

1878-003

Nansemond Co. (Suffolk)

Chancery Causes: Mary E. Nelms vs Mills Rogers Sr et al

Eley, Bunting,

CHANCERY SUMMONS.

**The Commonwealth of Virginia,**

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Mills Rogers, Sr. Julius*  
*F. Eley and Mary C. his wife, and John R. Bunting, an*  
*infant, under twenty-one years of age,*

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be  
held for the said Court, on the first Monday in *March* next, to answer a  
*Bill in Chancery, exhibited against them*  
in the said Court by *Mary E. Nelson, to subject her dower land to*  
*sale.*

and have then and there this Summons. Witness, PETER B. PRENTIS, Clerk of our said  
Court, at his office, this *13th* day of *February* 1878, in the *102nd*  
year of the Commonwealth.

Teste:

*Peter B. Prentis* Clerk.

Executed & copy of the will delivered to Miller  
Rogers son, of F. Eley and Mary C. his wife  
and John J. Bunting J. L. Fulgham Shuff

Willy. B. 9

Mary C. Melvins

at Sum's in Chy.

Miller Rogers, Sr. & Co.

To. Monck P. 1878

Pro: B. 1878. Aug 1. 1878

Cur: Co.

Mary E. Selms

vs.

Mills Rogers & als.

On motion of The Plaintiffs  
by counsel, it is ordered that  
this cause be dismissed.

Helms

vs.

Rogers &als.

Stausd. County  
Circuit Court  
order

To be entered

Geo. B. Snow,

Entered O. B. No. / p. 402

To the Circuit Court of Wandsworth County, Va:

The answer of John R. Bunting, an infant, under twenty-one years of age, by Peter B. Prentiss, his guardian ad litem to a Bill in Chancery exhibited against him and Mills Rogers, Sr. Julius E. Eley and Mary C. his wife and John J. Bunting, in the said Court, by Mary E. Velms.

This Respondent says, that the facts set forth in said Bill are, so far as he knows or believes, true: but, being an infant, under the age of twenty-one years, and ignorant of his rights, he submits the same to the Court, and prays, that no order or decree may be made in the premises, inconsistent with his rights.

Signed,

Peter B. Prentiss:

Gdn: ad litem.

Mary E. Nelson

<sup>11</sup>  
25 { answer of Defendant  
deft

Mills Rogers, Jr: Sol

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Virginia:

At Rules, held in the Clerk's Office of the Circuit Court  
of Hanover and County, on Monday the 4th: day of  
March, 1878.

Mary E. Nelsons.

Complainant.

vs J. Chy. Notes

Mills Rogers, Sr. Julius F. Eley and Mary C.  
his wife; John J. Bunting and John R. Bunting  
the last one, being an infant, under twenty-one  
years of age.

Defendants.

On the motion of the Complainant, by Counsel, Peter B. Prentiss  
is appointed guardian ad litem to the infant defendant, in  
this suit; and it is ordered, that notice be given the said  
guardian of his appointment, by serving on him a copy of this order.

Jos. W.

Peter B. Prentiss, Clerk

1878. March 4th: I acknowledge service of the foregoing  
order, and that I have received a copy thereof.

Peter B. Prentiss.

Gdn: ad litem

Mary E. Nelson

vs { order apptg grn:  
ad litem

Mills Rogers, Sr. & al:

acres, more or less, situated in  
Chuckatuck District, Fauquier  
County Va., and bounded on the  
North and East by Western Branch  
or Milner's Creek and Scott's Creek,  
on the South by the lands of Geo. M.  
Gay and on the West by the lands  
of Alex. W. Oliver, being a part of  
the land formerly owned by James  
M. Belms, and that said Com-  
missioner ascertain and report <sup>to Court</sup> the  
fee-simple value of said land  
filing with his report such proof  
or testimony as he may take and  
giving his reasons for such em-  
clusion as he may reach, together  
with such facts as he may deem  
pertinent or necessary,

And that said Commissioner as-  
ertain and report to Court, who  
the parties are, owning interests in  
said land and the nature and  
kind of interests of said parties,

And said Commissioner will make  
report to Court of his proceedings  
under this decree.

Helms

vs.

Rogers & als.

This cause came on this day to be heard on the Bill of the Complainant and Exhibits filed with said Bill, and the answer of the adult defendants and the answer of the infant defendant by his guardian ad litem, Peter B. Prouty's duly appointed for him with general replication to said answers and was argued by Counsel.

On consideration whereof the Court doth adjudge order and decree that a commissioner of this Court proceed to inquire and report to Court whether the interest of John R. Bunting an infant under twenty-one years of age will be promoted and whether the rights of any person will be violated by a sale and the investment of the proceeds of the sale of the dower land of said Mary E. Helms, being one hundred and twenty-five (125)

Mary E. Helms

vs. } Chy.

Rogers & als

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Hausemond County  
Circuit Court

April Term 1878

Decree

To be entered

Aelms

vs.

Rogers & als.

The joint and several  
answers of <sup>Mills Rogers & J. J. Rogers</sup> Julius F. Cley and Mary  
C. his wife to the Bill of Complaint  
exhibited against them in the Circuit  
Court of Staunton County, Virginia,  
by Mary E. Aelms, Complainant.

For answer to said Bill, or such  
parts thereof as they are advised it is  
necessary for them to make answer to,  
these defendants say that they are  
personally cognizant of the facts and  
statements as set forth in said Bill,  
that the same are true to the best of  
their knowledge and belief, that they,  
so far as they are interested or em-  
cerned, consent, and hereby express  
their consent, to a sale of said land  
and all estates therein, in said Bill  
mentioned and described, and to an  
investment of the proceeds of the sale  
as prayed for in said Bill, believing,  
as they do, that said sale and invest-  
ment will be promotive of the interests  
and to the advantage of all parties  
emcerned. And now having

answered fully the Complainants Bill,  
these Respondents pray hence to be dis-  
missed &c

Mills Rogers<sup>vs</sup>

John J. Bunting

Julius L. Eley

Mary C Eley

Adams

vs.

Rogers & als.

Answers of adult  
defendants.

**This Deed,**

made the 10th day of December

in the year of our Lord, one thousand eight hundred and seventy-seven (1877) between

Thomas W. Nelms

of the county of Nansemond

and State of Virginia, of the one part, and

Mills Rogers, Sr

of the same place

of the other part, witnesseth: That the said Thomas W. Nelms

in consideration of the sum of Two Hundred and fifty (250) dollars do hereby grant with general warranty, unto the said Mills Rogers, Sr.

and to his heirs and assigns, forever, the following real estate, to wit:

all his the said Thomas W. Nelms' reversionary right, title and interest, both at law and in equity (being an undivided third (1/3)) of in and to a tract, piece or parcel of land, situate, lying and being in Chuckatuck Magisterial District, Nansemond County aforesaid, containing One Hundred and twenty-five (125) acres more or less, and described as follows: Beginning at the Mill Creek, running up the Spring Bottom, with the lane to the out gate, with a chopped line to the Billy Nelms Tract, and thence to the Western Branch Creek: The said tract of land being now held, by Mary E. Nelms, as and for her dower, in the lands of her late husband, James E. Nelms, and which was assigned to her, by Commissioners appointed by decree of the County Court of Nansemond County, made at the April Term thereof, 1868, in the Chancery Cause of Thos. W. Nelms vs Mary E. Nelms (widow) & others - whose Report was confirmed by Final Decree of the July Term, 1871 of said Court

together with all and singular the appurtenances belonging to the same.

And the said Thomas W. Nelms

covenants that he has the right to convey the said land to the grantee: that the said grantee shall have quiet possession of said land; that he has done no act to encumber the said land; and that he will execute such further assurances of the said land as may be requisite.

Witness the following signature and seal:

Thomas W. Nelms [SEAL.]

Witnesses:

IN THE CLERK'S OFFICE of Nansemond County Court, the 10th day of

December 1877. This Deed was

presented and acknowledged by Thomas W. Nelms

to be his act and Deed. And the said

being examined

by me, privily and apart from husband, and having said Deed fully explained to

acknowledged that had willingly executed the same and wished not to retract it. Whereupon

said Deed is admitted to record.

Teste,

Peter B. Prentiss Clerk.

Nansemond Co. Co.  
Clerk's Office  
Feb: 22<sup>d</sup>. 1878

A Copy. Teste,

Peter B. Prentiss. Clerk

Thomas W. Nelson

To } Copy Deed  
Mills Rogers, Sr:

"Exhibit B."

At a Monthly Court held for Nausemond County, the 13th.  
day of April, 1868.

Thomas W. Nelms. . . . . Complainant.

against { In Chancery

Mary E. Nelms (widow) and Ann  
Missouri Nelms and Mary Catharine  
Nelms: The last two, infants. . . . . Defendants.

This Cause came on this day to be heard on the Bill of the Com-  
plainant taken for Confessed, as to the Defendant, Mary E. Nelms,  
who had been duly served with process, and she still failing to  
answer, and on the answer of the infant Defendants, by their guardian  
ad litem, and on general replication to said answer, and was  
argued by Counsel: On Consideration whereof the Court doth  
adjudge, order and decree, that George W. Bunting, Archibald  
Nelms, John P. Johnson and Robert Bartlett, be, and they are hereby  
appointed Commissioners for that purpose, any three of whom may  
act, assisted by a Competent Surveyor, if they shall desire such  
aid, proceed to set apart and assign unto said Mary E.  
Nelms (widow) for her Dower therein, One third in value, having  
regard to quantity and quality, of the lands whereof James  
M. Nelms died seized, described as a tract of land in  
Nausemond County, containing Seven hundred and fifty acres,  
more or less, and adjoining the lands of Euclid Borland  
(late George Godwin's), the James Green farm and others, and  
the Southern fork of the Western Branch, and the balance  
of said land, then divide in Three equal parts in value, and set  
apart and assign unto Thomas W. Nelms, the Complainant,  
one part, and to each of the Defendants, Ann Missouri (and

Mary Catharine Nelms, one part; and make Report to Court.

A Copy:

Teste,

Peter B. Prentiss Clerk

To the County Court of Nauseland County:

The Undersigned, Commissioners, appointed by a Decree of said Court, made on the 13th day of April, 1868, in the Cause therein pending, wherein Thomas W. Nelms is Complainant, and Mary E. Nelms (widow) and Ann Missouri Nelms and Mary Catharine Nelms: The last two, infants, are Defendants, beg leave to report, that we met on the premises referred to in said Decree, this day, and proceeded to execute said Decree, and we assigned to said Mary E. Nelms, widow of James M. Nelms deceased, for life, one third in value, having regard to quantity and quality, of the lands whereof her husband, the late James M. Nelms died seized, as and for her dower therein, and which dower is described as follows: One Hundred and twenty-five (125) acres of land, more or less: Beginning at the Mill Creek, running up the Spring Bottom with the lane to the out gate, with a Chopped line to the Billy Nelms tract, thence to the Western Branch Creek.

We then set apart and assigned, in fee-simple to Thomas  
W. Helms, One Hundred and Seventy-five<sup>(175)</sup> acres of land,  
more or less, lying on the West side of the lane leading to the  
house and adjoining the lands of Dr. Euclid Berland and the Green Farm.  
We then set apart and assigned unto Ann Missouri

Helms, Two Hundred (200) acres of land, more or  
less, in fee-simple, known as the "Billy Helms" tract,  
including all the land on the West side of what is  
called the "Dirty Swamp," extending to the lane.

We then set apart and assigned unto Mary Catharine  
Helms, Two Hundred and fifty (250) acres of land, more  
or less, taking all the land on the East side of the "Dirty  
Swamp," known as the "Sykes Tract," to the Mill Swamp,  
including the "Babb Tract," adjoining the lands of Joseph  
Saunders, Robert J. Bartlett and others.

Respectfully submitted

April the 25th. 1848

G. W. Bunting  
Archibald Helms  
John P. Johnson  
Robert Bartlett  
Commissaries

a Copy:

Jesse,

Peter B. Prentiss. Clerk

Thomas W. Helms

vs { Copy Decree  
Comms. Report

Mary E. Helms (widow) & al.

"Exhibit A."

To Hon. Geo. Blow, Circuit Court Judge in  
and for Staunton County, Virginia

Humbly complaining respectfully  
represents and shews unto Your Honor.  
Your Complainant, Mary E. Selus, widow of  
James M. Selus deceased,

That by a decree of the County Court of  
Staunton County, Virginia, pronounced  
on the 13th day of April 1868 in a cause in  
Chancery in said Court depending between  
Thos. W. Selus, Plaintiff, and Mary E. Selus  
(Your Complainant) and Ann Missouri and  
Mary C. Selus, Defendants, Geo. W. Bunting  
Archibald Selus, John P. Johnson and Robert  
Bartlett were appointed Special Commissioners  
to set apart and assign unto Your Com-  
plainant one-third in value of the lands  
of which her late husband, said James M.  
Selus died seized and possessed, as and  
for her dower in all his lands; That in  
pursuance of said decree, said Com-  
missioners did on the 25th day of April 1868  
set apart and assign, of said lands, to  
Your Complainant, as and for her dower  
aforesaid, one hundred and twenty-five (125)  
acres, more or less, situated in Chucka-  
tuck District, Staunton County, Va.  
and bounded, at present, on the North

and East by Western Branch or Milners Creek and Scott's Creek, on the South by the lands of Geo. M. Gay and on the West by the lands of Alex. W. Oliver, - all of which will appear by proceedings had in said cause, - a copy of said decree and Report, duly certified, being herewith filed as part of this Bill and marked "Exhibit A."

Your Complainant says that said James M. Selms, her late husband, died on the 16 day of April 1865 leaving as his heirs at Law, his children, Thos. W. Selms, Ann Missouri, now deceased, late wife of John J. Bunting, and Mary C. wife of Julius F. Eley; that said Ann Missouri has since died, leaving as her heir at law her infant son, John R. Bunting; and that said Thos. W. Selms has since sold and conveyed his fee-simple interest in said land assigned to Your Complainant as donee aforesaid, to Mills Rogers Sr. - as will appear by a duly certified copy of the deed from said Thos. W. Selms to said Rogers conveying said interest to the latter, filed herewith as a part of this Bill and marked "Exhibit B."

That, at present, the fee-simple owners of said land, subject to Your Complainant's dower, are said Mills Rogers, Sr. Mary C. wife of Julius F. Eley and said infant John R. Bunting; that, after the termination of said dower, said John J. Bunting is entitled to an estate by the curtesy in the fee-simple interest of his said son, John R. Bunting, in said land:

Your Complainant further says that she has had possession of said land assigned to her as dower aforesaid, ever since the same was assigned to her, that she has been scarcely able during that time, to maintain and support herself with the small profits and products from said land and is now unable to do so; that she is poor and needy and unable properly to cultivate said land or to maintain and support herself by the cultivation thereof, or to keep it in proper order and prevent it from depreciating; that the condition of said <sup>land</sup> is not improved from year to year, but on the contrary is growing worse and worse, Your Complainant being unable to improve or enrich it and keep it from depreciating; that, if it should

be sold and the proceeds of the sale invested for said fee-simple owners and the interest thereon paid to your Complainant, she would receive a larger income, and better support than said land affords her and she would be able to live and maintain herself with less expense and outlay and more comfort than at present with said land in her hands; that after paying expenses and various charges required to cultivate said land and keep it even in an imperfect condition for cultivation she has nothing left of the profits and income from said land; that she can find a home with relatives, where she can live with but little expense.

Your Complainant charges, therefore, that said land should be sold, that a sale is manifestly to interest of all parties concerned, that a sale now would secure a larger price for said land than at any time hereafter, that the proceeds of the sale should be invested for said fee-simple owners to be paid to them after the termination of said dower, and that ~~said~~ the interest or income from said proceeds

should be paid to Your Complainant, so long as she may live.

In consideration whereof, Your Complainant, being without remedy save in a Court of Equity, prays that said Mills Rogers Sr. Julius F. Eley and Mary C. his wife, and John J. Bunting and John R. Bunting, the last one being an infant under twenty-one years of age, may be made parties defendant to this Bill and be required to answer all the allegations contained herein, the adults in their proper persons and the infants by his guardian ad litem to be appointed for him; that said adult defendants may specially be required to say in their answers, whether they consent to a sale of said land and all estates or interests therein and whether a sale thereof will or will not be to the interests and advantage of all parties interested; that a Commissioner of this Court may be required to ascertain who the owners or parties having interests in said land, are, and the nature and kind of interests or estates held by them, and also whether a sale of said land and estates therein will be to the interest and advantage of said infant, John R. Bunting; that said land and all estates therein may

be sold and the proceeds of the sale invested  
and the interest thereon or income therefrom  
be paid periodically to your Complainant  
during her lifetime. And that all further  
and adequate relief may be granted con-  
sistent with Equity, and as in duty bound.  
Your Complainant will ever pray &c.

Mary E. Helms  
By attorney.

Wm. H. P.

Mary E. Helms

vs. } Bill

Rogers & als.

Mary E. Nelson

vs { Chy. Notes

Mills Rogers, Sr: vs: Cal.

1878. Feb 13<sup>th</sup> Sumd. in Chy: joined to March Rules, 1878.

" March 4<sup>th</sup>: Bill & filar - answer of adult defendants

& genl. application thereon - Peter B. Prentiss  
apptd genl. ad litem to the infant deft, & filed  
his answer to which there was a genl:  
Depln: & cause set for hearing, on mov: of  
Comptt's Counsel.

" Apl: 15<sup>th</sup>: Continued

Chy: Notes

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