

1899-005

Nansemond Co (Suffolk) Chancery Causes: Peter Brinkley vs Annie Brinkley et al

Henry, Baker

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Annie Bunkley
Elmer Costen Bunkley *Delia*
Bunkley and *Mary E. Bunkley*
the last three infants under
the age of 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 *Third* Monday in *February* 1899, to answer

a Bill in Chancery, exhibited against *them*
in the said Court by *Peter Bunkley*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *9th* day of
February, 189*9*, in the 12*3rd* year of the Commonwealth.

A copy—Teste:

Teste:

A. P. Gomer, CLERK.

A. P. Gomer, CLERK.

E E Holland p. q.

A copy for
Elmer Costen Brockley
Inft. }
vs. } In Chancery.

1877--

February Rules.

Third Monday.

Nansemond Circuit Court.

Process Book No. 2

Page 173

CHANCERY SUMMONS.

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Teste:

A. P. Gomer, CLERK.

A. P. Gomer, CLERK.

E E Holland p. q.

*A copy for
Delia Brinkley Inf*

vs. } *In Chancery.*

1899--

February Rules.

Third Monday.

Nansemond Circuit Court.

Process Book No. 2

Page 173

CHANCERY SUMMONS.

The Commonwealth of Virginia,

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A copy—Teste:

A. P. Gomer, CLERK.

Teste:

A. P. Gomer, CLERK.

E E Hallam p. q.

*A copy for
May E Brinkley Inst*

vs. } *In Chancery.*

1877--

February Rules.

Third Monday.

Nansemond Circuit Court.

Process Book No. 21

Page 173.

To Annie Brinkley, Delia Brinkley, Elmer Costen Brinkley and May E. Brinkley

Please take notice that on the 10th day of March, 1899, I shall apply to the Hon. R. R. Prentiss, Judge of the Circuit Court for Nansemond County, Virginia, at his office, in Suffolk, Virginia, for a decree in the suit now pending in said court, wherein you are defendants and I am plaintiff, directing Commissioners, to be named in said decree, to assign, lay off and divide the real estate described in the bill filed in said suit among the parties entitled thereto; or, if found impracticable to divide said land in kind, or if said commissioners are of opinion that the interests of said parties would be more promoted by a sale of the same, they are then to report to court the facts upon which their opinion is based, and also what in their opinion is the fee-simple and annual value of said land.

Peter Brinkley
By Counsel

Execute the 18th day of Feb 1899 by Serving a
true Copy of the within process on
Annie Brinkley in person

R E. Hughes Depy
For Atty Genl. Off

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Annie Brinkley
Elmer Leoston Brinkley, Delia Brinkley
and Mary E Brinkley the last three
infants under the age of 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 *Third* Monday in *February 1899*, to answer

a Bill in Chancery, exhibited against *them*
in the said Court by *Peter Brinkley*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *9th* day of
February, 189*9*, in the 12*3rd* year of the Commonwealth.

A copy—Teste:

Teste:

CLERK.

CLERK.

Executed this 18th day of Feb 1899 by Serving a
true Copy of the within process to Annie
Brinkley in person

R. E. Taylor Depy
For A. H. Goser Stff

E. E. Holland

p. q.

Peter Brinkley

vs.

} In Chancery.

Annie Brinkley & others

1899

February

Rules.

Third

Monday.

Nansemond Circuit Court.

Process Book No. 2

Page 173,

To A.P.Gomer, Clerk of the Circuit Court of Nansemond County-

Peter Brinkley

vs-In Chancery

Annie Brinkley, Elmer Costen Brinkley, Delia Brinkley, and May E. Brinkley,
the last three infants under the age of twenty one years of age-

Issue summons in chancery to Rules on 3rd Monday in February, 1899

Pay \$1,50

E. E. Hallen
mg

In the Circuit Court of Nansemond County:

Peter Brinkley

vs-In Chancery

Annie Brinkley, Delia Brinkley, Elmer Costen Brinkley and May E. Brinkley

At Rules on 3rd Monday in February, 1899

On the motion of complainant, by counsel, R. H. Rawles, an attorney at law, is hereby appointed guardian ad litem to the infant defendants, Delia Brinkley, Elmer Costen Brinkley and May E. Brinkley, to defend their interests in said suit.

A. P. Gomer Clerk

To Annie Brinkley, Delia Brinkley, Elmer Costen Brinkley and May E. Brinkley:

Please take notice that on the ^{10th} day of March, 1882, I shall appear to the Hon. E. R. Prentiss, Judge of the Circuit Court for Hanover County, Virginia, at his office, in Suffolk, Virginia, for a decree in the suit now pending in said court wherein you are defendants and I am plaintiff directing Commissioners, to be named in said decree, to assign, lay off and divide the real estate described in the bill filed in said suit among the parties entitled thereto; or, if found impracticable to divide said land in kind, or if said commissioners are of opinion that the interests of said parties would be more promoted by a sale of the same, they are then to report to court the facts upon which their opinion is based, and also what in their opinion is the fee-simple and annual value of said land.

Peter Brinkley
By Counsel

Due sufficient service of above notice
accepted.

R. H. Roever, Guardian
ad litem for Delia
Brinkley, Elmer Costen
Brinkley and May E.
Brinkley,

Virginia, Nansemond County, to wit:

This day personally appeared before F.W. Rawls, a Justice of the Peace, in and for the county of Nansemond, in the State of Virginia, Frederick Brinkley, B.P. Baker and James B. Kelly, three of the Commissioners appointed by a decree of the Circuit Court of Nansemond County entered on the 10th day of March, 1899, in the chancery cause of Brinkley vs Brinkley and others to make partition of the lands mentioned in the proceedings between the parties entitled thereto, and made oath that they would discharge the duties imposed on them by said decree to the best of their ability.

Given under my hand this the 24th day of March, 1899.

F. W. Rawls J.P.

Brinkley
vs
Brinkley

and then by their sale the situation of affairs, I fear,

will be improved on when the bill comes to the point of their trial.

Their position will be improved, and will be so that they would discharge the

whole duty of their office, and the whole duty of their office.

The position of the United States of America, and the position of the United

States, and the position of the United States, and the position of the United

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To the Hon .Robert R.Pretnis, Judge of the Circuit Court of Nansemond County, Virginia,

The undersigned, three of the Commissioners appointed by decree entered in the chancery cause of Brinkley vs Brinkley and others on the 10th day of March, 1899, to make partition of the lands in the bill and proceedings in said cause mentioned between the heirs at law of John F. Brinkley deceased, and Peter Brinkley, assigning thirteen-twenty-fourths thereof to the said heirs at law of John F. Brinkley, deceased, and the remaining eleven twenty-fourths thereof to Peter Brinkley, beg to report to court, that on the 24th day of March, 1899, we went upon the premises, and after being first duly sworn, proceeded to discharge the duties imposed on us by said decree. We assigned to the heirs at law of John F. Brinkley, deceased, as and for their portion of said real estate, the following described land: Situated lying and being in County of Nansemond, in the State of Virginia, and bounded, on the North by the lands of Allen Raby - on the West by the lands of Benjamin Wilkins and George Wilkins on the South by the Division line, the lands of Peter Brinkley, and on the East by the lands of Allen Raby - the Heirs of John F. Brinkley and James B. Stelly and contains Fifty-seven and one half (57½) acres. The division line above referred to - Begins at an Iron post in Allen Raby's line and runs N. 84½° W - 12 chains and 16 links to a Corner pine in the line of George Wilkins

We assigned to Peter Brinkley as and for his portion thereof the following described land: Situated in the same District County and State of Virginia. Bounded on the North by the lands of the heirs of John F. Brinkley, deceased, on the West by the lands of George Wilkins, on the South by the lands of Frederick Brinkley and the County road leading to Matthews and on the East by the County road leading to Edenton and the lands of Allen Raby, and contains Forty-eight and three fourths (48¾) acres -

We made the division line by fully designating same so that it can be found. We consider this partition of said land fair to all parties.

Fees - \$3.00

Witness
B. P. Baker

Respectfully submitted,

Frederick Brinkley }
B. P. Baker } Commissioners
James B. Stelly }

Virginia

In the Clerk's office of the Circuit
Court of Hansemond County on the
10th day of March 1899 the fol-
lowing decree pronounced this
day by the Hon Robert R Prentiss
is ordered to be entered of
record,

~~In the Circuit Court of Newsumond County~~
~~In vacation on the 10th day of March 1899.~~

Peter Brinkley
against } In Chancery
Annie Brinkley Elmer Costin Brinkley Delia
Brinkley and May E. Brinkley the last
three infants under the age of twenty one
years of age.

This cause came on this day, due
notice having been given to all par-
ties of the application for this decree
to be heard upon the bill taken for
confessed as to the adult defen-
dants they still failing to appear
plead answer or demur to said
bill, the answer of the infant de-
fendants by their guardian ad litem
R. H. Rawles an attorney at law and
of the said guardian ad litem duly
assigned at rules with replications
thereto and exhibits filed and was
argued by Counsel: On consideration
whereof the Court doth adjudge order
and decree that Frederick Brinkley
Frank H. Rawles Ber. P. Baker James
Keeey and Frank E. Parker who are
herby appointed Commissioners
for that purpose any three or more
of whom being first duly sworn

may act, do go upon the lands in
the proceedings mentioned and
proceed to lay off and divide the said
real estate into two parts and
assign eleven twenty-fourths there
of to Peter Buckley and the
remaining thirteen twenty-fourths
thereof to the children and heirs
at law of John F Buckley de-
ceased. And if necessary the
said Commissioners are author-
ized to employ a surveyor who
shall lay off the land as allotted
But if said Commissioners shall
find it impracticable to divide
said land in kind among said
parties or should be of opinion
that the interests of the parties
would be more promoted by a sale
of the same in such case
they are required to report the
facts upon which their opinion
is based to the Court and also what
in their opinion is the fee simple
and annual value of the said
real estate And in either case
they are required to report their
proceedings hereunder to the Court

Robert R Prentiss

To the Clerk of the
Circuit Court of
Newbern and County -

Attest:

A. P. Gomer Clerk

A copy
Teste:

A. P. Gomer Clerk.

First class all names
In the Circuit Court of Nansemond County: In Vacation on the 10th day of March, 1899-

Peter Brinkley vs Brinkley and others-

This cause came on this day, due notice having been given to all parties of the application for this decree, to be heard upon the bill taken for confessed as to the adult defendants, they still failing to appear, plead, answer or demur to said bill, the answer of the infant defendants by their guardian ad litem R.H. Rawles, an attorney at law, and of the said ^{duly assigned at rules,} guardian ad litem, with replications thereto, and exhibits filed, and was argued by counsel: On consideration whereof the court doth adjudge, order and decree that Frederick Brinkley, Frank W. Rawls, Rev. P. Baker, James Kelley and Frank E. Parker, who are hereby appointed commissioners for that purpose, any three or more of whom, being first duly sworn, may act, do go upon the lands in the proceedings mentioned and proceed to lay off and divide the said real estate into two parts, and assign eleven-twenty-fourths thereof to Peter Brinkley, and the remaining thirteen-twenty-fourths thereof to the children and heirs at law of John F. Brinkley, deceased. And if necessary the said Commissioners are authorized to employ a surveyor who shall lay off the land as allotted. But if said Commissioners shall find it impracticable to divide ^a said land in kind among said parties, or should be of opinion that the interests of the parties would be more promoted by a ^a sale of the same, in such case they are required to report the facts upon which their opinion is based to the court, and also what, in their opinion, is the fee-simple and annual value of the said real estate. And in either case they are required to report their proceedings hereunder to the court

Robert H. Rawles

*To the Clerk of the
Circuit Court of
Nansemond County.*

In the Circuit Court of Nansemond County:

Brinkley vs Brinkley and others.

This cause came on this day to be again heard upon the papers formerly read, and upon the report of Frederick Brinkley, Bev. P. Baker and James Kelley, three of the Commissioners appointed by decree entered herein on the 10th day of March, 1899, to make partition of the lands in the bill and proceedings mentioned, between Peter Brinkley and the heirs at law of John F. Brinkley, filed on the 1st day of April, 1899, to which report no exceptions have been filed, and was argued by counsel: On consideration whereof ^{that said Commissioners} it appearing from said report, have assigned to the heirs at law of John F. Brinkley, deceased: All that certain part of said tract of land in the proceedings mentioned, situate, lying and being in Cypress Magisterial District, in Nansemond County, Virginia, bounded on the North by the lands of Allen Rabey - on the West by the lands of Benjamin Wilkins and George Wilkins, on the South by a division line, the lands of Peter Brinkley, and on the East by the lands of Allen Rabey, John F. Brinkley's estate and Jas. B. Kelley, and containing fifty seven and one half acres; and to Peter Brinkley: All that part of said tract of land in said district, County and State bounded on the North by the lands of John F. Brinkley's estate, and the division line, and Allen Rabey - on the West by the lands of George Wilkins - on the South by the lands of Frederick Brinkley and Wm. H. Matthias and on the East by the county road leading to Edenton and the lands of Allen Rabey - ^{the division line above referred to begins at an iron post in Allen Rabey's line and runs N. 84 3/4° W. 12 chains and 16 links to a corner pine in the line of George Wilkins} and containing forty eight and three-fourths acres - the court doth in all respects ratify, approve and confirm said report, and doth order, adjudge and decree that the said partition of said land as made shall be held forever firm, stable, effectual and binding.

And there being nothing further to dispose of in this suit it is ordered that the same be stricken from the docket.

Brinkley
vs-Final decree
Brinkley and others

April 11, 1899

To be entered-

Robert R. Brinkley

*Entered in
Chas DB 3 Page 202*

In the Circuit Court of Nansemond County, Virginia.

Peter Brinkley

vs-In Chancery

Annie Brinkley and others-

The answer of R.H.Rawles, an attorney at law, guardian ad litem to the infant defendants Delia Brinkley, Elmer Costen Brinkley and May E. Brinkley and of the said infant defendants by said R.H.Rawles, their guardian ad litem, to a bill in equity exhibited against them and others in the Circuit Court of Nansemond County by Peter Brinkley-

For answer to said bill, the said guardian ad litem answers and says that he does not know whether the interests of the infants would be promoted by a sale or partition of the real estate mentioned in said bill. And the said infant defendants, by their guardian ad litem, answer and say, that being infants of tender years they know nothing of the matters mentioned in said bill, and commit their interests to the protection of the court.

And now having fully answered they pray, &c.

R.H. Rawles

Guardian ad litem to the infant defendants Delia Brinkley, Elmer Costen Brinkley and May E. Brinkley, and the said infant defendants by said R.H.Rawles their guardian ad litem.

To the Hon. Robert R. Prentiss, Judge of the Circuit Court for the County of Nansemond, Virginia.

Your complainant, Peter Brinkley, respectfully complaining, shows unto the court the following case:

That by deed dated the 14th day of September, 1858, Jackson W. Brinkley and his wife conveyed to Thomas London Brinkley and John F. Brinkley all that certain tract of land in Cypress Magisterial District, in Nansemond County, Virginia, containing one hundred and eight acres, more or less, now bounded on the North by the lands of George Wilkins, ~~John~~ Kelley and others, East by the lands of James Kelley, A. Rabey and the county road, South by the lands of William Matthias and Frederick Brinkley, and West by the lands of Frederick Brinkley, George Wilkins and others.

That on the day of 18-- the said John F. Brinkley departed this life, intestate, and was at the time of his death seized and possessed of his one half undivided interest in said land. That the said John F. Brinkley left a widow, Annie Brinkley, and ^eDelia Brinkley, Elmer Costen Brinkley and May E. Brinkley, his only children and heirs at law. The said Delia Brinkley and Elmer Costen Brinkley and May E. Brinkley are infants under the age of twenty one years.

That the said Thomas London Brinkley, the owner of the other undivided half interest in said land by deed dated the 12th day of November, 1886 and duly recorded in the Clerks Office of Nansemond County Court in D.B. No. 17, page 635, conveyed all his right, title and interest therein to Chas. Lee Brinkley and Dorsey Brinkley.

That by deed dated the 1st day of April, 1898, and duly recorded in the said Clerks Office the said Chas. Lee Brinkley conveyed his one fourth undivided interest in said land to your complainant, Peter Brinkley.

That on the day of 1898, the said Dorsey Brinkley, the owner of an undivided fourth interest in said land departed this life, intestate, leaving as his heirs at law, the said Chas. Lee Brinkley, Alice R. Henry, the wife of B. F. Henry, C. W. Brinkley and Mary E. Brinkley, Annie M. Baker, the wife of A. J. Baker, your complainant, and the children and heirs at

law of said John F. Brinkley above mentioned. That by deed dated the 31st day of December, 1898, the said B. F. Henry and Alice R. Henry, his wife, C. W. Brinkley and Mary E. Brinkley, his wife, and A. J. Baker and Annie M. Baker, his wife conveyed all their right, title and interest in said land, as heirs at law of said Dorsey Brinkley to your complainant. That the said Chas. Lee Brinkley by deed dated the 1st day of April, 1898 and recorded in D. B. No. 40, page 408 conveyed his interest in said land, as an heir at law of said Dorsey Brinkley to your complainant.

Your complainant therefore owns an undivided interest in said land equal to ~~nine-twentieths~~ ^{Eleven-twenty-fourths} thereof, and the heirs at law of said John F. Brinkley deceased own the other ~~eleven-twentieths~~ ^{thirteen-twenty-fourths} thereof, and one half of said land is subject to the right of dower of Annie Brinkley therein.

Your complainant farther states that the said real estate is, as he believes, susceptible of partition among the parties entitled thereto; but if be not, then your complainant desires the same to be sold, and the proceeds divided among the adult and the infant parties according to their respective rights; the shares of the infants to be held as directed by statute in such case made and provided. Should the property not be divisible in kind, your complainant believes and here states, that the interests of those who are entitled to said real estate, or its proceeds, will be promoted by a sale of the whole of said real estate, or by an allotment of part and sale of the residue.

Your complainant further states that the said John F. Brinkley and Thomas London Brinkley practically agreed upon a division of same during the life of said John F. Brinkley and during the joint ownership of said property, and your complainant feels satisfied that there can be no difficulty in making partition of the same, and prefers a partition to a sale.

In tender consideration whereof, and for as much as your complainant is remediless in the premises save by the aid of a court of equity, where matters of this kind are alone and properly cognizable, your complainant prays that the said Annie Brinkley, Delia Brinkley, Elmer Costen Brinkley and May E. Brinkley may be made parties defendant to this bill and required to answer the same, but answers under oath are waived; that a proper

guardian ad litem be assigned the infant defendants to defend their interests in this suit, who shall also answer the bill; that proper process issue; that the said real estate be divided between the several parties entitled thereto, and your complainant's portion thereof allotted to him, and in case the said real estate cannot be partitioned and divided in kind, that the same be exposed to sale, and the proceeds of such sale be divided among the parties entitled thereto; that all proper orders and decrees may be made, and proper enquiries be directed, and that all such other, farther 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, &c.

C. C. Hancock
C. C.

Peter H. Minkley
By Counsel

Peter Pinkley

against Bill
Pinkley & Co.

To 2nd Feby Rules, 1899

Peter Brinkley
against In Chancery
Annie Brinkley & others

1899 Feby 9th. Process issued returnable
February Rules third Monday
R N Rawles appointed Gar
ad litem for infant defendants.

" " 20th. Answer of Guardian ad litem
filed

Process returned executed on
Adult defendant-

Bill filed and decree nisi
against said adult defendant-

" March 6th Decree nisi confirmed
and cause set for hearing.

Peter Brinkley
W. S. Chauncy Notes
Annie Brinkley & others

part 113

Costs

clerk 485⁵⁰₁₀₀

Shff 100

Day 150⁰⁰₁₀₀

Alty 1500

\$ 22.35

Comy 300

\$ 25.35

W. D. Howell
Peter Brinkley
J. S. In Chancery
Annie Brinkley & the

1899
April 11th
Final Decree