1893-018
Nansemond Co. (Suffolk)

Chancery Causes: Olivia J. Marble et al vs Wells Lewis et al

Joyner, Eley

Note: Exhibit B not found when processed 2/02 mmc

Olevia J Mabee & R C Mabee
Against Dr Chancey
Wells Lewis & al,

Appeal Clerk	Paid	4.49
Sheriff		5.00
Atty Fee		16.50
		$25.99

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Nansemond County—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON Wells Lewis Lydia Lewis Benj^a E Joyner James T Joyner Mary C. Joyner W Wallis Eley Trustee, Wm Eley, W^m Wallis Eley and W^m A B Eley Ex^ors of Wm Eley Dec^d and C H Causey adm^r of Jas T. Joyner Dec^d

if They be found within your bailiwick, to appear at the Clerk's Office of our Circuit Court for our said County of Nansemond, at the Rules to be holden for the said Court, on the ~~first~~ third Monday in February next, to answer a Bill in Chancery Exhibited against them by Olivia J. Mable and R. C. Mable

And have then and there this writ.

WITNESS, ~~PETER B. PRENTIS~~ A. P. Gomer, Clerk of our said Court, at the Office aforesaid, this 5th day of February, 1890, in the 114th year of our foundation.

A. P. Gomer CLERK.

Executed this 14th day of February 1890. by delivering a true copy of this Writ to the within named Wells Lewis. Lydia Lewis. Benj. E Joiner. James T. Joiner. Mary E Joiner. W Walter Ely & Trustee Wm Ely. W Walter Ely and W. A. B. Ely. Exors. of Wm Ely dec'd and C H Causey. Administrator of James T Joiner dec'd.

Wm H Howell Sheff

John H Wright plff.
Oberia J Peable and
R C Peable &
Wells Lewis & Lydia Lewis
and others
Summons

July Rules 1889
3rd Monday

Delivered July 6th.

Process Book No 2
page 28

Know All Men by These Presents, That we, Robert C. Marble and Columbus J. Duke

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of Two Hundred ——————— DOLLARS, to the payment whereof, well and truly to be made to the said Commonwealth, we bind ourselves, and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

The obligors herein hereby waive the benefit of our exemption as to this obligation, and also waive any claim or right to discharge any liability to said Commonwealth arising under this bond, or by virtue of the Trust herein mentioned, with coupons detached from bonds of said Commonwealth.

Sealed with our seals, and dated this 14th day of April —— in the year of our Lord one thousand eight hundred and ninety two, and in the 116th year of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound Robert C. Marble

who has this day qualified before the Circuit Court of Nansemond County, as Guardian of Katie Joyner orphan of James T. Joyner and infant over the age of fourteen years

shall faithfully discharge the duties of his said Trust then the above obligation to be void, or else to remain in full force and virtue

Executed in presence of the Court.

R. C. Marble SEAL
C. J. Duke SEAL
SEAL
SEAL
SEAL

At a Circuit Court Continued and held for Nansemond County, at the Courthouse thereof, on the 14th day of April ——, 1892.

The above bond was executed and acknowledged in open Court by the obligors to the same (the security justifying), and ordered to be recorded.

Teste: A. P. Gomey clerk

R L Marble
To Guardian Bond

The Commonwealth

1892
April 14th

Recorded in Official
Bond Book No 1 Page 34
Circuit Court

Olivia J. Marble
R. C. Marble } Pltffs

vs

Wells Lewis - ✓
Lydia Lewis ✓
Benj^a E. Joyner ✓
James T. Joyner ✓
Mary C. Joyner - ✓
W. Walter Eley Trustee
Wm Eley - ✓
W. Walter Eley ✓
W A B. Eley ✓
Exrs of Wm Eley Decd - ✓
C H. Causey Admt of Jas T. Joyner Decd. } Defts

Clerk of Circuit Court of Nansemond County -
Issue Summons in Chancery to 3rd Rule
(3rd Monday) for Plaintiffs vs Defendants -
Jno. H. Wright p.q.

Tax 1.50 pd.

Memorandum

Mauble & al.
vs
Wm. W. Eley Trustee &

Mauble & al
vs
Wells Lewis & als -

These causes came on this day to be heard together, the first upon the papers formerly read therein, & the second upon the Bill & Exhibits filed therewith, and were argued by Counsel - On consideration whereof, it appearing to the Court that in the first of said Causes, essential parties to the Cause have been omitted, and C.H. Causey, Admr. of Jas J. Joyner Decd having departed this life, it is ordered that said Cause be dismissed. And in the second of said Causes, upon the Suggestion of the death of C.H. Causey, Admr. of Jas J. Joyner Decd, and that W.B. Causey has since qualified as his personal representative, it is ordered that said W.B. Causey, Admr. as aforesaid be made a party Defendant hereto, and that notice accordingly be served upon him - And the Court doth further adjudge, Order and decree that one of the Commissioners of this Court do take, state & report to Court the following accounts, to wit:
1st An account of the transactions of C.H.

Causey Decd as Administrator of the Estate of James T. Joyner Decd, showing what assets came to the hands of C.H. Causey as such Administrator, what disposition was made of the same, and whether any, and if any, how much is due the Estate of Jas T. Joyner Decd by his said Administrator.

~~2d How much remains unpaid and the Date of last loan Jas T. Joyner to W. Walker Executor, and whether the personal Estate of said Decedent is sufficient to discharge the debt due by him.~~

2d An account showing the debts due by said Jas T. Joyner, Decd, or by his Estate, with their dignity or priority, and whether the personal assets of said Estate are sufficient to pay said debts.

3d An account of any Real Estate of which said J.T. Joyner died seized, together with its fee simple and annual values, and whether the same is susceptible of partition in kind among the heirs, without prejudice to any of them, or whether the interest of said heirs will be promoted by a sale of said Real Estate and distribution of the proceeds, with the reasons upon which his opinion may be based.

And the Cause is continued.

J Mumble qui al

vs

W. Walker Esq. Trustee &c

and

J Mumble & al

vs

Wells Lewis & als

Decree

To be Entered

Oct 15th 1890 =

No. ..... Suffolk, Va., ... 18 .....

Farmers Bank of Nansemond

Pay to ..... or order

..... Dollars.

100

$ .....

To A.P. Gomer. Esq:-

You will at the request of R.H. Rawles Atty dismiss the suit of Marble et als vs Welles et al. now duly brought by me. up the cost being paid. Nov. 11th 1890.

Jno N. Wright

Olivia J. Marble et al.
vs } In Chancery.
Wells Lewis et al.

On motion of the plaintiffs this cause is ordered to be dismissed at their costs, and removed from the docket.

Marble et al.

" "

Lewis et al.

Oct. 13 1853.

To be entered.

C W J

Entered in Chancery
Order Book
No. 2. Page 521.

This Deed made the 1st day of march
one thousand eight hundred and seventy
nine (1879) between James T. Joyner
of the county of Nansemond
and State of Virginia of the one part
and William Watkin Eley chosen as
Trustee for the purposes herein named
of the other part witnesseth That the
said James T. Joyner doth grant with
general warranty unto the said
William Watkin Eley trustee as afore
said the following property to wit
First all that tract piece or parcel of
land situate lying and being in the
County of Nansemond Suffolk
District in the State of Virginia and
bounded and described as follows, Begin
ning at the Bridge at Cohon's old mill site
on the west side and running South
with the county road to a Holly tree
marked as a corner-line tree, which stands
in the head of a ravine near the road
and Borden path thence running west
down said ravine to said path thence
on the South side of said path by a line
of marked trees to the fish pond run, thence
up said run a Southerly direction
until reaching Thomas Byrd's land
thence running west by a line of
marked trees to Elisha Rawles land

thence down a branch running North between the said Rawls and William Eley lands to Cohoon's creek thence down said creek to the old Mill Site, the beginning; and containing by estimation about one hundred and fifty acres more or less and is the same land purchased by said James T. Joyner of William Eley by Deed bearing even date herewith: Second the tract of land which was devised to him the said James T Joyner under the will of his father the late William Joyner which will bears date the 5th day of the april 1866 and was orderd to be recorded the 8th day of October 1866 and which land is discribed as lying East of path running straight from the corner of Wm ayers fence to a bottom west of William's Sein hole also the following personal property to wit One Steam Engine & Boiler together with all and singular appertenances belonging to the same In Trust to secure to William Eley of the County of Nansemond in the State of Virginia the payment of the Sum of Six hundred (600) dollars evidence by Six (6) bonds for the sum of one hundred

(100) dollars each and payable respectively one two three four five & six years with interest from date & each bond of even date with this Deed to the said William Eley and it is covenanted and agreed between the parties aforesaid that in case of a Sale the Same shall be made after first advertising the time place and terms thereof for Ten (10) days and upon Such terms as the said Truste Shall direct and after paying the expences of executing this trust if then unpaid including a commission of five (5) per cent to the said Truste then to discharge the amount of money principal and interest due and unpaid of the said debt and the residue if any pay as the law directs and it is covenanted and agreed that this Deed shall be closed upon default of the payment of any one ~~or more~~ of said bonds if directed by the said William Eley his heirs Exors, admrs, or assigns

Witness the following Signatures and Seals

J. T. Joyner (Seal)

In the Clerk's Office of Nansemond County Court, the 8th day of March 1879. This Deed of Trust was acknowladged by James T. Joyner and thereupon admitted to record

Teste:

Peter B. Prentis Clerk

A Copy Teste:

R. R. Smith, Clk

To Hon. C. W. Hill, Judge of the circuit court of Nansemond county:

Your complainants Olivia J. Marble (formerly Olivia J. Joyner) and R.C. Marble her husband respectfully represent and show unto your Honor that James T. Joyner the father of the said Olivia J. Marble departed this life sometime in the year 1888 ~~leaving~~ at the time of his death seized and possessed of some valuable real estate in this county of Nansemond. During the lifetime of the said James T. Joyner he executed a deed of trust on said land to Wm. Walter Ely Trustee to secure Wm. Ely for the payment of the sum of $600, a copy of said deed being filed herewith marked exhibit "A" and which your complainant asks may ~~xxx~~ be read as a part of this bill. Your complainants are advised and believe that much the longer part of the debt secured by said deed was paid by said Jas. T. Joyner before his death. In addition to your complainant, Olivia J. Marble, the said Jas. T. Joyner left the following children as the sole heirs and distributees of his estate (his wife having died previous to his death) to wit:

Benjamin E. Joyner, James T. Joyner
Mary C. Joyner and Lydia Joyner the
two last being infants under the age
of 21 years and the said Lydia Joyner has
since the death of her father intermarried
with Wells Lewis. After the death of said
Jas. T. Joyner C. H. Causey of Suffolk qual-
ified in the county court ~~in the county~~
~~court~~ of Nansemond as administrator
of his estate a copy of the order of said
court therein being ~~here~~ hereunto filed
as a part of this Bill and marked
exhibit "B". Your Complainants are
advised and believe that the personal
assetts of J. T. Joyner's Estate were suffi-
cient to pay all the debts due by him
at the time of his death, so far as your
complainants know the said administrator
has not yet settled his accounts as such
and for this reason they cannot say definitely
whether the assetts in the hands of said ad-
ministrator are sufficient to cover the
liabilities due by said Jas. T. Joyner died
or by his estate.
Since the execution of the deed of trust
hereinbefore mentioned Wm. Ely Sr. the
beneficiary therein has also departed this
life and Wm. Ely Jr. W. Walter Ely and W. A.

W.A.B. Eley have qualified in the county court as his Executors.

Your complainants are advised and believe that the Real Estate of which said Jas. T. Joyner died seized and possessed is not susceptible of partition in Kind and if the personal assetts in the hands the hands of the administrator are insufficint to pay the liabilities it may be necessary in any event to sell the real estate of which said J. T. Joyner died seized. But your complainants desire that said real estate may be partitioned or sold if necessary. As they are without remedy in the premises save by the aid of a court of equity they pray that the said ~~Wells Lewis~~ Benjamin E. Joyner, Wells Lewis and Lydia E. Lewis his wife, James T. Joyner and Mary C. Joyner (the last two being infants under twenty one years of age ~~C. H. Causey~~, Wm. W. Eley Trustee, Wm. Eley and W.A.B. Eley executors as aforesaid, and C.H. Causey having departed this life that W.B. Causey, his Admr ~~of the estate of J. T. Joyner dec'd~~ may be made parties defendants hereto and required to answer the allegations hereof, answer under oath being waived, and the said infants to answer by a guardian to be appointed ~~by the Court~~ by the Court: that an official order of the qualification of W.B.

Causey Admir of C.H. Causey decd, and ~~also an official order of this court qualification as above be copied from the records of this court and filed with this cause~~:

That one of the Commissioners of this court may be required to take state and report to court the following accounts:-

1st An account of the real estate of which Jas. T. Joyner decd died seized, together with its fee simple and annual values, with any liens thereon showing their dignity and priority, and also showing who are the distributees of said estate, and whether the same can be partitioned in kind without prejudice to the parties, giving the facts if necessary on which his opinion may be based.

2nd An account of the transactions of C.H. Causey decd who was Admir of Jas. T. Joyner decd and showing whether the assets are sufficient to cover the debts due by the said Jas. T. Joyner decd or by his estate

3rd A like account of the transactions of W. B. Causey Executor of C.H. Causey decd, ~~of the estate of Jas T. Joyner decd~~ showing like statements, together with any other like matters specially stated which may be deemed pertinent by said Commissioner or may be required by any of the parties. Your complainants pray that a reasonable-

counsel fee may be allowed for bringing this suit as it is alike for the benifit for all the parties alike.
And that your honor will grant unto your complainants such other further and general relief as their cause may require or to equity may seem meet and your complainants will ever pray &c

Olivia J. Marble
R. C. Marble by
B. Counsel.

Nansemond County to wit:

I R. H. Rawles a Notary Public for said County in the State of Virginia do certify that Olivia J. Marble one of the complainants in the foregoing bill personally appeared before me in my said County and made oath that the statements contained in said Bill are true to the best of her knowledge and belief.
Given under my hand this 20th day of October 1890.

R. H. Rawles N. P.

To Hon. C.W. Hill, Judge of the Circuit Court of Nansemond County:

Your complainants Olivia J. Mable (formerly Olivia J Joyner) and R. C. Mable her husband, respectfully represent and shew unto Your Honor, that James. T. Joyner, the father of said Olivia J. Mable, departed this life some time in the year 1888, being, at the time of his death, seized and possessed of some valuable Real Estate in the County of Nansemond. During the life time of said Jas. T. Joyner, he executed a Deed of Trust on said land, to William Walter Eley Trustee, to secure to Wm Eley the payment of the sum of $600.00, a copy of said Deed being filed herewith, marked Exhibit "A," and which Your Complainants ask may be read as a part of this Bill. Your Complainants are advised and believe that much the larger part of the debt secured by said Deed of Trust, was paid by said Jas. T. Joyner, before his death. In addition to your complainant, Olivia J. Mable, the said Jas. T. Joyner left the following Children, as the sole heirs and distributees of his Estate (his wife having died previous to his death) to wit: Benjamin E. Joyner, James T. Joyner, Mary C. Joyner and Lydia Joyner (the three last being infants

under the age of twenty one years) and the said Lydia Joynes, has since the death of her father intermarried with Wells Lewis.
After the death of said Jas. T. Joynes, C.H. Causey of Suffolk, qualified in the County Court of Nansemond County as administrator of his Estate, a copy of the Order of said Court therein being herewith filed as part of this Bill & marked "Exhibit-B".
Your Complainants are advised and believe that the personal assets of said J.T. Joynes's Estate, were sufficient to pay all the debts due by him at the time of his death, so far as Your Complainants know, the said administrator has not yet settled his accounts as such, and for this reason they cannot say definitely, whether the assets in the hands of said Administrator are sufficient to cover the liabilities due by said Jas. T. Joynes Dead or by his Estate.
Since the Execution of the Deed of Trust herein before mentioned, Wm Eley Sr. the beneficiary therein has also departed this life, and Wm Eley Jr, W. Walter Eley and W. A.B. Eley have qualified in the County Court of Nansemond County as his Executors.
Your Complainants are advised and believe that the Real Estate of which said James T.

Joyner died seized, is not susceptible of partition in Kind, and if the personal assets in the hands of the said Administrator are insufficient to pay the liabilities, it may be necessary in any event to sell the Real Estate of which said Jas. I. Joyner Died seized. But your Complainants desire that said Real Estate may be partitioned or sold if necessary. As they are without remedy in the premises, save by the aid of a Court of Equity, they pray that the said Benjamin E. Joyner and Lewis & Lydia Lewis his wife
Wade James I. Joyner, Mary C. Joyner (the three last named being infants under the age of twenty one years) C.N. Causey, Administrator, as aforesaid, W. Walter Eley Trustee, and Wm Eley Jr. W. Walter Eley and W. A.B. Eley, Executors as aforesaid, may be made parties defendant hereto, and required to answer the allegations hereof, answer under oath being waived, and the said infants to answer by a Guardian ad litem, to be assigned them; that one of the Commissioners of this Court may be required to take, state and report to Court the following accounts: 1st An account of the Real Estate of which James I. Joyner Dec'd, died seized, with its fee simple and annual values, with any liens thereon, showing their dignity and priority, and also showing who are the distributees of said Estate, and

whether the same can be partitioned in Kind, without prejudice to the parties, giving the facts or evidence upon which his opinion may be based.

2° An account showing what is now due under the Deed of Trust made by James. T. Joyner to W. Walter Eley Trustee for Wm. Eley Sr.

3° An account of the transactions of C.H. Causey, administrator of James T. Joyner Dec'd, and showing whether the assets in his hands are sufficient to cover the debts due by the said James. T. Joyner Dec'd, or by his Estate.

Together with any other matters specially stated which may be deemed pertinent by said Commissioner, or may be required by any of the parties. x

And that Your Honor will grant unto Your complainants such other, further and general relief as their cause may require or to Equity may seem meet, and Your Complainants will ever pray &c.

Olivia J. Mabb
R. C. Mabb
By Counsel.

Nansemond County, to wit:

I, Jno. H. Wright, a Notary Public for said County in the State of

x Your Complainants pray that a reasonable sum may be allowed for Counsel fees for bringing this Suit, as it is for the benefit of all the parties also.

Virginia do certify that Olivia J. Humble, one of the Complainants in the foregoing Bill, personally appeared before me in my said County and made Oath that the Statements contained in said Bill are true, to the best of her Knowledge and belief.

Given under my hand this 12th day of Feb 1890.

Jno. H. Wright. N. P.

BICC

Alevia J Marble
&
R L Marble
} In Chancery

vs

Wells Lewis & als.

1890. Feby 6th. Process issued returnable
3rd Monday Feby.

" " 17th. (3rd Monday). Process returned
Executed on each of the defendants

" " " Bill filed with One exhibit and
decree Nisi vs. defendants.

" March 3rd. (First Monday) Decree Nisi vs.
defendants Confirmed and
Cause set for hearing.

Rubens

Chancery Notes