

1905-001

Narisemond Co (Suffolk)

Chancery Causes: F.R. Ellenor vs Maggie N. Austin et al

Doughtie, Wiggins, Sevege, Roberts, Daughtrey, Hayes, Smith, Herrell

RN Rawles p. q.

A. R. Ellenor

vs Subscribers

Maggie W. Austin & others

1904

March 14th

Final Decree

1905

January 11th

Final Decree.

Costs
Clerk \$7.25
Tax 1.50
Comm 7.50
Airt 15.00
\$31.25-

To the Honorable Robert R. Prentiss, Judge of the Circuit Court of
Nansemond County.

Maggie N. Cross, who was formerly Maggie N. Austin, by R. L. Woodward
her next friend, respectfully presents to your honor the following peti -
tion:

She says that she is a minor under the age of 21 years, being at this
time about the age of 20 years; that her maiden name was Maggie N. Austin
that she has recently married Elisha C. Cross; that she, under the name of
Maggie N. Austin, was one of the defendants in the chancery cause of F. R.
Ellenor vs. Maggie N. Austin, et als, now pending in the said court; it
being a partition suit for real estate in which she had an interest; that
the said real estate not being ~~was~~susceptible of partition in kind, was by
decree of said court ordered to be sold, and has been sold, and out of
the said proceeds of sale there will be due to her, as her share for ~~her~~
interest in said land, the sum of \$244.46; that she has no other property
at this time, either real or personal, she therefore by her said next
friend, R. L. Woodward, respectfully petitions and prays your honor, to
commit her said estate to a receiver, who shall hold and manage the said
estate and pay out the rents, issues, profits and income thereof to her
separate use, under the direction of the court, or apply the estate, or
any part thereof if the court so order, to her -- separate use, ~~during~~
*Cover*ture, and while she is a minor, and she by her next friend respectfully asks
that her husband, Elisha C. Cross, may be appointed as said receiver for
her said estate. It being the wish and desire of the
said Maggie N. Cross that the said Elisha
C. Cross shall be appointed as such receiver as
is evidenced by her signature hereto. Feb. 13. 1904.

Maggie N. Cross
by R. L. Woodward
her next friend
Maggie N. Cross

Circuit Court of Nansemond County, in vacation, on the 13th day of February 1904.

In the matter of Maggie N. Cross, on a petition for a receiver to hold and manage her estate.

On the petition of R. L. Woodward, next friend of Maggie N. Cross, who was before marriage, Maggie N. Austin, who was a minor at the time of her marriage and is still a minor, and who is entitled to estate or money arising from the sale of real estate in this county, the court doth order, adjudge and decree, that the estate of the said Maggie N. Cross shall be committed to, and doth commit, the said estate to Elisha C. Cross as receiver, who shall hold and manage said estate and pay out the rents, issues, profits and income thereof to the ~~separate~~ use of the said Maggie N. Cross, under the direction of this court and who shall apply the estate, or any part thereof, if the court so order, to her use during coverture and while she is a minor; and ~~if~~ upon attaining the age of twenty-one (21) years, all such estate and the rents, issues, profits and income thereof, not before paid out or applied, ^{and} aforesaid, shall be delivered into her possession; or if she dies before attaining that age, the same shall be delivered, at her death, to those entitled thereto. Thereupon the said receiver entered into and acknowledged a bond, before the judge of this court, in vacation, in the penalty of Four Hundred Dollars, (\$400), together with The United States Fidelity Guaranty Company, his security conditioned according to law, which bond is ordered to be recorded, all of which is hereby certified to the clerk of this court, to be entered in the chancery order book.

Robert R. Smith

To the Clerk of the Circuit Court of Nansemond County.

In the Clerk of the Circuit Court of Harrison County.

The Clerk of this court, to be entered in the registry order book.

Maggie N Cross
On a petition for a
Receiver.

Entered July 13, 1904
Robert R. Threlkeld

Entered in Chancery
Order Book No. 3
Page 560.

In the matter of Estate of J. M. Cross, on a petition for a Receiver to hold
current Court of Harrison County, in session, on the 13th day of February
1904.

$$\begin{array}{r} 875- \\ 750 \\ 6403 \\ \hline 80.28 \end{array}$$

$$\begin{array}{r} 53778 \\ 8028 \\ \hline 457.50 \end{array}$$

$$\begin{array}{r} 3)80.00 \\ \hline 26.66 \end{array}$$

$$\begin{array}{r} 24444 \\ 26.66 - \\ \hline \end{array}$$

$$217.78$$

$$120.$$

$$120.$$

$$\begin{array}{r} 457.78 \end{array}$$

$$146.66$$

$$26.66$$

$$120.00$$

$$\begin{array}{r} 2442 \\ \hline 488 \end{array}$$

79.88

$$\begin{array}{r} 12)1600.00 \\ \hline 133.33 \end{array}$$

$$2)1466.66$$

$$3)733.33$$

$$244.44$$

$$5)733.33$$

$$146.66 -$$

$$146.66 -$$

$$244.44$$

$$537.79$$

$$\begin{array}{r} 217.50 \\ 120 \\ 120 \\ \hline 457.50 \end{array}$$

Maggi N.
Linda O.
Linda C.

Corls.

\$ 265.00

455
468
473

See this

B.A.D.

for

$\frac{1}{12} \times$

$\frac{11}{120} \times$

$\frac{11}{120}$ W.C. Doughtie - $\frac{1}{5} + \frac{1}{2} + \frac{11}{120}$

\$ 333.33

Hagen + Smith

$\frac{1}{3} \times \frac{1}{2} \times \frac{11}{12}$

\$ 280

Almon + Ledy R.

$\frac{1}{5}$ of $\frac{1}{2}$ of $\frac{11}{12}$ each

Wiggins track 218 acres

Cornelia Octon Wiggins } B R D
Ann M Wiggins } heir & for father Wiggins
C Willis Austin

My unmd $\frac{1}{12}$ =
B R D. $\frac{1}{12}$ he bought Elizabeth Savage

B. O. Dwyer:

Linda B. Roberts -
Alma Dwyer - he has
W. C. " them

Linda Octon 20
Luther Comall 18

Ann M. Wiggins

Lilla May Hayes | he has
Effe J. Smith | them
Maggie N. Austin 20

Morris & Bacon

Dwyth & Austin



$$\frac{1}{12} + \frac{2}{3} \div \frac{11}{12} + \frac{2}{3} \times \frac{11}{12} =$$

F. R. Ellnor

W

Maggie & Austin
child

$$\begin{aligned} & \frac{1}{3} + \frac{2}{3} \div \frac{11}{12} \\ & \frac{1}{3} + \frac{2}{3} = \frac{3}{3} = 1 \\ & 1 \div \frac{11}{12} = \frac{12}{11} \\ & \frac{12}{11} + \frac{2}{3} \times \frac{11}{12} = \frac{12}{11} + \frac{2}{3} \times \frac{11}{12} = \frac{12}{11} + \frac{22}{36} = \frac{12}{11} + \frac{11}{18} = \frac{24}{22} + \frac{11}{22} = \frac{35}{22} \end{aligned}$$

$$\begin{array}{r} 150 \\ 15 \\ \hline 30 \\ 15 \\ \hline 45 \end{array}$$

Bo R & W
Willie Austin

1601

\$ 7 ⁵⁰



Jan 1904
Received of R. H. Rawles special Order
Seven $\frac{50}{100}$ Dollars

In making up accounts in care of
J. R. Ellens & Maggie N. Custer who
are charging.

No

C. H. Gausey Jr.
Comm. in Chg.

\$7.25-

1.50

8.75-



No.

Jan. 8. 1904

Received of W. H. Rawles Special Collector
Eight $\frac{75}{100}$ - Dollars

in full payment of clerk's cost and
unit tax on F. R. Ellens vs Maggie K. Austin et al.

A. J. Somers clerk

\$146⁶⁶



March 7th 1904.

Received of R. H. Rawles Special Comr.
One Hundred and forty six $\frac{66}{100}$ Dollars
in full for work of account done by said Lida O. Doughtie
from sale of the real estate in the chancery cause of
F. R. Ellens vs. Maggie N. Austin et als now pending in
the Circuit Court of Laurens County.

No. _____

B R Doughtie

Guardian of
Lida O. Doughtie

\$146⁶⁶

March 7. ^{\$}1904



Received of R. H. Raikes special Comair

One Hundred and forty six $\frac{66}{100}$ Dollars
in full payment of the account due my word Tucker C.
Dougherty from sale of the real estate in the
chancery cause of F. R. Ellers vs. Maggie H. Austin et
al now pending in the Circuit Court of Harrison
County.

B. R. Dougherty

Guarition of
Tucker C. Dougherty

\$ 244 ⁴⁶



February 13th 1904

Received of R. H. Rawles Special Comr.
Two Hundred and forty four ⁴⁶/₁₀₀ Dollars

in full payment of the amt due Maggie N. Cross formerly
Maggie N. Austin from the sale of real estate in the
Chancery Cause of F. R. Ellender vs. Maggie N. Austin
held in the Circuit Court of Macon County.

Elisha C. Cross Receiver

No

of the Estate of Maggie N. Cross

Mr. A. P. Gomer Clerk of the Circuit Court
of Macon County;

F. R. Ellenor

~~Plff~~

vs.

Maggie N. Austin }
Lida O. Doughtie } all infants
Luther C. Doughtie }

Defls -

Issue summons for plaintiff against
defendants to first November Rules 1903 &
Quorum a Bill in Chancery.

Pay \$1.50

R. H. Rawles. p. g.

Memo fm Clark

Ellenor vs Austin & others

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Maggie N Austin
Lida C Doughtie and Luthie Doughtie
all infants

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 *November 1903*, to answer
a Bill in Chancery, exhibited against *them*
in the said Court by *J. R. Ellenor*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *24th* day of
October, 1903, in the 128th year of the Commonwealth.

A copy—Teste:

A. P. Gomer, CLERK.

Teste:

A. P. Gomer, CLERK.

R. H. Rawles p. q.

A copy for
Maggie W Austin Inft

vs.

In Chancery.

1903

November Rules.

First Monday.

Nansemond Circuit Court.

Process Book No. 2

Page 248

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Maggie M Austin*
Lida O Doughtie and Luther O Doughtie
all infants

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 *November 1903*, to answer
a Bill in Chancery, exhibited against *them*
 in the said Court by *F R Ellenor*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *24th* day of
October, 1903, in the 128th year of the Commonwealth.

A copy—Teste:

Teste:

CLERK.

CLERK.

R N Rawles p. q.

J R Ellenor

vs.

In Chancery.

Maggie N Austin and
others

1903

November Rules.

First Monday.

Nansemond Circuit Court.

Process Book No. *2*

Page *248*

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Maggie M Austin
Lida C Doughtie and Luther C Doughtie
all infants

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 *November 1903*, to answer

a Bill in Chancery, exhibited against *them*
in the said Court by *H R Ellenor*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *24th* day of
October, 19*03*, in the 12*8*th year of the Commonwealth.

Attest—Teste:

Teste:

A P Gomer

CLERK.

A P Gomer

CLERK.

R N Rawles p. q.

A copy for
Lidall Doughtie Infant

vs.

| In Chancery.

1903

November Rules.

First Monday.

Nansemond Circuit Court.

Process Book No. 2

Page 248

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Maggie M Austin
Lida C Doughtie and Luther C Doughtie

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 *Sust* Monday in *November 1903*, to answer

a Bill in Chancery, exhibited against *them*
in the said Court by *A R Ellenor*

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this *24th* day of
October, 1903, in the 128th year of the Commonwealth.

A copy—Teste:

A P Gomer

, CLERK.

Teste:

A P Gomer

, CLERK.

R N Rawles *p. q.*

A copy for
Luther C Doughtie Inf-

vs.

In Chancery.

1903

November *Rules.*

First *Monday.*

Nansemond Circuit Court.

Process Book No. 2

Page 248

Know All Men by These Presents, That we, *Richard H Rawles*
and Julius S Rawles

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full
sum of *Eight 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.

And we waive the benefit of our exemption as to this obligation, and also waive any claim or
right to discharge any liability to the said Commonwealth arising under this bond, or by virtue of
the office, post or trust herein mentioned, with coupons detached from bonds of said Commonwealth.

Sealed with our seals, and dated this *2nd* day of *January* in the year
of our Lord one thousand ~~eight~~ ^{nine} hundred and *four*, and in the *128th* year
of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas *by a*
decree of the Circuit Court of Nansmond County pro-
nounced by the Hon Robert R Prentiss Judge thereof in va-
cation on the 29th day of December 1903 in the Chancery
cause of F R Ellenor against Maggie W Austin and others
it was adjudged ordered and decreed that the interests
of the three infants Maggie W Austin Lida O Doughtie and
Luther C Doughtie in the tract of land in the bill and pro-
ceedings mentioned be sold and that R H Rawles was
appointed by said decree Special Commissioner for that
purpose and enter into a bond of eight hundred dollars for that
purpose. Now therefore if the said R H Rawles shall faithfully
discharge his duties under said decree and all other decrees he
may be required to execute in this cause then the above
obligation is to be void otherwise it is to remain in full
force and effect

R H Rawles
Julius S Rawles



In the office of the Clerk of the *Circuit* Court of Nansmond County, on the
2nd day of *January 1904*

The above bond was executed and acknowledged by the obligors (the surety
on oath as to *his* sufficiency) and recorded.

A copy

Teste:

Teste:

A J Homer
clerk

A J Homer

CLERK.

R. N. Rawles
To } Spec Com's
Bond
The Commonwealth.

1904
Jany Bond

Recorded in Official
Bond Book No 1 Page 364
Circuit Court-

A Copy

Eleanor M. Austin

In the Circuit Court of Macon County:
at Rules on the 2nd day
of November 1903.

J. R. Ellenton.

vs

Maggie N. Austin & als.

On motion of the Complainant, John P.
Lee a competent and
discreet attorney at law is hereby appointed guardian ad litem for the infant defendants
Maggie N. Austin, Lida O. Doughtie and
Luther C. Doughtie and required to de-
fend their interests in this suit.

A. B. Gomez clk

Order appointing
Guardian ad litem

\$244 ⁴⁶

Dec. 24th 1904



Received of Elisha C. Cross
Two Hundred & forty four ¹⁰⁰ Dollars
as Receiver for me in the Chancery Case
of J. R. Ellerman & Maggie H. Austin vs
State funding in the Circuit Court of
Laurens Co.

No

Maggie H. Cross
formerly Maggie H. Austin

To the Honorable Robert R. Prentiss Judge of the Circuit Court of Nansemond County.

The undersigned receiver, appointed by you, in the Chancery cause now pending in the Circuit Court of said county, under the style of F. R. Ellenor vs. Maggie N. Austin et als, by decree dated the 13^d day of February, 1904, respectfully reports to your honor that he has paid over to the said Maggie N. Cross, who was formerly Maggie N. Austin, the whole amount which came into his hands, as receiver for her, she being at the time of the said suit, an infant under the age of twenty-one years, and a married woman, but now, having reached the age of twenty-one years, and your said receiver also further respectfully shows below a statement of the account with her, showing the amount that came into his hands as such, and a voucher showing proper distribution of same. All of which is respectfully submitted.

Elishe C. Cross
Receiver for Maggie N. Cross.

Amount cash rec'd from R. H. Rawles special Com- missioner Feb. 13, 1904	\$ 244.46
Paid Maggie N. Cross in full Dec. 24, 1904	244.46
Voucher herewith filed.	

718 County St.

Repn of Reciv
Elisha C. Cross.

Filed Dec 24. 1854

To the Honorable Robert R. Prentiss, Judge of the Circuit Court of Nansemond County.

The undersigned special commissioner, appointed by a decree of this court, on the 29th day of December, 1903, in the chancery cause therein pending, under the style of F. R. Ellenor vs. Maggie N. Austin, et als, begs leave to report that pursuant to said decree, he has sold to F. R. Ellenor, at private sale, the interests of Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie, in the tract of land in the bill and proceedings mentioned, and generally known as the "Wiggins Tract." The sale being made on a basis of \$1600 for the entire tract, and the interests of the three infant defendants amounting to \$537.78, has been paid in full to your special commissioner, by the said F. R. Ellenor, and your commissioner has made him a deed for the interests in said land, with the usual covenants of title.

Your commissioner further reports that all the costs and expenses of the suit and sale were paid by B. R. Doughtie, father of the two defendants, Lida O. Doughtie and Luther C. Doughtie, he having previously entered into an arrangement, agreeing to do this. And the sum of \$537.78 he has disposed of, as follows:

He has paid to B. R. Doughtie, guardian of Lida O. Doughtie, the sum of \$146.66 in full for her share; he has paid to B. R. Doughtie, guardian of Luther C. Doughtie, the sum of \$146.66 in full payment for his share of said fund.

And the said Maggie N. Austin, who is still a minor, has since the institution of this suit, married Elisha C. Cross and became Maggie N. Cross, and she has filed her petition by her next friend, R. L. Woodward, in the said court, praying that Elisha C. Cross be made receiver for her estate, and the said Elisha C. Cross was, by an order of this court entered on the 13th day of February, 1904, duly appointed receiver of her said estate and has given bond in a penalty and with security deemed sufficient by your Honor, and your special commissioner has paid to the said Elisha C. Cross, receiver as aforesaid, the sum of \$244.46 in full payment for

her share of the proceeds of the said real estate, thus disposing of the whole of the purchase money.

Your special commissioner further reports that the said B. R. Doughtie, who qualified as guardian of Lida O. Doughtie and Luther C. Doughtie, has given bond as such guardian in the county court of Nansemond County, in a sum and with a security which, in the opinion of your special commissioner, is amply sufficient to protect all the rights of his said wards, and which was deemed sufficient for that purpose by the Honorable Judge of the County Court.

All of which is respectfully submitted.

\$146.66
146.66
244.46
\$ 537.78.

P. H. Rawles
Special Commissioner.

Report of Sale
and Distribution

Washington, D.C.

Filed Feb 13, 1904.
S. M. Lawrence, D.C.

To Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie and John P. Lee, guardian for all of the said parties.

Please take notice, that I shall appear before the Honorable Judge of the Circuit Court of Nansemond County, at his office in Suffolk, Virginia, on the -----day of December, 1903, and move the said court to make and enter the annexed decree in the chancery cause of F. R. Ellenor vs Maggie N. Austin et als, now pending in said court, wherein I am plaintiff and you are defendants, and if from any cause, the said motion be not heard on that day, then the same will be renewed from day to day, at the same place, until the same shall have been heard and determined.

F. R. Ellenor
Attorney General

We hereby accept sufficient and legal service of the above notice, and ~~agree~~ ^{agree} ~~dece~~, and consent that the decree, mentioned therein, may be entered, as asked for.

John P. Lee
Guardian ad litem for
Maggie N. Austin
Lida O. Doughtie
Luther C. Doughtie

In the Circuit Court of Nansemond County, in vacation, on the 29th day of December, 1903.

F. R. Ellenor

vs

Maggie N. Austin et als.

} In chancery.

This cause came on this day ^{by consent of parties} to be heard in vacation on the papers formerly read, as well as on the report of C. H. Causey, one of the commissioners of this court, to whom the papers in the said cause had been referred; which said report was filed on the 5th day of December, 1903, and to which no exception has been filed, and was argued by counsel.

On consideration whereof, it appearing to the court that the defendants, by their guardian ad litem, have had notice of the intention of the plaintiff to apply for this decree, the court doth confirm the said report and the court being of the opinion from the said ^{report} ~~report~~, as well as from the evidence of witnesses filed therewith, that the interest of the infant defendants in this suit, will be promoted by a private sale of the land, on the same basis that the plaintiff, F. R. Ellenor, purchased the other interests,

The court doth order, adjudge and decree that R. H. Rawles, who is hereby appointed a special commissioner for that purpose, shall proceed to sell and convey unto the said F. R. Ellenor the interest of the three infants, Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie, in the tract of land, in the bill and proceedings mentioned, for the cash price and sum of \$1600, for the entire tract of land; he paying for the interests of the said infants just what their interest in the said land will amount to, on that basis; and when the said purchaser, F. R. Ellenor, shall pay in cash the whole of the purchase money for said interest in said land, then the said special commissioner is authorized to make him a deed for said interest in said land, with the usual covenants of title, and out of the proceeds of the sale the said commissioner shall first pay off and discharge the costs and expenses of this suit and sale, including ^{additional} ~~an~~ fee of \$ 25.

to the said R. H. Rawles for his services as ^{Counsel} ~~commissioner~~ in this cause,
and the balance he shall pay over to the guardians of the said infant de-
fendants, ^{so soon as this court shall be satisfied that such guardians have given bond} if they have, or shall have, any such guardians, but in case no
person will qualify as guardian for them, then, and in that event, the said
special commissioner is hereby directed to deposit the amounts due to the
said infant defendants to their credit in the Farmer's Bank of Nansemond,
and file with his report a certificate of deposit.

But, before the said R. H. Rawles shall act under this decree, he shall
first enter into a bond in the penalty of \$800.00, conditioned
for the faithful performance of his duties as such commissioner, under this
and all other decrees that may hereafter be entered in this cause; said
bond to be with security deemed sufficient by the clerk of this court.

The said commissioner is hereby directed to report all his actions under
this decree to this court, and this cause is continued.

*All of which
is hereby certified to the Clerk of this
Court to be entered in the chancery
order book.*

Robert R. Hunt

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

²
Decree
Hon. Sale

Entered Dec. 29, 1903

Robert H. Hunt

Entered in Chancery

Order Book No 3

Page 554.

In the Circuit Court of Nassau County
in vacation on the 19th day of December,
1903.

F. R. Ellenor

Plaintiff

vs

Maggie N. Austin }
Lida O. Doughtie }
Luther C. Doughtie }
all in feto.

Defendants.

By consent of all parties, ^{the} plaintiff, and ^{by counsel the} defendants, ^{by John Lee their guardian ad litem} entered of record, it is ordered that the papers in this case may be submitted to the judge of this court ^{in vacation} for such ^{decisions} orders or orders therein as might be made in Term: all of which is hereby certified to the Clerk of this court to be entered in the chancery order book.

To the Clerk of the
Circuit Court of
Nassau County.

Robert R. Austin

Decree.

Enter: Dec. 12,
1903.

Robert R. Mentis

Entered in Chancery
Order Book No 3
Page 553.

We concur in this decree.

F. R. Ellenor.
by R. H. Reeder atty.

John W. Lee
Guardian ad litem
for infant defendants

To Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie, John P. Lee, guardian ad litem for Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie.

Please take notice, that I shall appear before the Judge of the Circuit Court of Nansemond County, at his office in Suffolk, Virginia, on the 21st day of November, 1903; and move the said court to make and enter the annexed decree, in the chancery cause now pending in said court, under the name and style of F. R. Ellenor Vs. Maggie N. Austin et als, in which I am plaintiffs and you are defendants; and if, from any cause, the said motion be not heard on that day, I shall renew the same at the same place, from day to day, until the same shall have been heard and determined.

Yours respectfully,

F. R. Ellenor
by Counsel.

I hereby accept sufficient and legal service of the within notice and agree and consent that the decree mentioned therein may be entered.
Nov. 9. 1903.

J. P. Lee
Guardian ad litem for
Maggie N. Austin
Lida O. Doughtie
Luther C. Doughtie

The Circuit Court of Nansemond County, in vacation, on the 24th day of November, 1903.

F. R. Ellenor Vs. Maggie N. Austin, Luther C. Doughtie and Lida O. Doughtie. *In Chancery.*

This cause came on this day, to be heard on the bill and exhibits filed, the answers of Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie, in their own proper persons, and the answers of the said defendants by E. E. Holland, their guardian ad litem, duly assigned at rules, and was argued by counsel.

On consideration whereof, it appearing that the defendants ^{reasonable} had notice of the intention, on the part of the plaintiff, to apply for this decree, the court doth adjudge, order and decree that one of the commissioners of this court shall proceed to take and state the following accounts:

First: An account of the real estate named in the bill, together with its annual and fee simple values:

Second: The liens thereon, if any, together with their amounts, dignities and priorities, and whether the same has ever been sold for delinquent taxes:

Third: Whether the said real estate is divisible in kind among the parties entitled thereto, without a sacrifice of interest:

Fourth: Whether any one of the parties interested in the said real estate will take the whole, or any part thereof, by allotment, and pay to the other owners what their interest in the same may be worth:

Fifth: Whether the interest of all the parties would be better promoted by a sale of the land, as a whole, and a division of the proceeds among the parties entitled to share therein:

Sixth: Any other matter deemed pertinent by said commissioner, or which may be required to be stated by any party in interest.

Robert R. Mentis
To the Clerk of the
Circuit Court of
Nansemond County: -

which may be referred to be noted by any party in interest.

Sixth: And after either during testimony by said declarant, or before retired to their homes:

Decree for
Accounts.

Enter:

Nov. 21, 1902

Robert R. Smith

Entered in Chancery
Order Book No 3
Page 546.

The amount and for which the same:

First: An account of the real estate owned by the said declarant with one of this court shall proceed to take and state the following accounts: One, the court does adjudge, order and decree that one of the commission-ers of the inferior, on the part of the plaintiff, to apply for this decree. On consideration whereof, it appearing that the defendants have and are owing by counsel.

And by H. E. Holland, their guardian ad litem, duly assigned as counsel, and Douglas, in their own proper persons, and the answers of the said defendants, the answers of Joseph H. Austin, John O. Douglas and Joseph C. Douglas.

This cause came on this day, to be heard on the bill and exhibits thereto.

E. J. Johnson vs. Joseph H. Austin, Joseph C. Douglas and John O. Douglas, 1902.

The Circuit Court of Henning County, in session, on the day of

In the Circuit Court of Nansemond County.

F. R. Ellenor

vs.

Maggie N. Austin, et als.

This cause came on this day to be heard on the papers formerly, as well as on the report of R. H. Rawles, special commissioner, who was appointed as such by a decree of said court, in said cause, entered on the 29th day of December, 1903, which said report was filed on the ^{13th} ~~29th~~ day of ^{February} ~~January~~, 1904, and to which no exception has been filed, and was argued by counsel.

On consideration whereof, it appearing to said court that the said special commissioner had sold and conveyed to F. R. Ellenor, by private sale, the interests of Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie, in the tract of land in the bill and proceedings mentioned, and known as the "Wiggins Tract," for the sum of \$537.78; said sale being made on a basis of \$1600, for the entire tract; that he has collected the whole of the purchase money, and has paid the same over, respectively, to Elisha W. Cross, who has been duly appointed and given bond in this court as receiver of Maggie N. Cross, who was Maggie N. Austin; and to B. R. Doughtie, guardian of Lida O. Doughtie and Luther C. Doughtie; and that he has paid all the cost and expenses of this suit and sale, and has made to the purchaser a deed for said interests in said land, with the usual covenants of title; and has filed proper vouchers for all said disbursements; and it further appearing to the court that the said guardian of the said Lida O. Doughtie and Luther C. Doughtie, has entered into bond as such, conditioned for the faithful performance of his duties, and in a penalty and with securities deemed sufficient to protect the rights and interests of the said wards, and that the said receiver has also entered into a bond in sufficient penalty and with security deemed sufficient for the faithful discharge of his duties, the court doth confirm the said report and the sale, therein mentioned, and the distribution of the purchase money, as therein stated.

And nothing further remaining to be done in this cause, it is ordered that the same be stricken from the docket.

that the same be withdrawn from the docket.

And nothing further remaining to be done in this cause, it is ordered therein stated.

the sale, therein mentioned, and the distribution of the purchase money, as
his discharge of his duties, the court both confirm the said report and
in sufficient penalty and with specially deemed sufficient for the sale-
the said words, and that the said receiver has also entered into a bond
with securities deemed sufficient to protect the rights and interests of
claim for the faithful performance of his duties, and to a penalty and
D. Dougherty and Luther C. Dougherty, has entered into bond as such condi-
it further appearing to the court that the said emulsion of the said title
of title; and has filed proper vouchers for all said disbursements; and
shows a good for said interests in said land, with the usual covenants
all the said and expenses of this sale and sale, and has made to the pur-
chaser of said O. Dougherty and Luther C. Dougherty, and that he has paid
receiver of said H. Green, who was Joseph H. Austin and to H. S. Dougherty,
G. Green, who has been duly appointed and given bond in this cause as re-
of the purchase money, and has paid the same over, respectively, to Hiram
on a basis of \$1600, for the entire tract; that he has collected the whole,
known as the "Manning Tract," for the sum of \$523.38; said sale being made
Dougherty, in the tract named in the bill and proceedings captioned, and
sale, the interests of said Hiram, said O. Dougherty and Luther C.
special commissioner, has duly and lawfully conveyed to said Hiram, by private
On consideration whereof, the court do hereby order that the said
by counsel.
of January, 1904, and to Joseph Austin on a bond filed, and was entered
both day of December, 1903, which said report was filed on the 23rd day
being as much by a deed of sale, in and to said Hiram, entered on the
well as on the report of said Hiram, special commissioner, who was ap-
this cause came on for hearing, the court do hereby order that the said

Final Decree

Enter:

Entered Mar 14/1904
Robert H. Austin

Entered in Chancery
Order Book No 3. Page 562.

Joseph H. Austin, et al.

vs.

H. S. Elliott

In the Circuit Court of Hancock County.

Commissioner's Office, Suffolk, Va.,

November 24, 1903.

To F. R. Ellenor plaintiff, and Maggie N. Austin, Lida O. Doughtie, Luther C. Doughtie and John P. Lee, guardian ad litem, defendants.

You are hereby notified that I have fixed upon Saturday, the 5th day of December, 1903, if fair, and if not fair, then the first fair day, thereafter, Sunday excepted, to take, state and settle the following accounts, required to be taken by a decree of the Circuit Court of Nansemond County, dated November 21st, 1903, in a suit therein depending between you, at which time and place you are required to attend.

First. An account of the real estate, named in the bill, together with its annual and fee simple values.

Second. The liens thereon, if any, together with their amounts, dignities and priorities, and whether the same has ever been sold for delinquent taxes.

Third. Whether the said real estate is divisible in kind among the parties entitled thereto, without a sacrifice of interest.

Fourth. Whether any one of the parties interested in the said real estate, will take the whole or any part thereof by allotment and pay to the other owners what their interest in the same may be worth.

Fifth. Whether the interest of all the parties would be better promoted by a sale of the land, as a whole, and a division of the proceeds among the parties entitled to share therein.

Sixth. Any other matter deemed pertinent, by said commissioner, or which may be required to be stated by any party in interest.

Given under my hand this 24th day of November, 1903.

C. H. Causey Jr
Commissioner for Chancery

We hereby accept sufficient and legal service of the above notice, this 24th day of November 1903.

F. R. Ellenor

J. P. Lee
Guardian ad litem for infant defendants.

Commissioner's Office, Suffolk, Va.,

December 5, 1903.

F. R. Ellenor, plaintiff, in chancery, vs Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie, defendants.

To the Circuit Court of Nansemond County.

Pursuant to the decree of this court entered on the 21st day of November, 1903, the undersigned, one of the commissioners of this court, having first given notice as required by law, which notice is herewith returned duly executed, proceed on the day named in said notice, to take and settle the several accounts, as directed in the said decree.

The result of your commissioner's work is herewith returned and is as follows:

I.

First; an account of the real estate, named in the bill, together with its annual and fee simple values. Said real estate consists of a tract of woodland, situated near Whaleyville in Cypress District, in Nansemond County, Virginia. There is no arable land in said tract, and all of the original growth of timber has been cut therefrom: *it is said to contain 217 acres.*

Your commissioner will report the fee simple value of the said land to be \$1500. It has no annual value, as it is all woodland, and cannot be rented or leased.

2.

The liens thereon, if any, together with their amounts, dignities and priorities, and whether the same has ever been sold for delinquent taxes.

Your commissioner reports no liens upon the property, in the bill mentioned, and further that the land, herein described, has not been sold for delinquent taxes.

3.

Whether the said real estate is divisible in kind among the parties entitled thereto, without a sacrifice of interest.

Under this head, your commissioner reports that the said real estate is not divisible in kind among the parties entitled thereto, without a sacrifice of interest, for the reason appearing in the depositions returned with this report.

4.

Whether any one of the parties interested in the said real estate will take the whole, or any part thereof, by allotment and pay to the other owners what their interest in the same may be worth.

Under this head, your commissioner reports that Mr. F. R. Ellenor, the plaintiff, is willing to take the interest of Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie, and to pay to them, for said interest, the same proportion as he paid the adult heirs for said real estate.

5.

Whether the interest of all the parties would be better promoted by a sale of the land, as a whole, and a division of the proceeds among the parties entitled to share therein.

Under this head, your commissioner reports that, in his opinion, the interest of all parties would be better promoted by a sale of said land and a division of the proceeds, rather than a partition of the land in kind, but, he is also of the opinion that the interest of the infant defendants would be better promoted by selling their interest to F. R. Ellenor for the price, proportionally speaking, as he paid for the interest of the adult owners.

Your commissioner reaches this opinion, after having heard the strong statements of several very creditable and worthy gentlemen, who are, themselves, real estate owners; who know something of the value of real estate; who are well acquainted with this tract of land, and who seem to think very strongly that it would be better to sell the interest of the infants, at private sale for the price which Mr. Ellenor has offered, to-wit: \$1600 for the whole tract, paying to them what their interest in the same amounts to.

6.

Any other matter deemed pertinent by the said commissioner or which may be required to be stated by any party in interest.

Under this head, your commissioner has nothing further to report. He calls the attention of the court to the assumed deposition of Edward B. Harrell, Thos. W. Savage and others taken by him.
Respectfully submitted.

Feb 7th

C. H. Causey Jr.
Commissioner in Chancery.

Edward B. Harrell being duly sworn deposes and says, as follows:

Q. Please state your name, age, residence, occupation and whether you know all the parties to this suit?

A. Edward B. Harrell, age 59 years, residence Nansemond County, Virginia, occupation farmer, and I know all the parties to this suit.

Q. Are you acquainted with the "Wiggins tract" of land, situated in Cypress District, in this county, and said to contain about two hundred and seventeen (217) acres, and if so, how long have you known it, and what do you know of it?

A. Yes, I am very well acquainted with it, I think I have walked over every acre of it. I have lived very close to it and have known it well all of my life. There is not a foot of cleared land on it, it is woodland and all of the timber has heretofore been cut off it. I think it fronts on the public road only about four hundred yards (400 yards).

Q. What would you think a fair market price for this land, in its present condition?

A. I think five dollars an acre would be a big price for it. \$1200 or \$1500 in gross is, in my opinion, a big price for it.

Q. If it was sold for \$1600 cash, what would you say of the price?

A. I should say it was a big price and a good bargain for the sellers. I would not think of giving that much for it.

Q. What is the annual value of this tract of land?

A. It being a woodland, ^{all} it could not, of course, be rented and therefore in my opinion has no annual value.

Q. There being eight or ten shares or owners to this tract of land, is it in your opinion divisible in kind among the parties?

A. No, in my opinion it is not.

Q. Please state why you do not consider it so?

A. I do not see how they could divide it up and give each one his share in the present location of it. The shares would ^{all} be so small and some of them would be so badly located that their value would be practically or entirely destroyed.

Q. There is some of it I would not pay taxes on, for it, as it is only covered with small huckleberry bushes and reeds.

Q. How, in your opinion, would be the best way to have a division of this land among the parties entitled thereto.

A. To sell it in gross and divide the proceeds of sale. That is about the only way I think a just division could be made.

Q. The bill states that Mr. F. R. Ellenor, the plaintiff, in this suit, has already purchased the interests of all the adult heirs and owners, at the rate of \$1600 for the entire farm, paying them what their interest would be. Do you think it would, or would not, be to the interest of the remaining three infants to sell their interest to him, privately, for the same sum, in proportion, that is to say, sell the farm, including the infants interest for \$1600, and pay them what their rights might be. Would this be promotive of their interest, or not?

A. Yes, I think and feel that it would be an extremely good bargain for them, and I certainly think that they would get more out of it in this manner, than in any other manner that could be adopted. I feel sure that a great risk would be run in exposing their interests to a public sale, when the sum of \$1600 has already been offered for the entire farm.

And further this deponent saith not.

E. B. Harrell

Mr. Thomas W. Savage, being duly sworn deposes and says as follows:

Q.. Please state your name, age, residence, occupation and if you know all the parties to this suit?

A. Thomas W. Savage, age 66, residence Nansemond County, Virginia, occupation farmer and undertaker, and I know all the parties to this suit.

Q. Are you acquainted with the Wiggins tract of land, situated in this county near Whaleyville, and said to contain 217 acres? and if so, how long have you known it and what do you know of it?

A. Yes, I am well acquainted with this farm, I have known it intimately for fifty years, and I now live, and have for a long time lived, within half a mile of it.

Q. What do you know of it?

A. It is ^{all} a woodland, now there was once a part of it cleared land, but it has grown up in bushes and trees.

Q. What condition is it in?

A. The present condition of it is not very good, for the reason, that all the original growth of timber has been cut from it.

Q. What would you consider a fair price for this land?

A. I thing \$1,000 is all it is worth.

Q. What is the annual value of this land?

A. Being altogether a woodland tract, it has no annual value.

Q. Do you think it would be practicable to divide this land in kind among all the different heirs?

A. I do not think it would, and for this reason, the different parcels would all be very small and most of them would lie in such a position or location as to practically destroy them of their value of each one of the small tracts.

Q. What, in your opinion, would be the best method to pursue in regard to a division of this land?

A. Under the circumstances, of this case, and considering there are quite a number of heirs to this land, I really believe that the best thing to do would be to sell the land in gross, or as a whole, and then divide the proceeds of sale among the parties entitled to the same.

3000
Q. If this tract of land could be sold at the price of \$1600 for the ~~entire~~ entire tract what would you say of the sale?

A. I should say that it was a very good sale indeed.

Q. The bill in this case, states that the plaintiff, Mr. Ellenor, has already purchased the interest of all the adult heirs at the price of \$1600 for the entire farm, and has paid them or their-h what their interest in the same would be, now would ~~you~~ in your opinion, the interest of the remaining three infants be best promoted by a sale of their shares to him at the same proportional price, or would it be best to subject their shares or the whole tract to a public sale at public auction?

A. If it were my land and I ~~would~~ owned these three remaining interest on it, which are now said to belong to the infant defendants, I would take the \$1600, or the proportional part thereof, every time ^{before} I would run the risk of a public sale. I therefore think that the interest of the infants would be best promoted by allowing their interest to be sold at the same proportional price to Mr. Ellenor, privately.

And further this deponent saith not.

J. W. Lavage

Mr. F. R. Ellenor being duly sworn deposes and says as follows:

Q. Please state your name, age, residence, occupation and if you know the parties to this suit?

A. F. R. Ellenor, age 59, Nansemond County, Virginia, farmer and lumber man, and I know the parties to this suit, I am the plaintiff.

Q. Please state if you have bought any of the interest in the tract of land known as the Wiggins tract and if so, what you paid for it?

A. Yes, I bought the interest of all the adult heirs and owners as stated in my bill in this case, and the only remaining interest are those of the three infants. I paid at the rate of \$1600 for the entire tract in gross. I am inclined to think I paid a very good price for said tract of land.

Q. Will you please state whether you are willing to take the interest of the other heirs by allotment, or sale, and pay to them the same proportional price for theirs, as you paid to the others, that is to say, pay \$1600 for the tract and give them what their interest in the same would be, by a calculation?

A. Yes, I am willing to accept it by allotment or by private sale the whole and I am willing to pay the infants in the same proportion for their interest as I paid the adults.

And further this deponent saith not.

F. R. Ellenor

Mr. Robert F. Harrell, being duly sworn, deposes and says as follows:

Q. Please state your name, age, residence, occupation and if you know the parties to the suit?

A. Robert F. Harrell, age 70 years, residence Suffolk, Virginia, occupation, retired, and I know the parties to the suit.

Q. Are you acquainted with the Wiggins tract of land, situated near Whaleyville in this county, and said to contain about 217 acres, and if so, how long have you known it and what do you know of it?

A. Yes, I know the land you speak of. I have known it for 65 years; I was raised very near to it and lived there for a long time, and have known it ever since. It is a piece of poor land grown up mostly in pine saplings; the lumber has mostly been cut from it heretofore; it is now all woodland.

Q. What condition is it now in?

A. Well, as I said before, it is now all grown up in bushes and briars only a small strip of it comes out to the county road and the balance of it lies back in a "pocoson."

Q. What would you consider a fair price for the land, cash?

A. I should think a \$1,000 a very fair price for it.

Q. Do you know whether it has any annual value or not?

A. I do not think it has; as there is no way to make it bring a revenue. There is not a foot of cleared land on it.

Q. Do you think it would be best, or be practicable, to divide this land in kind among the different heirs?

A. No, I do not think so, I think it would be much better to sell it as a whole tract and divide the proceeds.

Q. What do you think of \$1,600, as a sale price for this land?

A. I think he paid a very fine price for it, if anybody has paid that.

Q. Supposing it could be sold for \$1600, for the entire tract, would you think it would be to the interest of the infants to allow their shares in it, to go at the same rate, or would it be best to put their shares up at public sale?

A. In my opinion, they would reap better results by allowing them to sell, or in selling their shares, to the same purchaser, and at the same price, I believe they would get more money in this manner.

And further this deponent saith not.

R. F. Howell

Report of Comair
C. H. Causey.

Filed Dec. 5th 1903.
A. P. Plummer clk

F. R. Ellenor

#

vs.

#

Maggie N. Austin, et als

#

In Chancery.

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This cause came on this day to be again heard on the papers, formerly read, as well as on the report of Elisha C. Cross, receiver for Maggie N. Cross, formerly Austin, which said report was filed on the 24th. day of December, 1904, and to which no exception has been filed, and was argued by counsel.

On consideration whereof, it appearing, from said report, that the said receiver, Elisha C. Cross, has paid over to the said Maggie N. Cross, formerly Maggie N. Austin, all of the funds which came into his hands, as such receiver; that he has filed his report showing said amount with proper voucher showing payment of same to her, the court doth confirm the said report; and nothing further remaining to be done in this cause, it is ordered that the same be stricken from the docket.

Final Decree

Entered:

Entered Jan. 11, 1905
Robert R. Denton

Entered in Chancery
Order Book No. 3.
Page 625.

The joint and separate answers of Lida O. Doughtie and Luther C. Doughtie to a bill in Chancery exhibited against them and another in the Circuit Court in Nansemond County, by F. R. Ellenor.

For answer to the said bill, or to so much thereof as it is necessary that these defendants should answer, these defendants answering say: they are the children of Cornelia O. Doughtie, deceased, named in the bill; that it is true that their mother departed this life intestate, leaving five children, the first three of whom are all now of age, and these two defendants are respectively age *L. 17. 2.* years and *L. 19. 2.* years; it is also true that their mother owned $1/2$ of $11/12$ of the tract of land named in the bill, and known as the Wiggins land, and which at her death passed and descended, in fee simple, to her said children; all the other facts stated in the bill, so far as these defendants are informed and believe, are true; these defendants are infants under the age of 21 years, but, as they have ^{nealy} ~~finally~~ reached the age of discretion and maturity, they believe that it would be to their best interests to have the said tract of land, named in the bill, sold and the proceeds divided among the present owners according to their respective interests, and this they are willing should be done; and if, upon a consideration of the whole case, the court be of the opinion that it would be as well, or better, for the interest of these defendants, that the said land should be sold at private sale, for the offer now made for it, then these defendants are willing to accept said offer, so far as they ^{have} the capacity to do so, but, these defendants confide their whole interest in the matter to the careful protection of the court, and pray that the same may be protected, as well as possible; and having fully answered, they pray to be hence dismissed, with their reasonable cost in this behalf expended, and they will ever pray &c.

Sign here *[Signature]*

[Signature]

Lyda O. Doughtie.
Luther C. Doughtie.

1903 Nov 7th Filed
S. J. Gomerick

Answer of
Lida O. Doughtie
Lucien C. Doughtie

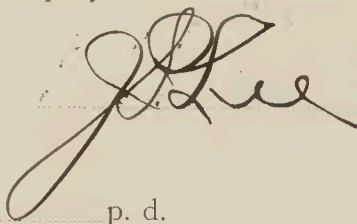
In the Circuit Court for the County of Hansemond,
to wit:

THE ANSWER OF Maggie N. Austin, Luther C.
Doughtie and Lida O. Doughtie

infants under the age of twenty-one years, by John P. Lee
guardian ad litem, assigned to defend them in this suit, to a bill of complaint exhibited against
them and others in the Circuit Court for the County of
Hansemond, by F. R. Ellenor and others

The respondents, reserving to themselves the benefit of all just exceptions to the said bill, for
answer thereto, answering by said guardian ad litem, say, that they are infants of tender
years, and by reason of such disability are incapable of understanding, or of taking care of their
rights and interests, they therefore commend the same to the protection of the court, and prays that
no decree may be pronounced which will tend to their prejudice.

And having answered, the respondents pray to be hence dismissed with their reasonable costs
in this behalf expended; and they will ever pray, &c.



Guardian ad litem.

p. d.

Virginia: Hansemond County, to wit:

I, R. H. Rawles a Notary Public
in the County aforesaid in the State of Virginia
do certify that John P. Lee guardian ad litem
whose name is signed to the above answer
has this day made oath before me in my
County aforesaid that he believes the statements
contained in said answer are true. Given under
my hand this 3rd day of November 1803. My
term of office expires on Jan. 28. 1807.

R. H. Rawles N. P.

Maggie M. Austin et al.

adv. { ANSWER
OF
INFANT DEFENDANT.

J R Ellenor.

The answer of Maggie N. Austin, to a bill in Chancery exhibited against her and others in the Circuit Court of Nansemond County, by F. R. Ellenor.

For answer to the said bill, or to so much thereof as it is necessary that this defendant should answer, this defendant answering saith: that she is now twenty years of age, and is one of the children of Ann M. Austin deceased, who owned $1/2$ of $11/12$ of the Wiggins tract of land, mentioned in the bill; that at the death of their mother the said interests passed and descended to herself and her two sisters, Lilly May Hayes and Effie J. Smith, who having already sold their shares in said land to F. R. Ellenor; this defendant further says that the facts stated in the bill, so far as she is informed and believes, are all true; and she is also of the opinion, after conference with her relatives and friends, that it would be for her best interest that the land named in the bill, should be sold and the proceeds divided according to law; she is informed and furthermore believes, that the offer which F. R. Ellenor has made for said land, is about its true value, and so far as she has the capacity to do so, she is willing that the court should direct that it should be sold privately, to him, for said offer, but, being an infant, she places all her interest in this case, in the protection of the court, and prays that only such decrees may be entered in this case as will best protect her said interest; and having fully answered, she prays to be hence dismissed with her reasonable cost in this behalf expended, and she will ever pray, etc.

Sign here *Maggie N. Austin*

Answer of Maggie
N. Austin

1903 Nov 7th Filed

A. B. Gorney del

Humbly complaining sheweth unto your Honor, your orator F. R. Ellenor, of Nansemond County, the following case:

Your orator says that he is a part owner of a certain tract of land, situated in Cypress District in Nansemond County, Virginia, and known as the "Wiggins tract", containing about two hundred and seventeen (217) acres, more or less, and bounded and described as follows: on the north by the lands of Nat Rountree, Abe Ellis and others; on the east by the lands of Neverson Milteer; and on the south by the South Quay county road; and on the west by the lands of Henning White, John T. Harrell and C. C. Clark.

Your orator says that his interest in this tract of land is $1/12$, plus $3/5$ of $1/2$ of $11/12$, plus $2/3$ of $1/2$ of $11/12$, and that the other interest in said land are owned as follows: Maggie N. Austin, owning $1/3$ of $1/2$ of $11/12$, and Lida O. Doughtie and Luther C. Doughtie each owning $1/5$ of $1/2$ of $11/12$ of the said tract of land.

Your orator further says that it is the land that formerly belonged to Willis Wiggins, the elder, who died about the year 1827, leaving four children, to-wit: Willis, Wiley, William and Elizabeth, the last one married Humphrey D. Savage; that Willis Wiggins purchased the rights of Wiley and Elizabeth, and that William, the third son of the elder Willis, died unmarried, and without lawful heirs, not having disposed of his interest in his father's landed estate. — After Elizabeth had conveyed her interest to her brother, the said Willis the younger, and before Wiley had conveyed his interest, and hence upon the death of the said William, his brothers Willis and Wiley, ^{his sister Elizabeth become} the heirs of his portion of his father's land, to-wit: $1/3$ of $1/4$, or $1/12$, of which Wiley's $1/12$ was afterwards conveyed to the aforesaid Willis Wiggins, the younger, thus leaving the undivided $1/12$, still belonging to Elizabeth Savage.

The title to the said land then stood $11/12$ in Willis Wiggins, and $1/12$ in Elizabeth Savage. The said Willis Wiggins, the younger, departed this life several years ago, leaving as his only heirs at law, his two daughters Cornelia Octavia, and Ann M.; the wife of the said Willis Wiggins being now also dead. His daughter, Cornelia Octavia, married B. R. Doughtie and then died, leaving as her heirs at law her five children, Lydia O. Roberts,

Alnona Daughtrey ~~and~~ W. C. Doughtie, Lida O. Doughtie and Luther C. Doughtie who thus took their mother's interest or $1/2$ of ~~her~~ $11/12$ of the said land. The said Ann M. married Willis Austin and then died intestate, leaving as her heirs at law, her three children, Lilly May Hayes, Effie J. Smith and Maggie N. Austin, who thus owned the other half of the $11/12$ of the said land.

Now your orator says he purchased of B. R. Doughtie the $1/12$ of the said land, formerly belonging to Elizabeth Savage, by deed dated the 18th of March, 1903. The said B. R. Doughtie having purchased the same from Elizabeth Savage, by deed dated the 31st day of January, 1885, and recorded in the clerk's office of Nansemond County Court, and that he has also purchased the interest of Lydia O. Roberts, Alnona Daughtrey and W. C. Doughtie in said land, by deed dated the 18th day of March, 1903, and duly recorded in said clerk's office; and that he has also purchased the interest of Lilly May Hayes and Effie J. Smith in the said land, by deeds dated the 18th of March, 1903, and duly recorded in said clerk's office.

The husbands and wives of the respective parties having joined with them in said deeds, all of which are herewith filed and marked exhibits 1, 2, and 3, and prayed to be read as a part of this bill:

And your orator respectfully refers the court to all papers filed in the Chancery cause of Morris and Bruce Vs. B. R. Doughtie and others, which was filed in the Circuit Court of Nansemond County, on the 20th day of May, 1882, for further particulars concerning the title to said land.

Your orator further states that the other joint owners of said tract of land, Lida O. Doughtie, age 20, owns $1/5$ of $1/2$ of $11/12$, and Luther C. Doughtie age 17, owns $1/5$ of $1/2$ of $11/12$, these two being the children of Cornelia Octavia Doughtie (formerly Wiggins) and that Maggie N. Austin age 20, owns $1/3$ of $1/2$ of $11/12$, she being one of the children of Ann M. Austin (formerly Wiggins) deceased, the last three joint owners being, therefore, all infants.

Now your orator further says that if the said tract of land is susceptible of division in kind among the parties, entitled to the same, without a sacrifice of interest, then he desires that the same may be partitioned and

divided among the respective owners, and his share allotted to him; but your orator believes and therefore charges that the said tract of land is not susceptible of partition in kind among the parties ~~entitled~~ to the same, and if it be not, then your orator desires that the said tract of land may be sold and the proceeds divided among all the parties who are ~~entitled~~ to share in the division thereof.

Your orator also says that in case it should be sold by order of court for a division, he is willing to purchase the interests of the three infant defendants, at the same price and for the same sum, in proportion, as he paid the adults, for their interest, and he therefore makes an offer to the court to purchase their said interest for said sum, provided the court, upon a full hearing, should think that the interest of the infants would be promoted thereby.

Your orator further says that he has also acquired, as will be shown by the exhibits hereby filed, the interest of Willis H. Austin, husband of Ann M. Austin, and B. R. Doughtie, the husband of Cornelia O. Doughtie, deceased, in said land.

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 this kind are alone and properly cognizable, your orator prays that the said Maggie N. Austin, Lida O. Doughtie and Luther C. Doughtie, may be made parties defendant to this bill and required to answer the same, though an answer under oath is waived; that a proper guardian, ad litem, may be assigned to the said infants to defend their interests in this suit; that proper process may issue; that all proper accounts may be taken; and ~~that~~ the said real estate may be partitioned in kind among the said owners, if it be susceptible of such partition, without a sacrifice of interest, but if it be not so susceptible of partition, then that the said real estate may be sold and the proceeds, after paying the costs and expenses attending the suit and sale, may be divided among said parties, according to their re-

spective rights, and for all such other, further and general relief, as this case may require, or which the equity may seem meet, and your orator will ever pray, etc.

And notice is hereby given that the court will be asked to allow a reasonable fee for counsel in this case.

F. R. Ellenor.

- Virginia, County of Nansemond, To-wit:

I, R. H. Rawles, a notary public for the county aforesaid, in the State of Virginia, do certify that F. R. Ellenor, whose name is signed to the above bill, has this day personally appeared before me, in my said county, and made oath that the statements contained in the said bill, as coming of his own knowledge are true; and that all other statements therein contained, as coming from knowledge or information derived from others, he believes to be true.

Given under my hand this 2nd day of November, 1903.

My term of office expires on the 28th day of January, 1907.

R. H. Rawles.

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Bill.

1903 Nov 2nd Filed
A. L. Gomer, clk