

1893-56

Southampton County Chancery - Powell, John H. et al vs Powell, Lucy F. (adm.)

division of real estate

Smith, Henry L.

" , Emma (Powell)

Powell, Wm. A.

" , Martha F.

^{of}
Powell, John T.

" , James D.

" , Joseph B.

Briggs, W. W.
(G. A. L.)

Powell & Co. 131

or Bill

Powells

1880 April Rules

Kindred & Sebrall & Co

To the Hon: Geo Blow, Judge of The
Circuit Court of Southampton County,
in Chancery in

Humly complaining show unto
your Honor your Orators, John H.
Powell, Henry S. Smith & Emma his wife
(formerly Powell), Wm A. Powell and Martha
F. his wife, (formerly Powell) and respect-
fully represent as follows -

* which is true with
filed (marked W)
as part of this Bill

That John T. Powell, departed this life
having executed his last will & testament a certified copy of
several years since, ~~intestate~~, seized and
possessed of considerable real and per-
sonal Estate, and leaving as his only
Legatees and distributees, his widow Lucy
F. Powell, your Orators, to wit: John H.
Powell, Emma Powell, (who has since in-
termarried with Henry S. Smith) Martha
F. Powell (who has since intermarried
with Wm A. Powell), James D. Powell and
Joseph B. Powell, the two last named be-
ing minors

That the said Lucy F. Powell, duly qual-
ified as Administratrix, ^{with the will annexed} on her said hus-
band's Estate, ^{the Executor therein mentioned} having refused to qualify
bands, and has fully paid all
debts, and demands against the said estate.

A copy of her said qualification is here
with filed "marked C", and prayed to be
taken as a part of this bill.

That dower has been assigned to the said Lucy T. Powell, out of the Real Estate of her said husband, by an order of the County Court heretofore made, with which she is satisfied.

Your Orators are therefore advised that they together with James D. Powell and Joseph B. Powell, the five children of Jno T. Powell, dec'd, are now entitled to have the residue of the Real Estate of which the said John T. Powell died seized, divided between them. Your Orators are of adult age, the said James D. Powell and Joseph B. Powell are minors.

In consideration of the premises Your Orators therefore humbly pray that suitable and proper persons, to wit: Dr George W. Musgrave, James H. Barnes Geo W. Turner, Dr J. H. M. Sykes, and B. Allen James, be appointed by an order of this Court, special Commissioners, (any three of whom may act) to divide, and allot or assign the ^{except that portion which has heretofore been assigned the} Real Estate ^{as dower.} of which Jno T. Powell died seized in equal shares, among the five children of said John T. Powell. Your Orators being without rem-

edy save in a Court of equity, as this
Honorable Court is, therefore humbly
pray that your Honor will make
the said ~~Lump~~ ^{F. Powell}, in her own
right and as Administratrix of said
John T. Powell, the said James D. Powell
and the said Joseph B. Powell (the last
two minors) by some proper person
as Guardian ad Litem, parties
Defendant to this bill and require them
to answer its allegations specially.

That your Honor will grant such
other and general relief, the prem-
ises considered, as justice may dic-
tate and to Equity may seem meet
and as in duty bound your Ora-
tors will ever pray &c,

may it please the Court.

Kinross & Schell p. q

~~37~~ ~~37~~ ~~37~~ ~~37~~
Powells
~~37~~ ~~37~~ ~~37~~ ~~37~~
Stat. Rules ~~37~~

Powells army No 32

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In Southampton Circuit Court

John A Powell Henry L Smith & Emma his wife, formerly
Powell, Wm A Powell & Martha F his wife formerly Powell
Plaintiffs

^{against}
Lucy F Powell in her own right & as administratrix of John T Powell
James D Powell & Joseph B Powell minors Defendants -

1880 April 2^d Summons issued -

" " R Summons returned Executed on Deft Lucy F
Powell in her own right & as adm^{rx} Bill filed. H. W. Briggs
assigned Gen. ad litem to infants Defts. answers of Defts
filed Gen. Rep. to answer of infants.

" May R. Cause set for hearing &c.

" " F. Decree for division &c.

1881 Oct 27 Report of Comr.

Nov. Decree recommending report

1882 May - Cont^d & now Cont^d

In the name of God, Amen, I John Thomas Powell, of the County of Southampton State of Virginia, being of sound mind and disposing memory do make and ordain this my last Will and Testament, revoking all former Wills and Testaments heretofore made by me, First, I wish all of my property to remain as it now is during the present war: and that no sale of any of my property will be made untill the now existing war shall be closed.

Second. I then wish my wife to have her legal portion, the ballance of my property I wish to be equally divided among my children to be theirs and their heirs forever. I do nominate Jas H Barnes the Executor to this my last will and Testament, In testimony of which I have herewith set my hand and affixed my seal this the 2nd day of Aug 1864

Signed sealed and acknowledged by the Testator in the presence off

E. H. Moore.

John T. Powell (Seal)

E. P. Barnes.

At a court held for the County on the 18th day of December 1865 This last will and Testament of John Thomas Powell aed. was proved by the Oaths of E. H. ~~Moore~~ and E. P. Barnes the subscribing witnesses thereto and ordered to be recorded, and James H. =

Barnes the executor named in the said will in open Court refused to take upon himself the burthen of the execution thereof. Whereupon on the motion of Lucy F. Powell (it being sworn that the estate of the said John Thomas Powell of which the said Lucy F. Powell will have control under the will does not exceed the value of \$1500.00) who made oath as the law directs and with James H. Barnes Perry C. Waller and Joseph Grizzard her securities (who justified on oath as to their sufficiency) entered into and acknowledged a bond in the penalty of three thousand dollars conditioned according to law which bond having a stamp of the U. S. internal revenue of the amount of one dollar affixed thereto it is ordered to be recorded. Certificate is granted the said Lucy F. Powell for obtaining letters of administration on the Estate of the said John Thomas Powell acc. in due form, a stamp of the U. S. Internal revenue of the amount of \$1 being affixed hereto.

Teste: L. R. Edwards C. C.

A Copy Teste:

L. R. Edwards C. C.

Lucy F.
Powell

Powell
vs 3 Decree
Powells Adm r

Nov. Term 1881

To be entered
Geo. Blount

Powell
vs 3 Decree
Powell's Adm.

This day this cause came on to be further heard on the papers formerly read, and the report of Commissioner Geo. W. Mungrave and others, filed 27th Oct. 1841. to which report 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 ^{recommended} ~~sent back~~ to the Commissioners, Geo. W. Mungrave, Geo. W. Turner, and James H. Barnes with authority to employ the services of a competent surveyor, and they the said Commissioners shall proceed to divide said lands among the ~~said~~ Heirs, of Ino. T. Powell describing by metes and bounds the part assigned to each, and shall return a plat of said survey, and make report to court,

Powell & C

vs {

Powells

Answer of ~~W. L. Briggs~~
Gon ad litem &c

1880 April Rules

The joint & several answer of
James S & Joseph B. Powell, minors
(by W. W. Briggs their Gdn ad litem
appointed at Rules) to a Bill in
Chancery filed against them in
the Circuit Court of Southampton
County by Jno H Powell & others.
This

These Defendants for answer to
so much of the Bill of Complainants
as they are advised it is material
for them to answer, say, that they are
minors, ignorant of their rights and
submit their interest to the protection
of the Court, And having answered
pray hence to be dismissed with
their reasonable Costs &c.

W W Briggs Gdn
Ad. Litem

Powell & C

vt {

Powells

Answer of Lucy F
Powell, et al & C

1880 April Rules

The answer of Lucy F. Powell
in her own right and as Adminis-
tratrix of Jno P. Powell dec'd, to a
Bill in Chancery exhibited against
herself & others in the Circuit Court
of Southampton County by Jno S. Pow-
ell & others.

This respondent ~~for~~ answer
to so much of the Complainant's
Bill as she is advised is mate-
rial for her to answer says: That
it is true as alleged in the Bill of
Complainants, that she is Administra-
trix of the said Jno P. Powell, dec'd;
has paid all the debts & liabilities
against the Estate of said Decedent.

It is also true as alleged in said
Bill that Dower has been assigned to
her out of the Real Estate of her
said husband, with which assign-
ment of Dower she is satisfied
and having answered prays
hence to be dismissed with her
reasonable costs &c.

J. F. Kindred

Atty for Lucy F. Powell &c

Powell
5 Dec
Powell's etony, re.

May Term 1880
To be entered
Geo. B. Howard

Powell, ^{vs.} 3 Decree.
Powell's Adm^r &c,

This cause this day was heard on the bill and exhibits filed therewith, the answer of Defendants and replication thereto, and was argued by Counsel.

On consideration whereof the Court doth adjudge, order, & decree, that Geo: W Musgrave, James H Barnes, Geo: W Turner, Jos. H. M. Sykes and B. Allen James, be and they are hereby appointed special Commissioners (any three of whom may act), for the purpose of dividing the Real Estate in the proceedings mentioned.

It appearing to the Court, that Dower has been assigned to Lucy F. Powell the widow of said Jno. T. Powell dec'd. out of the Real Estate of which he died seized, and that she is satisfied with said assignment, it is ordered that the said Commissioners so acting, proceed to divide the whole of the residue of the Real Estate of which Jno. T. Powell died seized into five equal shares, if practi

cable, and allot or assign one of the said shares, to Emma Smith the wife of Henry L. Smith one share to Martha Powell, the wife of William A. Powell, one share to John H. Powell, one share to James D. Powell, and the other and last shares to Joseph B. Powell, children & heirs of said John T. Powell dec'd.

But if the said Commissioners find it impracticable to divide in kind, the said Real Estate among the said several parties, entitled thereto they may assign two or more shares to any party who is willing to accept the same, by paying there for, a reasonable compensation to the other parties, according to their legal & equitable rights.

And if the said Commissioners find that it would be more advantageous to the interest of all the parties concerned, that the whole of the said Real Estate shall be sold for the purpose of effecting an equal division, they shall report the same to Court together with their reasons there for, and in any case they are

directed to report to Court.

Powell
vs 3 Court's report
Powells

1881. Oct. 27th

To the Hon^{ble} George Blount, Judge of
the Circuit Court of Southampton Co.

We the undersigned, appointed Commissioners by Decree of said Court at May Term A.D. 1880 in suit of Powell vs Powells, to divide the lands of which Ino: T. Powell, died, seized and possessed, among his several heirs, beg leave to submit the following report.

Dower having been assigned, by an order of the County Court, to Lucy T. Powell, the widow of Ino T. Powell deceased we proceeded to divide the residue of his real estate into five equal shares and allotted to Emma Smith wife of Henry L. Smith who was formerly Emma Powell, one share, supposed to contain $87\frac{1}{2}$ acres, and bounded on West by the lands belonging to the Estate of ~~Henry~~ Moore deceased, on the North by the lands formerly belonging to Ino. W. Francis, on the East by the lands of L. G. and Ino: H. Powell, and on the South by the lands belonging to Ino. T. Powell's Estate.

Another share to Henry L. Smith

assignee of Martha Powell, and her husband, Wm. A. Powell supposed to contain $48\frac{3}{4}$ acres, and bounded, by the lands of Emma Smith, on the North, On the East by the lands of James D. Powell, and Joseph B. Powell, on the South by the lands of Martha Cooks Estate and on the west by the lands of Martha Cooks Estate

Another share to Chas. A. Powell, supposed to contain $76\frac{3}{4}$ acres, and bounded on the North by the Fall Branch on the East by the lands of Littleton G. Powell on the South by the lands of James D. Powell, and on the west by the lands of Emma Smith,

Another share to James D. Powell supposed to contain 132 acres, bounded by the lands of Chas. A. Powell on the North. On the East by the lands of Littleton G. Powell & Turners mill Stream on the South by the lands of Joseph B. Powell, and on the west by the lands of Henry S. Smith Assignee of Martha and Wm. A. Powell

And another and fifth share to Joseph B. Powell, supposed to contain 129 acres, and bounded by the lands of James D. Powell on the North, On the East by the lands ^{assigned as} Widows Dower in the said Real Estate

On the South by the lands assigned as Widows Dower

and on the west by the lands of H. L. Smith & Martha Cooks Estate,

all of which is respectfully submitted

Chas. Musgrave
Geo. W. Turner } Comrs
Jas. H. Barnes

THE COMMONWEALTH OF VIRGINIA.

To the Sheriff of Southampton County.---GREETING:

We Command You to summon

*James S. Powell, & Joseph
P. Powell (minors)*

to appear at the Clerk's office of our *Circuit* Court for South-
ampton County, at the Rules to be holden for the said Court on the first
Monday in *April 1880* to answer, *a bill in*

*Chancery exhibited against them in our said
County John H. Powell, H. L. Smith & Emma his
wife, Wm. A. Powell, & Martha F. his wife*

and have then there this writ.

Witness: Littleton R. Edwards, Clerk of our said court, at the Court-House
this *2d.* day of *April* 1880 in the *100* year of the Common-
wealth.

L. R. Edwards C. C.

THE COMMONWEALTH OF VIRGINIA.

To the Sheriff of Southampton County.---GREETING:

We Command You to summon

James S. Powell & Joseph P. Powell (minor)

to appear at the Clerk's office of our *Circuit* Court for Southampton County, at the Rules to be holden for the said Court on the first Monday in *April 1880* to answer, a bill in *Chancery* exhibited against them in our said Court by *John H. Powell, H. L. Smith, & Emma his wife Wm. A. Powell & Martha F. his wife*

and have then there this writ.

Witness: Littleton R. Edwards, Clerk of our said court, at the Court-House this, *2^d* day of *April* 188*0* in the *104* year of the Commonwealth.

L. R. Edwards C. C.

Porrell &c

Trs } Surors in
Chancery,
Porrells

1880

Appl. Rules
Circuit Court

Trs p^d

April 5th 1880. Service of the within summons
acknowledged for duty J. Porrell in his own right and
as Attorney of Geo J. Porrell deceased
J. J. Anderson, Atty
for duty J. Porrell &c

THE COMMONWEALTH OF VIRGINIA.

To the Sheriff of Southampton County.---GREETING:

We Command You to summon James T. Power & Joseph B. Power (Minors) ^{J. Powell dec.} Lucy F. Powell in her own right, ^{Adm'r of dec.} for Adm'r of dec. to appear at the Clerk's office of our Circuit Court for Southampton County, at the Rules to be holden for the said Court on the first Monday in April 1880 to answer, a bill in Chancery Exhibited against them in our said Court by John H. Power, G. L. Smith & Emma his wife, Apprs. A. Power & Martha F. his wife

and have then there this writ.

Witness: Littleton R. Edwards, Clerk of our said court, at the Court-House this 2nd day of April 1880 in the 10th year of the Commonwealth.

L. R. Edwards Clk