1860-028 SOUTHAMPTON COUNTY CHANCERY PAPERS

BRYANT and Wife et al VS. DARDEN et ux et al
1/1860

other SURNames: Deberry, Cole, Everett, Everitt

Bryant & wife

vs. } Bill &c.

Sanders & others

Mons. Co. Co. 1856.

1856. Nov. Decree as filed

1857. Feby. Decree as filed

" Comm. Rept.

1859 Dec. Report

To the worshipful the county Court of Southampton for the January sitting

Humbly complaining shew unto your worships, your complainants James D. Bryant & Nich[illegible] Bryant [illegible] this and right and, as Exors. of Nathan B. Bryant dec'd - That Willm Bryant did some years ago sight of a tract of Land, lying Southampton County. on South side of the Flat Swamp containing 207 acres - intestate, leaving your female complainant, Nathan B Bryant, Martha T. wife of Sam'l. Saram, Mary D. wife of Lemuel Delbery. Anne C. wife of Jno N. P. Cook - his children and heirs at Law. and who are entitled in equal shares, to the afore ascribed Land -

That since the wife of Nathan B. Bryant, a copy of which is filed for the execution of which your Orator has qualified as Executor. - Edward L. Alice B. and Caleb Everett. infant children of Martha T. Saram, by a former Marriage. are entitled to the said Nathans portion of the Land, after the payment of debts,

Your Orator further states that the said real estate is incapable of division among the parties entitled thereto; That the shares of each of the parties is not worth $500 a share, and it would promote the interest of the parties to sell the same and divide the proceeds -

In tender consideration whereof. and forasmuch as your Orator is remediless in the premises, save by the aid of a Court of Equity. where matters of the kind are alone properly cognizable, your Orator prays that Saml. Saram & Martha T. his wife, Lemuel Delbery & Mary D. his wife, Jno N. P. Cook & Anne C. his wife and Edward L. Alice B. and Caleb. Everett.

Bryant & wife

vs.

Barnes & others.

On motion of the Plaintiffs, the Court doth appoint Samuel Barnes, Guardian ad litem to the infant Defendants, Edward L. Silas B. and Isabel Esmith, who filed their answer and this cause was this day docketed by consent of parties, and by like consent came on to be heard on the bill, answers, replications thereto, exhibit filed and was argued by Counsel On consideration whereof the Court doth adjudge order and decree. That James D. Bryant, who is appointed a Comr. for the purpose. proceed after advertising, the time place & terms of Sale, for Twenty days before the day of Sale, to sell at Bryant's Depot. in the County of Southampton, the tract of Land in the bill mentioned, lying on South side of the Great Swamp, adjoining the Lands of Benj Rivers Edwin Harris & others & containing 267 acres. at public auction on the following terms - Cash sufficient to defray the costs of this suit and expenses of the Sale - the balance on a credit of 12 months from the day of Sale - carrying interest - and Bonds of the purchaser bond and good security for the deferred payment - which he is required to return to Court, together with a report of his proceedings -

But this decree shall be suspended until the said Comr. executes bond & security in the Clerks Office of this Court, before the Clerk in the penalty of $1500 - conditioned, - faithfully to execute this decree -

infants of tender years, by some fit & proper person to attend them, Defendants to this bill -
That you will accept a sale of the ~~[illegible]~~ real estate in the bill mentioned and a division of the proceeds, according to the rights of the parties - and grant such other and general relief in the premises as Equity may accord.
May it please the Court &c -

Chas. & Mary Sts.

Answer of Samuel Leaman & wife, Lemuel Debny & wife, & Jno N.P. Cole & wife to the foregoing bill -

These Defts. having &c - admit the allegations of the bill, and have no objection to the account prayed for therein - and having answered pray to be hence dismissed &c -

Answer of Edward L. Alice B and Isabel Everett, infants of tender years, by Samuel Leaman their Guardian ad. litem, to the foregoing bill -

These Defendants know nothing of the allegations of the bill, and have no reason to question the truth thereof, they infants they submit their interest to the protection of the Court, and having answered pray to be hence dismissed. -

394

I. D. Bryant & wife

vs

Sam^l A. Darden et al

Decree

1857. February Court

1856 Jany Rivers Court

Fur ch.

Southampton County Court – Feby term 37

James D Bryant & wife Elizabeth in their own right and the said James as executor of Nathan B. Bryant – (Plaintiffs)

vs. Interloc Decree

Samuel A. Darden & others

This cause, this day, was again heard on the papers formerly read and on the report of James D Bryant, special Commissioner, to which report there being no exception the same is confirmed. and the Court doth adjudge, order and decree that the said James D Bryant proceed to collect the bond for the purchase of the land in the proceedings mentioned, and for that purpose the clerk is hereby authorized to deliver the same to him, pay such other expenses attending the obtaining and execution of this and the former decree as may be still unpaid, and pay over the nett proceeds to the parties entitled thereto as follows; to wit, one fifth to Samuel A. Darden and wife Martha J – one fifth to Samuel Deberry and wife Mary D – one fifth to John H. P. Cole and wife Ann C – one fifth to the devisees of Nathan B. Bryant (to wit to Edward L. Everitt, Alice B. Everitt and Caleb Everitt, children of Caleb Everitt deceased, in equal shares) if the same should not be necessary for the payment of the debts of the said Nathan B. Bryant – and retain the other and remaining fifth to his the said James D. Bryant's own proper use and benefit in right of his wife Elizabeth.

But this decree shall be suspended until the said James D. Bryant shall have executed in the clerk's office of this County bond with sufficient security in the penalty of two thousand dollars conditioned faithfully to execute the same.

And the said J D Bryant is directed to report to this Court in order to a final decree.

The said J D Bryant is further ordered to execute to Mills A. Britt, the purchaser of the said Real estate, a deed conveying to the said purchaser such title as may be vested in him, the said Commissioner, that is to say a deed with Special Warranty.

Bryant &c

v } Ca Decree

Darden &c

Southampton County February Court 1857.

James D Bryant & wife Elizabeth in their own right and the said James as Executor of Nathan B. Bryant Pffs

against

Samuel A Darden & wife & others Deffs } In Chancery

This cause, this day, was again heard on the papers formerly read and on the report of James D Bryant, Special Commissioner, to which report there being no exception the same is confirmed, and the Court doth adjudge, order and decree that the said James D. Bryant proceed to collect the bond for the purchase of the land in the proceedings mentioned, and for that purpose the Clerk is hereby authorized to deliver the same to him, pay such other expenses attendings the obtaining and execution of this and the former decree as may be still unpaid and pay over the nett proceeds to the parties entitled thereto as follows, to wit, one fifth to Samuel A Darden & wife Martha T, one fifth to Samuel Doherty and wife Mary D. - one fifth to John H P. Cole and Wife Ann C. one fifth to the devisees of Nathan B Bryant (to wit. to Edmund L. Everett, Alice B. Everett and Caleb Everett, children of Caleb Everett deceased in equal shares) if the same should not be necessary for the payment of the debts of the said Nathan B Bryant - and retain the other and remaining fifth to to his the said James D. Bryants own proper use and benefit in right of his wife Elizabeth - But this decree shall be suspended until the said James D Bryant shall have executed in the Clerks Office of this County bond with sufficient security in the penalty of two thousand dollars conditioned faithfully to execute the same And the said James D. Bryant is directed to report to Court in order to a final decree - The said James D Bryant is further ordered to execute, a deed conveying to the said purchaser such title as may be vested in him, the said Commissioner, that is to say a deed with Special warranty.

Clks costs $5.00. Copy

Sam. 10.00 } Teste S. R. Edwards Clk

James D. Bryant
Com'r.
Report.

In the Municipal County Court of
Southampton County.

The undersigned appointed Commissioner by a decree of the county court of the said county at the September term thereof 1856, "Bryant & wife vs Dardens & others", to sell the real estate of which Priscilla Bryant died seized as her dower of the real estate of her deceased husband Britton Bryant, (which said land was sold for a division among the heirs of the said Britton), begs leave to submit the following report.

The land was duly advertised as directed by decree & was sold at public auction and was purchased by Mills D Britt for the sum of $1665.00.

The following expenses have accrued.

Commissions $41.70	$41.70	
Attorney's fee (paid)	10.00	
Clerk's fee (paid)	5.00	
Crier's fee (paid)	5.00	$1665.00
	$61.70	61.70
Nett amount in my hands		$1603.30

Subject to the order of the Court and for which I have taken the purchaser's bond.

Respectfully submitted.

James D Bryant
Spc. Comm

Bryant Rose

vs

Darden Fathers

D D Bryant's Com'r

Report.

1859 December 6th

To the worshipful County Court of Southampton County.

The undersigned appointed a special Commissioner at the February Term AD 1857 by a decree "Bryant &c. vs Darden & others" to collect the nett proceeds due for the purchase of the real estate in the proceedings mentioned, to pay such other legal expenses as may be allowed for the execution of the decree hereto-fore made in this cause, and to pay over the balance to the parties entitled thereto as specified in said decree submits the following as his final report.

By this amt due per last report $1603.30

To Cash paid Sheriff Fee	$16.40	
" Cash paid I I Kindred atty. for last decree	10.00	16.40
Nett amt now due distributees		$1586.90
Each one's share 1/5.		$317.38

To paid S A Darden wife per receipt	$317.38
" paid L Debeny wife per receipt	317.38
" " " John H Bobb & wife per receipt	317.38
" " " James D Bryant & wife's part retained	317.38
" " " N B Bryant's portion (deceased) retained in hand by the undersigned Commissioner and accounted for in account current of his Executors	317.38
	$1586.90

Respectfully Submitted. James D Bryant Com.

Bryant Knife
vs
Darden Archers

Geo. I. Kundert Receipt
$ 10—

Received May 29th 1857 of James
D Bryant Special Commissioner to collect and distrib-
ute the proceeds due by a decree Bryant & wife vs
Darden & others granted by the County Court February term
AD 1857 from the sale of the real estate in the proceed-
ings mentioned, ten dollars in full for decree.

Jno L Kinsaul
Att at Law

Bryant Knife
Mrs
Darden to Chers

S A Darden's receipt

$317.38

Received May 29th 1857 of James D Bryant (Special Commissioner appointed by County Court of Southampton in a decree "Bryant ~~wife~~ vs Darden & others" to sell the land of which Priscilla Bryant died seized as her dower of her husband Britton Bryant's estate real, for a division of the said land among the heirs entitled at law to the said land which is particularly shown and specified by said decree granted at the November term AD 1856 and ~~order~~ at the February term of said Court in the year 1857, the sum of three hundred and seventeen dollars and thirty eight cents ($317. 38 cents) in full for the amount due me in right of my wife Martha T. Darden (who was Bryant).

Saml. A. Darden

Ent
Jno I Rundred

Bryant

vs Bryant

Statement

Bryant
vs Ex Statement
Bryant

By Statt amount due per report $1603.30

To Cash paid Sheriff Tax $16.40
" Cash paid Kindred for deed 10.00 16.40

$1586.90

Each one's share 1/5. $317.38

Jno L. Kindred
May 29th 1857

Bryant & Weiss
vs
Dardenne & Osborn

Jno. H. P. Coll.
Receipt
$ 317.38

Received June 6th 1857 from James D Bryant Special Commissioner appointed by County Court of Southampton in a decree. Bryant & Wife vs Dardin & Others to sell the land of which Priscilla Bryant died Seized as her dower of her husband Britton Bryants estate real, for a division of the said land among the heirs entitled at law to the said land which is particularly shown and specified by said decree granted at the November Term A.D. 1856. and another at the February Term of said Court. in the year 1857 the sum of Three hundred and Seventeen dollars and thirty eight cents ($317.38 cents) infull for the Amount due me in right of my wife Ann E. Cole. who was Bryant)

J H P Cole

Teste

Lem^l Deberry's

Receipt $317.38

To

L. D. Bryant Com^r

Received July 22nd 1857. of James D. Bryant Appointed Special Commissioner in a suit in the County Court of Southampton County, "Bryant wife vs Darden & others" to sell the real estate belonging to the heirs of Britton Bryant deceased, it being the same of which Priscilla Bryant, widow of the said Britton, was seized during her life as dower, the sum of three hundred & seventeen dollars & thirty eight cents ($317.38 cents) in full for the share and portion of Samuel Deberry and wife Mary of the state of Tennessee, of the proceeds of said real estate.

Jno S. Kindred
Atto for Samuel Deberry

Copy

Nathan B. Bryants

Will

In the name of God. Amen: I Nathan B. Bryant of the County of Southampton and State of Virginia do make and ordain this to be my last Will and Testament in manner and form as follows. Viz. Item 1. All of my land and chattle estate I leave to be sold, and for all of my just debts to be paid out of the amount of sales of the same

Item 2. I give to Elmira Hunt child of Mary Hunt decast the sum of one thousand dollars to be held by my Executors to be hereinafter named and the interest to be yearly applied to her support until she arrives to the age of eighteen years and at that time she is to be sent to any free State that my said Executors may think most beneficial to her future benefit. and in the event of her death before arriving to the age of eighteen years or her refusing to go where she may be sent by my said Executors to be maintained hereafter, the thousand dollars to revert back to my estate and be disposed of as the part of my estate that is to be equally divided between the children of my sister Martha Darden that she had by Caleb Everett, Edward L. Everett, Allen B Everett and Caleb Everett and all of the children of my sister Mary A Debery that she may have at my death

Item 3. I give to Adline Freeman. child of Elmira Brown the sum of five hundred dollars on the same terms that I give the thousand dollars to Elmira Hunt and to revert back to my estate on the same terms and conditions and to be disposed of in the same manner as provided for in her case on the same contingency happening in his case

Item 4. I leave my negroes. Daniel. George. Mary & Ivy together with the negroes that I may get by the death of my mother all to be sold and out of the sales of the same I give Edward L Everett. Allen B. Everett. and Caleb Everett the sum of three thousand dollars to be equally divided between them.

Item 5. I give all of the remainder of my estate to be equally divided between Edward L. Allen B Everett, Caleb Everett and all of the Children of my sister Mary A Debery wife of Samuel Debery now of Tennessee each to share & share alike.

Item 6. I leave James A Bryant and Robert L Jones my Executors to this my last Will and testament.

Made and signed by me this eighth day of November eighteen hundred and fifty three.

In presents of
Joseph B. Whitehead
Jefferson J Woodard 3

N. B. Bryant (Seal)

At a Court held for the County of Southampton on the 21st day of November 1853.
This last Will and testament of Nathan B. Bryant dec'd was this day proved by the oaths of Joseph B. Whitehead & Jefferson J Woodard the subscribing Witnesses thereto and ordered to be

recorded. And on the motion of James D. Bryant & Robert S. Jones the Executors therein named, who made oath thereto & gave bond & Security according to law, Certificates granted them for obtaining a probat of the said Will in due form

Teste.

S R. Edwards Clk

A Copy

Teste. S R. Edwards Clk

State of Tennessee }
County of Madison } To wit

Know all persons by these presents that we Samuel Debery and Mary Debery his wife of the State and County aforesaid do hereby appoint John I Kindred of the County of Southampton State of Virginia our true and lawful Attorney and authorize him as such for us and in our names to sue for and receive from James D Bryant a Commissioner appointed by the County Court of Southampton Virginia in the year 1856 to sell the real Estate belonging to the Sum of Hilton or Priscilla Bryant dec'd all such moneys bonds &c to which we may be entitled from the Sale of the said real Estate.
And we hereby empower the said John I Kindred to execute to the said Bryant Commissioner as aforesaid. full and perfect receipts and acquittances for the same and to do all other things necessary in the premises which we might do if personally present
Given under our hands and seals this
4th day of May — A D 1857

Samuel Debery Seal
Mary Debery Seal

State of Tennessee }
Madison County } Personally appeared before me, John Read, Judge of the 10th Judicial circuit Court of State, in open court, the above

named bargainors to the foregoing Power of attorney, to wit, the said Lemuel Delony & his wife Mary; the former acknowledged that he executed the within power of attorney for the purposes therein stated; and the said Mary Delony, having been examined separately & apart from her said husband - said that she freely & voluntarily executed the same on her part for the purposes as therein stated & without any restraint on the part of her said husband

Given under my hand & seal at Jackson in said State this 6th May 1857

John Read (Seal)

Judge 10th Judicial Circuit
County Madison

State of Tennessee
Madison County

I Silas M Brown Clerk of the Circuit Court of said County do Certify, that John Read whose genuine Signature appears to the foregoing Certificate is and was at the time of Signing the same Judge of our said Circuit Court duly elected Commissioned and Sworn - therefore full faith and Credit are due all his official acts

Given under my hand and Seal of Office at Jackson this June 23rd 1857

Silas M Brown
Clerk

Fees $3.75 Paid

Know all men by these presents that we James D Bryant

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of fifteen hundred dollars to the payment whereof well and truly to be made we bind ourselves our heirs, executors & administrators jointly severally firmly by these presents. Sealed with our seals and dated this 20th day of Nov 1856

The Condition of the above obligation is such that whereas in a Suit in Chancery depending in the County Court of Southampton between James D Bryant Elliza Pegg & Samuel Pardue & wife & others Defts by a decree entered in the said Suit on the 17th day of November 1856 the above bound James D Bryant was appointed Commissioner for purposes in the said decree mentioned Now if the said James D Bryant 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 & delivered
in presence of 3

James D Bryant (Seal)
Jno I. Rinaker (Seal)

Bryant & Co

Boards

Dardar & Co

Know all men by these presents that we James D. Bryant & John I Kindred are held and firmly bound unto the Commonwealth of Virginia, in the sum of Two thousand dollars, to the payment whereof we bind ourselves, our heirs, Executors and administrators, jointly and severally firmly by these presents. Sealed with our seals and dated this 21st day of February 1857.

The Condition of the above obligation is such that whereas by a decree of the County Court of Southampton rendered on the 16th day of February 1857 in a suit in chancery depending between James D Bryant & wife & others plaintiffs against Sam't & Darden Duke & others Defts. the above bound James D Bryant was appointed Commissioner for certain purposes therein mentioned Now if the said James D. Bryant shall faithfully discharge his duties as such Commissioner then the above obligation to be void, or else to remain in full force and virtue.

Signed Sealed & delivered
in presence of
J R Edwards 66

James D Bryant (Seal)
Jno I. Kindred (Seal)