1903-07 Southampton County Chancery Councill, J. P. et al Vs. Worrell, Janet

"Real Estate to be
divided, or sold and
proceeds to be divided"

J. P. Councill
Thos. C. Councill
v.
Janet Connell,
Infant

Bill for Partition

McLennan & Corbett
Counsel.

TO THE HONORABLE ROBERT R. PRENTIS, JUDGE OF THE CIRCUIT COURT OF SOUTHAMPTON COUNTY.

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Your orators, I. P. Councill and Thomas C. Councill, complaining showeth unto the court that Samuel B. Worrell was in his life time seized and possessed of certain real estate lying in the county of Southampton, Virginia, near Mt. Horeb church, containing one hundred and twelve acres, more or less, bounded by the lands of the "Daughtrey" place, R. L. Drake, Richard Barnes and B. Worrell. And being so seized and possessed the said Samuel B. Worrell on or about the day of , , died intestate, leaving Tayler Worrell, S. Worrell, Mary Barrett (nee Worrell), Emma Kindred (nee Worrell), Maggie Day (nee Worrell), and Janet Worrell his only children and heirs at law, the first five mentioned being children by Samuel B. Worrell's first wife and the last child, Janet Worrell, being child by his second wife, which second wife is now living, being the wife of Thomas C. Councill. The said Janet Worrell is an infant under the age of twenty-one years; the said Tayler Worrell, S. Worrell, Mary Barrett and Emma Kindred, being more than twenty-one years of age, conveyed their four shares in said estate to L. J. Drake; the said Drake then conveyed three of these shares to your complainants, I. P. Councill and Thomas C. Councill jointly, and the fourth share the said Drake conveyed to your complainant I. P. Councill. Maggie Day also conveyed her one share to your complainant I. P. Councill; wherefore of the original six shares there is now owned three and one half shares by your complainant I. P. Councill and one and one half shares by your complainant Thomas C. Councill, and one share by Janet Worrell infant.

And your orators further state that the real estate is, as they believe, not susceptible of partition among the parties entitled there to; and if it cannot be so divided then your orators desire that the same may be sold and the proceeds divided among the adults and the

infant party according to their respective rights: the share of the infant to be held as directed by the statute in such case made and provided. Should the property not be divisible in kind your complainants believe and here state that the interests of those who are entitled to the said real estate, or its proceeds, will be promoted by a sale of the whole of the same or by an aletment of part and sale of the residue. For as much as your complainants are remediless in the premises save by the aid of a court of equity, he prays that the said Janet Worrell may be made party defendant to this bill, but not on oath to answer the same, the oath being hereby waived, the answer to be made by a guardian ad litem: that a proper guardian ad litem be appointed in this cause for said infant who shall also answer this bill: that proper process issue: that the said real estate be divided among the parties entitled thereto, or else that it be sold and the proceeds be divided in case it be indivisible in kind: that all proper orders and decrees may be made, accounts taken and inquiries to be directed, and that all such other, further and general relief as in the premises may be just and right may be granted. Notice is hereby given that the court will be asked to allow reasonable attorneys fee to the plaintiff's counsel conducting this cause. And your complainants will ever pray, etc.

McLemore & Corbitt.
P.Q.

Counell
r. Petition of
Martha Counell
Worrell

1901 April 19th.
Filed

Petition of Martha Counell for divorce from her husband Worrell Counell. Petitioner alleges that they were married on the 3rd day of October 1900 at Cumberland, Md., by the Rev. Mr. Hall, and lived together as husband and wife until the 15th day of April 1901, when respondent left petitioner and refused to live with her. That respondent has been guilty of adultery with one Mary Ann Hall, and that petitioner has reason to believe that respondent has committed adultery with other persons. Petitioner prays that a decree may be made, and all necessary orders passed, that petitioner may be divorced from the bonds of matrimony existing between her and respondent, and that petitioner may have such other and further relief in the premises as the nature of her case may require.

Bond of $100.00 with Thomas Counell as surety filed.

Subpoena issued returnable to the first Monday in May next.

Subpoena returned executed.

Order of Publication issued returnable to the first Monday in June next.

Order of Publication returned published.

TO THE HONORABLE ROBERT R. PRENTIS, JUDGE OF THE CIRCUIT COURT OF SOUTHAMPTON COUNTY.

I. P. Councill
Thomas C. Councill

v.

Janet Worrell.

Your petitioner, Martha Councill, respectfully represents to the court that she was a widow of one Samuel B. Worrell who was in his life time siezed and possessed of certain real estate lying in the County of Southampton, Virginia, near Mount Horeb Church, containing one hundred and twelve acres, more or less, bounded by the lands of the Daughtrey place, E. L. Drake, Richard Barnes and B. Worrell. And being so siezed and possessed the said Samuel B. Worrell on or about the 25 day of March, 1894, died intestate, leaving several children as his heirs at law, among which children was one Janet Worrell, an infant; the interest of the heirs of age having been purchased by I. P. Councill and Thomas C. Councill, the said I. P. Councill and Thomas C. Councill have filed a bill for the partition of the said real estate naming Janet Worrell, infant, as defendant.

Your petitioner further states that at the time of filing the said bill she was and now is the wife of the plaintiff, Thomas C. Councill, he being her second husband.

Your petitioner also represents to the court that as the widow of Samuel B. Worrell she has an interest consisting of a life estate as dower in one third of the real estate of which the said Samuel B. Worrell died siezed and possessed.

Your petitioner prays that an order be entered making her a party defendant to this bill; that the said real estate be divided among the parties entitled thereto, or else that it be sold and the proceeds divided in case it be indivisible in kind, subject, however, to her right of dower; that all proper orders and decrees may be made, and all accounts taken and inquiries directed, and that all such other further and general relief may be given her as she in the premises may be entitled to. And your petitioner will ever pray etc.

April 1. 1901

Martha Council

Martha Council

Connell et als
v.
Connell &c.

Consent for
Vacation Decree

We, the undersigned parties, plaintiffs and defendants, in the chancery cause of _____, pending in the Circuit Court of _____ County, hereby consent in vacation that the above entitled cause may be submitted to the Judge of the Circuit Court for said county for such decision and decree therein in vacation as might be made in term.

Given under our hands this ___ day of _____, 1901.

We, the undersigned parties, plaintiffs and defendants, in the chancery cause of T. J. Camuell & Thos Camuell v. Jane Worrell et als pending in the Circuit Court of Southampton County, hereby consent in vacation that the above entitled cause may be submitted to the Judge of the Circuit Court for said county for such decision and decree therein in vacation as might be made in term.

Given under our hands this 15 day of April, 1901.

T. J. Camuell
Thos Camuell
Martha Camuell
Jos. B. Prince Jr
Gdn' ad litem.

by Mc Lemore & Corbitt Counsel

Daniell J. P. & Thos. G.

vs. } Spa: in Chy.

Worrell Executrix, Jane V. Infant

1901. 1st Mch. Rules

Lis. Pt.

McLemore & Corbell p.q.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County--Greeting:

We command you to summon Janet Worrell, Infant.

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court on the First Monday in March 1901 ~~next~~, to answer a bill in Chancery exhibited against her in our said Court by J. P. Council and Thomas B. Council.

And this she shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this 19th day of February, 190~~1~~8, in the 125th year of the Commonwealth.

Teste: L. A. Gay C. C.

Daniel S. P. & Thos. L.

vs. } Stat: of Rules

Worrell Jonet. Ingant

J. P. Connell and Thomas L. Connell. Plaintiffs
vs. } In Chy.
Janet Morrell. Infant Defendant

1901. 19th February. Process issued to 1st Mch. Rules.

1901. 1st. March Rules. J. B. Prince Jr. appointed
Gdn. ad litem to infant defendant
Bill and Exhibits filed
Decree nisi.

1901. 2nd. March Rules. Bill taken for confessed
and cause set for hearing

Lemeil et al.

H3 { Cmd

Lemeil et al.

Bowmell et als
vs. } Costs
Worrell et als

Sum'ns & copy & serv'd on Atty for Defts 15c 7½
Subp. to Comm'r & witness &c filing bill 15 150
Dr. petition of Mr. Bowmell to Dr. to amend for service 15c 30
Dr. ans. of Dr. to petition & explanation 15 - 30
Dr. ans. copy 7½ Tax Costs & fix 10 continuances x 15 137½
Taking Special Comm'r bonds 15 & another do 30 175
Fil. Comm'n & Report &c 25
Judgment Costs Pd by P.H. McKinnon To R. Berry 38
$7.57

Atty Dismissed & Costs 16.50
Clerk pd-prof. 5.
29.07

3/0
3/6
3/0
3/6
13/6

Rec'd Nov 17. 1902 of J. L. McLemore
Atty & Comr Five Dollars for selling
property of L. P. Comuelle vs Allen -
This day -

R. D. Moore
Cr.

TO THE HONORABLE ROBERT R. PRENTIS, JUDGE OF THE CIRCUIT COURT OF SOUTHAMPTON COUNTY.

I.P.Councill and Thomas Councill

v.

Janet Worrell, Infant.

The undersigned Special Commissioner, appointed by decree of October 7th.,1902, in the chancery cause of Councill et al. v. Worrell, to make sale of the real estate in the bill mentioned, begs to report that in pursuance of decree entered in said cause on November 29th.,1902, he has collected the purchase money from said sale reported in his report of November 19th., 1902, and has disbursed same in accordance with the following statement:

Amount of purchase price of land		$451.00
Commissions on same	$18.02	
Writing Commissioner's deed	5.00	
Notices of sale	1.50	
Court and Clerk's costs	29.69	
Cryer of property	5.00	
Attorney's fee	30.00	89.21
Balance in hands of Special Commissioner		$361.79

to be distributed among the heirs; that he has paid to Isaac P. Councill seven-twelfths of $361.79 $211.04

To Thomas Councill three-twelfths 90.45

To Martha C. Councill, Guardian of Janet Worrell, 2/12 60.30

$361.79

for which he herewith appends vouchers.

December 26. 1902

Respectfully submitted,

Jas. A. W. Smoot,
Special Comr.

over

Receivd Dec. 26th. 1902 of Jas. L. McLemore, Speial Commissioner in the within cause of J. P. & Thomas Councill v. Jannett Worrell, the several amounts shown to be due to us by the within annexed statement same being in full of all and all amounts coming into his hands as such Special Commissioner

Witness: R. L. Council

J. P. Council
Thomas C. Thomas Council
Martha C. Council
Guardian of Janet Worrell.

J. P. & Thos Councils
vs
Janet Worrell et al
Receipt of Special Commissioner
Dec 26th 1902
Filed Dec 31st 1902

SPECIAL COMMISSIONER'S SALE

OF LAND IN THE COUNTY OF SOUTHAMPTON

By authority of a decree entered in the chancery cause of I. P. Councill and Thomas Councill v. Janet Worrell, Infant, on the 7th. day of October, 1902, the undersigned Special Commissioner will expose to public auction at Courtland, Virginia

MONDAY NOVEMBER 17th., 1902,

(County Court day), subject to the Widow's dower therein, all of that certain tract or lot of land lying near Handsoms, in the County of Southampton, Virginia, containing one hundred and twelve (112) acres, more or less, bounded by the lands of the Daughtrey place, M. L. Drake, Richard Barnes and B. Worrell, and is the same property owned in his life time by Samuel B. Worrell, same being sold for partition, and with possession to be given January 1st.,1903.

TERMS OF SALE - One-third cash, remainder in two equal instalments payable in one and two years from day of sale, carrying interest from said date, the deferred payments to be secured by deed of trust on the property, with option to the purchaser to pay all the purchase money in cash and take a deed upon confirmation of the sale by the court.

James L. McLemore,
Special Commissioner.

October 25th.,1902.

I, L. A. Gay, Clerk of the Circuit Court of Southampton County hereby certify that the bond required to be given in the above entitled cause has been executed with security deemed sufficient by me.

Given under my hand this 28th day of October,1902.

A Copy Teste: L. A. Gay, C.C.

Council
vs.
Worrell

REPORT

1902 Nov 19th filed

Dec 29. '02

J.P.C.
ICC.
Jamt

I. P. Council

COURT OF COMMISSION COUNTY.

IN THE MONGARIA ROBERT B. WORRELL, JUDGE OF THE CIRCUIT

TO THE HONORABLE ROBERT R. PRENTIS, JUDGE OF THE CIRCUIT COURT OF SOUTHAMPTON COUNTY.

I. P. Councill
Thomas Councill

v.

Janet Worrell, Infant.

Your commissioner, appointed by decree entered herein on the 7th. day of October, 1902, to make sale of that certain tract of land lying near Handsoms, in the County of Southampton, Virginia, containing one hundred and twelve acres, more or less, bounded by the lands of the Daughtrey place, E. F. Drake, Richard Barnes and B. Worrell, and known as the "Samuel B. Worrell" place, subject to the dower right of the widow of the said Samuel B. Worrell therein, begs to report that he exposed said property to public auction at Courtland, Virginia, on Monday November 17th.,1902, and that at the sale so had Isaac P. Councill became the purchaser by bidding therefor the sum of Four Hundred and Fifty-one ($451.00) Dollars, which your commissioner thinks a fair price for said property, and he respectfully recommends that the sale be confirmed.

Respectfully submitted,

November 19th.,1902.

Jas. L. McLemore
Special Com.

Your commissioner also states that the infant, Janet Worrell's interest in the fund after paying the costs of suit, will amount to about $60.00; that the said infant is now about thirteen years of age: that she has no father, and lives with her mother who is her guardian and is also the wife of Thomas C. Councill, having entered into bond in the penalty of $200.00: that the infant has no other funds and the bond entered into with security deemed sufficient by the court for the sole purpose of receiving this fund in your commissioner's hands, and under all the circumstances he respectfully recommends that the same be paid to the guardian of the said infant.

December 29, 1902.

Respectfully Submitted.
Jas. L. McLemore
Special Com.

POSTAL CARD - ONE CENT.

UNITED STATES OF AMERICA.



THIS SIDE IS FOR THE ADDRESS ONLY.

Mr. L. A. Gay, Clerk,
Courtland,
Virginia.

Suffolk, Va, 3/9/02

Dear Sir:- The name in memorandum and in bill should be Janet Harrell, infant.

Very truly,
James H. Corbett

J. P. Councill et al.
vs } Copy of Decree
Worrell Ganch

Enter April 19. 1901.
Robert R. Prentis

Entered Page 371

Virginia: In vacation in the Circuit Court of Southampton County, April 19. 1901.

J. P. Councill

Thomas Councill,

v.

Janet Worrell, Infant.

This day this cause which has regularly matured at rules came on to be heard upon the bill and exhibits filed, upon the petition of Martha Councill filed this day by leave of Court asking to be made a party defendant to the bill of Complainants, which is accordingly done, and upon the answer of F. B. Prince &. who was regularly assigned at rules Guardian ad Litum to defend the interest of the infant defendant, Janet Worrell, which answer to the complainant's bill, with general replication thereto, has this day been filed, and was argued by Counsel.

On Consideration whereof, and by consent of parties in writing in Vacation, it is ordered that this cause may be submitted to the Judge of this Court in Vacation for such decision & decree therein as might be made in term and, the Court doth adjudge, order and decree that this cause be referred to one of the Commissioners of this Court who will inquire and report to Court, first, whether the real Estate

in the bill and proceedings mentioned can be conveniently partitioned in kind in any of the modes prescribed by the Statute; second, if not, whether the interest of any party would be violated by the sale of the entire subject matter and division of the proceeds among the parties entitled thereto: third, an account showing the several parties interested in the real estate aforesaid, together with the amount of their interest; fourth, the annual and fee simple value of the said real estate, and whether or not there are any delinquent taxes outstanding against the same. All of which the said Commissioner will report together with any other matter specially stated deemed pertinent by himself or required to be stated by any party in interest

And by consent of parties given in open Court it is ordered that this cause be submitted to the Judge of this Court for such decision and decree therein in vacation as might be made in term.

A Copy.

Test: L. A. Gay C.C.

I. P. Bennett &c
v. } Writ
Worrell. Janet.

We acknowledge
due & legal service
of the within
writ
I P Bennett
Thomas Purcell
by Mc Lennie Corbett attys
J B Bruce J
Gdn. ad litem.

OFFICE OF J. B. PRINCE, JR.,
B. F. McLemore.
Commissioner in Chancery for the Circuit Court of Southampton County, Virginia.

Courtland, Va., Dec. 23rd, 1901.

To J. P. Councill and Thomas Councill, Plaintiffs,

v.

Janet Worrell, Infant, by J. B. Prince, jr., her guardian ad litem, Defendants.

You are hereby notified that I have fixed upon the 20th day of Jan. 1902, if fair, if not the next fair day thereafter (Sunday excepted), to take and settle, at my office, the following accounts, to-wit:

Whether the real estate in the bill and proceedings mentioned can be conveniently partitioned in kind in any of the modes prescribed by the statute.

If not, whether the interests of any party would be violated by a sale of the entire subject matter and division of the proceeds amongst the parties entitled thereto.

An account showing the several parties interested in the real estate aforesaid, with the amount of their interest.

The annual and fee simple vaue of the real estate.

Whether or not there are any delinquent taxes outstanding against the same.

Any other matter specially stated deemed pertinent by the commissioner or which or which any interested part may require to be so stated.

required to be taken by a decree of Southampton Circuit Court, rendered Apr. 19th 1901, in a suit in Chancery, depending in said Court, in which you are parties, plaintiffs and defendants; at which time and place you are required to attend.

Given under my hand as Commissioner in Chancery of said Court the day and year first aforesaid.

B. F. McLemore.
Commissioner.

To the Sheriff of Southampton County to execute.

Commissioner's Office. Courtland, Va.
~~December 23rd~~ Jan. 20th, 1902.

To the Circuit Court for the County of Southampton, Va.:-

Pursuant to a decree of the Circuit Court of the County of Southampton entered on the 19th day of April, 1901, in the chancery suit of I.P.Councill &c., v. Worrell, Janet, the undersigned, your commissioner, to whom was referred for settlement the accounts called for by said decree, reports to Court that on the 23rd day of ~~###~~ Dec., 1902, he issued notices against the several parties hereto which notices were returned to your commissioner with service duly acknowledged. That in pursuance to said notices he proceeded on the 20th day of January to take the said account, and that for his assistance he took the depositions of Tybee Hunt and J.J.Hopkins, which depositions are filed with this report, and your commissioner reports as follows:-

1st:-That in the opinion of your commissioner the real estate in the bill and proceedings mentioned can not be conveniently divided in kind among the parties entitled thereto without injury in value to the share of the parties entitled.

2nd:-That the interest of no party will be violated by a sale of the property.

2nd:-The parties originally interested in the property in the bill and proceedings mentioned are as follows:-

The widow of Saml.B.Worrell, now Mrs.Thos.C.Councill is entitled to dower in the entire tract of land.

Taylor Worrell	1/6	interest.
S.Worrell	1/6	"
Mary Barrett (nee Worrell)	1/6	"
Emma Kindred " "	1/6	"
Maggie Day " "	1/6	"
Janet Worrell	1/6	"

All the above subject to the dower interest of Mrs.Thos.C.Councill who was the wife of Saml.B.Worrell.

That the interests of the parties entitled at the time of taking this accout are as follows:-

I.P.Councill having bought the shares of some of the heirs is entitled to 3 1/2 shares,

Thomas. C.Councill having bought the shares of some of the heirs is entitled to 1 1/2 shares.

Janet Worrell, as heir, is entitled to 1/6. Al the above mentioned hold their shares subject to the dower interest of Mrs. Thomas C.Councill.

4th:- The fee simple value of the property is about $400 and the annual value is about $50.

5th:- There are no delinquent taxes due on the said real estate.

Respectfully submitted,

B. F. McLemore

Comr. in Chy.Cir.Ct.Southampton County.

Comr's fee $5.
Chgd. to Plaintiff.

The depositions of Tybee Hunt and others, taken before me, B. F. McLemore, a commissioner in chancery of the Circuit Court for the county of Southampton, Va., to assist in making a report as commissioner in the chancery suit of J.P. Council et als v. Worrell, Janet. Due notice of the time and place of taking said account having been given.

Present:- J.L. McLemore, Atty. for the Plaintiffs.

J.B. Prince, jr., Gdn. ad Litem.

Witness, Tybee Hunt after first being duly sworn deposes as follows:-

Q. State your name, age, residence, occupation, and do you know the parties to this suit ?

A. Tybee Hunt, 41, Southampton county Farmer, and know the parties to this suit.

Q. Are you familiar with the land in the bill and proceedings mentioned ?

A. I am.

Q. Do you think this land can be conveniently divided in kind among the parties entitled thereto without injuring the share of any party ?

A. I do not. I think the shares would be too small, considering the lay of the land to divide in kind without injury to the whole.

Q. Do you think the interest of any party will be violated by a sale of the entire subject matter, and division of the proceeds among the parties entitled thereto.

A. I think not.

Q. What in your opinion is the annual and what the fee simple value of this land. $45 annual, fee simple about $400

And furtner this deponent saith not. Tybee Hunt.

Witness J.J. Hopkins after being first duly sworn deposes as follows:-

State your age, name, residence, occupation and whether or not you know the parties to this suit ? 50 yrs; J.J. Hopkins, Southampton County, Mechanic I know the parties to this suit.

A.

Q. Are you familiar with the land in the bill and proceedings mentioned ?

A. Yes

Q. Do you think this land could be divided in kind among the parties entitled thereto without injuring the share of any party ?

A. I do not. I think it would injure the share of each of the parties to cut it up in small pieces. There is on about 112 acres & it would be very difficult to divide it so as to give each one their timber & wood &c

Q. Do you think the interest of any party will be violated by a sale of the entire subject matter and division of the proceeds among the parties entitled thereto ?

A. No

Q. What in your opinion is the annual and what the fee simple value of the land ? about $50. pr. year -

A. ~~What~~ The annual value & fee simple I would say is $350. to $400 -

And further this deponent saith not.

J.J. Hopkins

COMMISSIONER'S BOND.

Council et als.
vs.
Worrell et als.

to

Commonwealth.

Know All Men by These Presents, That we, James L. McLemore

Jr

are held and firmly bound unto the Commonwealth of Virginia in the sum of ($800.00) Eight Hundred and 00/100 Dollars, to the payment whereof, well and truly to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents, hereby waiving the benefit of our Homestead Exemptions as to this obligation, and any claim or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of said office, post or trust, with coupons detached from bonds of this State.

Sealed with our seals, and dated this ____ day of ____ one thousand eight hundred and ninety-____

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound James L. McLemore shall faithfully perform the duties of this office or trust, as Special Commissioner under a decree of the Circuit Court of the County of Southampton pronounced on the 8th day of April 1902, ~~189~~, in the suit therein depending under the name and style of "Council et als. Vs. Worrell et als" or any further decree that may be entered therein

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the presence of

James L. McLemore, SEAL

B. F. McLemore SEAL

SEAL

In the Clerk's Office of the ____ Court of the County of Southampton.

This day ____ suret ____ on the above bond, made oath before me, ____ Clerk of the ____ Court of the county of Southampton, and State of Virginia, that ____ estate__, after the payment of all ____ just debts and those for which ____ bound as securit____ for others and expect to have to pay, ____ worth the sum of ____ ____ dollars.

Given under my hand this ____ day of ____, 189___

Teste: ____, Clerk.

I.P.Counsill
Thos.C.Counsill,

v.

Janet Verjell.

Answer of

Filed April 1901

IN THE CIRCUIT COURT OF _____ COUNTY, ARIZONA.

_____ Term, A.D. 1901.

-----o-----

_____ to Term of

_____

_____

_____

IN THE CIRCUIT COURT OF Southampton COUNTY, VIRGINIA.

-----o-----

The answer of J.B. Prince Jr., guardian ad litem to the infant defendants,

Janet Worrell

and the answer of the said infant defendants by her said guardian ad litem to the bill of complaint exhibited against them and others in the circuit court of Southampton County, by I.P. Connell and Thos. C. Connell.

For answer to the said bill the said infant defendants by their said guardian ad litem answer and say: That being of tender years they do not know whether their true interest is in relation to the subject matter of the said bill, nor do they know whether the statements contained therein are true or not. They confide the protection of their interest to the care of the court. And the said guardian ad litem to the said infant defendants for answer to the said bill answers and says: That he known nothing as to the truth or falsity of the statements in the bill contained. He prays full protection for the said infant defendants. And now having fully answered, these defendants pray hence to be dismissed with their cost.

J.B. Prince Jr.

Guardian ad litem for infants.

Virginia: In vacation in the Circuit Court of Southampton County. April 19, 1904.

I. P. Councill
Thomas Councill,

v.

Janet Worrell, Infant.

This day this cause which has been regularly matured at rules came on to be heard upon the bill and exhibits filed, upon the petition of Martha Councill filed this day by leave of court asking to be made a party defendant to the bill of complainants, which is accordingly done, and upon the answer of J. B. Prince Jr., who was regularly assigned at rules Guardian ad Litem to defend the interest of the infant defendant, Janet Worrell, which answer to the complainant's bill, with general replication thereto, has this day been filed, and was argued by counsel.

and by consent of parties interested in vacation, it is ordered that this cause may be submitted to the Judge Bell's Court in vacation for such decision thereon as might be made in Term and,

On consideration whereof, the court doth adjudge, order and decree that this cause be referred to one of the commissioners of this court who will inquire and report to court, first, whether the real estate in the bill and proceedings mentioned can be conveniently partitioned in kind in any of the modes prescribed by the statute; second, if not, whether the interest of any party would be violated by the sale of the entire subject matter and division of the proceeds among the parties entitled thereto: third, an account showing the several parties interested in the real estate aforesaid, together with the amount of their interest: fourth, the annual and fee simple value of the said real estate, and whether or not there are any delinquent taxes outstanding against the same. All of which the said com-

I. P. Councill
Thomas Councill

v. DECREE.

Janet Worrell.

Enter April 19, 1901.

Entered page 378

1 Dep.-

missioner will report together with any other matter specially stated deemed pertinent by himself or required to be stated by any party in interest.

And by consent of parties given in open court in is ordered that this cause be submitted to the Judge of this court for such decision and decree therein in vacation as might be made in term.

Robt R. Prentis.

To the Clerk of the Circuit Court of Southampton County:

To L. A. Gay, Clerk of the Circuit Court of Southampton County.

I, Robert R. Prentis, Judge of the Circuit Court of Southampton County, do certify that this cause has been duly submitted to me by consent of parties in writing for such decision and decree therein in vacation as might be made in term. You are hereby ordered to enter this decree in your chancery order book.

Given under my hand this 15th day of April 1901.

Robt R. Prentis

Council et al.
v.
Decree
Worrall et al

1902 April 8

Entered

Robert R. Hall

Issued to Atty.

U. S. CIRCUIT COURT APPEALS

I. P. Councill and Thomas Councill

v.

Janet Worrell et als.

This day this cause came on again to be heard upon the papers formerly read and upon the report of Commissioner J. B. Prince Jr., filed February 13th., 1902, to which no exceptions have been taken, and was argued by counsel.

On consideration whereof, and it appearing to the court from said report, that the land in the bill and proceedings mentioned cannot be partitioned in kind in any of the modes prescribed by the statute, doth adjudge, order and decree that James L. McLemore who is hereby appointed a special commissioner for the purpose, do proceed, after reasonable notice of the time, place and terms thereof, to expose to public sale At Courtland, Virginia, the real estate in the bill and proceedings mentioned containing one hundred and twelve (112) acres, lying near Mt. Horeb church, and bounded by the lands of the "Daughtrey" place, E. L. Drake, Richard Barnes and B. Worrell, subject to the widow's dower right therein, selling same for one-third cash, remainder in two equal instalments in one and two years from day of sale, with interest from said date, and with option to the purchaser to pay all of the purchase money in cash and take a deed for same upon confirmation of sale by the court. But before the said commissioner shall proceed to act hereunder he shall enter into bond before the Clerk of this court in the penalty of $600.00 with security to be approved by said Clerk conditioned for the faithful performance of this or any future decree that may be entered herein.

of costs.

It was thereupon ordered and adjudged that the said defendants do pay to the said plaintiff the sum of $800.00, together with interest thereon at the rate of six per cent per annum from the date hereof until paid, and the costs of this suit to be taxed by the Clerk of this Court, and that the said defendants do pay the same within ninety days from the date hereof, and that upon the payment of the said sum of $800.00, interest and costs as aforesaid, the said defendants do convey by proper deed with covenants of warranty the premises described in the bill of complaint, to-wit:

The undivided one-half interest of the said Thomas Counsill in and to the following described real estate, situated in the County of Marion and State of Indiana, to-wit:

Lot Number Eighty-four (84) in Block "A" in Woodruff Place, an addition to the City of Indianapolis, as per plat thereof recorded in Plat Book 3, page 73, in the Recorder's Office of Marion County, Indiana.

And upon the failure of the said defendants to pay the said sum of $800.00, interest and costs as aforesaid within the time above limited, the said premises shall be sold by the Master Commissioner of this Court, as upon Execution and Order of Sale, and the proceeds arising from such sale shall be applied to the payment of said sum of $800.00, interest and costs, and the surplus, if any there be, shall be paid to the said defendants, I. P. Counsill and Thomas Counsill.

Entered this 14th day of October 1903.

Robert R. Hanna
Judge.

Prepared by the Court.

I. P. Counsill and
Thomas Counsill
v.
Janet Worrall, Infant.

DECREE

Entered October 14th, 1903.

Robert R. Hanna
Judge.

Endorsed,
Paper No. 4

I. P. Counsill et al
v.
Janet Worrall, Infant.

I. P. Counsill and Thomas C. Counsill

v.

Janet Worrell, Infant.

This day this cause came on again to be heard upon the papers formerly read, and upon the report of Commissioner, B. F. McLemore filed February 15th., 1902, to which no exceptions have been taken, and was argued by counsel.

In consideration whereof, it appearing from the said report that the land in the bill and proceedings mentioned cannot be conveniently partitioned in kind in any of the modes prescribed by the statute, the court doth adjudge, order and decree that James L. McLemore and James H. Corbitt are hereby appointed special commissioners, either/or both of whom may act, to make sale of the said real estate at public auction after having first advertised the time, terms and place thereof for at least twenty days by posters, selling same at Courtland, Virginia, and upon the following terms: one-third of the purchase money in cash, the remainder in two equal instalments, payable in one and two years from date of sale, and carrying interest from said date, the deferred payments to be secured by a deed of trust on the property, with option to the purchaser to pay the entire purchase money in cash and take a deed upon confirmation of the sale by the court. But before the said special commissioner or commissioners shall proceed to act hereunder, they shall enter into bond before the Clerk of this court with security to be approved by the said clerk in the penalty of $800.00, conditioned for the faithful performance of this or any future decree that may be entered herein. And the said commissioner or commissioners will report to court.

Councill

v. DECREE

Worrell

Enter 29th day of November 1902.

Robert Adams

Entered page 475

ally, the given bond in sufficient penalty and with sureties
entitled for the security of same, the said plaintiff's
paint less than $200.00.

CIRCUIT COURT OF SOUTHAMPTON COUNTY, IN VACATION, ON THE 26th. day of November, 1902.

I. P. Councill and Thomas Councill
v.
Janet Worrell, Infant.

This day this cause which has been regularly submitted to the judge of this court for such decisions and decrees therein in vacation as might be made in term, came on to be heard upon the papers formerly read, and upon the report of Special Commissioner James L. McLemore, filed November 19th., 1902, reporting sale of a certain tract of land in the bill and proceedings mentioned, containing one hundred and twelve acres, more or less, lying near Handsoms, Virginia, and known as the "Samuel B. Worrell" tract (subject to the dower right therein of the widow of Samuel B. Worrell) to Isaac P. Councill for the sum of Four Hundred and Fifty-one ($451.00) Dollars, to which report no exceptions have been taken, and was argued by counsel.

On consideration whereof the court doth adjudge, order and decree that the said report be and the same is hereby confirmed. And the said Special Commissioner is directed to make to the purchaser a deed with special warranty for the property purchased by him, upon receipt of the purchase price, and out of the funds in his hands to pay, first, the costs of this suit, including a fee of $30.00 to plaintiffs counsel, and the remainder pay out as follows:

To Isaac P. Councill----------7/12
To Thomas C. Councill----------3/12
To the legally qualified guardian of
Janet Worrell----------2/12

taking their receipts therefor, and report to court: the court being satisfied from the report of the Special Commissioner, that Martha Councill, Guardian of the said infant, Janet Wor-

rell, has given bond in sufficient penalty and with sureties sufficient for the security of same, the said infant's share being less than $300.00.

Robert R. Thrift

To the Clerk of the Circuit Court of Southampton County.

I. P. & Thomas Councill

v.

Janet Worrell, Infant } DECREE

Enter 7 day of April
1903.

Robert R. Davis

Entered
Page No. 7.

I. P. Councill and Thomas Councill

v.

Janet Worrell, Infant.

This day this cause came on again to be heard upon the papers formerly read, and upon the report of James L. McLemore Special Commissioner, filed December 23rd.,1902, reporting disbursement of funds coming into his hands by virtue of decree of November 29th.,1902, to which report no exceptions have been taken, and was argued by counsel.

On consideration whereof the court doth adjudge, order and decree that the said report be and the same is hereby confirmed, and nothing further remaining to be done in this cause it is ordered that same be removed from the docket.