

1816-034

SOUTHAMPTON COUNTY
CHANCERY PAPERS

WARREN and Wife vs POWELL & al

5/1816

Other SURNAMES: Barnes,
Francis, Murrell, Murfee,
Atkinson

Warren Smith & Co

or. } Bill, Inferior
Powells. Denver -

December 1815 Int. 9. Dec.

To the worshipful court of Southampton County in Chancery sitting.
Humbly complaining shew unto your worships your orator Prudence Michael
Varren and Jincy Warren his wife, late Jincy Powell, & your oratrices
Pactheria Parsons, widow & executrix of Buckston Parsons dec'd, late Pactheria Powell,
Sally Francis, widow & executrix of Samuel Francis dec'd, late Sally Powell, and
Sophia Powell, widow & executrix of Drury Powell dec'd, late Sophia Powell, that on
the day of 1807, a certain John Powell, father of your oratrices, de-
parted this life in the County of Southampton, having first duly made
and published his last will and testament in writing, & that a certain
Robert Murrell and Samuel Francis, the executors therein named
qualified to the said will & took upon themselves the burden of
executing the same - that the said John Powell at the time of making
& publishing his said will had seven children, to wit, your
oratrices, and John Powell, Joseph Powell and James Powell - and
that after making of the said will, two other children of the said
John Powell (deceased) were born, to wit, George Powell & Jephtha Powell -
that by his said will, the said John Powell directed, that if either of his
sons John Powell, Joseph Powell, or James Powell, or if his wife should
have any more children by him if either of them, should die under
the age of twenty one years or without lawful issue, that then certain
of his negroes should be divided amongst his then surviving
children or their representatives - as will fully appear by an attested
copy of the said will hereto annexed & to which your worships are

referred as a part of this bill - that in pursuance of the said
will & by the agent of the said Executors, the said negroes were divided
by a decree of this Court between the testator's widow Rebecca
Powell & the aforesaid John Powell, Joseph Powell, James Powell, George
Powell and Jephtha Powell - that of the negroes allotted in the said
division to the said Joseph Powell & Jephtha Powell, there are only three
remaining - to wit, Lucy, Dick and Mary - that the said Joseph
Powell and Jephtha Powell have both departed this life under
the age of twenty one years, intestate and without issue - so
that by the very terms of the said will, the said negroes Lucy,
Dick and Mary are to be, divided, or as they can not be
divided in kind, to be sold & the proceeds of the said sale divided,
between your orators & the aforesaid John Powell, James Powell,
and George Powell, the surviving children of the said John
Powell deceased - Nevertheless the rights of your orators in this
behalf cannot be reduced into possession, without the aid & inter-
position of a Court of Equity, where matters of this sort are properly
cognizable - To the end therefore that the said John Powell, the said James
Powell, who is an infant under the age of twenty one years, by Simon
Murphy his guardian, & the said George Powell, who is an infant under
the age of twenty one years, by Elisha Atkinson his guardian, may be made
defendants to this bill & be compelled to answer all & singular the allega-
tions therein contained & that as fully as if the same were herein against

repeated, and they thereunto particularly interrogated - that your orators
will decree that the said negroes Lucy, Dick & Mary be sold, on such
credit as may be deemed just & proper, & the proceeds of the said sale
equally divided between your orators & the said John Powell, James
Powell & George Powell - that any other & general relief be granted in
the premises, consistent with Equity & good conscience - May it please your
orators to grant the Commonwealth the writ of Subpoena commanding, &c. and
as in duty bound, your orators orators will ever pray &c.
Sith for Plffs.

The joint & separate answer of John Powell, James Powell, an
infant under the age of twenty one years, by Simon Murphy his guardian,
and of George Powell, an infant under the age of twenty one years,
by Elisha Atkinson his guardian, to the foregoing bill of complaint -
The said defendants saving & reserving &c. for answer thereto say, that they
cannot gainsay the allegations in the said bill contained, & have
no objection to the decree therein prayed of this Court - And they pray
to be hence dismissed &c. (Signed) John Powell
Simon Murphy Guardian of
James Powell
Elisha Atkinson guardian of George Powell

Southampton December Court 1815

Michael Warren and his wife
late his wife
late Sally Powell Parthenia Barnes widow
and relict of Buckton Barnes dec^d late
Parthenia Powell Sally Francis widow
(and Relict of Samuel Francis dec^d)
late Sally Powell, and Sophia Powell
widow and relict of Drury Powell
late Sophia Powell — Compt^{rs}

against
John Powell James Powell an infant
under the age of twenty one years by
Simon Murre his guardian and
George Powell an infant under the
age of twenty one years by Elisha At-
kinson his guardian — Deft^s

For Plaintiff

This Cause ^{was} this day settled by consent of the parties and
the assent of the court and was heard upon the bill and
the answer of the defendants and was argued by Council
whereupon the court doth adjudge order and decree that
Wiley Francis Richard Blunt and John Spencer or
any two of them do sell at public auction on a credit
of twelve months Lucy, Dick and Mary the negroes
the negroes in the bill mentioned which were theretofore
settled to Joseph Powell and Sophia Powell now
deceased in a division of the slaves of John Powell
deceased giving at least two weeks ^{previous} public notice of the
time and place of sale that the said Commissioners

or such of them as act require a bond or bonds with
approved security from the purchaser or purchasers
payable to themselves and divide the proceeds of said
Sale equally between the complainant Michael Warren
in right of his wife Lincy the Complainant Parthena
Baines the Complainant Sally Francis the Complainant
Sophia Powell and the defendants John Powell James
Powell and George Powell - taking cause to pay
over the proportion of the said James Powell to
Simon Munster his guardian and the proportion
of George Powell to Elisha Atkinson his guardian
It is further ordered that the said Commissioners or such
of them as act make a report of their doings and
doings in this behalf to the Court in order to a final
 decree

Warren & Lincy }
Powell & George }
Atkinson }
Dueser

Teste James Rochelle
4

May 1816 Rep^t ret. 802

(Encl^d)

1st copy taken is 11-1-1816

Michael Warren and Jinsy his wife, late Jinsy Powell, Patterina Barnes,
widow & child of Berton Barnes dec'd, late Patterina Powell, Sally Francis, widow
of Samuel Francis dec'd, late Sally Powell, and Sophia Powell,
widow & child of Drury Powell dec'd, late also Sophia Powell - Compt's
against

John Powell, James Powell, an infant under the age of twenty one year, by Simon
Murphy his guardian, and George Powell, an infant under the age of twenty
one year, by Eliza ^{Atkinson} ~~Blair~~, his guardian ———— Defs

This cause was this day docketed by consent of the parties & the assent of the Court,
& was heard upon the bill & the answer of the Defendants, and was
argued by Counsel, whereupon the Court doth adjudge, order and
decree, that Willie Francis, Richard Blunt & John Spencer or any two of ^{them}
do sell at public auction, on a credit of 12 months, Lucy, Dick
and Mary, the negroes in the bill mentioned, which were heretofore
allotted to Joseph Powell & Jephtha Powell, now deceased, in a
division of the slaves of John Powell deceased, giving at least
two weeks previous public notice of the time & place of sale —
that the said Commissioners, or such of them as act, require a bond, or
bonds, with approved security, from the purchaser or purchasers,
payable to themselves, and divide the proceeds of the said sale

equally between the complainant Michael Warren, in right of his
wife Linsey, the complainant Parthenia Barnes, the complainant Sally
Francis, the complainant Sophia Powell and the defendants John
Powell, James Powell and George Powell - taking care to pay over
the proportion of the said James Powell to Simon Murfee, his guardian,
and the proportion of the said George Powell to Elisha ^{Atkinson} ~~his~~ his guardian.
It is further ordered that the said commissioners, or such of them as act,
make a report of their actings & doings in this behalf to the court,
in order to a final decree -

Done

and

Commissioners Report
of the Sale & Division of the
Negroes of Joseph and
Josephiah Powell dec.

In obedience to a Decree of the County Court of Southampton to us directed bearing date December 1815 to make Sale of the Negroes belonging to Joseph and Jephthah Powell dec. and to divide the proceeds of the same amongst seven legatees therein named; We the subscribers have proceeded to carry into effect the said Decree by selling on a credit of twelve months the following Negroes to Wit. —

Old Negro Woman Lucy & Child Mary To Cordall Brantley. — \$ 65. —

Negro Boy Dick ————— To Henry Dupree. — 500.75

Each Legatee's proportionable Part \$ 565.75

We the Commissioners have paid over unto the Complainants — Michael Warren in Right of his wife Jemsey, Parthenia Barnes, Sally Francis and Sophia Powell, each Eighty Dollars Eighty two and one seventh cents it being their proportionable part of the Sale of said Negroes, And unto the defendants John Powell, Simon Murfee Qua. for James Powell and Elisha Atkinson Qua. for George Powell, each Eighty Dollars, Eighty two and one seventh cents it being their proportionable part of the sale of said Negroes Given under our hands this 31st day of Jan^y. 1816 —

Willie Francis } Commissioners
John Spencer }

In the name of god amen I John Powell of the county
of Southampton and parish of saint Lukes being in
sound mind and memory do make this my last will
(and testament in manner and form following)

First I bequeath my soul to Almighty
god who gave it me and for what worldly good I possess
I dispose of them as follows — Viz

Item I give and bequeath to my daughter Parthenia Barnes
one negr woman named Mason with her increase which
she now has in her possession to her and her heirs forever
Item I give and bequeath to my daughter Lenny Warren
one negr woman named Cherry which she has now in
her possession with the increase of the Cherry to her
and her heirs forever

Item I give to my daughter Sally Frances one negr girl
named Esther which she has now in her possession
with the increase of the said Esther to her and her heirs
forever

Item I give and bequeath unto my daughter Sophia Powell
one negr woman named Anaky which she has now
in her possession with the increase of the said Anaky
to her and her heirs forever

Item My further will and desire is that my negroes all except
three be hired out to maintain my wife & children
in during the widowhood of my wife Rebecca Powell
and those three negroes which are not hired out to be
Chosen from the rest agreeable to the opinion or will of

my wife and executors hereafter named
them I further direct that when my son John Powell
arrives to the age of twenty one years that then there
be an equal division of my then living negroes amongst
my wife and Children namely John Powell Joseph
Powell and James Powell but if my wife Rebecca Powell
should marry before my son John Powell should arrive
at the age of twenty one years that then the division of
my negroes to be made in the same manner as above
directed - and further if my son John Powell should die
before the age of twenty one that then the division of my
negroes to be made when my son Joseph Powell arrives
at the aforesaid age of twenty one years (if my wife
should remain a widow otherwise as before directed in that
case - I also further direct that if either of my sons
John Powell Joseph Powell and or James Powell or if
my wife should have any more children by me that
if either of them die under the age of twenty one years
or without lawful issue that then my said negroes
be divided amongst my then surviving Children
or their representatives - I further direct that my wife
keep possession of and live on my land during her
natural life or widowhood and at her death I direct
that my land be sold and the money arising from the
sale thereof to be equally divided amongst my sons
John Powell Joseph Powell and James Powell and
the rest that my wife may have by me or their representatives

And further I direct that my wife keep one horse &
four Cows and Calves or Yearlings and the rest to be
sold and the money to be divided amongst my Young-
est Child and aforesaid also at the death or marriage
of my wife Rebecca Powell all the rest of my estate
of what nature or kind soever or whatsoever found to
be sold and money arising there from to be divided
equally amongst my youngest Children last mentioned

Lastly I constitute and appoint my friends Robert Murrell
and Samuel Francis Executors to this my last will
and testament hereby making void all other wills
by me heretofore made In Witness whereof
I have hereunto set my hand and seal this 19th
day of April 1800

By the testator to be his last
Will and testament in
presence of us

Edward Fisher
Henry Porter
Drewyer & Porter
witness

James Powell

John Powell

At a Court held for the County of Southampton the 18th
day of May 1807 This will was presented in court by Robert
Murrell and Samuel Francis the executors therein named
proved by the oaths of Henry Porter and James Powell
two of the witnesses thereto and ordered to be Recorded

And on the motion of said Executors who
made oath according to law ^{certificates} ~~probate~~ is granted them
for obtaining a probat ~~thereof~~ ^{in due form} giving security whereupon Henry
Porter and James Powell

Attest
Copy

Samuel Francis

Attest

James Powell

John Powell

Attest
Copy