

1844-077

Chancery Causes, Jane Eliza Britt & al, by & c & al vs James M. Shephard & al &

Isle of Wight County

Exem Britt's estate

Other surnames: Clarke,
Philips, Norworthy, Clark,
Coggin, Pope, Phillips

We certify that we consent that the
County Court of De Kalb County, shall
order a sale of the lands owned
by James Britt with to be sold &
divided between James & Eliza Britt,
Martha A. Britt, George La Fayette
Britt and John Wesley Britt.
Given under our hands this
the 9th day of September 1839—

John

John E. Masore

John Clark Secy for L. E. O.

E. E. Phillips Secy for L. E. O.

Samuel Shepher

Blowing Rock

I Eum Britt of the county of Isle of Wight State of Virginia do make and ordain
this to be my last will and testament in manner and form following to wits.
1st I lend my wife Mirinda Britt the land I purchased from Sally Norsworthy
widow of Thos Norsworthy decd. containing one hundred and thirty acres or longer
she remains my widow and after her death or marriage I give it to her children lawfully
begotten of my body to wits Eum Britton Britt, Mary Elizabeth Britt,
2nd I give my Son John Wesley Britt one hundred dollars to have and hold him forever
3rd I leave the balance of my estate to be sold except my negroes and land to pay my just
debts and if their be any balance to be equally divided between Jane Eliza Britt,
Martha A Britt, George Lafayette Britt, and John Wesley Britt, after my wife's share
are taken out, and should their not be enough to pay my just debts I give my executors
power to sell either land or negroes as they may think best to make my debts good.
4th If any negroes left I wish them to be divided in three parts leaving to my wife
one third and giving to her children as in the first item of this will.
5th If there be any land left I wish it to be rented until one thousand eight hundred
and forty and then sold, and the sale and rent money to be equally divided between Jane
Eliza Britt Martha A Britt George Lafayette Britt and John Wesley Britt.
6th I do appoint Benjamin Coggin and Robert Pope execs. of this my last will, give
under my hand and seal this day of March one thousand eight hundred and
thirty two, all gifts are to them and their heirs forever.
Witness

Eum Britt

At a Circuit Superior Court of Law & Chancery continued and held for the county of Isle of
Wight the 8th day of October 1833 two papers purporting to be the last will & testame-
nt of Eum O Britt decd. were presented to the court for probate as his last will &
testament by Benjamin Coggin and Robert P Pope, who in one of the said
papers are named executors, and each paper was proved by the evidence of Jeremiah
Cutlance, Eum Sale, Mills Ball, and John Whitley, to be wholly in the hand writing
of the said Britt, it was also proved that both papers were found after the death of Eum
Britt filed together and deposited in a locked trunk where the said Britt was in the
habit of keeping his valuable papers at his house and the court not being advised in
matter took time to consider thereof, and at another circuit Superior Court of Law &
Chancery continued and held for the county of Isle of Wight the 6th day of May 1834
an instrument of writing bearing date the day of 1832 purporting to be
the last will and testament of Eum O Britt decd. was presented in court on the 8th day of
October 1833 by Benjamin Coggin and Robert P Pope, the executors named in said writ-
ing in order to be proved, and thereupon John Clark appeared by his attorney and dis-
posed the proof of the said writing as the last will of said Eum O Britt, and an instru-
ment of writing having no date was produced as a revocation thereof, and there
being no witness to said instrument of writing Jeremiah Cutlance, Eum Sale, Mills
Ball and John Whitley were sworn and severally deposed that they are well acquainted

with the hand writing of the said Eum O Brill, and we only believe both of the said instruments of writing and the name subscribed to each are all of the proper hand writing of the decedent. And for reasons satisfactory to the court the subject was continued until this court, and on this day the cause came on to be upon case on the testimony heretofore taken & upon the evidence of Benjamin Coggin and John Clark who stated upon oath that they were well acquainted with the hand writing of the testator having frequently seen him write, and that they believed the said papers purporting to be the last will and testament of the said testator including the signatures to the same were in the proper hand writing of the said testator, and the parties were again fully heard by their counsel. On consideration whereof it is ordered that the writing first above mentioned bearing date the day of 1852, be established and recorded as the last will and testament of the said Eum O Brill, and on the motion of Benjamin Coggin and Robert P. Pope executors named in the last will and testament of Eum O Brill decd. with John Hall, Joseph E. Prudden and William H. Eley their securities who justified on oath as to their sufficiency, entered into and acknowledged a bond in the penalty of five thousand dollars conditioned as the law directs, certificate was granted the said Benjamin Coggin and Robert P. Pope for obtaining probat thereof in due form of law.

Teste Nathl. Young Clerk
Attest Nathl. Young Clerk

Eum O. Brill's
Will

Abscop for As. Prentiss Esq.

(~~XXXX~~)

W

140. 83
141. 14
— 31

Eum O. Brill's
Will.
M

In the County Court of Salisbury October 7th 1839.
 James B. Britte, George L. Britte & John M. Britte 3
 infants suing by John Clark, E. B. Phillips &
 Benj. Coggin Comrs & next friends 3 Comp.
 against
 Benj. Coggin & Robert R. Pope execs of Estn
 of Britte & others. Defs.

This Cause came on this day by consent of parties to be heard on the Bill, answer and exhibits filed, and was argued by Counsel on consideration whereof the Court both adjudge decree and order that Benjamin Coggin and Robert R. Pope or either of them, after advertising the time and place of sale for at least one month at the door of the Court house of this County and on such other public places near to the premises & elsewhere as they may think proper, sell to the highest bidder on account of nine months except for so much as will be required to pay the costs of this order and of the sale, which shall be for cash, the land in this County devised by James B. Britte in his last will to be rented out till 1840 and then sold, and which lands are in the bill mentioned, taking of the purchaser four bonds with good security, each for one fourth of the sale and of sales, and a deed of trust on the land to secure the payment of all the bonds that they or he who acts make a deed to the purchaser that they do pay over the said or follows to wit: 1/4 to James M. Shepherd in right of his wife, 1/4 to the legally qualified guardian of George L. Britte, one fourth to the Ex^r of John M. Britte and the other one fourth to the Ex^r of James B. Britte & if there be no guardians they shall bring the infants shown into Court.

Also costs including referees. A copy sent

N. P. Coggin

In obedience to the order aforesaid the within named Commissioners have made sale of the within named Lands and Thamm. etc. Desheulers and Mills Mr. Whitley became the purchaser at the sum of Four Hundred & thirty nine Dollars for which after deducting Court and Charges, of said decree have taken Four bonds with good security the amount of one hundred Dollars a fifth are 14 cents each and have paid over as follows to wit: one bond to James M. Shepherd in right of his wife, one bond to Edwin E. Phillips, one to George L. Britte, one to Benja Coggin, one to John M. Britte and other to John Clark guardian to Jane E. Britte and report to Court In case to a final decree

amount of Sales is \$439.

Clerks Charge \$500

Lawyers charge \$1000

Costs of Sale \$135

amt of Bond \$100.57 1/4

and do 100 57 1/4

and do 100 57 1/4

and do 100 57 1/4

\$439.00 +

Benja Coggin and

Robt R. Pope Comrs

Brice
Chy. Report
Brice
Chy. Report

Brice
Chy. Report
Brice

July: 3^d 1840. Report.
Returned & can Conto.

With County C. of West Virginia in July: The
answers of George Coffin M.D. R. person
sons: of Emma Brett - and of James
in shipboard and wife deceased
to the rule of compell. in said Court
exhibited by James R. Brett M.D.,
infants &c.

The respondents for answer, admit
the truth of the statement of the plffs:
and have no reason to ex-
cept. the same prayer for - and
prayer to be dismissed &c.

Bittern: h.

and

Bittern

accession

To the County Court of Rockingham sitting
in Chy. Remedy complaining, shew to the
Court your complainant Jane Eliza Britt
Gron La Fayette Britt and John W. Britt
infants sue by John Clarke, Esq. & P. Phillips, and
B. Corbin next friends and assigns against
that about the month of October 1833,
one John Britt departed this life in the
County of Rockingham, having made and
published his last will and testament
which has been legally recorded in the
Circuit Superior Court of said Chy. for
Rockingham County, an office copy whereof
is hereto annexed marked A, his prayer
to be considered a part of this bill.
Among other things, the testator bequeathed to his
wife Eliza and a Britt the land he
purchased of Sally Elson, north side of
the Northampton road: of 130 acres, so long
as she might remain a widow, after
his death or marriage, he gave it to
his children by him, to wit: Esau B. Britt
and Mary E. Britt. He leaves the
balance of his estate to be sold except
his negro and land, but he directs
that the land may be sold to pay
debts if necessary, but if not necessary
to pay debts, then the said land, as long
as what was given to his widow &
his children, was to be rented out
until 1840, and then sold, the proceeds
divided equally between his children
Jane Eliza Britt, Martha A. Britt,
Gron La Fayette Britt and John W. Britt.
another appointed Benjamin Baggin and
Robert Pope his executors who qualify
prior to said will. Your complainant
chase that the debts have been paid,
and that is no necessity for the same
holding on upon the land to pay the
debts, but that the same ought to be
sold and the money divided as aforesaid.

and your orators are advised that
as some of the parties concerned are
infants, the Court must appoint some
to sell the said land, in order to
carry out the manifest intention
of the testator. They state that one of
the girls entitled to a share of the
land, that is to say Martha Pratt
has intermarried with one James
McShippine
who, together with the said Martha
his wife, and the said Pope and
Benjamin Caggins exors. or assigns
are prayed to be made defendants
to this bill. They pray that the said
Caggins and Pope and the said James
McShippine
and his wife Martha may be compelled
to answer this bill fully, honestly and
and that you will decree a sale of
the land whereof James O. Pratt died
seized in full of right and which
by his will he directed to be sold,
and divided equally between the
said Jane Pratt, Martha Pratt,
George Lafayette Pratt John M. Pratt
Pratt, upon such terms as you may
think correct, and that you will
make any order in the premises
that may comport with equity &c.

Attest on p. 3

Saml Ely Pratt & others infants &c.
Pratt exors. &c. &c.

This cause came on this day by consent
of parties, to be heard on the bill, answer
and exhibit filed, and was argued
by counsel; on consideration whereof
the Court do hereby decree and order
that Benjamin Caggins and Robert
K. Pope neither of them, after advertising
the time and place of sale for at
least one month at the door of
the Court House of this County, &
at such other public places, near
to the premises, and elsewhere as
they may judge correct, see to the
highest bid and on a credit of 9
months (except for so much as
will be required to pay the expenses
of the sale and of this order which
will be in cash, the land in this
County directed by James O. Pratt in
his last will to be rented out till
1840 and then sold, and which
lands are in the bill mentioned,
taking of the purchaser four bonds
with good security, each for one
fourth of the net amount of sales &
a deed of trust on the lands to secure
the part of all the bonds, & that
they or he who acts make a deed
to the purchaser. And that they do
pay over the amt. as follows to wit, $\frac{1}{6}$ to
James McShippine & his wife in her right, $\frac{1}{6}$ to

the by allg. qualified executors of the estate of
George La Fayette Britt, 1/4 to John John
Wesley Britt, and the other 1/4 to the executors
of Jane E. Britt

and if there be no executors they
shall bring the infant shares into
Court &c.

Britt

or 1/2 of the
Britterson &c

Octo. 1839

Octo. 7th 1839 Bill
V. filed & entry decreed

July 3rd 1840. Report of
Compt. returned &
Cause continued.

July 1841. Rpt. Conf.
& final decreed.

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