

1882-010
Nansemond Co. (Suffolk)

Chancery Causes: R. Frank Rogers et al vs Mills Rogers Jr et al

Baker, Byrd

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Mills Rogers, Jr. and Sarah E. his wife, and Lulie R. Byrd, Sarah Anna Byrd, Alexander H. Byrd, Jesse H. Byrd and Julius J. Byrd: the last-five named, being infants, under the age of twenty-one years,*

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 R. Frank Rogers and Alice E. his wife, and Benj. F. Baker and Ida V. his wife,

and have then and there this Summons. Witness, PETER B. PRENTIS, Clerk of our said Court, at his office, this *16th* day of *February* 18*82*, in the *106th* year of the Commonwealth.

Teste:

Peter B. Prentis. Clerk.

Executed and copies of the within address to Miller
Rogers for Mr. Sarah E. his wife, each.
J. W. Ferguson, S.W.

Wilbur J. Kilby, p. 9

R. Frank Rogers & wife & al.

vs { Sam^r in Chy

Miller Rogers, Jr: & wife & al.

To March Rules, 1882

No. 13. No. 1. Page
Cir: Cir

Virginia:

At Rules, in the Clerk's Office of the Circuit
Court of Hanseman County, on Monday,
the 6th day of March, 1882.

R. Frank Rogers, and Alice E. his wife, and
Benj. F. Baker and Ida V. his wife, ... Complainants.

Against } In Chancery

Mills Rogers, Jr. and Sarah E. his wife, and
Lulie R. Byrd, Sarah Anna Byrd, Alexander
W. Byrd, Jesse N. Byrd and Julius J. Byrd;
the last five named being infants, under the age
of twenty-one years Defendants.

On the motion of the Complainants, by Counsel, Peter B.
Prentiss is appointed guardian ad litem to defend the
infant defendants, in this suit: And, it is ordered, that
the said guardian be notified of his appointment, by
serving upon him, a Copy of this order.

Jesté

Peter B. Prentiss, Clerk.

1882. March 6th: I hereby acknowledge service of the
foregoing order, and that I have received a Copy thereof.

Peter B. Prentiss,

Gd. ad litem

R. Frank Rogers & wife
dal

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Mills Rogers, Jr. & wife
dal:

Order appointing guardian
ad litem
~~~~~

R. Frank Rogers & al  
<sup>vs.</sup>  
Mills Rogers Jr. & al

This cause came on this day to be ~~read~~ heard on the Bill of the Com-plainants taken for confessed as to the adult defendants, Mills Rogers Jr. and Sarah E. his wife on whom process had been duly executed they still failing to appear demur, plead and answer and on the answer of the infant defend-ants, Louie R. Byrd, Sarah Anna Byrd Alexander H. Byrd, Jesse A. Byrd and Julius J. Byrd by Peter B. Prentiss 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 ~~partition~~ Robt. F. Harrell, Wm. J. Morgan, Thos. W. Savage, Beverly P. Baker and H. B. Council, who are hereby appointed Commissioners for that purpose, any three of whom may act, having been first duly sworn, do proceed to lay off and divide the real estate of which Henry W. Byrd died seised and pos-

essed consisting of a tract of land containing 62 acres, more or less and situated in Cypress Magisterial District in Hanover County, Virginia and bounded by the lands of W<sup>m</sup> J. Morgan Robt. F. Harrell, Benj. F. Baker and others, into seven parts as equal in value as may be, having regard to quality and quantity and assign one of said seven parts to each of the children of the said Henry H. Byrd deceased, namely; to Alice E. the wife of the Complainant R. Frank Rogers, one seventh part, to Ida N. the wife of the Complainant Benj. F. Baker one seventh part and to said Lulie R. Byrd, Sarah Anna Byrd, Alex. H. Byrd, Jesse N. Byrd, and Julius J. Byrd each one seventh part. But before proceeding to lay off and divide said land as aforesaid, the said Commissioners will first set apart and assign for life unto Sarah E. now the wife of Mills Rogers Jr. but lately the widow of said Henry H. Byrd, one third part in value of said tract of land as and for her dower therein, so that in making par-

tion of said land ~~for assignment~~ and assigning the same in equal shares of one-seventh part to each of said children, the quantity to be so divided and laid off <sup>among these</sup> as aforesaid shall be two-thirds ~~part~~ <sup>entire</sup> only of said tract of land.

But, if the said commissioners should find it inconvenient or impracticable to ~~for~~ make partition of or to divide said two-thirds of said tract of land that may remain after assignment of ~~the~~ the other third to said Sarah E. Rogers as her dower aforesaid, among the said children of said Henry W. Byrd deceased, as aforesaid, or should be of opinion that the interests of the said children would be promoted by a sale of said two-thirds of said land, they will report <sup>to Court</sup> in such case the facts upon which their opinion may be based, and also what in their opinion is the best value of said land, and in either case will make report to Court of their proceedings under this decree.

Rogers & al

vs. } In chy

Rogers & al

Hausmann County  
Circuit Court

April 10th 1882

Decree

To be entered

Geo. T. Sloan

(copy)

Entered Debt Book  
In 1 page 36.3

R. Frank Rogers & al.

vs.

Mills Rogers & al.

On the motion of the complainants by their counsel, it is ordered that this suit be, and it is hereby, dismissed.

R. Frank Rogers & al  
vs. } In Chy.  
Mills Rogers & al

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Circuit Court of  
Hanseman County  
Octo. 10th, 1882

order

To be entered

Geo. T. Blow.  
—

Entered Chancery Order  
Book No. 1 - Page 577  
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To the Honorable George Blow, Circuit Court Judge in and for the County of Nausemond, State of Virginia:

Humbly complaining respectfully represent and shew unto your Honor, Your Complainants, R. Frank Rogers and Alice E. his wife and Benjamin F. Baker and Ida V. his wife,

That Henry H. Byrd, the father of your Complainants, said Alice E. wife of said R. Frank Rogers and said Ida V. wife of said Benj. F. Baker, was, in his lifetime, seised and possessed of certain real estate consisting of a tract of land containing 62 acres, more or less, and situated in Cypress Magisterial District in Nausemond County, Virginia, and bounded by the lands of Wm. J. Morgan, Robt. F. Harrell, Benja. F. Baker and others, its assessed value being \$620⁰⁰, and that, being so seised and possessed of said land, he, the said Henry H. Byrd, in the month of October in the year 1873, departed this life intestate, leaving a widow, Sarah E. Byrd, and the following children and heirs at law, namely, Your Complainants, said Alice E. wife

of said R. Frank Rogers, and said Ida V. wife of said Buja. F. Baker, and Lulie R. Byrd, Sarah Anna Byrd, Alexander H. Byrd, Jesse A. Byrd, and Julius J. Byrd. That the said widow, Sarah E. Byrd has since married and is now the wife of Mills Rogers, Junior, and the said Lulie R. Byrd, Sarah Anna Byrd, Alexander H. Byrd, Jesse A. Byrd and Julius J. Byrd are all infants under the age of twenty one years.

That the said Sarah E. Rogers ~~as the late widow of said Henry H. Byrd~~ is now living on said land and has been so living ever since the death of her former husband, said Henry H. Byrd and as the latter's widow is entitled to dower therein.

Your Complainants further state that the said ^{subject to said dower} parcel of land, as they believe, is susceptible of partition in one or ~~the~~ another of the several modes prescribed by law, amongst the above named heirs of said Henry H. Byrd deceased, who are entitled thereto and ^{they charge that such partition ought now to be made;} but, if it be not, then your Complainants desire that said land shall be sold and the proceeds distribu-

ted amongst the said heirs in proportion to their respective interests therein.

And your Complainants further state that if said land ~~shall~~ be susceptible of partition as aforesaid, they desire that the dower therein of said Sarah E. Rogers shall be assigned and set apart to her in kind before said partition shall be made.

But, if said partition cannot be made, then your Complainants desire to have said land sold as aforesaid ~~and~~ including the dower therein of said ~~Sarah~~ Sarah E. Byrd, and a gross sum in money in lieu of her said dower ~~be~~ paid to her out of the gross proceeds of the sale and the balance of the proceeds distributed as aforesaid.

In consideration whereof, your Complainants, being without remedy save in a Court of Equity, pray that the said Mills Rogers Jr. and Sarah E. his wife and Lulie R. Byrd, Sarah Anna Byrd, Alexander H. Byrd, Jesse A. Byrd and Julius J. Byrd may be made parties defendant to this Bill and be required to answer on oath all the allegations therein contained, the adults in their proper persons and

the infants by their guardian ad
litem to be appointed for them to
defend their interests in this suit;
that the dower of said Sarah E. Rogers
in said tract of land may be as-
signed to her and the remainder par-
titioned or divided among said heirs at
law of said Henry H. Byrd deceased
according to their respective interests;
that in case the said real estate
be indivisible in kind, the same
may be sold and the proceeds of
the sale distributed among the parties
entitled thereto; that the said Sarah
E. Rogers may be required to say spe-
cially in her answer whether she de-
sires to have her said dower assigned
in kind and set apart to her, or is
willing to consent to a sale of the same
and to take in lieu thereof a gross sum
in money out of the proceeds of the sale
of said land ~~and her dower~~; and
that such other and general relief may
be granted your Complainants as the na-
ture of their case may require or to Eq-
uity shall seem meet. And, as in duty bound
your Complainants, will ever pray &c.

Wilbur J. Kilby p. q.

16th. Feby. 1882

^{Kilby p. 94}
R. Frank Rogers & wife
Benja. F. Baker & al

vs. } In Chy.

Mills Rogers Jr. & al.

Bill

R. Frank Rogers & wife & al.

vs } Chy. Notes

Mills Rogers Jr. & wife & al.

1882. Feby: 16th: Sum: in Chy: issued to March Rules, 1882.

" March 6th: Bill filed, & Dece Kisi vs " adult defendants

" " " Peter B. Peate's, appointed guardian to
infant defendants, who filed their answers to
which there was a genl. reply: & Cause set for
hearing as to them

" April 3rd: Dece Kisi vs " adult defendants, confessed
& Cause set for hearing on Mo: of Plff's
Counsel.

" Octo: 1871 Dismissed

Chy: Notes