

1841-028 SOUTHAMPTON COUNTY
CHANCERY PAPERS

SUMMERELL'S HEIRS VS.
COUNCIL and Wife 4/1841

N.B. Sheets pasted together & folded.

Sumnerell &c
v. } Bill &c

Council & wife
1840 Nov. Diaried as filed &c
1841 March. Report.
" Apl. confirmed

res pond

as
Council
Sumnerell &c
as
Council

To the Worshipful County Court of
Southampton in Chancery sitting.

Humbly complaining shew unto your worships
your complainants, William H. Summrell, Richard
Summrell, Sally & Summrell & Thomas Summrell
infants of Silas Summrell dec'd by James Clayton
their next friend, that their father Silas Summrell
departed this life some time since, having duly
made and published his last will & testament
in writing during his life time, which at his
death was duly proven & admitted to record by the
court of Southampton, that in & said will a direction
is given, that if the widow Sally R. should marry
that then the estate should be equally divided
between your complainants his children & said widow,
they represent that said widow has since intermar-
ried with Joseph G. Council, so that by the
terms of the will a division is to be effected, which
your complainants believe cannot be effected in kind
without serious loss to your complainants. They
therefore by their next friend, humbly pray this
court sitting in Chancery. where matters of
this kind are alone cognizable, to the end that
relief may be had in the premises, to authorize
a sale of the lands whereof their deceased father
died seized, as they believe is greatly to the advantage
of all concerned, they represent, that the dividend
in trust of no one of the distributees, would command
£300. or so that they are advised that said sale may
be legally directed by the court. In tender
consideration of the premises, they pray the
writ of opra, directed to & further pray such
other general & special relief as may be
consonant to justice & the rules of the Court
& they will ever pray &c.

The answer of Joseph G. Council and Sally R.
his wife who was the late widow of Silas Sumner
to the above Bill of Complaint.

These respondents saving to himself all benefit
of just exception to the Bill. For answer
say, that they have no objection to the decree prayed for.
they agree, that in their opinion it would promote
the interest of all the distributees, having
answered they pray to be hence dismissed.

Sumner & wife by their next friend }
Council & wife } Deere

This day this cause was docketed by leave
of Court & consent of parties and came on
to be heard on the bill and answer and
was argued by Council, On consideration
whereof the Court doth order, adjudge
and decree, that Benjamin Griffin
be appointed a commissioner
of this Court, that after advertising the
time and place of sale for twenty days, that he
attended by a competent surveyor, proceed to sell
to the highest bidder, on a credit of nine months
the land whereof Silas Sumner died seignor,
and after receiving on the day of sale no money except
to pay the cost of this decree, that he take of the
purchaser, five bonds of equal amounts and
assign one to Joseph G. Council in right
of his wife and assign the other four bonds
to the respective guardians of the four children
of Silas Sumner & report to the Court in order
to a final decree.

Commissioners
Report on the Sale
of Silas Summelle's
Land

1841 March

In Conformity to the Annexed decree, the Undersigned did advertise the sale of the Land mentioned therein giving the notice required, and on the 19th day of December 1840 sold to the highest bidder on a Credit of nine months the plantation whereon ~~Thomas~~ ^{Thomas} Summerell resided at the time of his death, Containing by a late Survey 586 Acres, and Joseph G. Council became the purchaser thereof for the sum of Thirteen hundred & fifty dollars, deduct the expenses of the sale, say \$60.38 Cts. in all: say \$30.00 for Commissioners \$10.00 lawyers fees. \$2.38 Cts. Clerks fee, and \$18.00 Surveyors fee, making the sum of \$60.38 Cts, this last sum take from the gross amount leave the sum of \$1289.62 Cts. this sum divided into five equal parts makes the sum of \$257.92 Cts each legates part in the home tract. I have taken five bonds of the said J. G. Council with sufficient security, each of the amount last named, payable to the legates, and turned them over to the Guardians as I am directed by the decree. And at the same time and place I sold to the highest bidder on the same Credit the plantation known by the name of the Old Store tract; and John P. Bagkin was the purchaser for the sum of \$386.00. This sum divided into five equal parts, makes \$77.20 Cts each legates part, and I have taken of the purchaser five bonds each to the above amount, with sufficient security, and paid them over to the proper Guardian, the last tract named Contained 305 Acres by a late Survey, Given under my hands this 19th day of December 1840

Very Griffen Councilor

Sumnerell & S

5. } Copy Done.

Council House

Southampton County November Court 1840.

William H Summerell, Richard Summerell, Sally & A Summerell, and Thomas Summerell
infants of Silas Summerell dec^d by James Clayton their next friend D. Plffs.
against.

In Chancery

Joseph H Council and Sally R his wife who was the late widow of Silas Summerell dec^d
Defts

This day this cause was docketed by leave of Court and consent of parties and
came on to be heard on the bill and answer and was argued by Counsel. On considera-
tion whereof the Court doth order, adjudge and decree that Benjamin Griffin be
appointed a Commissioner of this Court - that after advertising the time and
place of sale for twenty days, that he attended by a competent Surveyor, pro-
ceed to sell to the highest bidder on a credit of nine months the land whereof
Silas Summerell died seized, and after receiving on the day of sale money
enough to pay the pay the costs of this decree, that he take of the purchaser
five bonds of equal amounts and assign one to Joseph H Council in right of his
wife and assign the other four bonds to the respective guardians of the four
children of Silas Summerell and report to the Court in order to a final decree.

Attest Teste L R Edwards ckl