

1833-014 Chancery Causes: Thomas Bowden v Lx VS Sally Daniel, exx of Joshua Daniel

Isle of Wight County

other surnames: Lightfoot, Eley

To the ~~Justices~~ ^{County} of the ~~Superior~~ ^{County} Court of ~~Lawrence~~ ^{Lawrence} County, Kansas, for the County of ~~Shelby~~ ^{Shelby} right hereby complaining. Shew unto your Honors your complainant Thomas Bowser and ~~sally~~ ^{Sally} his wife of the County aforesaid, that the father of your oratrix whose name was, Joshua Daniel departed this life in the County of ~~Shelby~~ ^{Shelby} about the day of ~~ad.~~ ^{ad.} 1878, having made his last will and testament which has been duly recorded in the County Court aforesaid. That of which will, an office copy is hereto annexed marked A & is prayed to be considered a part of this plea. That by the 8th clause, ~~your~~ the testator bequeathed to his wife Sally Daniel the residue of his estate for and during her natural life, he having previously disposed of a small part thereof. That in the 9th clause, the testator gave to his two sons, Mills & James, Daniel his land and plantation at the decease of their mother to be equally divided between them to their heirs heirs and bequeathed to his seven children namely Stanley Bowser, (your oratrix), Charlotte, Martha, Eliza, Mills, James and William Daniel the balance of the estate but their mother at her decease to be equally divided; to them to their heirs forever, and he appointed the said Sally Daniel and your orator Thomas, his executors and executor. That the will having been published, your orator and the said Sally qualified therein before the County Court of ~~Shelby~~ ^{Shelby}. That the testator was the owner at his death of a number of slaves amounting to about ~~and~~ ^{and} a very valuable stock of cows, hogs, horses &c. That he had ~~been~~ ^{been} little to do in the management of the estate, the said Sally administering it mainly. That an account has been made up by your oratrix of foot

under an order of the High Court of Chancery.
Upon taking the account it was ascertained
that the said Sally Daniel without any
necessity to pay debts &c. had sold
slaves belonging to said estate & the Court upon
the account has ascertained that she is
in debt to the estate to the amount of
\$371-03 —
or will appear by a copy of said account
which is heretofore marked B & is
prayed to be taken as a part of this bill —
that the securities for the said Sally having
become dissatisfied have in a regular
course removed her from the management
of the estate as executrix, they apprehend
— or that she would waste the estate & your
orator Thomas is now the only representative
of the estate — the debts are paid & the estate
now remains in the hands of said widow
Sally under the 8th clause of the last will
will and she is of course entitled to retain
the same for her life &c. — The property to wit
slaves in number 17 —, together with the
other personal estate amount to a large sum
and your orator and oratrix suppose to
be worth between \$ and

hence the amt. found due upon the acc^t
current from the widow as ^{late} executrix —
Your orator and oratrix do believe from
facts which have occurred or will occur from
information derived from credible persons
that the said widow will dispose of a
considerable part of the said estate so
as to cause a total loss to the remaindermen;
inasmuch as he has heard and believes it to be
true that the said Sally has conveyed, or

intends shortly to convey to her favorite children
her fee simple estate in several slaves held
by her & they being no part of the estate of
the testator but which means will render
the estate at her death totally unable to
pay the money in her hands or appear
by the act of Court & if so in part the
said Sally has said that your orator might
bring that amount, for the use of the estate
to pay it, or more to that effect — Your orator
and oratrix are unwilling to do any thing
which may look like oppression, yet they
do entertain the opinion that a part
of the estate, especially the money part, will
be wasted unless the said Sally shall be
required to give security for the for the same
at her death of the estate & only her & if
especially the money part — for your orator
will see that if she spends or wastes her own
estate even if she shall not destroy or waste
the slaves and other property, the amt. of money
held by her late as executrix now as widow
or devisee of the testator must be lost to them
entitled at her death — They therefore, being
— and as in a Court of Equity, pray you to
make such order as will restrain the said
Sally from wasting the said estate — that you
shall call other proper persons be made up to
this bill and be required to answer the
same fully and satisfactorily, & that you
will make any order or decree in the
premises which may comport with Equity
which will protect the interest of the
remaindermen — as in duty bound they
will pray — A. H. Thomas & Co.

For bill —

County of Shelby to wit. This day came before
 the undersigned justice for said County,
 Thomas Bowen who made ^{affirmation} ~~swear~~ that the
 statement in the foregoing bill is true so far as
 depends on his knowledge, & that so far as
 depends on the knowledge of others, he
 believes it to be true - given under my
 hand this 2^d day of May. 1832
 H. Holliman J.P.

~~Bowen & wife stand - upon the application of the
 plffs. by their side in chg. the Court doth order that
 the shff. of this County do take possession of the
 slaves and other property held by Sally Daniel or
 widow or friend of Joshua Daniel & set him out
 the said slaves from year to year subject to the future
 order of this Court, unless the said Sally Daniel
 shall within one month hereafter execute a
 Bond payable to the sheriffs in the sum
 of Joshua Daniel ~~and~~ in the penalty of \$2,000
 conditioned to account accord to law for
 his oath for the estate lent to him by his
 husband Joshua & the and see by him
 upon an app. returned by Com. assign
 to the County Court of Shelby Co.~~

Thomas Bowen

Thomas Bowen

Sally Daniel

The answer of Sally Daniel to the bill of complaint
submitted against her in this court by Thomas Bowden &
^{Attorney} ~~her~~ ^{her} wife complainants - This respondent having
viewing to herself every benefit and advantage of exception
to the many errors in the said bill contained, for answer
thereto saith, that as to the death of Joshua Daniel testator,
the qualification of the comp^t Thomas Bowden & this respondent
as exor^t & ex^t & ^{ex} ^{or}, the fact of the said Joshua Daniel having
died possessed of slaves & other property & having disposed of
the same by his will among his widow & children as ch^{rs}
by the complainants are matters which this respondent
admits to be correct - This respondent states that there are
~~slaves~~ ^{slaves} slaves, to wit, Rose, Mike, Hilly, Mary, Joe, Celia,
Esther, Rob, Ginny, Milly, Charlotte, Dennis, & ^{Martha} Winny, which
she holds, & to which she claims title for life, under the
will of the said Joshua Daniel - she has never contemplated
making sale or otherwise disposing of the said slaves or any
part of them - she has never expressed or intimated any
intention or design of making sale or otherwise disposing
of the said slaves or any part of them, and she has
performed no act whatever from which any such intention
or design could be properly or reasonably inferred or
deduced: this respondent therefore calls for proof in
support of the several charges wrongfully & unjustly made
against her in relation to the said slaves, charges which
she contends are not only untrue, but entirely destitute
of even the semblance of truth - It is true this res-
pondent was removed from the office or appointment of
executrix of Joshua Daniel, to which she made no ob-
jection, but she has no doubt it was caused by the
contrivance of the said Thomas Bowden, who wished to become
the sole representative of the said Joshua Daniel, and not
by any various fear, complaint or apprehension entertained
or expressed by her securities - and this respondent further
answering says, that some time after the death of the
said Joshua Daniel, The comp^t Thomas Bowden & this resp^{nt}.

sold as ^{extra} & ^{extra} as aforesaid a slave named Anthony, and divided the commissions - this slave Anthony runaway, was very ungovernable & disobedient, and having on one occasion assaulted & broken two of the respondents ribs, he was sold as above mentioned by the consent of the said Thomas Bowden & all the other parties who were of lawful age - This respondent further states that afterwards she sold as ^{extra} & ^{extra} as aforesaid, with the knowledge and by the consent of the said Thomas Bowden, who received in this case also his moiety of the commission, a slave named Nintha: this second sale was ^{made} by the consent of all the parties who had attained lawful age, to pay a legacy bequeathed by the said testator to his son Elias Daniel and which was subsequently paid, the said Elias Daniel being dead, to his proper distributees - This respondent admits that her transactions on the estate of the said Joshua Daniel have been settled by Cornet. Lightfoot and that a certain balance has been found due to the said testator's estate, but that balance this respondent is entitled to for life under the said will & it is mainly made up by the amount for which the said Anthony was sold as above stated; and this respondent denies that she ever designed or threatened to deprive or keep the said Thomas Bowden out of his share of the said balance or any other portion of the said estate: the said Bowden after he became the sole executor of the said Joshua Daniel, called on this respondent for her bond for his share of the said balance, which she of course refused to give: and this respondent furthermore states that although there are many persons interested in the matters of this suit, yet no other person than the said Thomas Bowden, complains of ~~her~~ conduct, or attempts to impugn her integrity - she denies that there is the slightest ground for the complaints or apprehensions expressed by the said Thomas Bowden, and believes that he is in fact influenced by no fear of loss or injury but altogether by a feeling of opposition, ill will and hatred towards this respondent: This respondent prays that the said injunction may be dissolved, & having

answered &c she prays to be dismissed with her costs &c.

(Signed) ^{her own} Sally Daniel
Mark

Isle of Wight County, to wit: This day Sally Daniel appeared before the subscriber a justice of the peace for the county aforesaid & made oath that the statements contained in the answered answer so far as the same depend upon her own knowledge are true, & so far as they depend upon the knowledge of others she believes them to be true - Given under my hand this 8th day of March a. d. 1833.

David P. B. J. P.

Borden Krife

W. ¹/₉ Answer of
S. Daniel.

Sally Daniel.

Baker's

Edw. of W. Co. Co.

Mr. Thomas Bowden, Executor of Joshua Daniel Deed

You will please take notice that on the 15th day of this month June 1833 that being Saturday at the House of David Roberts in the County of Sligo between the Hours of Ten in the Morning and Ten P.M. of the same day I shall proceed to take the deposition of Eum. Eley to be read in evidence to be read in evidence in a Suit now depending in the County Court of Sligo in which you are Plaintiff & I am Defendant

Lally Daniel

June the 5th 1833

June 6th 1833 This day Monro
Clements Constable came before
me ~~at~~ David Roberts a Justice
of the peace and made Oath
that on the 5th of the said
month he delivered a true
Copy of the within notice to
Thomas Bowden as given un-
der my hand the day & date abov-
e named &c.

David Roberts J.P.

The Deposition of Exam Eley of Lawfull age Taken at the
House of David Roberts's on Saturday the 15th day of June 1833
to be Read as evidence in a Suit in Chancery in the County Court
of Isle of Wight in which Thomas Bowden is Plaintiff and
Sally Daniel is Defendant Taken in conformity to the Writ-
in Notice by David Roberts a Justice of the Peace for the
County of Isle of Wight between the Hours of Ten O'clock
in the Morning and Sunset of the above day

This deponent after being sworn on the Holy Evangelist of
Almighty God deposed and said that in a conversation betw-
een him the deponent and the said Thomas Bowden that the
said Thomas Bowden said that he was not afraid that Sally
Daniel would sell or make away with any of the Negroes
which she held belonging to the Estate of Joshua Daniel
Decd that he brought the Suit against her to compel
her to secure a Sum of money which she fell indebted to
the Estate of said Decd which Sum was about four
hundred Dollars and that his fear was that she would give
away her property by Deed or in some other way so as to
leave him liable at her Death to make the said four
hundred Dollars good.

Exam Eley

Taken and Signed before me this 15th day of June
1833.

David Roberts J.

To
The Clerk of Guilford
County. Court.

Produce of Daniel

Deposition of
Daniel Ely

July 1st 1833 came to
hand under seal

N. Young

Filed

Thomas Bowden and Nancy his wife —

m

Sally Daniel —

On the motion of the plaintiff Philip
this Bill this day, the Court doth injoin and
inhibit the defendant Sally Daniel, her
agents, attorneys and all others concerned, from
removing, or causing to be removed, or sent out
of the State of Virginia the slave hereinafter by
John a Daniel to the said Sally for life,
remained to Nancy Bowden now wife of
Bowden, Charles, Martha, Elias, Mills, James, John
Daniel
until the further order of this Court; and until
the said defendant shall enter into bond
with sufficient security, before the Officer who
may execute this process, payable to the
plaintiff, in the penalty of \$3000, conditioned
that the said slave, forthwith, to abide
the order or decree of the said Court
relation thereto, then the duty of the
County in which the said slave may be
found, is directed to take possession of them,
and keep them until such ^{bond} security is given,
pursuant to the further order of ~~this~~ Court to the
contrary. If such bond be given it is to be
returned by the Officer taking the same; ~~together~~
with the fees

Bowden & Co

7. 3. 1832

Keenid

July 6th 1832 retaining order
or left 4th in hand. sp. 2

March 1833 and of Sally
fildes

July 1st 1833 Deposited of Cum
they came to hand under not
a spec is to open

don't his own is to
be endorsed.

A. C.

Isle of Wight County January Court 1832

Thomas Bowden and Nancy his wife Comps. vs.
Sally Daniel

In Chancery

Deft.

On motion of the plaintiffs upon filing their Bill this day the Court doth enjoin and inhibit the Defendant Sally Daniel, her Agents, attorneys and all others concerned, from removing or causing or permitting to be removed, or sent out of the State of Virginia the Slaves being attached by Joshua Daniel to the said Sally for life, remaining to Nancy Bowden now wife of Thos Bowden Charlotte, Martha, Elias, Mills, James and William Daniel untill the further order of this Court; and unless the said Defendant shall in sixty days enter into Bond with sufficient security, therefore the Officer who may execute this process payable to the plaintiffs in the penalty of three thousand dollars, conditioned to have the said Slaves forthcoming to abide any future order or decree of the Court in relation thereto, then the sheriff of the county in which the said Slaves may be found, is directed to take possession of them and keep them untill such Bond and security is given or untill the further order of this Court to the contrary - If such Bond be given it is to be returned by the officer taking the same

Attest
Wm. Loring Cl.

The commonwealth of Virginia to the Sheriff of Isle of Wight
 County greeting we command you to summon Sally Daniel
 to appear before the Justices of our said county court at the court
 House of said county on the first day of ^{April} ~~March~~ term next to
 answer a bill in chancery exhibited against her by Thomas
 Bowden and ^{Nancy} ~~Sally~~ his wife formerly ^{Nancy} ~~Sally~~ Daniel And this
 she shall in no wise omit under the penalty of £100
 And have them there this Writ Witness Nathaniel Young Clerk
 of our said court at the court House the 22^d day of February
 1832 in the 56th Year of the commonwealth

Nathl Young
 C

Bowden wife

vs.

Daniel

Sp. in Chy
 Order

To appear before the court 1832

Executed March 16th 1832

Carson & Hall Esq
 Exm. Clk. of the Court

In the name of God amen, I Joshua Daniel of the county of Isle of Wight being of perfect sense of mind and memory, but weak and sick as to health, and knowing that it is once appointed for all men to die, do make, ordain, and constitute this to be my last will & Testament in manner and form following that is to say-

- Item 1st I do my will and desire that my executrix and executor shall pay all my just debts and funeral expenses out of my estate.
- 2nd I give and bequeath unto my daughter Charlotte Daniel fifty dollars cash, when she arrives to lawful age, which I give to her & her heirs forever; also I give to my daughter Charlotte Daniel one new loom and half the year, one bed & furniture and one pine chest, which I give to her & her heirs forever.
- 3rd I give and bequeath unto my daughter Martha Daniel fifty dollars cash, one loom, and the other half of the year at the decease of her mother, one bed & furniture and one pine chest, which I give unto her and her heirs forever.
- 4th I give and bequeath unto my son Elias Daniel one hundred and fifty dollars cash, which said cash is to be lent out at my decease until he arrives to lawful age for his benefit, which I give to him and his heirs forever; also one bed and furniture, one gun which is called his now and one mahogany desk, which said desk he is to have at the decease of his mother, which I give unto him and his heirs forever.
- 5th I give and bequeath unto my son William Daniel one hundred & fifty dollars cash and myro girl named Jane which I give to him & his heirs forever.
- 6th I give and bequeath unto my son Mills Daniel one bed and furniture and the Brown gun, which I give to him & his heirs forever.
- 7th I give and bequeath unto my son James Daniel one bed & furniture, one gun that is at Benjamin Powells, which is to be stocked & have a new lock, which is to be paid out of my estate, which I give unto him & his heirs forever.
- 8th I lend unto my dearly beloved wife Sally Daniel all the residue & remainder part of my estate of whatsoever nature or kind during her natural life, in case she should keep my four sons, namely, Elias, ~~John~~ James and William Daniel and school them as far as the rule of practice, without charging them for board & schooling, in case she should do either, then to be thirds & money to be raised out of the said property to board and school them as far as above mentioned.
- 9th Lastly - I give and bequeath unto my two sons namely, Mills and James Daniel my land and plantation at the decease of their mother to be equally divided - also I give & bequeath unto ~~believe~~ them, which I give to them and their heirs forever; also I give & bequeath unto my seven children, namely, Nancy Bowden, Charlotte, Martha, Elias, Mills, James and William Daniel the balance of the legacies left their mother at her decease, to be equally divided, which I give to them & their heirs forever. Finally I appoint and constitute my dearly beloved wife Sally Daniel and son-in-law Thomas Bowden my whole & sole executrix and executor of this my last will &

Testament - Witness my hand & seal this 13th day of April 1818
 Signed, Sealed & acknowledged
 in the presence of
 Harry D. Holland
 James Fulgham
 Robert Hancock

Joshua ^{his} Daniel Seal
 mark

At a court held for Isle of Wight County the 4th day of May
 1818 this will was presented in court by Sally Daniel & Thomas Bowden
 the Executor & Executrix therein named, who made oath thereto according
 to Law; and the same being proven by the oaths of Harry D. Holland
 and James Fulgham, two of the witnesses thereto, was ordered to be re-
 corded -

Teste Nathl. Young Clk. I. W. C.

a copy Teste,

Wm. A. Woodley Jy. Clk.

Joshua Daniel's
 Will

a True copy

Pro. a. b. r. p.

on
 Daniel

exhibit A

Dr. The Estate of Joshua Daniel decd. In account with Sally Daniel Executrix &c

1818	Nov	20	To paid Rebecca Carr for Mary Carr		44	86
			" paid Lewis Johnson	acct.	2	25
			" 5 percent comm ⁿ on \$36 receipt		1	80
Dec.	31		" Balance due the estate	If contra	22	09
					\$	71 00
1818	Nov		By this sum each left by testator at his death		35	00
"	20		By this sum received of Eum Play		36	00
					\$	71 00
1819	Aug		To paid black tickets and taxes		3	12
			" 5 percent comm ⁿ on \$200 receipt		10	00
Dec.	31		" Balance due the estate	If contra	208	97
					\$	222 09
1819	Jan.	1	By this sum balance due last year		22	09
			By this sum received from Elias Daniel in bond		100	00
			By this sum received from Hugh Sanders		100	00
					\$	222 09
1820	Sept.	11	To paid black tickets		6	31
Oct.	25		" paid Samuel Play constable Judgment		3	66
			" paid for appraising the estate		4	00
			" paid for coffin for testator		0	00
Dec.	31		" balance due the estate	If contra	189	00
					\$	208 97
1820	Jan.	1	By this sum balance due last year		208	97
1821	May	18	To paid Samuel Play const.	Judgt.	12	41
Oct.	13		" paid Mills Holland	acct.	1	00
			" paid Solomon Archer in right of his wife Patsy in full of dower		30	00
Dec.	31		" Balance due the estate	If contra	175	59
					\$	189 00
1821	Jan.	1	By this sum balance due last year		\$	189 00
1828	Sept	22	To paid Nathaniel Beck for nail fire for negro man Anthony		2	50
			" paid Harry Braden for apprehending negro Anthony		10	00
			" 2 1/2 percent comm ⁿ on \$350 amount of sale of negro man Anthony (a comm ⁿ of 1 1/2 percent is allowed to Thomas Braden a joint representa tion with the said S. Daniel		8	75
Dec.	31		" Balance due the estate	If contra	454	31
					\$	474 59
1828	Jan.	1	By this sum balance due 31 st December 1821		175	59
Sept.	22		By this sum received for sale of negro man Anthony		350	00
					\$	475 59
1829	Feb	20	To paid Thomas Braden in right of his wife Charlotte in full for dower with interest		81	50
			" 5 percent comm ⁿ on \$1638 receipt		81	
Dec.	31		" Balance due the estate	If contra	388	41
					\$	470 72

1829
Jan. 1 By this sum balance due last year 154 34
Feb. 24 By this sum receive of Thomas Bowden on bond 16 38
\$ 170 72

1831
Jan. 2 To paid, Richard H. Baker att^o at law 5 00
Feb. 5 " 7 1/2 % cent comm^o on \$278 amount of sale of negro girl Minantha,
sold by Thomas Bowden a joint representative & accounted for by him 0 95
17 " this sum to pay the clerk for order of settlement & recording this
acct. &c 3 43
" Balance due the estate of contra 371 03
\$ 388 41

1831
Jan. 1 By this sum balance due 31st December 1829
Due from Sally Daniel the Executrix \$371 03

The Estate of Joshua Daniel dec^d. In account with Thomas Bowden Executor &c

1828
Sept. 22 To 2 1/2 % cent comm^o on \$330 amount of sale of negro man Anthony,
which sum is accounted for by Sally Daniel a joint representative
& to whom a commission of 2 1/2 % cent was allowed 8 75

1831
Jan. 1 To this sum due the executor 31st December 1828 8 75
Feb. 5 " 2 1/2 % cent comm^o on \$278 amount of sale of negro girl Minantha,
a commission of 2 1/2 % cent is allowed to Sally Daniel a joint
representation 0 95
" " Interest on \$8 75 from 31st of December 1828 to this day 1 08
17 " this sum for making up this account 8 00
" Balance due the estate of contra 253 22
\$ 278 00

1831
Feb. 5 By this sum for sale of negro girl Minantha sold on a credit till the
5th of August 1831 278 00

Due from Thomas Bowden \$253.22 with interest from
and after the 5th of August 1831

Salisbury County February 17th 1831

Pursuant to the annexed order of the court of Salisbury
County, I have after giving notice to the parties made up accounts of Sally
Daniel's and Thomas Bowden's transactions on the estate of Joshua Daniel dec^d.
from papers and vouchers laid before me, which I carefully examine, and
state, showing the sum of three hundred and seventy one dollar and three
cents due from the said Sally Daniel to the estate of the said Joshua Daniel
and the testator in his last will and testament gave to his wife the said

Sally the whole of his estate except a few specific legacies during her life therefore
she is not to be charged with interest on the money in her hands during her life
Upon the account of Thomas Bowden's transactions I find the said Thomas Bowden
indebted to the estate of said Joshua Daniel dec^d the sum of two hundred and fifty
three dollars and twenty two cents but as that balance is made out of the sale of a negro
girl Minantha which was sold on a credit till the 5th day of August 1831, no interest is to
be charged on that sum till from and after the said 5th of August 1831 all of which is
submitted to the court

Benk. Lightfoot County
" "

At a Court held for Salisbury County the 7th day of March 1831 The foregoing
account current was returned by commissioner Lightfoot together with his report
thereon endorsed & ordered to lie for exceptions and at another court held for
the said county the 5th day of June 1831 the said account having been returned
for more than two months & no exceptions being filed thereon was ordered to be recorded

Attest John Nath^l Muncy Clk.

Joshua Daniels

Account Current

a Copy

for

A. Atkinson Esq.

Know all men by these presents, that we Sally Daniel and
Mills Daniel, are held and firmly bound unto Thomas
Bowden & Nancy his wife Charlotte, Martha Elias
Mills James & William Daniel in the just and
full sum of three thousand dollars, to be paid to
the said Thomas Bowden & Nancy his wife Charlotte,
Martha, Elias, Mills, James, & William Daniel
their certain attorney, their heirs Executors adminis-
trators or assigns, to which payment well and
truly to be made, we bind ourselves our heirs executors
& administrators jointly firmly by these presents,
Sealed with our seals & dated this 16th day
of May -- in the year of our Lord one thousand
eight hundred & thirty two

The condition of the above obligation is such, that
whereas the above bound Sally Daniel, has in
her possession certain slaves, which was devised
to her during her life by her husband, Joshua
Daniel, Remainder to Nancy Bowden wife of Thomas
Bowden, Charlotte, Martha, Elias, Mills James,
and William Daniel, now if the said Sally Daniel
does not remove the said slaves, out of the State
of Virginia, or cause or permit the same to be
done; then the above obligation to be void or
else to remain in full force and virtue

Signed sealed &
delivered in the presence
of Darden D. Hall.

Sally ^{her} Daniel Seal
mark
Mills Daniel Seal