

1858-013 SOUTHAMPTON COUNTY
CHANCERY PAPERS

JOYNER and Wife vs. CAROON & al

1/1858

other surnames: Bryant,

Joyner is wife
 as 3
 known

1857 May - Dues as filed.

" Oct. 27. Report

" Dec. Grapstone to report by
 Joyner & wife and a petition also
 filed by them -

Bill, answer to Dues

1858 Jan - Dues confug. rpt.

Wills, fees paid Oct 2
 1857.

To the worshipful County court of Southampton County
in chancery sitting

Humly complaining your
Orators Benjamin Jynus and Sarah his wife who before
his marriage was Caroon shew unto your worships that
sometime in the year 1849 Davis Bryant of the county
of Southampton departed this life possessed of considerable
estate real and personal having first duly made and
published his last will and testament which was admitted
to probate in the county court of Southampton at the
august term 1849 and a copy of which will is herewith
filed as an exhibit marked A and prayed to be taken as a
part of this bill, Among other clauses and bequests in
the said will was the following, "I give to the children
of my daughter Margaret D Caroon the tract of land
on which they now live called the Nathan Britt
Tract, the Kea tract, and that part of the Cape Britt Tract
lying south of the gate which connects the first named
Tracts" your orators shew unto your worships that at the
time of the death of Davis Bryant and ten months
thereafter, Margaret D Caroon the mother of your female
orator had six living children all of whom are now
alive to wit, Sarah who has married Benjamin Jynus
Samuel B, Mary E, Edith E, James H, and Lydia E Caroon
and that there are entitled to the land devised as above.

Your Orators state further that from the marriage
and separation of one of the children from the family
a division has become necessary of the land, but your
orators further shew that partition cannot be conveniently
made that there is about 292 acres of land in all
and that it is exceedingly poor and hardly capable of
cultivation, ^{division} that the whole of the land is not worth more
than six hundred dollars, being much less than some
hundred dollars a share, and that a sale of the said land
~~which~~ ^{would} manifestly be to the advantage of all parties

In Tender consideration of the above and inasmuch as your orators
are without relief except in a court of chancery where such
matters are cognizable, they therefore humbly pray that, Samuel
B, Mary L, Edith E, James N, and Lydia N Carron all
of whom are infants may by some fit and proper person
their guardian ad litem appointed for that purpose be made
parties defendant to this bill and compel them as full
and perfect answer make to the allegations therein contained
as if they had been therrunto more fully and specially
interrogated, that the court would direct a sale of
the lands mentioned in the bill on such terms as
to it may seem best and a division of the proceeds of
the said sale of land among the parties according to
their rights, and grant such other and general
relief the premises considered as equity may dictate and
the nature of their case may require and as in duty
bound your orators will ever pray &c

Shames p. 5.

The Answer of Samuel B, Mary L, Edith E, James N,
and Lydia N Carron Infants by Percy Carron their
guardian ad litem to a bill of complaint by B. Byrnes
and Sarah his wife vs them

This defendant for answer
to the said bill or as much thereof as he is advised it is
material for him to answer, answering say that he
places the interests of his wards in this suit under the
care of this court whose peculiar duty it is to protect
the interests of infants and having fully answered
prays hence to be discharged with his costs &c

Shames

Above received by consent of pliffs counsel

Shames p. 5.

Joyner & Wife
vs 3 Dunn
Carroll

By consent of parties this cause

This day came on to be heard on the bill, answer, general
replication thereto exhibit filed and was argued by counsel
on consideration whereof the court doth adjudge, order and
decree that William B Shanas who is hereby appointed a
special commissioner for that purpose shall after having
given at least ten days notice of the time and place of
sale by public advertisement in the neighborhood and
at the court house of the county proceed to sell at
public auction to the highest bidder, the lands devised
by Davis Boyant to Margaret D Carroll's childrens and
descended in the bill on the following terms to wit
enough cash to defray the costs of this suit and expenses
of the sale the residue on twelve months credit
taking from the purchaser ~~from~~ ^{in equal amounts} bond with approved security
and assign one bond to Benjamin Joyner and Sarah
his wife, assign one bond to the lawful guardian of Samuel
B Carroll, one bond to the lawful guardian of Mary E
Carroll, one bond to the lawful guardian of Edith E Carroll
one bond to the lawful guardian of James B Carroll
and one bond to the lawful guardian of Lydia E Carroll
and report to the court in order to a further decree

But the said William B Shanas is not to act
under this decree until he shall have presented before
the clerk of this court a bond in the penalty of
seven hundred dollars with good security conditioned
as the law directs

* and one bond to the lawful guardian of Cynthia E Carroll

Joyner's life
w. 2 Petitions
Caronde

1857 December

To the Worshipful County Court of Southampton

In Chancery

Humbly petitioning shew unto your worshipps your Petitioners Benjamin Lopez and Sarah his wife that at the May Term 1855 of this worshipful Court a bill was filed in their names as Plaintiffs against Samuel B. May, L. Edick & James H. and Lydia H. Carver Defendants praying for the sale and division of the proceeds of a certain tract of land devised to the said parties by David Bragman decd, and that by an order entered at the same term William B. Steeds was appointed a Commissioner and directed to sell the said land.

Your Petitioners have been informed that the said land has been sold under the said decree for much less than its value, though there has been no report from the Commissioner as yet. Your Petitioners further represent to the Court that gross wrong and injury has been done them in the said suit which was instituted in their names without their knowledge or consent and contrary to their wishes, that they have never directly or indirectly authorized any ^{one} either as agent or counsel to bring a suit in their names or to make them parties Plaintiffs or Defendants to any proceeding whatever concerning the said land, but on the contrary have been and still are opposed to any sale thereof being considered it can not be effected without great sacrifice on their part. Your Petitioners are averted that a Court of Equity will not allow their rights to be prejudiced by the acts of any unauthorized person or persons who have wrongfully assumed the use of their names and they therefore pray that no sale of the said land shall be confirmed and that the suit may be dismissed, and in as much as your Petitioners have been unlawfully dragged before this Court as Plaintiffs they pray that they may be dismissed without the payment of the costs taxed against them in that character, and as in and by law they well may and lawfully

May is placed the Court &c

Benjamin Toyner & Sarah his
wife by Chamberliss & Napier, Esqrs
attys

Southampton County Court;

This 21st day of Sept 1857 Benjamin
Toyner appeared before me a justice of the peace in and for
the said County and made oath that the allegations contained
in the above petition are true - Given under my hand
this day & year aforesaid, written

S. B. Halloway Jt

Snyder & wife
to } Co. Decm.
Carson

Southampton County Court May Term 1857-
Benjamin Joyner & Sarah his wife
Defts

against
Samuel B. Mary L. Edith E. James N. & Lydia W. Caroon infants
by Percy Caroon their guardian ad litem. Defts

{ J. W. Chancery }

By consent of parties this cause this day came on to be heard on the bill, answer, general replication thereto, exhibit filed and was argued by Counsel. On consideration whereof, the Court doth adjudge, order and decree that William B. Shands who is hereby appointed a Special Commissioner for that purpose shall after having given at least ten days notice of the time and place of sale by public advertisement in the neighbourhood and at the Courthouse of this County proceed to sell at public auction to the highest bidder, the lands devised by David Bryant to Margaret D. Caroon's children and described in the following terms to wit: enough cash to defray the costs of this suit and expenses of sale, the residue on twelve months credit, taking from the purchaser seven bonds in equal amounts with approved security and assign one bond to Benjamin Joyner and Sarah his wife assign one bond to the lawful guardian of Samuel B. Caroon, one bond to the lawful guardian of Mary L. Caroon, one bond to the lawful guardian of Edith E. Caroon, one bond to the lawful guardian of James R. Caroon, one bond to the lawful guardian of Lydia E. Caroon and one bond to the lawful guardian of Eugenia E. Caroon and report to the Court in order to a further decree.

But the said William B. Shands is not to act under this decree until he shall have exhibited before the clerk of this Court a bond in the penalty of Seven hundred dollars with good security conditioned as the law directs.

Wells Jun 13 57

4 Copy

Teste L. R. Edwards Ck

Joyner is wife
is 3 Dean
Carson

1858 January 7th.

Joyner & wife
vs 3 Deem
Carson

This day This cause came on again to be heard on the report of commissioners shewas made october 27th 1857 The petition of Benjamin Joyner & wife and exceptions filed by the same to the said report and Benjamin Joyner and wife having withdrawn their objections as stated in the petition and the court having overruled the exceptions to the said report and confirming the same doth adjudge order and decree, that the commissioners withdraw the bonds filed in the papers in this cause and pay them over to the parties as directed by the decree of the May term 1857 of this court, and when the said Pely Carson shall exhibit satisfactory evidence to the said Jm B Shanks Comr that he has paid all the purchase money, then the said commissioners shall make him a deed with special warranty for the said land

Boysen is wife
as 3 Commissioners Report
Barren is

1857 Oct 27. Ret^d

Joyner is Wife

vs 3 Commissioners Report

Barrow vs

The undersigned a special commissioner appointed for that purpose begs leave to report, that in obedience to the decree rendered in this cause at the May Term 1857 after having given notice of the time and place of sale by public advertisement at Jerusalem the county seat and Joyner's store in the vicinity some fifteen days previous to the day, he did on the 15th day of June 1857 at the town of Jerusalem it being court day, proceed to sell at public auction to the highest bidder the land mentioned in the decree, and on the terms as prescribed by the said decree, and that Pelz Barrow became the purchaser for the sum of \$300, and that after deducting the costs of the suit and sale to wit attorney's fee \$10, Commissions \$15, Clerk's tickets \$4.50 and auctioneer's fees, he took seven bonds each in the sum of \$38.57 its with good security on demand the 15th of June 1858, he was directed to pay these bonds on to the parties entitled, but Benjamin Joyner one of the parties entitled refusing to receive his, the commissioners herewith returns all the bonds to the court to await its further order all of which is respectfully submitted by
Wm B Chanas special Commissioner

Joynes & wife
" Eruption
Carson & Co

1857. December

Byrnes & wife

as } Exceptions to Commr's Report
Carbons &c }

Benja's Byrnes and Sarah his wife except to the report of the Commr filed this day for the following reasons

- 1st Because they had no notice of this suit or of the sale of the said land
- 2^d Because this suit has been brought in their names as Plaintiffs without their knowledge or consent express or implied, and against their wishes & interest
- 3^d Because they are opposed to a sale of the said land and always have been though the bill falsely represents the contrary.
- 4th That all the proceedings have been illegal, irregular, informal, unjust, and contrary to equity and good conscience
- 5th Because the said land is worth much more than the amount of the sale reported by the Commissioner.

Benja's Byrnes & Sarah his wife
by Chambliss & Moseley
attys

Received from William B Shandas Commissioner a
bond for \$38..57 cts belonging to ¹Samuel B Carson
due 15th June 1858, a bond for \$38..57 cts belonging to
²Mary E Carson due 15th of June 1858, a bond for
\$38..57 cts due 15th of June 1858 belonging to ³Editha E
Carson, a bond for \$38..57 cts due the 15th of June 1858
belonging to ⁴James R Carson, a bond for \$38..57 cts due
15th of June 1858 belonging to ⁵Sydia E Carson, a bond
for \$38..57 cts due 15th of June 1858 belonging to ⁶Virginia
E Carson, these bonds are for land sold belonging to
the above named children, and executed by Pley Carson
R. L. Bryant and B. J. Bryant, and I receive them
and receipt for the said bonds as the lawful guardian
of the above named infants, witness my hand this
15th day of March 1858

Pley Carson Guardian

Received from Mrs B Shandas Commissioner a bond
for \$38..57 due 15th of June 1858 for Benjamin
Foyne and Sarah his wife for land sold by the said
Commissioner in which they had an interest
witness my hand this 14th day of March 1858

E W Mapesbury atty
for Foyne & wife

Davis Bryants

Mill

(Copy)

A

Memorandum

First I give my body to the dust and my spirit to my God who gave it, and as to such worldly estate, as it hath pleased God to entrust me with, I dispose of the same as follows - After selling my estate -

Item I loan to my beloved wife during her life my negr man Simon, old woman Cherry, Eddy and three youngest children, also her choice of my horses and gigs (one each) two beds, one table and chest & trunk, the loom & one spinning wheel, and such of my cooking utensils as she may select, also the buffet & contents, one doz. chairs, sett knives & forks and decanter, also three cows & calves, half doz. head sheep two sows & pigs and provision enough for one years support for herself and stock family &c. Also all that portion of my home tract of land lying on the North side of a certain Mulberry tree standing near the house in which Everett Fowler now lives. said line to run parallel to that portion of the present cross fence near said tree, as it runs in front of said house to the bars -

Item 2^d I give to my son Richard Lewis, the tract of land above named and loaned to his mother, with the appurtenances to him and his heirs forever.

3^d I give to the children of my daughter Margaret D Caroon the tract of land on which they now live called the Nathan Britt tract, the Rea tract and that part of the Jesse Britt tract lying South of the path which connects the first named tracts.

4th I give to my daughter Louisa E Bryant the balance of the Jesse Britt tract lying North of the path aforesaid (which runs) running west from Peledge Caroons, also all the William G Britt tract whereon M^{rs} Martha Blom now lives with its appurtenances to her and her heirs forever.

5th I give to my daughter Catharine E Bryant my William tract and Carter tract of land together with that part of my home tract not before given away lying nearly Southwest of a line mentioned in Item 2^d running straight by a certain Mulberry tree and parallel with a part of the present cross fence near it as before described.

6th I give to my daughter Caroline W Thopp all my Jere. Bude tract of land together with the adjoining portion of the Col^d W^m D Britt tract lying north of a line to commence in the Silas Branch at John Marks line thence down the various courses of said Silas Branch untill opposite the first row of apple trees nearest the house in the young orchard thence along said row of apple trees and a line in the same direction, through the low grounds to the Meherrin River, or perhaps to what was Rochelles line, to her and her heirs forever

She paying to my son John Wesley the sum of One hundred dollars.

7th I give to my son Septua S Bryant all the balance of the bel^d Br^W tract of land not herein before given away and lying about South of the before named line to commence where the Silas Branch intersects with John Harts line thence down the various courses of said branch to opposite the first row of apple trees nearest the dwelling house in the young orchard thence along said row of trees and its direction through the low grounds to the outline at McCherrie River or Cole Rochelles line with its appurtenances to him and his heirs forever.

Item 8 I give to my son William D. Bryant the Majet tract of land on which he now lives with its appurtenances to him and his heirs forever, he receiving from his brother Benj. J. Bryant one hundred dollars.

9th Although I have before deeded to my son Benj. J. Bryant the tract of land on which he now lives yet in order to equalize the different shares it is my desire that he pay to his brother William D. Bryant the sum of one hundred dollars.

10th I give to my son John Wesley Bryant all that portion of my Matt. Williams tract of land lying West of a line to be made commencing at Orms old mill seat thence along a straight line to Emanuel Hurst Spring in or near the head of a small bottom or branch thence along the said Branch to (what was) Allens Mill pond together with the appurtenances to him and his heirs forever, he receiving from Item 6th (Caroline W Thorpe) the sum of One hundred dollars.

11th I give to the children of my daughter Sarah Jane Barrett all the balance of my Matt. Williams tract of land which may lie East of the before mentioned line to be made commencing at Orms old mill seat thence straight to Emanuel Hurst Spring thence along its branch to Allens Mill pond to them and their heirs forever.

12th After settling my estate it is my desire that the balance remaining of my negroes and chattel estate be equally divided ^{between} all my children to wit. Louisa E. Catharine, E. Wm D. Benj. J. Septua S. Rich^d L. & John Wesley Bryant & Margaret D. Carson, Caroline W Thorpe & Sarah J. Barrett share and share alike, to them and their heirs forever.

13th I hereby nominate and appoint my two sons William D. & Benj. J. Bryant my Executors to this my last Will and Testament written on one sheet of paper set my hand and seal this 14th day of June in the year of our Lord one thousand eight hundred and forty nine.

Signed Sealed and delivered

Davis Bryant

in the presence of us who have
Subscribed in the presence of each other

James Majet.

Jos. J. Silas

Orman W. Bryant.

At a Court held for the County of Southampton on the 20th day of August 1849.
This last Will and Testament of Davis Bryant dec^d was proved by the oaths of James Majet and Orman W. Bryant two of the subscribing witnesses thereto and ordered to be recorded And on the motion of William D. & Benjamin J. Bryant the Executors therein named who made oath and together with George W. Pote, William Beale and Jonathan Dardow their Sureties entered into and acknowledged a bond in the penalty of twenty thousand dollars conditioned as the law directs, Certificate is granted them for obtaining a probat of said Will in due form.

Teste

L R Edwards Clk

Attesty

Teste

L R Edwards Clk

KNOW ALL MEN BY THESE PRESENTS, That we

William B Shands & W W Briggs

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum
of Seven hundred Dollars, current money of Virginia,
to the payment whereof well and truly to be made, we bind ourselves, our heirs, executors and
administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated
this day of A D. 1857

The Condition of the above Obligation is Such, That if the above bound

William B Shands who by a decree of the County Court of Southampton entered
on the 18th day of May 1857 in a suit therein pending between Benjamin Joyner &
wife against Carsons was appointed Commissioner for certain purposes therein mentioned

shall faithfully discharge the duties of his said office or trust according to law, then the above
obligation to be void, or else to remain in full force and virtue.

Signed, Sealed and delivered in the }
presence of the Court. }

Wm B Shands

W W Briggs

