

1832-003

SOUTHAMPTON COUNTY
CHANCERY PAPERS

BARHAM et al

VS. BARHAM'S ADMINISTRATOR
2/1832

other sURNAMES: Smith,
Harris Summerwell, Summerell

John Braham & H. Braham
vs  Bice
Elias Summerwell
Boyle

1831 Jan'y. decree as filed &
" Feb'y. Report not ^{of} filed
and by consent -
" Nov. amended decree filed &
1832 Jan'y. amended as filed
" Feb'y. Report not ^{of} filed

To the Worshipful the County Court of Southampton, in
chancery sitting, Humbly complaining sheweth unto your worshipps
your orators ^{and parties} John Barham, Rebecca Barham, and Timothy
Joseph and Martha Barham infants suing by their next
friend Thomas Smith that John Barham
late departed this life after devising to his wife the said
Rebecca Barham one third of his estate real and personal
to be enjoyed as she would at the time of his death desiring
however that she and his executor Joseph Harris should keep
all his estate which should remain after the payment of
his debts together until one of your orators John Barham his
son should attain the age of 21 years but that when that
event should take place that his executor aforesaid should
divide his estate according to your orator Rebecca Barham her
portion aforesaid and then dividing the residue equally among
his children the said John, and the infant children Timothy
Joseph and Martha but that shortly after his executor the said
Joseph Harris had qualified as such and before the period had
arrived when he should discharge the trust of dividing the
estate as directed by his testator the said Harris died when
Silas Sumnerwell became administrator as will appear from
a copy of the letters of administration granted by this court
hereto annexed & prayed to be made a part of this bill; that
your orators and oratrix are now desirous that a division should
be made in the manner prescribed by the will and they further
state that in consequence of the value and situation of the property
thus devised it will be indispensably necessary that the stock
corn fodder plantation utensils furniture and land consisting
of one tract called Murrells containing 314 acres (which is in
value greatly below the sum of \$300 per share) should be sold
for distribution. But your orators & oratrix are advised that
such sale and division cannot be made without the interposition
of this court, in tender consideration whereof and as they

are amenable at law and only to be relieved by this court sitting as a court of Equity where such matters are properly cognizable to the end therefore that the said Elias Summerall administrator as aforesaid be made a party defendant hereto & compelled to answer the allegations hereof they pray the Commonwealth writ of Subpoena command.

Your orators and oratrices pray that they ^{shall} will make such decree in the premises as to them may seem right and make other and further order or decree in the premises as Equity and the nature of their case may require. And as they will ever pray.

The answer of Elias Summerall administrator of John Barham deceased to the foregoing bill of complaint

This Respondent saving & for answer to the said bill says that he admits the allegations thereof and has no objection to the decree prayed & having so answered prays to be hence dismissed.

John Barham, Rebecca Barham & als
vs. 3 Bile

Barhams Administrators

This day this cause being docketed by consent of parties came on to be heard in the Bill Answer and exhibits whereupon the Court doth advise and entitle whereupon the Court doth advise and order and decree that Wm a Jones Lewis Harris and Benjamin Williamson be appointed Commissioners to effect the sale and division in the bill specified after having advertised the time & place of such sale for at least ten days previously at the Courthouse of Southampton County and at two or more public places in said county they shall ^{all} at public Auction the stock corn fodder plantation utensils and household & kitchen furniture belonging to the estate of John Barham deceased and the ^{residue of the} land of which he the said Barham died seized called Murrels after having first

attended by the county surveyor, allotted to Rebecca Barham widow of the said John one third part of the same and receive and pay in cash the costs and expenses of this suit and such sale, (except for this purpose) such sale as to the personal estate to be on such credit as to the said ^{so as to make the same allotment of the proceeds as is herein directed by the court of said decedent} Commissioners may deem most advisable as to the land upon a credit of twelve months. And the said Commissioners are hereby required to take of the purchasers of ~~that~~ land one or more bonds with good security for each share, that is to say, one bond payable to John Barham for one fourth part, and three several bonds ^{each} for a like share payable to the guardian of the infants Timothy Joseph and Martha Barham And that the said Commissioners are further directed to allot to the said Rebecca Barham one third in value of the negro slaves belonging to the said decedent's estate and of the residue allot to John Barham one fourth part, and to the common law guardian of the infants Timothy Joseph and Martha Barham allot either the entire residue for their respective portions to be allotted to ^{each of} them hereafter as they attain age or marry, by the future order of this court; or if in the estimation of the Commissioners, it should be deemed expedient, or the parties should desire it, they will allot to each of the infants, Timothy, Joseph and Martha an equal share of the residue. And report to this Court how they have acted in order to a final decree.

Barham Tal.^d Am.
at. 3 decrees
Summ-rwell

1831 it or. filed

John Barham, Rebecca Barham, and Timothy, ~~Rebecca~~
Joseph and Martha Barham Infants dying
by their next friend Thomas Smith Plffs. Amended
Against
Slias Summerwell admr. of John Barham Deceased
Def^t

This day this cause was again heard
by consent ~~of~~ parties and with leave of Court
on the vice and answer and Report of Commissioners,
the interlocutory decree heretofore pronounced being
sought to be amended by the parties thereto,

On consideration whereof the Court doth adjudge
order and decree that the Commissioners William
A Jones Lewis Harris and Benjamin Williamson
heretofore named do sell the tract of land called
Murrels of which John Barham died seized lying &
being in the County aforesaid upon a credit of twelve
months to the highest bidder at public auction at
least ten days notice of said sale having been
previously given at the door of the Courthouse of
this County and taking of the purchaser bonds
with good security and of said amounts as to
make said allotment of the proceeds as is hereinafter
directed. And the said Commissioners are hereby
directed to allot to Rebecca Barham widow and child
of John Barham a bond equal in amount to one
ninth part of the proceeds of said sale after deducting
the costs of this decree and said sale in lieu of her
dower right in the said tract of land and in full
satisfaction for the same. and of the remainder
to allot to John Barham one bond of equal amount
to the ~~the~~ one fourth part of the residue and to the
Guardian or Guardians of the infants Timothy Joseph
and Martha one bonds equal in amount to the remainder

three fourths, they being entitled to one fourth of
the same. And report to this Court in order
to a final decree

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Barham's

For Compensate

Southampton County November Court 1831.
John Barham, Rebecca Barham and Timothy, Joseph and
Martha Barham infants suing by their next friend Thomas
Smith.

Plaintiffs

against

Silas Summerell executor of John Barham dec'd. Defendant

In Chancery

This day this cause was again heard by consent of parties and with the leave of the Court on the bill and answers and Report of Commissioners, the interlocutory decree heretofore pronounced being sought to be amended by the parties thereto. On consideration whereof the Court doth adjudge, order and decree that the Commissioners William A. Ames, Lewis Harris, and Benjamin Williamson heretofore named do sell the tract of land called Murrells of which John Barham dec'd seized lying and being in the County aforesaid upon a credit of twelve months to the highest bidder at public auction at least ten days notice of such sale having been previously given at the door of the Courthouse of this County and taking of the purchaser bonds with good security and of such amounts as to make such allotment of the proceeds as is herein after directed. And the said Commissioners are hereby directed to allot to Rebecca Barham widow and relict of John Barham a bond equal in amount to one ninth part of the proceeds of such sale after deducting the costs of this decree and such sale in lieu of her dower right in the said tract of land and in full satisfaction for the same and of the remainder to allot to John Barham one bond of equal amount to the one fourth part of the residue and to the Guardian or Guardians of the infants Timothy, Joseph, and Martha bonds equal in amount to the remaining three fourths they being each entitled to one fourth of the same - and report to this Court in order to a final decree. -

January 16th 1832.

On the motion of the surviving parties and it appearing to the Court the complainant Rebecca Barham has died previous to the execution of the former decree and that the parties John, Timothy J. Joseph and Martha Barham are entitled to the whole of the proceeds of land in the former order directed to be sold the former decree is so amended that the proceeds of the sale to be made is to be divided equally between the said John, Timothy J. Joseph and Martha and it is decreed and

that the Commissioners before appointed do provide to the sale as directed
and take four bond of equal amounts with good security as directed and
make report to Court in order to a final decree.

Copius Teste James Rochelle Clk

On the motion of the surviving partner
 & appearing to the Court that
 the Complainant Rebecca Parkham
 has been nervous to the execution
 of the former decree & that the
 parties Jno Timothy & Joseph &
 Martha Parkham are entitled to
 the whole of the proceeds of
 said in the former order
 decree to be sold the former
 decree is so amended that
 the proceeds of the sale to be
 made is to be divided equally
 between the decree Jno Timothy
 & Joseph & Martha & it is decreed
 that the same be paid before
 appointed to proceed to the
 sale is decreed & to be for
 bonds of equal amounts
 with security as directed &
 made up to in order to fulfill
 decree

to inform that

as J. Decree

Annals, 3rd & 4th

copy 1

1832 Jany. annals

Southampton County November Court 1834.

John Parham, Rebecca Parham, and Timothy, Joseph and
Martha Parham Infants suing by their next friends Thomas
Smith

Plaintiffs

against

W. H. H. H.

Silas Summerville adm^r of John Parham dec^d. Defendant.

This day this cause was again heard by consent of parties and with leave of
Court on the Bill and Answer and Report of Commissioners the interlocutory decree her-
etofore pronounced being sought to be amended by the parties, Thereto.

On Consideration whereof the Court doth adjudge Order and decree that the Com-
missioners William A. Jones Lewis Harris and Benjamin Williamson
heretofore named do sell the tract of Land called Harrells of which John Par-
ham dec^d seized lying and being in the County aforesaid upon a Credit of twelve
months to the highest bidder at public auction at least ten days notice of such
sale having been previously given at the door of the Courthouse of this County
and taking of the purchaser Bonds with good security and of such amount
as to make such allotment of the proceeds as is hereinafter directed. And the
said Commissioners are hereby directed to allot to Rebecca Parham widow and
next of John Parham a bond equal in amount to one ninth part of the proceeds
of such sale after deducting the costs of this decree and such sale in lieu
of her dower right in the said tract of Land and in full satisfaction for
the same and of the remainder to allot to John Parham one Bond of
equal amount to the one fourth part of the residue and to the Guardian
or Guardians of the infants Timothy, Joseph and Martha, Bonds equal
in amount to the remaining three fourths, they being each entitled to
one fourth of the same - And report to this Court in order to a final decree

Attest

Samuel Schell

Barham

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Barham & art

For Commissioners

Southampton January Court 1831

John Barham, Rebecca Barham and Timothy Barham, Joseph & Martha Barham
infants suing by their next friend Thomas Smith. Plffs.
against

Silas Sumnerell Administrator of John Barham dec'd. Deft.

In Chancery

This day this cause being docketed by consent of parties came on to be heard on the bill, answer and exhibits. Whereupon the Court doth adjudge order and decreed that William A Jones, Lewis Harroff Benjamin Williamson be appointed Commissioners to effect the sale and division in the Bill specified and that after having advertised the time and place of sale for at least ten days previously at the Courthouse of Southampton County and at two or more public places in said County, they shall sell at public auction the stocks, corn, fodder, plantation utensils, and household and kitchen furniture belonging to the Estate of John Barham dec'd. and the residue of the tract of land of which he the said Barham dec'd seized, called Murels after having first attended by the County Surveyor, allotted to Rebecca Barham widow of the said John one third part of the same, and receive and pay in cash the costs and expences of this suit and such sale (except for this purpose) such sale as to the personal estate to be on such credit as to the said Commissioners may seem most advisable so as to make the same allotment of the proceeds as is herein after directed of the slaves of the said decedent - as to the land upon a credit of twelve months - And the said Commissioners are hereby required to take of the purchaser of the land, one or more bonds with good security for each share, that is to say, one bond payable to John Barham for one fourth part, and three several bonds each for a like share payable to the Guardian of the infants Timothy, Joseph and Martha Barham - And the said Commissioners are further directed to allot to the said Rebecca Barham one third in value of the negro slaves belonging to the said decedents estate, and of the residue allot to John Barham one fourth part - and to the Commonlaw Guardian of the infants Timothy, Joseph and Martha Barham allot either the entire residue for their respective portions to be allotted to each of them hereafter as they attain age or marry, by the future order of this Court, or if the estimation of the Commissioners, it should be deemed expedient, or the parties should desire it, they will allot to each of the infants Timothy, Joseph & Martha an equal share of the residue - And report to this Court how they have acted in order to a final decree.

Attest

James Rochelle Clk.

Can't how they have acted in order to a final decree.

Attest

James Rockwell Clk.

Decatur County Court.

In pursuance to the annexed decree, we the Commissioners, named in the said decree, did after having advertised the time and place of sale at least ten days previous thereto, proceed to sell to the highest ^{bigger} all the perishable property in the said Decree mentioned, belonging to the Estate of John Barkham decd, but being prohibited by the Committee, and a doubt arising among us, whether we should be Justifiable in making sale or not, we have therefore failed to effect the sale of said property in consequence of a Contention by the said Committee. Tho. we have proceeded to appraise and divide the Negro Slaves belonging to the Estate of the said decedent in the following manner (Egt.) we have allotted to Rebecca Barkham as her dower, one third part of them in valuation, after that Lot No 1. drawn by John Barkham Ephraim appraised to Four hundred and fifty dollars, Rachel appraised to Two hundred dollars, Clara appraised to seventy five dollars, Cherry appraised to sixty five dollars, and Pompey appraised to Ten dollars, which lot receive from Lots No 2 & 4 proportionably the sum of Six dollars, and twenty five Cents all making the sum of Eight hundred and Six dollars, & 25 Cents that being the said John Barkham's proportionable part. Lot No 3. drawn by Timothy Barkham Frank appraised to Three hundred & fifty dollars ~~appraised~~ Common Venus & Childs City appraised to Three hundred & twenty five dollars & any one hundred dollars, which lot receive from Lots No 2 & 4 proportionably the sum of Thirty one dollars, and twenty five Cents, all making the sum of Eight hundred and Six dollars, & 25 Cents, his equal share. Lots No 2 & 4 left to Joseph & Matthew Barkham to be kept together by their Consent until they attain age or marry, then to be drawn for, Sam appraised to One hundred & fifty dollars, Augy appraised to one hundred and fifty dollars, Belfield one hundred and fifty dollars, Fanny one hundred & fifty dollars, Nidley and two children Louisa and

1832 February 17th Received of William A Jones Lewis
Harris and Benjamin Williamson Commissioners to a decree
to make Bail of a Tract of land Cald murrells the
sum of Three hundred and Eighteen dollars and 75
Cents in full of Martha Timothy J. and Joseph
Barham parts of the Sale of said land given under
my hand and Seal this above day and date

E. B. (and)

Commissioners
Report
of
Barham Land

1832 February 17th

Feb 20th 1832 Recd of Lewis Harris
Bayer Warden & Williamson as for
Commissioners the sum of 180
dollars for the said & returned
for the within decree
as per the account

We William & James Lewis Harris and Benjamin Williamson
 Commissioners to a decree to make sale of Barham Land Reports
 as follows (Liz) on the 26th of January at Public Auction
 after giving legal notice agreeable to the decree we sold
 the premises formerly belonging to John Barham Decd.
 Calc murrells on a credit of twelve months and Josiah
 F. Clanton became the purchaser at four hundred
 and fifty dollars and after deduction twenty five
 dollars for cost of sale decree we allotted to John
 Barham one fourth part and to Carrin B. Claud
 Guardian to Martha Timothy J. & Joseph Barham
 the other three fourths given under our hands this
 16th day of February 1832

Benjⁿ Williamson
 Lewis Harris
 Wm. A. Jones

1832 Feby 20th Received of Wm. & James Lewis Harris and
 Benjamin Williamson Commissioners to make sale of a tract of
 Land Calc murrells the sum of one hundred and six
 dollars 25 cents in full of my fourth part of said amtⁿ
 of four hundred & twenty five dollars given under
 my hand the above day and date

William Pence
 John Barham

1831 John, Timothy, Rebecca, Joseph & Mabel Barham
 To the Clerk Southampton County Court Dr.
 Nov. Entering amended decree &c. for sale of Land &c. \$ 0.86
 1832
 Jan. Entering another amendment for ditto 6
 Recording report, final decree &c. 1.50
 Received the above of Benjⁿ Williamson one of the Com. \$ 2.97
 L.R. Edwards DC