

1835-014

SOUTHAMPTON COUNTY
CHANCERY PAPERS

URQUHART VS. BAILEY'S COMMITTEE of al

4/1835

other SURNAMES: Bailey

Urquhart

or 3 Papers

Bailey H

1834 Dec. Bill filed H.

1835 Apr.

Dumped.

Two: Urgent
as } Bill.

Bailey's Com^{tee} & others.

Nov. 17th 1834.

A. Claiborne.

To the Honorable Rich^d H. Baker Judge of
the Circuit Superior Court of Law and Chancery
for the County of Louthampton, sitting in Chancery;
Humbly complaining sheweth to your
Honor, your orator John Urquhart, that Jesse
Bailey since deceased, late of the County of Louthampton
on the 15th day of December 1824, being justly indebted
to your orator in the sum of \$392.88¢, executed to him
his note of hand, under seal, for that amount, binding
his heirs &c bearing date the same day & payable on
demand, as will ~~more~~ ^{more} fully appear by a copy of the
same ^{with its endorsements} hereto annexed [marked A.] and prayed to
be regarded as a part of this Bill. That subsequently
the said Jesse Bailey departed this life intestate, without
having discharged the said debt, except so far as the
several credits endorsed on the note as aforesaid, shew.
That your orator instituted suit on the note in this Honor
-able Court, on its law side, against Carr Rowles, Sheriff of
Louthampton to whom in that character, the estate of the
said Jesse Bailey died, had been committed, & at the
late Special Term of that Court in July 1834 a judgment
was rendered an authenticated copy of which is also hereto
appended, [marked B.] & prayed to be considered as a
part of this Bill. That your orator caused a writ of
execution to issue on the said judgment, directed to
the proper officer, which has proved to be wholly
unproductive, in as much it seems having ever come
to the hands of the said Committee - & the said execu-
-tion having consequently been returned nulla bona
- all which will more fully appear by attested copies
of the said execution & return hereto annexed
[marked C.] and also prayed to be taken as parts of
this Bill. Your orator has here to represent
the following as the reasons why no sufficient efforts
were found to satisfy his said claim - That on the
20th day of Dec^r 1824, only five days after the said
Jesse Bailey had executed the said note of hand to your orator
he made & executed, and with great haste, acknowledged the same
in the office to be recorded, a deed, of which an authenticated
copy [marked D.] is also hereto annexed, & prayed to be

regarded as a part of this bill. That it will be seen
that the said grantor [under the false & fraudulent pretence,
as it is believed and charged to have been, that he was
inducted in a large sum to his own children as their legal
guardian, but for the real object & purpose of defeating and
defrauding your orator and his other creditors, but particu-
larly the former of their just debt & securing his property
to his children] conveyed to them the tract of land
which he then held, which was the whole or very nearly
the whole of the encumbered property he owned in
the world (and on the faith of which he had obtained
the credit which enabled him to contract the said
debt. Your orator charges the said deed to have been
voluntary and fraudulent (and as such void as to the
creditors of the grantor and especially as to your orator,
the defect where in particular, of this just claim it is
charged to have been made. He charges that the
alleged consideration was false & unperfected. That
the five enumerated grantees now hold the said land, or
have rec'd its avails, to a much greater amount, and that
the land is of much greater value, say at that time,
than the amount of your orator's judgment. That these
five children ^{one of whom has died unmarried & intestate} are now the exclusive legal heirs of the
said Jesse Bailey & in that character your orator is advised
he will on account of their descended affeys, should the said
Deed be set aside as void as to him, to your orator for the
amount of his said judgment, which however they positively
refuse to pay or to surrender the land.

In tender consideration of all which (and as
your orator is without remedy in the premises at law
& can obtain redress only by the interposition of a
Court of Chancery, where matters of this kind are
peculiarly cognizable; To the End therefore that
the said Cam Bowers Sheriff of Southampton County
in that character the estate of Jesse Bailey dec'd has
been committed for administration to the said William
Bailey, ^{unrepresented by any person} Samuel Bailey, Elizabeth Bailey,
Hartwell Bailey, Sally

and Nancy together with Oliver the

widow who is also joined a party with all respects
to their individual characters and as heirs of Jesse Bailey
dec'd may be made defendants hereto, & compelled to answer
the premises, fully, distinctly, & unequivocally, in their corporal

oaths - that the said chf. Bowers Committee as aforesaid
state whether he hath, or has had, any affeys in his
hands belonging to the estate of his said intestate, & if
he ever had any, that he account for their administration
- that the other defendants set forth, who at present hold
the tract of land, in the said deed pretendedly conveyed,
whether they all hold undivided portions thereof in common
- separate portions, & if so what designate part each holds
- or if they, or any of them, have sold the same, or any
part, that they state to whom, for what price, & all the
particulars? That they also be required to set forth
what was the real consideration of the said deed so
far as they know - & exhibit the account if any, and
proper evidence to establish it if any such guardian
debt being due to them from their said father? Whether
their father did not inform them at the time of the execu-
tion of the said deed, or at some other time, or some one of
more of them, that his object in making it was to secure
the property to them (and prevent, your orator, & other
creditors from getting it from them? And that your
Honor, the premises considered, will ^{set aside the said deed} subject the said
land to the payment of your orator's claims, or require
the said defendants, or such of them as it may turn
out ought to do so, to pay it (and moreover that your
Honor will grant to your orator general relief in
the premises. May it please your Honor, to grant
y^r Counsel the Com in this suit of Sp^a commanding
to and as in duty bound he will ever pray
John Verghant,

A. Fairbairn
for the Plaintiff

Urgent

2 {Sp. n. copy}

Barley's 4th

Oct. 18th Term

August Rule 1834

Entered on Austen
Barley July 24/1834
by delivering him a true
Copy also in Harwell
Barley & Elizabeth Barley
the 11th of August 1834
delivering to each a true
Copy in Cass Bowers.
October 7th/1834 sent Nancy

Barley the 27th of October
and also an Sally
Barley the 28th/1834
by delivering to each
a true Copy

William Barley dead.
W. J. Sobell for
Bry. B. B. B. B. B.

THE COMMONWEALTH OF VIRGINIA:

To the Sheriff of Southampton County--Greeting:

We command you that you summon *Leah Bowers late Wife & administratrix of the Estate of*
Jeffer Bailey dec'd William Bailey, Anselm Bailey, Elizabeth Bailey, Harriett
Bailey, Sally Bailey and Nancy Bailey children and heirs at Law of the
said Jeffer Bailey dec'd
to appear *before the Judge* ~~at the Clerk's Office~~ of our Circuit Superior Court of Law and Chancery, for the
County of Southampton, at the ~~Courthouse on the first day of the next Term~~
~~Rules to be holden for said Court, on the first Monday in~~
~~August next~~ to answer a bill in Chancery, exhibited against *them*
in the said Court, by *John Alzghant*

And unless the said Defendants shall answer the said bill within four months thereafter, the
Court will take the same for confessed, and decree the matter thereof accordingly; and this
they shall in no wise omit under the penalty of 100l.

And have then there this writ: Witness, JAMES ROCHELLE, Clerk of our said Court, at
the Courthouse, this *21st* day *of July* 1834, and in the
59th year of the Commonwealth. *James Rochelle*

Mughart

in 3 Sp. in Lh. y

Bailey 8^o

April Term 1835

To

Executed on Elizabeth
Nancy & Sally Bailey
the 24th day of March
1835 on Ben Bowers
sh^{ff} & the 30 day of
March 1835 and on
Austin Bailey the
31st of March 1835 by
delivering to each a
true copy,

Eleanor Bailey & Asthoda

Bailey not found

William J. Delre Dr^{ff}Bay^o. Devany sh^{ff}

The Commonwealth of Virginia:

To the SHERIFF of *Southampton*

County.—GREETING!

You are hereby commanded to summon *Leah Bowers Lewis & of the Estate of*
Jeff Bailey dec'd. Eleanor Bailey widow & Anselm Hartwell
Elizabeth, Nancy & Sally Bailey children and heirs at Law of the
Said Jeff Bailey dec'd.

to appear ^{*before the Judge*} ~~at the Clerk's Office~~ of our Circuit Superior Court of Law and Chancery for the
County of Southampton, on the first ^{*day*} ~~Monday~~ of *March* ~~next~~, that being rule
~~day~~, to answer a

Bill exhibited against *them* —
in the said Court by *John Urquhart* —

And unless the said defendants shall answer the said bill, within four months thereafter, the
Court will take the same for confessed, and decree the matter thereof accordingly.
And this *they* shall in no wise omit, under the penalty of 100%. And have
then there this writ.

Witness—JAMES ROCHELLE, Clerk of our said Court at the Court House, the 2^d
day of *March* 1835, and in the 59th year of the Commonwealth.

James Rochelle

[One copy to be delivered to each defendant.]

Bailey

To { Dear

Bailey

Alfred

This Indenture made this 20th 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 six children, namely William Bailey, Aslem Bailey, Elizabeth Bailey, Hartwell 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 guardians in the sum of fifteen hundred dollars, which said sum the said Jesse Bailey is willing and desirous effectually to assume 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, Aslem Bailey, Elizabeth Bailey, Hartwell Bailey, Sally Bailey and Nancy Bailey the receipt whereof the said Jesse Bailey doth hereby acknowledge hath granted bargained & sold & conveyed, and by these presents doth doth grant bargain sell and convey unto the said William, Aslem, Elizabeth, Hartwell, 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 Seacocks swamp, near the middle Seacocks bridge in the said county of Southampton and bounded by the lands of Jesse Washington, James Urquhart 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, remainders 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, Aslem Bailey, Elizabeth Bailey, Hartwell Bailey, Sally Bailey & Nancy Bailey their heirs and assigns: to the only proper use and behoof of the said William, Aslem, 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 and singular the premises and appurtenances before mentioned unto the said William Bailey, Aslem 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 persons or persons whatsoever claiming by them 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 (seal)

Southampton County In the Clerks Office the 21st 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 Southampton
on the 17th of January 1825. This Indenture as aforesaid was entered upon
the proceedings of the day - -

Attest
Jesse James Rockwell Clk

A Bailey

To } Deed

Bailey

Attest

Arguhat

" { Lifa

Baileys Comee

Hopp

The Commonwealth of Virginia

To the Sheriff of Southampton County Greeting:

We command you that of the Goods and Chattels of Jesse Bailey dec^d in the hands of Carr Bowers to be administered late in your bailiwick, you cause to be made the sum of Seven hundred and eighty four dollars thirty six cents which John Urquhart lately in our Circuit Superior Court of Law and Chancery for Southampton County hath recovered against the said Carr Bowers Com^r of the Estate of Jesse Bailey dec^d for debt also, five dollars and 56 cents, for this costs in that suit expended, whereof he is convicted as appears to us of record; and how you shall have executed this writ, make known at the Clerks Office of our said Circuit Superior Court of Law and Chancery, at Rules to be holden for said Court on the first Monday in October next: And to have there and there this writ:
Witness James Rochelle, Clerk of our said Court at the courthouse this 15th day of July 1834 in the 59th year of the Commonwealth.

James Rochelle Clk

Memo This Execution may be discharged by the payment of Three hundred and ninety two dollars and eighteen cents with legal interest thereon from the 15th day of December 1828 till paid and the Costs. — Subject to a credit of \$25. and of \$114.67 cents paid January 1828

Sheriffs Return:

No effects

Edw^d Bull depy of B. Leamy shff

J. Rochelle Clk

Attest James Rochelle Clk

Urquhart

11 { copy judgment &c

Baileys am.

Southampton Circuit Superior Court. July Special Term 1834-

\$397.¹⁸₂
784.36

With Interest from the date hereof I promise to pay unto John Urquhart his heirs or assigns the just sum of Three hundred and ninety two dollars & eighteen cents for value received. For the true payment of which I bind myself my heirs Exors. Admrs &c in the penal sum of Seven hundred and eighty four dollars thirty six cents. At Witness my hand and Seal this 15th day of December 1824 -

Witness
W. G. Brittle.

Isabel Bailey Seal

On the back of which note is the following endorsement, to wit

1828	By 1 yoke of Steers.	\$25.00
Jan 8.	By 10 ^{lls} Brandy 312 fls as p ^o Recd. & 30 ch.	93.60
	By James Davis' order.	21.07 -

Copy Teste James Rachelle C.S.C

Southern Circuit Superior Court. July Special Term 1828 -

John Urquhart
against.

Shff } Indebt

Carri Bowers Shff. of Southampton some of the estate of Isabel Bailey ad. dft.

The defendant still failing to appear on the motion of the plaintiff by his attorney it is considered by the Court that the plaintiff recover against the defendant the sum of Seven hundred and eighty four dollars thirty six cents the debt in the declaration mentioned and his costs by him about his suit in this behalf expended. To be levied of the goods and chattels of the decedent in the hands of the defendant to be administered. And the said defendant in mercy &c.

But this judgment is to be discharged by the payment of Three hundred and ninety two dollars and eighteen cents with legal Interest thereon from the 15th day of December 1824 till paid and the costs. Gr. for \$25. and \$114.67 ch paid January 1828.

Shffs costs \$6.54

Copy Teste James Rachelle C.S.C

Col. Augustin Blumhorne

Invitation

Dear Sir

Jerusalem April 2nd 1835.

I came to this place yesterday almost entirely to see you about the Suit I brought against the Heirs &c of Jesse Bailey dec^d & regret very much that I am disappointed in seeing you - I am at a loss to know whether or not it will be worth while for me to prosecute the Suit any further - if the Deed executed by Bailey ~~and his Children~~ Children can not be upset on acct. of its fraud in the face of it & then my claim have preference before the Claims of Bailey's Heirs I do not think it will be worth while for me to prosecute my Suit any further as the Land would not bring money enough to pay the Heirs of Bailey & my claim. indeed the Land has been sold under a Decree of Court to pay the Claims of the Heirs & did not bring enough to pay them by some 20 or 30 Dollars. I became the purchaser of ^{that} Land. you will please examine into the case & act in my behalf as you may think best for my interests. & either dismiss the Suit or carry it on. perhaps you may get the defendants to pay the Costs should ^{you} think it best to dismiss the Suit, you can try them upon that point. I would have remained here till tomorrow to see you but am very busily engaged at home & can not spare the time I am very respectfully

Yr friend & Ob^d Serv^t

J. N. Reynolds