

1842-011

SOUTHAMPTON COUNTY
CHANCERY PAPERS

VAUGHAN and Wife VS. KELLO'S EXECUTOR et al

4/1842

PIAT

N.B. Plot has several sheets pasted together and folded.

Other surnames: Douglass, Mason,
Johnson, Edwards, Douglas, Goodwin,
Blunt, Goodwyn

1842-011

SOUTHAMPTON COUNTY
CHANCERY PAPERS

VAUGHAN and Wife VS. KELLO'S EXECUTOR et al

4/1842

16 11.

Vaughan & Wife

v. Papers

Kello's Exor &c

1840 May R. sp. Ret. Ex.

" July Bill filed.

" Sep. R. Ans of M^{rs} Kello & Douglas +
wife - Bill taken for confessed as
to Goodwyn -

" Oct. R. G. Rep. to ans. &c.

" " Term. Ans of Goodwyn filed by
leave of the Court G. Rep.

" Dec. Set for hearing as to M^{rs} Kello
& Douglas & wife & Goodwyn

1841 ap^l. Decree for account.

" Sep. 20. Report

" Oct. Decree &c

1842 ap^l. Report &c. Confm.

Apr. 1842

Plffs. Costs to wit

Calc. \$8.26

Shff 4.50

Comm. 7.00

Law fee &c 17.41

\$ 37.17

Dfts Costs

Calc. \$2.93

Law fee 16.66

\$ 19.59

Vaughan Mifs

3 1/2 lines

Kills Mifs

1840 June 10

3062 words

2335 words

St. Kitts in p. 9

7457 words

To the Judges of the Circuit Superior Court of Law
and Chancery for Southampton County. Humbly
complaining, shew to the Court your orator
Thomas W. Vane has a ne Margaret B.
his wife who was formerly Margaret B.
Kello, of the County of Goodland. Male
on or about the day of ~~the~~ 1820,
one James Kello then of Southampton County
expired this life seized and possessed of a
valuable real and personal estate in
the said County, having first made &
published his last will and testament,
which was recorded in the County Court
of Southampton, an office copy of which
is hereto annexed marked A his prayer
to be taken and considered as part of his
will. The executor therein named to
wit, William B. Goodwin and Rega
Blunt qualified to the will aforesaid
as well appear by the letters testamentary to
and in that character possessed them-
selves of the estate real & personal,
the said heirs under their control
for certain purposes mentioned.
That the testator first bequeathed his wife who
is now Mary W. Kello during her natural
life negroes Sam, Bob, Henry, Kate, Jim,
Ellen and old Jimmy and all of his
household furniture. By the second
clause he gave his said wife two bay
horses, his yellow horse, gig &
harness and all of his plantation utensils
and kitchen furniture and as much of
the balance of his ~~estate~~ stock of every
description and also as much fat pork
corn, fodder, wheat, peas and spirits as
should be considered by his executors
sufficient for the use of the plantation
and support of his family for one year in
lieu of down and he bequeathed to said

May W Kello all his lands, until his son
W P Kello should arrive at the age of 21
years, or until his said wife should
marry again; and he leaves to his said
wife the balance of his years until his
two daughters Margaret B. Kello & Louisa
B Kello arrive at the age of 17 years,
and until his son W P Kello arrives at
the age of 21 years, provided his said wife
continues a widow until the said children
arrive at the said ages, and provided
she should support the said children
free from charge. In another clause
of said will the testator says, "When my
son William P Kello arrives to the age
of 21 years, I give unto him and his heirs
from all of my lands in the County of
Southampton with the following my cows
Lack, May Peter Andrews Moore, and
Arthur Jr with their increase, I desire
and will that in case my wife Mary
W Kello should be a widow at the time
my son W P Kello arrives to the age of
21 years, that my said son shall then
have and support my said wife and
her widowhood." and the testator
nowhere further declares that "at the death
of my wife Mary W Kello I give unto
my son W P Kello to him his heirs
from all of my household furniture
the sum which I have before lent unto
my said wife during her natural life."
And another clause of the will
gives to his executors power to sell
all of his lands in Southampton, and of
purchasing other lands, if in their opinion
it ~~will~~ would be to the advantage of his
son W P Kello & the said lands so purchased
to be kept in various ways as lands given -

May 11 Kello would entitle them have been
entitled to hold the said real estate
estate so given to her at the age of 20 years
without account for the profits, ~~and~~
~~with the said estate but the profits~~
~~and interest thereon.~~

but the complainants charge that so soon
as the said Wm. P. Kello died, the devise to
the said May 11 Kello ceased & determined,
and that was on the day of February
1830 - and on the happening of that event
all right on the part of the said May
ceased and determined, and in the
opinion of the Court, the said estate of the
said Wm. P. Kello is here then with the
heirs and support of the said May
and her heirs and so on - & the said
land descended according to said
the said died an infant) to her
complainant May and her sister
Louisa Douglass in equal shares, &
the balance of his estate according to the
statute of distribution went to the
mother and sister aforesaid.

Now complainants charge that they have
frequently called upon the said May
Kello and Wm. P. Goodwin and require
that they in the proper person would
summon the land and other estate
which was in fact the property of the
said Wm. P. Kello, and account for
the rents, issues, profits, heirs & from
the time of his death, is as to have
a proper and fair distribution &
division of the said estate according to
law, but as it is may it please your
honors, the said May Kello, Wm. P. Good
win and Saml Douglass, this wife

have combined together to keep them out of
out of their just rights, ~~and~~ the said May
Kello insists that she is entitled to the
estate during her life or her heirs &
heirs without help in any way
accountable for the rents, profits & of
the same, all which is contrary to equity
and tending to the injury of her co-heirs.
They insist that according to the law of
the land the right of the said Kello ceased
and determined upon the death of the
said Wm. P. Kello. In consideration
whereof and for as much as your orators
and orators are otherwise withstanding
remedy, they pray that the said May
Kello, Wm. P. Goodwin, and Saml Doug
lass and Louisa K. B. Douglass & all
proper persons may be made oath
to this plea and be compelled on their
oaths to answer the same - that they
state if it is not true that your orators
and orators intend and are herein
charged and that Wm. Kello died an
infant as stated and if not, when he
died & when has the estate remained
for many years, who has had the same
thereof & did not the same, & whether it
to the said May Kello - what have been
the profits thereof since the death of the
said William Kello, and that they or
the proper one remain an oath before a
Commissioner of this Court of the rents, profits
& and that they with all account
may pay to establish justly between them
and that your orators demand a division
of the estate real and personal between
the parties as the law direct and as
in justice and equity should be done.

the said Benjamin Blount is dying in and the estate lay him down
his right to the said May Kello

and that we will make any other
order in the premises that may comport
with equity, & good conscience, &
as in duty bound they will obey.

A. A. Mearns

The testator also appointed the said Mr.
B. Gordon and Benja. Blunt executors
to his will, providing to his children -
Gordon qualify as 1/3 of the children & the said
Benja. Blunt qualify as executor which
appears by exhibit
Your heirs and assigns charge that the said
executors or they or either of them be diligent to be
true, & obedient to the said Mary W. Kello
widow as aforesaid the estate real & personal
given to her under the will of the testator
James Kello and she has held the same
and is now in the possession thereof, &
has used the entire sum, rent & profits for her
own use and advantage. They charge
that the said Mr. P. Kello died about the
day of February 1830, in 50th year of age
intestate and under the age of twenty-one
years, leaving a mother the said Mary
W. Kello and two sisters, to wit, now
oratrix Margaret who is the wife of the
complainant Mr. W. Vane, and one
Louisa now the wife of Samuel Douglass
of the County of Southampton, as his sole
heir and distributee. The lands have
come to him by purchase from his father
for a crop to the estate of descent to
his two sisters in exclusion of the mother.
They qualify the said
infant under no debt, & the whole estate of the
said infant is in the hands of the said Mrs. Mary
W. Kello.
Now complainant claim that on the
death of the said James Kello, the purchase
of the lands in Southampton was immediately
in the said Mr. P. Kello, subject to the use &
enjoyment thereof by the mother until
the death of the said Mr. P. Kello, which occu-
red as aforesaid in February 1830.
They admit that if the said Mr. P. Kello had
been at the age of 21 years, the said

Vaughan & wife

} ans. of L. Douglas
wife

Kelle & wife

1840 Sep. 9.

To the Hon Richard A Baker Judge of the Circuit
Supr. Court of Law & Chancery for the County of So. Ampton.

The answer of Jane James Douglas and Louisa A B his
wife, formerly Kells, to a bill of Complaint exhibited against
them by Vaughan and wife - These defendants now and
at all times hereafter, saving and reserving to them-
selves, all, and all manner of benefit, and ad-
vantage of exception to the manifold errors, uncertain-
ties, imperfections, and insufficiencies in the said
Complainants said bill of Complaint contained for
answer thereto, or unto so much or such parts thereof
as they are advised is material for them to answer.

These defendants answering ^{say} that - That the decision
of this Honourable Court cannot prejudice their rights
should it be in accordance with the prayer of
said bill; Yet they have never thought that they
could claim any part of the estate devised and
bequeathed to Wm P Kells until April 1840; the
time at which he would have attained the age
of Twenty one years; at which time they know the Defat
Mary W Kells was anxious that the questions raised
by said bill, should be settled, and the estate distributed
according to law. Having thus answered these Defats
pray to be hence dismissed with their reasonable cost
in this behalf expended -

Douglas p. Ds
So. Ampton County to wit;

This day personally appeared before me, a justice of the
peace for sd County; Jane James Douglas & Louisa A B his wife
and made oath to the truth of the foregoing answer to the
best of their knowledge & belief - Given under my hand
this 9 day of Sept. 1840 -

L P Nicholson J P

Vaughan & Life

W. } Mrs. of Dr. Mary
W. Killo.

Kello & Co

1840 Septem. 9th

To the Hon. Richard A. Baker Judge of the Cir.
Super. Court of Mass & Chi for the County of Southampton.
The answer of Mary McKello to a bill of Complaint
exhibited against her & others by Vaughan & Mfg.
This defendant now & at all times hereafter, saving &
reserving to herself, all & all manner of benefit, and
advantage of exception, to the manifold errors, mis-
statements, imperfections, & insufficiencies in the said
Complainant's said bill of Complaint contained
for answers thereto or unto so much or such
parts thereof as she this defendant is advised is
material for her to make answer unto, she this
defendant answering saith: That she admits
the will of James McKello dec. referred to in said bill
containing the clause, &c. which is referred to the
Court for its decision thereon, she also admits that
she has still holds possession of the estate referred to,
and she contends that she was entitled to the pos-
session and use of the same, until her son Wm.
P. McKello should have arrived to the age of twenty
one years had he lived; and she also contends
that she is entitled after that period of time under
the will of her late husband, to the property devised
and bequeathed to her said son to board & support
the amount of which she refers to this Hon. Court.
This defendant admits Wm. P. McKello died on the 22nd
of Feby 1830, ^{and was born} ^{affirming the age of 21 in April 1829} and that she as one of the distributees
is entitled to one third of his personal estate.
This defendant would moreover state to this Hon. Court
that she has at all times since the period of time
at which her son Wm. P. McKello would have attained the
age of Twenty one years had he lived, been anxious
for a settlement of the questions raised in the
said bill of Complaint by Vaughan & Mfg. and that
she has often collected the said parties to

exhibit their bill & refer the same to a Court of Equity
for its decision. This defendant has already given
up to the heirs of Wm. McKello the loaded estate
demanded to him by his father James McKello & as she
has agreed to do - The personal estate she still
holds to abide the decision of this Hon. Court. And
having thus fully answered she prays to be hence
dismissed with her reasonable cost in this behalf
expended -

Parker J^{rs}

Southampton County to wit:

This day personally appeared before me a
Justice of the Peace for the County of Southampton
Mary W. McKello and made oath to the truth
of the foregoing answer to the bill of her know-
ledge and belief - Given under my hand this
9th day of Sept 1840 - L D Nicholson J^{rs}

Vaughan et al: } Answer of
vs }
Hells et al: } W B Goodwyn

1840 October 29th filed by
Clerk of the Court.

To the Hon. Richard A. Baker Judge of the Circuit
Supr. Court of Law & Ch: for the County of Southampton —

The answer of Wm. B. Goodwyn executor of James Kello decd.,
to a bill of Complaint exhibited against him by Vaughan &
Wife - This defendant now & at all times hereafter, saving
& preserving to himself, all, & all manner of benefit, and
advantage of exception to the manifold errors, uncer-
-tainities, imperfections, and insufficiencies, in the said
Complainants said bill of Complaint contained, for
answer thereto, or unto so much or such parts thereof
as he is advised is material for him to answer; This
Defendant answering saith. That it is true that he
qualified as the executor of James Kello decd. and did
according to law proceed to pay the debts, legacies, &c.
and when the children of James Kello arrived at
the age specified in the will of said Kello, they or
their legally constituted agents were paid the several
legacies to which they were entitled. This defendant
would also state, that at the Death of Wm. P. Kello he
consulted learned & eminent Counsel who advised
him, that the widow Mary W. Kello was entitled to
the possession of the estate devised & bequeathed to said
Wm. P. Kello; until that period of time, when he the
said Wm. P. Kello would have arrived at the age of
twenty one years - This Defendant would further shew
that the estate of James Kello has passed from his hands
to those entitled, without his taking the usual refus-
-ing bonds to secure him against debts which might
come against the estate of James Kello; and as there is now
a suit depending in the Circuit Supr. Court of Law
& Ch: for James City County & City of Williamsburg involving
a large amount, which if decided against this Defen-
-dant there is no fund in his hands as executor of
James Kello decd. to satisfy said claim. This Defendant

Prays this Hon. Court, before a distribution of this undi-
-vided portion of James Kello's estate is decreed, that
the parties claiming, be required to give good bond &
security so as to indemnify this defendant against
all claims & demands which may be recovered against
the estate of the said James Kello decd. And having
thus answered this Defendant prays to be hence
dismissed with his reasonable cost in this behalf
expended the m^o &c &c.

Douglas J.D.

St. Anthon County to wit:

This day personally appeared before me William
B. Gardner and made oath that the facts con-
-tained in the foregoing answer ^{are} true to the
best of his knowledge & belief - Given under my
hand this 19 day of October 1840

N. M. Silrell J.P.

Vaughan et al.
vs
Kello's admors } Decease

to be entered

RHB.

Vaughan & wife

vs

} In Ch.

Goodman roots of Kells & }

This cause came on this day to be heard, b/w the Bill and exhibits, and the several answers filed ^{with replication thereto} in the papers, and was argued by Counsel b/w consideration whereof the Court being of opinion that it was the intention of the testator James Kells, to give to the Defendant Mary W Kells as long as she remained a widow, the use of the land and slaves devised and bequeathed to his children, until they attained the respective ages designated in the said Will; that is to say; the daughters their ages of seventeen and the son his age of twenty ^{one} during her life. And the Court being also of opinion ~~namely~~ that the death of the son under the age of Twenty one did not terminate the Defendants Mary W Kells's interest in the land & slaves given to him by the will of his father, but she is entitled to have the same and take the profits to her own use, until the time when the son would have attained the age of Twenty one, had he lived, and that after that period, she is entitled to a support during her life & widowhood which is a charge upon the land & slaves devised & bequeathed to the son. The Court is likewise of opinion that upon the death of Wm P Kells, under age, intestate and without children, the real estate devised to him descended to his two sisters, Margerite B. and Louisa

A. B. subject to the Charge of Contributing to the Support of the
said Defendant Mary McKello. and that the Slaves and
other personal property, bequeathed to the said William P.
are to be divided between his next of kin, to wit: his mother
and two sisters, in fee simple after he should have
attained the age of Twenty one, in equal proportions and
subject to the Charge aforesaid. And the Court doth there-
fore in order to carry out these principles, orders, rules
and Decree, that Mary McKello settle before Commissioners
Wells, an account of the rents and profits of the estate
^{accruing subsequently to the period of the will}
~~deceased and bequeathed to Wm. P. McKello~~ after he should
have attained the age of Twenty one years. and also
Report what would be a reasonable and sufficient
support to be charged upon the said Estate devised
and bequeathed to said Wm. P. McKello, in ascertaining
which he will take into Consideration her Condition in
Life compared with the property upon which it is
charged, abating only a proportion of that support which
shall bear the same ratio to the whole, that the annual
value of her third of these Slaves bears to the annual
value of this whole property, land & Slaves; and the
said Commissioners is hereby directed to audit, state &
settle the said account & to make report to this Court
in order to a final Decree.

August-17th 1841. Wm B. Goodwyn, Saml B. Douglas
and A. Atkinson also for self attend before
the Comm. agreeably to this notice

See Coffin

Vaughan vs

vs

Killo's Estate

Copy done
notice
to July 20/1841

August 17th 1841

A. Atkinson also.
for Douglas
Wm B. Goodwyn
Saml B. Douglas,
Wm B. Douglas

Wm B. Douglas

Mr. Atkinson vs. the owner of this notice
July 19/1841.

July 20/1841.

At Circuit Superior Court of Law and Chancery held for the County
Southampton on Thursday the 8th day of April 1841

Thomas W. Vaughan and Margaret his wife
against

Plffs

Wm B. Godwyn executor &c James Kells dec^d Mary

W. Kells and Saml. J. Douglas & Son execs N.B. his wife } Defs

This cause came on this day to be heard on the bill and exhibits
and the several answers filed in the papers with replication thereto and
was argued by Counsel on Considerations whereof the Court being of
opinion, that it was the intention of the testator James Kells to give to
the defendant Mary W. Kells, as long as she remained a widow, the use
of the land and Slaves devised and bequeathed to his childrens untill
they attained the respective ages designated in the said will that is
to say, the daughters their ages ~~ages~~ of seventeen, and the son
his age of twenty one during her life, and the Court being also
of opinion, that the death of the son under the age of twenty one
did not determinate the defendant Mary W. Kells interest in the
land and Slaves given to him by the will of his father, but she is
entitled to hold the same and take the profits to her own use
untill the time when the son would have attained the age of
twenty one had he lived, and after that period she is entitled to
support during her life and widowhood, which is a charge upon
the land and Slaves devised and bequeathed to the son. The Court is
likewise of opinion that upon the death of Wm P. Kells under age
and intestate, and without children, the real estate devised to him
descended to his two sisters, Margaret B and Louisa N.B. subject
to the charge of contributing to the support of the ^{said} defendant Mary
W. Kells, and that the slaves, and other personal property bequeathed
to the said Wm P. are to be divided between his next of kin to wit
his mother, and two sisters in fee simple after he would have at-
tained the age of twenty one, in equal proportions subject to the
charge aforesaid, and the Court doth therefore in order to carry
out these principals, adjudge order and decree, that Mary W. Kells
sitte before Commissioner Cobb, and account of the rents and
profits of the estate accruing subseguently to the period at which
Wm P. Kells would have attained the age of twenty one years and
also report, what would be a reasonable and sufficient sup-
port to be charged upon the said estate devised and bequeathed to
Wm P. Kells in ~~ascertaining~~ ascertaining, which he will take into con-

- consideration her condition in life compared with the property upon which it is charged abating only a proportion of that support which shall bear the same ratio to the whole that the annual value of her third of these bears to the annual value of the whole property, land & slaves, and the said commissioners is hereby directed to audit state and settle the said accounts and to make report to this Court in order to a final decree

Copy
To

S. R. Edwards Clk

Commons office June 22^d 1841

The parties interested, are required to attend at the Court-house on Tuesday the ^{17th} day of ~~July~~^{August} next, with their accounts vouchers and evidence (by ten o'clock) in order that the Court may carry the above decree & order into effect

Sam^l J. Cobb Commr.

Vaughan & wife

v. } Copy Deene

Kello? Cor & Co

Notice given for ^{August} 1841
Jas Cobb. Cor

At a Circuit Superior Court of Law and Chancery held for the County of
Southampton on Thursday the 8th of April 1841

Thomas W Vaughan and Margaret B his wife

Against

William B Gordon executor of James Kello dec^d Mary W Kello and
Samuel T Douglas and Louisa B B his wife

This cause came on ^{this day} to be heard on the bill and exhibits and the several answers filed in the
papers with replications thereto and was argued by counsel on consideration whereof the
Court being of opinion that it was the intention of the testator James Kello to give to the
defendant Mary W Kello as long as she remained a widow the use of the land and slaves
devised and bequeathed to his children until they attained the respective ages design-
ed in the said will that is to say the daughters their ages of seventeen and the son
his age of twenty one during her life and the Court being also of opinion that the
death of the son under the age of twenty one did not terminate the defendant
Mary W Kello interest in the land and slaves given to him by the will of his father
but she is entitled to hold the same and take the profits to her own use until the
time when the son would have attained the age of twenty one had he lived and that
after that period she is entitled to a support during her life and widowhood which
is a charge upon the land and slaves devised and bequeathed to the son. The
Court is likewise of opinion that upon the death of William P Kello under age
and intestate and without children the real estate devised to him descended to his
two sisters Margaret B and Louisa B B subject to the charge of contributing to the
support of the said defendant Mary W Kello and that the slaves and other personal
property bequeathed to the said William P are to be divided between his next of
kin to wit: his mother and two sisters in fee simple after he would have
attained the age of twenty one in equal proportions ^{and} subject to the charge afore-
said and the Court doth therefore in order to carry out these principles
adjudge order and decree that Mary W Kello settle before Commissioners both
an account of the rents and profits of the estate accruing subsequently to the
period at which William P Kello would have attained the age of twenty one
years and also report what would be a reasonable and sufficient support to be
charged upon the said estate devised and bequeathed to William P Kello in
ascertaining which he will take into consideration her condition in life compared
with the property upon which it is charged abating only a proportion of that
support which shall bear the same ratio to the whole that the annual value
of her third of these slaves bears to the annual value of the whole property
land and slaves and the said Commissioners is hereby directed to audit
the said account and to make report to this Court in
order to a final decree.

Copy. Teste. L.R. Edwards, Clk

Thomas W Vaughan and Maryant his wife. *plffs*

vs B. Goodwyn ex. r. of James Killo decd., Mary
W Killo and same. J. Douglass and Louisa K
B. his wife. *septs.*

This cause came on again to be
heard on the paper formerly read & the report
of the Com. made pursuant to the order of the
8th of April 1841, to which no exception has
been filed, and was agreed by counsel; on
consideration whereof, the Court doth say.
ever and anon that the said report be
confirmed; and that the defendant Mary
W Killo pay to the *plffs*: Tho. W Vaughan & his
wife Maryant, the sum of eighty three dollars
30¹/₂ cents, with interest thereon from the 31 of Decem-
ber 1840 till paid, and the further sum of \$90.09¹/₃
with interest thereon from the 31 of December 1841
till paid; and that she also pay to same J.
Douglass and his wife Louisa, the sum of
eighty three dollars 30¹/₂ cents with interest
thereon from the 31 of December 1840 till paid,
and \$90.09¹/₃ with interest thereon from the
31 of December 1841 till paid - and that the
said Tho. W Vaughan and wife Maryant,
~~and same J. Douglass and Louisa his wife,~~
^{J. Douglass} ~~superiorly,~~ or some person for them, shall and
execute a bond with good security, in the
penalty of \$500 payable to the said
Mary W Killo, conditioned to pay to ~~the same~~
her the sum of fifty dollars per annum,
for her support and board until her widowhood.

And the Ct. doth also order that John A Person, Howell
Kanis, Henry Moore, Nathl. Francis, Wm. Luskier,
Saml. Drury and John Drury, or any 3 of them
proceed to divide into 3 equal shares, slaves, Peter,
Anorus, Moss, Arthur, Caroline, Lucy & Jane
being the slaves belonging to the estate of Wm. P.
Killo - and set apart one third to Thomas
W Vaughan and wife, one third to same. J
Douglass and wife and the other third part
to the defendant Mary W Killo. And that
the said Court or any 3 of them do also divide
~~equally~~ between same. J Douglass and his
wife Louisa, and the Legl. Tho. W Vaughan
and his wife Margaret, all the lands in
the County of Southampton which James Killo
did seize as an estate of inheritance & which
was devised by the last will and testament
of said James P. Killo to his son Wm. P. Killo,
having regard in such division to quality &
quantity, and make report to this Court &c.

Vasquez

Rica. &

Sum

Enter 12.

Vaughan vs. Kelly & Co. This case - the
day came on to be again heard by
the judge formerly read the report of the
Court made pursuant to the order of
the 30th of October 1841, to which no
exception has been filed was agreed
by Counsel; On consideration where
the Court & the conferees said decision
and report - and the parties con-
-ced that the respective differences
in the division of the shares, the
to Mr Kelly by Vaughan & Co. &
by Douglas & Co. have been paid
adjusted and settled between the
parties - the Court & the order that
the ~~costs~~ parties each pay his or
her own costs &c.

Vaughan strip

7 2 1/2

Killo's road.

North Lane further
Count —

To be entered

R. H. B.

Get the names of the increase of Mary
who was given to Wm. Kellogg -

Jack, Mary, Peter, Andrew, Mary and
Arthur jr. - are they alive ^{any} if dead,
where?

Mary's children

Caroline (nearly grown)

Lucy - (small)

Lane (smaller)

Dead

Jack

Mary

C

Vaughan & Wells

} Spa in Chas

Killo's Exor &c

1840 May Rules

Executed by delivering
a true copy to each

April 20/1840

Like Drury right

to Mrs. Fallow shuff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon *William B. Goddard Director of*
of James Kello dec^d, Mary W. Kello, and Samuel B. Douglas
and Louisa^H B. his wife

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County
of Southampton, at the Rules to be holden for the said Court on the first Monday in *May*
next, to answer a Bill in Chancery exhibited against *Them* in the said Court by

Thomas W. Vaughan and Margaret B. his wife

And unless *they* shall answer the said Bill within ~~four~~ ^{*two*} months thereafter, the Court will take
the same for confessed, and decree accordingly. And this *they* shall in no wise omit, under
the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk
of our said Court, at the Court-house, the *8th* day of *April* 18*40*, in the
64th year of the Commonwealth.

L. R. Edwards Clk

[One Copy to be delivered each Defendant.]

Dr. James Kello made his last will and testament, which was admitted to record on the 18th of Sept. 1820. He left a widow and three children, Margaret, Louisa, and William P.

William departed this life in the year ~~1840~~ and had he lived, would have attained the age of 21 years on the day of ~~April~~ 1840. I am asked what are the rights of Mrs. Kello, the widow who still remains unmarried, and especially, what right she has to the use of the property real and personal, which was devised to her dec^d. Son?

Of the real estate, Mrs. Kello is entitled to the use and enjoyment until she marries, or until the period of time at which William would have attained lawful age —

Of the personal estate, or rather of the negroes and such of the perishable estate loaned her, as shall be in existence at that period she has also the use ~~for~~ for the same terms — Of this she is entitled to a child's part in fee simple by inheritance from her son there being no remainder limited in the will — It being a rule of law, that where a tenant of a particular estate becomes entitled to the reversion, the life is merged in the greater estate, Mrs. Kello may by an order of Court have Commissioners to allot to her in absolute property her third of the slaves which were devised to William, and I would advise her to have this done —

At the time when William would have attained lawful age, Mrs. Kello is by her husband's will restricted to a support ~~by him~~ if alive, and this incumbrance attaches to the property. Being deprived of her dower, which the Common Law denominates her reasonable support, the sister or their husbands if married will not be permitted by a Court of Equity to take

this property out of her possession, without an adequate settlement
for a liberal support. And in fixing the terms of this settle-
ment I do not believe that a mere bond with security should
be received - which might not ^{be} complied, and a resort
to legal proceedings become necessary, and thus for a space
of time at least, she would be without support. My opinion
is, that the Court would direct her to retain in her possession
and receive its profits, either the whole of the property or
so much thereof, as, without any reference to her own property,
would yield her annually a suitable support - She is
not compelled to take such "board and support," either as to
the place of boarding or the extent of support, which the heirs
may think necessary - It must be a reasonable and suitable
supply of these necessities, in reference to her husband's
estate - In the event of her surviving that period of
time above referred to, Mr. Wells will have to contribute
as one of the heirs of William, toward this expense - it will
not be ~~on~~ ^{the} ~~the~~ - because she receives no part of the
land - the liability will be distributed amongst them
according to the value of the property, in respect of income,
inherited -

J. G. MASON

Nov. 27th 1835.

I have been consulted, on behalf of Mrs. Mary W. Kello, upon the following case:

Her late husband, Dr. James Kello, of Southampton County, died in the year 1826, leaving a will, dated the 19th July in that year, a copy of which is before me.

By this will, the testator bequeaths to his wife during her life seven slaves and his household furniture; and gives to her absolutely, and in lieu of dower, two mares, 1 horse, his gig & harness, plantation utensils, kitchen furniture, and so much of his stock, grain, &c. and provisions as should be sufficient for the use of the plantation and support of her family for one year. The third clause of the will is in these words:

"I lend unto my wife Mary W. Kello all of my lands until my son William P. Kello arrives at the age of twenty one years or until my said wife marries again."

And the fourth clause,

"I lend unto my wife Mary W. Kello the balance of the negroes until my two daughters Margaret B. Kello and Louisa H. B. Kello arrive at the age of seventeen years and until my son W. P. Kello arrives to the age of twenty one years; provided my said wife continues a widow until my said children arrive to the above stated ages, and supports my said children free from charge."

By the 5th Clause he gives to his daughter Margaret "when she arrives to the age of seventeen years" eight slaves by name, with their increase; and by the 6th clause he gives in like manner to his daughter Louisa when she arrives at the age of seventeen years nine slaves by name with increase.

By the 7th clause he gives to his son when he arrives at the age of twenty one years all his land in the County of Southampton, with six slaves by name & their increase,

"and devise as follows: "in case my wife Mary W. Kello should
"be a widow at the time my son W^m P. Kello arrives
"to the age of twenty one year that my said son shall
"then board and support my said wife during her
"widowhood."

By the 8th clause is as follows: "In case my wife ~~marries~~
"again it is my will & desire that my personal estate be
"immediately divided and given off in the manner before
"divided and bequeathed, and that my lands be leased
"or rented out (as my executors may think best), for the
"benefit of my three children."

And by the 10th clause he gives to his son William
at the death of his wife, the household furniture bequeathed
to her for life. The remainder in the slaves given to the
wife for life is not disposed of by the will. There is
no residuary clause.

I am informed that the testator's three children Margaret
Louisa and William, as well as his wife, survived him;
that William would have attained the age of twenty one
in April 1840, had he lived, so that (it is presumed)
he was the youngest child. He died several years ago.
The daughters are living and married. Mrs. Kello has
remained a widow. She accepted the provision of the
will, and still holds the property bequeathed to her
and also ~~that~~ the land and slaves which William was
to have at his age of twenty one.

I am asked, what are the rights of Mrs. Kello
in the land and slaves ~~bequeathed~~ devised by the
testator to his son?

This question is not without difficulty, and I
have examined it with great care, considering the
will critically and consulting all the authorities
that I could find access to, from Coke's & Leonard's
Reports, down to the case of Land v. Otley in

4th Randolph.

I find the general rule laid down, that
where there is a devise to one until another attain
a particular age, and that other die under such
age, the estate of the devise terminates. But this
general rule is departed from whenever it appears necessary
in order to fulfill the intention of the testator; and in such
case the estate of the devise continues until the
person on whom age it depended, would have attained
the appointed age if he had lived.

Constructing all the parts of this will together, I can
have but little doubt that the testator intended that
his wife, if she continued a widow, should hold
the land & slaves intended for his children, for her
and their support, until the children respectively
attained ~~the~~ ages if they should live, would res-
pectively attain the ages mentioned in the will. That
is, the daughters their age of seventeen and the son
his age of twenty one. This being the case, I
am satisfied that the death of the son under the
age of 21, did not terminate the wife's estate
in the land & slaves given to him; - but that
she may hold them, and take the profits to her
own use until the time when the son would
have attained his age of twenty one, if he had lived.

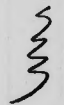
Under the will I think there is no doubt that the
son took a vested interest in the land and
slaves which at his death passed to his heirs
and next of kin. His sisters were heirs to the
land and will be entitled to the whole of it,
as he would have been, at the time when

he would have attained his full age. They and his mother are his next of kin, and will take equally between them the slaves which were bequeathed to him; his sisters to enjoy their portions at the time when he would have attained full age.

From the time when the son would have attained full age, Mrs. Kello, as long as she continues a widow, will be entitled to a support charged upon the land and slaves given to the son; abating only a proportion of that support which shall bear the same ratio to the whole that the annual value of her ~~third~~ of these slaves bears to the annual value of this whole property land and slaves. Thus suppose the annual value of her part of the slaves to be equal to one ninth ^{annual value of} of the whole property devised to the son, then the two sisters must contribute each four eighths ($\frac{4}{8}$) of what would be sufficient to furnish a support. Her support must be a reasonable one; judged of by her condition in life, compared with the property upon which it is charged, and if the parties cannot agree about the amount and the manner in which it is to be furnished, a court of chancery with the aid of its commissioners, must decide it for them -

Richmond, 14 Nov. 1839

C. Johnson
Att. in

Vaughan & Wells
vs  Comrs
Kells, Extra Ld Report

Filed Sep. 20/1841

Report ^{ready} August 20th 1841
(506 words)

Thomas M. Vaughan and Margaret his wife Plffs
 against

Wm D. Goodwyn Estate of James Kells dec'd Mary
 w. Kells & Sam^r J. Douglas & Louisa H. D. his wife } Defs
 } In
 } Chancery

The Court is directed to settle Mary Kells, account of the
 Rents, and hires & profits of the estate accruing subsequently to the pe-
 - riod at which Wm P. Kells would have attained the age of twenty
 one years, and also report what would be a reasonable & sufficient
 support to be charged upon the said estate devised & bequeathed
 to Wm P. Kells, in ascertaining which he will take into consider-
 - ation her condition in life, compared with the property upon which
 it is charged, stating only a proportion of that support, which
 shall bear the same ratio to the whole, that the annual value of
 his ^{his thing part of his} ~~the whole~~ ^{beasts} ~~the whole~~ property land and slaves in the year 1840
 is the first year to be accounted for

1840

By the Hire of Wm P. Kells, negroes this year	\$	"	349 92
To Mrs M. W. Kells, Support		"	150 00
abate in proportion say $\frac{1}{3}$			50 00 100 00
			249 92
To M. W. Kells, proportion off say $\frac{1}{3}$ in fee			83 30 $\frac{1}{2}$
" the Plff J. W. Vaughan	do		83 30 $\frac{1}{2}$
" the defendant J. B. Douglas	do		83 30 $\frac{1}{2}$ 249 92

1841

By hires this year	"	"	370 28
To Mrs M. W. Kells, support		"	150 00
abate $\frac{1}{3}$			50 00 100 00
			270 28
To Mrs M. W. Kells proportion in fee			90 09 $\frac{1}{3}$
" Plff Vaughan	do		90 09 $\frac{1}{3}$
" Plff Douglas	do		90 09 $\frac{1}{3}$ 270 28

The defendant Mary Kells at the time that Wm
 P. Kells would have arrived to the age of twenty
 one years, surrendered the land to the parties entitled
 and in ascertaining what was supposed to be a fair
 and equitable annual support to her, the land

was taken in the estimate & supposed to be worth \$80.
of annuities - The balance due the ^{Plaintiff} ~~defendant~~ Vaughan
and the defendant Douglas agreeably to the above state
statement are as follows - To Vaughan & Douglas each
\$83.30¹/₂ with interest thereon from December 31st 1840
till paid the sum of \$90.09¹/₃ due the same on
the 31st day December 1841, and to carry interest from
after that date, and the said Vaughan & Douglas should pay to the
said Mary C. Wells the sum of fifty dollars each of annuities after the present year

Respectfully submitted

Lucy C. Wells

Comm^d for Aug 17 - 4 Hours

" 20. 3 do

27. 00

Charged to the plff.

Lucy C. Wells made oath to the above
for bill before me this day of 1841

5 notices given by Mrs Jenkins for 50[¢]

And make report to this Court.

Attest

Test. J. R. Edwards Clk

Vaughan & wife

v } Geo. Durre

Shall go

Southampton Circuit Superior Court October 30th 1841.

Thomas W Vaughan & Margaret W his wife

Plffs.

against

William W Goodwyn executor of James Wells dec^d. Mary W Wells & Samuel J Douglas and Louisa A W his wife

In Chancery,
Defds

This cause came on again to be heard on the papers formerly read & the report of the Commissioners made pursuant to the order of the 8th of April 1841 to which no exception has been filed and was argued by Counsel On consideration whereof the Court doth adjudge, order and decree that the said report be confirmed, and that the Defendant Mary W Wells pay to the plaintiffs Thomas W Vaughan and his wife Margaret the sum of Eighty three dollars thirty and a half cents with interest thereon from the 31st day of December 1840 till paid, and the further sum of ninety dollars nine, and one third cents with Interest thereon from the 31st day of December 1841 till paid, and that she also pay to Samuel J Douglas and his wife Louisa A W the sum of Eighty three dollars thirty and a half cents with Interest thereon from the 31st day of December 1840 till paid and ninety dollars nine & one third cents with Interest from the 31st day of December 1841 till paid: and that the said Thomas W Vaughan and Samuel J Douglas or some person for them shall each execute a bond with good security in the penalty of five hundred dollars payable to the said Mary W Wells conditioned to pay to her the sum of fifty dollars per Annum for her support and board during her widow hood. And the Court doth also order that John A Person, Powell Harris, Henry Moore, Nathaniel Francis, William Jenkins, Samuel Drury and John Drury or any three of them, proceed to divide into three equal shares Slaves Peter & Andrew, Moses, Arthur, Caroline, Lucy and Jane being the slaves belonging to the estate of William P Wells and set apart one third to Thomas W Vaughan and wife, one third to Samuel J Douglas and wife and the other third part to the Defendant Mary W Wells. And that the said Commissioners or any three of them do also divide equally between Samuel J Douglas and his wife Louisa A W and the plaintiffs Thomas W Vaughan and his wife Margaret W all the lands in the County of Southampton whereof James Wells died seized as an estate of inheritance and which was devised by the last Will and Testament of said James Wells to his son William P Wells having regard in such division to quality and quantity.

Vaughan wife
& Report

Kello & Co. X

Plot and Division of
the land of
James Kello, dec'd,

Valuation of slaves belonging to the Estate of Wm. D. Wells alluded to in the above decree.

Man Peter	\$650.00
" Andrew	650.00
" Emma	650.00
" Moses	650.00
Girl Caroline	425.00
" Lucy	300.00
" Jane	250.00
Total	\$3575.00

$\frac{1}{3}$ 3575.00 $\frac{2}{3}$ be divided into three equal parts
1191.66 $\frac{2}{3}$ Each ones portion

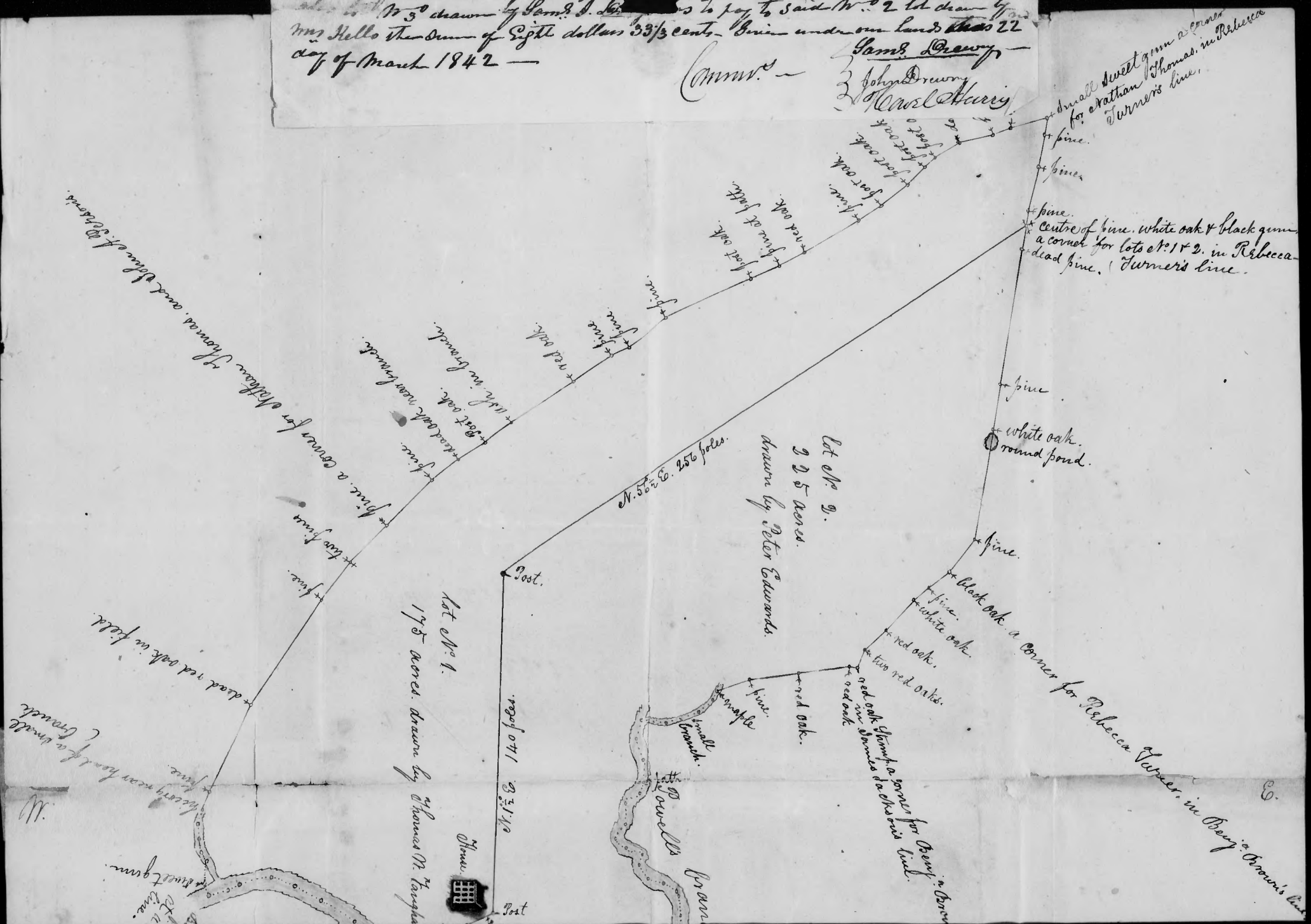
Peter and Moses composed Lot N^o 1 valued at \$1300.00 ^{Drawn by} 108.33 $\frac{1}{3}$ ^{Wm. W. Vaughan}
 being \$108.33 $\frac{1}{3}$ over an equal part 1191.66 $\frac{2}{3}$

Emma and Caroline composed Lot N^o 2 valued at \$1075.00 ^{Drawn by} 108.33 $\frac{1}{3}$ ^{Wm. W. Vaughan}
 Lot N^o 1 drawn by Wm. W. Vaughan is to pay this lot 8.33 $\frac{1}{3}$
 " N^o 3 drawn by Saml. J. Douglas is to pay this lot 1191.66 $\frac{2}{3}$

Andrew Lucy and Jane composed Lot N^o 3 valued at \$1200.00 ^{Drawn by} 8.33 $\frac{1}{3}$ ^{Saml. J. Douglas}
 being \$8.33 $\frac{1}{3}$ over an equal part 1191.66 $\frac{2}{3}$

We the undersigned Commrs. in obedience to the above decree proceeded to divide the slaves belonging to the Estate of William D. Wells between the parties as directed, but not being enabled to arrange each lot so as to make them equally valuable in slaves, we have directed that certain lots shall pay certain sums of money to such lots as are less valuable, as above stated. That is Lot N^o 1 drawn by Wm. W. Vaughan is to pay to Lot N^o 2 drawn by Mrs. Mary W. Wells the sum of 8.33 $\frac{1}{3}$ dollars 33 $\frac{1}{3}$ cents. Lot N^o 3 drawn by Saml. J. Douglas is to pay to said Lot N^o 2 the sum of 8.33 $\frac{1}{3}$ dollars 33 $\frac{1}{3}$ cents. Given under our hands this 22 day of March 1842 —

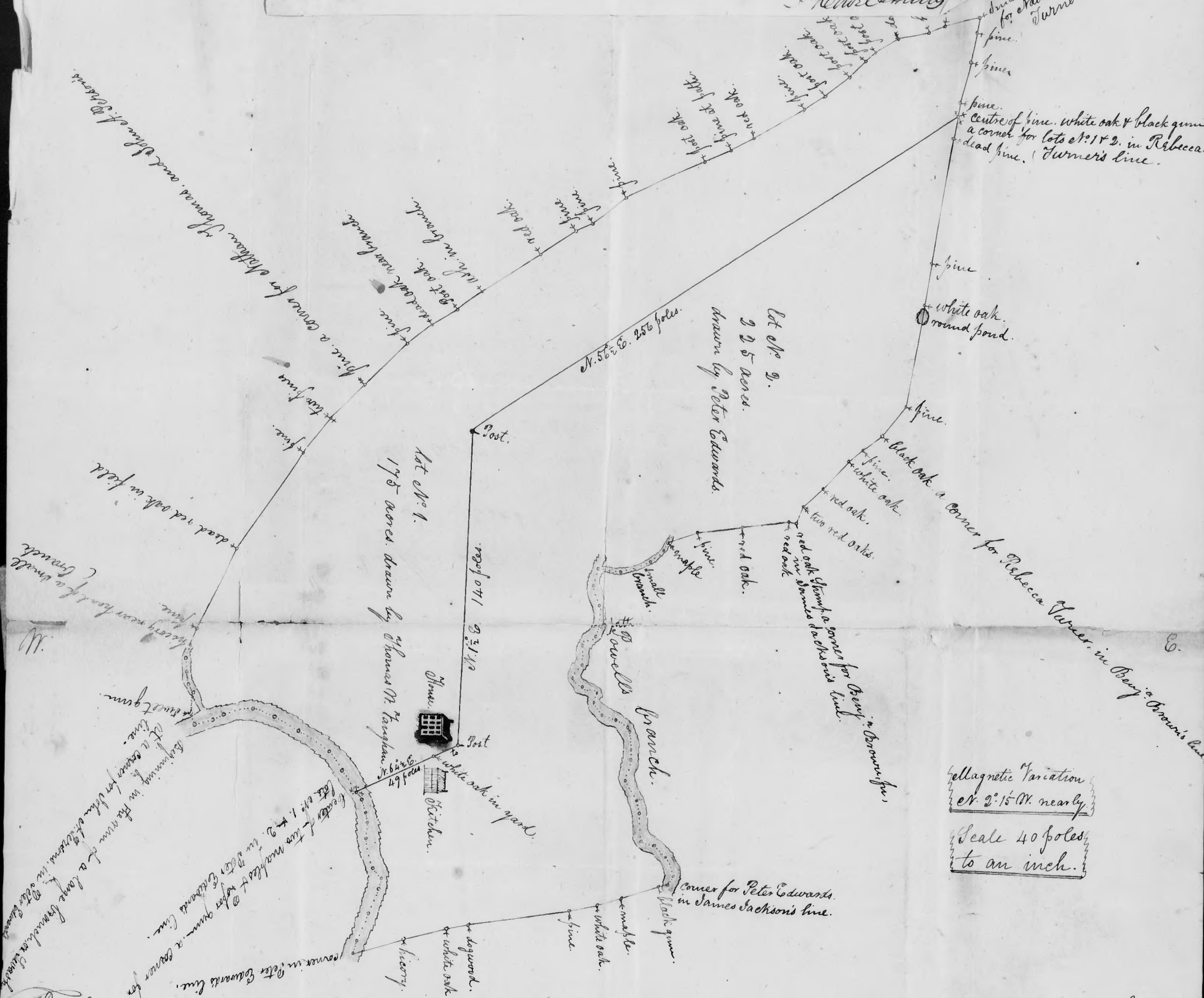
Commrs. — Saml. Douglas
 John D. Waring
 Charles H. Harris



We the undersigned Commrs. in obedience to the above decree proceeded to divide the slaves belonging to the Estate of William Wells between the parties as directed, but not being enabled to arrange each lot so as to make them equally valuable in slaves, we have directed that certain lots shall pay certain sums of money to such lots as are less valuable, as above stated. That is Lot N^o 1 drawn by Thos. W. Vaughan is to pay to Lot N^o 2 drawn by Mrs Mary W. Wells the sum of Eight dollars 33 1/2 cents and Lot N^o 3 drawn by Saml. J. Wells is to pay to said Lot N^o 2 the sum of Eight dollars 33 1/3 cents. Given under our hands this 22 day of March 1842 —

Commrs. — Saml. Drew, John Drew, Charles Henry

small sweet gum as corner for Nathaniel Thomas, in Rebecca Turner's line.



The above plot represents the land of Jas^{ts} James Wells, dec^d, lying in Southampton County, Virg^a, containing Four hundred acres. — and divided by the direction of the Commissioners, who were appointed by a decree of the Court of the aforesaid County of Southampton to divide the same, as marked on said plot. — Virg^a, lot N^o 1. Containing One hundred and seventy five acres. Drawn by Thomas W. Vaughan, (including the dwelling house.) — lot N^o 2. Containing Two hundred and twenty five acres (including the kitchen) Drawn by Peter Edwards. — The dividing line Commencing at the center of two maples & Popor gum, standing on the ditch, in a large branch, or branch, in said Peter Edwards line, thence N. 64 1/2 E. 49 poles to a post, thence N. 1 1/2 E. 140 poles to a post, thence N. 56 1/2 E. 25 1/2 poles to the center of a pine, white oak and black gum, standing in Rebecca Turner's line —

Pursuant to the above going decree we the undersigned commrs. proceeded to divide the land belonging to James Wells, accompanied by Wm^o Morrell Surveyor, and fully concerned with the plot and report which he has on by his given under our hands this 22nd March 1842.

Wm^o Morrell Sur^rell March, 1842. Commrs. Henry George, John A. Brown, Charles Henry

Dr. Killo's mill

Vayhan

Killo's

exhibit A

3. p. May 190.

Some of Killo's

Wm. Killo's

529.17

6280.078

78.840.234

2093.359

6280.078

529.190

.98017

Wm. Killo's

145120
6834
7230
930
8160

(spreads)

In the name of God Amen. I James Hells being in my perfect senses do make and appoint this my last will and Testament in manner and form as follows

1. Item. I lend unto my wife Mary W Hells during her natural life the following negroes Sam, Bob, Henry, Kate, Sam, Ellen and old Jenny and all of my household furniture &c

2. Item. I give unto my wife Mary W Hells to her and heirs forever my two bay Mares my yellow horse gig and harness, and all of my plantation Utensils and kitchen furniture and as much of the balance of my stock of every description and also as much fat pork corn fodder wheat peas and spirits as shall be considered by my Executors (hereafter to be named) sufficient for the use of the plantation and support of her family for one year in lieu of dower &c

3. Item. I lend unto my wife Mary W Hells all of my lands until my son William P Hells arrives at the age of twenty one years or until my said wife marries again &c

4. Item. I lend unto my Wife Mary W Hells the balance of my negroes until my two daughters Margaret B Hells and Louisa F B Hells arrive at the age of Seventeen years and until my son William P Hells arrive at the age of twenty one years provided my said wife continues a widow until my said children arrive to the above stated ages and supports my said children free from charge &c

5. Item. When my daughter Margaret B Hells arrives to the age of Seventeen years I give unto her and her heirs forever the following negroes. Arthur, Phillis, Nell, Miles, Burwell, Howell Julia and Tom. with their increase &c

6. Item. When my daughter Louisa F B Hells arrives to the age of Seventeen years I give unto her and her heirs forever the following negroes. Austin, Alley Phauld Jimmy jr. Nancy Jacob, Ned Lully and Pally. with their increase &c

7. Item. When my son William P Hells arrives to the age of twenty one years I give unto him and his heirs forever all of my Land in the County of Southampton with the following negroes, Jack Mary Peter Andrews Moses and Arthur junior. with their increase; and desire and Will that in case my wife Mary W Hells should be a widow at the time my son William P Hells arrives to the age of twenty one years that my said son shall then board and support my said wife during her widowhood &c

8. Item. In case my wife Mary W Hells marries again it is my will and desire that my personal estate be immediately divided and given off in the manner before devised and bequeathed and that my Lands be leased

or rented out (as my executors may think best) for the benefit of my three children.

Item, I give unto my daughter Margaret B Hello to her and her heirs forever the one third part of two Lots of Land which I hold conjointly with William B Goodwin and Francis Ridley in the Town of Weldon Hallifax County North Carolina.

Item: At the death of my wife Mary W Hello I give unto my son William P Hello to him and his heirs forever, all of my household furniture which I have before lent unto my ^{dear} wife during her natural life as

Item. I hereby revoke so much of my will as to give to my executors the power of making sale of all my land in the County of Southampton and of purchasing other Lands if in their opinion it will ^{be} to the benefit or advantage of my son William P Hello and the said Lands so purchased to be willed and devised in the same way and manner as the Lands I now devise.

Item, I do hereby appoint my two friends William B Goodwin and Benjamin Blunt junior executors to this my last Will and Testament, I also appoint them Testamentary Guardians to my Children, Given under my hand and seal this 19th day of July 1820.

Signed sealed in the presence of

James Hello 

Charles W Goodwin

John A. Blunt

Eli W Clay

John A Person

At a Court held for the County of Southampton on the 18th day of September 1820.

This will was presented in Court by William B Goodwin & Benjamin Blunt jr, the Executors therein named proved by the oaths of Charles W Goodwin and John A Blunt two of the Witnesses thereto and ordered to be recorded. And on the motion of said Executors who made oath according to Law. Certificate is granted them for obtaining a probat thereof in due form. on their giving bond and security whereupon the said William B Goodwin and Benjamin Blunt together with E Theobald Edmunds Rich^d B Hello, William Phillips and Richard Blunt their securities entered into and acknowledged a bond in the penalty of thirty thousand dollars conditioned as the Law directs.

Jest James Rochelle C C
Attest Jest L R Edwards C C

James Kellos

Mill

(A. H. H.),

In the name of God Amen I James Hells being in my perfect senses do make and appoint this my last Will and Testament in manner and form as follows -

Item. I lend unto my wife Mary W Hells during her natural life the following negroes Sam Bob Henry Kate Jim Ellen and old Jimmy and all of my household furniture &c. I give unto my wife Mary W Hells to her and her heirs forever my two bay Mares my yellow horse gig and harness all of my plantation Utensils and Kitchen furniture and as much of the balance of my stock of every description and also as much put forth for fodder wheat flour and spirits as shall be considered by my Executors (hereafter to be named) sufficient for the plantation and support of her family for one year in lieu of dower.

Item I lend unto my wife Mary W Hells all of my lands until my son William P Hells arrives at the age of twenty one years or until my said wife marries again &c. I lend unto my wife Mary W Hells the balance of my negroes until my two Daughters Margaret B Hells and Louisa H B Hells arrive at the age of seventeen years and until my son William P Hells arrives to the age of twenty one years provided my said wife continues a widow until my said children arrive to the above stated ages and support my said children free from charges.

Item. When my daughter Margaret B Hells arrives to the age of seventeen years I give unto her and her heirs forever the following negroes Arthur Phillis Nell Miles Burwell Howell Julia and Tom with their ~~furniture~~ increase.

Item. When my Daughter Louisa H B Hells arrives to the age of seventeen years I give unto her and her heirs forever the following negroes Austin Alley Phineas Jimmy jr. Nanny Jacob Ned Gully and partly with their increase.

Item. When my son William P Hells arrives to the age of twenty one years I give unto him and his heirs forever all of my land in the County of Southampton with the following negroes Jack Mary Peter Andrew Moses and Arthur junior with their increase and desires and will that in case my wife Mary W Hells should be a widow at the time my son William P Hells arrives to the age of twenty one years that my said son shall then board and support my said wife during her widowhood.

Item. In Case my wife Mary W Hells marries again it is my Will and desire that my personal estate be immediately divided and given off in the manner before devised and bequeathed and that my land be leased or rented out (as my Executors may think best) for the benefit of my three Children.

Item. I give unto my Daughter Margaret B Hells to her and her heirs forever the one third part of the two lots of lands which I hold conjointly with William B Goodwyn and Francis Ridley in the Town of Weldon Hatteras County North Carolina.

Item. At the death of my wife Mary W Helle I give unto my son William P Helle to him and his heirs forever all of my household furniture which I have before lent unto my said wife during his natural life.

Item. I hereby revoke so much of my will as to give to my Executors the power of making sale of all my land in the County of Southampton and of purchasing other lands if in their opinion it will be to the benefit or advantage of my son William P Helle and the said lands so purchased to be willed and devised in the same way and manner as the lands I now own.

Item. I do hereby appoint my two friends William B Goodwyn and Benjamin Blunt junior. Executors to this my last Will and Testament. I also appoint them Testamentary Guardians to my children. Given under my hand and seal this 15th day of July 1820

Signed and Sealed
in presence of }

James Helle Test

Charles W Goodwyn

John A Blunt

Eliy W Eley

John A Persons

At a Court held for the County of Southampton on the 16th day of September 1820

This will was presented in Court by William B Goodwyn and Benjamin Blunt jr. the Executors therein named proved by the oaths of Charles W Goodwyn and John A Blunt two of the Witnesses thereto and ordered to be recorded. And on the motion of said Executors who made oath according to law Certificate is granted them for obtaining a probat thereof in due form on their giving bond and security whereupon the said William B Goodwyn and Benjamin Blunt together with Edmund Edmunds Rich B Helle William Phillips and Richard Blunt their Securities entered into and acknowledged a bond in the penalty of thirty thousand dollars conditioned as the Law directs.

Test James Rochelle Clk

Attest Test L R Edwards Sec

Vaughan & wife }
do } notes & Depts
Goodman & Co } Council.

Vaughan & wife } In Ch.
 vs }
 Goddard & of Kells & Co. }

The Counsel for the Defendant beg leave to refer the Court to the opinions of Chapman Johnson and John G Mason as notes in this case, and they refer to the case of Sande & Co v Alley & Bond; Repr- and particularly to the opinions of Judges Green & Coates as far and the various cases referred to by them as furnishing the strongest argument in support of the construction ^{of the will of J. Kells & Co.} contended for by them in their answer. They now refer particularly the case quoted by Judge Green in his opinion of *Re Bader & Black* been reported in Hobart ^{post} 285. They consider the case under consideration as much stronger than any of the cases referred to, inasmuch as in those cases the legatee died before the period of time when the estate given ~~to~~ ^{to} her matured, but here the legatee Mrs Kells is still living and it was the clear intention of ~~the~~ ^{the} Testator Dr Kells to provide for her so long as she lived unmarried, as is manifest from the charge created on the estate for her benefit, after her son arrived to the age of twenty one years.

Parker
 &
 Douglas.

Vaughan & Wife

7

Keller & Co.

asked by the
peffr. atty:
for Court

in Banco

This case presents a
very doubtful question.
but my impression is
judging from the hasty
examination I have given
it that the testator intended
to continue the interest of
the wife on up to the period
at which the son m. had
attained the age of 21 had
he lived - a decree may
be prepared accordingly B.

Vaughan and wife & Killo &c.

The complainants like says, that Killo B. Killo said having made a will over his will, that among other things the testator said to Mary W Killo his widow, all of his land until his son Wm P. Killo arrives at the age of 21 years, or until his wife marry again - also to his wife Mary Killo the balance of his negroes (not mentioned in 1st clause of the will) until his two daughters Mary Ann & Louisa should arrive at the age of 17 years & until his son Wm P. Killo arrives at the age of 21 years provided his wife continue a widow until the children arrive at the aforesaid ages & support them & - Pay the 7th clause in the will, the testator says "when my son Wm P. Killo arrives to the age of 21 years, I give unto him this Killo farm all my land in the County of 8th after with my sons Jack, Mary, Peter, Andrew, Mo, and Arthur junior with their records; and so in this "is that in case my ~~widow~~ wife Mary W Killo should be a widow at the time my son Wm P. Killo arrives to the age of 21 years, that my said son shall then board and support my said wife and my son widowhood."

It is admitted by the defendants that the said Wm P. Killo died in 1830, & the complainants insist that upon the happening of that event, Wm Killo's intent in the land & negroes given to Wm P. Killo ceased & determined - That as Wm said woman the age of 21 - to wit 11 years, she never could arrive at the age of 21 years, if she was to live it until Wm arrived at the age of 21 years, it would be in her own estate & because the event could not

in Loman, Holmson - 3 p. Wm 176.

The couple say that when Wm died, to wit, in 1830, the estate given to him vested in his eight children and heirs - the land to the couple, Margaret and wife, Louisa - & the slaves, &c. to mother, & sisters in equal shares - The widow ought to account for the rents of the land and hire of slaves from 1830, securing what is necessary for her support, if the estate is her then is with her support and maintained -

The couple B. then for as B for a deed to divide the land & slaves of Wm P. Kelso, & an ap to the value of the rents and profits of the land & hire of slaves from July 1830 when W. P. Kelso died &c -

Father Count
Vayhan &
Kello

41
15
20.5
41
6.15

Vaughan Hood in -

He is asked to present
a final account and to
say how the ests are to
be disposed of -

A. Atkins - p. 9
W. L. Givings - for Liff