

October 5th 1835 (296)

Ordered that John W. Williams, James B. C. Thornton, Robert Alexander, William S. Colquhoun and William Cockrell or any three of them being first sworn do inventory & appraise the estate of Sally Linton deceased according to Law.

Weldon vs Barron (notice) continued.

Albert Gaines is appointed surveyor of the road in the room of William Butler – ordered &c.

On the motion of Sarah B. Davis administrator with the will annexed of Richard Davis deceased against James Keys. This day came the plaintiff by her attorney, and it appearing by the affidavit of a witness that the defendant hath had legal notice of this motion, he was solemnly called but came not: Therefore it is considered by the court that the plaintiff recover against the said defendant \$38.75 with interest from the 16th day of August 1832 till paid, and the costs of this Notice.

Hunton vs Dyer & others (In Chancery) answer &c. of defendant William H. Trone filed.

Smoot and wife to Coulter, deed with certificate annexed, was presented to the court and ordered to be recorded.

An indenture between John Hooe Jun. of the first part, Turner Dixon of the 2nd part, and John Withers of the 3rd part, was presented to the court with a certificate annexed & was acknowledged by John Hooe Jr. to be his act and deed and ordered to be recorded.

Present at this time John Hooe, Redmon Foster, Lawrence G. Alexander and Frederick Foote gentlemen justices.

On the petition of William H. Tebbs and Joshua Riley setting forth that they are bound in this court as security of Thomas Shumate, and that they conceive themselves in danger of suffering thereby and praying this court for relief. It is ordered that the said Thomas Shumate guardian as aforesaid be summoned to appear here immediately and give said Tebbs & Riley counter security or have his powers as guardian aforesaid revoked – and the said Thomas Shumate here in court acknowledged service of the foregoing rule & refused to give counter security and thereupon his powers as guardian aforesaid are revoked.

Harriet Shumate child of Thomas Shumate with the approbation of the court, made choice of Charles Hunton for her guardian who together with Peyton Norvill his security entered into and acknowledged a bond in the penalty of \$500 with condition according to law, which bond is ordered to be recorded.

The court doth assign Charles Hunton guardian to Thomas Shumate infant of Thomas Shumate, and thereupon the said Hunton with Peyton Norvill his security intended into & acknowledged a bond in the penalty of \$500 with condition according to law, which bond is ordered to be recorded.

Davis & others vs Davis & others (In Chancery) This cause again coming on to be heard upon the papers formerly read and the report of Seymour Lynn stating that he had sold the land in the proceedings mentioned in conformity to the decree pronounced in this suit on the 3rd of March 1835 and that John W. Davis became the purchaser thereof (he being the highest bidder) at the price of \$196 payable on or before the 23rd day of February 1836, he the said Davis having ex'd his bond with security for the payment of the same, which bond was returned with said report, and was argued by counsel and it appearing to the court that the defendant John W. Davis is a creditor of the estate of Sally Lynn deceased or the estate of John Lynn deceased to the amount of \$90 with interest on \$84.63 part thereof from the 10 July 1820 till paid and \$6.24 costs, by reason of the transfer of a part of a judgment to him in the name of Burr Powell sheriff of Loudoun County as administrator of Elizabeth Calvert deceased against the said Sally Lynn in her life time the total amount of said judgment being for \$135 with interest from the 24th day of January 1820 till paid, and \$45.59 costs, and the court being of opinion that as the land in the proceedings mentioned was originally sold under a deed of trust executed by John Lynn deceased in his life time to secure a debt due to the administrator of John Calvert deceased and purchased by the said administrator and then sold by the said administrator to the said Sally Lynn in her life time, that the proceeds of so much arising from the sale of the land in the premises mentioned, made in pursuance of the decree pronounced on the 3rd of March 1835 as will be sufficient to discharged that portion of the judgment in the name of Elizabeth Calvert's administrator against Sally Lynn assigned to the defendant John W. Davis, whereupon the court doth adjudge, order and decree that the commissioner, who took the bond of the said defendant John W. Davis for the purchase money of the tract of land before mentioned do indorse therein a credit for the same, and that when the said commissioner shall receive the balance which may be due on the said bond, which the court directs he shall do when the same becomes due, that he first pay there from the costs expended in this suit, and the residue thereof to hold till the further order of this court, and that he report his proceedings to the court with a view to a final decree.

Catherine Lakeman orphan of Thomas Lakeman deceased with the approbation of the court made choice of Henry S. Millam for her guardian, who together with William T. Allen and Thomas M. Grigsby his security entered

into and acknowledged a bond in the penalty of \$200 with condition according to law, which bond is ordered to be recorded.

Thomas T. Fewell jailor, presented to the court an account against the Commonwealth amounting to \$9.09, which was sworn to by said Fewell & being examined was allowed and ordered to be certified to the auditor of public accounts.

Nelson vs Foley (In Chancery) This cause coming on this day to be heard on the bill answer and exhibits filed in this cause, was argued by counsel. On consideration the court doth adjudge order and decree that Thomas Foster, Thomas B. Hamilton, George G. Tyler, Charles B. Stewart & B. E. Harrison any three of whom may act, be and are hereby appointed commissioners whose duty it shall be to go upon the land formerly allotted to Seignora Nelson as dower in the real estate of John W. Tyler under a decree of this court of August the 3rd 1824, it appearing to the satisfaction of this court that the quantity of land allotted by the commissioners viz: 280 acres were not embraced by the courses and distances laid down by the surveyor allotting the same and that said commissioners command the survey at two ashes on Bull Run corner of William Foote's near Frederick Foote's land, thence with Foote's to a Hickory near Catharpin corner of Messrs Foote's & Brook's Mill lot thence up Catharpin and binding with the meanders to a Persimmon thicket which said thicket may be ascertained by evidence of the previous commissioners who allotted the dower on other person in attendance on the survey, thence South 24 degrees W. 108 poles, thence S 31 degrees E 82 poles and thence by a line to Bull Run so as to include the amount of 280 acres and that they report their proceedings to this court with a view to a final decree in this cause.

2 October 1843

Waller & Wife to Foote - Deed of Trust

Use of Isreal B. Thompson

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This Indenture made this seventh day of September in the year of our Lord one thousand eight hundred and forty three, between William Waller and Frances his wife of the County of Prince William and State of Virginia of the first part and Isreal B. Thompson of the County and State afore said of the second part and Frederic Foote of the same County & State of the third part Witnesseth whereas the said William Waller is indebted to the said Isreal B. Thompson in the sum of eleven hundred dollars for the payment of which the aforesaid Waller hath this day executed five several Bonds payable as follows to wit, the first Bond payable the first day of September eighteen hundred and forty four for two hundred dollars the second payable the first day of September eighteen hundred and forty five for two hundred dollars the third payable the first day of September eighteen hundred and forty six for two hundred dollars The fourth payable the first day of September eighteen hundred and forty seven for two hundred dollars The fifth payable the first day of September eighteen hundred and forty eight for three hundred dollars The four first bonds bearing interest from the dates they respectively become due, and the last Bond bearing interest from the first of September eighteen hundred and forty seven And the said Waller being desirous of securing to the said Thompson the said several sums with the Interest that may accrue thereon. Now for and in consideration of the said several debts and interest and also in consideration of the sum of one dollar to him the said William Waller in hand paid by Isreal B. Thompson at the time of the sealing and delivering of these presents the receipt whereof is hereby acknowledged he the said William Waller and Frances his wife have granted, bargained and sold and, by these presents do grant bargain and sell to the said William Foote third party to these presents a Water Grist Mill and Saw Mill together with a Lot of Ground attached thereto containing by estimation sixteen acres be the same more or less the same being on the Waters of Catharpin in the County of Prince William in the State of Virginia which was purchased by Isreal B. Thompson of Robert Brooke and by said Thompson conveyed to William Waller by deed bearing date the second day of September one thousand eight hundred and forty three for a further description of said Lot reference is had to a deed of Charles Hunton Esq. made to Robert Brooke being all the land thereby conveyed to said Brooke to have and to hold all the aforementioned property to the said Frederick Foote and his heirs in trust nevertheless to and for the following uses intents and purposes. That is to say in case the said William Waller shall fail to pay the said several sums and interest which may accrue as aforesaid then the said Frederick Foote trustee as aforesaid shall sell the same for the highest price that can be obtained for the same at Public Auction for ready money he having advertised the sale of the same in some newspaper published in Leesburg at least ninety days previously to such sale and out of the proceeds thereof the said Frederick Foote trustee shall in the first place payable expenses of advertising and the said trustees legal fees and then pay the amounts which may be then due the said Thompson on all of the said Bonds and Interest and on such payment being made the said Frederic Foote shall and may make a deed of conveyance to the purchaser in fee simple, and if there be any excepts their left the same he

paid to the said William Waller or such person as may be legally authorized to receive it in his behalf. But if the said William Waller shall well and truly pay the said several sums and Interest then this and every part thereof shall be void and of non effect and the said Frederic Foote trustee as aforesaid oath for his heirs covenant and agree that he and they will well and truly execute and fulfill the powers vested by their deed of trust according to the true intent and meaning thereof in testimony whereof the parties to these presents have hereunto set their names and affix their seals the day and year first above written.

William Waller (seal)
Frances Waller (seal)
F. Foote (seal)

Prince William County, State of Virginia

We George G. Tyler and James M. Tyler justices of the peace in and for the said County in the State of Virginia do hereby certify that William Waller, Isreal B. Thompson and Frederic Foote parties to a certain deed bearing date the second of September in the year of our Lord, One Thousand Eight Hundred and Forty Three and hereunto annexed personally appeared before us in our County aforesaid and acknowledged the same to be his act and deed and desired us to certify the said acknowledgment to the Clerk of the County Court of Prince William County in the State of Virginia in order that the said deed may be recorded. Given under our hands and seals this seventh day of September 1843.

Geo.G. Tyler (seal)
J. M. Tyler (seal)

Prince William County Viz.

We George G. Tyler and Jas. M. Tyler, justices of the peace in the county aforesaid in the State of Virginia do hereby certify that Frances Waller wife of William Waller parties to a certain deed bearing date the second of September in the year of Our Lord One Thousand Eight Hundred and Forty Three and hereunto annexed personally appeared before us in our county aforesaid in the State of Virginia and being examined by us privily, and apart from her husband and having the deed aforesaid fully explained to her, she the said Frances Waller acknowledged the same to be her act and deed and declared that she had willingly signed sealed and delivered the same, and that she did not wish to retract it. Given under our hands and seals this second day of September 1843.

George G. Tyler (seal)
J. M. Tyler (seal)

At a Court held for Prince William County, October 2nd 1843. This Deed of Trust from William Waller and wife to Frederic Foote (for the benefit of Isreal B. Thompson) may presented to the Court, with certificate annexed, and ordered to be recorded.

Teste, J. Williams C.C.