

1908-021 Chancery Cause: Mary Emily Swattney, gdn VS Nonnie Reuben Swattney v ux v al

Isle of Wight County

other surnames: Barlow,
Crocker, Little

Sam'l H. Edwards Jr. 9p.

Mary Emily Gwaltney, et als.

vs. Bill in chancery

Gwaltney, et als.

Filed Aug 22^d 1900

2^d August rules 1900
sum executed on all adult
defendants and decree nisi as to
them. W.L. Folk appl. for addition

1st September rules 1900
Bill filed. Infant answer filed
defendants disclaimer filed and
case set for hearing

Dep 29th 1900 vacation de. for adls
Oct: term 1900
Do to sed honor E.

Final Decree June 1, 1908

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low, who was Gwaltney, and J. P. Barlow her husband; Rosa May Gwaltney, and Willis Monroe Gwaltney, the last two being infants under the age of twenty one years, be made parties defendant to this bill, and required to answer the same, an answer on oath is hereby waived. That a guardian ad litem be appointed to defend the interests of said infants in this cause, who shall also answer this bill, that said timber be sold. That if it should appear best that the said real estate be divided between the several parties entitled thereto, that your complainants portion thereof be allotted to her, and in case said real estate cannot be divided in kind that the same be exposed to sale and the proceeds of such sale be divided among the parties entitled thereto; that the said guardian be permitted to use that portion of the money belonging to the said wards in their education and maintenance; that if this does not seem proper, then that their money be invested under order of this court; that proper process issue, that the interests of all parties in the said lands and sale of said timber be ascertained; that all such orders and decrees may be entered, and all such accounts and enquiries be directed, taken, stated and reported to court, as the nature of this case may require. That a reasonable fee be allowed counsel in this cause, and that all such other, further and general relief may be afforded your oratrix as the nature of her case may require, or to equity and good conscience may seem meet.

And your oratrix will ever pray, etc.

Mrs. Mary Emily Gwaltney
in her own right and as administratrix
Samuel H. Edwards Jr. for Rosa May and
Willis Monroe Gwaltney.
Summ'd and returned
before me this 18th day of Aug.
1900. Samuel H. Edwards Esq. in Chancery

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Your oratrix further states that the said real estate is, as she believes, susceptible of partition among the parties thereto, but if it be not, then your complainant desires the same to be sold, and the proceeds divided among the adult and infant parties, according to their respective rights, the shares of the infants to be held as directed by the statute in such cases made and provided. Should the property not be divisible in kind, your complainant believes, and here states, that the interest to those who are entitled to share in the said real estate, or its proceeds, will be promoted by a sale of the whole, or by an allotment of part and sale of the residue.

Your oratrix says that there is some pine timber on said tract of land, which, at this time, will sell for as much as the land and timber both will sell for when there is no special market for said timber. Your oratrix thinks that a sale of said timber down to twelve inches on the stump will promote the interest of the said infants, for the following reasons:

1st. That there is a saw mill now in operation near the said land and that the owner of the said mill desires to purchase the said timber, and has made an offer for same.

2nd. That if said timber is not sold now, or some time in the near future, that there will be no saw mill near by, and hence no immediate market for said timber, it being a long distance from any line of transportation.

Your oratrix says that the rights of no one will be violated by a sale of said timber.

For as much as your oratrix is remediless, save in this honorable court, where such matters are alone and proper cognizable, she prays that the said Nonnie Reuben Gwaltney and Irie Olive Gwaltney, his wife; Virginia W. Bar-

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To the Honorable Robert R. Prentis, Judge of the Circuit
Court of the County of Isle of Wight, Virginia:

Complaining, sheweth unto your honor, your oratrix,
Mary Emily Gwaltney, in her own right, and as guardian of
Rosa May Gwaltney and Willis Monroe Gwaltney, infants under
twenty one years of age, that at the August term of the
County Court of Isle of Wight County, 1900, she quallified
as guardian for said wards; that they own no property at all,
except an interest in a certain tract of land, lying, be-
ing and situate in the County of Isle of Wight, in the State
of Virginia, said to contain one hundred and forty (140)
acres, moreor less, and which adjoins the lands of J. H.
Barlow, Richard Clayton, Daniel Crocker, J. D. Gray and
others; said interest being a ^{half} ~~two thirds~~ interest in the
whole of the said one hundred and forty acres, of which
Willis R. Gwaltney died, siezed and possessed, and which
at the death of the said Willis R. Gwaltney, deceased, de-
scended to his four children, Virginia W. Barlow, who was
gwaltney; Nonnie Reuben Gwaltney; Rosa May Gwaltney; and Wil-
lis Monroe Gwaltney; subject, however, to the dower interest
of the said Mary Emily Gwaltney, widow of the said Willis
R. Gwaltney, deceased, which said dower interest has been
heretofore assigned by commissioners appointed by the County
Court of the said County .

Your oratrix says that by deed bearing date on the
22nd. day of October, 1898, Virginia W. Barlow, who was
Gwaltney, and J. P. Barlow her husband, conveyed to your
oratrix all of her right, title and interest in law and in
equity, whether vested or contingent, in and to the said tract
of land of which the said Willis R. Gwaltney died, siezed
and possessed, a copy of which said deed is herewith filed,
marked exhibit "A", and prayed to be read as a part of this
bill of complaint.

Grothness, John & Co.

vs. J. In Chancery

Grothness, et al.

Disclaimer of Virginia

W. & J. P. Barlow

Filed August 28th 1900

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The disclaimer of Virginia W. Barlow and James P. Barlow, her husband, to a bill in equity exhibited against them and others in the Circuit Court of the County of Isle of Wight, by Mary Emily Gwaltney, Guardian, et als.

These defendants for answer and disclaimer to the said bill say that it is true, as charged in the said bill, that by deed dated the 22nd. day of October, 1898, we conveyed all of our interest in said land as described in our said deed to Mary Emily Gwaltney and we do not now know or believe that we have any right, title or interest in or to the said estate and premises in the said bill set forth, or any part thereof; and these defendants do disclaim all right, title and interest to, or in the said estate and premises, and every part thereof; and prays to be dismissed with their costs in this behalf expended.

V. W. Barlow
J. P. Barlow

COUNTY OF ISLE OF WIGHT, TO WIT:

This day, personally appeared before me, the undersigned, a Commissioner in Chancery for the county aforesaid, Virginia W. Barlow and James P. Barlow, her husband, and made oath that the statements made in the foregoing answer and disclaimer, so far as made, of their own knowledge, ^{are true, and so far as made from knowledge} or information derived from others, they believe them to be true.

Given under my hand this 28th day of August, 1900.

Samuel H. Edwards
Comm. in Chancery

Swathney et als

adv. }

ANSWER
OF
INFANT DEFENDANT.

Swathney's heirs, et als

Filed August 28th 1900

In the Circuit Court for the County of Isle of Wight,
to wit:

THE ANSWER OF Rosa May Swalley and Willis Monroe
Swalley

infants under the age of twenty-one years, by William L. Folk
guardian *ad litem*, assigned to defend them in this suit, to a bill of complaint exhibited against
them and others in the Circuit Court for the County of
Isle of Wight, by Mary Emily Swalley et al and others.

The respondent, reserving to themselves the benefit of all just exceptions to the said bill, for
answer thereto, answering by said guardian *ad litem*, say that they are infants of tender
years, and by reason of such disability are incapable of understanding, or of taking care of their
rights and interests, they therefore commend the same to the protection of the court, and pray that
no decree may be pronounced which will tend to their prejudice.

And having answered, the respondents pray to be hence dismissed with their reasonable costs,
in this behalf expended; and they will ever pray, &c.

W. L. Folk Guardian *ad litem*.

p. d.

State of Virginia
OF
County of Isle of Wight } ss.

This day, Wm L. Folk, whose name is signed to
the foregoing answer, personally appeared before me, A. S. Barrett
and made oath that the statements made therein, so far as they depend upon his own knowledge, are true,
and so far as they depend upon knowledge derived from others he believes them to be true.

Given under my hand, this 23rd day of August 1891

A. S. Barrett J.P.

Mary Emily Guathney et al

vs.

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SUBPOENA
IN
CHANCERY.

Guathney et al

✓ J. H. Edwards p. q

To 2^d August Rules,
Exempt Court.

1900

B 3119

~~Executed by serving copies
on Mary E. Guathney et al
Aug 17th 1900~~

~~R. A. Edwards S. J.~~

~~By C. H. Chapman for Deputy~~

Executed Aug 17, 1900 By serving
copies on Annie Beards Guathney, Vir-
ginia W. Beards, Virginia W. Beards, R. A.
Beards

R. A. Edwards S. J.

By C. H. Chapman for Deputy

The Commonwealth of Virginia,

To the Sheriff of the County of Isle of Wight, Greeting:

WE COMMAND YOU that you summon

*Norma Reubin Gwaltney &
Irie Olive Gwaltney his wife, Virginia W. Baulow and
J. P. Baulow her husband, Rosa May Gwaltney and
Willis Monroe Gwaltney the last two being infants under
the age of twenty one year*

to appear at the Clerk's office of the *ancient* Court of the *county* of *Isle of Wight*
at the rules to be held for the said Court, on the *3* Monday in *August* 190*0*,
to answer a bill in chancery, exhibited against *them* in our said court ~~for~~

*by Mary Emily Gwaltney in her own right and
as guardian of Rosa May Gwaltney and Willis Monroe
Gwaltney.*

And have then there this writ. Witness NATHANIEL F. YOUNG, Clerk of our said court, at
the court-house, the *15th* day of *August* 190*0*, and in the 12*5*
year of the Commonwealth.

N. F. Young

Mary E. Gwaltney &c. et. als.

vs.

Gwaltney et. als.

Report of Commissioner Wm.S.

Holland under a decree of Sept.

29th 1900.

Filed October 12 th 1900.

A. J. Young Clerk

Circuit Court.

Windsor Sta., Oct. 5th, 1900

To Mary Emily Gwaltney, in her own right and as guardian of Rosa May Gwaltney and Willis Monroe Gwaltney, Nonnie Ruben Gwaltney and Irie Olive Gwaltney, wife of Nonnie Ruben Gwaltney, and W.L. Folk guardian ad litem for Rosa May Gwaltney and Willis Monroe Gwaltney, infants under the age of 21 years:

You are hereby notified that I have fixed upon the 10th day of October 1900, if fair, if not, on the next fair day hereafter, (Sunday excepted) to take and settle, at Isle of Wight Court House, the following enquiries and accounts:

- 1st-- Whether the interest of the parties of this suit, and especially the infants defendants, will be promoted by a sale of the saw-mill timber upon the lands in the bill and proceedings of this suit mentioned, separate and apart from the sale of the said lands, in the event partition of the same cannot be conveniently be had in kind?
- 2nd-- Whether the offer made to buy the timber on said land is reasonable and fair, what said offer is, and whether the confirmation of the said proposition to buy would promote the interest of the infant defendants, and if so, then to enquire and report whether the right of any party in interest would be violated thereby?
- 3rd-- Whether the said lands in the bill and proceedings of this suit mentioned can be conveniently divided in kind among the parties entitled thereto without loss or injury to the said parties, and if incapable of division in kind without loss or injury to the parties entitled thereto, whether any party will take the said lands and pay to the other parties such sums of money as their interest may entitle them, or whether the interest of the parties will be promoted by a sale of the said lands or allotment of part and sale of the residue?
- 4th-- The liens upon said lands, if any, including delinquent taxes, which accounts the said Commissioner shall take, settle and report to court, with any matter specially stated, deemed pertinent by himself or required by any of the parties to be so stated and it appearing to the court from the disclaimer of Virginia W. W. Barlow and J.P. Barlow, that have no interest in the subject matter of this suit, it is ordered that they be dismissed as parties defendant, with their costs in this behalf expended, required to be taken by the decree of the Circuit Court, rendered on the 29th day of September 1900, in a suit in chancery depending in said court, between Gwaltney et. als. vs. Gwaltney et. als.; at which time and place you are required to attend.

Given under my hand, as Commissioner in chancery of the said court, the day and year first aforesaid.

Wm S. Holland

Commissioner In Chancery.

I have, accept service of above notice.

Oct 10th 1900

W.L. Folk.

*Guardian ad litem for
Rosa May Gwaltney &
Willis Monroe Gwaltney*

The following is a list of interrogatories agreed on by the guardian ad litem, W.L.Folk et. als. vs. Gwaltney et. als. ^{in the suit of May E. Gwaltney & c.}

Upon which evidence may be taken in this case in accordance with section 2619, Code of Virginia 1887.

- Q. 1. State your name, age, residence and occupation and whether you are related to any of the parties in this suit or have any interest therein?
- Q. 2. Are you well acquainted with the land of which W.R. Gwaltney died seized and possessed mentioned in the bill and proceedings of this suit, and if so, what would you think is a fair valuation for all the saw-mill timber standing, lying and being on the North side of the enclosed land 12 inches in diameter on the stump and upward?
- Q. 3. Do you think the interest of the infant defendants would be promoted by sale of the said timber, and if so, why?
- Q. 4. It appearing from the bill that the widow of the said W.R. Gwaltney has had her dower in ^{said} ~~same~~ land assigned to her, that said widow has bought the interest of one of the four children of the said W.R. Gwaltney deceased, and that there are three children, each owning a fourth interest in said tract of land subject to the widow's dower. Now do you think that said tract of land could be divided in kind among the parties thereto entitled, and please state the reason on which your opinion is based?
- Q. 5. Please state what is the annual and fee-simple value of the tract of land subject to the widow's dower, which has been assigned her?
- Q. 6. Do you know from your own knowledge that any of the parties in interest would be willing to take this land and pay to the other parties in interest a reasonable price for their shares, and do you know of any pending offer for the timber?

W.L. Folk Guardian ad litem

Q. 6

Do you know from your own knowledge that any of the parties in interest would be willing to take this land and pay to the other parties in interest a reasonable price for their shares, and do you know of any pending offer for the timber?

A.

My answer to both of these questions is "no" I have heard of an offer for the timber sometime ago, but I do not know that the parties would now take the timber at that price or indeed at any price.

R. D. Crocker
Messrs. T.J. Little and N.R. Gwaltney first being duly sworn deposes and say: they have heard read and repeated the foregoing interrogatories, and that answer thereto of ^{N.R.} ~~W.D.~~ Crocker, I fully concur with his evidence except that Mr. T. J. Little says that he is 30 years old, and resides about two miles from the farm in question, and N.R. Gwaltney says that he is one of the parties to the suit that he is interested therein, and that he is 24 years old, and resides on the farm in question.

T. J. Little
N. R. Gwaltney

I hereby certify that the foregoing depositions were duly taken before me at Isle of Wight Co. Va. on the 10th day of October 1900.
Given under my hand as Commissioner of the Circuit Court of Isle of Wight County. This
10th day of Oct 1900

Wm S. Halland

would not sell to advantage unless there was a saw-mill conveniently located, and

- (2) The small lot of timber on the South side of the farm, and what would be left, under 12 inches in diameter on the North side of the farm would be sufficient for the purposes of the farm, and that in a few years after the timber was cut and carried away the land would sell for almost as much as if the timber had not been sold therefrom. If sold now I think it would sell for more by selling the timber and land separately.

Q. 4 It appearing from the bill that the widow of the said W.R.Gwaltney has had her dower in ^{said} ~~same~~ land assigned to her, that said widow has bought the interest of one of the four children of the said W.R.Gwaltney deceased, and that there are three children, each owning a fourth interest in said tract of land subject to the widow's dower. Now do you think the said tract of land could be divided in kind among the parties thereto entitled, and please state the reason on which your opinion is based?

A. It could be divided, but owing to the situation of the land and number of shares, each share when so divided would be practically worthless, or would be very much diminished in ~~the~~ valuation, and I think that if the land is to be divided at all, it would be decidedly to the interest of all parties interested therein, that the same should be sold and the proceeds of sale divided instead of the land.

Q. 5 Please state what is the annual and fee-simple value of the tract of land subject to the widow's dower, which has been assigned her?

A. I think it would rent for \$60.00 per year, not more than that if the renter was required to keep the place in as good order as when he first took it, and \$1000.00 for the fee-simple value subject to the widow's dower.

Mary Emily Gwaltney et. als.

vs.

Gwaltney et. als.

The depositions of R.D.Crocker, T.J.Little and N.R.Gwaltney taken before me, a Commissioner in Chancery of the Circuit Court of Isle of Wight county this 10th day of October 1900.

R.D. Crocker

Mr. ~~W.R. Gwaltney~~ being first duly sworn in answer to interrogatories deposes and says:

Q. 1 State your name, age, residence and occupation and whether you are related to any of the parties in this suit or have any interest therein?

A. My name is R.D.Crocker, I am 35 years old, farmer by occupation and reside in Isle of Wight county on a tract of land adjoining the tract of land in the bill and proceedings mentioned. I am not related to any party in the suit, and I have no pecuniary interest in the subject matter of the suit.

Q. 2. Are you well acquainted with the land of which W.R. Gwaltney died seized and possessed mentioned in the bill and proceedings of this suit, and if so, what would you think is a fair valuation for all the saw-mill timber standing, lying and being on the North side of the enclosed land 12 inches in diameter on the stump and upward?

A. I am well acquainted with the tract of land, and I think the timber is worth \$600.00.

Q. 3 Do you think the interest of the infant defendants would be promoted by sale of the said timber, and if so, why?

A. I think it would be a benefit to the infant defendants for the reasons following:

(I) That there is a saw-mill now conveniently located which probably will not be there more than a year or so, that the timber is a long distance from any transportation line, and

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dower, that N.R.Gwaltney owns a one fourth interest therein subject to said dower and said lien, that the infant defendants, Rosa May Gwaltney and Willis Monroe Gwaltney, ^{each} likewise owns one fourth interest in said tract of land subject to the said dower. Your commissioner being by the plaintiff in this suit ^{so required} further reports that the annual value of the said tract of land subject to said dower is sixty (60) dollars, and that the fee-simple value thereof likewise subject to said dower is one thousand (1000) dollars. And being so required by the plaintiff in this suit, your commissioner made due inquiry ^{further} and reports that the value of the saw-mill timber on the North side of the enclosed lands on the farm in the bill and proceedings mentioned twelve inches in diameter and upwards on the stump is worth six hundred dollars, and that if the said timber can be sold for that price it will promote the interests of all parties concerned and will violate the right of no one concerned.

Given under my hand, as commissioner aforesaid, the 10th day of October 1900.

Wm S. Hollond

Time employed by the commissioner in issuing notices, taking evidence, making examinations and preparing this report twelve (12) hours. Commissioner fee charged to the plaintiff is nine (9) dollars.

Wm S. Hollond Com.

of land divided or sold at this time. Should it become the wish of any party to have partition or should the court be disposed to order partition of the said tract of land, then it ought to be sold and the proceeds of sale distributed under orders of court, that no party will take the land and pay to the other party in interest a reasonable sum of money for their shares or interest. Your commissioner being informed that it is not the desire of any of the parties to sell the said land at the present time cannot say that their interest will be promoted such a sale in the near future, but he reports that it would be impracticable to allot a part of the tract and sell the residue thereof. As before stated your commissioner is of opinion clearly that if partition is to be had it should be had by a sale of the whole tract of land subject to the dower therein of Mary Emily Gwaltney the widow of W.R.Gwaltney deceased, which has been duly assigned to her under proceedings heretofore had before the commencement of this suit in the County Court of said Isle of Wight county. Reporting on the fourth enquiry which is in words and figures as follows: " The liens upon the said land, if any, including delinquent taxes, with any matter separately stated deemed pertinent by himself or required by any of the parties to be so stated." Your commissioner says that he finds there is a lien upon the interest of N.R.Gwaltney in said tract of land created by a deed of trust, made by said Mary Emily Gwaltney, widow of W.R.Gwaltney deceased, and N.R.Gwaltney to Thomas J.Little trustee, to secure to A.R. & N.O.Gwaltney the payment of the sum of two hundred (200) dollars, with interest thereon from the 22nd day of October 1898 till paid, which deed of trust is duly recorded in the Clerk's Office of the County Court of Isle of Wight county, in Deed Book No. 63 at page 218, and that there is no other lien on said land or any interest therein, that there are no delinquent taxes, that said tract of land is owned by said widow whose dower has been assigned to her and who has by deed, the original of which is filed in the papers of this cause, and marked exhibit "A", bought of Virginia W. Barlow and her husband a one fourth interest therein subject to said

from the sale of the said land, in the event that partition of the same cannot be conveniently had in kind?" That the land in the bill and proceedings mentioned cannot be divided in kind, that it would promote the interest of all the parties, including the infant defendants, to sell the saw-mill timber 12 inches in diameter and upward on the stump ^{on} ~~and~~ that part of the tract of land lying North of the enclosed portion of the said tract, thereby leaving a small lot of timber for farm purposes on the South side of the enclosed part of the land.

Your commissioner responds to the second enquiry which is in words and figures as follows: " Whether the offer made to buy the timber on said land is reasonable and fair, what said offer is, and whether the confirmation to said proposition to buy would promote the interest of the infant defendants, and if so, then to enquire and report whether the right of any party in interest would be violated thereby?" That there was produced before your commissioner no sufficient proof of any offer for the said timber, that if said timber could be sold for a fair price the right of no party in interest would be violated.

Your commissioner reports in response to the third enquiry which is in words and figures as follows: " Whether the said lands in the bill and proceedings of this suit mentioned can be conveniently divided in kind among the parties entitled thereto without loss or injury to the said parties, and if incapable of division in kind without loss or injury to the parties entitled thereto, whether any party will take the said lands and pay to the other parties such sums of money as their interest may entitle them, or whether the interest of the parties will be promoted by a sale of the said lands or allotment of part and sale of the residue?" That the said tract of land cannot be divided in kind among the parties entitled thereto without serious loss and injury, but your commissioner is informed that it is not the wish of any of the parties to have the said tract

Isle of Wight Court House Oct. 10th, 1900.

To the Circuit Court of Isle of Wight county.

Pursuant to a decree of the Circuit Court of Isle of Wight county, rendered on the 29th day of September 1900, in a suit in chancery depending in the said court between Mary Emily Gwaltney in her own right and as guardian of Rosa May Gwaltney and Willis Monroe Gwaltney vs. N.R. Gwaltney and Irie Olive Gwaltney his wife, ^{Rosa May Gwaltney & Willis Monroe Gwaltney} the last two being infants under the age of 21 years, the undersigned one of the commissioners of the said court, to whom was referred for enquiries and accounts, by said decree, the following, reports to the court, that on the 5th day of October 1900, he issued notices against the several parties aforesaid, including W.L. Folk guardian ad litem of Rosa May Gwaltney and Willis Monroe Gwaltney, required them to attend the taking of the said enquiries and accounts, before him, at the Court House of Isle of Wight county on the 10th day of October 1900, which notices were returned to your commissioner duly executed. That several of the parties aforesaid appeared ~~in~~ before your commissioner in obedience to said notices, that your commissioner at the time and place last aforesaid examined on oath and upon interrogatories agreed upon by the said guardian ad litem the following; namely: R.D. Crocker T.J.

Little and N.R. Gwaltney whose testimony, and a list of interrogatories, ^{and the evidence} taken as aforesaid, at the time and place aforesaid ^{are} ~~is~~ herewith returned along with this report, and that your commissioner further made a personal examination of the records in the Clerk's Office of the Court and Circuit Courts of the said Isle of Wight county and upon said testimony, the examination of the said records and information within the knowledge of your commissioner, he begs to answer the first enquiry in said decree which is in words and figures as follows: "Whether the interest of the parties to this suit, and especially ~~the~~ infant defendants, will be promoted by a sale of the saw-mill timber upon the land in the bill and proceedings of this suit mentioned, separate and apart

Swallow, et al.

vs. } In Chancery

by Swallow, et al.

Decree

To be entered

Entered Sept 29, 1900
Robert R. Harris

the interests of the infant defendants, and if so, then to enquire and report whether the right of any party in interest would be violated thereby?

THIRD- Whether the said lands in the bill and proceedings of this suit mentioned can be conveniently divided in kind among the parties entitled thereto without loss or injury to the said parties, and if incapable of division in kind without loss or injury to the parties entitled thereto, whether any party will take the said lands and pay to the other parties such sums of money as their interest may entitle them, or whether the interests of the parties will be promoted by a sale of the said lands or allotment of part and sale of the residue?

FOURTH- The liens upon the said lands, if any, including delinquent taxes, which accounts the said Commissioner shall take, settle and report to Court, with any matter specially stated, deemed pertinent by himself or required by any of the parties to be so stated; and it appearing to the Court from the disclaimer of Virginia W. Barlow and J. P. Barlow, that they have no interest in the subject matter of this suit, it is ordered that they be dismissed as parties defendant, with their costs in this behalf expended.

Robert R. Prentiss

Judge of the Circuit Court of Isle of Wight County, Virginia.

To the Clerk of the Circuit

Court of Isle of Wight County.

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In the Clerk's Office of Isle of Wight County Circuit Court this 1st. day of October 1900, the foregoing vacation decree was received and entered of record.

Teste, N. F. Young, Clerk.

By

Wm. J. Young

D.C.

In the Circuit Court of Isle of Wight County in vacation
on the 29th. day of September 1900.

Mary Emily Gwaltney, in her own right and as guard-
ian of Rosa May Gwaltney and Willis Monroe Gwaltney,
vs.

Nonnie Reuben Gwaltney and Irie Olive Gwaltney, his wife,
Virginia W. Barlow and J. P. Barlow, her husband, Rosa
May Gwaltney and Willis Monroe Gwaltney.

This cause came on this day to be heard on the
bill duly sworn to and taken for confessed as to Nonnie
Reuben Gwaltney and ^{Irie Olive Gwaltney his} wife, two of the adult defendants,
who have been duly summoned to answer, ~~they still failing~~
to appear, plead, answer or demur, upon the disclaimer and
answer of Virginia W. Barlow and J. P. Barlow, her husband,
this day filed by leave of Court, and upon the answer of
^{Rosa May Gwaltney and Willis Monroe Gwaltney,}
the infant defendants by Wm. L. Folk, their guardian ad
litem, duly assigned at Rules, this day filed by leave
of Court, with general replication thereto, and upon reas-
onable notice to ^{the defendants} ~~all parties~~ of ^{the complainants} ~~her~~ intention of applying
for this decree, and was argued by counsel:

On consideration whereof, the Court doth adjudge,
order and decree, that a Commissioner of this Court as -
certain and report to the next term of this Court:

FIRST- Whether the interests of the parties to this suit,
and especially the infant defendants, will be promoted
by a sale of the saw-mill timber upon the lands in the
bill and proceedings of this suit mentioned, separate and
apart from the sale of the said lands, in the event that
partition of the same cannot conveniently be had in kind?

SECOND- Whether the offer made ~~in the bill~~ ^{what said offer is,} to buy the tim-
ber on said land is reasonable and fair, and whether the
confirmation of the said proposition to buy would promote

GWALTNEY, GDN. ET ALS.

VS.

GWALTNEY, ET ALS.

DECREE

To be entered Octo-
ber 22nd. 1900.

Arthur H. H. H.

law, and conditioned for the faithful performance of his duties under this and all subsequent decrees. And the said Commissioner shall make report to Court.

~~Judge of the Circuit Court of Isle
of Wight County, Virginia.~~

Gwaltney, Gdn., etc.

vs.

Gwaltney, et als.

This cause came on this day to be again heard on the papers formerly read, and on the report of Commissioner Wm. S. Holland, filed herein on the 12th. day of October 1900, to which no exception has been filed, and was argued by counsel.

On consideration whereof the Court doth adjudge, order and decree, that said report of Commissioner Holland be, and the same is hereby, confirmed.

And the Court doth further adjudge, order and decree, that Sam'l. H. Edwards, who is hereby appointed a special commissioner for that purpose, proceed to sell the ^{pine, oak and poplar} saw-mill timber twelve inches in diameter and upward on the stump, on that part of the ^{described in these proceedings,} said tract of land lying North of the enclosed portion of the said tract, ^{to be cut and removed from the premises within 18 months from the date of} at public auction, at Isle of Wight Court House, on some Court-day, after having advertised the time ^{place} and terms of the sale for at least fifteen days by printed hand bills posted at three or more public places in said County, on the following terms, to-wit: for ^{one third} ~~cash as to so much as may be necessary to pay the costs of suit and sale and the liens on the share or shares, of any party in interest,~~ and the balance on a credit of six months from date of sale, with the privilege to the purchaser to pay all in cash, but in case the purchaser does not pay all in cash, then he shall give bond with good personal security, bearing interest from date of sale for the deferred payment, But the said commissioner shall not do anything under this decree until he shall have entered into bond before the Clerk of this Court in the penalty of \$ 900.- with security by the said Clerk deemed sufficient, payable according to

The commissioner of the court

Virginia M. & J. S. Jordan

DEED OF

BARGAIN AND SALE.

Mary E. Swathing

October 22^d 1898

Presented in Office, and with

certificate, admitted to record at

o'clock M.

Clerk.

Recorded Deed Book 6B

Page 218 and

\$175

Fee, - - \$1.25
Tax, - - 50

paid

Mary E. Swathing
widow of W.R.
Swathing dec'd
and Annie R.
Swathing
to

Mrs J. Little Turner
to secure A R &
A. O. Swathing
the sum of \$200.00
with interest thereon
from 22nd day of
October 1898
till paid -

Annie R. Swathing
is a third party

State of Virginia,

County of Isle of Wight to-wit:

I, Wm S. Hall and, a commissioner in Chancery
in and for the Circuit Court

for the County aforesaid, in the State of Virginia, do certify that
Virginia W. Barlow and James P. Barlow

whose names are signed to the foregoing writing,
bearing date on the 22nd day of October 1898, have acknowledged the same
before me in my County aforesaid.

Given under my hand this 22nd day of October 1898.

Wm S. Hall and
Comm. in Chancery

MEMO.—To be acknowledged before any officer authorized to take acknowledgments.

County of Isle of Wight To-wit:
In the Office of the Clerk of the County Court,
for the County of Isle of Wight at the 22nd day
of October 1898. This deed was presented and
with the certificate annexed and the
requisite N. S. Res. Stamp for thereon properly
cancelled admitted to record

Teste: N. J. Youngs Clerk
by J. R. Latimer D. C.

In the office of the Clerk of the County Court,
for the County of Isle of Wight at the _____ day of _____
189____. This deed was presented, and with the certificates annexed
admitted to record at _____ o'clock _____ M.

Teste:

Clerk.

This Deed, Made this 22nd day of October in the year one

thousand eight hundred and ninety-eight, between Virginia W. Barlow
who^{was} hwallney and James P. Barlow her husband
parties of the first part, and

Mary E. Hwallney widow of Willis R. Hwallney deceased
party of the second part—

WITNESSETH: That in consideration of the sum of two hundred
Dollars, cash in hand paid the
receipt whereof is hereby acknowledged

the said Virginia W. Barlow and James P. Barlow
her husband

do grant unto the said Mary E.
Hwallney

with GENERAL WARRANTY, all

the right, title and interest of every kind in law
and in equity whether now vested or con-
tingent of the said parties of the first in and
to all the estate real, personal and mixed
of the said Willis R. Hwallney deceased including
one farm situate in Isle of Wight County in the state
of Virginia, containing 140 acres more or less, sale
and conveyance and not by the acre, and which
adjoins the lands of J. H. Barlow, Richard Clayton,
Daniel Cracker, J. D. Gray and others, and includes
farming implements, household and kitchen furniture,
one horse, one cow and many other articles
of personal not enumerated. This deed is intended
to convey absolutely all the estate inherited by said Virginia W.
Barlow from her father, the said Willis R. Hwallney deceased.

The said Virginia W. Barlow and James P. Barlow
covenant that they have the right to convey the said land to the grantee; that they have done
property interest in land + other property property
no act to encumber the said land; that the grantee shall have quiet possession of the said land, free from
all encumbrances, and that they, the said parties of the first part, will execute such further assurance
of the said land as may be requisite.

Witness the following signature and seal.



Virginia W. Barlow
James P. Barlow



Received by arriving to the within
 named N R Swadlow Jrice O. Swadlow
 Virginia to Barlow J. O. Barlow and
 a true copy of the within notice
 Sept. 26th 1900.

Ro, A. Edwards
 Shff.

18-10-1900
 18-10-1900

H. Swadlow, et al.
 comes to the aid of the fully Swadlow, Swadlow, etc. as. Notice
 of Swadlow, in Swadlow, for a decree, for interest and ac-
 the Swadlow Court of the County Office of W. H. H. in the Town
 and at the Office of the Honorable Robert H. Swadlow, Judge of
 please take notice that on the 23rd day of September, 1900, I shall

Swadlow.

Swadlow, and H. T. Swadlow, Swadlow, et al. as. Notice
 to Swadlow, Swadlow, Swadlow, et al. as. Notice

To Nonnie R. Gwaltney, Virginia W. Barlow, and J. P. Barlow, her husband, and W. L. Folk, Guardian ad litem of Willis Monroe and Gwaltney.

Please take notice that on the 29th. day of September, 1900, I shall apply at the Office of the Honorable Robert R. Prentiss, Judge of the Circuit Court of the County of Isle of Wight, in the Town of Suffolk, in vacation, for a decree, for interrogatories and accounts in the suit of Mary Emily Gwaltney, Guardian, etc. vs. Nonnie R. Gwaltney, et als.

Mary Emily Gwaltney
by David H. Edwards
att'y

[Faint, illegible handwritten text, likely bleed-through from the reverse side of the page.]

I hereby accept and agree
of within notice

W L Dock

Madison, as title
of

Ac 13d June 1918
Wm Dock
for sale

82
To Nonnie R. Gwaltney, Virginia W. Barlow, and J. P. Barlow, her
husband, and W. L. Folk, Guardian ad litem of Willis Monroe and Rosa
May Gwaltney.

Please take notice that on the 29th. day of September, 1900, I shall
apply at the Office of the Honorable Robert R. Prentiss, Judge of
the Circuit Court of the County of Isle of Wight, in the Town
of Suffolk, in vacation, for a decree, for interrogatories and ac-
counts in the suit of Mary Emily Gwaltney, Guardian, etc. vs. Nonnie
R. Gwaltney, et als.

Mary Emily Gwaltney et al.

By Saul H. Edwards
her atty.

I hereby accept due and legal
service of within notice, this 14th day
O Cto 1900
Mary Emily Swartz
By Saml H. Edwards her
Attorney

the day and year first aforesaid.

Given under my hand as Commissioner in chancery of the said court,
required to attend.

Wm. H. Smith vs. Wm. H. Smith et al.; at which time and place you are
September 1900, in a suit in chancery depending in said court; between
as taken by the honor of the Circuit Court, reported on the 28th day of
Respondent, their costs in this behalf expended, required to
of this suit, it is ordered that they be dismissed as parties de-
and J.P. Barlow, that they have no interest in the subject matter
appearing to the court from the Dissolution of Virginia W. Barlow
himself or required by any of the parties to be so stated; and it
to court, with my master specially stated, hereby permitted by
which appoints the said Commissioner shall take, settle and re-ent
The there upon said lands, if any, including delinquent taxes,
and sale of the residue?

Will be promoted by a sale of the said lands or allotment of part
interest may entitle them, or whether the interest of the parties
lands may pay to the other parties such sums of money as their
parties entitled thereto, whether any party will take the said
and if incapable of division in kind without loss or injury to the
also entitled thereto without loss or injury to the said parties;
said mentioned can be conveniently divided to kind among the par-
Whether the said lands will be sold and proceeds of this
or the right of any party in interest would be affected by the sale
the instant Respondents, and if so, then to explain and report upon
tion of the said opposition to say would promote the interest of
reasonable and fair, what said offer is, and whether the conditions
Whether the offer made to buy the timber on said land is
the exact location of the same cannot conveniently be had in it? If
separated and apart from the sale of the said lands, in
further upon the lands in the bill and proceedings of this suit.
the instant Respondents, will be promoted by a sale of the said
or the right of any party in interest would be affected by the sale

[illegible]

Exempted by delivering to Norman R. Gwathney
 & Mrs. Alice Gwathney each a copy of the
 notice Oct 6th 1900.

Re. A. Edwards. P.H.H.
By C.H. Chapman Jr Deputy

Windsor Sta., Oct. 5th, 1900.

To Mary Emily Gwaltney, in her own right and as guardian of Rosa May Gwaltney and Willis Monroe Gwaltney, Nonnie Ruben Gwaltney and Irie Olive Gwaltney, wife of Nonnie Ruben Gwaltney and W.L.Folk guardian ad litem for Rosa May Gwaltney and Willis Monroe Gwaltney, infants under the age of 21 years:

You are hereby notified that I have fixed upon the 10th day of October 1900, if fair, if not, on the next fair day thereafter, (Sunday excepted) to take and settle, at Isle of Wight Court House, the following enquiries and accounts:

- 1st-- Whether the interest of the parties to this suit, and especially the infant defendants, will be promoted by a sale of the saw-mill timber upon the lands in the bill and proceedings of this suit mentioned, separate and apart from the sale of the said lands, in the event partition of the same cannot conveniently be had in kind?
- 2nd-- Whether the offer made to buy the timber on said land is reasonable and fair, what said offer is, and whether the confirmation of the said proposition to buy would promote the interest of the infant defendants, and if so, then to enquire and report whether the right of any party in interest would be violated if this
- 3rd-- Whether the said lands in the bill and proceedings of this suit mentioned can be conveniently divided in kind among the parties entitled thereto without loss or injury to the said parties, and if incapable of division in kind without loss or injury to the parties entitled thereto, whether any party will take the said lands and pay to the other parties such sums of money as their interest may entitle them, or whether the interest of the parties will be promoted by a sale of the said lands or allotment of part and sale of the residue?
- 4th-- The liens upon said lands, if any, including delinquent taxes, which accounts the said Commissioner shall take, settle and report to court, with any matter specially stated, deemed pertinent by himself or required by any of the parties to be so stated; and it appearing to the court from the disclaimer of Virginia W. Barlow and J.P. Barlow, that they have no interest in the subject matter of this suit, it is ordered that they be dismissed as parties defendant, with their costs in this behalf expended. required to be taken by the decree of the Circuit Court, rendered on the 29th day of September 1900, in a suit in chancery depending in said court, between Gwaltney et. als. vs. Gwaltney et. als.; at which time and place you are required to attend.

Given under my hand, as Commissioner in chancery of the said court, the day and year first aforesaid.

W. S. Hall and

Commissioner In Chancery,