

1872 - 061 Chancery Causes: Nancy L. Eley, by & C vs Margaret Eley, widow / Samuel W. Eley & al 42

Isle of Wight County

42 Ely by next freight

87. } Bill in Chy.
Ely.

March 1st. 1832

Bill, and t. filed &
inty. decr. by insent.

Nov. 1852 report of sale
filed.

Month 1853 add. rpt.
of sale further.

May 2^d 1862 decr. for
debt to be made to, purchaser

June 6. 1853 report of
Sale made. P.

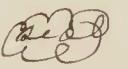
amongst those intitled, who are your complainant the said Nancy E, Alice Ann,
John M, & James M Cley; she further charges, and so believes, and is informed,
that her Mother the said Margaret the widow of their late father, has never
as yet had her dower (which she is intitled to by the law of this land)
assigned her in said real estate, but that said Margaret is willing
either to take the interest on one third of the purchase money during
her natural life, or to take such a sum in absolute fee simple as
this Worshipful Court may allow her, in lieu of her said dower,
In tender consideration whereof, And for as much &c., To the end therefore
your complainant prays, that the said Margaret, James Merit,
Alice Ann, and John M Cley, may be made parties defendants to
this bill and be compelled to answer the same as fully as if they
were thereunto specially interrogated, on their several corporal oaths
(except the said James Merit) and that by an order of your Wor-
ships a Guardian ad litem, may be appointed to answer for the
Infant defendants to this Bill who are the said James Merit, John
M, and Alice Ann Cley, And that your Worships will grant a
decree authorizing a sale of said real estate and a division
of the proceeds thereof amongst those intitled, upon the principles
of equity and of this Bill, And ascertain, and fix upon, the sum
to be allowed the said Widow (Margaret) in lieu of her said dower
therein, And grant the Court. &c.

Attest &c. atts for Complt.

The answer of Mrs. Margaret Cley, widow of Samuel W Cley dec'd, to
a Bill filed in the Court for Isle of Wight County, At her & others,
by Nancy Lavinia Cley ~~and~~ infant &c who sues by Margaret Cley
her next friend,

This respondent saving &c; for answer to so much of
said Bill as she is advised it is material for her to answer; answers, and
says, that she is the widow of said Samuel W Cley dec'd, and
has never as yet had her dower in the real estate of her said hus-
band assigned to her, that she is willing to relinquish her dower
therein provided the Court will allow her to a sum equal to the
then dower therein That she is between 35 & forty years of
age healthy and of a tolerably long lived family

that she thinks the sale asked for by the complainants Bill will
be to the interest of all parties, and heartily concurs therein, that she
believes the facts set forth in complainants Bill are true so far as
she knows or believes: and having Answered prays hence to be
dismissed &c.

Margaret ~~W~~ Cley — 
mark

Isle of Wight County to wit:

This day Margaret Cley personally appeared
before me a justice of the peace for said county and made oath that
the facts in her answer above contained, are true so far as she knows
or believes: Given under my hand & seal this 27th day of
February 1852.

M. Wombles 

To the Worshippful the justices of the court for Sale of weigt county in Chancery sitting

Humbly complaining shewith unto your worships, your complainant Nancy S Eley an infant under the age of 21 years, to wit. about 18 years, who sues by Margaret Eley her next friend, That sometime in the year 1843 or 4, her father the late Samuel W Eley of said County, departed this life, intestate, and seized and possessed of a small real and personal estate, and leaving as his heirs and distributees at law, his Widow the said Margaret, your complainant, and three other children to wit, Alice Ann, James Merit, & John M Eley all of whom are infants under the age of 21 years ~~of age~~ over 14 except the said James M who is under that age; That Robert Pope

Qualified on the estate of her father the said Samuel W Eley as will appear by an office copy of the certificate granted by this Court for that purpose which is herewith filed as a part of this Bill, that it is believed he has paid all the debts which was owing by his intestate, That the personal estate of your complainant her brothers and sisters is very small in fact nothing

That the real estate which they inherited from their said father consists of a small tract of land situated in said County near Eley's mill containing by estimation 75 acres and bounded by the lands of George W & Edmund S Eley and others and is worth in absolute fee simple about \$200. and from the dilapidated condition of the fences and buildings yields no yearly income or rent, My our complainant therefore charges that there has never as yet been a partition of said real estate amongst those intitled, but that the same remains as at the time of their father's death, She further charges that it is greatly to her interest that a partition or division thereof should ^{now} be made, also that as the tract of land is so small (75 acres) and of such little value, that it would be to the interest of all parties that it should be sold, and the proceeds of sale, divided

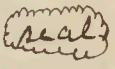
The joint and several answers of Alice Ann, John M, James
Meritt Cley infants of Samuel W Cley decd by N. P. Young their Gu-
ardian ad litem, to a Bill filed in the Court for sale of ^{the County} ~~the~~ ^{to them} ~~to them~~
and others by Nancy Lavinia Cley who sues by Margaret Cley her next
friend. These respondents by N. P. Young their Guardian
ad litem, for answer to sc. answer and say, that they are infants
under the age of 21 years, and for the protection of their rights
beg leave to place themselves under the control ^{and protection} of this Worshippful
Court: ~~and~~ ^{and having answered} pray hence to be dismissed with sc.

N. P. Young gon. ad litem

Infants Answer

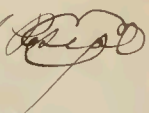
The joint and several answers of Alice Ann and John M Eley, infants of Samuel W Eley decd. To a Bill filed in the court for Sale of Wight county vs them & others, by Nancy L Eley who sues by Margaret Eley her next friend.

These respondents saving, and reserving to themselves, and to each of them, all &c: For answer to so much of said Bill as they are advised it is material for them to answer; Answer and says, that they are above 14 years of age: and as far as they are capable of judging of the force of the reasons urged in said Bill for a decree authorizing a sale of the land in the Bill mentioned, and the other matters therein asked for, and of comprehending all the facts & inducements relating and leading thereto. They believe that the said reasons are true, just and proper, and that the proposed sale &c. will be unquestionably for the interest of themselves and others. And therefore they cordially unite in the prayer of the complainant for the decree asked for: and having answered pray hence &c.

Alice Ann ^{her} Eley 
John M ^{his} Eley 

Isle of Wight County to wit:

Alice Ann and John M Eley two of the infants of Samuel W Eley decd. personally appeared before me a justice of the peace for the said county and ^{severally} made oath, that the facts in their answer above contained ^{"& sealed"} are true as far as they know or believe: Given under my hand, this twenty seventh day of February 1852

M. Womble 

Nancy L. Ely pr. for

3^d copy Dec. 18.

Margaret Ely to 3.

J. P. Gay comm.

M. Bond returned
12. 24.

In conformity to the arrears order bearing date March 1st 1852
I did obedience thereto after giving thirty days notice as the order
directs Sell to the highest bidder the land named in said order
at the Court house of Isle of Wight County on the 3 day of May
1852 (it being Court day) and Benjamin Whitehead being the
highest bidder became the purchaser for the sum of one
hundred and thirty six dollars and from him I recd the
sum of twenty one dollars and eighty cents in cash which
was claimed for the expenses of the suit and sale - and
then I took from him five bonds each bond amounting to
twenty two dollars and eighty four cents ^{the months after date} to which bonds he gave
Samuel Whitehead and Solomon Barr his security for the true
payment thereof - I have also withheld the deed as a
lien on the land until the money is paid on further
order of the Court - all of which is respectfully
Submitted by your Commissioner

Cash \$21.80

Josiah P. Gay

For Court 1852

\$ Bonds 22.84 1/4 20
amt. sale 136.00

In the County Court of Isle of Wight, March 1st 1852
Nancy S. Ely an infant, suing by Margaret Ely her
next friend Complainant

Against

In Chancery

Margaret Ely, James Mont Ely, Alex and John M. Ely
the last three infants of said Ely Decd Defendants

On the motion of the Complainant, A. J. Young is
appointed guardian ad litem to defend the infant
defendants in this suit. And this cause was this
day docketed and came on to be heard by consent
of parties, upon the bill, answers & filed, and was
argued by Counsel; And Consideration whereof the Court
doth adjudge, order and decree that Josiah P. Gay
who is hereby appointed a Commissioner for that
purpose, sell in a credit of six months (except so
much as may be necessary to pay the expenses of suits
and sale, which shall be for cash) to the highest bidder
at the Court house of said County, after giving thirty
days notice of the time and place of sale, the land in
the bill mentioned, lying in the said County, containing
seventy four acres, by estimation, and bounded by the land
of Solomon Barr, James S. and George R. Ely. That he
take five bonds with approved security for the purchase
money, and retain or leave them to secure the same
and that he make report to this Court in order to a
final decree on the premises. But before this decree shall
be of any effect, the said Commissioner shall enter into bond
in the Clerk's office of said County in the penalty of \$400.
with ample security, conditioned as the law in such case
directs.

Asdy

Cash \$15.00

Teste

M. J. Young Co.

Benj. Whitehead

In conformity to an order bearing date March 1st 1852 - & the report made thereon. I omitted to mention that the said tract of land named in said ~~title~~ ^{deed} was first purchased by Mills Hatchell, and he failing to comply with the terms of sale he having bid the sum of \$140 - the land was afterwards sold and purchased by the person and for the sum ~~named~~ in said Report - the difference between the first and last sale was \$4 - which sum has since been paid by me and which I now hold to the order of the Court - all of which is most respectfully submitted. Given under my hand this 7th day of March 1853 -

Jos. P. Gay Com^r

M.

Cley t.

m. { Com. Report

Cley's

June 6. 1833 filed

In conformity to an order of the Hon^l Court of Sol^g
Wright pronounced at its May Term 1853 - in the case
of Eay v. Eay & others -

I made to Benja Whithead a
deed for the tract of land as the order directs he having
paid me the purchase money and in further execution
of said order, I paid over to Eliza Margaret Eay the widow
of Sam^l Eay dec^d the sum of \$25.54 cts, which she
was entitled in fee simple, she having joined me in
the deed mentioned, I then paid over to Josiah P.
Gay - Guardian to Nancy L. Inf. M. Alice Ann. and
James M. Eay orphans of the said Sam^l Eay dec^d the
sum of \$94.56 cts. which amount equally divided
between them makes \$23.54 cts each one is entitled
to. all of which is Respectfully submitted to the
Court

Josiah P. Gay Comm^r
Land Oct 1853

Dear

to be interest

Eley by next friend

Eley

Plff.

In Chancery

Defts

On motion of the Complainant N. P. Young is appointed guardian ad litem to defend the infants defendants in this suit, and this cause was this day docketed, & came on to be heard by consent of parties, upon the Bill answers &c filed, and was argued by counsel On consideration whereof the Court doth adjudge order and decree that Josiah P. Gay who is hereby appointed a commissioner for that purpose sell on a credit ^{except so much as may be necessary to defray the expenses of suit &c} of six months ^{which shall be the highest bidder} to the highest bidder at the court house of said county, after giving thirty days notice of the time and place of sale, the land in the Bill mentioned lying in the said county containing 75 acres (by estimation) and bounded by the land of Solomon Carr, Exum & George W. Eley, that he take 5 bonds with approved security for the purchase money, and retain a lien thereon to secure the same that he make report to this Court in order to a final decree in the premises; But before this decree shall be of any effect the said commissioner shall enter in bond in the clerks office of said county in the penalty of 400 dollars with ample security conditioned as the law in such cases directs

Eley by next friend

vs

Eley + Others

This cause came on this day to be again heard upon the papers formerly read, and the reports of Commr. Gay &c, and no exceptions having been filed there to, it is ~~therefore~~ further ordered and decreed by the court that the said reports be and the same are hereby confirmed and it is further ordered by the court that the said Commr. ~~execute~~ execute a deed to the purchaser upon the payment of the purchase money thereof that he pay over ~~the sum which~~ to Josiah P Gay who has ^{been appointed} ~~for such purposes~~ this day, qualified as guardian, ~~to~~ (and given security as the law in such cases directs) To Nancy Savina, John M, Alice Ann, and James M Eley the sum of twenty three dollars and sixty four cents ~~that~~ that being the sum to which they are lawfully entitled, and it is further ordered by the court that the said Commr. pay over to the said Margaret Eley, widow of said Samuel M Eley the one fifth of the purchase money arising from said sale (\$33.64 cts) in fee simple, in lieu of her dower in said tract of land upon her joining in or executing a deed to the purchaser conveying in to him her dower right there in, and that he — make a report to this ~~just~~ court in order to a final decree in the premises

Aug 1st fo.

(21) 3 Com. Bonds

Aug 1st.

Shew all men by these presents, that we Josiah P. Gay and
Thomas Hall are held and firmly bound unto
the Commonwealth of Virginia in the sum of four hundred
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, admors,
administrators, jointly and severally, firmly by these presents,
Sealed with our seals and dated this day of
1852. The condition of this obligation is such, that if
the above bound Josiah P. Gay, who by decree of the County
Court of Isle of Wight, pronounced on the 1st day of March
1852 in the suit of Mary C. Eley p^r friend against Margaret
Eley & others, is appointed a commissioner to sell the land
in said decree mentioned & other lands for the proceeds
& make report &c, shall faithfully discharge the
duties imposed on him or commit a fraud on said
the said decree, then this obligation is to be void
or else to remain in full force.

Witness
J. H. Boykin S. C.

Josiah P. Gay Seal
T. Hall Seal