

1874-35

Santhampton County - Chancery

Pape, Amos S to Claud, Fayette et al

"To sell real estate in"
settle property

Fayette Claud
Mary E. Claud
John D. Claud

Pope



Sapuro

Chand

Amos E. Pope

V. L.

F. J. Cland to them

Bill

1857 October Rules.

To the Hon Richard H. Baker Judge of
the Circuit Court for Southampton County.

Humbly Complaining I shew it unto
your Honor your Orator Amos S. Pope of the said
County, that Phillip I. Cland departed this life
some time in the year 1855 or '56 intestate, seized
and possessed of certain real and personal estate
and leaving as his only heirs at law, his children
Fayette I. Cland of the age of fourteen years, Mary
Eliza Cland of the age of six years and John P. Cland
of the age of three years.

Your orator would represent
that some time previous to the death of the said
Phillip I. Cland, he having intermarried ^{with} ~~with~~
a daughter of the said Phillip who ^{but about time} died before
her said father the said Phillip and left no child
he your said orator and the said Phillip pur-
chased jointly and held in undivided equal
shares a certain tract of land the same which
belonged to the heirs of Nathan Pope deceased
and that a copy of the deed conveying the said re-
al estate to your orator and the said Phillip is
here with filed (marked A) and prayed to be con-
sidered a part of this bill.

The said tract of land contains four
hundred and sixty acres (460) more or less, nearly
four hundred of which is cleared has a
usually good large size wood dwelling house
and all ~~other~~ ^{other} ~~best~~ ^{best} horses common fowls
on a farm and is worth in the opinion
of your orator about three dollars per acre
perhaps more. The said ~~land~~ ^{real estate} cleared and un-
cleared together with the building, is so situated

that it can not be divided fairly and justly
into two equal shares without detriment to
the interest of the said heirs of the said Phelps,
who are entitled to one half thereof as your
Orator is advised, or to the interest of your said
Orator.

As the share of some party may be
worth more than three hundred dollars if the
said real estate should be sold for the purposes
of a division, as in the opinion of your orator
would be advantageous to the interest of all
parties concerned, and as your orator is
relieved only by the 'honorable Court of equity he
therefore humbly prays that you honor would make
the said Fayette Mary E. and John P. Cleland par-
ties defendant to this bill and compel them
true answers to make to the allegations herein
contained &c. — that you honor would grant a
decree authorizing the sale of the real estate
before mentioned for the purpose of effecting
a just division of the same and grant
such other and general relief, the premises con-
sidered as equity may require and the na-
ture of his case may require — and as in
duty bound he will ever pray &c.

Geo. J. Kinross
Pg

Amos S. Pope

& S.

Re lands

Defendants' Answer

The joint and separate answer
of Fayette S. Cleard, Mary Eliza Cleard
and John P. Cleard infants under the
age of twenty years, by Richard McLean
their guardian ad litem, to a bill filed against
them by Amos S. Pope, In the Circuit Court of Southampton
County

These defendants, saying &c, for
answer to the said bill say that they
being infants of tender years know no
thing of the facts charged in the plain-
tiff's bill, and submit their rights to
the protection of the Court.

And having answered say to be
thence dismissed -

Jos. I. Kunder
Atto for Richd McLean
Guardian ad litem

(Seed)

Pope

v. }

Exhibit. with bible

Cland.

(at)

(42 f. per.)

This deed made this first day of November in the year one thousand eight hundred and fifty one between Nancy Pope, Madison Pope, Oswald Pope, Eliza Pope, Isaac S Pope, Jemima Frances Pope, Newson Pope, and Riddick Pope (the two latter by their attorney Oswald Pope) of the first part and Amos S Pope and Philip S Cland of the other part. Witnesseth that the said Nancy, Madison, Oswald, Eliza, Isaac, Jemima, Newson and Riddick Pope, in consideration of One thousand three hundred and eighty one 50/100 dollars to them in hand paid, the receipt of which is hereby acknowledged, do grant unto the said Amos S Pope and Philip S Cland all their interest in that tract of land lying in the County of Southampton State of Virginia, containing about four hundred and sixty one acres, more or less (the grave yard excepted) it being the plantation on which Nathan Pope deceased lived in his lifetime and bounded as follows, by the lands of Richard Burden, Jacob Williams, John D Myrick, Harrison S Pope, and others and by the County road, and the said grantors covenant that they will warrant generally and specially their respective interest in the land hereby conveyed and that the said grantees shall have quiet and peaceable possession of the said land as far as the grantors or any claims under them all concerned. It must be understood that the said Nancy Pope intends to convey and grant her dower or life estate only in and to the said lands. In Witness whereof the said parties to these presents have hereunto affixed their hands and Seals this first day of November A.D. 1851.

Nancy Pope	(Seal)
Madison Pope	(Seal)
Oswald Pope	(Seal)
Eliza Pope	(Seal)
Isaac S Pope	(Seal)
J. Frances Pope	(Seal)
Newson Pope by his	
attorney Oswald Pope	(Seal)
Riddick Pope by his	
attorney Oswald Pope	(Seal)

Virginia. Southampton County, to wit:

I Ben. E. Pope a Justice of the Peace in and for the County and State of Virginia do hereby certify that Nancy Pope, Madison Pope, Oswald Pope, Eliza Pope, Isaac S. Pope, Junius & Frances Pope whose names are assigned to the foregoing deed (the said Oswald Pope for himself in proper person and as attorney for Newson Pope and Riddick Pope) bearing date the first day of November A.D. 1851 have acknowledged the same before me in my County aforesaid, and have requested me to certify such acknowledgment, to the Clerk of the County Court of this County in order that the said deed may be recorded. Given under my hand and seal this 15th day of Nov. 1851.

Ben. E. Pope J.P. (Seal)

Southampton County. In the Clerks Office the 22nd day of November 1851
This deed of bargain and sale from Nancy, Madison, Oswald, Eliza, Isaac & Junius Frances, Newson and Riddick Pope to Amos S. Pope & Philip J. Glend was presented and together with the certificate of the acknowledgment of all the parties of the first part, admitted to record.

Teste

L. R. Edwards Clk

A Copy

Teste L. R. Edwards Clk.

Pope
or {
Celandine

Report of Comr. C.

1858. May 1st R. S.

N. Howard & Co.

Southampton County Va

April 30th 1858

By virtue of an order or decree of the Circuit Court of said County, November term 1857, appointing us the undersigned Comrs to divide the above described tract of land or report to the next Court of said County, to the contrary, in which decree Amos S Pope is plff. and Fayette J Cland, Mary Eliza Cland & John P Cland infants under the age of twenty one years by Richard M Carr their guardians ad litem defendants, having been duly sworn and on examination of the premises of the above, find it impracticable to divide said land among the heirs named in said decree, therefore we are fully of the opinion that the interest of the parties would be much more promoted to sell the same, as a division would so cut up the land it would not rent for a sum annually sufficient, or equal to the annual int. that would accrue from the principal ~~for~~ for which it would sell, the improvements all being situated ^{nearly} on the extreme end of said land, ~~the~~ timber and wood on the opposite end, the tract being long and narrow for the number of acres we are fully of opinion the land is jointly worth in fee simple two thousand dollars

Respectfully submitted to the Hon.
Judge of the Circuit Court of
said County

David Barrett Comr.
Abner K. Stephenson "
H. S. Pope "

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Report of Fleming

1859 May 6th

To the Hon Richard H. Baker -
Judge of the Circuit Court of Southampton;

To your honor, the undersigned
a special Commissioner appointed by a decree rendered
in the said Court at the May Term thereof AD
1858 - ("Pope vs Ireland's") begs leave respectfully
to report as follows -

That having advertised the real estate in
the proceedings mentioned to be sold on the premises, as
directed in the said decree, and having complied
with the said decree in all other respects, forward
of bidders and a sufficient number of persons, he
afterwards advertised the said real estate and sold
it at public auction at the Court House on County
Court-day (September 1858) and that Amos S.
Pope, became the purchaser for the sum of \$1500.00
- that he has paid all the cost and expenses of
the said suit making \$43.49 - and reserved his
Commission \$39.00, making the aggregate expenses
\$82.49 cents - that he has taken four bonds from
the purchaser for the nett balance Court \$1417.50 cents
with sufficient personal security to the said bonds, which
are herewith filed as part of this report, and are
marked A-B-C-D.

All of which is respectfully submitted

Amos S. Kinsred
Comm'r

Popu
to } Dep:

Olau d

Handed in by H. L. Howard Can

Oct. 31. 1857

LRE

The Depositions of Harrison S. Pope, ~~Sworn to by~~ David
Barnett, and Abner K. Stephenson witnesses of lawful age
taken on this 31st day of October 1857, before me Henry
S. Howard, a Commissioner in Chancery of the Circuit Court
of Southampton County Va at the office of John J. Kincaid
in the Town of Jerusalem Southampton County, Va by consent
of parties (Richard McLean guardian ad litem of the infant
defendants Fayette, Mary E. & John P. Clark being present
and consenting thereto) to be read as evidence in a certain suit
in Chancery depending in the Circuit Court of Southampton
County, Va, between Amos S. Pope plaintiff and Fayette,
Mary E. and John P. Clark defendants.

The Deposition of Harrison S. Pope being sworn deposes and says:
"I live near the land mentioned and described in the Bill in this
cause and know it well and from my knowledge of it
I should think it contained about five hundred acres (and
I should think it would be prejudicial to the interests
of the parties to divide the same in kind from its situation)
among the parties. The tract of land being a long (and
narrow one and all the woodland being on one side and
it would be impossible to divide it without giving
one party all of the woodland; and the houses being
also on one end of the farm, I think it would be much
more certainly to the interests of the parties to sell
the same."

And further this deponent says not.

H. S. Pope

Sworn to and Subscribed before me as Commissioner in
Chancery of the Circuit Court of Southampton County.
Henry S. Howard, Com.

The Deposition of Abner K. Stephenson being first duly
sworn deposes and says: "I know the land in the
Bill in this cause mentioned and described well (and
having heard the testimony of Mr. Harrison S. Pope

I concur with him in his statements about the same.

And further this deponent says not

A. K. Stephenson

Sworn to and subscribed before me as Commissioner in Chancery
of the Circuit Court of Southampton County.

Henry S. Howard Com.

The Deponent David Barrett being first duly sworn deposes (and
says: "I know the land in the Bill in this Cause
mentioned and described, having lived many years near
it, and having heard the testimony of Mr. Harrison S. Pope
I concur with him in his statements about the same.

And further this deponent says not

David Barrett

Sworn to and subscribed before me as Commissioner in Chancery
of the Circuit Court of Southampton County.

Henry S. Howard Com.

Commissioner's fee for depositions \$1.00

" " " entering witnesses

Attendance of 3 at 50 cts 90

\$1.90

David Barrett 1 Day's attendance 50

H. S. Pope 1 " " 50

A. K. Stephenson 1 " " 50

Executed, by delivering copies of this
Summons on the 29th September
1857.

Mr A. Slicht Dy
for Wm. Driggs shff

John

to { Sum. Chy.

Edward

1857 Oct. 10. Study

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of Southampton County—GREETING
We command you to summon *Fayette J. Bland, Mary Eliza Bland, & John
P. Bland*

to appear at the Clerks office of our Circuit court of Southampton county at the Rules, to be
holden for the said court on the first Monday in *October* — next, to answer a bill in
Chancery exhibited against *them* — in our said court by *Amos S. Pope*

And have them there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, this *29th* day of *September* 1857 in the *82^d*
year of the Commonwealth.

L R Edwards *Clk*

John
in
Wm. Bond
Keweenaw

Southampton Circuit Court Clerk's Office June 13: 1861.

This bond was acknowledged by the obligors Thos. and Wm. W. Briggs, the
Security made oath that his estate after the payment of his debts is worth three
thousand dollars

E. R. Edwards

Know all Men by these Presents, That We John J. Kindred &

Wm W. Briggs

are held firmly bound unto the Commonwealth of Virginia, in the just and full sum of

Three thousand

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

13th

day of

June

A. D., 1859. 1861.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound

John J. Kindred who was appointed Commissioner for certain purposes by a
decree of the Circuit Court of Southampton County entered on the 6th day of May 1859
in a suit depending in said Court between Amos S. Pope plaintiff & Fay W. &
Mary C. & John B. Black defendants

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.

John J. Kindred

{ SEAL }

SR Edwards

Wm W. Briggs

{ SEAL }

{ SEAL }

{ SEAL }

Popu

v. } Stat. Rules

Clau do

In Southampton Circuit Court

Amos S. Pope

against
Fayette W. Mary E. & John P. Cland infants

1857 Sept. 29: Summons issued to Oct. Rules

" Oct. R. Sum. ret. Ex? Bill filed. Richard M. Carr assigned for ad
litum to Defts. is

" Nov. R. Ans. Infants. G. Rep. Cause set for hearing

" " J. Decree &c

1858 May 7. Rep. & Decree for sale.

1859 " " Rep. & Decree &c

1874 June Dismissed

Dope
or { Copy. Since
Wlands

Southampton Circuit Court, November 14th 1857.
Amos S. Pope

Plaintiffs

against
Fayette I. Cland, Mary Edya Cland, and John P. Cland infants under the age of twenty one years by Richard M. Caw their guardian ad litem Defendants.
This cause came on this day to be heard upon the bill. The answer of the infant defendants by Richard M. Caw their guardian ad litem this day filed by leave of the Court with replication thereto, exhibits and the examination of witnesses and was argued by Counsel, On consideration whereof the Court doth order, that Davis Barrett, Harrison S. Pope, Abner K. Stephenson, James I. Darden and John W. Musser who are appointed commissioners for the purpose any three of whom may act, having been first duly sworn do proceed to lay off and divide the real estate of which Phillips I. Cland died seized and possessed jointly with Amos S. Pope which said real estate is specially described in the bill filed by the said Amos S. Pope the plaintiff in this cause containing about four hundred and sixty acres bounded by the lands of Richard Darden, and others adjoining in the County of Southampton, first into two equal shares having regard to quality and quantity and assign one share or half to Amos S. Pope and divide the other share or half into three equal portions or parcels and assign one to Fayette I. Cland, one to Mary E. Cland, and the other to John P. Cland infant children of Phillips I. Cland. But if the said commissioners should find it to be impracticable to divide the said real estate among the said parties or should be of opinion that the interest of the parties would be more promoted by a sale of the same, in such case they are required to report to the Court the facts upon which their opinion is based and also what in their opinion is the fair simple value of the whole of the real estate of which the said Phillips I. Cland died seized and possessed either jointly with the said Amos S. Pope or otherwise. And in either case they are required to report their proceedings under this decree to the Court.

A Copy,

Teste,

Henry S. Howard, D.C.

Southampton County Is Wit

Personally appeared before me Davis Barrett a justice of the peace Harrison P. Pope & Abner K. Stephenson and qualified as Comrs to the above decree, according to Law

April 30th 1858

Davis Barrett J.P.

Southampton County Is Wit

Personally appeared before me a justice of the peace on the 1st day of May 1858 Davis Barrett and made oath that he did act as Comd. in the Case of Pope vs. Cland's agreeable to a decree to the best of his judgment.

John D. Barlow

J.P.

Amos S. Pope

V.S.

Fayette J. Bland, Mary Eliza Bland, and John P. Bland, infants under the age of twenty one years by Richard M. Carr their guardian ad litem, ~~and the said Fayette J. Bland, being above the age of fourteen years having arrived in her own proper person~~

This cause came on this day to be heard upon the original bill the answer of the infant defendants by Richard M. Carr their guardian ad litem the answer of the said Fayette J. Bland ^{This day filed by leave of the Court} in her own proper person with replication thereto, exhibits and the examination of the witnesses and was argued by Counsel: On consideration whereof the Court doth order that Davis Barrett Harris on P. Pope Abner K. Stephenson James W. Parker and James D. Darden and John W. Murfee who are appointed commissioners for the purpose, any three of whom ~~may~~ act, having been first duly sworn ~~do~~ proceed to lay off and divide the real estate of which Phillip J. Bland died seized and possessed jointly with Amos S. Pope, which said real estate is specially described in the bill filed by the said Amos S. Pope the plaintiff in this cause, containing about four hundred and sixty acres, and bounded by the land of Richard Darden and others and lying in the county of Southampton, first into two equal shares having regard to quality and quantity and assign one share or half to Amos S. Pope, and divide the other share or half into three equal

portions or parcels and assign one to Fayette
J. Leland, one to Mary E. Leland and the other
to John P. Leland infant children of Phillip
J. Leland.

But if the said Commissioners should
find it to be impracticable to divide the said re-
al estate among the said parties, or should be
of opinion that the interest of the said parties
would be more promoted by a sale of the same
in such case they are required ^{to report} to the Court
the facts upon which their opinion is based
and also what, in their opinion, is the reason-
able value of the whole of the real estate of which
the said Phillip J. Leland died seized and possessed
^{either jointly with the said James S. Pope or otherwise}
and in either case they are required to report
their proceedings under this order to the Court.

James S. Pope

v. S.

Leland's

Decease

To be submitted

Dec. 14. 13.

Jan. Co. 1857.

Court in order to a further ~~order~~; the title to the said
real estate being retained till the further order of this
Court. ~~as well as~~

But the said Complainer is not to proceed to act under this decree, until he shall have executed, in the Clerk's office of this Court, a bond in the penalty of four thousand dollars with sufficient security, conditioned as the law directs for the faithful performance of the duties enjoined by this decree.

Amos S. Pope et al

vs
3

Decease

Frederick J. Blaud & others

This Cause again came on this day to be heard on the papers formerly read and the report of Commissioner Harrison P. Pope, Abner K. Stephenson and Davis Bonett, three of the Commissioners appointed by a decree rendered at the November term 1857 of this Court to which report there is no exception and was argued by Counsel: On Consideration whereof, the Court confirming and approving the said report, doth adjudge order and decree that Jno J. Kindred who is hereby appointed a special Commissioner for that purpose, proceed, after having advertised the time, place and terms of sale by posting a notice at the Court House door and one or more public places in the vicinity of the real estate to be sold for at least twenty days, to sell on the premises the tract of land whereof Phillip J. Blaud died seized and possessed jointly and equally with Amos S. Pope, containing by estimation four hundred and sixty acres and which is more particularly described in the proceedings in this cause, on the following terms to wit; sufficient of the purchase money in cash to defray the expenses of this Suit and of the Sale, the residue on a credit of twelve months, and take from the purchaser four bonds with sufficient security, carrying interest from date for the said residue or nett proceeds of said Sale; that is to say, one bond for one half thereof, and three other bonds in equal portions, for the other half of the said nett proceeds.

And the said Commissioner is directed to return the said bonds together with a report of his proceedings to the

Court in order to a further ~~order~~; the title to the said
real estate being retained till the further order of this
Court. ~~as well as~~

But the said Commissioner is not to proceed to act under this decree, until he shall have executed, in the Clerk's Office of this Court, a bond in the penalty of four thousand dollars with sufficient security, conditioned as the law directs for the faithful performance of the duties imposed by this decree.

Pope

is

Island!

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May co. 1859.

To be entered

R. H. Walker

Pope

vs

Deere

eland's

This Cause came on this day to be further heard upon the papers formerly read, and the report of the Sale made by the Commissioner pursuant to the decretal order of the May term 1858 of this Court - to which there is no exception - and was agreed by Counsel -

On Consideration whereof the Court affirming and approving the said decree, doth adopt & order and decree, that upon the payment by the said Amos S. Pope, of his three bonds for the sum of \$236.25 cents each, in the said report mentioned to the said Amos S. Pope, which said bonds were executed by him, for the purchase in part of the lands and premises directed to be sold by the said decretal order, the said Commissioner deliver to the said Amos S. Pope, the other bond for \$708.75 cents as his, the said Pope's own property -

and that the said Commissioner do further convey to the said Amos S. Pope, the said lands, with special warranty.

And it is further ordered that when the said Commissioner shall have received payment of the said three bonds of \$236.25 cents each, he shall forthwith ^{pay over the same to the guardian of Fayette County, Mary E. Bland and John P. Bland - or in the event of there being no such guardian shall loan the same out taking up -} ~~the credit of the Court in this Cause~~ ^{invest it in Virginia state stock} and file among the papers of this Court a certificate ^{of such investment} ~~of such investment~~.

But the said Amos S. Pope is not to proceed to act under this decree as such Commissioner, until he shall have entered into bonds with sufficient security, in the Clerk's office of this Court, in the penalty of three thousand dollars, payable to the Commonwealth of Virginia, conditioned for the faithful discharge by him of his duties as such Commissioner.

And the said Commissioner is directed to report his proceedings under this decree to Court.

Pope Island

Deer

June term 1874

To be entered

Geo. B. Stod.

In Circuit Court
Shamilton County -

Pope vs. Cland

This Cause was, this day, again
heard on the papers formerly read & was argued
by Counsel; And it appearing to the Court
that no order has been made herein within
the last seven years, it is ordered that the
same be dismissed from the docket sub-
ject to be restored thereto on the motion of
any party interested -