

1850-016 Chancery causes: James Clayton, comt of Willis Eley vs Willis Eley, by v c + Sarah Eley,
Isle of Wight County by + c other surnames: Duck

Willis Clay, Comtee
11
Clay, Geo.

X 4

Clay's Comtee.
11. } Clay, Geo.

Clay, Geo.

Sept. 4th 1848
Report made and
filed.

Sept. 1847. Biscoe
filed. W. P. Vanepp app.
for ad. to Willis Clay
& Geo. Clay, his account
filed & gen. exp.

Oct. 4th 1847. Depo.
given & came out
for hearing.

Oct. 20th 1847. Decree for
sale of land p. 199.

May 17. 1848. Decree. O. B. p. 210.

Oct. Term 1848. Continued

May Term 1849 stand
over.

Sept. 1849. Contd.

May 1850. final decree.

May 28.

Orator charges, that the interests of ~~his~~ the said Miller Ely
a Lunatic - will be greatly promoted by a sale of the said
tract and the purchase money applied to the satisfaction
of the 1st debt due for his expenses at the 1st Asylum -
Therefore your orator will be compelled to sell more of his
negroes, which are increasing in value, and the only reliable
source of his income in future - and your prays, that a
decree will be rendered in conformity with these views and
and upon the principles of law governing such cases -
your orator charges, that said Miller Ely has neither wife or children
and the only heir ^{at-law} who would be entitled to the real estate, in in case
of event of the death of said Miller Ely - is a ^{girl his niece} daughter named
~~Sally~~ ^{Sally} Ely - the only child of a brother of 1st Miller Ely -
whose name was Miller Ely who is now dead - his said daughter
~~is named~~ ^{Sally or Sarah} is a niece of 1st Miller Ely - is an infant under
twenty one year of age - and a resident of Alabama - your
orator prays, that the said ^{Sarah} ~~infant~~ ^{infant} may be made party defendant & be compelled to answer
her to facts of the case - your prays, that the court to grant
a decree as aforesaid: & all other relief, as may be necessary
under the premises &c -

James Clayton Esq

Not ~~disputed~~ undisputed PH.

Clayton County:

James Clayton this day personally appeared before me
a justice of the peace for the county of Hall of legal age and made oath that the
facts as stated above in his bill books are true to be the
best of his knowledge & belief: given under my hand & seal this
the 17th day of May 1847 -

J. P. Wells

Dy

To the ~~hon.~~ hon. Michael H. Baker - judge of the Circuit-Sup. Court
of the County of New York: Humbly expressing thanks
unto your honor: your orator James Clayton, that some time in the
year ~~and~~ he was appointed by county court of Southampton a
Committee to one Miller Ely. who, in accordance with the provisions of law
applicable to such cases - was adjudged by the Court of said County of So.
Hampton - a lunatic, & his estate committed as of record to you -
orator hands &c. as will appear by office copy of s^d order here attached &
prayed to be taken as a part of this bill. Your orator as in duty bound
was compelled to carry the said Lunatic Miller Ely. to the Asylum
in Williamsburg where he was received and lodged as such, and
still remains without hope of recovery - the said Ely's estate consists
of a tract of land in So. Hampton Co. of about 500 acres and worth
about \$80,000 ^{or thereabouts} ~~eight hundred dollars~~; and also a piece of land in the
County of Isle of Wight of about 200 acres, and worth some 4 or 500
dollars - and the personal estate consists of some nine negroes. Mostly
of no value of not much account - and from all sources the
said Miller Ely's income has been about \$100. your orator charges
that his income has not been sufficient to pay his expenses, at Williams-
burg and being compelled to pay off many debts when the estate
first came to his hands - he found that there has been a heavy
debt accumulating against the estate ^{at} Williamsburg - due the
Asylum - Caused by the heavy expenditure over his income -
he has been compelled to sell some of the negroes to meet their debts
and must still sell more of them, unless your honor will
grant a decree authorizing a sale of that tract of 200 acres
lying in the County of New York - with the ^{proceeds} ~~proceeds~~ of sale
of this tract, your orator ^{with} ~~with~~ what he has in hand - will
be able to liquidate the balance due the Lunatic Asylum -
and then with the increased value & annual value of the
slaves - he will be enabled to carry on his business easily &c.
The said tract of land in New York County purposed to be sold
is totally unproductive, as has been for years - of no annual value.
Subject to depredation, because it has been injured in this way - there
is no fence thereon - not even a "parade of fence" - whence your

Mr. Graham Jan 29

London Eng.

Elys's Committee

v. 38th July

Elys.

To August 1849

Welford

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of *Isle of Wight* County, Greeting.

WE COMMAND YOU TO SUMMON

Willis Eley and Sarah Eley
an infant of John Eley decd.

to appear before the Judge of the Circuit Superior Court of Law and Chancery for the County of Isle
of Wight, at the Court House of said County, on the first Monday in *August* next,
being Rule day, to answer a bill in Chancery in the said Court exhibited against *them* by *James*
Clayton Combs of *Willis Eley a lunatic*,

and if *they* shall fail to answer the Bill within two months thereafter the Court will take the said
Bill for confessed, and proceed to decree the matter thereof accordingly. And have then there this
Writ.—Witness Nathaniel P. Young, Clerk of our said Court, at the Court House, this

24th day of *July* 184*7*, in the *72* year of the Commonwealth.

N. P. Young, Clk.

summer 7.

g? ad tubers to Wilkes Ely -

Ely's counter.

" 3 Ely.

Ely/Vol.

The answer of A. P. Gurney Esq. as counsel appointed to defend
Miles Eley a Liberator: to a Bill filed him & others. by James Clayton Comtee of S. Eley -
This respondent as G. P. as counsel to the S. Miles Eley - for answer to so much of said Bill
concerning. & says: That he believes that the representations made in the said Bill of
the conduct of the S. Miles Eley, were true: but in regard to the other facts -
stated he submits them to the discretion & wisdom of the honorable Court. &
having answered &c: prays &c:

A. P. Gurney Esq. as counsel (R)

Spring, summer

The answer of Sally Eley by N. P. Torrey - Her 3^d ad interim appointed to
attend her, in a suit, ~~But~~ ^{By} Nell) filed wth her & others. by Clay ton Comtee.
of Mills Eley. a lunatic.

This respondent. by her 1st & 2^d ad interim: for answer re: to do much
of 3^d Nell re: answers, and says that it is true is related to the 3^d Mills Eley, and in the
event spoken of, would be entitled as his heir - as in the 3^d Nell is alleged: but as to any
other fact, she neither denies or admits it; but calls for the strictest proof: and in all
respects, begs leave to submit her interests to the protection of the honorable Court &
having answered re:.

N. P. Torrey for. ad interim

answer of. & to return to

Jolly Ely —

Ely's count

21. 3 Ely.

Ely's

The Answer of A. P. Young) the S^d ad taken appointed to defend the
interests of Sally Eley infant of Geo Eley dec^d. - is a Bill filed H. her. By Clafwa Comtee of
Miller Eley - :

This is / present - for answer: &c: answers and says, that - as far as he is advised
the facts stated in the Bill are true: and that - the interest of all concerned would
be promoted by a sale of the land spoken of: and having Answer as follows.

A. P. Young goda deliv^r @

Interrogantes

Ely's count.

u: 3 Ely

Ely's doc.

Eley. Comtee.

et.

Irwin Buck, from Eley -

Interrogatories to be submitted to Allen Edwards &c.

Eley & others.

In the interrogatories to be given by them in the case of

of Eley. Comtee: v. Eley & others: in Chy on hys out of L. & Chy for sale of right to.

Quest. ¹ Do you know Willis Eley? ² What is his condition - of mind - or mental capacity?

Where is he - and where has he been for . years past? ³ What is his income from all sources?

What do you know of a piece or tract of land of about 200 acres lying in Sec of Wright County -

belonging to Willis Eley - ? ⁴ State, whether, from your knowledge of the affairs of Willis Eley

his interests - ~~and~~ the interests of his estate - would be advanced or promoted - or not - by a

sale of the s^d piece of land? And any other reasons which would justify a sale of the same?

The undersigned s^d ad ~~there~~ appointed to attend Willis Eley is a writ
sent to him &c. by Jas. Clayton his lawyer, to ~~ask~~ see a certain piece or tract
of land - in the State mentioned - which is now pending in the Cir. Ct. of Linn
Co. in the County of - Sec of Wright - - hereby expresses his willingness that the above
interrogatories may be submitted to Allen Edwards and Buck & Eley & others
others who shall answer or respond to the same on oath. - to be taken
at the of Wright County Iowa on 1st Feb 1867 - between the hours of 11. a.m. & 5. p.m. ^{at Court house} ^{2nd}

A. P. Conway J. & Leland

Ely's Committee
vs } depositions
Ely & as

Octo: 4th 1847 come
to hand under seal and
filed J. P. Wices & Co.

To the
State of New York in County
of _____

The deposition of John W. Duck, taken on the 15th October 1847
at the Court of the Justice of the Peace for the County of York, at the house of 11 St. M.
at 8 P.M. of that day - to be read as evidence in a like proceeding in
the Court of the Justice of the Peace for the County of York, in the
cause of Ely v. Ely, and Ely v. Ely - on & by virtue of a Bill of
Interrogatories hereto signed by W. P. Hargreaves, Esq. at the instance of the
Under Sheriff -

The said John W. Duck having been first duly sworn on the Holy Evangelists -
deposes as follows: - to the 1st Interrogatory -
1st Ques. - I do now Willies Ely - 2^d he is a
Lunatick and I believe for years past has
been in the asylum at Williamsburg 3^d
His income is barely \$100 dollars 4th I know well
the piece of land belonging to Willies Ely and I know
it at this time to be of no profit whatever (there
being no part of it reclaimed) all woodland and
no buildings on it, and of course liable to depredation
and I further think that the interest of the Lunatick
will be promoted by the sale of said land. 5th
I do not now what his expenses are but I do now
he has 5 or 6 expensive negroes

(M. Duck)

John L. Ely having been duly sworn on the Holy Evangelists - deposes to
the said Interrogatories as follows: - ans: I have heard the several
interrogatories proposed to Mr. Duck and
heard and read his answers above thereto and
I adopt the said several answers as my own
deposition

John L. Ely

The Justice of the Peace for the County of York, to wit: The foregoing depositions of J. W. Duck and E. L. Ely were taken & sworn
to before me a Justice of the Peace for the County of York, at the time & place mentioned in the
caption above - given under my hand & seal this 14th Oct. 1847

Wm. L. Latham J. P.

To be entered
RHB

Entered

Eley. Comtee

11-

Eley. is at:

3.

This cause came on this day to be heard on the Bill, answer, and ~~application~~ ^{of arraignments of witnesses,} ~~and deposition filed in the cause,~~ and was argued by counsel - And it appearing to the satisfaction of the Court, by the evidence herein - that the interests of the Lunatic, William Eley, manifestly requires a sale of the piece or tract of land in the Bill mentioned, and it further appearing to the Court that the rights of others will not be violated by such sale - It is ordered, adjudged, and decreed, that James M. Jordan who is hereby appointed a commissioner for such purpose, do proceed - after having given 20 days notice of time and place of sale, by advertisements at the door of the Court House of S^d County, and one or more (other) public places near the premises or land mentioned - to sell at public auction to the highest bidder on a credit of six months - (save so much as may be necessary to defray expenses of this suit & sale &c. which may be in cash -) - the land in the said Bill mentioned & situated in the County of ~~Spencer~~ ^{Spencer} &c. belonging to the said William Eley -

giving bond for the full balance of the purchase money, with good security, and also retaining & reserving a lien on the said land for the payment of the same - and return ^{the} bond with a report of proceeding, under this order to this Court, in order to other orders, & decrees - &c.

In obedience to the within decree I the Commissioner
therein named, did on the 26th day of Novr: 1847
after having advertised the time and place of sale
in accordance with said decretal order exposed to public
auction ^{on the premises} the tract or parcel of land in the ^{decree} ~~bill~~ mentioned,
at which sale Josiah P. Gay became the purchaser
at the sum of \$296:00 that being the highest bid made,
expenses &c. 36:47

He has procured a cash of \$259:53 for which sum the said purchaser
executed his bond with good security, which said
bond is herewith filed

Wm Jordan Comr:

Clay's Committee
at
City of New York
and others

for v. M. Gordon Comr.

A Report to the
House of Representatives

At a Circuit Superior Court of Law & Chy. continued & held
for the County of Isle of Wight on the 20th day of Oct. 1847
James Clayton Committee of Willis Ely a lunatic
against

In Chancery
Willis Ely and Sarah Ely the last an infant Defts

This cause came on this day to be heard on the bill, answers and
replications, examination of witnesses and was argued by counsel,
on consideration whereof, it appearing to the satisfaction of the
court that the interest of the lunatic Willis Ely manifestly requires
a sale of the piece or tract of land in the bill mentioned and it
further appearing to the court that the rights of others will not
be violated by such sale, it is ordered, adjudged and decreed that
James M. Lordaw, who is hereby appointed a commissioner for
such purpose, do proceed after having given 20 days notice of the
time & place of sale, at the door of the courthouse of said county,
and one or more other public places near the premises or lands
mentioned, to sell at public auction to the highest bidder, on a
credit of six months (save so much as may be necessary to defray
expenses of this suit and sale, which may be in cash) the lands
in the said Bill mentioned, and situate in the county aforesaid,
belonging to the said Willis Ely, taking bond for the well balance
of the purchased money with good security, and also retaining
and reserving a lien on the said land for the payment of the
same - and return the bond with a report of proceedings under
this order to this court in order to a final decree. —

J. Copy

Wills

J. P. Wills D.C.

Clegg's Counter:

n: 30 Dec 1881

Clegg's Lab.

To be entered

[Signature]

Entered

Eley, Comtee
H.

Eley & als.

This cause came on to this day, again, to be heard on the paper formerly read, and the report of Commissioner James M. Jordan made in pursuance of an order of this court of the 20th October 1847: to which no exceptions having been filed and was agreed by counsel: on consideration whereof the Court both confirm said report, and the sale of the land made by the said Commissioner; and the court both further order that the Clerk of this court, deliver to the said James Clayton being the Committee of the estate of said William Eley, the bond filed with the said report, executed by Jonah P. Gay the purchaser of the land with Isaac L. Eley his surety for the sum of \$259.53: bearing date the 26th Nov^r 1847 & payable six months after date & to James M. Jordan the Commissioner; upon his the said James Clayton the committee aforesaid, executing, in the clerks office, a bond in a penalty of twice the value of the bond for the purchase money aforesaid, with ample & full security; as to William Eley

and conditioned to invest the proceeds of said bond, for the sale of the land aforesaid (after deducting what may be needed to pay expenses of this suit &c.) in the form & manner as prescribed in this decree: and the court both hereby direct, that the said James Clayton committee after collecting the proceeds of said bond given by P. Gay the purchaser, loan the same out taking bond with good, personal, or real security or both. And liberty is hereby reserved to the said William Eley within 12 months after he shall have been returned or any other interested in said land or his estate, within in one year from his death, to show cause if any they can against this decree.

And the said Commissioner James M. Jordan is hereby authorized to execute a deed of conveyance of the land sold to the purchaser Jonah P. Gay, retaining a lien on the same for the payment of the purchase money. and make report

Pursuant to the within order I have executed
a deed to Jonathan Olney for the land herein named
Jordan town.

Olney's Commission
as
my clerk
Olney was

Book of deeds

At a circuit sup^r. Court of Law & Chancery continued and held for the County
of Del^a of West- on the 17th day of May 1848 —

James Clayton Committee of Willis Ely a Lunatic
against

In Chancery

Willis Ely and Sarah Ely an infant of John Ely decd.

This cause came on this day, again, to be heard on the papers formerly
read, and the report of Commissioner James (M. Jordan, made in pursuance
of an order of this Court of the 20th Oct^r. 1847 to which no exceptions have
been filed and was argued by Counsel. On consideration whereof
the Court doth confirm said Report, and the sale of the land made
by said Comm^r. And the Court doth further order that the Clerk
of this Court, deliver to the said James Clayton being the Committee
of the said Willis Ely's estate, the bond filed with the said Report,
executed by Josiah P. Gay the purchaser of the said land with
Ezra S. Ely his surety for the sum of \$259.53 bearing date the 26th
Nov^r. 1847 & payable six months after date & to James (M. Jordan
the Commissioner; upon his the said James Clayton the Committee
aforesaid, executing, in the Clerk's Office a bond in a penalty of
twice the value of the bond for the purchase money aforesaid, with
ample & full security to Willis Ely — And conditions to invest the
proceeds of said bond, for the sale of the land aforesaid after deducting
what may be needed to pay expenses of this suit &c.) in the form
& manner as prescribed in this decree. And the Court doth hereby
direct, that the said James Clayton Committee after collecting
the proceeds of said bond given by said Gay the purchaser, loan
the same out taking bond with good, personal, or real security or
both. And the said Comm^r. James M. Jordan is hereby Authorized
to execute a deed of Conveyance of the land sold to the purchaser
Josiah P. Gay retaining a lien on the same for the payment
of the purchase money, and make Report &c. —

A. Copy

Teste

J. P. Wills D.C.

La Cruz

Ely. Committee
or } Secrecy:
Ely. & als.

This cause came on to be heard on the paper formally
read: and the Report of Commissioner Jordan made in pursuance of an
order of this Court pronounced on the 17th May 1848; to which no objection
has been filed and was agreed by course: ~~and~~ consideration whereof
the Court doth confirm said Report: and liberty is remitted to the ^{United Ely} ^{to} ~~the~~ Executive
to their cause if any can within the period prescribed by Law, against
this decree.

5

ed.
The Co. of

'Order'
appointing Jas. Clayton
Committee

Southampton County Court July 17 1837.

James Clayton is appointed
Committee of the estate of Willis Cley a lunatic for the safe keeping and good-
management thereof. and thereupon the said James Clayton together with Jesse
Drewry and James Mayet his securities entered into & acknowledged a bond in
the penalty of Ten thousand dollars conditioned as the law directs.

Attest

J. R. Edwards *clerk*

Greg.
Lew. ————— 20

Phed. Thelen

Ely. aut. M. 24 —

superior court of law & chancery for the
County of Washington pronounced at the
fall term thereof in 1847 in the case of
Ely, Complainant vs Ely and al containing
by reservation in 92. Does be at same man
or less - and bounded as follows - N. the west
by the lands of Margaret Johnson & others. North. by the lands of M. G. Ely
East. by the lands of Lucy Lowe. South. by the lands of W. D. Water & also -
and all interest & title vesting in the said Ely
by virtue of said purchase. To have and
to hold the same to him the said
R. H. Whitfield and his heirs forever -

Upon trust nevertheless that the said
R. H. Whitfield shall permit the said
J. B. Ely to remain in quiet and peaceable
possession of the said tract of land and its
appurtenances, and take the profits thereof
to his own use, until default be made
in the payment of said debt according to
the terms and directions of payment hereafter
directed by the court aforesaid. and then
upon this further trust that the said R. H. Whitfield

shall as soon after the happening of such
default of payment as shall be directed.

Sell the said land at public auction to the
highest bidder for cash. after having
fixed the time & place of sale as directed -
and out the proceeds of sale, after paying all
expenses of the trust - satisfy and discharge

The debt aforesaid - But if the whole of
said debt shall be paid off and no
default thereby be made - then this
Indenture shall be void - or else remain
in full force and virtue

Josiah P. Gay (Seal)

R. H. Whitfield (Seal)

John D. (Seal)

This Indenture made this day of 1848 Between
Jonah P Gay of the first part R H Whitfield of the second
part and Gordon of the third part all of the county
of Washington, State of Virginia. Whereas the said Gordon
by virtue of a decree of the circuit superior court of law
and chancery for the county of Washington pronounced on
the 20th day of October 1847 in the case of Eley's committee
vs Eley & al. exposed to public sale, the tract
of land in said decree mentioned - And whereas
the said Jonah P Gay became the purchaser
thereof for the sum of two hundred and ninety six
dollars - and whereas the expenses attending the sale
amounts to \$36.47. which deducted from the
sum of \$296.00 leaves a nett balance of \$259.53.
and whereas by virtue of said decree the said
Gordon is decreed to retain a lien on said
land until paid for - Now this Indenture
witnesseth that for and in consideration of the sum
of one dollar in hand paid by the said R H Whitfield
the receipt whereof is hereby acknowledged. - That the said
Jonah P Gay by these presents doth grant bargain
sell and convey unto the said R H Whitfield his
heirs and assigns a certain tract of land being the same
tract of land purchased by the said Gay by virtue
of a sale thereof conducted & made by the said
Gordon acting as commissioner by virtue
of a decree pronounced by the circuit

James Clayton } Bonds
to
Willis Eley

Jan: 20th 1879.
executed. & sent by
Hudson &

Lib

H. D. ~~Ames~~

Know all men by these presents, That we James Clayton and
Ezra S. Ely are held and firmly bound unto Willis Ely, in the
sum of Five hundred and ninteen dollars and six cents - to the
payment whereof will and truly to be made to the said Willis Ely,
We bind ourselves and each of us, and each of our heirs, executors and
administrators, jointly and severally, firmly by these presents. Sealed
with our seals, and dated this ^{20th} ~~13th~~ day of ~~October~~ ^{January} 1848

The condition of the above obligation is such, that
Whereas the above bound James Clayton Committee of the said
Willis Ely's estate has this day received from the Clerk of the
Circuit Superior Court of Law & Chancery for the County of Isle of
Wight, a bond belonging to the said Willis Ely and decreed to be delivered
to the said Clayton by the said Court on the 17th day of May, 1848
which said bond was executed by Josiah P. Gay with Ezra S.
Ely his security for the sum of \$259.53 bearing date the 26th
Novr. 1847 & payable six months after date to James M. Jordan
the Commissioner. (Now if the said James Clayton Committee
as aforesaid, after collecting the amount due by said bond and
deducting therefrom so much as may be necessary to pay
expenses of the suit & ^{share} loan the same out taking bond with
good personal, or real security, or both, then this obligation to be
void, otherwise to remain in full force and virtue —

Acknowledged before me

A. P. Young co.

James ^{his} Clayton (seal)
Ezra S. Ely (seal)