they took
12 my name clean off the books.

13 Q Did you have this property surveyed?

14 A Yes sir.

15 Q Did you have the survey put to record?

16 A Yes sir.

17 Q Is that your survey?

18 A Yes sir.

19 Q Do you know when that was made?

20 A Really I don't know - I paid him - I really
21 don't know.

22 Q Your Honor, this is a survey by Huffman and
23 Foster dated June, 1970 - it's a certified copy and is of
24 record in the clerk's office - Deed Book 566 page 328.

25 THE COURT: All right, that will be defendant's

1 exhibit one.

2
3 DEFENDANT'S EXHIBIT Number one so received by
4 the Court and marked at this time by the Court Reporter.

5
6 Q At the time you were having this survey did
7 you have any idea anybody had any claim to it?

8 A No sir, I didn't have no idea this man had
9 no claim to it. I had seen him go down through his farm - if
10 he had any kind of idea me and him could have got together
11 and settled it without having to come over here but I didn't
12 even know nothing about it - I didn't know he use to come off
13 that farm - I didn't know nothing about it. I just wanted a
14 place to clean up and I'd done had it cleaned up but he been
15 blocking me - I am scared to go there and spend anymore money
16 when I didn't know if I had a shoe on my foot or not - I didn't
17 know what to do.

18 Q That's all.

19
20 CROSS EXAMINATION

21 By: Mr. Kegley

22 Q Did I understand you correctly Mr. Brown - I
23 think you stated that you got this deed from Mr. Gilmer about
24 1955 - this was the first tax suit.

25 A The first one I remember is when he sued me

1 and I won't go pay nobody for it if he hadn't sent me that
2 thing that you had to pay the thing off in so many hours or
3 something - I don't know what them big words mean.

4 Q Didn't I understand you to say though that
5 in 1955 or '56 - whichever year you said it was - that you
6 got this deed you cut the timber off of it?

7 A Yes sir.

8 Q You got your money back and you were going
9 to let it go up again for taxes?

10 A That's right.

11 Q In otherwords, you didn't even intend to
12 record that deed in 1955?

13 A At the time I wasn't, no - I am going to be
14 honest - I wasn't until I got this big letter that I had to
15 do something.

16 Q That's all.

17 THE COURT: Any other questions Mr. Pickford?

18
19 REDIRECT EXAMINATION

20 By: Mr. Pickford

21 Q When you got the letter that you had to do
22 something did you do something?

23 A Yes sir.

24 Q And that was to pay Mr. Gilmer?

25 A Yes sir, I paid Mr. Gilmer up in full.

1 Q That's the only note that you got...

2 A That's the only thing I knowed anything about.

3 THE COURT: When you recorded your deed in 1969
4 did you know anything about Mr. Forrer owning the property?

5 A Not to my knowing - no sir.

6 THE COURT: When did you first learn that he
7 owned it or he claimed it?

8 A Well, the first time I knowed he claimed it
9 Judge, the Honor, is when I went down and tried to pay down
10 here at the courthouse - when you pay your taxes each year.

11 THE COURT: That was after you recorded your
12 deed?

13 A Oh yes sir.

14 THE COURT: All right, any other questions?

15 Q No sir.

16 Witness stood aside.

17
18 MR. PICKFORD: That's all Your Honor.

19 THE COURT: Any other rebuttal?

20 MR. KEGLEY: No sir.

21 THE COURT: All right, Mr. Kegley you may open
22 and close.

23 MR. KEGLEY: Well, if Your Honor please, this
24 to me appears to be a pure question of law and I believe a
25 fairly obvious answer at that. According to the code section

1 58-1024, Section 2 in which it says - the necessary parties
2 are the parties of record and then it says that the land may
3 be sold under 1014 and 1020 which are the precise sections
4 that authorize suits in equity at a regular judicial sale.

5 THE COURT: It was repealed in 1973.

6 MR. KEGLEY: Yes but all of this you see took
7 place back in - his tax suit was in 1966.

8 THE COURT: All right, as I see this case Mr.
9 Brown got title under the first tax suit - no question about
10 that. He got a deed and it was delivered to him. He became
11 the lawful owner subject to be divested by someone else who
12 got to the clerk's office with a deed that was equally as good
13 or better than his that was recorded before his. Now, he had
14 no notice of Mr. Forrer's title and Mr. Forrer had no notice
15 of his. It seems to me this case has to be decided on priority
16 of title. The question is whether or not the second suit
17 divested Mr. Brown of the title that he previously had and
18 even further whether or not he by beating Mr. Forrer to the
19 clerk's office finally cut Mr. Forrer off again and that
20 raises the principle issue that it seems to me you have brought
21 in the case Mr. Kegley and that is the validity of this second
22 deed - the replacement deed from George Gilmer, Commissioner
23 and that raises some serious questions and my inclination is
24 to resolve it - resolve the case this way and this will be my
25 decision and that is, the second deed did not pass title to Mr.

1 Brown - he took title under the first one and the second deed
2 was the vehicle by which notice was put to record. A title
3 did not pass under this deed - this deed was delivered later.
4 The question then becomes one of whether or not this deed -
5 even though it didn't pass title - cut Mr. Forrer off at the
6 clerk's office because it got there ahead of his. I am not
7 prepared to say that Mr. Forrer did or did not cut Mr. Brown
8 off on that second judicial sale - tax sale - it is a judicial
9 sale for delinquent taxes and except for the knowledge that
10 Mr. Gilmer had as commissioner Mr. Forrer would have no duty
11 to inquire of Mr. Brown- he had no reason to know that Mr.
12 Brown owned the property but it seems to me that this case has
13 to stand or fall on the race to the clerk's office. Mr.
14 Forrer likewise failed to pursue his right in title by giving
15 notice to the rest of the world. My conclusion is that Mr.
16 Brown having acquired this property first by delivery of deed
17 and even though with a different deed it was of the same nature
18 and to the same title it was sufficient to give notice to the
19 second purchaser and he beat Mr. Forrer to the clerk's office
20 and that being the case my finding is the second deed - while
21 not being the one that passed title - was sufficient notice
22 because it came from the one who had previously had the
23 authority to pass title and it was sufficient to cut off the
24 deed that Mr. Forrer got from the same person by the way -
25 Mr. Gilmer as commissioner. That being the case the court

1 finds that if that is the issue the way the case is phrased-
2 I don't know that the pleadings address themselves to it but
3 the statutes certainly contemplate it and that is the court
4 would find as between the two Mr. Brown is the lawful owner
5 of the property based upon the decision I have reached with
6 regard to the deed. Frankly I am not sure about this business
7 of the second tax suit whether it was valid or not.

8 MR. KEGLEY: May I make one observation Your
9 Honor?

10 THE COURT: You can make any you want for the
11 record Mr. Kegley. You can make it for the record - note your
12 objections - let's have it that way so you can place your case
13 in the proper posture to preserve any exceptions.

14 MR. KEGLEY: One reason I would like to except
15 to the court's ruling is I think the court erred in overlooking
16 the fact that in the 1966 suit assuming that Mr. Brown's deed
17 to him was valid in 1955 that the lien for the delinquent taxes
18 under which Mr. Forrer bought it were for the years after Mr.
19 Brown had acquired what admittedly was a good title. In other-
20 words, the tax lien under which Mr. Forrer's title was derived
21 came after Mr. Brown had gotten a good title to the property
22 and not only did he lose it by not paying the taxes according
23 to his own testimony it was his intention that the property
24 would be resold for taxes. The rest is a matter of law - I
25 think under our recording statutes that anything that Mr. Forrer

1 finds that if that is the issue the way the case is phrased -
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3 the statutes certainly contemplate it and that is the court
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21 came after Mr. Brown had gotten a good title to the property
22 and not only did he lose it by not paying the taxes according
23 to his own testimony it was his intention that the property
24 would be resold for taxes. The rest is a matter of law - I
25 think under our recording statutes that anything that Mr. Forrer

1 paid up until the time that Mr. Brown had recorded a valid
2 deed entitled Mr. Forrer to the position of a bona fide pur-
3 chaser and particularly according to section 55-104 which
4 gives a purchaser a lien for anything that he may have paid
5 before a deed is recorded.

6 THE COURT: Is that a separate section of the
7 code now - you are talking about a different thing here -
8 this lien that he might have for what he has paid.

9 MR. KEGLEY: Yes sir. In other words...

10 MR. PICKFORD: Your Honor, I think that's a
11 matter of evidence Your Honor he could have put on in his
12 case.

13 THE COURT: That may be another point that you
14 can certainly reserve for later consideration but it's not
15 appropriate to this case this morning - it's a question of who
16 has title but you certainly may note that as part of your
17 objections to the courts findings, however, the decree is to
18 be drawn in this case and you certainly want to preserve your
19 objections as to the courts finding as to who owns the
20 property. Now, the question of what claims there might be
21 for other aspects of this case is not answered by the courts
22 ruling - I made no finding with regard to any liens for recovery
23 or anything else - what's been paid or what's been distributed -
24 that's not before the court and I certainly wouldn't want to
25 pre-judge that Mr. Kegley.

1 MR. KEGLEY: Yes sir.

2 THE COURT: All right, anything else? All-
3 right gentlemen, I believe that concludes it.

4
5 STATE OF VIRGINIA AT LARGE:

6 I, Jean D. Easton, Notary Public in and for the
7 State of Virginia at Large having been so duly commissioned
8 and qualified do certify that the foregoing hearing was duly
9 taken by me at the time and place specified in the caption
10 hereof, said witnesses having been first duly sworn.

11 I do further certify that said hearing was
12 correctly taken by me by mechanical methods and the same was
13 accurately written out in full and transcribed into the English
14 language and that said hearing is a true, accurate and correct
15 record of the testimony by said witnesses.

16 I further certify that I am neither attorney nor
17 counsel for or related to or employed by any of the parties to
18 the action in which this transcript was taken and further that
19 I am not a relative or employee of any attorney or counsel
20 employed by the parties hereto or financially interested in
21 this action.

22 My Commission expires

23 Given under my hand and seal this 6th day of
24 June, 1978.

25
Notary Public

copy of
file copy of
not copy of
Court Record

119/79

Que File 77-379 B
FORRER, THOMAS H.
RE: Title to 10 ACRES

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

Ned Brown, however, it was said that to give title to Thomas H.

THOMAS H. FORRER,

the said property by deed of George Gilmer, the Respondent herein.

Complainant,

Thomas H. Forrer, the Complainant herein, vs.

Ned Brown, the Respondent herein.

ORDER

NED BROWN,

Respondent,

the said property by deed of George Gilmer, the Respondent herein.

On this day came the parties hereto in person and by counsel,

to be heard upon Complainant's Bill of Complaint, Respondent's Answer

and Cross-Bill filed herein and was argued by counsel. Upon the evidence

presented, the Court finds that the real property which is the subject of

this cause was conveyed to Ned Brown, Respondent herein, by deed of

George Gilmer, Commissioner in the cause of Albemarle County v. George

W. Cary, et al, which sale was confirmed by order of this Court

July 16, 1954, C.O.B. 43, p. 441; that Ned Brown failed to record his deed

at the time and that thereafter, a second tax suit was instituted styled

County of Albemarle v. Effie White, et al, to which Ned Brown was not

made a party, and that as a result thereof said property was conveyed

to Thomas H. Forrer, Complainant herein, by deed of George Gilmer,

Commissioner, which sale was confirmed by order of this Court entered

March 9, 1966, of record in C.O.B. 49, p. 15; that Thomas H. Forrer

failed to record his deed, and that thereafter a third tax suit was

instituted in 1969 styled County of Albemarle v. Ned Brown, et al, and during the pendency of said suit Ned Brown obtained a replacement deed from George Gilmer, said deed being recorded July 7, 1969. Thereafter, Thomas H. Forrer recorded his deed on August 6, 1973. Upon the evidence presented and argument of counsel, the Court finds that the

second deed issued to Ned Brown in 1969 was not sufficient to pass title to Ned Brown, however, it was sufficient to give notice to Thomas H. Forrer of the claim of title to said property by Ned Brown, the Respondent herein. Therefore, the Court finds that the title to said real property is vested in Ned Brown, the Respondent herein.

THEREFORE, the Court doth ADJUDGE, ORDER and DECREE that title to the property which is the subject of this cause, being a parcel of land indicated as containing 10.73 acres on a plat of Huffman-Foster Associates, bearing date June, 1970, of record in the Clerk's Office of this Court in Deed Book 566, page 328, having been introduced as Defendant's Exhibit 1 in this cause, is hereby confirmed as being vested in the name of Ned Brown and that the Clerk of this Court is directed to spread a copy of this decree in the Current Deed Book indexed in the names of the parties.

It appearing proper, Thomas H. Forrer is granted a lien on the 10.73 acres involved in this cause for \$625.00 with interest at 8% per annum from date until paid, which said lien may be enforced as other liens on the land. This lien shall be indexed by the Clerk of this Court in the current index to deeds as a lien from Ned Brown in favor of Thomas H. Forrer, which indexing shall refer to this order.

W. H. Forrer vs. Ned Brown
The Complainant excepts and objects for the following reasons:

The Court erred in not ruling that as between Thomas H. Forrer and Ned Brown the alleged commissioner's deed from George Gilmer to Ned Brown dated July 7, 1969, was void and a cloud on the title of Thomas H. Forrer for the following reasons:

1. Whatever title Ned Brown acquired in 1954 in the cause of County of Albemarle v. George W. Cary, which suit was ended by order entered January 25, 1955, was eliminated by the 1966 purchase of the judicial sale by Thomas H. Forrer in the cause of County of Albemarle v.

County of Albemarle v. George W. Cary, which suit was ended by order entered January 25, 1955, was eliminated by the 1966 purchase of the judicial sale by Thomas H. Forrer in the cause of County of Albemarle v. Effie White, et al, which was instituted April 29, 1958, for delinquent taxes unpaid by Ned Brown for the years 1955, 1956 and 1957. This is more particularly so, as it was Ned Brown's testimony that he had intended not to record his deed or pay the taxes, as he had decided to let it be resold for taxes.

2. Ned Brown was not a necessary party to the cause of County of Albemarle v. Effie White, et al, as he was not the owner of record.

3. That Ned Brown was in fact a party to the said cause of County of Albemarle v. Effie White, et al, under two orders of publication entered in said suit, one on June 17, 1958, and one on February 9, 1960, both of which orders were against George W. Cary and his heirs and all persons interest in his estate as parties unknown.

4. That George Gilmer, as special commissioner in the cause of County of Albemarle v. George W. Cary, had no authority to execute a special commissioner's deed to Ned Brown in 1969, 15 years after the cause had ended, and after he had as special commissioner conveyed the same property to Thomas H. Forrer, and particularly without having the cause reinstated pursuant to Virginia Code §8-672 then in effect.

5. The Complainant further excepts and objects for the Court not

allowing interest on the \$625.00 from February 15, 1966, rather than from the entry of this order.

The Respondent excepts and assigns as error the action of the Court allowing the Complainant a lien on the land for said \$625.00, ~~on the~~ ground that Virginia Code §55-104 does not apply in this situation.

Upon Motion of Thomas H. Forrer indicating his intention to appeal to the Supreme Court, it is ORDERED that Thomas H. Forrer or some one for him, shall file an appeal bond in the Clerk's Office of this Court within 30 days of this date, with surety to be approved by the Clerk of this Court, in the penalty of One Thousand Dollars (\$1,000.00), conditioned as provided by law.

It is ORDERED that the transcript shall become a part of the record. As the exhibits in this cause all consisted of court records, which were stipulated by counsel, and of which the Court took judicial notice, it is ORDERED that the originals be returned to the Clerk of this Court and that the parties make copies of said records which are pertinent to this land and file the same with the papers in this cause, said court papers being the papers in the causes of County of Albemarle v. George W. Cary, County of Albemarle v. Effie White, County of Albemarle v. Joseph Christopher Cary and the above said deeds to Ned Brown and Thomas H.

exs't ordered
of record
records

Forrer.

ENTER: 94R-7 Jan, 1979
DATE: 8

I ask for this:

Diff. -
Counsel for Respondent

Seen: Requested
1/11
Counsel for Complainant

ASSIGNMENTS OF ERROR

Error is hereby assigned to the action of the Circuit Court of Albemarle County in the above-captioned cause in the following respects:

1. The Circuit Court erred in its decision that title to the subject property was vested in Brown.

2. The Circuit Court erred in its determination that Brown's claim did not constitute a cloud on Forrer's title.

3. The Circuit Court erred in refusing to award interest on Forrer's lien from the date of his purchase.

STATEMENT OF THE CASE AND PROCEEDINGS BELOW

This cause originated as a suit in chancery to remove a cloud on the title of the complainant (Thomas H. Forrer, hereinafter referred to as "Forrer"). An answer and cross-bill were filed by the respondent, Ned Brown (hereinafter known as "Brown"). Certain other pleadings were filed and proceedings had, but none are material to the assignments of error. Trial was had upon the matters raised by the bill, the cross-bill and the parties' answers thereto. Evidence was presented in the form of stipulation with additional evidence heard ore tenus. The Court thereupon proceeded to judgment.

ASSIGNMENTS OF ERROR

Error is hereby assigned to the action of the Circuit Court of Albemarle County in the above captioned case in the following respect:

1. The Circuit Court erred in its decision that title to the subject property should be encumbered by a lien in favor of the Appellant, Thomas H. Forrer pursuant to Virginia Code Section 55-104.

STATEMENT OF THE CASE AND PROCEEDINGS BELOW

Appellant's Statement of the case and Proceedings set forth in his Petition for Appeal are accurate to the extent stated. As will be seen from the Order entered in this cause, trial was had April 28, 1978, at which time the Court pronounced its ruling. Thereafter, former Counsel for Appellant revised the proposed Order by injecting numerous exceptions and objections, most of which were not raised before the Trial Court at the time of its ruling. Upon objection by Counsel for Appellee to the inclusion of these items in the final Order the Court agreed to indicate therein by hand written entry that the trial and result thereof was had April 28, 1978, with the Order finally being entered January 9, 1979 at which time Counsel for Appellant raised the exceptions and objections contained therein. By reference to the transcript of this proceeding it will be noted that only two objections were raised at the time

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

v.

B I L L

GEORGE W. CARY
c/o Chanle Jones
219 - 4th Street, Apartment 14
Passaic, N. J.

County of Albemarle
by [illegible]

TO THE HONORABLE CIRCUIT COURT OF ALBEMARLE COUNTY:

Your undersigned Commissioner respectfully represents:

1. That by a deed dated March 29, 1889, and recorded November 24, 1913, D. B. 156, p. 180, plat 181, Andrew J. Dawson and wife conveyed to George W. Cary 13-3/4 acres in Albemarle County, Virginia, on Yates Creek in Scottsville District.

2. That by a deed dated April 7, 1920, and recorded May 7, 1924, D. B. 186, p. 489, George W. Cary and wife conveyed 2.85 acres off the above described land (13-3/4 acres) to Frederick Thomas.

3. That by a deed dated February 26, 1913, and recorded November 15, 1915, D. B. 161, p. 116, Sydney Barnett, Admr. of H. H. Harris, conveyed to George W. Cary 2 acres in Albemarle County, Virginia, on Ballengers Creek, adjoining David Cary and Jack Cobs.

4. That by a deed dated June 23, 1927, and recorded September 17, 1928, D. B. 202, p. 236, Sidney Barnett and wife, Kate M. Barnett, conveyed to George W. Cary 3-1/4 acres in Albemarle County, Virginia, near Porter Precinct.

5. That the taxes on this land for 1948, 1949, 1950, 1951 and 1952 remain unpaid, amounting to \$38.42, to which interest and penalty are to be added.

6. The County of Albemarle is filing this proceeding to enforce the lien which it has upon the land for taxes under sections 58-1101 to 58-1109, suit by direction of Board of Supervisors.

7. The County of Albemarle prays that this land may be sold for its tax lien.

County of Albemarle
By Counsel

George Gilmer
George Gilmer
Attorney for Plaintiff
Court Square Building
Charlottesville, Virginia

TOTAL

Clerk's Fee

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

v.

ORDER

GEORGE W. CARY
c/o Chanie Jones
219 Fourth Street, Apartment 14
Passaic, N. J.
and all persons interested in his estate as parties unknown

This cause coming on this day to be heard on the plaintiff's bill and upon the motion of the plaintiff for leave to amend this bill by adding in the caption, "and all persons interested in his estate as parties unknown", and was argued by counsel.

On consideration whereof the court grants the plaintiff leave to amend his bill by adding in the caption, "and all persons interested in his estate" as parties unknown".

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

v.

ORDER OF PUBLICATION

GEORGE W. CARY
c/o Chanie Jones
219 Fourth Street, Apartment 14
Passaic, N. J.
and all persons interested in his
estate as parties unknown

The object of this suit is to sell for delinquent taxes 10.9 acres, on Yates Creek in Scottsville District; 2 acres on Ballengers Creek, adjoining David Cary and Jack Cobs; and 3-1/4 acres in Scottsville District of Albemarle County, near Porter Precinct, assessed to George W. Cary. It is ordered that all persons having any interest in this land do appear within 10 days after due publication and do what may be necessary to protect their interest.

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

v.

DECREE

GEORGE W. CAREY

This cause coming on this day to be heard on the papers formerly read and the report of George Gilmer, Commissioner, showing that after executing the bond required and advertising the property as directed, he sold the land July 12, 1954, in front of the Courthouse at public auction; the 10.9 acres being sold to Ned Brown for \$110.00 of which \$5.00 has been paid, and the 5 $\frac{1}{2}$ acres being sold to Townsend Carey for \$125.00 of which \$50.00 has been paid, to which report there were no exceptions, and was argued by counsel.

On consideration whereof the Court confirms the sale and appoints George Gilmer Commissioner to convey the land as soon as they have finished paying for it, by a deed with special warranty, to Ned Brown and Townsend Carey.

COUNTY OF ALBEMARLE

DECREE

GEORGE W. CAREY, and all persons
interested in his estate

This cause coming on this day to be heard on the report of George Gilmer, Commissioner, showing that he has collected from Ned Brown \$110.00 and from Townsend Carey \$125.00, that he has disbursed them as follows: Sheriff's fee, \$.75, Clerk's costs, \$13.50, taxed attorney's fee, George Gilmer, \$15.00, fee writing deeds @ \$15.00, George Gilmer, \$30.00, stamps and acknowledgment, \$2.10, 5% commission to George Gilmer, \$11.75, P. M. Elliott, Auctioneer, \$10.00, R. L. Cason, handbills, \$10.00, Daily Progress, order of publication, \$11.84, Bruce D. Reynolds, Jr., Commissioner, \$50.00, Eva W. Maupin for taxes, \$32.42, M. M. Pence, 1954 taxes, \$5.60, Joseph Christopher Carey, \$14.01, Gertrude Henderson, \$14.01, Louise Price, \$14.02, to which report there were no exceptions, and was argued by counsel.

On consideration whereof, the Court ratifies and approves the report and relieves George Gilmer and his surety of all liability, and it being suggested to the Court from the report that Ned Brown has not yet recorded his deed, it is ordered that George Gilmer, Commissioner, on request, make a new deed to Ned Brown or whoever may be entitled to the property, and the object of this suit having been accomplished, it is ordered that the cause be struck from the docket and the papers filed among the ended causes.

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

v.

BILL

EFFIE WHITE

c/o Alice Powell

Schuyler, Virginia

BOARD OF PUBLIC WELFARE

of the County of Nelson

Lovingsston, Virginia

THOMAS E. SELLERS, deceased

SALLIE T. SELLERS, widow

Keene, Virginia

MARGARET T. SELLERS, daughter

Keene, Virginia

WILLIAM T. SELLERS, son

Keene, Virginia

GEORGE W. CARY

Scottsville District

Albemarle County, Virginia

NANNIE WOODY

Stony Point, Virginia

and their heirs and all other

persons interested in their estates

as parties unknown.

TO THE HONORABLE CIRCUIT COURT OF ALBEMARLE COUNTY:

Your undersigned complainant respectfully represents:

1. That by a deed dated July 29, 1910 and recorded August 28, 1913 in D. B. 53, p. 302, J. M. Ramsey and Rebecca J. Ramsey, his wife, conveyed to Effie White 2 acres in Albemarle County, Virginia, in Scottsville District beginning at corner to Jim Martin thence 70 yards east, thence 140 yards south to pine thence west 70 yards to G. W. Gilmer thence 140 yards with her to beginning. Shown on Tax Map Sheet 133, p. 60.
2. That a lien was entered, dated September 1, 1954 and recorded September 25, 1954, in D. B. 312, p. 423 for old age assistance at \$13.00 a month by the Board of Public Welfare of the County of Nelson.

3. That the taxes on this land are past due for the year, 1955 in the amount of \$1.68 with penalty and interest, for 1956 in the amount of \$.40 with penalty and interest and for 1957 in the amount of \$.40 with penalty and interest.

B 188-26 4. That by a deed dated November 18, 1926, recorded November 20, 1924 Mary Elizabeth Thomas conveyed to Thomas E. Sellers and Sallie Sellers, his wife, 10 acres in Albemarle County, Virginia, in Scottsville District at Keene and composed of two pieces. Shown on Tax Map Sheet 122 p. 24.

5. That Thomas E. Sellers is deceased and his heirs are listed in W. B. 36, p. 120 on January 15, 1938 as follows: Sallie T. Sellers, widow, age 53, Margatet T. Sellers, age 18, daughter, William T. Sellers age 16, son.

6. That the taxes on this land are past due for the year, 1955 in the amount of \$6.06 with penalty and interest, for 1956 in the amount of \$3.95 with penalty and interest, for 1957 in the amount of \$3.95 with penalty and interest.

7. That by a deed dated March 29, 1889 and recorded November 24, 1913 in D. B. 154, p. 180, plat on p. 181, Andrew I. Dawson and M. B. Dawson, his wife, conveyed to George W. Cary 1 3/4 acres in Albemarle County, Virginia in Scottsville District on Yates Creek. Shown on Tax Map Sheet 128 parcel 72.

8. That by a deed dated April 7, 1920 and recorded May 7, 1924 in D. B. 186, p. 489 George W. Cary and Josephine Cary, his wife, conveyed to Frederick Thomas 2.85 acres beginning at stone corner George W. Cary and Frederick Thomas S 42° 15' W 126 poles to stone in field, thence N 49 W 34.6 poles

to stone on east margin, reserved outlet leading from W. A. Dawson's residence, thence along east margin outlet N 55° 45' E 1 mile to corner to Frederick Thomas, thence with him S 47° E 35.6 poles to beginning.

10.9 acres
9. That the taxes on this land/are past due for the year, 1955 in the amount of \$4.93 with penalty and interest, for 1956 in the amount of \$3.16 with penalty and interest, for 1957 in the amount of \$3.16 with penalty and interest.

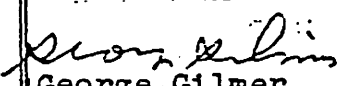
10. That by a deed dated September 1, 1898 and recorded December 6, 1900 in D. B. 119, p. 76, plat on p. 77 J. L. Moon and others conveyed to Nannie Woody 1 acre and 1/2 poles in Albemarle County, Virginia, in the Scottsville District part of Stony Point. Assessed as 1 acre to 1930 and then increased to 2 acres without notation. Tax Map Sheet 131, parcel 62.

11. That the taxes on this land are past due for the year, 1955 in the amount of \$2.14, for the year 1956, in the amount of \$0.79 with penalty and interest, for the year, 1957 in the amount of \$0.79 with penalty and interest.

12. The County of Albemarle has directed that this suit be brought to sell this land for its delinquent taxes under Sections 58-1014 as amended in 1954, 58-1024, 58-1108, 58-762, and 58-1101 of the 1950 Code of Virginia.

13. It is asked that this land be sold to pay the taxes now due upon it and also the 1958 taxes.

COUNTY OF ALBEMARLE
By Counsel


George Gilmer
Court Square Building
Charlottesville, Virginia

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY
COUNTY OF ALBEMARLE

v.

AMENDED BILL

EFFIE WHITE
c/o Alice Powell
Schuyler, Virginia
BOARD OF PUBLIC WELFARE
of the County of Nelson
Lovingson, Virginia
THOMAS SELLERS
Scottsville, Virginia
GEORGE W. CARY
Scottsville District
Albemarle County, Virginia
NANNIE WOODY
Stony Point, Virginia
and their heirs and all other
persons interested in their estates
as parties unknown.

TO THE HONORABLE CIRCUIT COURT OF ALBEMARLE COUNTY:

Your undersigned complainant respectfully represents:

1. That by a deed dated July 29, 1910 and recorded August 28, 1913 in D. B. 53, p. 302, J. M. Ramsey and Rebecca J. Ramsey, his wife, conveyed to Effie White 2 acres in Albemarle County, Virginia, in the Scottsville District beginning at corner to Jim Martin thence 70 yards east, thence 140 yards south to pine thence west 70 yards to G. W. Gilmer thence 140 yards with her to beginning. Shown on Tax Map Sheet 133, p. 60.

2. That a lien was entered, dated September 1, 1954 and recorded September 25, 1954, in D. B. 312, p. 423 for old age assistance at \$13.00 a month by the Board of Public Welfare for the County of Nelson.

3. That the taxes on this land are past due for the year 1955 in the amount of \$1.68 with penalty and interest, for 1956 in the amount of \$.40 with penalty and interest and for 1957 in the amount of \$.40 with penalty and interest.

4. That by a deed dated July 2, 1885 and recorded September 7, 1885 Lucy R. Moon conveyed to Thomas Sellers 10 acres in Albemarle County, Virginia about 5 miles north of Scottsville, beginning at northwest corner Lindsay Scott, north 43°, east 24 poles, south 40°, east 68 3/4 poles, south 40°, west 24 poles, north 40°, west 68 1/2 poles to beginning as shown on tax map sheet 122, as parcel 24.

5. Thomas E. Sellers was old enough in 1885 to be buying land. He is therefore probably dead long ago. He left no will and no list of heirs. The Thomas E. Sellers referred to in the original bill is a different man.

6. That the taxes on this land are past due for the year 1955 in the amount of \$6.06 with penalty and interest, for 1956 in the amount of \$3.95 with penalty and interest, for 1957 in the amount of \$3.95 with penalty and interest.

7. That by a deed dated March 29, 1889 and recorded November 24, 1913 in D. B. 154, p. 180, plat on p. 181, Andrew I. Dawson and M. B. Dawson, his wife, conveyed to George W. Cary 13 3/4 acres in Albemarle County, Virginia in the Scottsville District on Yates Creek. Shown on Tax Map Sheet 128, parcel 72.

8. That by a deed dated April 7, 1920 and recorded May 7, 1924 in D. B. 186 p. 489, George W. Cary and Josephine Cary, his wife, conveyed to Frederick Thomas 2.85 acres beginning at stone corner George W. Cary and Frederick Thomas south 42° 15', west 126 poles to stone in field, thence north 49° west 34.6 poles to stone on east margin reserved outlet leading from W. A. Dawson's residence, thence along east margin outlet north 35° 45', east 13.5 poles to beginning. Leaving 10.9 acres.

9. That the taxes on this 10.9 acres are past due for the year, 1955 in the amount of \$4.93 with penalty and interest, for 1956 in the amount of \$3.16 with penalty and interest, for 1957 in the amount of \$3.16 with penalty and interest.

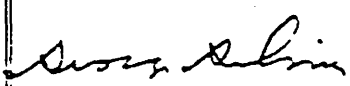
10. That by a deed dated September 1, 1898 and recorded December 6, 1900 in D. B. 119, p. 76, plat on p. 77 J. L. Moon and others conveyed to Nannie Woody 1 acre and 1/2 poles in Albemarle County, Virginia, in the Scottsville District part of Stony Point. Assessed as 1 acre to 1930 and then increased to 2 acres without notation. Tax map sheet 131, parcel 62.

11. That the taxes on this land are past due for the year 1955 in the amount of \$2.14, for the year 1956 in the amount of \$.79 with penalty and interest, for the year 1957 in the amount of \$.79 with penalty and interest.

12. The County of Albemarle has directed that this suit be brought to sell this land for its delinquent taxes under Sections 58-1014 as amended in 1954, 58-1024, 58-1108, 58-762, and 58-1101 of the 1950 Code of Virginia.

13. It is asked that this land be sold to pay the taxes now due upon it and also the 1958 taxes.

COUNTY OF ALBEMARLE
By Counsel


George Gilmer
Court Square Building
Charlottesville, Virginia

VIRGINIA:
IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

v.

SECOND AMENDED BILL

EFFIE WHITE
c/o Alice Powell
Schuyler, Virginia

BOARD OF PUBLIC WELFARE OF THE
COUNTY OF NELSON
Lovingston, Virginia

THOMAS SELLERS
Scottsville, Virginia

GEORGE W. CARY
Scottsville District,
Albemarle County, Virginia

NANNIE WOODY
Stony Point, Virginia
And their heirs and all other persons interested
in their estates, as parties unknown

J. B. RAMSEY
Howardsville, Virginia

To the Honorable Circuit Court of Albemarle County:

Your undersigned complainant respectfully represents:

1. That by a deed dated July 29th, 1910 and recorded August 28th, 1913 in D. B. 53, p. 302, J. M. Ramsey and Rebecca J. Ramsey, his wife, conveyed to Effie White 2 acres in Albemarle County, Virginia, in the Scottsville District beginning at corner to Jim Martin, thence 70 yards east, thence 140 yards south to pine, thence west 70 yards to G. W. Gilmer, thence 140 yards with her to BEGINNING. Shown on Tax Map Sheet 133, p. 60.

2. That a lien was entered dated September 1st, 1954 and recorded September 25th, 1954, in D. B. 312, p. 423, for old age assistance at \$13.00 a month by the Board of Public Welfare for the County of Nelson.

3. That the taxes on this land are past due for the year 1955 in the amount of \$1.68 with penalty and interest; for 1956 in the amount of \$.40 with penalty and interest and for 1957 in the amount of \$.40 with penalty and interest.

4. That by a deed dated August 26th, 1959 and recorded December 31st, 1959, D. B. 355, p. 188, Clarissa Johnson Tyree, a widow, and Annie Mayo, a widow, conveyed to J. B. Ramsey, interest of Clarissa Johnson Tyree in "The parcel immediately south of last mentioned parcel appearing on said County tax records in name of Effie White (sometimes known as Effiah White.)" The last mentioned parcel was name of Sarah Martin.

NOTE: No reference to source of title, or how Clarissa Johnson Tyree had any claim to Effie White land, no acreage, tax map number or other description of location. Not even stated to be in Albemarle County, but transferred on 1960 land books from Effie White, colored, to J. B. Ramsey, white.

385370
5. That by a deed dated July 2nd, 1885, and recorded September 7th, 1885, Lucy R. Moon conveyed to Thomas Sellers 10 acres in Albemarle County, Virginia, about 5 miles north of Scottsville, beginning at northwest corner Lindsay Scott, north 43 degrees, west 24 poles, north 40 degrees west 68 1/2 poles to beginning, as shown on tax map sheet 22, of page 24.

6. Thomas E. Sellers was old enough in 1885 to be buying land. He is therefore probably dead long ago. He left no will and no list of heirs. The Thomas E. Sellers referred to in the original bill is a different man.

7. That the taxes on this land are past due for the year 1955 in the amount of \$6.06 with penalty and interest, for 1956 in the amount of \$3.9 with penalty and interest, for 1957 in the amount of \$3.95 with penalty and

8. That by a deed dated March 29th, 1889 and recorded November 24th, 1913 in D. B. 154, p. 180, plat on p. 181, Andrew I. Dawson and M. B. Dawson, his wife, conveyed to George W. Cary 13 3/4 acres in Albemarle County, Virginia, in the Scottsville District on Yates Creek. Shown on Tax Map Sheet 128, parcel 72.

9. That by a deed dated April 7th, 1920 and recorded May 7th, 1924 in D. B. 186, p. 489, George W. Cary and Josephine Cary, his wife, conveyed to Frederick Thomas 2.85 acres beginning at stone corner George W. Cary and Frederick Thomas, south 42 degrees 15', west 126 poles to stone in field, thence north 49 degrees west 34.6 poles to stone in east margin reserved outlet leading from W. A. Dawson's residence, thence along east margin outlet north 35 degrees 45' east 13.5 poles to beginning. Leaving 10.9 acres.

10. That the taxes on this 10.9 acres are past due for the year 1955 in the amount of \$4.93 with penalty and interest, for 1956 in the amount of \$3.16 with penalty and interest, for 1957 in the amount of \$3.16 with penalty and interest.

11. That by a deed dated September 1st, 1898 and recorded December 6th, 1900 in D. B. 119, p. 76, plat on p. 77, J. L. Moon and others conveyed to Nannie Woody 1 acre and 1/2 poles in Albemarle County, Virginia, in the Scottsville District, part of Stony Point. Assessed as 1 acre to 1930 and then increased to 2 acres without notation. Tax Map Sheet 131, parcel 62.

12. That the taxes on this land are past due for the year 1955 in the amount of \$2.14, for the year 1956 in the amount of \$.79 with penalty and interest, for the year 1957 in the amount of \$.79 with penalty and interest.

13. The County of Albemarle has directed that this suit be brought to sell this land for its delinquent taxes under Sections 58-1014 as amended in 1954, 58-1024, 58-762 and 58-1101 of the 1950 Code of Virginia

14. It is asked that this land be sold to pay the taxes now due upon
it and also the 1961 taxes.

COUNTY OF ALBEMARLE
By Counsel



George Gilmer
Court Square Building
Charlottesville, Va.

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY
COUNTY OF ALBEMARLE

v.

AFFIDAVIT AND APPLICATION FOR
ORDER OF PUBLICATION

EFFIE WHITE, and others

I, George Gilmer, am attorney and agent for the County of Albemarle and as such am authorized to make this affidavit. I have had process issued for Effie White, Thomas E. Sellers, Sallie T. Sellers, Margaret T. Sellers, William T. Sellers, George W. Cary and Nannie Woody. All have been returned not found. I have checked for their wills or list of heirs. I have used due diligence to ascertain whether they are living or dead, and if living, their present addresses and dead, the names and addresses of their heirs but without success stated above. I ask that an order of publication be entered against Effie White, Thomas E. Sellers, Margaret T. Sellers, William T. Sellers, George W. Cary and Nannie Woody and their heirs and all other persons interested in the estate as parties unknown.

The object of this suit is to sell for delinquent taxes land in the Scottsville District of Albemarle County as follows:

- 2 acres assessed to Effie White
- 10 acres assessed to Thomas E. Sellers
- 10.9 acres assessed to George W. Cary
- 2 acres assessed to Nannie Woody.

Given under my hand this 12 day of June, 1958.


George Gilmer

STATE OF VIRGINIA
County of Albemarle, to-wit:

I, Eleanor A. Burch, a notary public in and for the County aforesaid, in the State of Virginia, do hereby certify that George Gilmer whose name is signed to the foregoing writing, personally appeared before me in my County and State aforesaid and made oath that the statements contained therein are true.

Given under my hand this 12th day of June, 1958.

My Commission expires: October 18, 1961.

Eleanor A. Burch N.

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

v.

ORDER OF PUBLICATION

EFFIE WHITE ✓✓

c/o Alice Powell
Schuyler, Virginia

BOARD OF PUBLIC WELFARE

County of Albemarle

THOMAS E. SELLERS, deceased

SALLIE T. SELLERS, widow

Keene, Virginia

MARGARET T. SELLERS

Keene, Virginia

WILLIAM T. SELLERS

Keene, Virginia

GEORGE W. CARY

Scottsville District

Albemarle County, Virginia

NANNIE WOODY

Scottsville, Virginia

and their heirs and all other

persons interested in their

estates as parties unknown.

The object of this suit is to sell for delinquent
taxes land in the Scottsville District of the County of
Albemarle, Virginia, as follows:

2 acres assessed to Effie White
10 acres assessed to Thomas E. Sellers
10.9 acres assessed to George W. Cary
2 acres assessed to Nannie Woody

It is ordered that the above named parties appear within
ten days and do what may be necessary to protect their interest.

Virginia:-

In the Clerk's Office of the Circuit Court of the County of Albemarle on the 13 day of June, 19 58.

I, EVA W. MAUPIN, Clerk of the Circuit Court of the County of Albemarle, Virginia, hereby certify that, on the 13 day of June, 19 58 that being a day before the next succeeding rule day after the entry thereof, I posted a true copy of the within order of publication at the front door of the courthouse of said county of Albemarle; that, likewise on the same date, I mailed a true copy of said order to each of the non-resident defendants at their last known postoffice addresses as given in the affidavit filed in this cause; and that likewise on the same date, I handed a true copy of said order to the Editor of Daily Progress, a newspaper published within said county of Albemarle for publication therein as required by law.

Teste:-

EVA W. MAUPIN, Clerk,

By Eva W. Maupin

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

V.

EFFIE WHITE, and others

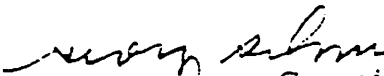
COMMISSIONER'S REPORT
CARY TRACT

To the Honorable Circuit Court for the County of Albemarle:

Your undersigned commissioner respectfully represents that in pursuance of a decree entered in this cause, September 27, 1965, C.O.B. 49, p. 268, in the County of Albemarle v. Effie White, and others, after giving required bond and after advertising the property as directed, sold 10.9 acres in the Scottsville District, Albemarle County, Tax Map 128, p. 72, to Thomas H. Forrer for \$625.00.

This property was sold along with fifteen other pieces with a crowd of about fifty, some thirty of whom bid on different pieces of property. Your commissioner recommends that your sale be confirmed. A handbill with auctioneer's memorandum of sale is attached.

Respectfully submitted,


George Gilmer, Commissioner

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

COUNTY OF ALBEMARLE

v.

EFFIE WHITE and others

DECREE CONFIRMING COMMISSIONER'S
REPORT AND APPOINTING GEORGE GILMER
COMMISSIONER TO SELL

This cause came on this day to be heard on the papers formerly read, upon the orders and decrees entered, upon the report filed July 31, 1964 of the Special Commissioner, Robert P. Borsody, to whom this cause was referred to take accounts as directed by decree entered July 30, 1964, in C.O.B. 48, p. 392.

There being no exception to said report, and the Court perceiving no just ground of exception thereto, the same is hereby ratified and confirmed.

On consideration whereof, it appearing proper to the Court that the land should be sold for delinquent taxes, George Gilmer is appointed Commissioner to sell; 1) 10 acres in the Scottsville District, assessed to Thomas Sellers, and shown on Tax Map 122 as parcel 24; 2) 10.9 acres in the Scottsville District, assessed to George W. Cary, and shown on Tax Map 128 as Parcel 72; 3) 2 acres in the Scottsville District assessed to Nannie Woody and shown on Tax Map 131 as parcel 62; 4) 2 acres in the Scottsville District and shown on Tax Map 133 as parcel 60, at public auction in front of the Circuit Courthouse, in the City of Charlottesville, after first advertising the property, time, place, and terms of sale by handbills posted at five or more places in the City of Charlottesville and by such additional advertisement as

the Commissioner thinks best; but before acting under the decree George Gilmer shall execute a bond in the penalty of \$1000 conditioned according to law and with surety approved by the Clerk of the Court.

- Please Enter

George Gilmer
George Gilmer, Attorney for Plaintiff

VIRGINIA: IN THE CIRCUIT COURT OF ALBEMARLE COUNTY

COUNTY OF ALBEMARLE

V.

DECREE

EFFIE WHITE, and others

This cause ^{came} coming on this day to be heard on the papers formerly read and upon the report, George Gilmer, Commissioner, dated February 14, 1966, and filed in this cause stating that after executing the bond required, and advertising the property terms in place of sale as required by decree, C.C.B. 49, p. 268, ^{he} Sold 10.9 acres in the Scottsville District, Albemarle County, Tax Map 128, p. 72, at public auction in front of the Court House, February 14, 1966, to Thomas H. Forrer, for \$625.00, to which report there were no exceptions ^{and will} argued by counsel.

On consideration thereof, the court confirms the report and sale and appoints George Gilmer, Commissioner to convey the land to Thomas H. Forrer by deed with special warrants of title or to whomever he may direct by uniting in the deed.

PLEASE ENTER

George Gilmer
George Gilmer
Attorney for Plaintiff

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

COUNTY OF ALBEMARLE

31/5

V.

DECREE CARY PARCEL

EFFIE WHITE and Others

This cause came on this day to be heard on the report of George Gilmer, Commissioner, filed in this cause October 15, 1966 showing that he disbursed the \$625.00 collected for the George W. Cary property as follows:

By purchase price of property		\$625.00
✓ To ck 16157 R. P. Borsody, commissioner's report	50.00	
✓ To ck 16156 W. S. Cook, sheriff	3.75	
✓ To ck 16155 Eva W. Maupin for clerk's fee and taxes	46.00	
✓ To ck 16105 Reynolds Co. handbills	5.44	
✓ To ck 16153, Daily Progress	11.59	
✓ To ck 16143 R. C. Pace, suctioneer	25.00	
✓ To ck 16142, Director of Finance Revenue Stamps	5.38	
	1.10	
To George Gilmer, Attorney's fee	25.00	
To George Gilmer, commissioner's fee	31.25	
To George Gilmer, Deed	25.00	
✓ To ck 16657, Mrs. Gertrude Cary Henderson as sole surviving heir	395.49	
	<hr/>	
	\$625.00	\$625.00

This cause was argued by counsel, and there were no exceptions to this report.

On consideration whereof, the court approves the report and finds that George Gilmer has collected the \$625.00 and has properly disbursed

the same. It is ordered, therefore, that George Gilmer and his surety be relieved of all liability on his bond in this cause, and the court directs that the cause be struck from the docket and that the papers be filed among the ended causes.

Lightfoot
12/15/66

PLEASE ENTER:

George Gilmer
George Gilmer, Attorney for Plaintiff

COB 50 P 160

FILED THIS 15 DAY OF DEC 1966
CLERK

COUNTY OF ALBEMARLE

V.

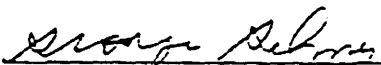
COMMISSIONER'S REPORT ON
CARY PROPERTY

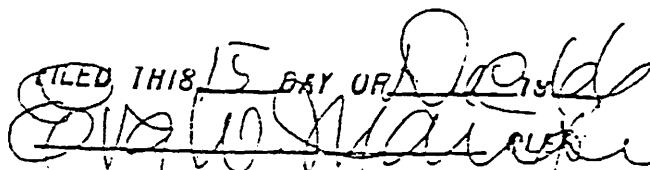
EFFIE WHITE and Others

Your undersigned Commissioner respectfully reports
that he has collected \$625.00 from Thomas H. Farrar for the sale of the
George W. Cary property and that he has disbursed the same as follows:

By purchase price of property		\$625.00
To ck 16157 R. P. Borsody, commissioner's report	50.00	
To ck 16156 W. S. Cook, sheriff	3.75	
To ck 16155 Eva W. Maupin for clerk's costs and taxes	46.00	
To ck 16105 Reynolds Co. handbills	5.44	
To ck 16153 Daily Progress	11.59	
To ck 16143 R. C. Pace, auctioneer	25.00	
To ck 16142 Director of Finance	5.38	
Revenue stamps	1.10	
To George Gilmer, Attorney's fee	25.00	
To George Gilmer, commissioner's fee	31.25	
To George Gilmer, Deed	25.00	
To ck 16657, Mrs. Gertrude Cary Henderson as sole surviving heir	395.49	
	<hr/> \$625.00	<hr/> \$625.00

Respectfully submitted:


George Gilmer, Commissioner

FILED THIS 15 DAY OF JULY 1915


VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

Filed in the Circuit Court Clerk's Office
the 26 day of June, 1969

COUNTY OF ALBEMARLE

Writ Tax \$

Fee

BILL

Total Paid \$

Tax

Shelly J. Marshall Clerk

v.

JOSEPH CHRISTOPHER CARY
Box 54
Esmont, Va.

And if he be dead, his heirs and all persons interested in his estate as parties unknown.

GERTRUDE HENDERSON
416 Canal Street
Easton, Pa.

And if she be dead, her heirs and all persons interested in her estate as parties unknown.

LOUISE PRICE
416 Canal Street
Easton, Pa.

And if she be dead, her heirs and all persons interested in her estate as parties unknown.

And all other heirs and persons interested in the estate of George W. Cary as parties unknown.

NED BROWN
Route 1 Box 199
Esmont, Va.

And if he be dead, his heirs and all persons interested in his estate as parties unknown.

COUNTY OF ALBEMARLE
Department of Public Welfare
Charlottesville, Va.

GEORGE GILMER
Court Square Building
Charlottesville, Va.

TO THE HONORABLE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

Your undersigned petitioner respectfully represents:

1. That by deed dated March 29, 1889, D. B. 156, p. 180, plat 181, Andrew J. Dawson and wife conveyed to George W. Cary 13 3/4 acres in the Scottsville District of Albemarle County, Virginia, on Yates Creek.

2. That by deed dated April 7, 1920, D. B. 186, p. 489, George W. Cary and wife conveyed 2.85 acres off the above 13 3/4 acres to Frederick Thomas.

3. That title to 0.44 acre of the remainder was conveyed to the Commonwealth of Virginia for improvement of State Route 627, D. B. 395, p. 122.

4. That the remaining 10.46 acres are shown on Tax Map Sheet 128 as parcel 72.

5. That the above land was conveyed to Ned Brown by George Gilmer, Commissioner, in the tax suit styled County of Albemarle v. George W. Cary and others prior to January 25, 1955, but that the deed to Ned Brown has not been recorded.

6. That in the aforesaid suit Joseph Christopher Cary, Gertrude Henderson and Louise Price were found to be the sole heirs of George W. Cary, deceased, who had died in 1942.

7. That there are no wills or heirs of heirs.

8. That the County of Albemarle Department of Public Welfare docketed a judgment against Joseph C. Cary on July 1, 1954, in the amount of \$24.50 per month, J. D. 11, p. 107.

9. That George Gilmer docketed a judgment against Ned Brown on January 10, 1955, in the amount of \$95.00 plus 15% attorney's fees and 6% interest, J. D. 11, p. 120.

10. That the taxes on the 10.46 acres are delinquent for 1966 in the amount of \$2.94; 1967, \$2.70; and 1968, \$3.12 with interest, penalties and costs to be added.

This suit is brought by direction of the Board of Supervisors of the County of Albemarle, Virginia, to enforce its tax lien against the property. The County of Albemarle asks that this land be sold and that the above taxes and all other taxes due on this property be collected and that the tax attorney fee of \$25.00 be included in the costs.

COUNTY OF ALBEMARLE

By Counsel



George Gilmer
Attorney for Plaintiff
Charlottesville, Va.

VIRGINIA

IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

COUNTY OF ALBEMARLE

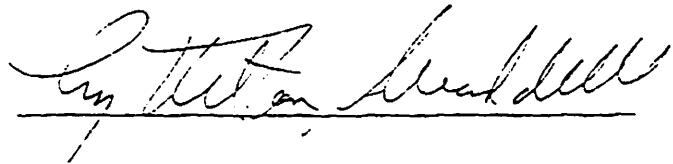
v.

DECREE DISMISSING SUIT

JOSEPH CHRISTOPHER CARY
and Others

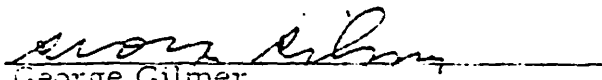
This cause came on this day to be heard on the Plaintiff's bill and upon the suggestion of the Plaintiff that the costs and taxes of this suit have been paid.

In consideration whereof, it appearing to the Court that the purpose of the suit has been accomplished, it is ordered that the suit be dismissed and that the papers be filed among the ended causes.



PLEASE ENTER:

2/18/69


George Gilmer
Court Square Building
Charlottesville, Virginia 22901

CODS 1001-1

BOOK 534 PAGE 403

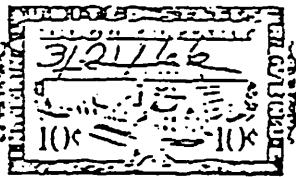
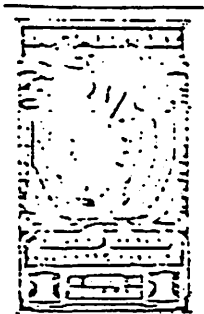
THIS DEED, made the 11th day of March, 1966, between George Gilmer, Commissioner, party of the first part, and Thomas H. Forrer, party of the second part,

WITNESSETH:

In consideration of \$625.00 paid in cash, George Gilmer, Commissioner of the Circuit Court in the County of Albemarle, Virginia against Effie White, and others, Grants, Bargain Sell, and Conveys special warranty of title to Thomas H. Forrer, 10.9 acres in the Scottsville District, Albemarle, County, Virginia, Tax Map 128, p. 72, and being the part of 13.75 acres conveyed to George W. Cary by this deed to sell after he conveyed off April 7, 1920 in D. B. 186, p. 489, 2.85 acres to Frederick Thomas. This land was sold to Thomas H. Forrer under decree of sale entered by the Circuit Court of the County Albemarle in the suit of County of Albemarle v. Effie White, and others, September 27, 1965, in C.O.B. 49, p. 268, which appointed George Gilmer Commissioner to sell the property after executing the required bond, and after advertising the property, time, terms, and place of sale. George Gilmer, after executing bond and after advertising the sale as required, sold the property at public auction in front of the Court House to Thomas H. Forrer, February 14, 1966, for \$625.00, that being the last

and highest bid. The purchaser has paid George Gilmer the \$625.00. The sale was duly reported to the Court and confirmed by decree March 9, 1966, in C. O. B. 49, p. 415, which appointed George Gilmer Commissioner to execute this deed. Purchaser to pay 1966 taxes. Index in name of Effie White, and others.

WITNESS the following signature and seal:



George Gilmer (SEAL)
George Gilmer, Commissioner

STATE OF VIRGINIA
COUNTY OF ALBEMARLE, to-wit:

I, Alex J. Jackson, a Notary Public for the County and State aforesaid, hereby certify that George Gilmer, Commissioner, whose name is signed to the foregoing writing, bearing date on the 11th day of March, 1966, has acknowledged the same before me in my County and State aforesaid

Given under my hand this 11th day of March, 1966

My Commission expires February 24, 1970

Alex J. Jackson
Notary Public

VIRGINIA:

IN THE CLERK'S OFFICE OF ALBEMARLE CIRCUIT COURT, Aug 6, 1973

This deed was presented to me in said office and with certificate annexed admitted to record at 2:30 P.M.

TESTE:

A. Bell, A. Marshall

CLERK

STATE TAX	\$ 1.05
CITY TAX	\$.35
FEES	\$ 1.00
PLAT	\$ 8.00
SEC. 53-54(b)(3)	\$ 1.00
TOTAL	\$ 11.40

TESTE

Y J. MARSHALL, CLERK

W. L. Hays D. M. Clerk

STATE TAX \$.....
CITY TAX \$.....
TRANS. \$.....
FEE \$.....
PLAT \$.....
SEC. 58-54(b) \$.....
TOTAL \$.....

BOOK 461 PAGE 189

THIS DEED, made this 7th day of July, 1969, between GEORGE GILMER, Commissioner, party of the first part, and NED BROWN, party of the second part,

WITNESSETH:

By decree entered in the County of Albemarle against George W. Cary and others May 28, 1954, C.O.B. 43, page 275 the Circuit Court of Albemarle appointed George Gilmer, Commissioner, to sell at public auction after giving bond and advertising 10.46 acres of George W. Cary's in Albemarle County, Virginia

George Gilmer after giving bond advertised property, directed, and sold at public auction in front of the courthouse July 12, 1954 to Ned Brown for \$110.00 that being the highest bid.

The Circuit Court by decree of July 16, 1954 in C.O.B. 43, page 34 confirmed sale and appointed George Gilmer, Commissioner, to convey land.

By decree of January 25, 1955, C.O.B. 43, page 441 ended the case and before that Ned Brown lost his deed and authorizes George Gilmer to make him a new one.

Now, therefore, in consideration of the premises and with the \$110.00 paid to George Gilmer George Gilmer, Commissioner, in the County of Albemarle against George W. Cary and others grants, bargains, sells and conveys with SPECIAL WARRANTY OF TITLE to Ned Brown 10.46 acres in Albemarle County, Virginia, in the Scottsville District on Yates Creek Tax Map 128, parcel 72. Andrew J. Dawson and wife by a deed dated March 29, 1889, Deed Book 158, page 180 plat on 181 conveyed to George W. Cary 10.75 acres. By a deed dated April 7, Deed Book 186, page 489, George W. Cary and wife conveyed to Frederick Thomas 2.85 acres off the above 13.75 acres. .44 of an acre was conveyed to the Commonwealth of Virginia for State Route 627, Deed Book 395, page 122. This deed conveys the remainder of the tract amounting to 10.46 acres.

WITNESS the following signature and seal:

George Gilmer (SEAL)
George Gilmer, Commissioner

STATE OF VIRGINIA

COUNTY OF ALBEMARLE; to-wit;

I, *Shirley M. Frazier*, a Notary Public in and for the County and State aforesaid, hereby certify that George Gilmer, whose name is signed to the foregoing writing, bearing date on the 7th day of July, 1969, has personally appeared and acknowledged the same before me in my County and State aforesaid.

Given under my hand this 7th day of July, 1969.

My Commission expires October 5, 1970.

Com. as: *Shirley M. Frazier*

Shirley M. Frazier
Notary Public

VIRGINIA:

IN THE CLERK'S OFFICE OF ALBEMARLE CIRCUIT COURT, July 17, 1969.

This deed was presented to me in said office and with certificate
annexed admitted to record at 5:22 P.M.

Teste:

S. J. Marshall
Clerk

July 1969

SHELBY J. MARSHALL, CLERK

Terrell Marshall Clerk

BOOK 566 PAGE 327

STATE TAX 3.
COUNTY TAX 3.
TOTAL 6.
FEE 1.
SEC. 58-2423 3.
TOTAL 8.

CERTIFICATE

I, the undersigned Ned Brown, do make this certificate for the purpose of causing the recordation of a survey of 10.73 acres of land I acquired by deed of George Gilmer, Commissioner dated July 7, 1969, recorded in the Clerk's Office of the Circuit Court of Albemarle County in Deed Book 461 page 189. Said plat was made by Huffman-Foster and Associates dated June, 1970, copy of which is hereto attached.

WITNESS my hand and seal this 31st day of December, 1974.

He (Ned) Mark (SEAL)
Ned Brown

STATE OF VIRGINIA

COUNTY OF ALBEMARLE, to-wit:

I, Wm. A. Pugh, a Notary Public in and for the County and State aforesaid, do hereby certify that Ned Brown, whose name is signed to the foregoing writing dated December 31, 1974, has acknowledged the same before me in my County aforesaid.

Given under my hand this 31st day of December, 1974.

My commission expires: 1/6/77

Wm. A. Pugh
Notary Public

THOMAS FORRER
D.B. 314-317 PLAT

EXISTING MON. **DAWSON'S LANE** (UNDEFINED WIDTH) - POS 45 - 2000' TO ST. AT 827 - EXISTING MON.
N 37° 56' 04" E 369.19

THOMAS FORRER
D.B. 314-317 PLAT

FRED THOMAS
D.B. 188-489 C.B. 107-138

NED BROWN
10.73 ACS.
D.B. 154-80 PLAT
D.B. 287-99
D.B. 461-189

EXISTING MON. ON LINE

EXISTING STONE

MCKINLEY SWANSON
D.B. 440-773

PLAT SHOWING SURVEY OF
THE NED BROWN PROPERTY
SHOWN AS PARCEL 72-SHEET 128 ALBEMARLE COUNTY TAX MAP
ALBEMARLE COUNTY, VIRGINIA
JUNE, 1970



CERTIFICATE

In accordance with Rule 5:49 of the Rules of the Supreme Court of Virginia, I hereby certify that I have this 12th day of *October*, 1979, filed the required copies of the Thomas H. Forrer v. Ned Brown - Appendix - in the Clerk's Office, and have delivered the required copies of the Thomas H. Forrer v. Ned Brown - Appendix - to William Gale Pickford, Esquire, Pickford and Barkley, 230 Court Square, Charlottesville, Virginia, 22901.


Frederick W. Payne