

1872-013 Chancery Causes, James W. Cook's extor vs Franklin Stearns v al

Isle of Wight County

other surnames Young,
Cooke, Goddin, Nance,
Goodwin, Mason Smith,
Goodwin, Briggs

Know all men by these presents, that we
Nathl. P. Young Executor of James W. Cook decd.
and Charles B. Hayden and William A.
Coombs are held and firmly bound unto
the Commonwealth of Virginia in the sum
of five hundred dollars; for the payment
thereof well and truly to be made to the
said Commonwealth of Virginia, we
bind ourselves and our heirs, jointly and
severally, firmly by these presents.

Sealed with our seals and dated this 24th
day of February, 1869.

The condition of the above obligation is
such that, whereas the above bound N.
P. Young as Executor of James W. Cook as
aforesaid, has obtained from Q. M. Dorman
of the City Court of the City of Norfolk, an
injunction restraining Wellington Goddin
and Eaton Howe from selling the land
in the proceedings mentioned, described
as the "Days Neck" farm conveyed by deed
of trust from James W. Cook wife to the
said Goddin & Howe as trustees, until the
further order of the court. Now, if the
said N. P. Young Executor aforesaid shall pay
all costs & damages that may accrue if
this injunction shall be dissolved, then
this obligation is to be void otherwise to
remain in full force.

N. J. Young Esq. *Recd*
C. B. Hayden - *Recd*
W. A. Womble *Recd*

Cook's Esq.
" John's Board
Steamer

By **WELLINGTON GODDIN,**
AUCTIONEER AND REAL ESTATE AGENT.

TRUSTEES' SALE
Of that Valuable
ESTATE

In Isle of Wight County,
On James River, near to Rock Wharf, on Pa-
gan Creek, called

"DAY'S NECK,"
Containing 2,121 ACRES.

By virtue of a deed of trust executed to the subscribers by the late Mr. James W. Cook and wife, bearing date on the 23d November, 1861, duly recorded in Isle of Wight County Court, to secure a debt of \$10,000, we shall, at the request of the beneficiary, in execution thereof, proceed to sell at public auction, on the premises, on

Wednesday, Feb. 24th, 1869, at 3 o'clock, P. M.,

If fair, if not, on the first fair day thereafter, that valuable estate located as above, called "DAY'S NECK," containing 2,121 acres, of which 521 acres are in marsh. It adjoins the lands formerly owned by Gen. Francis M. Boykin and others; is bounded by those lands, James River and Pagan Creek, and is near to Rock Wharf on James River. The land is regarded very valuable as a grazing farm—or for the raising of vegetables, wheat, corn and apples. There are on the estate several settlements, but the buildings are rather indifferent, also an old orchard. The admirable location of the estate presents great inducements to northern capitalists, being on navigable water, near a fine wharf, quite convenient to Norfolk, and with easy access to New York and other northern cities. This estate is peculiarly valuable for the raising of fruits and vegetables. The adjoining estate is now being cultivated by northern gentlemen, in strawberries, apples and other fruits, to great profit. The steamboat stops daily at Rock Wharf in passing up and down the river.

TERMS--One-fifth cash, balance at 6, 12, 18 and 24 months for negotiable notes, interest added, secured by a trust deed.

EATON NANCE,
W. GODDIN, } Trustees.

February 1st, 1869.

COMMISSIONER'S SALE **OF** **JAMES RIVER LAND.**

Pursuant to a decree of Greenville Circuit Court, rendered at the November term, 1870, in the suit of Cook's Ex'or v. Cook & als., the undersigned, as Special Commissioners, will offer for sale, **AT PUBLIC AUCTION**, upon the premises, on

Thursday, March 9th, 1871,

THE VALUABLE FARM

known as "DAY'S NECK," lying in the county of Isle of Wight, Virginia, and immediately on the James river,

Containing 2121 Acres,

and is a portion of the real estate of which the late James W. Cook died seized and possessed.

This Farm is admirably located, being bounded on the North, for at least two miles, by the river; on the East and South by Pagan Creek, a bold navigable stream leading to Smithfield, and on the West by the Rocks Farm of Messrs. Pierce & Lloyd. The soil is of first-rate quality, and suited to any crops. The houses are ample for the accommodation of a small family and all necessary laborers; Barns, Stables, &c., ample, Wood in abundance, and an inexhaustible supply of marl.

The fine wharf of Messrs. Pierce & Lloyd, where the river boats call daily, is within half a mile of the premises, and distant thirty miles from Norfolk and one hundred and twenty from Richmond.

TERMS.

Ten per cent. in cash; the balance in equal annual instalments of one, two, three and four years, with interest from day of sale. Bonds with security for the deferred payments, and a lien retained on the premises until the last payment is made.

N. P. YOUNG, Isle of Wight C. H., Va.
JOHN R. CHAMBLISS, Hicksford, Va.

January 20, 1871.

SUN JOB PRINT, Suffolk, Va.

WELLINGTON GODDIN,
Real Estate Auctioneer and Land Agent,
Corner Bank and 11th Streets,

Richmond, Va., 16th Feby 1869.

N. A. Young esq

Smiths^d. Isle of Wight County, Va.
Dear Sir:

Your letter of the 13th instant came duly to hand, which is the only letter rec^d. from you since you were in Richmond — Mr. Stearns is absent from Richmond, to return on Saturday night. Both him and myself will meet you at Day's Neck on We overday the 24th instant on the arrival of the Steamer, and will then confer on the sale of Mr. Cooke's Real estate. I estimate the property will bring about \$20,000 —

In haste,

Yours truly,
W. Goddin.

Exhibit - B

WITNESSES TO THE DEED

WELLINGTON GODDIN,
Real Estate Auctioneer and Land Agent,
Corner Bank and 11th Streets,

Richmond, Va., 1st. Feby 1869.

A. P. Young esq;

Smithfield, Isle of Wight County, Va.
Dear Sir:

Mr. Fr. Stearns called to see me
to day. He says that he thinks there is a fair
prospect of Days Neck being sold to advantage,
and therefore he has requested the trustees to sell
under the trust deed. Accordingly I have
fixed the sale for Wednesday the 24th of Feby.
1869 at 3 o'clock P. M. The terms are 1/5th
Cash, balance at 6, 12, 18 & 24 months, bearing
interest, sec^d. by a trust deed. Mr. Stearns desires
me to say to you that he will withdraw the
property from sale, if the last bid be not regarded
a fair price. He has no wish to sacrifice
the property. Enclosed I send you some
handbills. An adv. will be inserted in the
Whig, one of the Norfolk papers, and perhaps
elsewhere. I shall do all in my power
to attract Northern Capitalists to this sale.

Is Mr. Blackwell still on the place? If so,
do you suppose he could accommodate Mr. Stearns
and myself whilst at the sale?

Yours truly,
W. Goddin.)

By Wellington Goddin,
Auctioneer and Real Estate Agent

LARGE NUMBER OF FARMS AND

VALUABLE CITY PROPERTY FOR SALE.—I have for sale nearly ONE HUNDRED FARMS located on James river and in the counties contiguous to Richmond, of all sizes, and ranging in price from \$50 to \$100 per acre. Some of them are equal to the best estates in Virginia. The great advantages in soil, climate, minerals, water power, health, and facilities for reaching market, are unrivalled. Our land-holders are not only willing to sell at remarkably low prices, but are exceedingly anxious to do so. If the capitalists and farmers of the North will visit Virginia they will be fully convinced of these facts.

Besides the farms for sale I am authorized to sell a large quantity of VALUABLE REAL ESTATE in the city of Richmond improved and unimproved, embracing warehouses dwellings, water power vacant lots, &c.

Now that the presidential election is over, it is to be hoped that upon the advent of General Grant into power business will be revived and a demand spring up for Virginia lands.

For further particulars, call or address me at the corner of Bank and Eleventh streets, Richmond Va.

W. GODDIN,

Real Estate Auctioneer.

RICHMOND, VA., January 11, 1869. ja 11-2aw2w

W. Goddin

On the motion
of the filly.
This unit is
simplified

Entered

Leaves Exor.

21

Stearns & Co.

This cause came on this day to be again heard on the papers formerly read and was argued by counsel, On consideration whereof the Court doth adjudge order & decree That the defendants be allowed to file their answers to said bill at any time within sixty days from this date—

Leotis Exrs

n {
Stum de

Oct 11 1871

To be entered

Geo. B. B. B.

Entered 26.

attached (25 acres) on Meherrin River known as Cook's
mill, The plantation on the Low ground road containing
100 acres, The tract on the Halifax Road containing 80
acres, & all that part of Midfield tract lying East of
the Greenville & Gaston Rail Road, - These lands lie
in Greenville County & the Commissioners shall sell
the same at the Court house door of this County on
some Court day, They will sell on the premises the
plantation on James River in Isle of Wight County,
called "Days Neck", and the Commissioners are authorized
to sell days Neck privately for a price not less than
\$25000 - These lands shall be sold for 10 per cent of
the purchase money in cash, to meet expenses and
the balance on a credit of one, two, three & four years
equal annual installments, The Coms will take of the
purchaser, Bond with good personal security, bearing
interest from the day of Sale & retain the title to the
land until the purchase money shall be paid, The
purchaser of the mill may in the discretion of Coms
be required to have the property insured in some
Chartered Insurance Company on the regular term of
said Company at the expense of the purchaser & to
keep the same insured until the purchase money
is paid: The Coms will retain the bonds aforesaid required
to be taken with their ~~own~~ report to the Court,
And the Court doth further adjudge over and decree
that a Commissioner of this Court take a further
account of the transactions of N. P. Young Esq of James W.
Cook & also a further account of outstanding debts

against Said Cooks Estate & report the Same to Court
with any matters specially Stat'd down Jur'dict by
himself or required by any Party to be so stat'd.
But this decree shall be suspended until the said
Young & Chambliss Come enter into bond & Security in
the sum ^{of this Court} of Three Thousand dollars in the Clerk's
Office, Payable to the Commonwealth of Virginia,
conditioned faithfully to execute the duties required
of them by this decree.

A. Copy - Test
E. L. Turner, Clk.

Mr. Yancy will please prepare, & have
published, immediately, to sell on
1st Monday in May in Maryland
time.

Yrs. Truly

W. Chamberlayne
Nov 16th 1870

Andrew Johnson
Democratic
York Co
Pa

The Commonwealth of Virginia,

TO THE SHERIFF OF ISLE OF WIGHT COUNTY, Greeting:

We command you to summon *Franklin Stearns, Wellington*
Goddard, Eaton Rouse, Fannie M. Cook, Sally Portcock, Henry
Smith & Elmer his wife late Cook, and James W. Lewis, Geo. J. Lewis, George,
Edwin A. and Fannie Cook (the last six infants)

to appear at the Clerk's Office of the *Superior* Court of Isle of Wight County, at Rules
to be holden for the said Court, on the first Monday in *March* next, to answer

the Bill of Injunction of N. P. Young Executor
of James W. Cook decd.

a ~~plea~~ of _____ for \$ _____ Damages, \$ _____ And have then
there this writ. Witness N. P. YOUNG, Clerk of our said County Court, at the Court-
house, the *24th* day of *February* 18 *69*, in the *9th* year of
the Commonwealth.

N. P. Young Clk.

The object of this suit is to restrain the defendants Wellington Goddard & Eaton Nance from selling the land in the proceedings mentioned, known as "Dogs Neck" conveyed by James W. Cook wife to Eaton Nance & Wellington Goddard as trustees for the benefit of Franklin Stearns.

Teste J. P. Young Clerk.

Cook's Exor.

3. Sum. to ans.
3. bill and
Injunction

J. Stearns Exor.

To March 2nd 1869.

Leis. let
Hayden py.

Injunction bond & executed
Teste J. P. Young Clerk.

John D. Clarke to
for 3 to 24 May 5th

Executed by delivery a true copy of the
sums to Wellington Goddard & Franklin Stearns
on the 24th day of Feb 1869

The Commonwealth of Virginia,

Richmond City
TO THE SHERIFF OF ~~ISLE OF WIGHT~~ COUNTY, Greeting:

We command you to summon *Franklin Stearns, Wellington Goddard, Eaton Nance, Fannie M. Cook, Sally Hart Cook, Henry Smith and Elmer his wife, Kate Cook, and James W. John G. Lewis, George, Edwin A. and Fannie Cook, the last six infants*

to appear at the Clerk's Office of the *Circuit* Court of Isle of Wight County, at Rules to be holden for the said Court, on the first Monday in *March* next, to answer *the Bill of injunction of N. P. Young Executor of James W. Cook dead.*

~~upon~~ of *-----* for \$ *-----* Damages, \$ *-----* And have then

there this writ. Witness, N. P. YOUNG, Clerk of our said County County Court, at the Court-

house, the *24th* day of *February* 1869, in the *9th* year of
the Commonwealth.

N. P. Young Clk.

The object of this deed is to restrain the defendants, Wellington Wood & Eaton & Nance from selling the land, in the foregoing mentioned, known as "Nago Neck" conveyed by James W. Cook & wife to Eaton & Nance and Wellington Wood as trustees for the benefit of Franklin, Stearns.

Deed

A. D. Young & Co.

James W. Cook's exor.

Sum. to am.
Bill of ing.

Franklin, Stearns & Co.

To March Rules 1869.

Civ. Cot.

C. B. Hayden sq.

To be served on Eaton & Nance

Exhibited on Eaton & Nance March
1st, 1869 by delivering therein a copy of
the within

James W. Cook's exor.
John W. Wood & Co.

To the Honorable Richard H Baker
Judge of the Circuit Court of Law &
Chancery for the County of Isle of Wight
in Chancery sitting; Humbly complai-
ing sheweth to the Court, your com-
plainant - N. P. Young Executor of
James M Cook dead - that said testator
in his life time together with his wife Fanny
M Cook executed a Deed of Trust whereby
they conveyed a tract of land in Isle
of Wight County known as "Bay Neck"
containing & estimated Twenty Two Hun-
dred Acres (more or less) to Wellington
Lodwin & Eaton Nance — Trustee to
secure to Franklin Stearns & Co of Richmond
the sum of \$10,000.00 due said Stearns
by Bond ~~dated~~ — That said testator
by his will devised said land & all his other
real estate to his sons hereinafter named,
subject to the dower therein of his wife Fanny
M Cook - that since the death of his testator
your complainant has as Executor aforesaid
paid to said Stearns on account of said
debt the sum of \$3200.00 leaving a
balance of interest of about \$400.00 due on
said Bond & all of the principal -
said payment having been made &
your complainant since the close
of the war - that he has pledged to said

Stearns 1/2 of net income of the estate in Alabama
& the rents of the land conveyed for the
benefit of Trust amounting last year to
^{which has been paid in accordance with}
\$2400.00, & for the present year will
^{be at least} probably amount to the same ^{amount} - That
your complainant is willing ~~at once~~ if
the land is not sold to pay the balance of
interest due on said debt within sixty
days - That said Trustees have
advertised said land for sale on the
24th inst 1/5 for cash & the balance in
equal payments at 6, 12, 18 & 24 months with
interest from date as will appear from the
unreplied letter from one of said Trustees
& Exhibit (Wellington Lodwin Esq) marked A & herewith
(A) filed as a part of this bill - That as appears
from said Bill the creditor (Stearns) proposed
to withdraw said land from sale if the last
bid was not regarded as a fair price -
your complainant having expressed a
willingness to permit the land to be sold
provided it would bring the amount -
paid for it by his testator \$25,000.00 which
was \$5,000.00 less than its value - That on the
receipt of said letter your complainant -
under the advice of counsel, wrote said
Trustees to learn what he considered a fair
price for said land on default of which
being bid said land would be withdrawn

Exhibit

B

, your complainant decided in reply the following
letter from which it appears that it is not-
expected of said ^{my interest} Trustee, ^{that said land} will bring more
than \$ 20,000 - that a sale at such a
price would be meritorious to your testator's
estate - that if sold at a fair price your
testator's estate would be relieved from
its encumbrances - that if the other property
of your testator's estate could be sold at a
fair price (which with some indulgence
as to time your complainant believes will
be practicable) the lands under said
Trust deed could be saved for the benefit
of the devises of the same - that a sale of
said land in the present condition of the
finances of the country for a fair price
your complainant believes impracticable -
would seriously injure your testator's
estate, especially if sold as proposed 1/5
for cash - that your complainant claims
that said land originally consisted of
five distinct farms & ~~could~~ conveniently
be cut up into four or five distinct tracts
would if so sold more probably bring its
Market value - that said land is richly
worth thirty thousand dollars at least &
probably forty thousand & was valued at the
last named sum by its former owner the
late Honorable John Mason - that said

Trustee as appears from the terms of said ^{proposes}
advertisement contained in letter A ^{To Sell}
the whole of said tract instead of so
much thereof as will pay the debt of
\$10,000.00 & interest accrued thereon of
\$400.00 & thus needlessly sacrificing
from 1/2 to 2/3 of the estate to the injury of
the widow who is entitled to dower in the
surplus - to the injury of the devisees of
said land & to the injury of the other
creditors of said estate, on whose behalf
a suit is pending for the sale of said
land if such sale should prove necessary -
In tender consideration whereof & as
much as your complainants are
without remedy at law & can only be
relieved by the aid of this Honorable Court -
where matters of this sort are cognizable;
to this end your complainant prays, that
the aforesaid Franklin Stearns, Wellington
Godwin & Estow Name Trustees as
aforesaid Fanny McCook, Sally Hart Cook,
Henry Smith & Eliza his wife late Cook,
James W Cook, John J Cook Lewis Cook,
George Cook, Edwin L Cook, & Fanny Cook
beneficiaries under the will of said testator, the
last six of whom are infants; & some one appointed
their guardian ad litem to defend them in
this suit, may be made parties defendant to

this bill, & be required to answer the same -
that the said Wellington Goodwin ^{Goodwin} & Eaton
& Vance ——— Trustees as aforesaid be
restrained & enjoined from selling the land
aforesaid in accordance with the terms of said
advertisement & from selling at all, except on
more extended credit & ~~on~~ such convenient
parcels as will more readily meet the present-
stringent Money Market & only so much
thereof as will be sufficient to meet-
the amount due under said Trust Deed -
& that such other & further relief may be
granted as to the Court may seem meet-
& as may comit with the equity of the case
& your Complainant will ever pray -

Hayden pr

State of Virginia

File of Night County, to wit:

J C B Hayden a Notary
Public for the County aforesaid certify that -
& P Young party Complainant to the foregoing bill
personally appeared before me in my said County
made oath to the truth of the statements contained
in said bill - Given under my hand as
Notary aforesaid this 23^d day of February 1869 -
C B Hayden

To the Clerk of the Circuit Court of
Isle of Wight County State of Virginia.

An injunction is awarded according
to the prayer of the bill to restrain the

Defendants Wellington Goddard &
Eaton Nance from selling

the land in the bill mentioned until
the further order of the court

in case that the complainant

A P Young is true for being
in the Clerk's office of the Court

there enters into a Bond with suffi-
cient security in a penalty of \$500.00

payable to the Commonwealth of Virginia

conditioned to pay all costs and an award

that may be awarded
of this injunction should be dissolved.

July 23rd 1869 -

Wm. Dorman

Young Exor. of Goddard
vs. Bill of injunction

J. Thomas Jrs.

July 24th 1869, Recd. &
filed - Bond of? and bond
with exp. - if paid.

March recd. - sent. exp. on
Thomas, Nance & Goddard &
set for hearing as to them.

May 1869 - Bond.

Oct. 1869 - Bond.

May 1870 - Bond.

Oct. 1870 - Bond.

Apr. 1871 - Bond.

Oct. 1871. Secured to file ad.

same filed Sep. 8. Bond

Oct. 1872 Dismissed

Judge C. C. Norfolk

Attest