1861-017 SOUTHAMPTON COUNTY CHANCERY PAPERS

PRINCE and Wife et al VS. CLAUD et al

10/1861

N.B. Sheet pasted together + folded.

other SURNames: Rogers, Powell, Jordan

475

Prince Davis & others

v

Leland's Others

Decree

1860 Nov. Durn Ct. as filed

1861 Jany Report.

" Act Rep. Confm.

Southampton County Court - In chancery.
Joseph H Brice & wife Elizabeth - and
J. M. S. Rogers & wife Martha
vs
Joseph W. Beland -
Thomas B. Powell & wife Adaline -
Joshua B. Beland - Jesse C. Beland - and
Andrew J. Jordan & wife Rosa } Decree

This cause this day came on to be heard on the bill, the answer thereto and exhibits and was argued by Counsel - On Consideration whereof the Court doth adjudge order and decree that William A. Jones - Samuel Drewry - James Drewry - ~~James E. Peters~~ - Edward P. Turner - and George W. Musgrave (any three of whom may act) be appointed Commissioners for the purpose - that they divide the negro slaves lately held by Elizabeth Beland, widow of Joseph T. Beland, as her dower out of the estate of the negro slaves which the said Joseph died possessed - first into two equal shares - that they then divide one of the said halves into four equal shares and allot or assign one share to Joseph H Brice & wife Elizabeth - one share to J. M. S. Rogers & wife Martha - one share to Joseph W. Beland - and the other share of the half to Thomas B. Powell & wife Adaline - and then divide the other half into three equal shares and allot or assign one of said shares to ~~Joseph~~ Joshua B. Beland - one to Jesse C. Beland and the other to Andrew J. Jordan & wife Rosa.

and the said commissioners in acting as permitted to equalize small sums of money to be paid by one of the said parties to another to equalize the said division - and they are directed to report to this Court in order to a final decree.

To the worshipful County Court of Southampton County - In Chancery.

Humbly complaining shew unto your worships your Complainants Joseph H Prince & wife Elizabeth B, and J M S Rogers & wife Martha as follows &c -

They represent that Joseph T. Cleland father of the said Elizabeth Prince and Martha Rogers departed this life in the year 1844 having executed his last will and testament which was duly admitted to record in the ~~Clerks office of the~~ County Court of Southampton County, a copy of which is herewith filed as part of this bill (marked A)

The provisions made in said will by the testator for his widow were renounced by her as will appear by an extract from the records of the County Court of said County herewith filed (marked B) as part of this bill The negro - slaves which were assigned or allotted to the widow of the said Joseph T. Cleland viz Elizabeth Cleland, as her dower according to law, after her death were directed by the said Joseph T. Cleland, the said testator to be divided into eight equal shares four of which were to be allotted or assigned to the four eldest children (one share to each of the said four eldest children) ~~and the other four shares to be equally divided~~, that is to say that one half of the said dower slaves were to be equally divided between Joseph H. Prince & wife Elizabeth, J M S Rogers & wife Martha - Joseph W. Cleland and Thomas B. Powell & wife Adaline ~~-~~ and that the other half of the said dower slaves were directed to be equally divided between the testator's three youngest children viz Joshua B. Cleland - Jesse C. Cleland and Andrew J. Jordan & wife Rosa -

Your complainants therefore pray that the said Joseph W. Leland, Thomas B. Powell & wife Adaline - Joshua B. Leland - Jesse C. Leland and Andrew J. Jordan & wife Rosa may be made parties defendants to this bill, and required to answer -

That your worships would grant a decree appointing Commissioners to make a division of the said slaves, in accordance with the will of Thos and Joseph T. Leland -

Grant such other general relief as equity may dictate and the nature of the case may require -

as in duty bound they will ever pray &c.

Jno J Kindred
pq

The joint and several answer of Joseph W Leland - Thomas B. Powell & wife Adaline - Joshua B. Leland - Jesse C. Leland and Andrew J. Jordan & wife Rosa - the said Rosa (a minor) by the said A. J. Jordan her next friend appointed her guardian ad litem by the Court - to a bill filed against them in the Circuit Court of Southampton County by Joseph H. Prince & wife Elizabeth and J M D. Rogers & wife Martha.

These defendants say that they have no objection to the decree prayed for, but on the contrary desire it as much as the complainants and having answered pray to be dismissed &c.

Kindred & D.

Prince Albert

to } Report

Island &c

1861 January 6th.

To the County court of Southampton Va.

In obedience to your decree bearing date November term 1865. which is hereto attached, we the undersigned Commrs proceeded to carry out the same, first to value the whole of the slaves. 2nd to divide them into two equal parts. one equal part we divided into four equal shares - the remaining part we divided into three equal shares - and assigned as directed, which the statement below will show -

man Allen		$1000 -
" Echo		1000 -
" Peter		1000 -
" Anthony		1000 -
" Jim		900 -
" George		830 -
" Collin		1000 -
Boy Alfred		500 -
man Tom		500 -
" Fred		700 -
" Hartwell		500 -
" Ted		300 -
Boy Levi		600
" William		550 -
" Frank		550 -
" John		600 -
" Ed		500 -
Woman Sarah & Child Louisa		1000 -
" Jinnie & Child Allice		1000 -
" Cook) Jinnie & Child. Ann Eliza		600 -
Girl Rachell		600 -
Cheny & three Children namely Bill. Matilda & Jane		1300 -
		$16530

Amount Brought forw:	$16530 -
Girl Evelina	500 -
" Agnes	500 -
" Diana & Child only	900 -
	$18430
Old man Dedon minus.	200
nett valuation	$18230
	9115

we allotted the following slaves and divided into four equal parts. and assigned as directed that is to Joseph H. Pruden in right of his wife, one share A. M. S. Rogers in right of his wife, one to Lee W. Eland in his own Right. one lot to Thos. B. Powell in right of his wife -

Man Echo	$1000
" Anthony	1000 -
" Collin	1000 -
" Ted	300 -
Boy John	600 -
" Frank	550 -
" Jinnie & Child Allice	1000 -
	5450

Amount brought forward $5450.00
Girl Rachell — 600 —
" Agnes — 500 —
Man Dred — 700 —
woman Dianah & child Molly 900 —
Boy Ed — 500 —
Man Sam — 500 —
Woman Hannia
Old woman Minus

$9150

The above amount therein this lot is valued at thirty five dollars over an equal part, which we direct the said Primus. Rogers. Claus & Powell to pay jointly but equally to Joshua V. Claus. Jesse G. Claus & Thomas J. Jordan. who is entitled to the remaining half of the slaves, an Equal share of the above amount of $9150. is $2287.50.

Lot No 1. assigned J. M. & S. Rogers
Man Echo — — $1000 —
" Sam — — 500 —
Girl Rachell — — 600 —
Old woman Hannia minus — —
2100 —

To Receive from lot
No 2 — $112.50
" No 3 — 62.50
" No 4 — 12.50
187.50 187.50

$2287.50

Lot No 2 assigned to Thos B. Powell
man Anthony — $1000.
Boy Ed — 500
Woman Dianah & Infant child Molly 900
2400

Pay to Lot No 1 — 112.50
$2287.50

Lot No 3. assigned Joseph V. Claus
Man Collins — — $1000 —
" Ned — 300 —
Girl Agnes — 500 —
Boy Frank — 550
$2350

Pay to Lot No 1 — 62.50
$2287.50

Lot No 4 Assigned Jos: H Primus
Man — Ned — $700 —
Boy John — 600
Jimmie & Child Ellen — 1000
$2300

To Pay to Lot No 1 — 12.50
2287.50

The remaining half which we are directed to divide into three equal parts are as follows. they each equal Share is worth $3038.33⅓ ¢ —

Lot No 1. assigned to Jesse G. Claus
Man Allen — $1000 —
Alfred — 500 —
Woman Cherry & three children — Bill. Malinda & Jane 1300 —
2800

To Receive from lot No 2
assigned A. J. Jordan $73.33⅓
" from Lot No 3
assigned J. V. Claus 153.33⅓
To Receive from the ⅓ division from Rogers Primus Powell & Co 11.66⅔
$238.33⅓
$3038.33⅓

All of which proceedings we most Respectfully submit given from under our hands this 3d day December 1860 —

Chas Dorsey
Wm. A. Jones
James Gowen

Lot No 2. assigned Andrew J. Jordan
Man Peter — $1000. —
" Hartwell — 500
boy Levi — 600
Sarah & Child Louisa — 1000
$3100

To receive from ⅓ part or division from Rogers Primus Powell & Co & Claus 11.66⅔
3111.66⅔

This lot to pay to lot No 1. assigned J. G. Claus 73.33⅓
$3038.33⅓

Lot No 3. assigned Joshua V. Claus
man Jim — $900.
" George — 830 —
boy William — 550
Woman Jennie & Child & Eliza — 600
Girl Evaline — 500
$3380

Old man Deduct minus 200
3180

To receive from ⅓ division from Rogers. Primus Powell & Co & Claus 11.66⅔
3191.66⅔

This Lot to pay to lot No 1. assigned Jesse G. Claus 153.33⅓
$3038.33⅓

Prince Allison &
Ux } Copy Decree
Cloud &

Southampton County Court. November Term 1860

Joseph H. Prince and Elizabeth B his wife and J. M. S. Rogers & wife Martha } Bills } In Chancery.

against

Joseph W Cleland & Thomas B Powell & wife & others Defts

This cause this day came on to be heard on the Bill the answers thereto and exhibits and was argued by Counsel. On consideration whereof the Court doth adjudge order and decree that William A Jones, Samuel Drewry, James Drewry, Edward P Turner and George N Musgrave (any three of whom may act) be appointed Commissioners for the purpose that they divide the negro slaves lately held by Elizabeth Cleland widow of Joseph T. Cleland as her dower out of the estate of the negro slaves of which the said Joseph died possessed - first into two equal shares - that they then divide one of said halves into four equal shares and allot or assign one share to Joseph H. Prince & wife Elizabeth - one share to J. M. S. Rogers & wife Martha - one share to Joseph W. Cleland and the other share of this half to Thomas B Powell & wife Adaline - and then divide the other half into three equal shares and allot or assign one of said shares to *Joseph B Cleland one to Jesse C. Cleland and the other to Andrew J. Jordan & wife Rose. And the said Commissioners so acting are permitted to require small sums of money to be paid by one of said parties to another to equalize the said division. And they are directed to report to this Court in order to effect decree.

A Copy

Teste

A R Edwards Clk

Joseph F Clyde

Will

138 f

In the name of God amen: I Joseph J. Bland of the County of Southampton, in the State of Virginia. of Sound and disposing mind and memory do make and constitute this as and for my last will and testament.

In primis: After the payment of all my just debts and funeral expenses, it is my Will and desire, that all my estate real and personal shall be kept together and managed as now arranged into farms and plantations and managed by my Executrix and executor hereinafter named, until my Son Joseph W. Bland attains lawful age, for the Support and education of my younger children and that of my Wife and children as One family. The Surplus of the profits of the plantations and the interest of monies belonging to my estate, after a liberal support for the family and giving my children a good education, to fall in and form a portion of my undivided estate.

Item: On the Marriage of either of my daughters including my daughter Elizabeth B. Who is now Married It is my will that Such daughter Shall take a Childs Share of all my negro Slaves, except those Specifically bequeathed Counting my Wife as a Child, that is to Say, if at the happening of that event, there be Seven Children living I give to each of my daughters So marrying One eight part of my negroes and So if there be a greater or Smaller Number. I also give to my daughter Elizabeth B. a negro girl named Mariah, and to my daughter Martha a negro Girl named Harriet (yellow,) and to my daughter Adeline a negro girl named Harriet (black). I also give to each of my daughters on her Marriage one feather bed and and furniture, two Cows and Calves, ten ewes, and the Sum of Two thousand dollars to be delivered and paid as Soon after the Marriage as practicable, my daughter Elizabeth B. portion to be paid as Soon after my death as practicable. But all allotments So to be made One childs Share is to be reserved with the undivided Shares of the Others Children for the use of my Wife and at her death I give the Share So to be reserved for her to be equally divided between my three youngest children, Joshua, Cornelius J. and Rosa J. Bland. It is my wish that the Several divisions So to be made be effected by the same Commissioners to be appointed by the County Court of Southampton, as far as practicable.

Item: I give to my Son Joseph W. Bland when he attains the age of twenty One years my plantation consisting of the lands bought of John and Joseph Barham and the Williford tract and the piece of land I purchased

belonging to the Estate of Benjamin Phipps dec and the plantation devised to me by Jesse Holt now in the possession of Mrs. Nancy Holt for her life which will come into his possession at her death. I also give him all the Stock of every Kind which may be on the said plantation when my said Son attains full age, and all the crops of every Kind which may be made on the said plantation in the year of his coming of age. I also give to my said Son an equal Childs part of all my negroes Slaves except those Specifically bequeathed counting his Mother as one to Share as before directed at that time, also the Sum of Five hundred dollars then to be paid him to buy him furniture and if I Shall not in my life time take down Move and have finished for him the dwelling house in which John Barham died and lived, it my Will and desire that my executrix and executor have it done for him at the expense of my Estate, the house to be moved to a place on said plantation, where I have already made a Settlement. I also give to my said Son one bed and furniture and his choice of all my horses.

Item: I give to my two Sons Joshua and Cornelius at the death of my Wife if she remains my Widow otherwise at her marriage, all the rest of my lands of which I may be possessed except the tract of land I purchased of John D. Turney called the river plantation to be equally divided between them, and if my Wife Shall live to See them attain lawful age I authorize her to place either or both of them in possession of any portion of the same less than one half and in the division to be made at her death, Such portion to be allowed at its Value to the one in possession thereof. In the event of her so Settling either of my Said Sons, the executrix or executor is authorized to give to Such Son a portion of the Stock of Cattle Sheep &c as She or he may think proper not exceeding a childs portion of the Whole them in possession, as may Said Sons Joshua & Cornelius respectively attain the age of twenty one years I give to each of them a childs Share of the undivided negroes excluding those children who may have received their Shares and counting their Mother as a Share as above directed.

Item: It is my Will and desire that my river plantation Shall be kept up by my executrix and executor as I have directed the balance of my farms until the death or marriage of my Wife, upon the happening of either event it is my Will and desire that the Said land Shall be Sold and the proceeds be divided between my living children and the descendants of any that may be dead, taking per Stirpes.

Item: At the death of Mrs. Nancy Holt Widow of Jesse Holt dec'd It is my Will and desire that the negroes in my possession to which I am then entitled by the Said Jesse Will Shall fall into my estate and if any of my children Shall have received his or her Share of my Negro Slaves then Such child or Children Shall then draw his or her Share of them in the Same manner as if they had been in possession of my estate when Such divisions may have taken place. And if the Said Negroes cannot be divided in Kind So as for their respective Shares to be allowed to those of my Children who may have received their Shares, then I direct that their respective Shares of them Shall be Valued and Such Valuation to be paid to each So Intitled out of my Personal estate.

Item: It is my Will and desire that all the money which may remain of my estate after payment of debts and the pecuniary legacies and other charges made in it in this Will With the accruing interest and Surplus profits of my estate, including the money to which I am entitled at the death of Mrs. Nancy Holt and the legacy left by Jesse Holt to Joshua Bland of Tennessee which I purchased of him in his life time, be kept at interest the interest to be collected annually and placed at interest during the life or Widowhood of my Wife, and at her death or Marriage I give the Same to be equally divided between all my children then living and the descendants of any that may be dead, taken per Stirpes.

Item: If my Wife renounce this Will or marry again, I hereby annul and revoke all bequests herein in her favour, and it is my Will on her Second Marriage or renunciation that her powers as Executrix Shall be revoked. But it is my Will and desire in either event, that the Share of negroes which She would have been entitled to for life Shall be Set apart to my younger children as an equivalent for the legacies given their Brothers and Sisters.

Item: I devise that the piece or tract of land which I purchased of Thomas D. Ridley and Wife, if unsold at my death

Shall be Sold by my Executrix or executor, and the proceeds Shall be a part of My Invested estate and pass as that portion of my estate is directed to be divided amongst My Children.

Item: If contrary to my expectations, My Wife Shall dissent from this provision I have herein Made with an anxious desire for her Comfort and the interest of our children, I give and devise to my three Sons all my Lands as herein before directed Subject to her claim of dower, to be assigned by them from the date of her renunciation. I also give and bequeath, in that event all my negroes except those Specifically bequeathed, Subject to her claim of dower to be then divided into eight parcles of equal Value, and one of which I give to Joseph W, one to Elizabeth B. one to Martha, one to Adeline, and the other four eights to my three youngest Children to be equally divided. And after the payments of Two Thousand dollars to each of my three Oldest daughter and Five hundred to Joseph S. I bequeath all my Property and other estate to be equally divided amongst all my Children

Item: If one or more of my Children Shall die without issue and under age, I give all the property herein given to Such Child or Children to the Survivors, and so if all die but one, then I give all my estate to that one. If on the death of one of my said children there be living a Child or children of one previously dying, Such Child or Children to take the Share which the father or Mother would take by this Clause if them alive.

Item: It is my will and desire that my Executrix and executor Shall Sell any of my property as they may think best and for the interest of my estate and the proceeds to be invested in property of the Same Kind as that Sold.

Item: I hereby authorize my executrix or executor to purchase the Land I Sold to Etholdred Murrell upon which I have a due of Trust and to pass to my two youngest Sons as before directed, unless the land will Sell for enough to pay the debt due me by Said Murrell.

Lastly: I nominate and appoint my beloved Wife Elizabeth Executrix, and my Son-in-law Joseph H. Prince Executor and my ~~Joseph when he attains the age of~~ Son Joseph when he attains the age of twenty one years Executor of this my last Will and Testament.

In testimony whereof I have hereunto Set my hand and affixed my Seal this 29th day of April One Thousand eight hundred and forty four.

Jos S. Cland (Seal)

Signed, published and declared by the Testator as his last Will and Testament before us, and by us attested in his presence and at his request

Wm. A. Jones
Simon T. Westbrook
Sampson C. Reese

At a Court held for the County of Southampton on the 17th day of June 1844.

This last Will and Testament of Joseph S. Cland dec'd was proved by the oaths of Wm. A. Jones, Sampson C. Reese and Simon T. Westbrook the Witnesses thereto and ordered to be Recrad, and Elizabeth Cland the Executrix therein named refusing to take upon herself the burthen of the Execution of said Will on the Motion of Joseph H. Prince one of the Executors therein named who made oath and together with Joseph Prince, John I. Prince, David Prince and Thomas B. Williamson his Securities entered into and acknowledged a bond in the penalty of One hundred and Sixty Thousand dollars Conditioned as the law directs. Certificate is granted him for obtaining a probat of said Will in due form, liberty being reserved for the other Executor to be joined in the said probat when he thinks fit.

Teste

L R. Edwards, clk

A Copy

Test

L R Edwards Clk