

1871-52

SOUTHAMPTON COUNTY
CHANCERY PAPERS

BRYANT and Wife et al vs. GRAY et al

3/1871

other surnames: Johnson,
Williams, Vick

572

Bryant's wife &

Grays
as 3 Bill
Grays

1867 Nov. Decree filed

1868. Decr. 7. Report

" " Decr. as filed

1871 March. Removed from the docket.

To the worshipful county court of Southampton
in chancery sitting

Humbly complaining your orators
Wm. I Bryant and Martha his wife who
before marriage was Gray, Wm. I Gray
Joseph H Gray and Bird Gray shew unto
your worships that in the year 186
James Gray died intestate leaving considerable
estate both real and personal and leaving
Martha Bryant who was Gray, Wm. I Gray
Joseph H Gray, Bird Gray, Richard Gray
Nancy E Gray, Benjamin E. F. Gray his
children and Jane A. Johnson only child of
Nancy Johnson who before marriage was Gray
and a daughter of James Gray a grandchild
his distributees and heirs at law, your
orators state further that there was a paper
writing purporting to be the last will and
testament of James Gray offered for probate
and there was a contest about the validity
of the same by Wm. I Bryant and wife and
it was finally agreed by the counsel in
court that the said paper writing should
be rejected and in consideration whereof
Martha Bryant and her husband Wm. I
Bryant should receive a half share or
take as one of the half blood all of which
will more fully appear by the said agreement
herewith filed marked A and prayed to be
taken as a part of this bill, the said estate
being divided into 13 shares that Wm. I
Bryant and Martha his wife would
receive one fifteenth and each of the

other two fifteenths, Your orators state further that James Gray died seized and possessed of two tracts of land lying in the county of Southampton which they wish to be now divided as their intestate has been dead several years to wit a tract of land containing three hundred acres more or less adjoining the lands of Mrs Susan Lamb and others and a tract containing three hundred and fifty acres adjoining the lands of Jacob Williams and others. They state further that these lands have been rented out for several years and are fast depreciating in value and they desire a speedy partition or if that cannot be done then a sale of the whole of the said land for partition and they do not know that the shares will amount to three hundred dollars each, In tender consideration whereof and inasmuch as your orators are without relief in a court of law and only entitled to relief in a court of equity where such matters are peculiarly cognizable they therefore pray that Richard Gray, Nancy E Gray, Betsy E. F. Gray and Jane A. Robinson all born infants of tender years by some fit and proper person their guardian ad litem appointed for that purpose may 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 thereto personally and specially interrogated. That the court would appoint commissioners to divide the said land among the heirs at law

of James Gray dead allotting one fifteenth to Wm. S. Bryant and wife and two fifteenths to each of the others having regard to quality and quantity or if the court should be satisfied from the testimony filed in the cause that partition cannot be made of the said lands in kind from the great number of shares and the inequality in the value of the land, then that the court would decree a sale of the same and a division of the purchase money according to the rights of the parties 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 ever will pray

Shanes p. 9.

Groups answers
acols 3 of
Groups inst. left

1867 Nov. 6th.

The answer of Richard Gray, Nancy & Gray
Benjamin E. F. Gray and James A. Whitman
four infants of tender years by G. R. Edwards
their guardians ad litem to a bill in
chancery in the Co Court of Southampton
by Wm. E. Bryant and als 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
says that he knows nothing of the facts
set forth in the plaintiffs bill but submits
the interests of his wards to the care of
this court whose peculiar duty it is to protect
the rights of infants and leaving fully
answered prays leave to be dismissed with
his costs &c

Shanda for Clifts

Grays
or 3 Decm
Grays

1867 Nov 18th

Grays
ad 3 Decem
Grays

By consent of parties this cause came on this day to be heard on the plaintiffs bill, the answer of the four infant defendants by their guardian ad litem and general replication thereto, the exhibit files examination of witnesses and was argued by counsel, On the consideration whereof the court being of opinion that partition of the said lands cannot be made in kind doth adjudge, order and decree that George W. Vick who is hereby appointed a special commissioner for that purpose shall after having given at least twenty days notice by public advertisement at the Court house and at least two other public places in the county also advertising in the newspapers if he thinks it best provenue to sell at Jerusalem on some county court day at public auction to the highest bidder the two tracts of land whereof James Gray dice seized and proposed one containing three hundred and the other three hundred and fifty acres on the following terms to wit sufficient cash to defray the expenses of the sale and the costs of this suit and the balance of the purchase ^{money} on a credit of twelve months bonds carrying interest from the day of sale, taking from the purchase or purchasers bond with approved security retaining the title until all the purchase money shall have been

price, and return the said bond or bonds
to court along with his report in order
to a further decree, But the said
commissioners shall not proceed to act under
this decree until he or some one for him
shall have executed in the clerk's office of
this court a bond in the penalty of four
thousand dollars conditioned for the faithful
performance of this and any other decree
which may be entered in this cause

Bryant & wife to

to } Copy done

Grays

Southampton County Court. November 18th 1869

W^m J. Bryant and Martha his wife who before marriage was Gray, W^m J. Gray, Joseph
et Gray, and Bird Gray

Pliffs

In Chancery.

against —

Richard Gray, Nancy E Gray, Benjamin E. F. Gray & Jane A. Johnson
infants of tender years by L. R. Edwards their guardian ad litem Defts

By consent of parties this cause came on this day to be heard on the plaintiffs bill, the answer of the four infant defendants by their guardian ad litem and general replication thereto, the exhibits filed, examination of witnesses and was argued by Counsel: On the consideration whereof the Court being of opinion that partition of the said lands cannot be made in kind doth adjudge, order and decree that George W. Vick who is hereby appointed a Special Commissioner for that purpose, shall, after having given at least twenty days notice by public advertisement at the Courthouse and at least two other public places in the County, also advertising in the newspapers, if he thinks it best, proceed to sell at Jerusalem on some County Court day at public auction to the highest bidder, the two tracts of land whereof James Gray died seized, and possessed one containing three hundred and the other three hundred and fifty acres on the following terms to wit — Sufficient cash to defray the expenses of the sale and the costs of this suit, and the balance of the purchase money on a credit of twelve months, bonds carrying interest from date of sale, taking from the purchaser or purchasers bond with approved security, retaining the title until the purchase money is paid, and return the said bond or bonds to Court along with his report in order to a further decree.

But the said Commissioner shall not proceed to act under this decree until he or some one for him shall have executed in the Clerks Office of this Court a bond in the penalty of four thousand dollars conditioned for the faithful performance of this

and any other decree which may be entered in this cause -

Costs for \$5.00 paid

L.R.E.

A Copy

Teste

L.R. Edwards

572

Bryant's wife
as $\frac{1}{2}$ Dec
Gray

1868. Dec. 6th

Bryant & wife
vs 3 Deems
Grays

This day This cause came on again to be heard on the papers formerly made and the report of Commissioner George W. Vick made pursuant to a decree entered at the November term 1867 of this court and to which no exceptions have 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 said George W. Vick commissioner as aforesaid withdraw the bond from ~~the bond~~ ~~from~~ the clerk's office executed by Wm. I. Gray, and Byrd I. Gray for the purchase of the two tracts of land and upon their paying the same to him that he then execute to them deeds for the said tract of land, and after paying such expenses of this suit as shall have accrued after the rendering of the last decree in this cause divide the purchase money into fifteen equal parts and allot one fifteenth to Wm. I. Bryant and Martha his wife ~~two~~ fifteenth to Wm. I. Gray, two fifteenth to Joseph B. Gray, two fifteenth to Byrd I. Gray, two fifteenth to the lawful guardians of Richard Gray, two fifteenth to the lawful guardians of ~~the~~ ~~Gray~~ ~~Gray~~ Gray, two fifteenth to the lawful guardians of Benjamin E. I. Gray, and two fifteenth to the lawful guardians of Sarah A. Johnson and report to the court in order to a further decree

Bryant is wife

as 3 Decur

Grays

Is he entered

J. W. Menhark
Judge

Bayard is wife
as 3 Decem
Gray

This day this cause came
on again to be heard on the papers
formerly read and the report of the
commissioner G. W. Vick to which no
exceptions have been filed and was
argued by counsel On consideration
whereof the court doth acquiesce, order,
and decree that the said report be
confirmed and it appearing to the
court that there is nothing further
to be done in this cause the
court doth order that the same
be removed from the docket

Deposition
of
W. R. Parker

Doctor Wm R Parker having been first duly sworn Says I am well acquainted with the two Tracts of land owned by James Gray's heirs at law one containing 300 acres adjoining Mrs Susan Lamb and others and the other some 330 acres adjoining the land of Jacob Williams and others These lands are now being rented out and fast deteriorating in value I am certain these lands could not be divided in kind to give the heirs at law a fair share in value as some of land is more valuable than other portions There being but two dwelling houses one for each tract and the land to be divided into ~~eight~~^{many} shares I think a sale for a division would be best for all parties and further this deponent saith not

Wm R Parker

Depositions of
C. C. Williams & also

1867 Nov. 6th

The depositions of C. C. Williams and others
taken to be read as evidence in a certain suit
in chancery pending in the county court in the
case of James Gray in behalf of the plaintiffs
taken at the office of Mr B Shands on the 10th
of Nov 1867

Charles C. Williams having been first duly
sworn says I am acquainted with the lands
owned James Gray dec'd and am of the opinion
that it would be impossible to divide the said
lands among all his children having
regard to quality and quantity as some of
the land is far more valuable than the
other and I think it would be to the
interest of all to see for a division and
further this deponent saith not

C. C. Williams

George W. Vick having been first duly
sworn deposes and says. I am well acquainted
with the lands of James Gray dec'd being the
administrator of said Gray's Estate. I am of the
opinion that it would be to the advantage
of the Estate to sell the lands as it is
impossible to divided in kind as it would
have to be divided in some ^{fifteen} ~~seven~~ shares,
which Mr Bryant & wife receive one
fifteenth and each of the others two fifti-
-tenths and the ^{lands} has been rented out
for several years. and if it is rented
longer it will come down very fast, I think
the sooner the land is sold the better for

The Estate, and further this deponent swears
not.
L. H. Vaile

The above deposition was taken sworn to
and subscribed before me at the time and place
mentioned in the caption given under my
hand this 16th of November 1867

Wm B Shamus Comm
in the C. Ct of Southampton

Bryant

to Rep.

Gray's

1868 Dec 7

The undersigned a special Commissioner
appointed for that purpose beg leave to report
that in obedience to a decree entered at November
Term 1867. I proceeded at the December Court 1867
to sell at public auction at Jerusalem on the
terms proscribed by the decree the lands therein
named, and that Wm J Gray purchased
the Land known as the Indian Woods tract
for One thousand nine hundred & fifty five
dollars and Bird S Gray purchased the
tract lying on the Barrow road for Four
hundred & ten dollars and after deducting
expenses of suit, sale & Taxes, to wit, Clerks
fee Five dollars (\$5), Attorneys fee Thirty
dollars (\$30) Taxes Twenty five $8\frac{1}{10}$ dollars & Commis-
sions Fifty six dollars & 30 cts. (\$56.30). I took
Wm J Gray bond with security for eighteen
hundred & fifty eight ^{dollars} and Bird S Gray
bond for three hundred & ninety dollars
with security both of which are herewith
returned to Court with this report

G. W. Vick Commissioner

1868 Dec 22. Received of the Clerk of Southampton County Court the ~~two~~
bonds returned with the within report. A. W. Vick.

Bryant & Wells
to } Repe

Gray

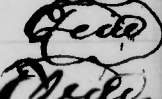
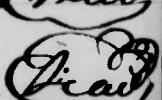
1871 Mar. 14

I Obedience to a decree of The County
Court of Southampton County in the
suit of Bryant & wife v Gray & son
The Land in the proceedings mentioned,
and Wm J Gray & Bird S Gray became the
purchasers. I received the lands & have paid
the ^{money} to said parties, and have expended the
deeds to Wm J Gray, & Jacob Williams
March 14th 1871 G. W. Vick Comr.

Agreement between
Commune and parties
in regard to James
Grays will

This Agreement made this 11th day of
November in the year 1867 between Wm Bryant
of Elizabeth, & Geo R Chambers & Geo D Kinard
the two latter Counsel for Martha Frances Bryant
Wife of the said William of the first part and
Wm B Shands Counsel for the other heirs & children
of James Gray deceased of the other part;
Witnesseth: That Whereas there is a suit
now pending in the Circuit Court of South
ampton county to establish a paper writing
claimed to be the last will & testament of
the said James Gray deceased, which is con-
tested by the said Wm Bryant Wife Martha
Francis (who was the daughter of the said James
Gray) and a jury has been empanelled for
that purpose, but have rendered no verdict.
Now it is agreed by the parties abovesaid
that the said jury shall render for their ver-
dict that the said James Gray died intestate
and that the said paper writing is not the last will
& testament of the said Gray - and the estate,
real & personal of which the said James
Gray died intestate is to be equally divided
among all his heirs at law except that
the said Martha Francis Bryant & Wm Bryant
her heirs and assigns are to receive only a half
share in the said division as if the said
Martha Francis Bryant were only a child of
the half blood in the said division and
inheritance.

Witness the following signatures & seals -

Wm B Bryant 
Geo D Kinard & 
Geo R Chambers for Martha F Bryant & 
Wm Bryant

Wm B Shands counsel for heirs & will



Bryant Hallife

v { Comrs bond

Gray J

Know all men by these presents that we George W Vick M. D. Butler
Sam Kello Wm B Shands are held and firmly bound unto the
Commonwealth of Virginia in the just and full sum of four thousand dollars; 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 16th day of December 1867

The Condition of the above obligation is such that, whereas by a decree of the County
Court of Southampton County entered on the 18th day of November 1867, in a suit in
Chancery therein pending in which Wm J. Bryant & Martha his wife who before
marriage was Gray, and others are plaintiffs and Richard Gray, Nancy E Gray &
others are Defendants, the above bound George W Vick was appointed Commissioner
to make sale of the two tracts of land whereof James Gray died seized & possessed
upon terms & as set forth in the said decree. Now if the said George W Vick shall
faithfully perform the duties of his office or trust under the said decree & any other decree
which may be rendered in the said cause then the above obligation to be void else to
remain in full force and virtue.

G. W. Vick (Seal)

Wm B Shands (Seal)

M. D. Butler (Seal)

Sam L. Kello (Seal)

Southampton County In the Clerk's Office the 16 day of Dec 1867
The above bond was acknowledged before me by the obligors thereto, and M D
Butler Sam Kello & W. B Shands the securities
therein made oath that their joint estates after the payment of all their just
debts are worth the sum of four thousand dollars, the penalty of the above bond as they
verily believe.

J. R. Edwards (Seal)