

State of North Carolina } In the Probate Court.  
Person County }

Henry S. Jordan, Assignee  
William Merrill, & Others.

Against

Nathl. H. Baird surviving Adm.  
of William Baird decd.

"A."

Be it Remembered, that on the 17<sup>th</sup> day of April  
1873 the plaintiff sued <sup>and</sup> a summons against the  
defendant in the words and figures of the copy  
annexed marked "A."

"B."

That on the same day the plaintiff filed their  
complaint in the words and figures of the  
copy annexed marked "B."

"C."

That thereafter to wit on the 13<sup>th</sup> day of May  
1873 the plaintiff filed an amended complaint  
in the words and figures of the copy annexed  
marked "C."

"D."

That thereafter to wit on the 31<sup>st</sup> day of May  
1873 the defendant filed his answer in the  
words and figures of the copy annexed marked  
"D."

"E."

That thereafter to wit on the 4<sup>th</sup> day of June  
1873 a judgment was rendered by the court  
in the words and figures of the copy annexed  
marked "E."

"F."

That thereafter to-wit<sup>d</sup> on the 2<sup>nd</sup> day of July, 1873  
a notice of appeal from said judgment was  
filed in the words and figures of the copy annexed  
marked "F."

"G."

That thereafter a case was prepared for the  
superior court on said appeal in the words  
and figures of the copy annexed marked "G."

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

North Carolina Swain County,  
In the Probate Court.

H. S. Jordan  
assignee of  
Thos. Baird

Noticeto show cause

against  
Thos. Baird Exr  
of William Baird decd

The defendant in the above entitled  
cause is hereby notified to appear before  
the Clerk, Judge of Probate for Swain County,  
at the clerk's office in Swain, within  
twenty days from the service of this notice,  
and show cause why he should not  
be removed from his office as executor  
advised, or the application will be  
heard ex parte.

1873

This 17<sup>th</sup> day of April  
A. N. Shell  
Probate Judge

CHAUTAQUA COUNTY NY HISTORICAL SOCIETY

W. J. Hudson, Kingston

ms

Sept. 19 / B. ...

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CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

With Custina, Essex County,  
 the 4th day of June in the 11th year  
 of the reign of Thos. A. Baird  
 against  
 Thos. A. Baird,  
~~Thos. A. Baird~~

- The plaintiff alleges: that
1. That the defendant is the executor of the estate of the said deceased, as of record appears.
  2. That he the said defendant is guilty of misconduct in his office, in that he has appropriated a large sum of money belonging to the estate of the said deceased to his own use and benefit, in discharge of the creditors of the said deceased to wit, one thousand dollars collected from five hundred dollars paid to the said estate of the said deceased in the state of Virginia which he appropriated to his own use and benefit, which moneys so used belonged to the estate of the said deceased and property brought up the sale of his testator and remains lying belonging to the estate of the said deceased and of which he has failed to account for all or which acts and doings the said defendant has committed in fraud of the creditors of the said deceased.
  3. That the plaintiff is assignee of Thos. A. Baird, who has been declared adjudged a Bankrupt in the District Court

of the United States for the Judicial Dis-  
trict of North Carolina, and the said Thos  
A Baird is a legatee of the estate of the  
said Willie Baird deceased.

Wherefore the petitioner prays  
that notice be given to the said Debra  
Lamb & that cause why he should not  
be removed from his office as executor  
be determined.

Wm. L. ...  
Attorney for the

The petitioner being duly sworn deposes and  
says, that the facts stated in the above  
petition which he states to his own  
knowledge are true, and is at the same  
time informed no persons other than the  
persons named subscribed  
to the same this 16th day of  
July 1861.

Witness my hand and seal this 16th day of July 1861.

Wm. L. ...  
17th St. ...  
of ...

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

14

John Catrina Lawrence County,  
 W. Va. has resigned in the Circuit Court  
 & J. P. Davis and others May 10<sup>th</sup> 1868  
 creditors bounded amount  
 of the said debt for removal.

against  
 J. A. Davis concerning  
 the said William Davis & Co  
 The plaintiffs were in addition  
 to the allegations mentioned in the original  
 complaint in the matter of said  
 & the court found same.

That the plaintiffs in receipt of same  
 were removed to the equities and credits  
 which the said William Davis had  
 which is the due amount of the  
 said debt.

That the defendant ~~was~~ <sup>resided</sup> ~~at~~  
 the said deceased in the year 1860 and has  
 rendered no inventory of the assets and  
 any of his estate.

That the defendant as executor of said  
 the year 1867 received and has  
 a large amount of money, and in the  
 said in his said account to wit the amount  
 of \$15000.00 -- and has rendered no account  
 of the same.

That since the said...

... 1842 ... he has become insolvent and  
has been adjudged a bankrupt in the District  
Court of the United States in the Southern District  
of the State of North Carolina.

... the removal of the defendant from his  
said office as &c &c necessary and for the  
costs of this action.

W. X. Humphreys

Attorney

... 1842

... the facts stated in the original complaint  
... which he  
states & his own knowledge are true, and  
as to these facts stated in the original  
complaint, there is no doubt.

... and subscribed and  
this 13th day of May, 1842

Wm. Merrill  
Probate Judge

1842  
...  
...



at the same time Person family  
In the Probate Court

H T Jordan Assignee  
of the said Peter's estate,

Answer

at the said H Jordan Ex<sup>r</sup>  
of William Gurd & Leg

1 The defendant answers to the complaint  
that he is Executor of William  
Gurd & Leg.

2 The defendant alleges, that he  
was ever seized & possessed of the  
Mortgage of the estate of the  
said testator was indebted to Stephen  
Meehan, Clerk of the County of  
of about \$1350. that defendant as  
Executor tendered the amount of the  
debt to Messrs Satterfield - the  
Said Stephen Meehan, being then  
agent of Messrs Meehan. That Messrs  
Satterfield declined to receive it -  
but offered to deliver up the bond of  
the said William Gurd if the defendant  
would execute for the said Gurd, now  
deceased, a note for the individual  
balance for the amount of the debt - that  
the defendant & Messrs Satterfield

a bond for the amount, & the bond of  
 the said William Bond was according  
 by a later will; & that the bond of the  
 defendant's first executor was in-  
 tended to be accepted as a payment  
 of the said debt, & that the  
 estate of the said testator then, became  
 indebted to the defendant & that  
 of course, by the way with a view  
 to reimburse himself for the debt  
 & that in fact paid by him. Defendant  
 further says that at the time the  
 bond was given he was possessed of a  
 large estate in slaves, & the owner of  
 considerable real property.

Defendant states that he has no cer-  
 tain recollection of the manner in  
 which the debt to the defendant was paid,  
 but is certain of the funds of the  
 estate, it was, as above explained.

As to the sum of \$300. said to have  
 been collected in Virginia defendant  
 alleges that his testator owned a small  
 lot in the town of Petersburg which was  
 sold for about \$345: that the taxes for  
 such taxes, expenses, & amounts to some  
 \$66<sup>00</sup> & that leaving the sum of about  
 \$279 - & that through the way, & manner

to collect the sum owing to the Plaintiff  
 conduct of the agent, he charged him-  
 self with the whole amount in his ac-  
 count to the amount of Sales to which  
 he is charged with & of failing to account  
 for, defendant alleges, that all the  
 sales of the said proceeds of sale were left  
 to be adjusted in the general Settlement  
 of the Estate between the parties interested,  
 that therefore none of the sales, or Sales, were  
 ever collected, with the exception of what  
 was due from Messrs. Davis - that this ex-  
 ception was made because there were mutual  
 debts between him & the Plaintiff & it was  
 thought best to make the Settlement be-  
 tween them complete, to avoid confusion -  
 that all the above transactions are stated  
 in the defendant's case,

3. Defendant alleges that he is informed  
 that Messrs. Davis was adjudged a Bank-  
 rupt, as set forth in the Complaint &  
 that the said action is assigned.

To the first allegation in the Com-  
 plaint defendant demurs &  
 for ground of demurrer shows, that  
 the Plaintiff William Menett shows no  
 ground of action - He alleges an assign-  
 ment, but fails to show, that

The Court is unable to judge whether he was, in point of fact, very intent or not.

5. ~~Defendant claims, in the amended Complaint, that if the defendant gets by the plaintiff Merrill, it is to be taken as proof of his fraud, then it appears that he claims under an assignment from William Fair as Son of the testator - Defendant submits, that it will be seen by reference to the will of the said testator - a copy of which is here appended as part of the case - that the said Defendant took only an estate for life under the will of his father & the said Fair being dead at the time the action was brought, the said Merrill can claim no interest in the estate of the testator under the said assignment & has therefore no right to maintain the action.~~

6. Defendant says that in reply to the amended Complaint that when the will of the testator was sent to probate he was in the midst of a long

attack of Sickness. That the will was  
 proved by his Co. executor John Paul  
 & Defendant did not qualify until  
 the next Term of the Court - That in  
 the Management of the Administration  
 it was agreed between them that John  
 Paul should take Charge of the Copy  
 while the Active duties should de-  
 volve on the Co. executor. That in  
 pursuance of this arrangement all  
 the Affairs were kept by his Co. executor,  
 & were in his possession till the date  
 of his death - That since then only  
 the Copy came into his possession. De-  
 fendant states that he was always  
 under the impression that an In-  
 ventory was filed by his Co. executor  
 but by mistake from him that it was filed  
 that he duly performed all other  
 duties pertaining to the office  
 of Executor.

Defendant admits that by the  
 events of the War - but by no mis-  
 conduct of his - he has lost his  
 entire estate & that he has taken  
 the benefit of the Bankrupt  
 Act.

Defendant submits that an  
 Executor of Subject to removal from  
 office, only as part of the penalty

- for failure or refusal to render an account upon the Mandate of the Court, or to comply with some specified order of the Court & that they he has been guilty of no such failure or refusal.
- 9 Defendant further answers to the Amended Complaint & denies denying that he disposed improperly of any of the monies of the testator.
- 10 Defendant submits that the involvements of Pankrupsey alleged in the Amended Complaint constitute no ground, why he should be removed from his office as Executor.
- 11 Defendant answers lastly that he is ready to produce his Account as Executor of William Pankrupsey's Estate as required by the Court & that he files herewith the following copy of a report of the Court of the 11th of Novr

A. H. Baird being duly sworn says  
 That I have read the foregoing and do  
 know the contents thereof the same as true  
 of my own knowledge, except to matters  
 therein stated or informed, and as to those  
 I believe to be true.

A. H. Baird

Sworn & subscribed

before me this 21<sup>st</sup> May

1873-

N. C. T. True

L. J. C.

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

(H Jordan Appagan  
of Mrs Pain Tothay  
against  
c H Pain Exr

Answer

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013



1805

State of North Carolina } In The Probate Court -  
Person County } June 4<sup>th</sup> A D 1873 -

Henry G. Jordan, apique  
William Merritt & others  
against  
Nathl. H. Baird, Surviving Ex<sup>r</sup>.  
of William Baird Deceased

Order of Judgment.

This cause coming on to be heard and after being  
debated by Counsel on both sides it appears to  
The Court as follows -

- I That the Defendant is the Surviving Executor of  
Wm Baird Deed, and that he together with one  
John Baird as his Co-Executor qualified as such  
in the Year 1857, and at the time of his appointment  
and qualification as Executor aforesaid he  
was the owner of a very large Estate both in Land  
and Slaves.
- II. That since his appointment and qualification  
as such Executor, his said Co-Executor John Baird  
has died, and that he the Defendant has become  
involved and has taken the benefit of the  
Bankrupt Law, and that he is now utterly involved.
- III. That he has been guilty of Misconduct in the  
due Execution of his said office of Executor, in  
that he has never filed any inventory of the property  
received by him as Executor aforesaid, nor any

account in fact of his dealings with the estate of his said testator until during the pendency of this action to wit: on the 26<sup>th</sup> day of May 1873. That the accounts alleged to have been filed by him in the years 1869 and 1870 is in fact no account of his dealings with the estate of his said testator although rendered and filed by him as such. And it appears from the account filed by him during the pendency of this action and from a report of the Clerk & Master (in evidence), of a sale of property made by him for the benefit of the said executor, ~~the said Clerk & Master being~~ ~~ordered to pay the proceeds of said sale~~ ~~to the said executor~~ that he is indebted to the estate of his testator in the sum of \$

10. That Henry Y. Jordan Esquire is merely a nominal party and claims no interest in the subject of this action and takes no part in its prosecution but merely allows the other plaintiffs to use his name for their benefit.

11. That the other Plaintiffs show no interest in the subject of this action - about \$2500. which

VI. That there ~~is~~ is now in currency, or more from a sale of a portion of the Real Estate of said William Baird decd. Defendants testator.

It is therefore ordered and adjudged by the Court that this action be dismissed; and as the facts above set forth have been shown to the

1  
1885  
Court during the pendency of this action, and as all parties interested in the fund are interested in its protection it is ordered that the costs in this behalf incurred be paid out of the fund now in Court -

And the Court upon the facts above set forth upon its own motion requires the said A. H. Baird as Executor aforesaid, before receiving the money now in Court, to enter into bond with good security in the sum of \$4800. double the amount of money now in Court. and that he have 30 days in which to give said bond - and that upon his failure or refusal to give said bond, within the time aforesaid, that he be removed from his office as Executor aforesaid, and that his letters testamentary be revoked -

A. A. French

Probate Judge -

Person County; In The Probate Court.

Henry T. Jordan, assignee

William Merritt & others

against

Nathl. H. Baird surviving

Ex<sup>rs</sup> of Wm Baird decd.

By H. S. Bumpass and J. J. Mansdell  
Attorneys for the Plaintiffs.

Take notice that  
The defendants in this action appeals to the  
Superior Court from the judgment rendered  
in said action by the Probate Court of Person  
County on the 4<sup>th</sup> day of June 1873 -

N. H. Baird

Def<sup>t</sup> -

CHAUTAQUA COUNTY NY HISTORICAL SOCIETY 2013

H. H. Jordan Apigner  
Messrs Messitt & others

St. H. Baird Jun. Ex<sup>o</sup>. 20

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Notice of appeal

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We admit an and  
personal service  
this 2<sup>nd</sup> day of July 1873.

H. L. Sampson  
J. L. Lunsdell

State of North Carolina } In The Probate -  
Person County }

Henry G. Jordan assignee  
William Merritt, & others  
against  
Nathl. H. Baird surviving Ex<sup>r</sup>.  
of William Baird decd. "lease"

This was a special proceeding commenced in the Probate Court of Person by the Plaintiff for the removal of the defendant from his office as Executor of said William <sup>Baird</sup> decd. heard before A. H. Hunt Probate Judge on the 4<sup>th</sup> day of June 1873. The Plaintiff filed his Complaint which is hereto annexed as a part of the case and is here referred to - The defendant filed his answer which is hereto annexed as a part of the case and is here referred to - And upon the facts found in the order hereto annexed as a part of the case and here referred to the Court dismissed the action at the cost of the Estate of said William Baird and <sup>upon its own motion</sup> required the said A. H. Baird as Ex<sup>r</sup>. aforesaid to enter into bond <sup>with</sup> security in the sum of \$1800. double the amount of the money now in Court before receiving the same - from which judgment the defendant appealed to - A. H. Hunt Probate Judge

Person County;

I. N. N. Hunt Judge of Probate  
for said County, do hereby certify  
that the foregoing is a correct  
transcript of the record in the  
Case therein entitled -

In testimony whereof I have hereto set my  
hand and affixed the seal of said County.

This the 15<sup>th</sup> day of July A. D. 1873 -

I. N. N. Hunt  
Probate Judge -

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

H. Y. Jordan Esq. Et. al.

v

A. H. Baird Esq.

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013