

1816-024

SOUTHAMPTON COUNTY
CHANCERY PAPERS

MAGET and Wife et al vs. EVERITT'S EXECUTRIX
3/1816

other surnames: Newsum, Beal,
Dawson, Pope, Beale, Magett,
Worrell, Doyal, Ellsworth,
magget, Doyl, Elsworth,
Gooch, Cain

Maget & wife 1^c

n. } Bill —
Sally Swint, widow & eldest
Daughter, of Simon Swint dec.

September 1875 Bill filed
affidavit of Coml. D.B.E.

To the worshipful Court of Southampten County in Chancery Sitting -
Humbly complaining shew unto your worships, your orator and oratrix
James Maget and Jennett his wife, your oratrices Nancy Newsum,
widow & relict of William Newsum decd, Betsey Newsum, Jane New-
sum, and Julia Beal, widow & relict of John Beal decd, your infant
oratrices Lucy Newsum and Sally Newsum, by the said James Maget
their next friend, and your infant orators and oratrix Simon Smith Newsum,
William Henry Newsum, and Mary Ann Newsum, by David Newsum
their father & next friend, that on the day of 1773, a certain Joseph Everitt de-
parted this life in the County of Southampton, having first duly made & published
his last will & testament in writing, & that at a Court held for the said County
on the 11.th day of March of the same year, the said last will & testament
was proved & ordered to be recorded, and a certain David Dawson
and John Wilkinson, the Executors therein named, qualified there to
and took upon themselves the burden of executing the same - that among
the Devises & bequests in the said will contained, are the following,
"Item I give to my son Simon, the land & plantation whereon I live, to him
& his heirs for ever, the rent or profit to go to my Estate, till he shall
arrive to ~~the~~ the age of twenty one year." "Item I give all the remainder
of my Estate, after my debts is paid, to my son Simon & daughters
Sarah & Jennett, to be equally divided between them, when my
son Simon arrive to age above mentioned, to them & their heirs forever,
all which will fully appear by an attested copy of the said last will
& testament, hereto annexed, & to which your worships are referred as
a part of this bill - that the said Joseph Everitt, at the time of
his death, left five children, to wit, four daughters, Ann
Dawson, late Ann Everitt, wife of the said David Dawson, Patience
Pope, late Patience Everitt, wife of a certain Britton Pope, Sarah Everitt,
who afterwards intermarried with a certain Joel Newsum, and your
oratrix Jennett, then Jennett Everitt, who afterwards intermarried with your orator

James Maget and one son, the aforesaid Simon Everitt - that the said Sarah Newsum, wife of the said Joel Newsum, sometime hereafter, also departed this life, leaving seven children, to wit, your orators Nancy Newsum, late Nancy Newsum, Betsey Newsum, Jane Newsum, Julia Beal, late Julia Newsum, Lucy Newsum and Sally Newsum, and a certain Polly Newsum, who intermarried with a certain David Newsum - that the said Polly Newsum, daughter of the said Sarah Newsum and wife of the said David Newsum as aforesaid, hath also departed this life, leaving three children, to wit, your orators and oratrix Simon Everitt Newsum, William Henry Newsum and Mary Ann Newsum -

that the said Simon Everitt hath also departed this life, having first duly made & published his last will & testament in writing, an attested copy of which is hereto annexed as a part of this bill, by which he gave and devised his whole estate to his widow Sally Everitt, who is prayed to be made defendant to this bill -

Now your orators & oratrix beg leave to represent to your worships, that the said Joseph Everitt, at the time of his death, ~~left~~ owned three tracts or parcels of land, in the said county of Southampton, two of them making the land and plantation whereon he lived, and the other one, known by the name of the new survey, making a separate plantation, which no where joined, and was never considered a part, of the said tract on which he lived - that the said two tracts or parcels of land, making the land and plantation on which the said Joseph Everitt lived, passed to the said Simon Everitt under the will of the said Joseph Everitt dec'd, but that the said land and plantation, known by the name of the new survey, containing by estimation acres, by the terms and the intention of the said will,

should have been equally divided between the said Simon Everitt, the said Sarah Newsum, wife of the said Joel Newsum, and your orator James Maget, as soon as the said Simon Everitt arrived to the age of twenty one years, an event which happened very many years before the death of the said Simon Everitt - But so it is, may it please the Court, that the aforesaid executors of the said Joseph Everitt deceased, who in all other respects closed their administration to the satisfaction of those concerned, permitted the said Simon Everitt to take possession of those tracts or parcels of land - of which said tracts or parcels of land, the said Simon Everitt, in his lifetime, continued to hold the entire possession, and of which, the said Sally Everitt, widow & executrix of the said Simon Everitt dec'd, still holds the possession, as devisee of the said Simon Everitt deceased, although it is manifest, that the said land & plantation, known by the name of the new survey, should of right be divided into three equal parts, one of them to be allotted to the said Sally Everitt, as devisee of the said Simon Everitt dec'd, another of them to your orator brother James Maget & Jennett his wife, and the remaining third ^{part} to the children & grandchildren of the said Sarah Newsum dec'd, late the wife of the said Joel Newsum - which is contrary to Equity & good conscience & tends to the manifest injury of your orators & oratrix - In tender consideration whereof, and because matters of this kind are properly receivable in a Court of Equity, & the End therefore that the said Sally Everitt, widow & executrix of the said Simon Everitt dec'd, may be compelled on her corporal oath, to be by her taken, on the holy Evangelists of Almighty God, full true & perfect answer to make to all & singular the allegations of this bill, & that as amply & unhesitatingly, as if the same were herein again repeated & she were thereunto particularly interrogated, that your worships will thereupon decree that the said tract,

a parcel of land, containing _____ acres and known by the name of
the new survey as aforesaid, be divided into three equal parts, that
one of the said parts be allotted to the said Sally Everett, as devisee of the said Simon
Everett dec^d; that another of the said parts be allotted to your orator
brother James Ma get & Jennett his wife, that the remaining third
be divided, or sold, and the proceeds of the said sale divided, into
seven equal parts, one of the said parts to be allotted, or assigned,
to your orator Nancy Newsum, another of the said parts to your orator
Betsey Newsum, another of the said parts to your orator Jane Newsum,
another of the said parts to your orator Julia Beal, another of the said
parts to your orator Lucy Newsum and another of the said parts
to your orator Sally Newsum - that the remaining seventh
part be ~~divided into three equal parts~~ equally divided between
your orator brother Simon Everett Newsum, William Henry Newsum
and Mary Ann Newsum - that an account of the profits of the
said land, known by the name of the new survey, be taken before the
commissioners of this court, or be ascertained by the verdict of a jury,
from the time of the arrival to the age of twenty one years, of the said
Simon Everett dec^d, until this time, and be divided among the
persons, and in the proportions, above mentioned - that any other decrees,
be, rendered, and any other & general relief, granted, in the premises,
which may be found consistent with Equity and good conscience.
May it please the court to grant the foregoing withy substance,
commanding &c and as in duty bound, your orator brother in
law pray -

Yours and thes^r for comfort

The Answer
of Sally Everett to
a bill in Chancery
exhibited on her by
James & Maggett &
February 27th 1816 answered
Filed -

Southampton County, Va.

This day appeared before me James Jones
a Justice of the peace for the said County of Southampton
Sally Everett ~~and~~ made oath that the foregoing answer
to the bill of the Complainants James Maggett & all his wife
and others which said answer is contained on one one
half sheet of paper annexed together, contains the
truth as far as she knows & believes herself; and from
the information of others which she believes to be
true. Given under my hand this 27th day
of February 1816 -

James Jones Jst
J

The answer of Sally Everett to a bill in Chancery exhibited against her in the County Court of South-
ampton by James Maget Jennett his Wife late
Jennett Everett, and others - for answer thereto or
so much thereof as she is advised is material
for her to answer - saving to herself all, and
all manner of right, of exception to the many
absurdities, misrepresentations, and falsehoods
contained in the said bill of complaint.

For answer thereto saith. That true it is
as stated in the said bill, Joseph Everett
the father of Simon did depart this life in
1773, after making and publishing his last
Will and testament: wherein the devises &
bequests stated in the said bill are made;
under which devise, and by the plain
and evident intention of the said Joseph
Everett, manifested in, and by the said Will,
as well, as the perfect knowledge his said
Executors had, of his devise in disposing
of his Estate, the said Executors did permit
the said Simon Everett, as they ought to
have done, to take into possession, and
to enjoy all the land of which the said
Joseph Everett died seized and possessed;
the whole three tracts mentioned in the said
bill, being comprised in one entire body,
and no trace of any dividing line, as the

respondent is informed, has existed within the knowledge or memory of any man living, untill the said Simon not many years ago, sold apart thereof; the said new Survey taken up by Simon Everett the Elder, father to Joseph Everett completely adjoining the other two tracts mentioned - united, and held as - and for one single tract always after the new Survey was taken up, which was under a Grant made by George the Second, in the year 1730 to the said Simon the Elder, of 350 Acres: as will appear by the patent then issued and signed by William Gooch, at that time Lieut. Governor of the colony of Virginia; and which said patent it is prayed may be taken and considered as part of this answer, wherein it will most clearly, and fully demonstrate, that notwithstanding the assertion in the bill, that the said "new survey making a seperate plantation which no where joined, and was never considered a part of the said tract on which he lived (meaning Joseph Everett father of Simon the younger) that the depravity, and falsehood, of the complainant, is made manifest, by shewing the contiguity of the said three tracts; and that the s^d. new Survey was located, taken up, and patented, bordering on, and adjoining to the other land, of the s^d. Joseph mentioned in the bill, under

whom the said Simon the younger, in his life time did claim and possess the said new survey devised to him by his father Will^m. and by virtue of whose Will (i.e.) Simon the younger, this respondent claims title to the same. - And here this respondent begs leave to state that Simon Everett the Elder father of Joseph purchased of William Cain in the year 1722 one of the tracts of land mentioned in the complaint, as will appear by reference to a Deed of Adventure executed by the s^d. W^m. Cain, dated 16th September 1722, and recorded in the County Court (at that time) of Suffolk Wight; - which Deed it is prayed may be taken and considered as a part of this answer. That afterwards to wit in 1730 the said Simon Everett the elder, did take up the said new Survey, and obtain a patent therefor adjoining as is before stated, to his other land. - That the said Simon the elder departed this life in 1746 after making & publishing his last Will & Testament, - which is prayed to be made a part of this answer, that by his Will, one moiety of the s^d. new Survey was devised to Joseph his son - and the other moiety

thru of to Simon brother of Joseph
who afterwards died in 1752 and
devised all his land to his brother
Joseph, whereby the said Joseph became
owner of all the land mentioned in
his father Simon the elder Will (i.e.)
all the land mentioned in the bill
of the complainants. That the said
Joseph Everett made his Will in 1773
and soon after died, and the same
year the said Will was committed to
record, to wit in March 1773 upwards
of forty years ago, that the said
Simon Everett his son became of full
age in the year 1782 since which
thirty three years have rolled away
whilst the said Simon Everett the
younger, and since his death this
respondent has peaceably enjoyed
possession of the said land in question.
That great efforts were made by
these complainants to render null and
void the Will of Simon Everett, who
devised the said land called the new
Survey to this respondent, as the compts
have set forth in their Bill; and
failing of their object, in unjustly
depriving her of the benefit derived
under the said Will, now seek to
harass her by a suit, to disturb her
peace of mind, and to involve her in

expense and trouble: well knowing
as it is believed by this respondent,
that they have no title under which
they can recover; which belief is
fortified by the length of time
since they could have instituted a
suit, to decide the question of right.

This respondent will farther add,
that in the year 1752 Simon Everett
brother to Joseph, departed this life;
giving to Joseph "all his land & his
"water Mill" which put the s. Joseph
in possession of the whole of the new
Survey; that 63 years have since
elapsed: during which the s. Joseph
first — the s. Simon next, all his
life, and this respondent since
his death; have quietly held this
land, now claimed by the compts.
it can therefore hardly ^{be} believed,
that the complainants would have
remained silent; if any hopes were
entertained of success in a contest
for this land.

This respondent having answered the allegations
contained in the Com. itts. bill prays
leave to be dismissed.

clerk of our said court at his office 13th day of Sept.
1875 of 40th Year of the commonwealth

Wm. B. Rochelle & Co.

Magist. } Comd.
" } to Take
Event Corp. } Depo.
D.B.B.

The Commonwealth of Virginia to George Gurley and
Thomas Ridley — Gentlemen Justices of the peace
for the county of Southampton greeting Know ye that we
trusting to your fidelity and provident circumspection in diligently
examining Joel Newsum D.P.E. a witness on behalf of James
Mager & Janet his wife formerly Emmet Everitt, Nancy Newsum,
Jane Newsum & Elizabeth Newsum, children of Sarah Newsum dec.
formerly Sarah Everitt, John Beale & Julia his wife formerly Julia
Newsum daughter of said Sarah & Lucy Newsum, & Sally Newsum
infant children of said Sarah by their next friends James Mager
& Simon Everitt Newsum, William Henry Newsum, & Mary Ann
Newsum infant children of David Newsum & his wife Polly now
dec. formerly Polly Newsum an other daughter of said Sarah by
their next friends David Newsum against Sally Everitt dec. of
Simon Everitt dec. in a suit in chancery now depending and
undetermined in our said county, court of Southampton between said
James Mager & other Plrs. & Sally Everitt dec. of Simon Everitt dec.
deft. command you or any two or more of you that on such
certain day, and at such place as you shall appoint, you cause
to come ~~to come~~ the witness aforesaid before you, you call and cause
to come and diligently examine on the holy evangelist of almighty
God and his examination into our said court distinctly and fairly
certify without delay you find and certify ~~without delay~~ enclosed
returning to us also this writ — Witness James Rochelle

Maget Jr. } 101
vs }
Civitt } Spad in bly

To June 1813

Executed 15th April 1813

John Myrick sep. of

James Lee Shipp



The Commonwealth of Virginia to the Sheriff of Southampton county,
Greeting, you are hereby commanded to Summon Sally Everett, Executrix
and Pursee of Simon Everett ^{decd} to appear before the Justices
of our county court of Southampton at the courthouse on the third
monday in June next to answer a bill in chancery exhibited against
her by James Maget & Janet his wife formerly Janet Everett,
Nancy Newsum, James Newsum, & Elizabeth Newsum, children of Sarah
Newsum, (dec'd formerly Sarah Everett, John Beale and Julia his
wife formerly Julia Newsum's daughter of said Sarah, & Lucy
Newsum and Sally Newsum, infant children of said Sarah
by their next friends James Maget, and Simon Everett Newsum,
William Henry Newsum, and Mary Ann Newsum, infant
children of David Newsum, and his wife Polly, now dead formerly Polly
Newsum an other daughter of the said Sarah by their next friend David
Newsum. And this she shall in no wise omit under the penalty of
£100. And have there this writ. Witness Samuel Kello clerk
of our said court at his office the 3rd day of April 1873 and 37th
year of the Commonwealth

Samuel Kello Clk
(11)

A Copy

Mrs Sally Overitt Ex^{or} of Simon Overitt Dec^d

Take notice that I shall on Wednesday the
18th day of ~~October~~ this Inst^t at the House of
Joel Newsom between the Hours of 10^{am} O'clock & 3
O'clock P.M. of that day proceed to take the deposi-
tion of Joel Newsom D.D.C. to be read as evidence
in a suit in chancery now depending & undetermined
in the County court of Southampton between
myself and others P^{ts} & yourself. Def^t when
& where you may attend if you think proper

ackⁿ as per his mother
& 3^d he acted I F

James Magit & others
October 7th 1815

October 7th 1815 49.

~~Acknowledged before me~~
October 13th 1815 Acknowledged before me to suit at J. Ridley J.D.
Marshall him on Saturday 21st inst^t
agreeable to notice
Mr. Fairclough

Virginia Southampton County -

James Mayet this day personally appeared before me
and made oath that Joel Newsum of Southampton who is
aged and infirm is a ~~material~~ ^{material} witness in a Suit in chancery
now depending and undetermined in the county court of ^{South} ~~South~~ ^{York}
between said James Mayet, ^{Plt.} and Sally Everett ^{Defendant} ~~Defendant~~
Given under my hand this 13th day of Sept. 1873
Rachell B.

No 279

Augt }
Sept }
Ovinto }

March 2nd 1816 dep. Jico

+ +

In obedience to a commission to us directed Joel Newsom
to Lawful Age came before us at Marblehead in
the county of Southamptons and after being sworn
in the Holy Evangelist of almighty God and deli-
berately examining, depositions and sayeth

That the Land in contention was delivered to
him on the 12th day of December 1775: And that
he the said deponent continued in possession until
the year 1782. The deponent further saith
that he gave an account of 620 Acres of Land
to the Commissioners, it being in three separate
plots - He further saith that he then gave
possession to Simon Coville, son of Joseph Coville
deceased by ~~the will of~~ ^{as not the} ~~the~~ ^{land}
now in Contention considering as a separate tract
And I do consider that the Land in contention
was entirely separate from the balance of
Joseph Coville's land. Signed Joel Newsom

Given under our hands this 21st day
of Oct. 1815.

Thos. Middleton

Joseph Everett's
Will
A. Copy

In the Name of God. Amen, I Joseph Everitt of the County of Southampton being in perfect Senses and Memory do this 5. day of March One thousand Seven hundred and Seventy three make and publish this my last Will and Testament in manner and form following - Viz

Item. I give to my daughter Ann Dawson a negro boy named Pat to her and her heirs forever.

Item. I give to my daughter Patience Pope a negro boy named Isaac to her and her heirs forever.

Item. I give to my grand daughter Elizabeth Dawson Everitt a negro girl named Prief to her and her heirs forever.

Item. I give to my grand daughter Polly Pope a negro girl named Pat to her and her heirs forever.

Item. I give to my Son Simon the Land and plantation wherein I live to him and his heirs forever the rent or profit to go to my Estate till he shall arrive to age of twenty one year.

Item. I give all the remainder of my Estate after my debts ~~is~~ paid to my Son Simon and daughter Sarah and Jennett to be equally divided between them when my Son Simon arrive to age above mentioned to them and their heirs forever.

Item. My Will and desire is that the use of my Estate Land included be for the Support maintenance and Education of my Said Son Simon and daughter Sarah and Jennett till my Son Simon arrive to age above mentioned.

Item. Also my Will and desire is that my Executor at their discretion do either Sell all or any part of my Estate (my negroes excepted) or to rent the Land and have the negroes thereon, or to keep the whole Estate together on the Land as they shall think most to advantage until my Son Simon do arrive to age and the profits to go as above mentioned.

Item. I do make and Ordain my Served Law. David Dawson and my friend John Wilkinson my Executors of this my last Will and Testament. In Witness whereof I have set my hand and affixed my Seal the day and year first above written - Signed Sealed and pronounced

Joseph Everitt. Seal

In the presence of
Jerela Barnes.

Mark
Harris Taylor.

mark
James Williamson

At a Court held for the County of Southampton the 11. day of March 1773.
This Will presented in Court by David Dawson and John Wilkinson Executors therein named and proved by the Oaths of Jerela Barnes and Harris Taylor two of the Witnesses therein and Ordered to be recorded. And on the Motion of the Said Executors, made oath according to Law. a Certificate is granted to them for obtaining a probat thereof in due form. giving Bond and Security whereupon &c

A Copy Test James Rochelle C.C.

Simon Everett's

Will

A. Coffey

(18th)

In the name of God. Amen. I Simon Everett of the County of Southampton being in perfect Sense and Memory do this 16th day of August in the year of our Lord one Thousand Eight hundred and Two make and Ordain this my last Will and Testament.

Imprimis. I give and bequeath to my loving wife the land and plantation whereon I now live containing by estimation three hundred acres more or less also all the remainder of my Estate to her and her heirs forever. I do also appoint my wife Sally the whole and Sole Exec^{tr} of this my last Will and Testament. In Witness whereof I have hereunto set my hand and affixed my Seal the day and date above written.

Ja^s Wilkinson
Temperance Neal
Lazarus Whitcomb.

Simon Everett Test.

At a Court held for the County of Southampton the day of April 1808.
This Will which was contested was brought into Court and proved by the oath of Temperance Bryant formerly T. Neal, and Robert Kelly, James Gee, and Williams Blair. deposed that they believed that the Signature of James Wilkinson dec^d subscribing Witness to the Said Will was in the hand writing of Said James, parties heard and the Will Ordered to be recorded. Whereupon probate was granted Sally Everett the Execut^{tr} named in the Will who gave bond and Security whereupon &c.

A Copy Teste James Nicholls

Maney Magette } Children of Sonnett Magette
Samuel Magette } formerly Everett
Everett E. Magette }
Polly Pond }

Julia Beale }
Jane Worrell } Children Sarah Newsome
Lucy Doyal } formerly Everett
Polly Ellsworth }

Simon E. Newsome }
William H. Newsome } Children of Polly Newsome
who is the wife of Sarah Newsome
formerly Everett }

Memorandum
to
Rivier -

Manny Maget }
 Mary Pond } children
 Samuel Maget } of
 L. M. Maget } I Maget
 L. M. Maget } & his wife

Esau M. M. in }
 right of his wife }
 Lane M. M.

Julia Bracy }
 formerly M. M. - }

William L. in }
 right of his wife }
 Lucy family. M. M.

Elah E. M. in }
 right of his wife Sally }
 formerly M. M.

Simon. E. & M. H. M. M.