

1824-033

SOUTHAMPTON COUNTY
CHANCERY PAPERS

STEWART and Wife

VS MILLAR'S ADMR

vs al MILLAR 5/1824

Other SURNAMES: Pope,
Waller

480
Stewart & wife
& 3 Bill.
Waller h

Nov. 18th 1823 Bill filed

March rules 1824 Decree nisi
to March Court 24 —

April 19th 1824 Sent commission if need

To the worshippful the County Court of Southampton in
Chancery sitting,

Humbly complaining shew to your
worships your nator & coatrix Richard Stewart &
Martha S. his wife formerly Miller. That a certain
James Miller since dec'd the father of your coatrix
who was a single man & without issue & very much
attached to your coatrix some time in the year 1819
after remaining that he had never given to your coatrix
any present of value as an evidence of his great
fraternal affection for her, & considering the con-
-versation on the subject, informed her that he had
determined to give her a negro girl & ally her
present - That your coatrix (at first remunerated & con-
-sidered a disposition of the girl & advised her to have
her instructed as a house servant & to keep
her for his own use, but finding afterwards that his
determination was fixed & the result of previous
reflection she assented. That your coatrix was
at the time on a visit to her S^r Mother, who thereupon
called the girl up, made a formal delivery of
her to your coatrix & resided on her then carrying
the S^r Place home with your coatrix to Greenwich
the place of her residence. That after consider-
-ing the matter it was determined by your coatrix
to permit the S^r Place to remain where she then
was with her Mother, who already belonged to
your completely, until ^{the mother} she could be removed, which
it was expected would be at the expiration of that
year. - That this arrangement was then made by the
express understanding of both parties & in the presence of
a respectable witness Richard Pope & both the

negroes left on the plantation when the ¹. James Muller
then was & which had belonged to his mother recently
dead & which plantation with the rest of his property
as it was in the possession & under the manage-
ment of your orator until the end of the year of
the ¹. ~~James Muller~~ ^{Deceased} ~~with the will annexed~~ of the ¹. Mother
of the ¹. James Muller Martha Muller dec'd. —

Your committee now further shew that some
time after said the ¹. James Muller executed
a will of which a copy is hereto annexed as
a part of this Bill & soon after departed this life
leaving a certain young woman his executor who
qualified as such according to law. That in the
will the said testator bequeathed the ¹. Mary Sally
to Edith Waller an infant daughter of the ¹. Drury
Waller altho' he himself had no title whatever to her.

That your committee (as they had a right to) soon after
the decease of the ¹. testator took the ¹. Mary into
their possession in the County of Gloucestershire & continued
to hold her as their absolute property. That subsequently
to your committee having taken her, the ¹. Mary with the
will annexed of the ¹. testator instituted an action of
Detinue for the ¹. Mary against your orator in the
Superior Court of Portsmouth but previous to the
trial of the cause the ¹. Waller having no doubt
ascertained that your orator could prove a complete
title by the said Charles Hope disavowed his suit
& has not subsequently renewed it in any form. That
your committee have reason to believe, & are fully of
the opinion that the ¹. Walling Minister for the
dismission of the said suit was his intention but
if then tried he would necessarily lose it, but that
his daughter being a minor whose rights would not be
barred by lapse of time might on her attaining

ageal and institute suit for the ¹. Mary & her in-
terests if in the mean time the ¹. Charles Hope
should die or your committee be otherwise deprived
of her testimony. That your committee therefore con-
sider themselves unsafe unless some proceeding can
be instituted to perpetuate the evidence of the ¹.
Waller to be used in such controversy whenever
it may occur. ~~It~~ ^{It} ~~is~~ ^{is} ~~under~~ ^{under} ~~consideration~~ ^{consideration} of
all which & as your committee are without remedy
in the premises at law, To be and therefore that
the ¹. Drury Waller as the widow with the
will annexed of the ¹. James Muller dec'd. ~~and~~
the ¹. Edith Waller infant daughter of the ¹. Drury
Waller person to be specially appointed by your
committee to defend her in this behalf may be
made defendants hereto & compelled to answer
the premises in oath: That your committee
permit your committee to take the Depositions
of the said Charles Hope & file it as a part of this
Bill, & when taken to decree that the same
be perpetuated & remain as such to be used
should the anticipated controversy ever occur
& the ¹. Waller be dead or incapable to the
process of the Court — and to grant your
committee general relief in the premises. May
it please the Court to grant the ~~and~~ ^{and} your orator
orators as in duty bound will ever pray
I am
Your committee

Stewart & wife
Walter @ St. B. Niso



Deer

6 March 1824

Executed

Chas Briggs atty
of Simon Baykin
Shff

At Rules holden in the Clerk's office of the Chancery County
Court of Southampton, on the first Monday viz March 1894 -

Richard Stuart and Martha S his wife formerly
Martha Miller Complainants
against

Drewry Waller administrator with the will annexed of
James Miller deceased - and Edith Waller infant
daughter of said Drewry Waller Defendants

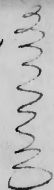
In
Chf.

The Complainants bill in this suit having been filed
and the process returned executed upon
more than three months, ~~and~~ the Defendants, ^{not} failing to file their
answers thereto. It is therefore decreed and ordered that the said
Defendants do appear and file their answers on or before the third
Monday in March Inst: otherwise the same will be taken as
Confessed and the matter thereof decreed agt them accordingly
Teste A. M. Coetaton D.C.

Stevens & wife

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Waller & Co.



Spa in chg.

To January cont. 1824

Executed

Wm Briggs & Co.
for Simon Briggs & Co.

The Commonwealth of Virginia to the Sheriff of
Southampton County Greeting: You are hereby commanded
to summon Drew Waller adm^r with the will
annexed of James Millar dec^d and Edith Waller
infant daughter of said Drew Waller To appear
before the Justice of our county court of Southampton
at the courthouse on the third Monday in January
next to answer a bill in chancery exhibited against
them by Richard Stewart and Martha S his
wife late Millar — and have them there
this writ — Witness James Rochelle clerk of our
county court of Southampton at his office the 9th
day of December 1823 and of 8th Year of the
Commonwealth

James Rochelle C.
64

Stewart & Co.

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Waller & Co.

Cond. to take

Depos.

The Commonwealth of Virginia to Laws Look and
Wm. H. Lee Gentleman Justices of the peace for the county of
Southampton Greeting: Know ye that according to your fidelity and
previous circumspection in diligently examining Rachel Pope a
witness ^{as well} on behalf of Richard Stewart and Martha S. his wife formerly
Martha Milles Complainants as on behalf Drewy Waller ~~advers~~
with the will annexed of James Milles ~~et al~~ and Edith Waller infant
daughter of said Drewy Waller Defendants in a Suit in Chancery
now depending and undetermined in the county court of Southampton
Command you or any two or more of you that on such certain days
and at such places as you shall appoint, you assemble yourselves &
the witness aforesaid before you you call and cause to come, and
diligently examine on the Holy Evangelist of Almighty God and
their examination into our said court distinctly and plainly
without delay you send, and certify enclosed, returning also to
us this writ - Witness James Rochelle clerk of our said county
court of Southampton at his office the 19th day of April 1874
and 48th Year of the Comm^{on}.

James Rochelle Esq.

Stewart
by ~~Stewart~~
Waller

Southampton County to wit

Edward Beets This day personally appeared before me ^{John} Daughtry, a Justice of the peace of said county and made oath that he delivered a true copy of the within notice to Drury Waller on the 5th day of this present month May. Given under my hand this 17th day of May 1824

John Daughtry. J. P.


To Drury Waller advert with the will annexed of
James Miller decd. and Edith Waller an infant by the
said Drury Waller her guardian

Take Notice that we shall
at Capt. Gurleys Tavern in Jerusalem on the
third Monday in May next proceed to take
the deposition of Rachel Pope to be read as
evidence in the Chancery suit pending between
us in Southampton County Court in which
we are complainants & you defendants.

Yours to

Richard Stewart & Martha
his wife formerly Miller.

April 19th 1824

S.

The deposition
to
Rachel Pope

Southampton County To Wills

Pursuant to a Commission to us

deputed from the Court of the County aforesaid. We have caused to
come before us, ^{at the Tavern of W. J. Miller in the Town of Georgetown.} Rachel Pope, who being of a lawful age, & duly
sworn, deposes and says -

That some time in the year 1819

Previous to the death of James Miller, she saw him give a Negro girl
by the ~~name~~ name of Sally. To his sister Martha Stewart, the wife
of the Deft in this case & who was formerly Martha Miller, and that
Mrs Stewart showed to the said James Miller at the time, that he
had better keep the girl he might want her himself. He replied
no Sister. I intend her for you. & I wish you to have her, his
Sister Mrs Stewart then replied that ^{she} would except the Negro &
thank him too - & that she might remain there, until Capt.
Stewart, could the other Negroes come - & that this conversation
took place on the plantation where Martha Miller, ^{formerly lived} ~~and lived~~ &
then in the possession of the said Capt. Stewart, and when the said
Negro Sally then was; & this deponent further states, that she
saw the said James Miller deliver the said Negro girl to the S.
Martha Stewart, who was formerly Martha Miller at the same
time - and further this deponent says not -

Rachel ^{this} Pope
mark

Signed & sworn to before us, at the time and place of taking
this 17th day of May 1824

Larve Cook

Wm. H. Lee

Come to hand inclosed under
date - 17th May 1824

To

The clerk of the court of the County
of
Buckingham