

1883-002

Nansemond Co. (Suffolk)

Chancery Causes: Benjamin M. Bruce vs John G. Wallace

Brinkley, Benton, Franklin

Costs

Clerk	\$10.00
Atto: J. F. J.	14.50
sl/b:	60
	\$27:00
including order to despatch	
	<u>clerk:</u>

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF ^{Norfolk} ~~NANSEMOND~~ COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

John G. Wallace,

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 *September* next to answer *a*.

Bill in Chancery, exhibited against him
in the said Court by *Benjamin M. Bruce,*

and have then and there this Summons. Witness, PETER B. PRENTIS, Clerk of our said
Court, at his office, this *5th* day of *August* 1881, in the *106th*
year of the Commonwealth.

Teste:

Peter B. Prentis Clerk.

C. H. Cansey, b.g.

Benjamin M. Bruce

2^d { Sum^r in Chy^r

John G. Wallace

To Sept. Rules, 1881

Presented Sept. 3d
1881, by serving a
copy on a person
over 16 years of age, who
resided with John G. Wallace
at his residence &
explaining the same.
Said John G. Wallace not
being found at his usual
place of abode.
John Lesner
Shff.

Pro. B. No. 1. page
Cir. Co.

A James E. Ridgick, John Miller, Joshua B. Hance and Walter N. Eley be and they are
herely appointed Commissioners any three of whom may act; being first duly sworn
to lay off and divide said tract of land so that said John E. Wallace may have and
enjoy five-eighths thereof and said B. M. Bruce three-eighths thereof

In the Circuit Court of Harsemond County
Benjamin M. Bruce

Pltff

v. J. In Chey

John P. Wallace

Def

This cause came on
this day to be heard on the bill of the Com-
plainant taken for confessed as to the
defendant on whom process had been
duly served and he still failing to ap-
pear and ^{plead} answer and demur thereto,
and on the exhibits filed and was ar-
gued by counsel

On consideration whereof the
Court doth adjudge, order and decree
that ~~Beverly P. Baker the duly qualified~~
~~surveyor for the County of Harsemond do~~
~~proceed as soon hereafter as may be~~
~~practicable to make a survey and~~
~~plat of the lands in these proceedings~~
~~mentioned and make report to the next~~
~~term of this Court; setting forth in said~~
~~report the number of acres contained in~~
~~said tract of land and showing in said~~
~~plat by proper course and distance the~~
~~area of the entire tract and cutting off~~
~~three eighths thereof for the plaintiff in this~~
~~cause~~
with power to said Commissioners

Bruce
vs J. Chr
Wallace

1881. Dec 10

Roughed out
to be entered

Geo. B. Wood.

Entered O. B. Wood

p. 371

copy

to employ a competent surveyor
to assist them in the discharge of
their duties - and if said Commis-
sioners should employ a surveyor
they shall embody in their report to
this Court a plat with course and
distance set forth therein.

And said Commissioners will
make report to Court of their proceed-
ings hereunder at the next term of
this Court.

Bruce

⁺
e

Wallace

All the objects of this suit having
been accomplished it is ordered that this
case be removed from the docket.

Bruce
is
Wallace

1893
~~Apr~~ Apr, Tenn

Rough draft

To be entered

Geo. Blod

Entered O.B. 2nd page 207

This Deed,

Made the 11th day
of April in the year of our Lord one thousand eight hundred
and eighty-one between Jason L. Brinkley, and Javara
Brinkley & Euclora Brinkley.

and
~~his wife~~, of the County of Hanseman
and State of Virginia, of the one part, and Benjamin M. Bruce
of said County & State.

of the other part, Witnesseth: That in
consideration of the sum of Two hundred dollars
the said Jason L. Brinkley and Euclora Brinkley,
~~and Javara Brinkley~~,
~~his wife~~, do grant with general warranty, unto the said Benjamin M. Bruce
and to his heirs and assigns, forever, the

following real estate, to wit: ~~All that tract, piece or parcel of land, situate, lying and
being in the County of~~ in the State of

~~Virginia, and bounded and described as follows:~~ their right, title and
interest, in & to a tract, piece or parcel of land, situate lying
and being in the County of Hanseman in the State
of Virginia, and bounded and described as follows,
on the East by the lands of the Dismal Swamp Land
Company; on the West by Jackson R. Brinkley, on the
North by the lands of Feltan Brinkley and on the
South by the land of Javara Franklin: It being their
interest in a tract of land which they inherited
from their father Jason Brinkley deceased
containing (800) acres more or less, in the whole
tract

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

And the said *parties* of the first part ^{covenants} that ~~he~~^{she} ~~has~~^{ve} the right to convey the said land to the said grantee; that the said grantee shall have quiet possession of the said land; that ~~he~~^{she} ~~has~~^{ve} done no act to encumber the said land; and that ~~they~~^{she} will execute such further assurances of the said land as may be requisite.

Witness the following signatures and seals:

Jason L. Brinkley (SEAL.)

Witnesses:

Endora Brinkley (SEAL.)

Javan Brinkley (SEAL.)

State of Virginia,

To wit:

County of

in and for the county aforesaid,

in the State of Virginia, do certify that

the wife of

whose names are signed to

the writing above, bearing date the

day of

18 , personally appeared before

in the county aforesaid, and being duly

examined by *privily* and apart from her husband, and having the writing afore-

said fully explained to her, she the said

acknowledged the said writing to be her act, and

declared that she had willingly executed the same, and does not wish to retract it.

Given under hand this

day of

eighteen hundred and seventy

VIRGINIA :

To wit:

County of *Henric*

I, *R. N. Rawler* a *Notary Public*

in and for the said county, in the State of Virginia, do certify that *Jason L. Brinkley* & *Javan Brinkley* & *Endora Brinkley* whose names ^{are} signed to the writing above, bearing date the *11th* day of *April* 1881, have acknowledged the same before me in the county aforesaid.

Given under my hand this *17th* day of *April*

1881 .

In the Clerk's Office of *Henric* County Court the *13th* day of *April* 1881.
This Seal was received duly certified and thereupon admitted to record

Test: Peter B. Prentiss Clerk

a copy
Test: Peter B. Prentiss Clerk

(a copy)

Deed of Bargain and Sale.

Jason J Brinkley & al

To

Benjamin M. Buel

Exhibit "C"

Whereas Jason Brinkley late of the County of
Harrison, died possessed of the following
swamp Lands in said County, to wit: To
Four hundred and thirty seven acres of Swamp
Land, purchased as follows: Two hundred and
thirty seven acres by Deed from John Riddick
& wife, dated the 1st day of April 1840. & to
Two hundred acres by Deed from Benwell
Riddick, dated the 20th day of February 1846,
and was also the owner of one undivided
half of Three hundred acres more or less,
of swamp Land, purchased jointly by said
Jason Brinkley and one Jason R Franklin,
And whereas the said Jason Brinkley died
Intestate, leaving a widow named Elizabeth,
who is now the wife of Miles Benton, and
which said Elizabeth Benton purchased
of said Jason R Franklin his half of said
Three hundred acres, by Deed dated the 12th
day of November 1869. & duly recorded,
And whereas the said Jason Brinkley left
as his heirs and distributees, his said
widow, Elizabeth and nine children, to
wit Jackson Brinkley, Martha, now the wife
of Geo L Benton, Mary E. wife of Warren
Powell, Elizabeth, Nathaniel, Josephine,

Eedora, Javan, & Jason Leroy Brinkley
(The last three being under twenty one years
of age) = and whereas the said Jackson
Brinkley, was advanced by his said father
Jason Brinkley in his life time, more than
his share of his father's estate, has now no
further interest therein -

And whereas the present owners of said
Swamp Lands have sold the same to John G
Wallace for the sum of nine hundred dol-
lars: Therefore This Deed made this 29th day
March, One Thousand eight hundred and
seventy one, between said Miles Benton &
Elizabeth his wife (late Elizabeth Brinkley),
Warren Powell and Mary E his wife, Geo L
Benton, and Martha his wife, Eliza Brinkley,
Nathaniel Brinkley, Josephine Brinkley &
said Miles Benton & Elizabeth his wife for
said Eedora, Javan & Jason Leroy Brinkley
of the one part, and the said Geo G Wallace,
of the second part, witnesseth, That the said
parties of the first part, do grant with gen-
eral warranty unto the said Geo G Wallace
and to his heirs and assigns, forever, the said
Lands, to wit, Four hundred and thirty seven
and three hundred ^{more or less} ~~more or less~~
~~and~~ more or less adjoining each other and

forming one body of Land and bounded south by the swamp Land of W^m B Whitehead which he purchased of Jason Brinkley by Deed on the 14th. day of May 1851; on the East by the Dismal Swamp Land Company; on the North by W^m B Smith and West by the Farm of Jason R Franklin, Charles Hunter Jackson Brinkley and Jason Brinkley's Estate (a Diagram of which is annexed). The Titles to which said parcels of Land were purchased as above set forth, And whereas the said Eudora, Jason & Jason Leroy Brinkley are under twenty one year of age, they the said Miles Brinkley and Elizabeth his wife do covenant that they will save the said Geo Wallace & his heirs and assigns against all loss, damage or inconvenience, which may be occasioned by any claim or demand that they the said Eudora, Jason, or Jason Leroy may set up or assert.

Witness the following signatures & seals.

Miles ^{his} Brinkley ^{mark} (Seal)

Elizabeth Brinkley (Seal)

Warren Powell (Seal)

Mary E Powell (Seal)

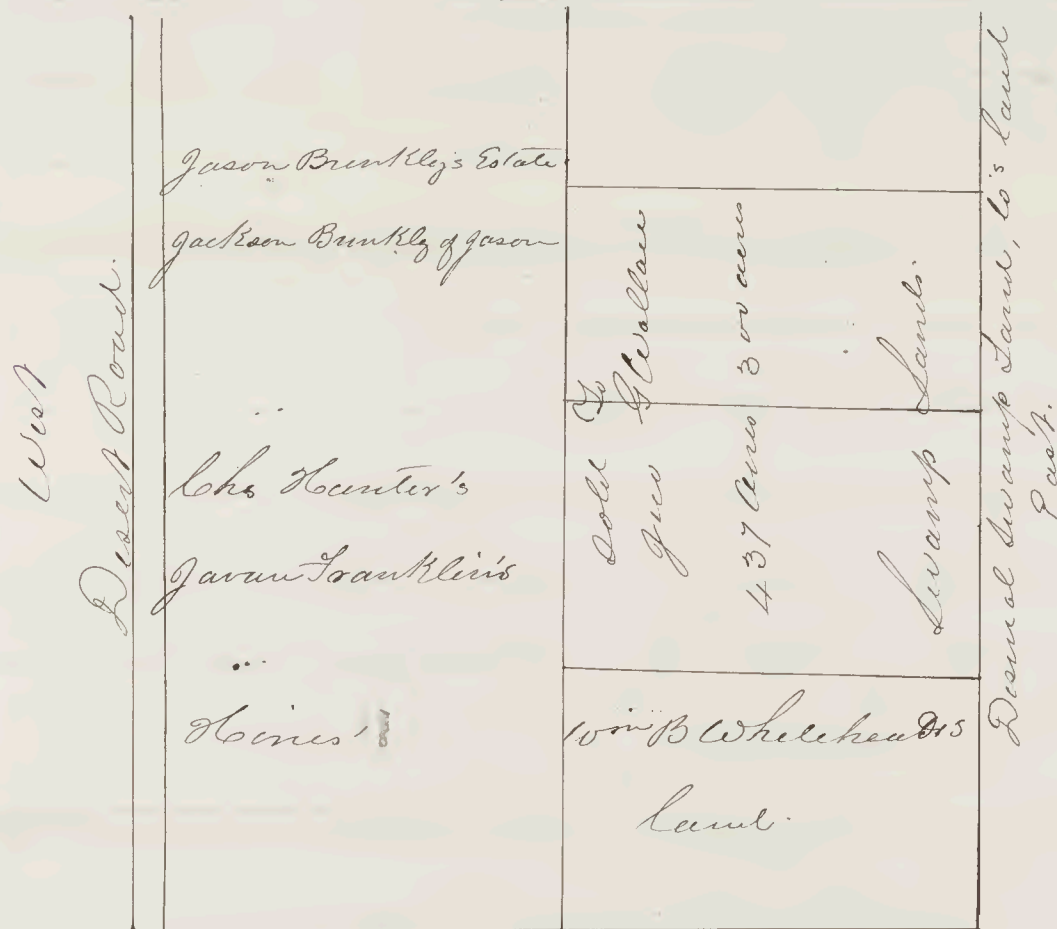
John L. Benton (Seal)

Mathie Benton (Seal)

Eliza Brinkley *Seal*
 Josephine Brinkley *Seal*
 Nathaniel Brinkley *Seal*

Diagram referred to in annexed deed

North.



North Carolina State line

Whereas heretofore, I, Alexander B Cooper have had a contract to work these lands herein referred to, I do hereby relinquish all claim or demand & all privileges to which I may have been entitled under any such contract Given under my hand & seal 25th March 1871.

A B Cooper *Seal*

Virginia

Nansemond County } To wit.

I, John R. Kelly, a Notary Public in and for said County, and State of Virginia do certify, that Miles Benton, Warren Powell, John L. Benton, Eliza Brunkley, Josephine Brunkley & Nathaniel Brunkley and A. R. Cowper, parties to the foregoing writing, bearing date the 29th day of March 1871, personally appeared before me in said County & acknowledged the same to be their act and Deed.

Given under my hand 29th March 1871.

John R. Kelly
Notary Public

Virginia
County of Hanscom { To wit.

I, John R. Kelly, a Notary Public in and for
said County, State of Virginia, do certify that
Elizabeth Benton, wife of Miles Benton, Mary
E Powell, wife of Warren Powell & Mattie (Martha)
Benton wife of John L Benton, parties to the fore-
going writing severally appeared before me
in said County & being examined by me privately
and apart from their respective husbands, and
having the said writing fully explained to
them, they the said Elizabeth Benton, Mary E Powell
& Mattie Benton, severally, acknowledged the
same to be their act and Deed & declared that
they had willingly executed the same, and
that they do not wish to retract it
Given under my hand this 29th March 1871

John R. Kelly
Notary Public.

In the Clerk's Office of Hanscom County Court,
the 11th day of April 1871.

The foregoing Deed was received, and with the
Certificate annexed admitted to record. (The requisite
Stamps of \$1.00 having been affixed and cancelled.)

Teste: Peter B. Prentiss, Clerk
a copy Teste: Peter B. Prentiss, Clerk

(A copy) Xnd
Miles Bentue & ap^{al}

20 J Decal

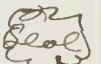
John E. Wallace

— Exhibit —
"B"

This Deed, made this twelfth day of November One thousand eight-hundred and Sixty-nine between Javan R. Franklin and Jane R. his wife of Hansemond County State of Virginia of the one part and Mrs. Elizabeth Benton of the County and state above named of the other part: Witnesseth: that for and in consideration of the sum of four hundred and fifty-dollars good and lawful money to them the said Javan R. Franklin and Jane R. his wife. in hand paid by the said Elizabeth Benton, the said Javan R. Franklin and Jane R. his wife do bargain and sell unto the said Elizabeth Benton with general warranty one half of an undivided tract of Swamp land in Hansemond County known as the Brown Swamp Land owned by the said Javan R. Franklin and Jane R. his wife, and the estate of Jason Brinkley containing three hundred acres more or less and bounded as follows North by the land of Jethro R. Franklin, East by the land of the Disposal Swamp Company, South by the land of the estate of Jason Brinkley dec^d. and East by the land of the estate of Jason Brinkley dec^d.

and William Smith. And we the parties of
the first part do covenant that we have the
right to convey the said land, that we have
done no act to encumber the same and that
we will make such further assurances of
said land as may be requisite

Witness the following signatures and
seals

Witness
Jackson R. Brinkley } J. R. Franklin 
Jane R. Franklin 

State of Virginia

Household County to wit:

We James R. Parker and William H. Ridgick
Justices of the Peace, in and for said County
in the State of Virginia, do certify that
Jane R. Franklin the wife of James R.
Franklin whose names are signed to
the writing above bearing date on the
twentieth day of November 1869, personally
appeared before us in the County afore-
said and being examined by us privately
and apart from her husband and hav-
ing the writing aforesaid fully explain-
ed to her she the said Jane R. Frank-
lin acknowledged the said writing to

be her act and declared that she had willingly executed the same and does not wish to retract it.

Given under our hands this fifteenth day of November Eighteen hundred and Sixty nine.

William H. Ridelick J. P.
James R. Parker J. P.

In the Clerk's Office of Hantsworth County Court, the 10th day of May 1870.

This Deed was acknowledged by James R. Franklin, and with the certificate written thereon admitted to record. (The requisite stamp of 50¢ having been affixed and cancelled)

Teste

Peter B. Prentiss, Clerk.

A copy,

Teste,

Peter B. Prentiss, Clerk

(a copy)
Javan R. Franklin
My To F Seel

Elizabeth Bentur.

Exhibit "A"

In the Circuit Court of Hanscombed
County.

To the Hon^{ble} George Blow,
Judge of said Court.

Benjamin M. Bruce. Plaintiff

vs John C. Wallace. Defendant.

Humblly Com-
plaining, sheweth unto your honor
that Jason Brinkley late of the
County of Hanscombed died in
the year 18 , intestate being at
that time seized and possessed of
considerable Real estate and
among other parcels of ~~a~~ certain
Tracts of Swamp Land well timber-
ed, estimated to contain five hun-
dred and eighty-seven acres, and
said Jason Brinkley left a widow,
Elizabeth, and the following named
children to wit: Jackson R. Brinkley,
Martha, Mary E. Elizabeth, Nathaniel,
Josephine, Eudora, Javan and Jason
L. Brinkley, as his only heirs at law
and distributees,

That on the day of , 18 -
the said Elizabeth Brinkley widow
of said Jason Brinkley dec^d.

appeared to have qualified as the
Administrator of said Jason Brinkley
and afterwards to sit on the day
of 18, the said widow in-
termarried with one Miles Benton.

That at the date of the death of
said Jason Brinkley, Javan R.
Franklin was largely indebted
to him and remained so indebted
to his estate for a number of years.

That the Swamp Land herein-
before mentioned consisted of a
tract of 437 acres and immedi-
ately adjoining another tract of
300 acres owned jointly by the said
Jason Brinkley and Javan R.
Franklin.

That in the year 1869, the said
Javan R. Franklin being still
indebted to the estate of the said
Jason Brinkley sold and conveyed
to Mrs. Elizabeth Benton the undivided
half interest owned by him in the
300 acre tract aforesaid as will
appear by the deed herewith filed
marked "A" and prayed to be
taken as a part of this Bill.—
no other consideration being con-

deed therefor than the debt owed
by said Franklin to the estate of
Jason Brinkley.

That on the 29th day of March,
1871, the said Miles Benton, and
Elizabeth his wife (late Brinkley),
and Mary E., Martha, Eliza, Josephine
and Nathaniel, children of the
said Jason Brinkley united in
a deed to John E. Wallace con-
veying to him all their right-
title and interest in and to the
aforesaid tracts of swamp land
as will appear by the deed a
copy of which marked "B." is her-
ewith filed and is prayed to be
taken as a part of this bill.

That the other children of said
Jason Brinkley to wit Jackson R.
Evelora, Javan and Jason L. were
not parties to the aforesaid deed
the said Jackson R. for the reason
that in the lifetime of his father
advancements were made him
and he therefore claimed no in-
terest in said lands - and the
said Evelora, Javan and Jason
L. were at that time infants

under the age of twenty-one years.

That the said Elizabeth Benton formerly Brinkley is now dead - and the said Endora, Javan and Jason L. were on the attainment of their majority each entitled to at least one-eighth of the 437 acre tract and also one-eighth of the undivided half of the 300 acre tract owned jointly by their father and Javan R. Franklin - making for each $1\frac{1}{8}$ of 587 acres or $7\frac{3}{8}$ acres. That being so entitled they by their deed of bargain and sale made on the 10th day of April 1881 conveyed to Benjamin M. Bruce all their right, title and interest in and to the above mentioned lands as will more fully appear by the duly authenticated copy of said deed marked "b" filed herewith and prayed to be taken as a part of this bill -

That said interest of said grantors being an undivided one your Complainant Benjamin M. Bruce

is entitled to three-eighths ($\frac{3}{8}$) of the 587 acres referred to in these proceedings as belonging to their deceased father Jason Brinkley, and he therefore asks that three-eighths of the said land be ascertained and set apart for him, it being as your complainant believes easily susceptible of division or partition.

That your complainant believes and hence alleges that

one of the children of said Jason Brinkley who signed the deed to John G. Wallace was not at that time twenty-one years of age and is now dead, having died several years ago leaving no children and having never had a child and therefore your complainant is further entitled to recover possession of three-sevenths of one-eighth of the 587 acres of land in question under his deed from the aforesaid Eudora Javan and Jason L. Brinkley, thus making the total quantity of land claimed by him $252\frac{3}{8}$ acres and to which he deserves title under his

deed herewith filed number "6"

Your Complaint further states that immediately on the recording of his deed he informed the said John E. Wallace that he had become the purchaser of the three shares aforesaid of the said land and requested that he the said Wallace would take steps looking to a speedy and equitable settlement of the matter and thus avoid the delay and expense of litigation, but though then and often since requested so to do, he hath refused and still doth neglect and refuse to grant to your Complainant the rights and privileges to which he is entitled under his deed of the 11th of April 1881. or to permit the necessary and proper steps to be taken to ascertain your Complainant's rights in the premises.

In tender consideration whereof, and forasmuch as your orator is remediless in the premises, save by the aid of a Court of equity where matters of the kind are alone and properly cognizable, your Complaint

and pray, that the said John P. Wallace
be made party defendant to this bill
and required to answer the same
on his corporal oath according to the
best of his knowledge, information,
remembrance and belief, as fully
and particularly as if the statements
of this bill were here again repeated.
and the said defendant thereto spe-
cially interrogated: That the afore-
said tract of land may be divided
between the said John P. Wallace
and your Complainant accord-
ing to their respective interests there-
in - and the portion to which each
may be entitled, be assigned him.
That a competent surveyor be
employed to ascertain the proper
boundaries and the correct area;
that proper process may issue and
that such further and general relief
may be afforded your Complainant
as the nature of his case may require
or to equity shall seem meet.

And your Complainant will ever pray

Benjamin B. Bruce
by C. H. Hauser, Attorney,

Causey p.g.

Benjamin M. Bruce

vs. Enchay -

John G. Wallace

Bill -

Benjamin M. Bruce

^{vs} & Chey notes

John L. Wallace

1881-Aug. 5th. Sum^t in chey issued to Spts. Rules 1881

" Sept. 5th: Bill & x bts. filed & decree nisi ^{vs} Deft.

" Octo. 3rd Decree nisi confirmed & cause set for
hearing on motion of Pltffs Counsel.

" " 10th: Decree to lay off & divide

Chy: notes.