

1822-020

SOUTHAMPTON COUNTY
CHANCERY PAPERS

SIMMONS et ux et al vs. WELLS et al

8/1822

other surnames, Vick,
Lankford, Wills

To the worshipping the County Court of Southampton
sitting in Ch^y ^V Humble complaining sheweth to
your worship your orators for and on behalf
G. Simmons & Elizabeth his wife late Vick
& Richard Vick

which s^r Elizabeth & Richard
are children of Parks Vick dec^d & Rebecca his
wife formerly Rebecca Lankford, daughter & heiress
of Thomas Lankford dec^d. that the s^r Thos.
Lankford departed this life many years since
having first duly published his last will
& testament which was thereafter recorded &
an authenticated copy of which is hereto sub-
mitted & prayed to be considered a part
of this Bill. that the s^r testator left the wife
& five children enumerated in his will duly
and their having afterwards been born. that
Rebecca the mother of your complainants married
the s^r Parks Vick after the death of her father
by whom she had two children a son. that the
s^r Parks Vick then died subsequently to which
she intermarried with a certain Goodrich
Wells by whom she has also two children
to wit Henry & John. that during the ^{existence of the} latter
marriage Elizabeth Lankford the widow of
the testator who had in the property intestate
bequeathed to her for life or widowhood
by an arrangement with her five children
a son & the husbands of each of them as then
married made an immediate division of
the s^r property without waiting for her marri-
age or death & invested them with their res

pectu's proportions - that among them the 1st ~~Wells~~
as husband of the 1st Rebecca Mc? are first & part
which with the subsequent increase of the 1st Haves
& other property is now of very considerable
value. Your Complainant has charge that
the 1st division was made previous to the
contingency presented in the 1st will - without
their consent they being infants - & without
the authority or sanction of any Judge or
or decree of any Justice's tribunal whatever,
^{that the 1st widow had no title except as above & no authority to do so}
~~that~~ ^{that} ~~subsequently~~ ^{subsequently} to this arrangement there
- as the wife of the 1st Wells & mother of your
complainant died leaving Elizabeth the
widow of the 1st testator still alive, & leaving
by her last marriage the two children
above enumerated. That lately the 1st
Elizabeth the widow of the testator has also
died without ever having again married &
consequently by the terms of her husband's will
above the 1st division should now take
place. That as Rebecca the mother is
dead the proportion to which she would
be entitled should now divide on all her
children above including the two by each
marriage, all of them being equally her
heirs at law & the heirs of the 1st testator
Lanckford. But now so it is that it pleases
your worship the 1st Goodrich Wells claiming
all the 1st property as his own individually
& refuses to let the children of his wife by
her first marriage come in for any part
of it, on the flimsy pretext that as the divi-

- sion was made during his wife's life he be-
- came also totally entitled altho' it is obvious
that his wife by reason of her coverture was un-
- able to consent to any such arrangement & that
his consent so far as it was calculated to pre-
- judge the rights of her two first children for the
benefit of his two was a complete nullity.
Your voters further contend that the delivery
of the property above by the 1st widow can only
either equally or legally be considered a
surrender to her children of the use of the
property during her estate for life or a discharge
on the termination of which by her marriage or
death the title was of course in the same situ-
- ation as if the intermediate possessor had
remained with her. That her 1st children were
merely invested with the possession of the 1st
Haves & other property during the existence of her
life estate & that as to the title ~~the 1st children~~
~~held under her~~ ^{held under her} during her life & and in the
will of Lanckford afterwards. That as they heard
& superior titles did not accrue to the 1st Rebecca
during her marriage with Wells or her life time,
that her husband has no interest in the same property
except such as he derived under Mr. Lanckford
& which of course terminated with her death.
That if the 1st Rebecca had married her 1st mother
she would have at her mother's death been entitled
to her proportion & that not having married her
- her children are entitled in her stead in-
- cluding your complainant. That notwithstanding
these facts the 1st Wells withheld from your
complainant any participation in the 1st estate &
refuses even to afford them information of it.

structure nature & value. That your complaint
do not solicit a re-division of the whole estate
of the s^r. Mr. Sanford among all his legatees,
but are willing to consider what was w^t. by the
s^r. Wells as the fair proportion of their mother
& as he is ~~afforded~~ ^{afforded} from containing them
it is only for their proportion of that for
which they now contend. The under consid-
eration whereby & inasmuch as your complaint
and without remedy at law in the premises
to the end therefore that the s^r. Goodrich Wells
& the s^r. Henry Wells & John Wells who are
infants by some guardians to be assigned them
may be compelled as steps hereto to answer
the premises on oath fully & explicitly
that the s^r. Wells divided the quantity, quality
& value & profits of the property w^t. as above
from the estate of the s^r. Testator. That a
proper account thereof if necessary be taken
before a competent officer. That finally your
wishes decend to your complaint that their
just proportion of the said property be granted
them such other & general relief in the pre-
mises as equity dictates. May it please
Produce P. L.

Witness at New York
this 13th of July
1810
Wells & Co.
Attorneys

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Goodrich M^{rs} et al

adv

Simmons & Co et al

Answer.

Aug. 24th 1822 answer filed

To the worshipful Court of Southampton in Chancery sitting
The answers of Goodrich Wells, and of his infant
children Henry and John Wells by the said Goodrich
Wells as their next friends to the bill of complaint
exhibited against them by Robert G. Simmons and
Elizabeth his wife late Vick and Richard Vick

These respondents saving and
reserving to themselves all benefit of law from
the many errors, inconsistencies, and
imperfections in the bill of the complainants contained
for answer thereto or to so much thereof as they are
advised is material and necessary for them to answer
answering say. That Thomas Sankford did leave
such a last will and testament as the one
referred to in the bill. That Rebecca the late wife
of your respondent Goodrich Wells was one of
the children of the said Thomas Sankford referred to
in his will. That after the intermarriage of your
respondent Goodrich Wells with his said wife, by
the consent of Elizabeth Sankford the widow of Thomas,
Sankford, and by the consent of all the heirs of
the said Thomas Sankford, they being of full age
the slaves to which the said Elizabeth Sankford
was entitled for her life or during her widowhood,
were surrendered by the said Elizabeth Sankford
and divided among the said heirs of Thomas
Sankford to the satisfaction of all parties then
interested. It is true that this was not done by
order of any judicial tribunal, but your respon-
dents humbly conceive that as all the parties
were of full of age and labouring under no

disability to contract, that any agreement they might make would be forever binding and stable between them. Your respondents say that none of the parties concerned under any disability to contract, in relation to the subject matter of this suit. They say, that the plaintiff of them, remainder, to the slaves in which Elizabeth Lankford had a life estate, was a valid interest, which the husband of any one of the heirs of the said Thomas Lankford had a right to dispose of by sale before the death of the said Elizabeth Lankford, and that it was such an interest as would have devolved to the husband in case of the death of the wife, before the termination of the life estate. The slaves which were allotted in the division to your complainant Goodrich Mills were, Selvy about 30 years of age at the time of the division, Sam about 21 or 22 years of age, and Jenny an infant under 12 months of age. That since the division aforesaid, Selvy has three children who are now living Lewis about 10 years of age, Maria about 9 years of age and Mally about 5 or 6 years of age. Your respondent, independent of the above grounds upon which he believes he might safely rest his title to the slaves in question keeps leave to state to the Court, that he has taken out letters of administration upon his late wife's estate, a copy of which he has annexed as a part of this answer, by virtue

of which he has a right to reduce into his possession all choses in action belonging to her late wife, and cannot be compelled to answer by any other than creditors of his said wife before he marries. Your respondent is unable to perceive any thing like a colour of title in the complainants to the property for which they have brought this suit. As however he may be mistaken, and as he wishes to withhold from no one that which belongs to him, he will here add, that to make his division of the slaves equal to others, he would treasury all that occurs which comprises every thing which has ever yet come to his hands from the estate of the said Thomas Lankford dead. Their respondents denying all parties to pray that they may be heard dismissed with their costs in this behalf most verily sustained and as in duty bound they will ever pray &c. His
Goodrich & Mills
mark

Northampton County Court. Goodrich Mills this day personally appeared before me a Justice of the Peace for the said County and made oath to the truth of the facts stated in the foregoing answer, so far as they depend upon his own knowledge and so far as they depend upon information derived from others, he believes them to be true. Given under my hand this 24th August 1822.
Jm L. Everett J.

Simmons H. 3

or

Wells H. 3

Spa in blue

To Nov^r 2^d comb 1871 -

The Commonwealth of Virginia, To *The Sheriff of Southampton County*
GREETING:

You are hereby commanded to summon *Goodrich Mills, Henry Mills and John Arice*

to appear before the *Sixties* of our *County* Court of *Southampton* at the court-
= house ~~County~~, on the *Thurs* mon ^{in Nov.} day ~~of the~~ next court, to be holden at the Courthouse;
~~in said county, to testify and the truth to speak on behalf of to answer a bill in chancery~~
~~Exhibited against them by Robert L. Simmons & Elizabeth his wife late in a certain~~
~~matter of controversy in the said court depending between Nick and and Richard Nick~~
~~plaintiff and~~

~~defendant~~ ; and this *they* shall in no wise omit,
under the penalty of 100L ^{each} ~~and~~ have then there this writ, — Witness —
James Rockelle — , Clerk of the court aforesaid, ^{at his office} the *28th* day of
September — 1821 ; in the *46th* year of the commonwealth.

James Rockelle
JR

Thomas Lankford's
Mill

A. Copy

In the name of God Amen I Thomas Sanford of Southampton County Virginia
being sick and weak in body but of sound perfect and disposing mind & memory
and calling to mind the uncertainty of this transitory life and knowing that
it is appointed for all men — to die, do think proper to make this my
last will and testament in manner and form following: to wit. I bequeath
1st And to my dear and loving wife Elizabeth Sanford the use profits and
advantages of the plantation and lands wherein I now live to include all
the lands I bought of William Hobday and Albrighton Whitney supposed
to contain Two hundred and thirty seven acres. also my negroes man
Broomfield, Sambo, boy Samy negro women Pat and Pen one bay mare
one filly and one old horse called Buck. sixteen head of the best of my
horned cattle, sixteen of the likeliest of my sheep, all my hogs, all my
geese. likewise all my household and kitchen furniture, plantation
implements and tools of all kinds. also a sufficient part of my crop
of every kind, pork and salt for the support of her and her family
from the time of my demise. untill the end of the year or whilst
she hath made a crop of her own, the whole of the above. I lend her for
and during the term of her natural life or widowhood no longer
I likewise give her one barrel of brandy. Also I give, devise,
and bequeath to my son Elisha Sanford the plantation and lands
which I bought of Wade Mountford supposed to contain one hundred
and eighty acres likewise the lands I bought of William Glover
called the orchard tract, containing by estimation one hundred
acres. also one other tract called the Island land supposed to
contain eighty acres which I likewise bought of Wm Glover
the whole comprised bounded & described as by the sd Wade Mountford
deed & Wm Glover's two deeds to me is severally Separately & distinctly
expressed. also my hunting Gun my riding bridle & saddle as much
money as shall be sufficient to build him a house on his plant-
ation of the size and equally as good as the one in which I
now dwell, being that nearest the road with a ten foot sided
threshold instead of eight feet likewise one cow and calf & one heifer
which I desire may be kept for him on his plantation to him
and to his heirs and assigns forever. Also I give devise & bequeath
to my son Peper Sanford the plantation and lands I bought of
William Barrett wherein James Wilson now lives containing by
estimation one hundred and fifty acres bounded and described
as by the said Barretts deed to me is declared and expressed to
him and to his heirs and assigns forever. I also give him my
Squirrel gun. Also I give, devise and bequeath to my sd son
Peper Sanford after the death or marriage of my wife the plantation
and

and lands wherein I now live, comprising the lands I bought of William
Holday, supposed to be ten acres and the lands I bought of Alldridge &
Whitney, supposed to contain two hundred and twenty seven acres separately
and distinctly bounded and described as by the said William Holday's
deed and Alldridge & Whitney's deed to me for the same is expressed like-
wise my copy to the pot. Cap and morn to him and to his heirs and
assigns forever. Also I give and bequeath to my niece Mary Waring
and negro girl called Judy to her and to her heirs and assigns forever.
Also whereas my friend Shadrack Lewis hath kindly promised to be
assisting to my wife by coming at least twice in the week to order and
direct their negroes in their business and to see that they do their duty
harmless ought to do, and also to extend his fatherly care to my children
by taking due care as well of their education as of their estates and as
the said Service and care if faithfully intended and performed will
not only be troublesome but will interfere with his own business. In
consideration whereof I give the said Shadrack Lewis the use and
labour of my negro boy Leazar until my son Elisha Lankford arrives
to the age of twenty one year or in case of his death until my
son Joseph Lankford attains to the age of twenty one year as aforesaid
at which his service and care is to cease and determine. Also and
whereas James Chappell did of his own free will (and accord give up and
sell to me his right being one third part) in a pair of mill stones
formerly my father's, for services done by me for the said Chappell
but if I conceive that his part or share in said stones are more
than adequate to the service I have done him I do direct my
executors hereafter named to sell my right being two thirds thereof
to said mill stones and if the said two thirds shall sell for
more than six hundred pounds I do hereby direct & authorize my
said executors to pay one half the surplus to said Chappell
or to his heirs or assigns. Also I give and bequeath all the remain-
der of my estate real or personal in possession, remainder
or reversion to be equally divided between all my children
viz. Elisha Lankford, Jesse Lankford, Margaret Lankford,
Rebecca Lankford and Ann Lankford and in case it
should please divine providence to bless me with other
children or child it is my will and desire that they be
included in this clause of my will and I do hereby include
them as fully as tho' they were now born and mentioned by
name to them and to their heirs and assigns forever or to
the survivor or survivors of them or their heirs & assigns forever
And whereas a part of my negroes must unavoidably be
given out it is my will and desire and I do hereby direct that they

they shall have the liberty of choosing their own Master, with the approbation
of my executors and that they shall not be forced to serve master
wholly against their liking. provide they will choose for themselves
as aforesaid. And as doubts may arise in some part of this my
last will and testament by seeming contradictions or omission,
In every case of that nature or where my executors disagree. I
desire them to apply to Joseph Mountford and Benjamin Ruffin Jr
and William Urquhart and William Hines son of Thomas for their
judgment thereon I desire that their judgment or opinion may
be taken and established and I do hereby establish it as fully
to all intents and purposes as tho' I had so written provided they
be unanimous. Lastly I do hereby nominate, constitute, ordain
and appoint my wife Elizabeth Lankford my friend Shadrack
Lewis and my brother Jesse Lankford my whole and sole executors
and executors to this my last will and testament hereby disannulling
all other wills by me heretofore made, ratifying and confirming
this and no other to be my last will and testament in witness
whereof I have hereunto set my hand and seal this 20th day of
November in the year of our Lord Christ one thousand seven
hundred and eighty. Signed Sealed & pronounced
I declared by the said Elisha Lankford as his last will
and testament in presence of us
Joseph Mountford, Thomas Mountford
James Wilson, Denson

At a Court held for the County of Hampshire
the 11th day of January 1781. This will was presented in Court by Elisha Lankford
Shadrack Lewis and Jesse Lankford the executors and executors therein
named & proved by the oaths of Joseph Mountford & Thomas Mountford
two of the witnesses thereto and ordered to be recorded. And on motion
of the said executrix and Exec^{rs} who made oath according to Law
certificate is granted them for obtaining a probat in due form giving
Security whereupon &c.

Sam^l Kelle &
Attest
James Rochelle Esq.

Goodrich Wills
Letter of acq^{ts} -

Sampton County July Court 1820

On the motion of Goodrich Willis who made oath and together with John Scarborough and John Williams his Sureties entered into and acknowledged a bond in the penalty of one thousand dollars conditioned as the law directs Certificate is granted the said Goodrich Willis for obtaining letters of administration on the Estate of his deceased wife Rebecca Willis in due form

Teste A. M. C. J. C. D. S.

June A. M. 1881 D.C.