

1855-003 SOUTHAMPTON COUNTY
CHANCERY PAPERS

BISHOP vs. BISHOP et al

5/1855

other surnames: SUMNER,
white, BARNES, STORY

26 = 75. 42. 97.

Bishop

~ } Papers

Bishops

1855 May Term

J. R. Chambers



Bishop

~ } Stat. Rules

Bishop &c

Stith & Bishop

John L. Bishop. Cordy D. Bishop. Mills D. Sumner & Nancy his wife. Mary A. White & Elizabeth J. Bishop

1850. July 17th Sp^a issued.
 " Aug. R. Sp^a ret^d. Executed. Bill filed. & decision to Dfts.
 " Sept. " Bill taken for confessed
 " Oct. " Cause set for hearing -
 " Nov. J. Answer of Dft. Sumner & wife. B. Rep. York.
 1851 Mar. " Continued
 1852 May. Cont^d?
 1855. May. Decru^d

Bishop

i } Bilde-

Bishop's notes

1850 August Rules

To the Hon. Richard W. B. Judge of the Circ. Sup. Court of
Law & Chancery for the County of Southampton

Humbly complaining, sheweth your complainant - Seth W. Bishop
of the County aforesaid. That in the year 1843, Lewis M. Bishop died
formerly of said County, being then the owner of a certain tract of land
called the Story Plantation situated in the County aforesaid, it being
the tract of land formerly owned by Samuel Story and devised
by him to his wife Margaret Story for life, and containing a neg.
by contract or by his note thereto signed by said Lewis M. Bishop and
dated July 1st 1843, sold to your complainant the said tract of land
for the sum of sixteen hundred dollars; eight hundred of which
was paid to the said L. M. Bishop in cash, as appears by the same
note in writing, which is herewith filed and prayed to be taken
as part of this bill; the said L. M. Bishop binding himself in the
writing aforesaid to make your complainant a title to said land
upon payment of the balance of the purchase money -

Your complainant further states that he took possession of
the tract of land aforesaid and has remained in possession of the
same since the date of the writing aforesaid, to wit July 1st 1843,
not long after which time, he overs, that he paid to the said L. M.
Bishop the balance in full, due for the purchase of said land -
that your complainant frequently applied to said L. M. Bishop to
make him a title to said land, and he invariably promised to do so,
and in the year he departed this life, ^{intestate} without ever having made
a deed to your complainant - that said Bishop died intestate, and
left as his only heirs and distributees, your complainant, John L.
Bishop, Cordy D. Bishop, Mary A. White, Eliza J. Bishop, and
Anney J. Lennan, wife of Mills D. Lennan, all of whom your
complainant has frequently requested to consent to make him a
title, but some of them have always refused on the pretence of
not being satisfied that the balance of the purchase money has
been paid by your complainant -

Your complainant is advised that he has a right to demand a specific
execution of the contract aforesaid, and obtains a title to the land
above named, for which he has in deed or other evidence of title
some the writing, above referred to, and such evidence as is liable to

be lost. In consideration of the premises and in as much as your
complainant can obtain no relief excepting a court of Chancery, he
prays that John L Bishop, Cordy D Bishop, Mills D Lumm and
Money his wife, Mary et White and Eliza J Bishop be made de-
fendants to this bill, that they answer the facts therein stated and that
your Honor will decree a deed to be executed to your complainant
for the tract of land before described, and grant him such other
and general relief as he may require in justice and equity, and he
will as in duty bound can pray &c.

Ridley & Goodwyn

Atty

Bishop

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} Answer

Bishop

1850 Nov. 8. Filed by leave of Court.
~~October 24~~

The Answer of Mills & Sumner and
Nancy his wife, to the bill of complaint
exhibited against them, & by Eliza H Bishop.

These Defendants now and at all
times hereafter saving and reserving
for answer to the said bill or so much
thereof as they are advised it is material
or necessary they should make answer
unto, answer and say, that they be-
lieve it is true Lewis W Bishop did in
his lifetime sell to the Complainant
Eliza H Bishop the tract of land known
as the Story plantation for the sum of
fifteen Hundred dollars, and that eight
Hundred dollars part thereof was paid to
the said Lewis W Bishop, who then pro-
mised in writing to make the Complain-
ant a title whenever the balance of
the said purchase money should be
paid, and that the Complainant has con-
tinued in possession of the land as it is
stated in the bill. But they confidently
believe that the said Complainant has
never in truth paid to the said L W
Bishop one cent of said purchase
money except the aforesaid sum of eight
Hundred dollars, and that Lewis W Bishop
lived more than three years after the
time at which the balance of the pur-
chase money is alleged to have been
paid, without any steps whatever
having been taken to perfect the title
of the Complainant to the said land.
That if any effort was ever made by the

Complainant to pay the balance of the purchase money due for the said land, they are convinced, it was by borrowing the necessary amount from one Richard Gordon and executing his bond for the same with the said Lewis W Bishop & as his sureties, which said bond was afterwards sued on, judgment recovered, and execution issued, which execution the said Lewis W Bishop was compelled to pay off and discharge, all of which will more fully appear by Office Copies of the bond, judgment, and execution. Herewith filed marked (A) and prayed to be taken as parts of this answer. These Defendants affirm that to the best of their information the Complainant is now indebted to the estate of Lewis W Bishop in the sum of Eight Hundred Dollars with interest from July the 1st 1843, and that he is not entitled to the said land until he shall have paid the same. They are perfectly willing the title of the Complainant shall be perfected to the said land when ever the balance of the purchase money shall be paid. They moreover state that the legal title to the said land is now and never has been vested in the heirs at law of Lewis W Bishop, but is still held by the heirs of Samuel Storey, and they respectfully suggest that it will be necessary to make the heirs of the said Storey parties to this suit. And having an-

sworn they pray leave to be dismissed, with their reasonable cost and charges in this behalf most wrongfully sustained &c

Mills & Sumner
& Nancy Sumner
By Chambliss & Grapenbarg Attys

Santhampton County, to wit;
Mills & Sumner and Nancy Sumner
made oath before me a justice of the peace
in and for the said County, That the mat-
ters contained in the foregoing answers
are true to the best of their knowledge &
belief: Given under my hand this 21st
day of October 1850

James D. Boyant - J P

Bishop
i } Secur
Bishop

To be entered
R. H. Baker
May Co. '55'

1855 May Term

Bishop
is }
Bishop &c }

The bill of the plaintiff having been taken for confessed at the suits as to all the defendants except, Mills & Lumsden and his wife Nancy, and they still failing to appear and answer, and the cause coming on to be heard on the bill and exhibits, the answer of the said Lumsden & wife, replication thereto and examination of witnesses, was argued by Counsel. On consideration whereof the Court doth adjudge order and decree that Samuel Wells, who is hereby appointed special Commissioner for the purpose, do convey to the said plaintiff I like H Bishop, by good and sufficient deed in law, the tract of land in the bill mentioned and described known as the Stony Plantation, and now in the possession of the said plaintiff. The Court doth further order that each party pay his own costs.

v

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Bishop

u { Sp. Chy.

Bishop &

1850 a August Reles

Rob

Executed by
delivering a true copy
to the Defendants
Ans J. Cordy D. Bishop
M. D. Sumner & wife &
Mary A. White.

Wm W. Ingram Dy
for A. Myrick Esq
Executed on Elizabeth
J. Bishop by delivering a true
copy — H. P. Pope Esq
of A. Myrick Esq

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you that you summon

*John S. Bishop, Cordy D. Bishop,
Mills D. Sumner & wife Nancy, Mary A. White & Elizabeth
J. Bishop*

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for the County of Southampton, at the Rules to be holden for the said Court on the first Monday in *August* next, to answer a Bill in Chancery exhibited against *them* in the said Court by

John S. Bishop

And unless *they* shall answer the said Bill within ^{*two*} ~~four~~ months thereafter, the Court will take the same for confessed, and decree accordingly. And this *they* shall in no wise omit, under the penalty of £100. And have then there this writ. Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-house, the *17th* day of *July* 18*50*, in the *75th* year of the Commonwealth.

L. R. Edwards

[One Copy to be delivered each Defendant.]

Mills D Sumner his wife Nancy Mary White, Cordy Bishop
op. John L. Bishop & Eliza J. Bishop

I take notice that I shall, on the 22nd day of
October next, at the office of Messrs. Bridley & Goodwyn in Jeru-
salem in the County of Southampton, between the hours of sun-
rise and sunset, proceed to take the deposition of Cordy
Bishop, Mary White and others, to be read in evidence in a
Chancery now depending, in the Vice Court for the County of
Southampton in which you are ~~defendants~~ and I am plain-
-tiff - said deposition to be read on the part of the plaintiff

Wm. H. Bishop -

The acknowledged service of the within notice —

Resident ten 16/1850 C. O. Bishop

September 16. M. J. Sumner
John L Bishop
Oct 2nd 1850 —

Oct. 4th 1850 — Mary A White

Oct. 4 1850 — Eliza J Bishop

Bishop

Bishop

Notice

To Lth H Bishop
Sir -

Take notice that on the 26th day
of April 1851 between the hours of nine A M and
six P M at the office of Chambliss & Maper, being
in the town of Southampton and County of South-
ampton we shall proceed to take the depositions
of certain witnesses to be read as evidence for
us in a suit now pending in the Circuit Court
of Southampton wherein you are Plaintiff and
we and others are Defendants - Given under
our hands this 10th of April 1851

Willis S Sumner
Nancy Sumner

April 25/1857. I acknowledge
the within notice with my hand
this day & date above written
Jeste J. H. Bischof

Jno. M. Genley.

Bischof
a
Bischof
Notis

Bishop

2 } Deposition

Bishop

Recorded in by L. P. Nicholas J. P.
Oct 22^d 1858. L.R. 6

Depositions of Cordy D Bishop & others taken at the office of Messrs
Pridley & Goodwyn in Jerusalem, Southampton County, on the
22^d day of October in the year 1850 - between the hours of sunrise
and sunset, to be read as evidence on the part of the plain tiff
in a certain Chancery suit now depending in the Circuit Court
of said County, in which I tith H Bishop is plain tiff and
John A Bishop, Cordy D Bishop & others are defendants.

Cordy D Bishop, being lawfully sworn depores and says
as follows - Sometime previous to the death of Lewis M Bishop
I think in the year 1846, I went to I tith H Bishop's house, where
I found Lewis Bishop - I tith H Bishop proposed to Lewis
Bishop to have a settlement of all their matters, their land, and
rail road and saving matters - Lewis Bishop agreed to the
proposition and they went into another room and commenced
their settlement, during the time of their settlement, I went into
the room where they were, took up a news paper & commenced
reading - When they finished their settlement and got up from
the table, Lewis Bishop held up a paper and said "well Cordy
I have brought the old fellow in debt -" I asked him how much
he said one hundred and fifty one dollars - (Here a bond for
the sum of \$137.00 dated 24th March 1846, signed by I tith H Bishop
was shown to the witness, who said he believed that bond was
the paper held up by Lewis Bishop when he addressed him)
Lewis Bishop died in March 1847 - and further the deponent
says to not -

C. D. Bishop

Mary A White being lawfully sworn depores and says as
follows - About six months before the death of Lewis Bishop
he came to my house and said that he had just come from
Mr Maphenbergs where he had been and paid off the debt
for the Story land, that he had been a long time paying it
and had just paid off the debt - I then asked him if I tith Bishop
had paid him for the land - He said yes he had, and after
a moment said, however, he has nearly paid me, he owes me
a little on it yet - The plantation called the Story land, was
the land sold by Lewis to I tith Bishop - Sometime previous

to the conversation at my house, Lewis proposed in my presence
to buy the land back and said he would give Stith back
what he gave for it; and said that Stith gave him more for
the land than he (Lewis) gave for it. Cordy D Bishop, Lewis
Bishop and Stith Bishop are all three my brothers - and
further the deponent saith not. Mary A White

Morsha J Barnes being duly sworn deposes and
says as follows - Lewis Bishop came to my house the week
before he died and spent about half the day with me - he asked
me where my husband was, I told him, I had hurried him
to Winston to get a deed for some land he had bought
two years ago and paid for, but had never got a deed - He said
that is a very good scheme for I have sold some land to Stith
(he ^{was} ~~was~~ called Stith Bishop by that name) and he has paid
me for it and I have never given him a deed, he does not owe
me a copper cent for it and the next time I go to Jerusalem
I will make him a deed, I asked him why he had not made a
deed to Stith and he said that he had never got a right himself
that he had been bothered about it - I told him he ought to give
the deed for if Stith died, his children would lose the land
he said no they would not for he would make the deed
to them as soon as he would to Stith - My first husband
was uncle to Lewis & Stith Bishop - and further the deponent
saith not. Morsha J Barnes

The above depositions were taken sworn to and subscribed
before me a justice of the peace for the County of Louisa -
- and town, at the time and place mentioned in the caption
Given under my hand this 22^d day of October 1857
J. P. Nicholas J. P.

Bishop

to } Deposition

Bishops &c

handed in by John Cobb J.P. April 26
1837.

The deposition of H. J. Smith taken at the office of Chamberliss & Maplesburg in the Town of New London and County of Southampton on the 26th of April 1851 pursuant to notice to be read as evidence on behalf of the Defendant in a suit now pending in the Circuit Court of Southampton between Eliza H. Bishop Plaintiff and Mills & Sumner and others Defendants.

H. J. Smith being duly sworn deposes and says that Eliza H. Bishop brought to him a certificate of all the heirs of Louis Bishop - except Mills & Sumner & his wife - The nature of which certificate was, that the heirs of Louis Bishop were to make ^{him} right to the land which Eliza H. Bishop purchased of Louis Bishop previous to his death - Some of the heirs signed but do not recollect how many - I also told Eliza H. Bishop that Mills & Sumner, in right of his wife, was willing to take two hundred and fifty dollars for his interest in the said land - and Eliza H. Bishop said he was willing to give him what was right - and that he would go on and see him - and Eliza H. Bishop said that he was willing to pay Mills & Sumner, something, rather than the necessity of bringing a law suit - or having any further trouble about it - Louis Bishop lived at my house - was absent in Richmond some two or three weeks, I do not know however, whether he was in Richmond at the time - returned to my house was taken sick on the same day, and never got better his death -

Question of Sept: Do you not know that Louis H. Bishop could not have seen Mrs. Maria Barnes any time in two or three weeks before his death

Answer: I do not believe he could have
seen her, I think he was absent from
home about two weeks before he was taken
sick.

Question of Piff: Might not Mrs Barnes
have seen Lewis W Bishop the week before
he left home

Answer: She might or she might not.

Question of Jeff: Does winter court ever
come in March? or so

Answer: The regular court does not, they
may have had a call court; Bishop
and the ~~other~~ ⁱⁿ March -

~~was present this afternoon~~

Question of Piff: When does winter court
come!

Answer: The fourth Monday in February
The above deposition was taken ^{by} ~~on~~ ⁱⁿ ~~the~~
and subscribed before me a justice of the peace
in the County of Southampton the day and
year mentioned in the caption

Frederick (J.P.)

Bishops

2 } Exhibit

Bishops

July 1st 1843. Received of Seth H Bishop Eight
hundred & ten Dollars in part payment of a tract
of Land Called The Story Plantation, ^{which} I have sold
to the S. H Bishop for \$1600. which Land I am to
make him a Title to when he pays me the Balance

Louis W Bishop

Letter for
J. H. Bishop
to get title Co
land