1779-003 SOUTHAMPTON COUNTY CHANCERY PAPERS

JARRELL vs. THARPE 4/1779

See also Wright and wife v. Thorpe, 1785-L

other SURNAMES: Thomas, Edwards, Williams, Atherton, Scarborough, Thorpe, Jarrell

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See also Wright and wife vs. Thorpe, 1785-L; Jarrell v. Thorp, 1768-4

To the worshipful courts of the county of Southampton sitting in Chancery

Humbly complaining Sheweth unto your worships your orator Thomas Jarell of this county That some time about the twenty third day of October in the year of our Lord one thousand seven hundred and fifty seven your orators father was seized in fee simple of and in the following tracts of Land lying and being in this county that are to say five hundred acres devised by the last will and testament of Thomas Jarell the elder deed to John Jarell which upon the decease of the said John became vested in your orator said father ~~by the said~~ three hundred and fifty acres on the white Oak Meadow purchased of a certain Peter Butts and twenty acres on the Angelica Swamp ~~on~~ whereon there was built a valuable Water Grist Mill

Your orator further Sheweth That his said father had intermarried with Betty Thayne of the daughters of a certain Timothy Sharp by whom he had your orator his only son and heir at law That your orator said father being much involved in his circumstances made application to the said Timothy Sharp for the loan of a sum of money to extricate him out of his difficulties but the said Timothy refused unless your orator father would make him a deed in fee simple ~~for~~ the above mentioned tracts of Land and Mill at the same time promising your orator father to reconvey the same to your orator in case he arrived to the age of twenty one years which proposal your orator father accepted of whereupon the said Timothy agreed to pay the sum of three hundred pounds a sum by no means equivalent to the said tracts of Land and Mill / and your orator father was in consideration of that and the promise of the reconveyance of the Land and Mill above mentioned in fee simple to your orator in case he arrived to the age of twenty one years to execute a deed to

the said Timothy Tharp conveying the fee simple estate of the said several tract of land and mill Your orator further sheweth that soon afterwards which was but a short time before the death of your orator father he being then in his last illness the said Timothy Tharp came to the house of the said Thomas Jarell and requested him to sign a deed which he had prepared to convey the said Land and mill who answered he was ready to sign the same according to his agreement and observed to the said Timothy that he ought to give an instrument under his hand to reconvey the said Land and Mill to your orator but the said Timothy refused alledging his word was sufficient and he would execute no writing having made a promise never to put his name to any instrument of writing whereupon your orator father then told him if he would promise before the witnesses then present to reconvey the said Land when your orator came of age that he would then execute the deed The said Timothy Tharp then promised and agreed before Henry Thomas Micajah Edwards Benjamin Williams Samuel Scarbrough and your orator Mother Betty Jarell that so soon as your orator arrived to the age of twenty one years he the said Timothy Tharp would reconvey the fee simple estate of and in the above mentioned tract of land and Mill unto your orator and in consideration thereof your orator said father did execute the deed which hath since been recorded in this worshipful court and to which your orator for greater certainty refers and prays the same may be taken as part of this his bill of complaint and in a few days after departed this life intestate Your orator further sheweth that from the year one thousand seven hundred and fifty seven the time of executing the deed aforesaid until the day of one thousand seven hundred and sixty the time when the said Timothy Tharp departed this life he the said Timothy quietly held occupied and enjoyed the said several tract of land and mill and that by his last will and testament bequeathed the same to his son Timothy without making any mention therein of his agreement aforesaid in your orator favor made with the said Thomas Jarell dead Your orator further sheweth that he hath now attained to the full age of twenty one years and in consequence thereof hath made application to the said Timothy Tharp the devisee of the said Timothy Tharp dead for the the performance and reconveyance of the said Land and Mill and requested him in a friendly manner to comply with the aforesaid agreement made by his father with the deceased Thomas Jarell But now so it is may it please your worships The said Timothy Tharp refuses to comply with this requisition pretending that he is an infant of tender years and that he is not satisfied of the truth of the agreement altho the same hath been proved by the oaths of divers witnesses whose depositions have been taken by virtue of a decree of this worshipful court to perpetuate the same All which actings and doings of the said Timothy Tharp are contrary to equity and good conscience and tend to the impoverishment of your orator In tender consideration whereof and for that your orator is remediless in the premises by the strict rules of the common law and only properly relievable in this worshipful court where matters of this nature are properly cognizable To the end therefore that the said Timothy Tharp may on his corporal oath full true and perfect answer make to the several allegations herein before set

forth but more especially that he may discover whether your orator said Father was not seized in fee simple of and in the Several tracts of Land above mentioned together with the Mill did not the said Timothy Tharp father to the defendant purchase the same under the limitation and condition aforesaid did not the said Timothy remain in possession thereof from the time of the purchase until he died and hath not the defendant been in possession thereof ever since Hath not your orator attained the age of twenty one years did he not make application to the said Timothy for the reconveyance & possession of the said Land and title in fee simple agreable to the promise and covenant of the said Timothy Tharp aforesaid what was the defendants answer And that your worships will decree and order That the said Timothy Tharp the defendant do deliver up immediate possession of the said Land and Mill and that he convey and assure to the age of twenty one years that he then execute a Deed to your orator conveying to him or his heirs the fee simple estate therein or that your worships will make such further decree in the premises as shall be agreeable to equity & good conscience

May it please your worships to grant your orator his Majestys most gracious writ &c

66
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Sarrell
vs
Thorpe
Jdba
in
Chancy

Do
Mapie Bill pleas

George the third by the grace of God of Great Britain France and Ireland King defender of the faith &c To the Sheriff of Southampton County greeting We Command you that you summon Timothy Thorpe to appear before our justices of our County Court in chancery at the Courthouse of the s.d County on the second thursday in March next to answer a bill in chancery exhibited against him by Thomas Jarrell son & heir at Law of Thomas Jarrell dec.d ~~of said~~ & this he shall in no wise under the Penalty of One hundred Pounds & have then there this Writ witness Richd Kello clerk of our s.d Court at the Courthouse aforesaid the 11th day of Febr.y in the 14th Year of our Reign

Sam Kello D.C

Dep[illegible]
Jarrell
Thorpe
Dr. Mr Taylor.

Sept 1774 Bill filed 4 time.

Sept 1779.
Abates plff dead

agreed to convey the Lands in the bill mentiond to the Compl.t when he came of age which were the Lands then bargained for by the said Thorpe of the s.d Jarrell on which agreement the s.d Jarrell signd the deed the sum the said Thorpe was to give was three hundred pounds the said Jarrell in a few days died & further this deponent saith not

Sworn to before
Oct.r 9.th 1766

Benj.a Williams

Ja.s Ridley
A Jones
Ja.s Jones

The deposition of Samuel Scarbrough saith that the year Thomas Jarrell dec.d died he was owner for the s.d Jarrell & was sent for by the said Jarrell to Come to the house to be a Witness of an agreement between the s.d Jarrell and Timothy Thorpe dec.d that the s.d Jarrell & this Deponant understood he was to convey to the s.d Thorpe a Certain Tract of Land and Mill mentioned in the bill to the s.d Thorpe for the sum of three hundred [illegible] and that the s.d Thorpe was to have a deed prepared [illegible] and to compel the s.d Thorpe to give the s.d Land and [illegible] Complainant when this Deponant came to the house Capt Thorpe was there but had omitted having the Bond which gave Thomas Jarrell Some uneasiness & occasioned his refusing to sign the Deed the s.d Jarrell told the s.d Thorpe that Mr Cary would give five hundred pounds for the Land the s.d Thorpe asked why he did not sell it him Jarrell answer that he did not design to sell it but intended to Keep it for his son the Complainant and would not sign the Deed unless he would agree to give it to Comp.t according to his agreement this deponant seeing there was but little Probability of their Coming to an agreement without but soon after returnd and there they had agreed and this Deponant was called to bear Witness to the Deed which this Deponant saw Executed & that after the deed was Executed Thomas Jarrell deceased the s.d Thorpe to make his will for that when the s.d Thorpe was taken sick he was very

Spent out of his fences some few days after the ~~Sd~~ Jarrell died
further this Deponant saith not
Sworn to before Oct 6th 1766
Ridley
A Jones
James Jones

Samuel Scarborough

[illegible] Deponent
Jarrell
Thorpe
Test. Mr Taylor.

Apr 1774 Bill filed
time.
Apr 1779.
Alais plff dead

1

The deposition of Micajah Edwards aged forty seven saith that the complainants father Thomas Jarrell died lying very ill this deponent went to visit him when this deponent came there he found Capt Timothy Thorpe dcd Mr Henry Thomas Benjamin Williams & Samuel Scarborough the s. Thorpe at the same time seemed very pressing for the s. Thomas to sign a deed then produced by the s. Timothy conveying a tract of land & mill formerly the property of Mr. Jarrell dcd which the said Thomas refused unless the said Timothy would sign some instrument of writing to oblige the s. Timothy to comply with his promise made to the s. Thomas of reconveying the same to the complt. the s. Timothy said he never would sign any instrument of writing but calls upon this deponent & the abovementioned persons as witnesses that he then promised to convey the land as mentioned in the said deed to the complainant on which agreement the said Thomas then signed the deed & in a few days afterwards the said Thomas Jarrell died further this deponent saith not

Sworn to before
Oct. 10. 1766 Tidley Jones
James Jones.

Micajah Edwards

The deposition of Benjamin Williams aged forty two years saith that he believes he was sent for by some of Thomas Jarrells family when he came Capt. Timothy Thorpe dcd was at the said Jarrells & bargaining for the Land & mill mentiond in the bill the said Jarrell told the said Thorpe that it was worth much more than he the said Thorpe was to give which was agreed to by the said Thorpe the said Jarrell then said it was worth five hundred pounds to which the said Thorpe dissented but agreed the value thereof to be more than he was to give & then pressed the s. Jarrell to sign a deed which he the said Thorpe had prepared for the conveying the same which the said Jarrell refused unless the said Thorpe would when his grandson the complt. came of age convey the same to the complainant & give some instrument of writing to oblige him thereto the said Thorpe refused to sign any instrument but called on this deponent & Henry Thomas Micajah Edwards & Samuel Scarborough to bear testimony he then

In Pursuance of a Dedimus issuing from the County Court of Southampton hereto annexed in a suit of Chancery between Thomas Jarrell an Infant by Richd Ricks his Guardian and next friend of the Pltf and Timothy Thorpe an Infant devisee of Timothy Thorpe dece'd Deft We Isaac Ridley Albridgton Jones & James Jones have diligently examined on the holy Evangelists of Almighty God the several Witness who subscribe the deposition hereunto annexed

The Deposition of Henry Thomas aged fifty three saith that some few days before Thos Jarrell Dec'd father to the Complainant died this Deponant was at the Sr Jarrells house and Capt Timothy Thorpe father to the Complainant & his wife came there with a deed conveying the land & mill in the bill mentioned and requested the Sr Thos Jarrell dec'd to sign the same the Sr Jarrell told the Sr Thorpe that he would sign the deed according to the agreement entered into between the Sr Jarrell and Thorpe which was that Sr Timothy Thorpe was to reconvey the same to the Comp't when he should arrive at the age of Twenty one years and told the Sr Thorpe that he must sign some instrument of writing to oblige him so to do the Sr Thorpe then appear'd very angry and Sr he had promised never to put his name to any instrument of writing again and Sr that if he would not take his word at present that which word the Sr Thorpe went out which made the Sr Thomas Jarrell dec'd very uneasy the Sr Thomas then requested this Deponant to Call the Sr Thorpe in again which this Deponant did the Sr Thomas did then tell the Sr Thorpe that if he would promise before the persons then present to fulfill his agreement he the Sr Thos would sign the Deed to which the Sr Timothy Thorpe did then agree and promise in the presence of Capt Micajah Edwards Benjamin Williams Samuel Scarborough & this Deponant who were then called on to bear testimony that when the Comp't Came of age that then the Sr Timothy did oblige himself reconvey the Sr Land and premises to the Comp't granted by the Sr Deed to be signed by the Sr Thos Jarrell dec'd which the Sr Thomas Jarrell signed the Deed and in a few days afterwards died & further this Deponant saith not

Sworn to before me Oct 18th 1766

Ridley
A Jones
James Jones

Henry Thomas

The deposition of Betty Atherton formerly Widow of Thos Jarrell decd and Daughter of Timothy Sharpe deceasd Saith some time before the death of this Deponent Husband Thomas Jarrell there was an agreement made between the said Thos Jarrell and this Deponents father Timothy Sharp for the Lands and Mills in the Bill mention'd the said Sharp being to give the said Jarrell the Sum of Three Hundred pounds for the same but under this restriction that the said Sharp was to give the same to this Deponents Son the compltt some time afterwards this Deponant endeavor'd to perswade her father to decline taking the said land but to take that which they then lived upon which the said Sharpe refus'd this Deponant then told him he did not give the worth of the Land he had bargain'd for that her husband had been offer'd Four Hundred pounds for it the said Sharpe then said he would give £400 for it if that would do but the reason he was to have it for £300 was that the said Sharpe was to give it to the complainants that sometime afterwards and at sundry times the said Sharpe said that he had given this Deponant but little and that he intended the Land for this Deponants portion and the reason that the said Sharpe did not chuse to give it to her Husband was that he the said Sharpe was sure that Jarrell would soon squander it away This Deponent further saith that when her husband Thomas Jarrell was on his death bed the said Sharpe told this Deponent that her husband was much indebted and that it would take every thing except the Lands to pay his debts on which this Deponent perswaded the said Jarrell to sign the Deed This Deponent further saith that after the death of the said Jarrell This Deponent had heard that her father did not intend to give the land to the Compltt which this deponent acquainted him with on which the said Sharpe said that if he did not give the Compts the land he should give this Deponents Daughters £100 and this Deponent an equal part of all his estate except his Lands which

satisfied

this Deponent, further this Deponent saith not

Betty Atherton

Sworn to before Octo. 20th. 1766

D. Ridley

A. Jones

James Jones

Copy

Betty Atherton

Depon.

Jarrell & Bill

Thos. F. &

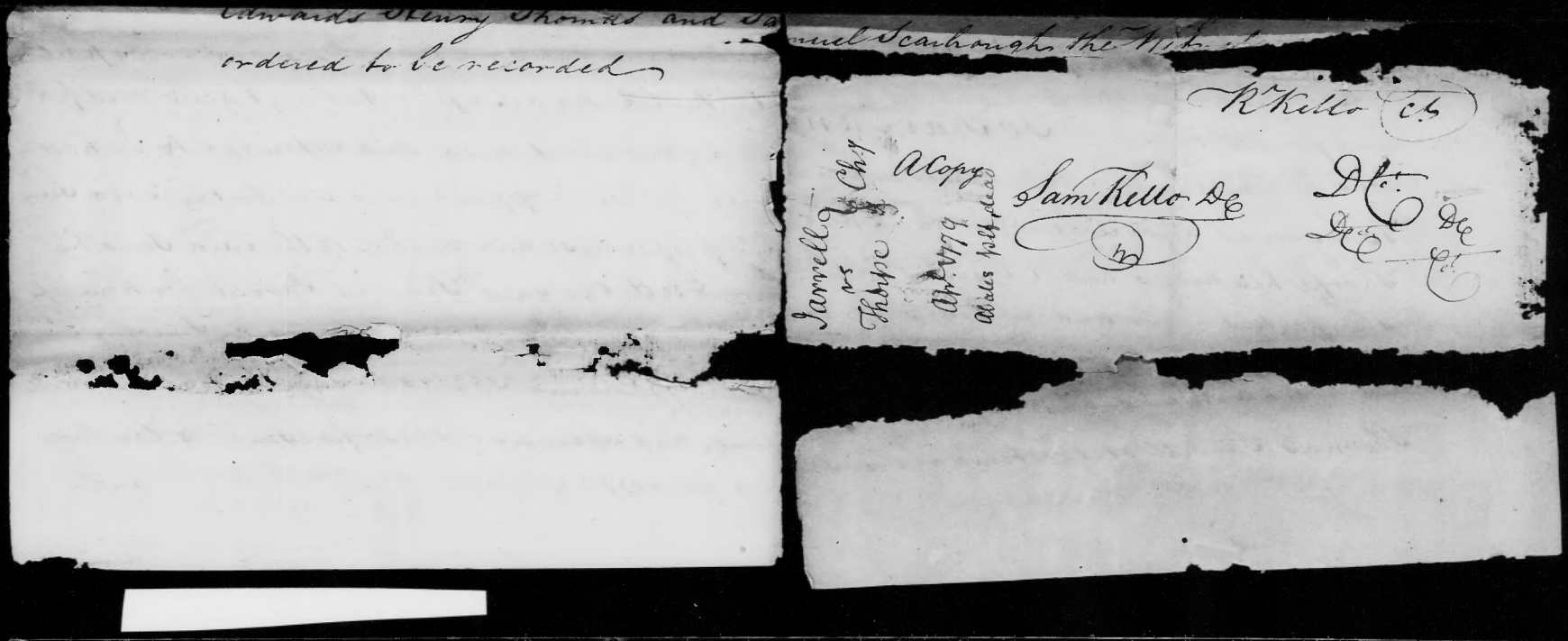
Papers

$3 $100

Item I Give and bequeath unto my son John Jarrell the Plantation whereon Wm Creston now lives & all the lands that lies on the upper side of the Indian Branch that I bought of the Nottoway Indians I Also Give unto my son John all that Tract of Land I Purchased of Peter Bulls lyen on the White Oak Meadow I Also give him my Mill on the Angelica Swamp & all the Land thereunto belonging that I Purchased of James Ridley I Also give him four Negros Viz Philip Ben Lydia & Lucy I Give the above said Three Tract of Land & four Negros to my son John Jarrell & to his heirs forever

A Copy from J. Decora

Sam Kello D.C



This Indenture made the tw
Thousand seven hundred and fifty seven
hampton of the one part and Timothy Sharp
[redacted]
Hundred pounds current money of Virg
at or before the sealing and delivery of
acknowledge and thereof acquit and
cutors and Administrators forever by
Granted Bargained Sold aliened and
Bargain sell alien and confirm unto th
All that plantation Tract or parcell
ying and being on the upper side
Hundred Acres be the same more or less
was by the last Will and Testament
John Jarrell in Fee-Simple and upon the
descended to the said Thomas Jarrell pa
ther and heir at law to the said John
being on Angelica Swamp and the
said twenty acres of Land and Mill wi
purchased of James Ridley Also

Thomas Jarrell purchased of Peter Buck
Meadow and containing Three hundred
land lying and being in the County of So
the whole Eight hundred and seventy a
and reputed bounds thereof And al
Woods Ways Waters watercourses prop
Appurtenances whatsoe to the said
in anywise appertaining and the Reve
ders Rents issues and profits there
the said Thomas Jarre
and writings touching or in anywise
and parcel thereof To Have and
cels of Land and Mill aforesaid her
Bargained and Sold with their and
Thorpe his heirs and Assigns to the
Thorpe his heirs and Assigns for eve
ns heirs and Assigns
Thomas Jarrell at the time of the sea

nty fourth day of October in the year of our Lord one
Between Thomas Jarrell of the County of South
e of the County of Southampton of the other part
Witt That for and in Consideration of the Sum of Three
nia to him in hand paid by the said Timothy Thorpe
these presents the receipt whereof he doth hereby
discharge the said Timothy Thorpe his heirs &c
these presents He the said Thomas Jarrell hath
confirmed and by these presents Doth grant
e said Timothy Thorpe his heirs and Assigns
of Land Whereon William Newton lived situate
dian Branch containing by estimation Five
which said plantation Tract or parcell of land
Thomas Jarrell the elder deceased devised to his Son
deceased of the said John Jarrell without iss
rty to these presents in Fee Simple as eldest h
Jarrell Also the Mill situate lying and
enty acres of land thereto belonging which
th its appurtenances the said Thomas Jarrell
all that Tract or parcell of land which the s.d
s situate lying and being on the White Oak
and fifty acres be the same more or less the s.d
thampton adjoining each other containing in
eres more or less and bounded by the known and
Houses Outhouses Buildings Yards Gardens
its privileges Comodites Hereditaments an
Tracts or parcels of land and Mill belonging
ersion and Reversions Remainder and Rend
and all the estate Interest right Title a
ll of in or to the same and all deeds evidence
concerning the said premisses and every part
To hold the said plantation tracts and par
in before mentioned and intended to be hereby
very of their Appurtenances unto the said Tim
nly proper use and behoof of the said Timothy
And the said Thomas Jarrell for himself
d agree to and with the said Timothy Thorpe
form following That is to say that he the said
ling and delivery of these presents is lawfully
and

NOT DEACIDIFIED 1/23/92

and absolutely seized in his own right
and every part thereof of a good perfec
Fee Simple and that he hath good rig
the [redacted] these p[redacted] he hath
and Assigns shall and may at all
and enjoy the said premisses with the
Molestation or Hindrance of the said
whatsoever free and clear and freely
from all former Grants Bargains Sales
brances of what nature or kind soever
Heirs the said plantations Tracts or
of their Appurtenances and every part
his Heirs and Assigns against him the
and every of them and against all and e
any estate Right Title or Interest of in
thereof shall and will Warrant and for
whereof the said Thomas Jarrell hath
the Day and Year first above written

of and in the said premisses before mentioned
et and indefeasible estate of Inheretance in
ht and lawfull Authority to sell and convey
[redacted] the sa[redacted] Thorp his heirs
mises hereafter have hold use occupy possess
& Appurtenances without the suit trouble
Thomas Jarrell or of any other person or persons
nd clearly acquitted exonerated and discha
Dowers Mortgages Intails and all other encum
And that he said Thomas Jarrell and his
Parcells of Land and Mill with their and every
nd parcell thereof unto the said Simothy Thorp
said Thomas Jarrell his heirs and Assigns a
very other persons having or lawfully claiming
r to the same or of in or to any part or parcel
ever defend by These presents In Witness
hereunto set his hands and affixed his Seal

Thomas Jarrell

Sealed and Delivered
in presence of
Micaj[ah] Edwards
Henry Thomas
Sam[ue]l Scarbough

Recieved the
Thorpe the Sum
being the Consid
£300 Wi

is twenty fourth day of October 1757 of Simothy
of Three Hundred pounds Current money
ation Money within mentioned
Tho[mas] Jarrell

Witness { Micaj[ah] Edwards
Henry Thomas
Sam[ue]l Scarbough

At a Court held for the County of So
This Indenture and the recie
Edwards Henry Thomas and Sa
ordered to be recorded

hampton the 13th day of April 175
endorsed were proved by the Oa
uel Scarbough the Wit

R[ichard] Kello Clk

Jarrell
vs
Thorpe

A Copy
Ap. 1779
Miles Vaughan

Sam Kello Dc

Dc
Dc
Dc