1821-009 SOUTHAMPTON COUNTY CHANCERY PAPERS IVEY et al VS. CALVERT'S ADMINISTRATOR 3/1821

other SURNames: Nicholson, Rivers, Ivy, Fitzhugh, Briggs

Injy &c
dec
Buggs adm } bill of
} Injt

Sept. 21st 1818 Injt
granted bond given
&c

Injr for Dupon Spirits

Mar 29th 1821 Jury sworn &
empannelled from Dec. 1812
$19.22½ Cts in Depositn as to the
balance with Damages & the
deft: to pay Cost —

$14.77 fifty cts

26 6:24
104
7.28
52
7.80

To the worshipful Court of Southampton in Chancery sitting-

Humbly Complaining Shewn unto your worships your orators Geny Ivey and John Nicholson. That a certain Henry Briggs administrator with the will annexed of Samuel Calvert dec'd hath lately recovered on the Common law side of this Court a judgment against your orator upon a bond which was executed by a certain Nancy Rivers and your orator Geny Ivey as her security to a certain Aaron Thorp and assigned by said Aaron Thorp to the said Samuel Calvert. That the said Nancy Rivers before her death was a party in the suit at law, but before the rendition of the judgment it was abated as to her by her death, all which will more fully appear upon a due hearing had to the proceedings and judgment in said suit an attested copy of which is hereto annexed and prayed to be considered as a part of this bill. That the said Nancy Rivers in her lifetime employed Counsel to defend the said suit, and had witnesses repeatedly summoned to establish offsets to the amount of said bond, and without any reason known to your orators at the term in which the suit was tried subpoenas had not been issued. In fact your orator Geny had no defence which he could legally make at the time of the trial of the suit. because he was not then in possession ~~of the possession~~ of the evidence of the offsets, the defence having been entirely conducted by the said Nancy Rivers in her lifetime, and all her papers with her estate generally being in

the honor of your orator John Nicholson, who is the administrator of the said Nancy Rivers. ppt so it is your orator humbly is now threatened with an execution when the judgment aforesaid and will be compelled to pay the same unless he can find relief in this Court to which tender consideration whereof and in as much as your orators are without remedy save in this Court they pray that the said Henry Briggs adm as aforesaid, may be made a defendant hereto and be compelled upon oath full true and perfect answer to make to all and singular the allegations herein contained. They further pray that the judgment so as aforesaid obtained may be injoined until the matters herein stated can be fully heard and determined in this Court. That they may have the benefit of the offsets claimed either in a new trial or in any other form which by this Court may be deemed expedient. That any other or further relief may be granted which may be consistent with Equity and the Rules of this Court and that the Commonwealth subpona & Injunction may issue commanding it and they will ever pray &c.

Briggs adm Calvert

[redacted] Cumb Co. Answer.

[redacted] and Nicholson

Baker

17th Nov. 1876 am.

Filed

S.ampton County, Towit:

This day Henry Briggs admor. T. appeared before the subscriber a justice of the peace for the county aforesaid, made oath that the allegations contained in the written answer so far as they depend upon his own knowledge are true: and so far as they depend upon the knowledge of others he believes them to be true - Given under my hand this 16 D day of November 1816.

Benj. Griffin

To the worshipful justices of the county of Southampton in chancery sitting - The answer of Henry Briggs as administrator with the will annexed of Samuel Calvert deceased to a Bill of Injunction exhibited against him by George Ivey and John Nicholson complainants - This respondent saving and reserving to himself any benefit and advantage of exception to the many errors and imperfections in the said Bill for answer thereto saith: that it is true he has obtained judgment against Nancy Rivers as in the said Bill is charged, but being ignorant of her title to the lands claimed by the complainants, this respondent therefore denies the same & calls for due proof thereof - your respondent however, is advised that if the circumstances or facts disclosed by the said Bill be true, the complainants ought not, nevertheless to be relieved in a court of equity, because the defence now sought to be established, had legal & proper means been adopted could have been made in the court of law: Without that &c He prays that your worships will dissolve the complainants Injunction, dismiss the bill & allow him to recover his said judgment with his reasonable costs in this behalf most wrongfully sustained -

Henry Briggs adm
with the will annexed of
Saml Calvert dec'd

George Ivy Complainant
against Henry Briggs admr of Capt Samuel
Calvert Defendant

The affidavit of John Ivy of Lawful age
taken this sixteenth day of October 1800 & Eighteen
at the house of Giles Reese in the county of
Southampton between the hours of Ten in the
morning and six in the evening of the same
day in conformity to the annexed notice, the
said affidavit to be read as evidence in the
above suit which is depending and undeter=
=mined in the County Court of Southampton
the said John Ivy being first duly sworn ~~depose~~
sayeth - That some time in the latter part of
the Year 1800 & Twelve - he the said John Ivy
was at Aron Thorps and was requested by said
Thorp to Gauge a Barrel of Brandy which he
the said Aron Thorp had purchased of Mrs
Nancy Rivers and found the said barrel to
Contain Thirty Gallons & Two quarts of bran=
=dy which was then delivered to the s.d Aron
Thorp

Sworn to and Subscribed before John Ivy
me this 16th of October 1800 & Eighteen

Jas. Harris J.P

George Ivy Compt.ant

& against

Henry Briggs adm.r of Capt. Samuel Calvert

The affidavit of Mrs. Charlotte Fitzhugh of } Defendant

Lawful age taken this sixteenth day of Oct.r

1800 & Eighteen at the house of Giles Rives in

the County of southampton between the hours

of ten in the Morning and six in the evening

of the same day in conformity to the annexed

notice; the said affidavit to be read as evidence

in the above suit which is depending and un=

=determined in the County Court of Southamp=

=ton; the said Charlotte Fitzhugh being first

duly sworn, Sayeth; that Mrs Nancy Rivers

rented a plantation of Aron Thorp (the place

where she then resided) for which she heard Mrs

Nancy Rivers say, that she had executed her

Bond &c to the said Aron Thorp for the said

plantation. and that some time in the same Year

she the said Charlotte Fitzhugh heard Aron

Thorp say that a barrel of Brandy purchased

by said Thorp of Mrs Nancy Rivers was to be

placed to the credit of said Nancy Rivers's Bond

held by the said Thorp for the rent of said

plantation; Charlotte Fitzhugh also states that

she delivered wine & Lard sometime in the

same Year to the said Aron Thorp. but she has for=

=gotten what quantity of either

Charlotte Fitzhugh

Sworn to and Subscribed before me

this 16th of October 1800 & Eighteen

Jas. Harris J. P.

Mr Henry Briggs.

Please to take Notice that on the Sixteenth day of the present Month October at the house of Silas Deese in the County of Southampton Betwen the hours of Ten in the morning and Six in the Evening of the Same day I Shall Proceed to take the Affidavits of Mrs Charlotte Filzhugh and John Ivey to be read in evidence in a certain Suit now in the County Court of Southampton wherein I am plaintiff and yourself as the Representative of Capt. Samuel Calvert is defendant at which time and Place you may attend to put Interogatories if you think fit

George Ivey Junr
October the 7. 1818

Personally appeard before me a Justice of the peace
James Newsom and made oath that he diliverd
a true coppy of the within notice to the parties
Given under my hand this 14th of October 1813

Wm E Mapenburg J P

Ivey pl.
vs
Briggs dft. &c.
} Sub. Subpoena

Executed
Edw. D. Butts Esq.
R. P. Clements &c.

The commonwealth of Virginia to the sheriff of Southampton county and to Henry Briggs admr of Saml Calvert dec'd who was assignee of Aaron Thorpe dec'd counsellors, attornies and agents and every of them. Greeting, Whereas it hath been represented to the Court of the county of Southampton in Chancery on the part of George Ivey Jr. who hath prayed that he may have our writ of injunction subpena for to stay all further proceedings upon a judgment obtained at common law by the said Henry Briggs admr of Saml Calvert dec'd who was assignee of Aaron Thorpe dec'd against the said George Ivey Jr and John Nicholson till the hearing of the cause in chancery upon a bill filed for that purpose. We therefore in consideration of the premises aforesaid strictly injoin & command you the said sheriff and Henry Briggs admr as aforesaid &c absolutely to desist from all further proceedings against the said George Ivey Jr & John Nicholson upon the judgment aforesaid, until the hearing of the same in chancery as aforesaid under the penalty of £100. And have then there this writ witness James Rochelle clerk of our said county court in chancery at his office the 10th day of May 1819 and 43rd year of the commonwealth

James Rochelle

Inj.c Bond

Inj.c de
to
Bugg &c

} Inj.c Bond

Know all men by these presents that we George Ivy Jun and Wm F. Smith are held and firmly bound unto Hy. Briggs admr of Saml Calvert dec who was assignee of Aaron Thorpe admr of John Thorpe dec in the sum of One hundred Dollars to which payment well and truly to be made unto the said Henry Briggs admr as aforesaid we bind ourselves our heirs Executors & admrs jointly and severally firmly by these presents Sealed with our Seals & dated this 22nd day of September 1878

The condition of this obligation is such that whereas the said George Ivy Hy Briggs admr as aforesaid obtained a judgment at common Law against the said George Ivy Jr for three pounds with Int & costs and whereas the above bound George Ivy hath obtained an Injunction to stay proceedings upon the said Judgment until the matter thereof in Equity on a bill filed for that purpose can be fully heard — now if the said George Ivy Jr shall well & truly pay or cause to be paid unto the said Hy Briggs Shff as aforesaid the amount of the aforesaid Judgment Int & costs & all costs & damages that may accrue or arrise in case the said Injunction shall be dissolved then this obligation to be void or else to remain in full force & virtue —

Test

Jas Rochelle

George Ivy (Seal)

Wm F. Smith (Seal)