

1891-001

Nansemond Co. (Suffolk)

Chancery Causes: Calvin L. Gardner & wife vs Admr of Willis S. Riddick et al

Walker, Gardner & Parker]

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *John L. Fulgham, Sheriff*
of Nansemond County, and as such *Administrator de bonis*
non with the will annexed of *Willis S. Riddick deceased* and
Lucy C. Riddick, an infant, 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 *September* next, to answer a

Bill in Chancery, exhibited against *Them*
in the said Court by *Calvin L. Gardner and Maggie B. his wife*

and have then and there this Summons. Witness, PETER B. PRENTIS, Clerk of our said
Court, at his office, this *30th* day of *August* 1879, in the *104th*
year of the Commonwealth.

Teste:

Peter B. Prentis Clerk.

Causey, B. 9
Calvin L. Gardner Sup

to { Sum. in Chy.

Willis S. Riddick's Admors
Lal.

To Sept. Rules, 1877

Service of the within process, is
acknowledged by me.

J. S. Lughan
Shlff. of Wandsworth County
as such, advised: de bene, non
with the will annexed of Willis
S. Riddick, dec'd

Pro: B. No: 1 page . . . 135-
Cox: Co:

Virginia:

At Rules, held in the Clerk's Office of the
Circuit Court of Nausemound County, on
Monday, the 1st day of September, 1879.
Calvin L. Gardner and Maggie B. his wife. . . Complainants
Against J. J. Chauncery
John L. Fulgham, Sheriff of Nausemound County,
and as such, Administrator de bonis non with
the Will annexed of Willis S. Riddick, deceased, and
Lucy C. Riddick, and infant 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 Lucy C.
Riddick, 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.

Teste:

Peter B. Prentiss, Clerk.

1879. September 1st. I acknowledge service of the foregoing
order, and that I have received a copy thereof.

Peter B. Prentiss, Guardian ad litem.

Calvin L. Gardner Lovife

25th { In Chy.

Willis S. Riddicks, Adm^{tr}
to Sal:

Order appointing Edw. and Estan

Gardner vs

vs

Ridgely vs Reh-

This cause came on this day to be heard on the trial of the Complainant taken for confessed as to the adult defendants on whom process had been duly served, and he still failing to appear and plead answer and demurr thereto, on the answer of the infant defendant by her guardian ad litem, and on the exhibits filed and was argued by Counsel.

On consideration whereof the Court doth adjudge, order and decree that one of the Commissioners of this Court take and state for the information of the Court the following accounts.

1st An Account of the dower interest of Emmeline Washer in the lot of land in the proceedings mentioned.

2^d An Account of the annual rents and profits which have accrued since the said Emmeline Washer sold her dower interest to Maggie B. Gardner.

3^d An Account of the present value

of Maggie B. Gardner right in said lot
 based upon the prospective duration
 of the life of Emmeline Waecher in
 accordance with the statute in such
 case made and provided
 And said Court is directed to
 report all the facts bearing upon
 this case which may come to his
 knowledge or which any of the
 parties in interest may require to
 be so stated, and inquire especially
 whether or not the ~~same~~ daughter Emmeline
 Waecher be now living, and if dead when
 did she die

Gardner

+

Ridgely's Admrs

1887

Opie's

Roughden

L. Waecher

Geo. B. M.

Opie's

Entered 873 Nov 1 page 67

C. L. Gardner and Maggie B. Gardner
his wife

Willis S. Riddick's Administrator &c.

It appearing to the Court
that there has been no order or
or proceeding in this cause, except
to continue it, since the April
Term 1883, it is therefore ordered
to be stricken from the docket, and
discontinued, with leave to any
party interested to reinstate the
same on motion at any time
within one year from this date.

Gardner sw

W. S. Deen

W. S. Kiddick's Garden

Entered Oct 16 1891
C. H. H.

Entered in Channing
Order Book 2nd 2.74-417.

In the Circuit Court of Nauseland County, Virginia.

The Answer of Lucy Reddick, an infant, under the age of twenty-one years, by Peter B. Prentiss, her guardian and attorney, to a Bill in Chancery exhibited in said Court by Calvin L. Gardner and Maggie B. his wife, against her & John L. Fulgham, Shff. of Nauseland County, and as such administrator of Willis S. Reddick, deceased.

This Respondent says, that the facts set forth in said Bill are true, so far as she knows: but, being an infant, and ignorant of her rights, in the premises, submits the same to the Court, and prays that no order or decree, may be made in the premises, inconsistent with her rights.

Signed,

Peter B. Prentiss, Guardian & Attorney

Calvin L. Gardner Wife

~~vs~~ { In Thy:

Willis S. Riddick's Wm.
L. & L.

Answer of Infant

The Answer of John L. Fulgham Sheriff
and as such Administrator of Willis S.
Riddick deceased to a bill of complaint
exhibited against him and others in the
the Circuit Court of Nausemond County
by Calvin L. Gardner and Maggie B. Gardner
his wife. -

This respondent, saving to himself the
benefit of all just exceptions to the said
bill, for answer thereto, or to so much
thereof as he is advised that it is material
he should answer, answers and says:

That on the 4th day of November 1872
Emeline Walker sold and conveyed her right
of dower in the real estate in the bill des-
cribed to C. L. Gardner and John Hoffman,
all of which will appear from the deed
herewith filed marked "Exhibit No. 1." Of
which deed the said ~~was~~ complainant Maggie
B. Gardner the wife of the said C. L. Gardner,
and her agents had notice. -

That the said deed ~~was~~ under which the com-
plainant claims does not bear its true date,
that it was in fact and in truth executed
on or about the day on which it was ack-
nowledged, viz, the 29. January 1879, between

six and seven years after the transaction which it purports to be the evidence of - That it was executed by Emeline Walker under the belief that the deed previously executed by her had been lost or destroyed - That the said Maggie B. Gardner has no equitable right to maintain this suit for the reason that she and her agents had full notice of the previous conveyance of this interest of Emeline Walker to Gardner and Coffman, and for the further reason that no consideration of any sort whatever passed from her to the said Emeline Walker. - She is neither a purchaser for value nor a purchaser without notice, and the deed under which she claims is ~~consequently~~ null and void. -

That after the conveyance of the said dower interest to Gardner & Coffman it was sold by them and their assigns to Willis S. Riddick, who held undisputed possession of the same up to the time of his death, and since his death his personal representatives have held the same under the provisions of his last will and testament. -

And having fully considered the Complainant's bill this respondent prays to be hence Dismissed with his reasonable costs in this behalf expended. - And he will

J. L. Fulgham Shff & Admr
of W. S. Riddick

ever pray &c
Robt. N. Prentiss,
J. d.

State of Virginia,
County of Nausemond to wit

This day John L. Fulgham personally
appeared before me and made oath
that the statements made in the foregoing
answer so far as made of his own
knowledge are true, and so far as made
from information derived from others he
believes them to be true.

Given under my hand this 19 day of
April 1884.

Robt. N. Prentiss.
Commr. in Chancery.

Answer of
W. S. Niddicks Adm'r
to Bill of
C. L. Gardner surd.

~~Whereas~~ by a decree of the Circuit Court
of Hampshire County, made on the 12th day
of October, 1871 in the year one thousand
eight-hundred and seventy-one, in the
cause therein pending, wherein F. D. Hol-
liday's executor &c. are plaintiffs and
Edmund Walcher adm^r & others are
defendants, it was decreed and ordered
that W^m. Eley (who was appointed com-
missioner for that purpose) proceed to
sell the real estate whereof the said Ed-
mund Walcher died seized and possessed,
on the terms and conditions named in
the decree; And whereas the said W^m. Eley
Commissioner as aforesaid, pursuant to
said decree did advertise the said lands
as directed, and did on the 11th day of
December, 1871, before the Court house door
of said County, being Court day, sell at
Auction as directed the real estate afore-
said, when the following parcel was pur-
chased by Rich. H. Parker & Calvin L.
Gardner at the price of Two hundred &
ten dollars. — cents; That is to say
a lot of land now in the Town of Suf-
folk, Hampshire County aforesaid,

on the South side of Kelly street, late the South Quay road, and bounded North by said street, west by the lot of Rich^d. A. Channell, South by the land of Herring E. Smith and East by the lot of Morrison E. Brown, and of the purchase money they - said Parker & Gardner paid in cash the sum of \$96.60 and executed bond with  as security for \$118.40 the deferred payment: And whereas, by a further decree of the said Court, made on the 10th day of October 1872 in said cause, it was decreed and ordered that the said W^m. Eley, Commissioner as aforesaid collect of the said Parker & Gardner, the said sum of \$118.40. and all interest thereon and make to the said Parker & Gardner a deed with special warranty in the usual form for the real estate aforesaid. And whereas by a further decree of said Court made at the October Term 1873, the deed is directed to be made to Willis S. Rid-
dick for the real estate aforesaid.
And whereas the said sum of money and all interest thereon has been paid

This deed therefore, made this 28th,
day of January, ~~1874~~ thousand eight
hundred and seventy-four between
the said W^m Eley as Commissioner
aforesaid of the one part and the said
Willis S. Riddick of the other part, witness-
eth: That the said W^m Eley as Commis-
sioner aforesaid in consideration of
the premises, and in the execution of
the last aforesaid decree doth grant
with special warranty unto the said
Willis S. Riddick and to his heirs and
assigns forever the land aforesaid
and its appurtenances

Witness the following signature
and seal.

William Eley Commissioner 

In the Clerk's Office of Hanson and County
Court the 21st day of Feb. 1874.

The foregoing deed was acknowledged and
thereupon admitted to record.

Teste - Willis E. Bohon clk

A copy

Teste,

Peter B. Prentiss, Clerk.

Very Ely Com.
To J Deed (Copy)
W. S. Risdick

"E"

Virginia

At a Circuit Court continued
and held for the County of Henric
on the 15th of October 1873

F. D. Holladay's ex^{or}s & al. Plffs
vs J. In Chey

W. H. Eley Shff & Comr of Edmund
Watson dec^d & al Defs

This cause came on
this day to be again heard on the
papers formerly read therein and on
the report of Wm. Eley Commissioner made
pursuant to the decree of the 10th October
1872, to which report there is no except-
ion and was argued by counsel.

On consideration whereof the Court doth
confirm the said report and doth adjudge
order and decree that the said Wm. Eley
Comr, as aforesaid make a deed to
Willis S. Robbick purchaser for Gardner &
Parker of the lands sold under proceed-
ings herein, with special warranty in the
usual form. And nothing more remain-
ing to be done in the cause it is ordered
to be removed from the docket

A copy

Teste,

Peter B. Prentiss, Clerk

F. D. Holladay's Ex^{rs}
vs } Copy given

Edmund Walker
admiral

"G"

Whereas Mr. Calvin L Gardner &
Richard H Parker, then doing business
under the name & style of Gardner & Parker
purchased at public Auction of Wm
Eley Commissioner, a lot of Land in
the Town of Suffolk for the sum of
two hundred ^{ten} dollars to be paid by instal-
ments, and whereas since that
time Richard H Parker has sold
his interest to John Hoffman and
the said Gardner & Hoffman has since
sold the said lot to the Farmers Bank
of Mansfield. and the said Bank
has paid to Wm Eley. Comr as
aforesaid, all the note due for the
said property by C L Gardner & Rich^d H
Parker. We deem that ^{The said} Wm Eley
^{Comr} as aforesaid be authorized to make
a deed for the lot aforesaid to Willis L
Riddick Jr. having purchased the
same from the Bank

June 20th 1873

Gardner & Parker
per Gardner

A copy

Teste,

Peter B. Prentiss. Clerk.

~~1811~~

Sept (C')

This Deed, MADE the 6th day of November
in the year eighteen hundred and seventy ^{two} between Emmeline Walker
of the County of Hanover in the State of Virginia
of the first part, and Maggie B. Gardner of the same
place

of the second part.

Witnesseth, THAT IN CONSIDERATION OF Thirty
dollars, the said Emmeline Walker
do grant, with general warranty, unto the said Maggie B. Gardner
all her right, title and interest in and to ~~that~~ ^{all that}
lot, piece or parcel of land in the Town of Suffolk,
Hanover County, State of Virginia,
on the South side of Kelly Street, and
bounded North by said street, West by the
lot of R. A. Chennell, South by the land of
M. E. Smith and East by the lot of Mussoni
le Brown. The said land was the property
of Edmund Walker at the time of his de-
cease and the interest of the said grantor,
who is the widow of said deceased, hereby sold
and conveyed is one third of the same for
and during her life.

The said *Emmeline Waecher*

covenants that she has the right to convey the said land to the grantee ; that she has done no act to encumber the said land ; that the grantee shall have quiet possession of the said land, free from all encumbrances ; and that she , the said party of the first part, will execute such further assurances of the said land as may be requisite.

WITNESS the following signature and seal

Emmeline^{her} *X* *Waecher* [SEAL.]
mark

[SEAL.]

County of Hanseman
~~Corporation of the City of Norfolk~~, TO WIT:

I, *C. H. Causey*, a Notary Public for the ~~County~~ ^{City} Corporation
aforesaid, in the State of Virginia, do certify that *Emmeline Wacher*

whose name *is* signed to the writing above, bearing date
on the *6th* day of *November* in the year eighteen hundred and seventy
two has acknowledged the same before me, in my corporation aforesaid.

Given under my hand, this *29th* day of *January* in the year 1879
C. H. Causey

Notary Public.

In the Clerk's Office of Hanseman County Court the 31st day of January, 1879.

This Deed was received and with the certificate annexed admitted to record

State of Virginia, *Lester - Peter B. Prentiss Clerk*
a copy, Lester
Peter B. Prentiss Clerk

~~CORPORATION OF THE CITY OF NORFOLK, To-wit:~~
I, _____ a Notary Public for the Corporation of
the City of Norfolk, in the State of Virginia, do certify that
_____ the wife of _____
whose names are signed to the writing above, bearing date on the _____ day of
_____ in the year eighteen hundred and seventy
personally appeared before me, in the corporation aforesaid, and being examined by me privily
and apart from her husband, and having the writing aforesaid 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 my hand this _____ day of _____ in the year 187

Notary Public.

Emmeline Walker

To { Copy Deed
Maggie B. Gardner

Exhibit B

" "
B

\$180.⁰⁰/₁₀₀

Received of C. L. Gardiner One
Hundred & Eighty Dollars, for my interest
in the lot on Pilby Street known as the
Walker lot C. L. Gardiner assuming all
the debts of Parker & Gardiner this
the 12th day of March 1872.

R. H. Parker

Witness:

John F. Hoffman

Jos H Gardner

Exhibit.

"A"

C. J. Jackson

Virginia:

In the Circuit Court for Hansemond County
To the Hon^{ble} George Blow, Judge of the said
Court:

Humbly complaining, your com-
plainants Calvin L. Gardner and Maggie
B. Gardner his wife of the County and State
aforesaid, sheweth unto your Honor the follow-
ing case.

First: That Edmund Wachter, late of the County
of Hansemond, departed this life at his res-
idence on Killy Street in the Town of Suf-
folk in said County on the day of _____
1864, intestate, leaving a widow, Emmeline
Wachter and two children John and Edmund.
That the said intestate died indebted to va-
rious parties leaving no personal property
liable to the satisfaction of his debts, but he
was seized and possessed of a certain
lot of land and appurtenances situated
on said Killy Street in the Town of Suffolk
aforesaid, and that at the March Term
of the County Court-1866 the Estate of said
deceased was committed to the hands of
William Ely, Sheriff of Hansemond County for
administration according to law.

Second: That proceedings on the Chancery side
of the docket of this Court were duly insti-

tuted by the creditors of said deceased in the year 1868 to subject his real estate to the payment of his debts, and at the October Term thereof 1871, there was a decree for sale and on the 11th day of December 1871 (being County Court day) Wm. Eley who had been by this Court appointed a special commissioner for that purpose proceeded to sell said real estate of the deceased Edmund Wachen, before the Court house door of said County according to the terms of said decree, subject however to the claims therein of the aforesaid Emmeline Wachen, widow of the deceased, when the same was purchased by Richard H. Parker and Calvin L. Gaudner, all of which will appear by reference to the papers in said cause now on file in the Clerk's office of the said Circuit Court; that on the 12th day of March 1872 R. H. Parker sold out his interest in the said lot to John J. Hoffman as will appear by the paper marked "A" and is prayed to be taken as a part of this Bill: that on the 26th day of August 1872 C. L. Gaudner and John J. Hoffman, who had obtained an interest in said lot and appurtenances from said Gaudner, by their deed of trust conveyed the same to John R. Copeeland trustee for the Farmers' Bank of Newbern to secure a certain debt therein mentioned said deed being duly recorded in Deed Book

No 3, p. 377: that on the 6th day of November 1872 Emmeline Washer the widow of said Edmund Washer executed her deed conveying to Maggie B. Gardner, then as now the wife of L. S. Gardner her dower interest above referred to. That on the 20th day of June 1873, it appears from a paper signed "Gardner & Parker per Gardner" marked "C" and prayed to be taken as a part of this "Bill", which paper is filed in the said cause above stated as now on file in the Clerk's Office of this Court, that the Farmers' Bank of Hammond became the purchasers of Gardner and Hoffman's interest; that the said Bank paid off the notes given for the purchase price of the said land by Gardner & Parker, and that they the said Gardner & Hoffman then desired that the said Court Ely should make a deed to the said land marked "D" & "E" filed as exhibits herewith. That on the 28th day of January 1874, the said Court Ely made a deed with special warranty to Willis S. Ridgick and that this deed and the deed of trust to the Farmers' Bank were the only papers involving the title to this land recorded; that during all this time the dower interest was never ascertained and that none of the rents and profits arising therefrom have ever been received by the said Maggie

B. Gardner nor any one else for her; that the said
Willis S. Riddick, who departed this life on the
day of December, 1875 - held the said land
under the deed from Wm. Ely Cornth aforesaid
during his life and bequeathed the same by
his last will and Testament as part and parcel of
his estate to his daughter Lucy C., one of his chil-
dren, who is still an infant - under the age of
twenty-one years. and the said lot with ap-
pendances is now rented out by the per-
sonal representative of Willis S. Riddick de-
ceased; that John L. Fulghum Sheriff of this
County received into his hands for admini-
stration according to law, with the will an-
nexed of Willis S. Riddick, late of this County
deceased, his estate by an order of the County-
Court of this County made at the
Term, 1878, In consideration whereof,
your complainants being without remedy
done in a Court of equity they pray that
the said John L. Fulghum Sheriff, and as
such Administrator of the estate of the late
Willis S. Riddick deceased, and the said
Lucy C. Riddick may be made parties defend-
ants to this bill and be required to an-
swer on oath all the allegations contained
in the same, the said John L. Fulghum
Admin^r in his proper person and the said
Lucy C. Riddick being an infant, by her

guardian ad litem to be appointed for her,
that the dower to which the said Emmeline
Waker was entitled and which she conveyed
to Maggie B. Gardner by her deed of the 6th
of November 1872 may be ascertained and
assigned to her, ^{the said M. B. Gardner} and that such part of the
rents and profit which have accrued
since the deed aforesaid was executed and
which have never been paid to her nor to
any one for her, to which she the said Mag-
gie B. Gardner is entitled may be paid
to her by the said John L. Halgham shff &c
out of any moneys in his hands belonging to
the general fund of the estate of his de-
cedent - and that such other and further
relief may be granted to your complain-
ant as to the Court may seem meet and
the Circumstances of the case may require
And your Complainant will ever
pray &c.

C. H. Lawrence p. 95.

Chamney h.g.

L. L. Gardner & ux:

2⁵ } In Chamney

W. S. Redelick, Adm^r
Ex^r.

"Bill"

Calvin L. Gardner Lex

vs Chy. Notes

Willis S. Riddick's, admr: L. Cal.

1879. Aug. 30th: Sum. in Chy: joined to Septs: Rules, 1879.

" Septs: 1st: Bill & Exhibits filed - Decree nisi vs admt deft

" " " Peter B. Proctor appointed gdn: ad claim
to infant, who filed her answer, to which
there was a paid: reply: & the cause set for
hearing, as to her

" Octo: 6th: Decree nisi confirmed & cause set for hearing

" " 16th. Continued

1880. Apr. 14th. Continued

Chy: Notes