

1834-001

SOUTHAMPTON COUNTY
CHANCERY PAPERS

BAILEY et al VS BAILEY et al

9/1834

1115
H. & Amos Bailey
vs Bill &
Elmer Bailey & al.

Baker.

1832 Apr. decree as filed &c

" July. Decree amended &c

" Sep. Rept. Ret'd & costs by
counsel &c

To the worshipful the Justices of the county court
of S. ampton in chancery sitting humbly complaining sheweth
unto your worship, your orators William Bailey & Amos Bailey
that some time ~~at~~ or about the day of in the year
then father Joseph Bailey by died, for certain reasons therein ex-
posed conveyed to your orators & their three infant sisters, ~~for~~
Betsey, Sally & Nancy Bailey a certain tract of land situate in
the county of S. ampton containing by estimation 290 acres;
a copy of the said deed is here referred to & prayed to be con-
sidered as a part of this bill - and your orators state that
afterwards the said Joseph Bailey afterwards departed this life
leaving a widow named Elly or Eleanor who is entitled to dower
in the said land - and your orators further state that the
said land has heretofore been entirely unproductive to them;
that the same remains in the possession of the said widow
& they are advised that the said land, being of less value than
was of \$100 ought to be sold subject to the said dower right
therein & the proceeds thereof divided - In tender consideration
whereof To the end therefore that the said Elly or Eleanor Bailey
& the said Betsey, Sally & Nancy Bailey by the said Elly or Eleanor
Bailey their mother and guard: as before be made defendants
hereto & may respectively answer the said allegations & that
as perfectly as if the same were here again repeated and
interrogated: They pray that your worship will decree the sale
& division of the said land subject to the said dower right as
aforesaid, & that your worship will make such other or
further order or decree in the premises as may seem
just & equitable - may it please you.

The Joint and separate answer Ellen or Eleanor Bailey
widow & next of John Bailey & Peter Bailey, Sally Bailey
& many Bailey infants depending by the said Ellen or Eleanor
Bailey their mother & guardian as return to the bill of com-
plaint exhibited against them in this court by William
Bailey & Anne Bailey Complainants - These respondents
saying & answering to themselves all right of caption
to the many errors in the said bill contained for answer
therein say that the statements contained in the bill are
true & they are willing that such decree may be
rendered in the premises as may seem to court right &
proper - and having answered &c They pray to be
discharged with their costs &c

Bailey v. Bailey - Chy. This cause came on this day to be
heard by consent on the bill & answer & was argued by counsel
On consideration whereof the court doth adjudge or decree
that Benjamin Griffin, Geo. G. Gray and Saml. Holmes, or
any two of them, who are hereby appointed commissioners, for that
purpose, do allot and set apart to the said Ellen or Eleanor
Bailey widow of the late John Bailey one full & equal third
part of the ~~said~~ tract of land conveyed by John Bailey
in his life time to his children, containing by estimation
270 acres, to be held by her as her dower therein, in
the performance of which duty the said commissioners or such
of them as may act are at liberty to take with
them any sworn surveyor to aid them - and the
said commissioners or such of them as may act are hereby
directed to sell ^{at public auction} on a credit of nine months, or the
premises the other two thirds of the said tract of land
together with the remainder in the third thereof as aforesaid
to be allotted to the said widow, after giving at least three
months notice by advertisement in writing, at the court house
door of the said county & at two or more public places -
And the said commissioners or such of them as may act are
directed to convey to the purchaser the said tract of land
by a good & sufficient deed & take bonds with security (after
receiving in cash a sufficient sum to pay the costs of this
suit & the expenses of the said sale & applying the same
accordingly) payable to the parties as follows viz, one
bond for one fifth part thereof payable to each of the
petty, & one bond for one fifth part thereof payable to each
the guardian of each of the infant heirs or to some person
or persons for their benefit, to make report to

Wm. Laurence Bailey Am. V. L.
v. L. ins. & am.
Ellen or Eleanor Bailey L.
deceased.

To the Worshipful the Justices of the County County Court of Southampton
in Chancery sitting:-

Humbly complaining shew unto the Court your orators William Bailey and
Anselm Bailey of the County aforesaid. That on the month of April last
they filed their Bill in this Court, praying for the appointment of
a receiver, and for the sale of a certain tract of land, therein mentioned
in which Bill, the following persons were made defendants, namely
Ellen or Eleanor Bailey, Betsey, Sally, and Nancy Bailey who filed
their answer thereto. Whereupon an interlocutory decree was rendered,
the which is referred to, and prayed to be taken as a part of this
their amended Bill of Complaint: and your orators by way of
amendment to the said original Bill, by leave of the Court
first had and obtained shew that by reference to a deed of
record in this Court executed by Deft Bailey in his life time, coming
to your orators' then brother Hartwell Bailey, and their three
sisters to wit, Betsey, Sally and Nancy Bailey, a certain
tract of land situate in the County of Southampton, containing
by estimation two hundred and seventy acres, which said
deed is here referred to and prayed to be considered as a part
of this Bill. That the said Deft Bailey afterwards departed
this life, leaving a widow, Ellen or Eleanor as aforesaid, who
is entitled to, dower in the said land, and your complainants
together with the said Hartwell Bailey, Betsey, Sally, and Nancy
Bailey, children of the said Deft Bailey are entitled to the
said land in fee simple. And your complainants aver that
in the said proceedings so as aforesaid had, an error was
committed in this, that the said Hartwell Bailey was
out of party and whose rights and interest in the said land
was in no way protected in aid by the said decree, and
which is contrary to equity & the tender consideration which
is due. To the end therefore they pray that the said Ellen or
Eleanor Bailey, and the said Betsey, Sally, Nancy, and
Hartwell Bailey, the four last named persons being infants,
by a guardian ad litem who assigned them, may be made
defendants hereto, and may respectively answer the said
obligations, as fully and particularly as if the same were
here again repeated, and they shew to the Court that your orators
pray that the decree herebefore rendered be amended so as to
let in the rights and interest of the said Bailey to an
equal participation with the others, and the aforesaid
Betsey, Sally, and Nancy Bailey, in the land aforesaid.
and that your Worship will be pleased to make such
other and further decree for the relief of your orators, in
the premises as shall be more consistent with equity
and good conscience. May it please you to grant the

Baileys widow & infants.
at. ~~Am. & Lord~~
to Am. & Lord
Wm. & Anselm Bailey

The joint and several answer of Ellen or Eleanor Bailey widow
and relict of John Bailey dec'd and of Betsey, Sally, Nancy and
Hartwell Bailey, infants, under the age of twenty one years,
by the said Ellen or Eleanor Bailey their guardian ad litem, af-
signed to defend them in this suit to the amended bill of William
Bailey and answer in this Worshipful Court exhibited -

Then defendants now and at all times hereafter coming
and reserving to themselves, all benefit and advantage of exception
to the many errors and uncertainties contained in the said bill
for answer thereto, or unto so much thereof as they are advised
this material or necessary for them to make answer unto,
answer and say, that the facts and statements set out in the
foregoing bill are true and correct, and they are perfectly
willing that this Court shall make such decree, as the laws of
the said state will authorize and permit, and as shall be
consistent with the principles and practice of a Court of
equity - without that, that is
signed.

Bailey et al.
" 3 Copy Done
Bailey et al.

Southampton April County Court. 1834.

William Bailey and Abraham Bailey

Plaintiffs

In

Chancery

against

Ellen or Eleanor Bailey widow and executrix of the last will and testament of Jesse Bailey, Sally Bailey and Nancy Bailey infants of the said Jesse Bailey by the said Ellen or Eleanor Bailey their mother and Guardian as Return.

Defendants.

This Cause came on this day to be heard by Consent on the Bill and answer and was argued by Counsel on consideration whereof the Court doth adjudge Order and Decree that Benjamin Griffin, George Lly Gray and Samuel Holmes or any two of them, who are hereby appointed Commissioners for that purpose, do allot and set apart to the Defendants. Ellen or Eleanor Bailey Widow of the late Jesse Bailey one full and equal third part of the tract of land conveyed by Jesse Bailey in his lifetime in his life time to his children, containing by estimation 270 acres to be held by her as her dower therein, in the performance of which duty the said Commissioners or such of them as may act, are at liberty to take with them any sworn Surveyor to aid them. And the said Commissioners or such of them as may act, are hereby authorized directed to sell at public auction on a credit of nine months on the premises the other two thirds of the said tract of land together with the reversion in the third thereof so as aforesaid to be allotted to the said Widow, after giving at least three weeks notice by advertisement in writing at the Court house door of the said County and at two or more public places. And the said Commissioners or such of them as may act are directed to convey to the purchaser the said tract of land by a good and sufficient deed and take bonds with security (after receiving in cash a sufficient sum to pay the costs of this suit and the expenses of the said sale and apply the same accordingly) payable to the parties as follows Viz. One bond for one fifth part thereof payable to each of the plaintiffs and One bond for one fifth part thereof payable to the Guardian of each of the infant defendants or to some person or persons for their benefit and make report &c.

A Copy Test James Rochelle C. C.

amended decree

William Bailey and Anselm Bailey.

Compl'ty

Ellen or Eleanor Bailey widow and relict of Depe
Bailey decd. Betsey Bailey, Sally Bailey, Nancy
Bailey and Hartwell Bailey depts

In Chy.

On the motion of the compl'ts: leave is given them to amend
their bill, which was accordingly done: and on like motion, Ellen
or Eleanor Bailey is appointed Guardian ad litem to defend the
infants, Betsey, Sally, Nancy & Hartwell Bailey.

This cause came again to be heard by consent of the
parties and with the assent of the Court, on the papers formerly read
and on the amended bill, answers & exhibits filed, and was
argued by Counsel. On consideration whereof, it appearing to the
Court that the name of Hartwell Bailey, one of the children
of Depe Bailey decd. who is equally entitled with the complainants
and the other infant defendants, was omitted to be inserted as a
party, in the original bill and proceedings, and all the parties being
in interest, being now before the Court. It is by the Court
furthermore decreed ^{adjusted, agreed and} ~~and~~ that the Commissioners hitherto
appointed under the interlocutory decree pronounced in this cause
at April Term last (1834) together with Joel Peppon, or any
three of them now appointed an additional Commissioner
proceed to carry into effect the said interlocutory decree of April
Term 1834 with this additional instruction, that in the
division of the proceeds of the sale of the said decreed to be
made, they, or such of them as may act, allot unto the de-
fendant Hartwell Bailey one sixth part thereof, and the
remaining five sixths divided and allot equally between
the complainants, and the three infant defendants, namely
Betsey, Sally and Nancy Bailey, and make report of
their proceedings to the Court in order to a final
decree.

Baileys

" { Copy Secret

Baileys

For Commissioners.

Southampton July Court 1834. -
William Bailey and Anselm Bailey.

Complts.

} Southampton

against
Ellen or Eleanor Bailey widow and relict of Jesse Bailey dec'd Betsey
Bailey, Sally Bailey, Nancy Bailey and Hartwell Bailey. Dfts

On the motion of the Complainants leave is given them to amend their bill,
which was accordingly done: and on like motion Ellen or Eleanor Bailey is appointed
Guardian ad litem to defend the infants, Betsey, Sally, Nancy & Hartwell Bailey.

This cause came on ^{again} the day to be heard by consent of the parties and with the
assent of the Court, on the papers formerly read, and on the amended bill, answer
and exhibit filed, and was argued by Counsel. On consideration whereof, it
appearing to the Court that the name of Hartwell Bailey one of the children of
Jesse Bailey dec'd who is equally entitled with the Complainants and the other
infant defendants, was omitted to be inserted as a party, in the original bill
and proceedings, and all the parties in interest being now before the Court.
It is further more by the Court adjudged, ordered and decreed, that the Commis-
sioners heretofore appointed under the interlocutory decree before pronounced
in this cause at April Term last (1834) together with Joel Prepost or any
three of them, now appointed an additional Commissioner, proceed to carry into
effect the said interlocutory decree at April Term 1834 with this additional
instruction, that in the division of the proceeds of the Sale of the land directed to
be made, they, or such of them as may act, allot unto the defendant Hartwell
Bailey one Sixth part thereof, and remaining five Sixths, divide and allot
equally between the Complainants and the infant defendants Betsey, Sally, &
Nancy Bailey, and make report of their proceedings to the Court in order to a
final decree -

Attest Teste Samuel Rochelle Ck

Pursuant to the annexed decree, with the amend-
ment thereto, the undersigned Commissioners
did on the 30th day of August 1834
Proceed to see to the highest bidder the land
that Jesse Bailey since seized Subject to the
widows dower, in the same, which was a sign-
ess to her previous, by proper notes and bonds
by said Commissioners, in the following manner (viz)
Beginning at a gum in Seacock Swamp. thence
running a straight line of nicely marked trees across
the garden to a locust tree in the yard, and also
a small ^{ash} ~~oak~~ tree in ditto. Standing between the dwell-
ing house & kitchen, thence a straight line, to a Barpot
at a ditch, thence said ditch to a sloping white Oak
at a spring, thence to a persimmon tree in the field
thence to a forked pine in the Old dam branch,
thence a stright Course to the back line, suppose
to be about one hundred Acres. to be holden by
Eleanor Bailey widow of the said Jesse Bailey for and during
her natural life; - the said Tract of land was purchased
by John Urquhart for the sum of six hundred dollars
payable nine months after date, there was deducted
from that sum, twenty nine dollars & 4 Cents to pay expen-
=ces, which left the sum of five hundred seventy dollars
& sixteen cents, which is divided into six equal parts,
making the sum of ninety five dollars & two cents
to each part. and have taken six bonds for the amount
of the last named sum each, from the said John Urquhart
with Richard A. Urquhart his security, and assigned one to ^{Mr}
Bailey. one to Anselm Bailey, one to Hartwell Bailey,

one to Betsey Bailey, one to Sally Bailey, and one to Nancy
Bailey. orphans of the said Lepe Bailey dec. or their guar-
-anties. and have made a deed to the said John W.
gubart for said Tract of land - Given under our hands
this 30th day of August 1834

Beny Griffin Commr.
Joseph H. Holmes
Joel Papend
G. V. Gray

Commissioners
Report on the
Sale of Lepe Baileys
Land

1834 September

Sepe Bailey
to ⁱⁿ Deed.

William Bailey et al.
his children —

January 27/1825 entered upon
the proceedings of the day

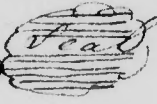
Examined
Recorded
Sage 304

This Indenture made this 20 day of December in the year eighteen hundred and twenty four, between Jesse Bailey of the county of Southampton, of the one part, and his five children, namely, William Bailey, Anselm Bailey, Elizabeth Bailey, Martwell Bailey, Sally Bailey & Nancy Bailey, of the said county of Southampton, of the other part: Whereas the said Jesse Bailey is justly and honestly indebted to his said children as their legal guardian in the sum of fifteen hundred dollars, which said sum the said Jesse Bailey is willing and desirous affectually to apure and to secure to them the said children.

This Indenture therefore witnesseth that the said Jesse Bailey as well in consideration of the premises aforesaid, as of one dollar to him in hand paid by the said William Bailey, Anselm Bailey, Elizabeth Bailey, Martwell Bailey, Sally Bailey & Nancy Bailey the receipt whereof the said Jesse Bailey doth hereby acknowledge, hath granted bargained & sold & conveyed, and by these presents doth both grant, bargain, sell and convey unto the said William, Anselm, Elizabeth, Martwell, Sally & Nancy Bailey their heirs and assigns, one certain tract or parcel of land, containing by estimation two hundred and eighty three acres, lying on the west side of Seacock swamp, near the middle sea-cock-bridge in the said county of Southampton, and bounded by the lands of Jesse Washington, James Arguehart, and Jesse Branch, a free negro, with all and singular the houses, buildings and other improvements and appurtenances thereto belonging or appertaining, and all the right, title and estate of the said Jesse Bailey therein, as also the reversion and reversions, remainder and remainders, rents, issues and profits thereof: To Have and to Hold the said piece or parcel of land hereby conveyed, with its appurtenances, to the said William Bailey, Anselm Bailey, Elizabeth Bailey, Martwell Bailey, Sally Bailey, & Nancy Bailey their heirs & assigns: to the only proper use and behoof of the said, William, Anselm, Elizabeth,

Hartwell, Sally and Nancy Bailey their heirs and assigns
forever: And the said Jesse Bailey for himself and his heirs
the said piece or parcel of land, with all singulars thereto
and appurtenances before mentioned unto the said William Bailey
Amelia Bailey, Elizabeth Bailey, Hartwell Bailey, Sally Bailey
& Nancy Bailey their heirs and assigns, free from the claim or
claims of him the said Jesse Bailey and his heirs, and of all
and every person or persons whatsoever claiming by title or
under them, shall, will and do warrant and forever
defend by these presents - In witness whereof, the said
Jesse Bailey hath hereunto set his hand and seal the day
and year above written

Signed, sealed and
delivered in presence of

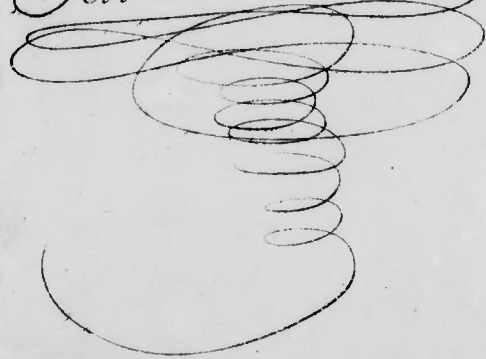
Jesse Bailey 

Dec^r 20th 1824

Franklin County

In the clerk's office the 20th December 1824
This Indenture was acknowledged by Jesse Bailey the
parties hereto and admitted to record, And at a Court
held for the aforesaid County of Franklin on the 17th
January 1825. This Indenture as aforesaid was entered
upon the proceedings of the day of

Teste James Rockwell Clk.



Mr. Bowdoin

Leffe Bailey conveyed in his life time by deed
a tract of land containing by estimation 270
acres to his children fe William, Aurelius,
Betsey a minor, Sally a minor & Nancy a minor
decease to be obtained for sale of land & division
of proceeds - Conveyed to Ben. Griffin, Geo. G. Gray
~~nine months, credit~~ Saml. Holmes or any two -
nine months, credit - widow of Leffe Bailey
named Elly to receive her dower in kind
& the $2/3$ to be sold with the reservation in
the other $1/3$.

Southampton County Vol 61-

We the Undersigned Children, and heirs of
Lepee Bailey decd. do hereby Certify to all
whom it may concern, That we are willing,
and do sincerely wish, - that the Land that
our deceased Father died seized and possessed
of may be sold according to law, for the
purpose of an equal distribution among
the heirs of said deceased - Given under
our hands this 3rd day of April 1834

Witness

To Anselm Bailey
Susan Linn

William Bailey Junr
Jesse Bailey