1859-006 SOUTHAMPTON COUNTY CHANCERY PAPERS ELLSWORTH VS. ELLSWORTHS 9/1959

other surnames: Bryant, Bittle, Vick, Barnes, Story

(393)

Ellsworth

vs

Ellsworth's

Decree.

1856 Oct Term

" Nov. Decree &c

Southampton County Court — October term 1856

Ellsworth
vs
Ellsworth's } Decree

This day this cause came on again to be heard on the papers formerly read and the report of the special Commissioner Robert D. Filch to which report there being no exception filed, the same is confirmed — and the Court doth further adjudge order and decree that the said Robert D. Filch proceed to collect the purchase money for the said two tracts of land so soon as the same shall fall due, pay all the expenses attending this suit and the sale of the said lands, and pay over the nett proceeds as follows, to wit; one sixth of the nett amount for the Indian woods tract to Martha Ann Ellsworth widow of Silah Ellsworth in lieu of her right of dower as the widow of Isaac Bryant, that he divide the remainder into five equal shares and pay over one share to Sarah E. Bittle, one to Joseph H. Ellsworth, one to William Newsom Ellsworth, and return the other two fifths to the clerk's office of this County subject to the further order of this court — That the said Robert D. Filch divide the nett proceeds resulting from the sale of the tract near Newsom's Depot into five equal shares, pay one share to Sarah E. Bittle, one to Joseph H. Ellsworth, one to

Wm Newton Ellsworth, and return the other two sixths to the clerk's office to be disposed of to the further order of this court.

But the said Commissioner is required to execute a bond with sufficient security in the clerk's office of this county, in the penalty of fifteen hundred dollars conditioned for the faithful performance of the duties enjoined by this decree.—

And the said R. I. Fitch Commissioner aforesaid is directed to report to this court in order to a final decree.

Received November 5. 1856 of the Clerk of the County Court of Southampton the bonds referred to in the annexed Decree—
Robert J. Fitch

Ellsworth
vs
Ellsworth

Decree

1858 October

County Court — October Term 1858 —
Ellsworth vs Ellsworth — In Chancery —

In this Cause, Harrison P. Pope ~~administrator~~ Executor of Selah Ellsworth deceased, on petition is allowed to become a party — whereupon he represents to the Court that it will be seen by reference to the last account current of the said Executor ~~that~~ made out by Commissioner Henry S. Howard which is herewith filed marked A) that the estate of the said Selah Ellsworth is still indebted to the said Pope executor the sum of $454.79 cents, with interest thereon from December 31st 1853

And this Cause was again heard on the papers formerly read & Court at the October Term '56, at the November term '56, and at the July Term '58 of the said County Court — on the report of Special Commissioner Robert D. Filch, and on the report of the said Executor or account-current by the said Commissioner Howard — On consideration whereof the court doth adjudge order and decree that the said Robert D. Filch pay over to the said Harrison P. Pope the said sum of $454.79 cents with interest as aforesaid, which appears to be due to the said Pope by his said account current from the estate of the said Selah Ellsworth, parcel of the moneys ~~due the said Filch indebted~~ by in the hands of said Filch from the sale of lands made by him belonging to the estate of the said Selah Ellsworth —

And the said Filch is directed to retain the residue of said money in his hands subject to a future order of this Court — and to make report in order to a final decree.

Ellsworth

& Co. Dear Sir

Ellsworth

Southampton October Court 1858

Ellsworth
against
Ellsworth

Pltff
Dft
In Chancery

In this cause Harrison P. Pope Executor of Silah Ellsworth deceased, on petition is allowed to become a party. Whereupon he represents to the Court that it will be seen by reference to the last account current of the said Executor made out by Commissioner Henry J Howard which is herewith filed marked A. that the estate of the said Silah Ellsworth is still indebted to the said Pope Executor the sum of $454. 79 cents with interest thereon from December 31st. 1857. And this cause was again heard on the papers formerly read to wit at the October Term '56 at the November Term '56 and at the July Term '58 of the said County Court - on the report of Special Commissioner Robert J Fitch and on the report or account current of the said executor by the said Commissioner Howard. On consideration whereof the Court doth adjudge order and decree that the said Robert J Fitch pay over to the said Harrison P Pope the said sum of $454. 79 cents with interest as aforesaid which appears to be due the said Pope by his said Account Current from the Estate of the said Silah Ellsworth, parcel of the money in the hands of the said Fitch from the sales of the lands made by him belonging to the estate of the said Silah Ellsworth — And the said Fitch is directed to retain the residue of said money in his hands subject to the future order of this Court - and to make report in order to a final decree.

Clks Costs $7. 50 paid by
R J Fitch Comr
L R Edwards

A Copy
Teste L R Edwards Clk

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Ellsworth

vs

Ellsworth

Replevin

1858 December 6th

Ellsworth vs Ellsworth

This cause again came on to be heard this day on the papers formerly read and the report of Robt D. Fitch the Commissioner showing the amount paid out by him to H P. Pope under a decree of this Court rendered at the October term 1858 and showing the amount still in the hands of the said Commissioner — On Consideration whereof the Court doth adjudge, order and decree that the said Fitch pay over after paying the costs of this suit the amount of money still in his hands as follows viz one fifth part to Joseph H. Ellsworth — one fifth part to William A. Ellsworth — one fifth part to Sarah E Bittle (who is now Vick) — and deposit the other two fifths in in the "Mechanics Savings Bank" in Petersburg Virginia to the credit of this suit — upon One of the said two fifths Maria F. Vick (wife of Beverly Vick) is allowed and authorized to draw the interest annually or semi-annually and upon the other fifth Caroline L. Barnes (wife of James Barnes) is authorized to draw and receive the interest in like manner.

And the said Fitch Commissioner is directed to report to this Court in order to a final decree.

Ellsworth

v } Copy Decree

Ellsworth &c

Southampton December Court 1858.

Ellsworth

v.

Ellsworth &c.

Pff
Dfts
} In Chancery

This cause again came on to be heard this day on the papers formerly read and the report of Robert I Fitch the Commissioner showing the amount paid out by him to H.B. Pope under a decree of this Court rendered at the October Term 1858 and showing the amount still in the hands of the said Commissioner. On consideration whereof the Court doth adjudge, order and decree that the said Fitch after paying the expenses of this Suit pay over the amount of money still in his hands as follows Viz. one fifth part to Joseph A Ellsworth one fifth part to William N. Ellsworth one fifth part to Sarah E Bittle (who is now Vick) and deposit the other two fifths in the "Mechanics Savings Bank" in Petersburg, Virginia to the credit of this Suit. Upon one of the said two fifths Maria F. Vick (wife of Curby Vick) is allowed and authorized to draw the interest annually or semi-annually and upon the other fifth Carolina L Barnes (wife of James Barnes) is authorized to draw and receive the interest in like manner. And the said Fitch Commissioner is directed to report to this Court in order to a final decree.

A Copy

Teste. L R Edwards Clk

Ellsworth

vs

Ellsworth

Com.rs Report.

Sales of the Lands belonging to the Estate of Selah Ellsworth Sold by Robert J Fitch Commissioner appointed by the County Court of Southampton County

Rail Road tract containing 68 acres more or less Sold March 15/56			$309 00
Indian woods Tract Containing 252 acres Sold April 21st 1856			300 00

Expences of Sales

Commission on Selling Rail Road Tract " " "	$15	22	
Paid John J Kinard for obtaining decree	" 10	00	
" Nathaniel R. Blow auctioneer	" 1	00	
Commissions on Selling Indian woods Tract " " "	" 12	50	$807.00
Paid Nath'l R Blow auctioneer	" 1	00	
	$39	72	39 72
amount of Bonds	"	"	$769.28

The above is respectfully submitted to the County Court of Southampton County by the Commissioner in this report in the case of Ellsworth vs Edwards.

Robert J Fitch Commissioner

Ellsworth

vs

Ellsworth's

Report of Com^rs

1859 Sept 1st.

Report of Robert D. Fitch Special Commissioner appointed by the County Court of Southampton County in the suit of Ellsworth vs Ellsworth.

To this amount for Indian Woods tract bought by Jno R. Rochelle at	$300.00	$300.00
Paid Jno I. Kindred attorney	$ 20.00	
Paid clerk's fee (½)	3.75	
Paid N.R. Blow Crier	1.00	
Commissions retained	19.00	$ 43.75
		$456.25
Paid to Mrs Martha Story, widow of Selah Ellsworth ⅙ as per decree	$76.04	76.04
Nett balance for this tract		$370.21

To this amount for Rail Road tract bought by Jno C. Bunn	$209.00	
Paid Jno I. Kindred attorney - 5%	$10.00	
Paid clerk's fees	3.75	
Paid Nathl R. Blow	1.00	
Commissions retained	15.18 29.93	$ 279.07
Nett Balance on both tracts		$649.28
To Paid H.P. Pope by decree as per receipt	$475.78	
" Paid Jno Barham as per receipt	45.30	$ 521.08
Carried over		$ 128.20

Amount brought over $128.20

Paid to Joseph H. Ellsworth 1/5 . . . $25.64

Paid Wm N. Ellsworth 1/5 . . . . 25.64

Paid Sarah E Little 1/5 . . . . 25.64

This amt. now in my hands to be deposited for the benefit of Maria F. Vick 1/5 25.64

This amt now in my hands for the benefit of Geraldine L. Barnes 1/5 - 25.64 $128.20

Respectfully submitted to the County Court of Northampton County.

Robert J. Fitch

John J Bruce
Pocket

Received of Robert N. Felch Commissioner appointed by County Court to sell the real estate of Selah Ellsworth deceased Ten dollars for Clerk's fees.

Jno I. Kinsell

March 15th 1866

March 13th 1836 Rec'd of Robert J Fitch Commissioner appointed by the County Court of Southampton to sell the real Estate of Selah Ellsworth dec'd one Dollar for services rendered as auctioneer for Sale of Real Estate tract of Land.

Nath'l R. Blow

1836 April 21st Paid of Robt J Fitch Commissioner
appointed by the County Court of Southampton
County to Sell the real Estate of Selah Ellsworth
dec'd One Dollar for Services rendered as
auctioneer for Sale of Rail Road tract of
Land &

Nath'l R Bloce

I. Received May 16th 1859 of Robert I. Fitch Esq Clerk in person appointed by a decree of the County Court of Southampton ("Ellsworth vs Ellsworth") Twenty dollars ($20.00) in full for drawing two deeds &c, in in said suit

Jno I. Kindred
Att'y at Law

Silas Ellsworths

Will

A Copy

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In the name of God: Amen. I Selah Ellsworth of the County of Southampton and State of Virginia do hereby make and publish this my last Will and Testament in manner and form following that is to say.

Item 1st After my decease I desire that all my just debts and funeral expenses be paid out of my estate by my Executor hereinafter nominated—

2nd I loan to my beloved wife Martha Ann for and during the term of her natural life, my plantation or tract of land wherein I reside with the privilege of using and selling any of the timber thereon— I also loan to her during the said term of her natural life my negro man Fabius—

3rd After the decease of my said Wife I desire that my said plantation or tract of land be sold to the highest bidder on a credit of twelve months. also my said negro man Fabius on the same credit, and the money arising from the sale of said land and negro man. I give and bequeath as follows. I give to my daughter Maria F Vick the interest on one fifth part to be paid to her annually during the term of her natural life— and after her decease I give and bequeath the said fifth part of the monies aforesaid to her children to be equally divided between them— I give to my daughter Caroline L Barnes the interest on one fifth part to be paid to her annually during the term of her natural life and after her decease I give the said fifth part of the monies aforesaid to her children to be equally divided between them the other three fifths I give and bequeath to my sons Joseph H. Ellsworth. and William A Ellsworth and my daughter Sarah E Bittle to them and their heirs forever.

Item 4th I give and bequeath all the balance of my estate to my said children and grand children in the same proportion as mentioned in the third Item herein.

5th and lastly. I hereby nominate and appoint my friends Davis Barrett and Harrison P. Pope Executors of this my last Will and Testament hereby revoking and annulling all other or former Wills or Testaments by me heretofore made. In Witness whereof I have hereunto set my hand and seal this 2nd day of May 1854.

Selah Ellsworth (Seal)

Signed Sealed and acknowledged to be the last Will and Testament of the Testator in presence of us
Thos B. Worrell
Samuel Vick

At a Court held for the County of Southampton the 13th day of July 1854.

This last Will and Testament of Selah Ellsworth dec'd was this day proved by the oaths of Thomas B Worrell and Samuel Vick the subscribing witnesses thereto and thereupon ordered to be recorded And on the motion of Harrison P. Pope one of the executors therein named who made oath and together with Ben. E Pope and George E Pope his Securities entered into and acknowledged a bond in the penalty of five thousand dollars conditioned according to law certificate is granted him for obtaining a probate of the said will in due form Liberty being reserved to the other Executor therein named to join in the said probate when he shall think fit.

Teste
L R. Edwards Cl

Teste. L R. Edwards Cl

Ellsworth

vs

Ellsworth

Commissioner's Bond

KNOW ALL MEN BY THESE PRESENTS, That we Robert J Fitch

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of fifteen hundred ——— Dollars, current money of Virginia, to the payment whereof well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 3rd day of November A D. 1856.

The Condition of the above Obligation is Such, That if the above bound Robert J Fitch who was appointed by a decree of the County Court of Southampton entered at the October Term 1856 in a suit in Chancery therein pending between Ellsworth & Ellsworth &c. Commissioner for certain purposes therein mentioned ———

shall faithfully discharge the duties of his said office or trust according to law, then the above obligation to be void, or else to remain in full force and virtue.

Signed, Sealed and delivered in the presence of the Court.

Robert J. Fitch L.S.

Jno. M. Gentry L.S.

L.S.

L.S.