

1886-09

Southampton County Chancery -

Faison, Pembroke, vs Binford, W. A. et al

partition of land, if not
divided, then sell to settle

Faison, E. F. & wife

McClelland, W. H.
{ " Mary F.
an infant }

Faison & wife

vs. } In Chy.

Binford & al.

In the Circuit Court
of Southampton County
November 6th, 1886

Order

To be entered

Geo. Blow, J.

✓

Faison wife

vs.

Burford & al.

On the motion of Wm H. Mc
Lelland, one of the defendants,
by counsel, it is ordered that
this cause be dismissed.

¹²²
Faison & wife

vs } Du choy

M^o Cullana et al

Complaignants Bill.

1882 March Rules

So the Hon Geo Blou. Judge of the
Circuit Court of Law and Chan-
cery for the County of ^{Southampton} ~~West~~
~~High~~ in Chancery sitting.

Humbly complaining sheweth
to the Court your complainants
Pembroke Garrison and E F Garrison
wife of the said Pembroke Garrison.

That Mr Binford, the father
of your complainant E F Garrison
formerly Binford, was in his
life time seized and possessed of
of certain real estate, lying and
being in the County of Southamp-
ton ~~adjoining the lands of~~ on Black

^{River}
We for 25 miles North West from the Courthouse and
bounded by the lands of Wm H. Pretlow and John Pretlow and
containing by estimation 253 acres
the same more or less, and
being so thereof seized and poss-
essed, some time in the year
1860, departed this life intestate
leaving him surviving a widow

and three children
as his heirs at law. to wit Mr A
Binford, your said complainant
E F Garrison formerly ^{wife of Pembroke Garrison} Binford,
and Mary J A Binford.
That since the death of the said

Mm Binford the said Mary A
Binford has intermarried with
one Wm M^cCallan.

That since said intermarriage,
to wit on the day of
1881, the said Mary A has departed
this life, under the age of twenty
one years, leaving her surviving
a husband, the said Wm M^c-
Callan and ^{an} infant child Mary
A M^cCallan;

That by the order of the county
court of the county of Southamp-
ton dover has been assigned
the said Binford,
widow of the said Mm Binford
in the tract of land aforesaid,
a certified copy of the assignment
of dover aforesaid, is herewith
filed marked Exhibit A and
prayed to be taken as a part of
this Bill.

That the said Mm ^{A and Augusta H. his wife} Binford & ^{her}
~~his~~ ^{their} and bearing date on the 1st
day of June 1880, are duly
recorded in the clerk's office of the
county court of the county of
Southampton, conveyed to your

Exhibit
A

A copy of said and marked B is herewith
filed as a part of this bill.

Pembroke Paison ^{their}
said complainant, all of ~~his~~ ^{their} rights
title and interest in and to the
tract of land aforesaid.*
Your complainants are informed
and so charge, that the said real
estate is, as they believe, susceptible
of partition amongst the parties
entitled thereto; but if it be not,
tho your complainants, desire
the same to be sold and the pro-
ceeds distributed amongst the
parties in proportion to their
respective interests therein.

In tender consideration whereof
and as far as much as your
complainants ^{are} ~~is~~ without remedy
at law and can only be relieved
by the aid of this Honorable
Court of Chancery, where matters
of this sort are alone and
properly cognizable to the
end that justice may be
done in the premises, your
complainants pray that the said
Wm. Binford Jr. Wm. McClelland
and Mary D. McClelland, be
made parties defendant to this
bill and be required to answer

the same.

That a. proper guardian ad litem
be assigned the infant defendant,
to defend her interests in this suit.
That the said real estate be divi-
ded amongst the parties afore-
mentioned entitled thereto, assigning
to your said complainant, Pembroke
Laison, the share of the said Mrs. A.
Bunford: And in case the said
real estate be indivisible in kind,
that the same be reposed to sale,
and the proceeds distributed
among the parties entitled thereto.
That proper process may issue;
and that such other further
and several relief may be granted
in the premises as the nature of
the case may require or to equity
shall seem meet.

And your complainants will ever
pray

Boydell. p. q.

of said land until the 10th day
of March 1882. and in the event
of default in the payment of
the balance due on said land
as aforesaid ^{on or before the 10th day of March 1882} the said trustee
shall sell the same at Sheriff's
house on some court
day, after giving at least ten
days notice of the

Dorchester Circuit Court, May Term 1882.

Pembroke Mason, Et. Raisin his wife, Jeffs
against
W. A. Binford, W. H. M. Clelland, Jacky
+ Mary A. McClelland, an Infant,
Inf.

W. H. and C. came at this day to be heard in the
Bill taken for Compulsory as to the actual debt,
Upon which principle has been duly served,
they still failing to appear plead, answer
or demur, Upon the answer of the Infants
Defendants by Guardian & Tutor, with general
replication thereto, & was argued by Counsel
On consideration whereof the Court doth
adjudge order and decree that partition
be made in the Tract of Land in the Bill
mentioned, of which W. A. Binford also seized
& possessed, in the County of Somerset
as follows; to wit, $\frac{1}{3}$ thereof to E. T.
Raisin, wife of Pembroke Mason, $\frac{1}{3}$ thereof
to the said Pembroke Mason & $\frac{1}{3}$ thereof to
Mary E. McClelland, ~~and formerly Binford~~,
Infant, Guardian of Mary McClelland ~~and~~
~~formerly Binford~~, & for the purpose of
effecting such partition, the Court doth
order that A. L. Hallam, John F.
Bywood, Ransom Harwell, J. D. Ramsey,
and J. A. Coker, who are hereby appointed

Commissioners for that purpose, (any three
 of whom may act,) do signify & accord to
 the several persons before named, the respec-
 tive Shares & proportions aforesaid mentioned,
 by Notes & Bonds, & if in their opin-
 ion: Such partition of said real Estate
 cannot be made in kind, without loss
 or injury to the parties, then the
 said Commissioners shall report
 that fact to the Court, and the
 reasons upon which their opinion
 is founded, and the said Commissioners
 are directed to make report to Court
 of their proceedings under this
 decree.

Attest,
 J. K. Tyler J.C.

James G. Deane
 to
 Benjamin G. Deane

PRACTICES
IN THE COURTS OF
ISLE OF WIGHT,
SURRY, NANSEMOND,
SOUTHAMPTON AND U. S.
DISTRICT COURT
AT NORFOLK.

Special attention to Collections.

Office of R. E. Boykin,
Attorney at Law,
SMITHFIELD,

Isle of Wight Co., Va.

March 3^d 1882

J R Gomaras Esq
Clerk of Courts } W^r Sir

I herewith

enclose Bill in Garrison v
M^r McClann et al., with
infants answer. Please sign
the answer as for an answer.
I have not before me the
name of the widow of Mr
Benford, will you be kind
enough to insert her name
in the space in the bill left
for that purpose, and also
the description of the land;
the real estate in question
being the land on which Mr
Benford resided at the time

of his death.

Please copy & file the exhibits
named in the bill. Send
your a/c for bus to me
& they shall be promptly paid.
Apologizing the trouble to which I
am subjecting you, I am
Very Respectfully
R. B. Conklin

P. S.

The process has been
served & will reach you in
a few days.

R. B. Conklin

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Faison & Wolfe
v } Sums. Chy.

Bingford & Co

1882 March Rules

Boyd Kin. v. q.

March 1st 1882. We
acknowledge legal
service of the within
process.

W. A. Bingford
W. H. McCalland.

L.R.
Cch \$ 5.45
Dec . 90
Jan 16.30
122.85

The Commonwealth of Virginia,

To the Sheriff of Southampton County - GREETING:

WE COMMAND YOU TO SUMMON

*W. A. Binford, W. A.
McClendon & Mary A. McClendon the last an infant*

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 March
next to answer a bill in chancery exhibited against them in our
said Court by *Pembroke Faison & E. F. Faison his wife*

and have then there this writ.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court at the Court
House, this 27 day of February 1882, in the 106 year
of the Commonwealth.

L. R. Edwards cc

Faison & wife

W } Duchey

Binford et als

Report of Commissioners
Partitions

To The Hon Geo Blom. Judge of the
Circuit Court of the County of Southampton.

The undersigned Geo F.
Ramsay, J. Y. Bowden and J. O. Cofer
three of the commissioners of partition
under the annexed decree, entered at
the May term 1882, in the suit of
Yaison wife v Bowford et als, reports
to court, that they have viewed the
land in the decree mentioned, of which
Wm Bowford died seized and pos-
sessed in the County of Southampton,
and find that it is not susceptible
of division in kind, without
great loss and injury to the
parties entitled thereto.

The said land is valuable in its
entirety as a farm, and if your
commissioners were to assign one
third thereof to the infant Mary E.
McAllan it would be of little value
and would largely depreciate the
value of the remaining two thirds,
all of which is respectfully sub-
mitted.

signed
John F. Ramsay
J. Y. Bowden
J. O. Cofer
} commissioners
of partition

Faison & wife
v } Du Chen
Binford & wife

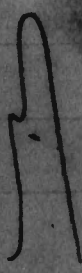
In the Circuit Court of the
County of Southampton.

This cause came
on this day to be heard on the
Bill taken by ^{upon which process has been duly served} the adult defendants, they still
failing to appear. Plaintiff answers
or denies, upon the answer of
the infant defendant by guardian
drawn ad litem, with general repli-
cation thereto, and was argued
by counsel; on consideration
whereof the court doth adjudge,
order and decree that partition be
made of the tract of land in the
bill mentioned, of which Wm Bin-
ford did devise and possessed
in the County of Southampton, as
follows, to wit. $\frac{1}{3}$ thereof to E & F
Faison wife of the Pembroke Faison
 $\frac{1}{3}$ thereof to the said Pembroke
Faison, and $\frac{1}{3}$ thereof to Mary &
M^cClalland infants or Chan of Mary &
M^cClalland ^{formerly Binford}
and for the purpose of effecting
such partition, the court doth
order that A & H Holloman

John I Bonden, Ransom Hamill
J V Ramsey & J O Coker who are
herby appointed commissioners
for that purpose, any two of
whom may act, do assign and
allot to the several persons before
named, the respective shores and
proportions aforementioned, by
metes and bounds, and if in
their opinion such partition of
said real estate can not be made
in kind without loss or injury
to the parties, then the said com-
missioners shall report that fact
to this court, and the reasons upon
which this opinion is founded,
and the said commissioners
are directed to make report
to court of their proceedings under
this decree.

Harrison
of J. C. Coker
Birmingham

Rough Decree
May Term 1882
So be entered

Geo. W. Brown.


Faisant mifo
✓ } du chey
m^e Clelland et als

Infants ausser.

Garrison wife
} In chancery
M^{rs} C. Cllland et als

In the Circuit Court
of the County of Southampton.

The answer of Mary A
M^{rs} Cllland, an infant under the
age of twenty one years, by L.
R. Edwards her guardian ad
litem, assigned to defend her
interests in this suit, to ^{a bill} of
complaint in said court ex-
hibited by Pembroke Garrison
wife against her et als.

This defendant saving and
reserving all rights of exception to
the many errors and imperfections
in said bill contained, for an-
swer thereto or to so much thereof
as she is advised it is material
or necessary for her to answer,
answers says: That she is an
infant under the age of twenty
one years, and commits her
interest in the premises to the
protection of this honorable
Court, and having answered,
prays hence to be dismissed with
her costs in this behalf most
unreasonably expended.

L. R. Edwards Esq. for and litem

Faison et al

v ? on chcy

Benford et al

This cause came on this day to be again heard on the papers formerly read and on the report of Drs F Ramsey, J Y Bowden & J O Coffin three of the commissioners of partition under the decree herein of May term 1882, and was argued by counsel on consideration whereof, the court confirming said report, to which no exceptions were filed, doth adjudge order & decree that Wm Mc Clellan who is hereby appointed commissioner for that purpose, proceed to sell the tract of land in the Bill & proceedings of this suit mentioned, of which Wm Benford did seized & possessed in the county of Southampton, at Southampton Court House, having first advertised the time, place and terms thereof for 20 days by hand bills posted on the door of said court house and one or more conspicuous places in the neighborhood of the place of sale, and upon the following terms, for cash as to so much of the proceeds of sale as may be necessary to pay the costs of this suit & the balance upon a credit of one two years in equal payments

with interest from day of sale, Taking
from the purchaser bond with good
security with waiver of Homestead
and retaining title until the further
order of this court. But the effect of
so much of this decree as directs the
said W H McClelland as comr afore-
said to sell said land is suspended, until
the said W H McClelland shall present
a bond in the penalty of \$8000⁰⁰,
before the Clerk of this Court, condition-
ed for the faithful performance of this
or any future decree herein, and the
said Comr shall make report to Court
of his proceedings under this decree.

Faison wife

vs
J. H. Chay

Plaintiff
vs
Defendant

W. H. McClelland
Comr
Term 1882
do be entered

In Southampton Circuit Court

Pembroke Faison & E F Faison his wife Plaintiffs

vs
Wm A Binsford, W. St. McClelland & Mary A McClelland
an infant Defendants.

1882. Feby. 27th Summons issued

, March R. Summons Executed - Bill filed L R Edwards
assigned ^{for} ad litem to infant Defendants. Decree nisi
to adult Defts

, April R. Bill taken for confessed as to adult Defendants
Cause set for hearing &c.

, May. Decree for partition

~~104~~ ~~102~~ ~~103~~ ~~63~~
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Faison & Wife

} Stat. Rules

Binford