

1804-0-04

SOUTHAMPTON COUNTY
CHANCERY PAPERS

HICKS and Wife vs BIRDSONG

6/1804

other surnames: Boothe

To the worshipful Court of Southampton County in Chancery, Sitting
Humbly complaining sheweth unto
your worships, your orator and oratrix Joseph Weeks and Lucy
his wife. That a certain John Burdson of the County of Sussex
duly made and executed his last will and testament, bearing
date the ninth day of March in the year of our Lord 1782, and
in which will is hereunto annexed and prayed to be taken
as part of this bill, which will contains the following clause
I give and bequeath unto my son Charles Hancock Burdson
(after the death or marriage of my wife Demaris Burdson) the
negro man David, Rachel, and Peter to him and his heirs
That on the eighth day of January in the year of our Lord 1787, the
said Demaris Burdson, widow and relict of the said John
Burdson deceased, for the sum of £50 purchased of the said
Charles Hancock Burdson, his interest in remainder, of the
said Rachel, in the said clause mentioned, which will more
fully appears from a bill of sale executed by the said Charles
H Burdson, which is hereunto annexed and prayed to be taken
as part of this Bill. That the said Demaris Burdson having
purchased of the said Charles H Burdson, his interest in and
title to the said negro woman Rachel, by a bill of Sale or deed
of Gift under her hand and seal, which has been duly proven
and recorded in the county court of Sussex, and dated the 26th of
September 1794, which bill of sale is also hereunto annexed and
prayed to be taken as part of this Bill. That the said Rachel
and her two children Charity and Lewis. Your complainants
have leave to state and set forth, that although the said
Demaris Burdson kept possession of the said three slaves during
her life yet that after and subsequent to the execution of the
said Bill of Sale or deed of Gift the said Demaris Burdson
annually and at the expiration of every year, paid to your
complainants the sum of £5 as here for the said negroes.
That sometime in the month of January 1803 the said Demaris
Burdson departed this life, That the said Charles H Burdson
on the day succeeding the death of the said Demaris Burdson, (your

Complainants at that time living at some distance from the residence of the said Demaris Birdsong fraudulently possessed himself of the said three negroes, falsely alledging that he had executed the bill of sale to Demaris Birdsong, at a time when he was an infant of tender age, that he could never dispose of a thing of which he never had possession, that his title to the said negroes was then as complete as ever it was and that he would expend half their value at Law before he would give them up, your Complainants at that time positively forbade the said Charles H Birdsong from carrying off the said negroes at all intermeddling with them, But the said Charles H Birdsong in contempt of your Complainants, and in violation of Law Justice and humanity intending to defraud and injure your Complainants, carried off the said negroes and secreted them so that your Complainants could not find them - That the said Charles H Birdsong several times afterwards offered to return to your Complainants the \$50 which he had received of the said Demaris Birdsong for the negro Rachel provided your Complainants would allow him a credit of nine months which your Complainants as often positively refused, But that some short time afterwards, the negroes being still secreted and your orator an ignorant and unlettered man and particularly at that time being in a state of complete intoxication and being deceived and deceived by the aspersions of the said Birdsong with regard to his being an infant at the time he executed the said bill of sale, and at that time believing the said Charles H Birdsong to be a man of some truth and integrity, as he had for some time professed himself a minister of the gospel, was at last prevailed upon by the said Charles H Birdsong, while labouring under all the disadvantages and incapacities before mentioned to agree to receive of him the said sum of \$50 instead of the negroes - your Complainants here declare that they did not execute to the said Charles H Birdsong any title to the said negroes, nor was there a bond

given by the said Charles H Birdsong for the payment of the said \$50 at the expiration of the nine months, but your Complainants will candidly admit, that there was a day appointed for the said Charles to execute his bond to your Complainants for the \$50 - But fortunately for your Complainants, previous to the day appointed for the execution of the bond, your orator having regained his reason by abstinence from spirituous liquors, and having recovered a book formerly the property of John Birdsong deceased, the Father of the said Charles, and which is now in the possession of a certain Wm Birdsong of Sussex County, an entry to the following effect: "That Charles H Birdsong was born in the year 1764" and that consequently he was of lawful age at the time he executed the bill of sale to Demaris Birdsong - positively refused either to execute a bill of sale for the said negroes or to receive a bond from the said Charles for the payment of the \$50 - your Complainants most positively aver, that had they not been deluded and deceived by the artful and cunning representations of the said Charles with regard to his infancy, and had your orator been intoxicated and senile, your Complainants would never have made an agreement which if enforced would infallibly ruin your Complainants. But now so it is now, it please your worship, the said Charles H Birdsong intending to cheat, injure and defraud your Complainants, positively refuses to deliver to your Complainants the said negroes Rachel Charity and Lewis, although your Complainants have frequently demanded ^{thereof} in tender consideration of a bond for their release unless by the intervention of this worshipful Court - To the end therefore that the said Charles Hancock Birdsong, may full true and perfect answer make to the several allegations contained in this bill, and more particularly to the following "Did you not execute to your Mother Demaris Birdsong a bill of sale for the negro Rachel" "Was you not at that time of the lawful age of 21 years - And that your worship will order and decree the said Charles H Birdsong to deliver to your Complainants the said three negroes and also to pay

to your Complainants here for the use of the said negroes
 since the death of the said Demaris Burdson, and that your
 worship will grant to your Complainants such other and
 further relief as may be consistent with equity - May it
 please your Worship the premises conduced to grant
 to your Complainants the Commonwealths writ of
 Habeas corpus commanding them

R. H. Taylor
 for Complainants

James Wolfe
 Bill
 Burdson
 June 1804
 Demaris

Burdson is from 21st 627.
 and is the same 2nd 211. 213
 and is the same 1st 164.

Demaris
 Bill
 Burdson

1804 April Executed

John Barnes DS

R. Goodwin Hoff

Attest
My hand
this 10th day of June
1864

March Court 1864

Joseph Hickz & Lucy Licenser Comps
against

Charles H. Birsong — — — — —

Chancery

On the motion of the complainants by
their attorney it is decreed and ordered that unless
the defendant appears and answers the Comps
bill on or before the next Court that the same
will be taken for confessed and decreed
according to the prayer thereof —

Sam. Wells &

Hicks wife } Spec
iii }
Birdsong }
Schuy }
To Sept 1803
Executed

Becher

In Service
J. H. H. H.
J. H. H. H.

The command of Virginia to the sheriff of S^c Lou
county greeting you are hereby commanded to summon
Charles H. Bidasong to appear before the justice of our
said court at the court house of the said county on
the third monday in September ~~in September~~ next
to answer a ^{Billy} ~~supp~~ in Chancery exhibited agst
him by Joseph Hicks and Lucy his wife and that
he shall in no wise omit it under the penalty of
£100 and have then there this writ witness
Sam^l Wells clerk of our said court at the C^t house
the 18th day of July 1803 and in the 27th year of the
Commonwealth

Sam^l Wells

Mr. Charles Hancock Birdseye) sir take notice that
we shall agreeable to a Commission issued from the
County Court of Southampton for that purpose - made
on the Twenty first day of this instant at the dwelling
house of Mr. Beverley Boothe in said County -
Between the hours of nine o'clock in the fore noon &
five in the after noon of said day - to take the Depo-
sition of Miss Lucy Boothe - to be used as Evidence in
a certain suit - commenced & prosecuted in the County
Court of Southampton in Chancery where as we are Com-
-plainants and yourself defendant - when and where
you may attend if you please -

We & wife -

Joseph Hicks

Lucy Hicks

November 10th 1803

November the 9th 1803

On the ²⁷ of novem^r. 1803. Ellisander
Booth personally appeared before me
and made oath that he delivered
Charles H Birdsey a true copy
of the within notice on the 15th of Octo-
-ber
Beverly Booth.

Thick & wife
notice to Birdsey

Received of
Beverly Booth

Hicks wife

W

Birdsong

Comm.

To
Ampton county fcb.

The Commonwealth of Virginia to Beverly Broth
a Justice of the Peace ^(of Sperry County) Gentleman greeting knowlege that we
trusting to your provident-circumspection in diligently
examining Lucy Booth a witness as well on behalf of
~~The~~ ^{Joseph} Hicks and Lucy his Wife as on behalf Charles
Birdsong do Command you to ~~Capt~~ and Cause to come
before the witness aforesaid when and where you shall
appoint and diligently examine her on the holy Vangelist of
almighty God and her examination so taken that you
Send to us enclosed under your hands & seals returning
to us also this writ Witness Sam Kello clerk of our S
Court at the Ct house the 11th day November 1803 And in
28 year of the Commonwealth

Sam Kello C

Faircloth vs

Barnes - 253

///

Supers JH

Joseph Hicks this day made
oath before me that Lucy Booth was
in a law state of health and that
she was a material witness in a
suit in Chancery now depending and
undetermined in the County Court
of P. Ampton between himself ^{& wife} ~~Plaintiff~~
and Charles H Bridson Defendant
Given under my hand this 8 day
of November 1803

Chs Adams
—

the Deposition of Lucy Boothe of lawfull
age Taken in a certain suit Commenced
and prosecuted in the County Court of South
ampton in Chancery setting as Joseph Hicks
& Lucy his wife Complainants and Charles
Hancock Birdson Defendant she being
first sworn upon the holy Evangelist
of almighty god - Deposeth & saith that
she was living ~~at the death~~ Mrs. Lemons
Birdson of Sussex when she died which
happened some time in January last past
and ~~when she~~ at the time of her death
the said Charles Hancock Birdson came in
a few minutes after - and the negro woman
Rachel came in the house crying - and said
Charles told her not to be a fool for Joseph
Hicks should not have her and to take her
children Lewis & Charety and go to miles
Birdson and stay untill he could return home
and bring his Cart or Chair over for them the
said negroes went off in my presents and said
they was going by said Charles's directions to
miles Birdson which said Charles was present
and no other white person but myself - which
I did not see said negro any more untill

I understood that said Chas had purchased them which happened a few days after the death of said Damara Birdsong - and I frequent saw said Joseph Hicks between the death of said Damara and the time that I understood said Hicks had sold the said three negroes to said Chas. He Birdsong which said Hicks appeared to be in a drinking state the greater part of the time - and I have been acquainted with said Hicks for several years and often seen him in a drinking state - as he was at the time when I understood sold said three negroes to said Chas. He Birdsong - and when in that state in my opinion he the said Hicks is void of all reason & knows not what he is about - and farther this deponent saith not

Lucy ^{her} Boothe
mark

a preable to a Commission issued from the County Court of Southampton for that purpose and the notice being proven to me - and its appearing that due attention had been made use of to procure another Magistrate - But failed - and Lucy Boothe appearing at my dwelling house in the County of Barry I proceeded to take the deposition of said Lucy - By the Request of the Plaintiff in the said suit on the 21 of November 1803 given from under my hand

Beverly. Booth

Rec^d April 10th 1788 of Damaris Birdsong
forty five pounds eighteen shill^{ings} in part
of the within mentioned sum —

John Hix

Chas Birdsong

Rec^d Feb^ry 20th 1789 of Damaris Birdsong
four pounds & 5 shillings

C. H. B. }
to } Bill of
D. B. } Sale

Ch^s Birdsong's Bill
of Sale for Rachel's

Know all Men by these presents, that I Charles Hancock Birdsong of Sussex County Virg^a for and in consideration of the sum of fifty pounds of good and lawful Money of Virg^a to me in Hand paid by Damaris Birdsong of S^c County and State, the Receipt whereof I do hereby acknowledge have Bargained sold and Delivered, and doth by these presents Bargain sell and Deliver unto the S^c Damaris Birdsong one Negro Woman by the name Rachel - ^{she and her increase} To have and to hold the S^c Bargained Premises unto the S^c Damaris Birdsong her Heirs Extr^s Adm^s and Assigns for ever. And I the S^c Charles Hancock Birdsong my Heirs Extr^s Adm^s the S^c bargained Premises unto the S^c Damaris Birdsong her Heirs Extr^s Adm^s and Assigns against all Persons shall and will warrant and for ever defend by these Presents. Provided the S^c Damaris Birdsong doth pay or cause to be paid unto the S^c Charles Hancock Birdsong, his Heirs Extr^s Adm^s and Assigns the full and just sum of fifty pounds curr^t Money of the S^c State in Gold or Silver according to the standard thereof at this present time on Demand - Witnefs my Hand and seal this eighth Day of Jan^r one thousand seven hundred eighty seven

Signed Seal and Delivered } Charles H Birdsong

in presence of

Observe the words she & her increase was interlined before aforesaid.

William Hargrave

Henry B. Low

Rubens Plow

Nancy Math

Sally Mary

Wm Birdsong took a way Made woman & her
son antier worth 4 pound per year 7 year ^L 28 -

Wiles Birdsong ditto Sham 6 pr year - 4 2

Buts Birdsong ditto Dick 12 pr year - 8 4

Joseph Birdsong ditto - patience 5 ^L pr year - 3 5

Chas^l Birdsong southampton took away 6 0

two fellows David & peter worth 12 33 3

a peice a year peter died about two
years ago - David's hire counts

Peter's comes to -

Shropshire
Wm Birdsong
Feb 2. 1803 -

And do appoint and nominate my said Wife -
Aemaris Birdsong Executrix and my son William
Birdsong and Miles Birdsong Executors, the said
Revoking and Disallowing all and every other
Will and aqesest Testament and Bequest what-
soever before by me mentioned In Witness -
whereof I have here unto set my hand and seal
the day and year above written. -

Signed Sealed published
pronounced and Delivered
by the S^r John Birdsong
in presents of S^r John ^{his} Birdsong (seal)
Thomas Piepson Mark -
William Buttle
Henry Faison

A Copy of John Birdsong's Will.

In the name of God Amen, the ninth day of March -
in the year of Lord one thousand seven hundred & Eighty
two - I John Birdsong of the County of Sussex -
being weak in Body, but sound in Mind and Memory
do constitute make and Ordain this my last Will
and Testament in the manner and Form Following -

Item I Give and Bequeath unto my son William Birdsong
the Plantation whereon he now lives containing three
hundred and eighty Acres of Land it being part of
the S^d Tract of Land which contains six hundred
and eighty acres, to him and his Heirs.

Item I Give and Bequeath unto my son Bulls Birdsong the
Remainder part of S^d Tract of Land whereon my
son William Birdsong now lives which is three hundred
acres to him and his Heirs.

Item I Give and Bequeath unto my son Miles Birdsong
the Plantation whereon he now lives containing three
hundred acres of Land, it Being a part of the S^d
Tract of Land to him and his Heirs.

Item I Give and Bequeath unto my son Joseph Birdsong
two hundred and twenty acres of Land, it Being a
part of the Tract of Land I now live on joining to
where my son Miles now lives, and also eighty -
Acres the Remaining part of the Tract of Land
whereon my son Miles now lives to him and
his Heirs.

Turn Over

Item. I Give and Bequeath unto my son Charles Hancock Birdsong (after the death or Marriage of my Wife Demaris Birdsong) my plantation whereon I now live, and the Remaining part of the Land thereunto belonging, containing three hundred and Six acres more or Less to him and his Heirs - and my Will and desire is that my still and Whip saw shall remain on my sd Plantation for the use of my Five sons Wm. Miles Butts - Joseph and Charles Hancock Birdsong. - - -

Item. I lend the Use of the Plantation and Land whereon I now live to my well Beloved Wife Demaris Birdsong during her Single Life or Widow hood I also lend unto my sd Wife Demaris Birdsong the Labour of all my Slaves that is now on my Plantation During her Single Life or Widow hood, also I lend to my sd Wife Demaris Birdsong - the Use of all my stock of all Kinds (except one Colt which I give to my son Charles Hancock Birdsong) during her Single life or Widow hood, I also lend to my sd Wife Demaris Birdsong the Use of all my house hold and Kitchen Furniture, - Except two Feather Beds and Furniture During her Single Life or Widow hood, also I give to my sd Wife Demaris Birdsong my two side Saddles to dispose of as she sees proper -
Turn Over -

Item. I Give and Bequeath unto my son William Birdsong
(after the death or marriage of my wife Demaris
Birdsong) my Negro woman Jude to him and his
Heirs.

Item. I Give and Bequeath unto my son Miles Birdsong—
my Negro Man Jacob which he has now in Possession
also I Give unto my son Miles Birdsong (after the
death or Marriage of my s^d Wife Demaris Bird-
song) my Negro Boy Isham to him and his Heirs.

Item. I Give and Bequeath unto my son Butts Birdsong
(after the death or Marriage of my s^d Wife) my
Negro Man Dick, Tom & Jack, to him and his Heirs.
Also I Give unto my son Butts Birdsong one Feather
Bed and Furniture.

Item. I Give and Bequeath unto my son Joseph Birdsong—
(after the death or Marriage of s^d Wife Demaris
Birdsong) my Negro Woman Patience, to him—
and his Heirs.

Item. I Give and Bequeath unto my son Charles Hancock
Birdsong (after the death or Marriage of my s^d
Wife Demaris Birdsong) my Negro Man David
Rachel, and Peter, to him and his Heirs.
Also I Give unto my son Charles Hancock Bird-
song one Feather Bed and Furniture.

Item. I Give and Bequeath unto my Daughter Rebecca
Blow my Negro Man Isham and his Heirs.

Item. I Give and Bequeath unto my Daughter Lucy
Birdsong (after the death or Marriage of my Wife—
Turn over

my Negro Man and old Jude to her and her Heirs.—
Item. I Give and Bequeath unto my daughter Sally Blary
(after the death or Marriage of s^d Wife) my Negro Girl
to her and her Heirs.

Item. I Give and Bequeath unto my Daughter Anne
Lane twenty Pounds to be paid unto her in the
state one thousand seven Hundred & Eighty Six
to be raised and Levied out of my Estate.

Item. I Give and Bequeath unto my Daughter Mary
Birdsong fifteen Pounds current Money to be paid
unto her in the state one thousand seven hundred
Eighty Six to be raised and Levied out of my
Estate.

Item. I Give and Bequeath unto my son James
Birdsong twenty Pounds to be paid unto him in
the state one thousand seven hundred Eighty Six
to be raised and Levied out of my Estate.

Item. I Give and Bequeath unto my son John Birdsong
twenty Pounds current Money to be paid unto him
in the state one thousand seven hundred Eighty Six
to be raised and Levied out of my Estate.

And my Will and desire is that at the death or
Marriage of s^d Wife Demaris Birdsong that the
debts and Legacies shall be paid, and the Remain-
ing part of my Estate shall be equally divided
among my five sons William Birdsong, Miles
Birdsong Butts Birdsong, Joseph Birdsong and
Charles Hancock Birdsong.

Birdsong 1

to dudheft
Nicks

Oct. 1794 pro legl

Web. Or

~~and~~ Apr. 1795

feudum pro and Or

Quoted and exam.

Birdsong
to Nicks
Nicks Sept

I know all Men by these presents that I Demar as
Birdsong of Sussex County for divers good causes
and considerations me thereto moving but especially
for the love and goodwill ~~which~~ I have and do bear
unto my daughter Lucy Hicks wife of Joseph Hicks
have given, granted, and delivered unto my said
daughter Lucy, three Negroes. Namely, Rachel &
her child Charity about eighteen months Old and
a Boy named Lewis about four years Old, to have
and to hold the afore said three Negroes to the said
Lucy Hicks her heirs and assigns to the only proper
use and behoof of her the said Lucy Hicks her heirs &
assigns for ever. And I the said Demar as Birdsong
for my self and my heirs the afore said three Negroes to
the said Lucy Hicks her heirs and assigns against
me and my heirs and against the claim or
demand of any other person or persons whatsoever shall
and will by these presents for ever bind. In Witness
Whereof I have hereunto set my hand and seal this
Twenty ~~fourth~~ day of September in the year 1794
Sealed & Delivered in
Presence of } Demar as Birdsong
Jesse Wallis &
John Hix

At a Court held for Sussex County the 2nd day of October 1794
This Bill of sale was proven to be the Act and deed of Damarus
Birdsong, a party thereto by the Oath of Jesse Wallis all witnesses
thereto. It Ordered to be Recorded.

Teste

M. Bailey C. C. C.

and at another Court held for said County the 2 day
of April 1795 This deed of Gift was further proved
by the Oath of John Hicks another Witness thereto
and Ordered to be recorded.

Teste

M. Bailey C. C. C.