

1854-005 SOUTHAMPTON COUNTY  
CHANCERY PAPERS

EVERITT VS. HILL + al

S/1854

other surnames: CAROON,  
Beale, Beal, Everett,  
Rochelle, Taylor

Everett

- } Papers.

Hills

1854 May Term

Calk

Law

|       |
|-------|
| 2.81  |
| 15.00 |
| <hr/> |
| 17.81 |

Everett

✓ } Stat. Rules

Hill,

In Southampton Circuit Court.

Thomas Everett

against

Clarissa Hill & Martha L. Lucretia M. Samuel W. & Henry L Hill

1853 Aug. 22<sup>d</sup> Summons issued returnable to September Rules

" Sept. Rules. Summons ret<sup>d</sup>. Executed

" Oct. . Bill filed. Decease nisi to Dft. Clarissa Hill -

" " (Last Monday, Everett T Hill assigned g<sup>m</sup> ad litem to Dft. Martha L. Lucretia M. Samuel W & Henry L Hill. - Bill taken for confessed against Dft. Clarissa Hill & cause set for hearing on to her.

" Nov. Term. Ans<sup>r</sup> of infants by leave of Court. G. Rep.

1854. Apr. R. Amended Bill filed & Sum<sup>s</sup> awarded to Dft. therein named.

" " " (Last Monday). Sum<sup>s</sup> ret<sup>d</sup>. Ex<sup>d</sup>. Amended bill taken for confessed to. Dft. Clarissa Hill & cause set for hearing as to her. &c

" May T. Ans<sup>r</sup> of infants & Bill dep<sup>d</sup> with costs.

Thomas Everitt

vs  
Hills } Bill

1853 October Rules

To the Hon Richard W. Baker, Judge of the  
Circuit Court of Southampton County.

Humbly complaining sheweth unto your  
honor, your orator, Thomas Everitt, that Henry H. Hill de-  
parted this life on or about the fifteenth day of June in the year  
1850, leaving a widow, Clarissa Hill, and four children, to wit  
Martha L. Secretia H., Samuel H. and Henry L. Hill, the  
latter four being under aged - That Everitt J. Hill has  
qualified as administrator on the estate of the said Henry  
and as far as your orator knows, has administered the  
estate according to law.

Your orator represents to your honor that at the November  
Term AD 1848 of the Circuit Court of the said County, a decree  
was granted authorizing the sale of certain real estate belonging  
to the estate of Clement Cochelle, that the sale was made, and a  
subsequent decree granted confirming the sale and appointing  
Lazewell Taylor a special commissioner to execute a deed of  
conveyance to the purchaser, the said Henry H. Hill - That, in  
due time the said Lazewell Taylor, commissioner as aforesaid,  
did execute a deed of conveyance to the said Hill, which was  
admitted to record on the 18th day of February AD 1850, a copy  
of which is herewith filed (marked A) and prayed to be consid-  
ered a part of this bill.

Now your orator solemnly declares and avers to  
your honor that the said Henry H. Hill purchased the said

tract of land for and at the request of your orator, that it was paid for by and with the money and funds of your orator, and that the said tract of land ~~is now standing~~ <sup>is now standing</sup> on record in the name of the said Henry H. Hill, is, in justice, the property of your orator.

It is not the intention of your orator to insinuate that it was the design of the said Henry H. Hill, in any manner or to the least extent to defraud him — any such intention he expressly disclaims, and specially states that the deed for the said land was executed to the said Hill by and with the advice and consent of your orator who was at that time, involved in pecuniary embarrassments, and resorted to this course for the purpose of securing the use of the property to his family until he could extricate himself from his debts; and that then he should have demanded a deed to himself for the said land, at which time he entertains no doubt but that it would have been cheerfully executed, but for the untimely death of the said Hill which occurred whilst he was yet in the prime of life and health, by the falling of a tree causing his instant death.

Your orator now sees that such a course of doing business has subjected him to the peril of losses of which he had no suspicion whilst dealing with an intimate and confidential friend and near relation, in whose honesty and integrity he always had and still has perfect confidence, but who was, as it also

your orator, a plain, illiterate man, entirely unskilled in legal transactions, and probably did not foresee the consequences to which such neglect might lead.

Your orator would further state that during the <sup>time</sup> of Clements Rochelle, to whom the said tract of land before the sale aforesaid belonged, in a spirit of neighborly kindness and accommodation, voluntarily gave permission to your orator to erect certain valuable buildings on the said tract of land, to wit, a gin-house and other buildings of great value, which would make his loss much heavier than the purchase money paid for the land, as the said buildings cost him a considerable sum of money, and are not denied to be his property, and were so admitted by general consent to be, at the time of the sale of the said land.

~~It is admitted by your orator that he is still indebted to the estate of the said Henry H. Hill in the sum of sixty or eighty dollars or thereabouts, but he will be able to prove that this~~

In consideration of the premises, and as your orator is without relief save in a court of Equity, he therefore humbly prays that your honor would make the said Alcipa, Martha L. Leveaux M. Leveaux M. and Henry L. Hill, parties defendants to this bill, appoint a guardian ad litem to answer for the four latter who are under aged and compel them as true and

perfect answer make to the allegations herein con-  
tained as if they had been therewith more speci-  
ally interrogated; and that your honor would ap-  
point a special Commissioner with directions  
to him to make a deed to your orator for  
the said tract of land, ~~and~~ grant such other  
and several relief, the premises come in, as  
equity may dictate and the nature of the case  
may require and as in duty bound he will  
ever pray.

Ans I Bind  
attor for Pltff

Thomas Everitt

V-S }  
Hill's } Amended Bill

1854 April Rules

To The Hon Richard H. Baker, Judge of  
The Circuit Court of Southampton County.

Humbly complaining sheweth  
unto your honor your Orator, Thomas Everitt, of the County  
of Southampton, that Henry H. Hill departed this life  
on or about the 15th day of June A D 1850, leaving a widow,  
Clarissa Hill, and four children, to wit Martha L - Lucetta  
M - Samuel W and Henry L Hill, the four children being  
still under age - That Everitt J. Hill has qualified  
as administrator of the said Henry H. Hill, who died  
intestate, and as far as your orator knows, has adminis-  
tered the estate according to law.

Your orator represents to your honor that at  
the November Term A D 1848, of the Circuit Court of the  
said County, a decree was granted authorizing the sale  
of certain real estate belonging to the estate of Clements  
Rockelle, who had but lately departed this life; that the  
sale was accordingly made; and that a subsequent  
decree was granted confirming the said sale and ap-  
pointing Taywell Taylor a special Commissioner to exe-  
cute a deed of conveyance to the purchaser, to wit the said  
Henry H. Hill - That, in due time, the said Taylor did  
execute a deed of conveyance to the said Hill, which was

admitted to record on the 18th day of February A.D. 1830, a copy of which deed is herewith filed (marked A) and prayed to be considered a part of this bill.

Now your orator solemnly declares and avers to your <sup>honor</sup> that the said Henry H. Hill purchased the said tract of land for and at the request of your orator, that the said tract of land was paid for by and with the money and funds of your orator, and though standing on record in the name of the said Henry H. Hill, is and should be, in justice, the property of your orator.

It is not, by any means, the intention of your orator to insinuate that it was the design of the said Henry H. Hill, in any manner or to the least extent, to cheat or defraud him — any such intention, on the contrary, your orator expressly disclaims, and specially states that the deed for the said tract of land was executed to the said Henry H. Hill by and with the advice and consent and at the request of your orator for certain reasons not necessarily here to be stated and set forth. But your orator doubts not but that he would long since have received, in his proper name, a deed for the said tract of land but for the untimely and lamented death of the said Hill, which occurred suddenly and by accident, whilst he was yet in the prime of life and health, by the falling of a tree, causing his instant death, and leaving no time for the settlement of the affairs of this world.

Your orator now perceives that such a careless mode of doing business has subjected him to the peril of losses of which he had no suspicion whilst dealing

with an intimate and confidential friend and near relation, in whose honesty and integrity he always had and still has perfect confidence, but who was, as is also your orator, a plain, illiterate man, wholly unskilled in legal transactions, and who did not consider the possible consequences to which such neglect might lead.

Your orator would further state that during the life-time of the said elements Rochelle, to whom the said tract of land, before the sale aforesaid, belonged, the said Rochelle, in a spirit of neighborly kindness and accommodation, voluntarily gave permission to your orator without any charge, to erect certain buildings on the said tract of land; which your orator did, and erected buildings of great value and at great cost to wit, a gin-house and other buildings of great value, perhaps of the value of five hundred dollars — which buildings, at the time of the sale of the said land, were not claimed by the heirs of the said elements Rochelle deceased, but were admitted to be the property of your orator, though standing on the land of the said Rochelle.

In consideration of the premises and as your orator is without relief save in a court of equity, he therefore humbly prays that your honor would make the said claims — Martha L. - Lucenia M. - Samuel W. & Henry L. Hill, parties defendant to this bill and compel them as full and perfect answer make to the allegations herein contained as if they had been thereunto more specially interrogated, and that your ~~Honor~~

would appoint, by decree, a special Commissioner with  
directions to make a deed to your orator for the said  
tract of land, and grant such other and general relief,  
the premises considered, as equity may dictate and the nature  
of the case may require and as in duty bound, he will ever  
pray &c &

Respect

Atto for Pettr.

Thomas Courtt

vs 3

Hills

answer of the infant  
defendants by Courtt Hill  
their guardian ad litem

1853 Nov. 7<sup>th</sup> by leave of Court.

The Demurrer and answer <sup>of</sup> Lucia M Hill, Cornelia  
M Hill, Samuel W Hill and Henry L Hill Infants  
of tender years by Court T Hill Their guardian ad  
litem to a bill in chancery in the circuit court of  
Southampton by Thomas Court against them and  
others

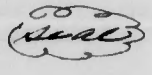
These defendants by ~~Lucia M Hill~~ E. J. Hill  
Their guardian ad litem by protestation not acknowledging  
or confessing all or any of the matters and things in the  
said complainant's bill contained to be true in such manner  
and form as the same are therein and thereby set forth  
doth demur thereto and for cause of demurrer saith  
that the said bill doth not contain sufficient matter of  
equity whereupon this honorable court can ground any  
decree in favour of the said complainant or give the  
said complainant any relief against this defendant's  
waiver and therefore and for divers other defects and causes  
of demurrer appearing in the said complainant's said  
bill this defendant doth demur thereto and humbly  
demands the judgment of this honorable court whether  
he shall be compelled to make answer to the said bill  
and prays hence to be dismissed with his reasonable costs  
in this behalf most wrongfully sustained

This defendant for answer to the said bill or as much  
thereto as he is advised it is material for him to answer  
answering says that he knows but little of the facts  
set forth in the plaintiff's bill but requires strict proof  
of them all and he humbly places the interests of  
his wards under the care of this honorable court  
whose guardian duty it is to protect the interests of  
infants and having fully answered prays hence to be  
dismissed &c

E. J. Hill  
Shames for the deft

Southampton County to wit

This day Corntz T. Hill  
personally appeared before me a justice of the peace for  
the county aforesaid and made oath that the facts  
set forth in the above answer are true to the best of  
his belief given under my hand and seal this 7<sup>th</sup> day  
of Novr 1853

William Bowers J. P. 

X  
Answer of infant  
defendants by their  
guardian to answer  
Bill

Bill dismissed with  
costs. R. H. Parker  
May Co. '54.

Answer of The infants Lucretia M Hill, Cornelia M Hill  
Samuel W Hill and Henry J Hill by Emma J Hill  
Their guardian as heirs to the annuities of  
Thomas Everett

This defendant for answer to the amended bill of the plaintiff or as much thereof as he is advised it is material for him to answer answering says that in addition to the answer heretofore filed by him in this cause that he finds in the papers of Henry H. Hill a bond for \$116.75 for granted by the said Hill to Richard Conner as special commissioner and that this bond was subsequently paid to Taylor Taylor and he has every reason to believe that this bond was executed and paid by the said Hill in his lifetime for this very land now the subject of suit (The said bond is herewith filed marked A) and having fully answered prays to be hence dismissed with his costs &c

Shand for capt  
E. Y. Hill

Southampton County to wit

This day E. T. Gb personally appeared before me a justice of the peace for the county of Harrison and made oath that the facts above stated are true to the best of his knowledge and belief given under my hand and seal This 2<sup>nd</sup> May 1884

William Bowers J. Presb

Count  
is 3 Decm  
Hills

To be Entered  
R H Baker  
May Co. 54

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1854 May Term

Comit

is 3 Dec

Bills

The complainant's bills having been taken for confessed at the rules against the defendant Guentia Hill and she still failing to appear and answer the said bills. <sup>original &</sup> This cause this day came on to be heard on the complainant's bill and annexed bills, the answer of the infant defendants by L R Edwards their guardian as <sup>the said bill</sup> and replication thereto, and depositions filed, and was argued by counsel, on consideration whereof the court doth adjudge order and decree that the plaintiff's bill be dismissed and that he pay to the defendants their costs.

Everett

Dep:

Hills

1954, Apr. 17 Returned by Jas.  
Maffett. I.P.

The deposition of Peleg Caroon and others, taken at the Piney Grove, in the County of Southampton, Va, on the 14th day of April AD 1854, between the hours of Ten O'clock A.M. and Six O'clock P.M. by the mutual consent of the parties, to be read as evidence on behalf of the Plaintiff, in a certain suit now pending in the Circuit Court of Southampton County, in which Thomas Everitt is plaintiff and Clarissa Hill, Martha L. Hill, Lucretia M. Hill, Samuel W. Hill and Henry L. Hill are defendants - the four latter being infants appear by their guardian ad litem Everitt & J. Hill, who was personally present at the taking the following depositions.

Peleg Caroon having been duly sworn on the Evangelists of Almighty God deposes as follows -

On one occasion I met Mr. Henry H. Hill at Jerusalem - Mr. Hill stepped out of the Clerk's office and on meeting me remarked to me that he thought his uncle had suffered him (Hill) to do wrong - I asked him how - He replied to me that Mr. Everitt had suffered him to take the deed from Mr. Taylor for the Jud Kin's land in his own (Hill's) name and that he had paid for it out of his Everitt's money - I don't remember the year with perfect certainty I think it was in the early part of the year and in 1850, I think - It was on the same occasion that Mr. Taylor was in Southampton and made the deed for the land - There were about 70 or 80 acres of the land and sold for, at the about one dollar and fifty cents per acre - It is called the Judkin's place and lies directly opposite Mr. Thos Everitt's house - I state distinctly that Mr. Hill told me that he had paid for the land with his own

de's (The Everitt's) money. — I questioned him directly on this point — I considered that Mr. Hill meant by saying that his uncle had suffered him to do wrong that his uncle would probably lose the land in the event of his (Hill's) death.

Mr. Hill told me on the same occasion that the deed was taken in his (Hill's) name because his uncle was in debt, and to prevent the land from being taken for such indebtedness.

Mr. Hill was killed in June or July 1850, by the falling of a tree.

Question — Did Mr. Hill say anything about making a deed to Mr. Everitt — after he should have extricated himself from his debts? —

Answer — He did not.

Question — Did you ask him any question on that subject? Answer — I did not — When the conversation alluded on this whole subject took place, it was Court day, and we were walking along the street in Jerusalem — I think the conversation was interrupted by our meeting some one.

Examination by defendant's counsel.

Do you know anything of Mr. ~~Everitt~~ Mr. Hill's indebtedness up to Mr. Hill — I do not — I know that Mr. Everitt kept two negro women and four and five children belonging to some ward of Mr. Henry H. Hill's, and for two years — Mr. Hill told me that he was to pay Mr. Everitt for keeping them negroes but did not say how much.

Further this deponent said not.

Pelcy Carson

William Beale having been duly sworn deposes as follows —

Some short time before Mr. Hill's death I met him in the road and he told me that he wanted to make Mr. Everitt (Thomas) or to his son Richard, a deed for this land — that Mr. Everitt had paid him for the land.

On the day the land was sold a part was required to be paid in cash — This sum was paid to me by Mr. Everitt in person — This was a small sum —

The houses on this Indkin's land were built by Mr. Everitt — the first in the life time of Col. <sup>Rockwell</sup> about the year 1835 or 36, the other house about the year 1851, since Mr. Hill's death.

I bought the land at auction or rather bid it off — Mr. Everitt bought it of me or bargained with me for it.

I state positively that Mr. Henry Hill told me that he desired to make a deed to Mr. Everitt or to his son for this land — that it had been paid for to him.

Further this deponent said not.

William Beale

The foregoing depositions of Pelcy Carson and William Beale were taken, sworn to and subscribed before me, at the time, place and manner mentioned in the caption.

Given under my hand and seal this 14th April 1854.

Samuel Majett *[Signature]*

Enright

n { Summ Chy

Still & p

1852 April Rules

Executed

Wm L. Schull depty  
Leffe Parker sheriff

The Commonwealth of Virginia,

Printed at the "Intelligencer" Office, Suffolk.

To the Sheriff of Southampton County—GREETING:

WE COMMAND YOU, That you ~~take~~ *Summon* *Martha L Hill. Lucetta M Hill. Samuel M Hill & Henry L Hill* orphans of *Henry H Hill* to appear

~~if~~ ~~be found within your bailiwick, and~~ ~~safely keep, so that you have~~  
~~back~~ at the Clerk's Office of our Circuit ~~Superior~~ Court of ~~Law and Chancery~~ for said  
County, at Rules to be holden for said Court, on the first Monday in *April next to answer*  
*a bill in chancery exhibited against them in our said Court by Thomas*  
*Everett*

And have then there this Writ.—Witness, LITTLETON R. EDWARDS, Clerk of our said Court,  
at the Court House, the 22<sup>nd</sup> day of *March* 18 *52*, in the 76<sup>th</sup> year  
of the Commonwealth.

*L R Edwards Clk*

**The Commonwealth of Virginia:** to the Sheriff of Southampton County, GREETING:

We command you to summon *Clarissa Hill & Martha L. Lucetia M.*  
*Samuel W. Henry & Mill*

to appear ~~before~~ <sup>at</sup> the *Clerks office* of our *County* - Court of Southampton  
County at the ~~Court house on the first day of~~ term

*Rules to be holden for the said Court on the first Monday in  
September next to answer a bill in chancery exhibited against them in our  
said Court by Thomas Erwin*

And have then there this writ. Witness, Littleton R. Edwards Clerk of our said Court,  
at the Court house the *22<sup>nd</sup>* day of *August*, 1853, in the *7<sup>th</sup>* year of the  
Commonwealth.

*L. R. Edwards*

executed by ~~challenge~~ <sup>copy</sup> to  
each of the within parties on the 26th  
august-1853.

C. Spores Deputy of  
S. Kello Shiff

Enverett

v { Sum.

Hill

1853 September Rules

Sum.



*The Commonwealth of Virginia:*

*To the Sheriff of Southampton County, Greeting:*

We command you to summon *Clarison Hill, Martha S Hill, Lucinda M. Hill, Samuel W Hill Henry S Hill*

to appear at the Clerk's Office of our Circuit Court of Southampton County, at the Rules to be holden for the said Court, on the ~~first~~<sup>last</sup> Monday in *April instant* to answer a bill in Chancery exhibited against *them* in our said Court by

*Thomas Everett*

and have then there this Writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Courthouse, this *3<sup>d</sup>* day of *April* 1854 in the *78* year of the Commonwealth.

*L R Edwards lrb*

Enrith

u } Enr. with bill

Mill. sp

(at)

This Indenture made & entered into this eighteenth day of February, Eighteen hundred & fifty Between Jazewell Taylor Commissioner as herein after mentioned of the first part and Henry A Hill of the County of Southampton of the second part Witnesseth that Whereas by a decree of the Circuit Superior Court of Law and Chancery for the County of Southampton pronounced on the 10<sup>th</sup> day of Novr. 1848 in a suit therein pending between Henning T Smith in his own right and as administrator Lewis W. Bishop dec<sup>d</sup> as Plaintiff and John M Garbey Executor of Wm A. Sparks dec<sup>d</sup> who was Executor of Clements Rochelle dec<sup>d</sup> & others as Defendants it was adjudged, ordered and decreed that Rich<sup>d</sup> A Crump who was thereby appointed a Commissioner for that purpose should sell at public auction certain lands therein mentioned of which Clements Rochelle died Seized, after giving notice as therein required of the time and place of Sale And whereas the said Rich<sup>d</sup> A Crump in pursuance of said decree did expose the lands of the said Clements Rochelle thereby authorized to be sold on 17<sup>th</sup> Feby 1849, and also a certain tract of land of which Clements Rochelle died Seized herein after to be more particularly described which said tract was not mentioned in the said decree; at which sale the said Henry A Hill became the purchaser of the said tract of land and paid in cash to said Crump Commissioner the sum of five dollars & fifty cents & executed his bond payable to said Crump as Commissioner at twelve months after date for one hundred & sixteen ~~dollars~~ & seventy five cents with Orville T Hill and Thomas Orville as Securities being the residue purchase money of said land which said bond was returned by said Commissioner to said Court with his report of sale And whereas by another decree pronounced in said cause by said Court on the 8<sup>th</sup> day of November 1849 the sale so made by <sup>said</sup> Rich<sup>d</sup> A Crump Commissioner was confirmed & it was then and there decreed that Jazewell Taylor attorney for the special creditors of Clements Rochelle dec<sup>d</sup> who had proved their claims before the Court in said cause should receive from the Clerk of the Court the said bonds with the other bonds returned by said Commissioner & should collect the same & upon payment thereof the said Jazewell Taylor was appointed by said Court a Special Commissioner to execute and deliver to the respective purchasers of land sold as aforesaid by said Crump as Commissioner, proper deeds for land so purchased by them, all which will more fully appear by reference to the said decrees and proceedings in said suit, now remaining of record in said Court - And whereas the said Henry A Hill has paid to the said Jazewell Taylor the amount

of said bond, receipt whereof is hereby acknowledged. Now this Indenture made and entered into as aforesaid. Witnesseth that the said Tazewell Taylor Commissioner as aforesaid by virtue of the authority vested in him by said decree having last mentioned for and in consideration of the premises and of the sum of One hundred & sixteen dollars & seventy five cents has granted, bargained & sold and by these presents does grant, bargain & sell unto the said Henry A Hill his heirs and assigns forever all that certain tract of land situate in Southampton County of which Clements Rochelle died seized known as the Jenkins tract containing by old survey Eighty one & a half acres. To have and to hold the said tract of land with the appurtenances to the same belonging unto him the said Henry A Hill his heirs and assigns forever of him the said Tazewell Taylor Commissioner as aforesaid free from the claims of the said Tazewell Taylor and of all persons claiming by through or under him but against the claim & demands of no other persons whomsoever. In Witness whereof the said Tazewell Taylor Commissioner as aforesaid has hereto set his hand and seal the day and year first herein written.

Tazewell Taylor (Seal)  
Commissioner

Southampton County. In the Clerk's Office the 18<sup>th</sup> day of February 1850.

This deed of bargain and sale from Tazewell Taylor Commissioner to Henry A. Hill was acknowledged by said Taylor and admitted to Record.

Teste. L R Edwards Ck

Atty.

Teste. L R Edwards Ck

~~\$176.75~~

On demand the 17<sup>th</sup> day of February 1850  
we promise to pay to Richard A Crump Special  
Commissioner of the Circuit Sup<sup>r</sup>. Court of Law  
and Chy: for the County of Southampton, The sum  
of one hundred and sixteen dollars and seventy five  
cents for value rec<sup>d</sup> for the true payment of which  
we bind ourselves and our heirs, jointly and severally  
Witness our hands and seals this 17<sup>th</sup> day of  
February 1849

Henry H. Hill (Seal)  
Everett, Hill (Seal)  
Thos. Everett (Seal)

Henry H. Hill.

Thos. Bennett.

17  
Note

\$116.75

by H. H. Hill  
Furnish Cash  
Comm.

Part #109. Feb. 18 1850

or 7.75 cash

A