

1895 - 14

Southampton County - Chancery

Brinkley, A. & Co. ^{vs}
_{et al}

Hallant, J. G.

"To settle debts"

Matthews, V. C.

Davis, M. L. J. & Co.

Pearce, Cushing

Fisher, James M.

Shook, Edward J.

Miller, Tom H.

Davis, Harry C.

Pearce Bros & Co.

Jones, Thomas A.

Savage, Patrick H.

Savage & Sons

Chandler, E.

Kahn, B.

Chandler & Co.

Brinkley Co. Th. 1882

A. Brinkley & others.

v. { Bill & Exhibits

Holland J. G.

✓

Q

JAMES L. MCLEMORE,

Attorney-at-Law,

COURTLAND, VIRGINIA.

Everett Walley Co., Stationers and Printers, Richmond, Va.

To the Hon. Lld. Hill Judge of the Circuit
Court for the County of Southampton.
In Chancery.

A. Brinkley and V. C. Matthews partners
trading as A. Brinkley & Co.; M. L. J. Davis & B.
D. Thomas partners trading as M. L. J. Davis & Co.,
Hubert Pearce, James M. Fisher, Edward V. Shook, Mrs
A. Miller & Harry C. Davis partners trading as
Pearce Bros & Co.; Thomas A. Jones & Patrick H.
Savage partners trading as Savage Sons & Co. & B.
E. Oberdorfer & D. Kahn partners trading as
Oberdorfer & Co. Plaintiffs.

Against
J. G. Halland.

Defendant

Your complainants A. Brinkley & Co.; M. L.
J. Davis & Co.; Pearce Bros & Co.; Savage Sons & Co. &
Oberdorfer & Co. complaining sheweth to the
Court; that J. G. Halland, the defendant, was on
the 14th day of April 1894, and still is, indebted
to your complainants in sundry sums as follows:-
A. Brinkley & Co \$100. due 26th day of Aug. 1893,
M. L. J. Davis & Co \$283.⁴¹ due 27th day of Dec. 1893,
Pearce Bros. & Co \$195.⁹⁷ due 6th day of Aug. 1893,
Savage Sons & Co \$51.³⁰ due day of 1894,
Oberdorfer & Co \$46.³⁸ due 1st day of April 1894.

all of which several sums are due by open account.
That being so indebted, on the 14th day of
April 1894 the said J. G. Halland, did by a cer-
tain writing duly signed & acknowledged by himself
claim & set apart as exempt from liability for debts
under execution or other process all of his real &
personal property of every nature & description; claim

ing the same as a Homestead, & setting the said property apart for the benefit of himself & family. All of which will appear by reference to copy of the said writing herewith filed as Exhibit "A."

Your complainants are advised and therefore aver & charge that the property so set apart in the said writing & claimed as a Homestead, was at the time the same was set apart, was of a fair cash value, largely in excess of \$2000.; that the valuation placed upon the said property is manifestly too low. was sealed & graded by the said defendant, that it might come within the prescribed amount, and thereby prevent your complainants from subjecting the property to the payment of their debt. which your complainants aver & charge is contrary to law & is an evasion with Equity & good conscience.

Your orators would state further, that all of them except Oberndorfer & Co. have instituted suits on the Common Law side of your Honors Court for the purpose of obtaining judgments against the Defendant, as they are advised that the suits at law are in no sense incompatible with the proceeding in equity.

In Consideration whereof your complainants pray that J. G. Halland be made party defendant to this bill & required to answer the same, but an answer under oath is hereby expressly waived; that the estate set apart by the defendant, may be properly & justly assessed under direction of this Court and so much thereof as is in excess of \$2000. value, may be applied to your complainants debt; that reasonable fees may be allowed plaintiff counsel conducting the

cause. That all such orders & decrees may be entered, accounts taken, & such general & special relief granted as the nature of this case may require on its equity may seem meet & your complainants will ever pray &c.

J. C. Parker }
J. L. McLenore } p. 2.

The defendant in this cause failing to appear, by way of amendment to the above bill your Complainants further sheweth to the Court that since the filing of the above bill they have each recovered judgments on the Common law side of the Court against J. L. Holland, as follows: At Drinkley & Co. judgment for \$100. with \$7.⁹⁵ costs. W. L. J. Dobb & Co \$283.⁴¹ with \$8.⁰⁵ costs. Pearce Bros & Co \$195.⁹⁷ with \$7.⁸⁵ costs. Savage Son & Co for \$52.⁵⁰ with \$1.⁰⁰ costs. Abernethy & Co for \$46.⁹⁸ with \$1.⁰⁰ costs, all of which will appear by reference to Certified Abstracts of said judgments filed as Exhibit herewith marked respectfully A. B. C. D. E. & made a part of this bill. They therefore pray that said property of the defendant J. L. Holland, or so much thereof as exceeds in value the sum of \$2000 - may be sold & the proceeds subjected to the payment of your Complainants debts - that all such general & special relief may be granted as the nature of the case may require.

J. L. McLenore }
J. C. Parker } p. 2.

Know all men by these presents that
 I J. G. Halland, of Southampton County,
 Virginia, being a householder and head
 of a family do under and by virtue of the
 statute in such cases made and provided,
 declare my intention to claim, and
 do hereby set apart and claim, for the
 benefit of myself and family, exempt
 from levy, seizure, garnishment or sale
 under any execution, order or process is-
 sued on any demand for any debt on
 liability on contract, the following property
 to wit.

My farm, known as Ferguson Tract con-
 taining 143 acres more or less upon which I
 now reside valued at. \$600.00

My Farm known as Hart Tract 135 acres valued at. 400.00

9 Head Cattle valued at 54.00

1 Ox - - - " " 15.00

12 Hogs " " 48.00

1 Cart & wheels (in addition to one exempt
 under P.D. Law) 8.00

1 buggy & harness valued at 15.00

1 Single gun " " 2.00

All household furniture { exclusive of that
 exempt under P.D. Law } 10.00

15 bbls corn (" ") 37.50

6 bus stock Peas 3.50

1000 lbs meat (Exemptive of P.D. exemption) 80.00

Carried forward. \$1273.00

Ant brit foward-	1273.00
140 bags Peanuts valued at	200.00
All goods wares & merchandise and store fixtures &c in my store on Farm Place	200.00
A debt due me by D. E. Varns evidenced by due bill.	325.88
aggregating value of said property amounting to	\$1998.88

Given under my hand and seal this
14th day of April 1894
J. G. Halland (Seal)

Santhampton County - In the Clerk's Office
Apr 14th 1894.

The foregoing Deed of Homestead by
J. G. Halland was this day received
acknowledged in this Office by said
Halland and admitted to record.

Teste. B. F. McLeavelle
Clerk
Teste T. W. Howard l. c.

Brantley & Co

H. D. D.

Halland J. G.

"A."

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY, GREETING:

WE COMMAND YOU TO SUMMON.....

J. G. Holland,

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 *3rd* Monday in *October 1894* next, to answer a Bill in Chancery

exhibited against *him* in our said Court by *A. Brinkley & V. L. Matthews*

partners trading as A. Brinkley & Co., M. L. D. Davis & B. D. Thomas partners trading as M. L. D. Davis & Co. Aubrey Pearce, James M. Fisher, Edward V. Shore, Wm H. Miller & Harry C. Davis partners trading as Pearce, Brod & Co & Thomas A. Jones & Patrick H. Savage, partners trading as Savage Sons & Co, B. E. Chenderfer & B. Kahol partners trading as Chenderfer & Co

And this *he* shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, T. M. HOWARD, Clerk of our said Court, at the Courthouse, this *10* day of

October, 189*4*, in the 11*th* year of the Commonwealth.

TESTE:

T. M. Howard, C. C.

I went to the home of J. Halland and he
not being found I delivered a copy of
this paper to his wife Mrs. J. Halland, she being
a member of his family and I gave her
and Elizabeth the paper to her

D. H. Williams kept

For J. D. Williams
Sept.

Brinkley & Co. etc.

2" } Sum.

Holland,

1894. 2 Cct Ruled
lin. let.

~~Executed Oct. 12 1894~~
~~by delivering a copy of~~
~~this Com to~~

Parker & 3 p.g.
McLamore 3

In Southampton Justice Court,

Oct 23

Term, 1894

Mrs. A. Jones, & Patrick H. Savage
trading as Savage, Son & Co. Plff.
Against

In

Deft.

Judgment for the Plaintiff against the Defendant for \$52.⁵⁰ with
legal interest thereon from 1st day of Decr, 1893, till paid,
and costs, \$1.⁰⁰

Extract.

Teste: B. F. McLeod C. C.

In Southampton Circuit Court,

Nov

Term, 1894

Aubrey Pearce, Jas. M. Fisher, Edward V. Shorb,
Wm. H. Milledge & H. C. Davis, partners in trade as
Pearce Bros & Co. }
Pltffs
Against

In

J. G. Holland }
Def.

Judgment for the Plaintiff against the Defendant for \$195.⁹⁷ with
legal interest thereon from 6th day of Aug, 1893, till paid,
and costs, \$7.⁸⁵

Extract.

Teste:

T. M. Howard C. C.

In Southampton Circuit Court,

Nov Term, 1894

M. L. J. Davis & B. D. Thomas Merchants &
partners, trading & doing business as
M. L. J. Davis & Co. Pltffs
Against

In

J. G. Holland Def.

Judgment for the Plaintiff against the Defendant for \$283.⁴¹ with
legal interest thereon from 27th day of December, 1893, till paid,
and costs, \$8.⁰⁵

Extract.

Teste:

J. G. Holland C. C.

In Southampton Circuit Court,

Nov Term, 1894

A. Brinkley & T. C. Matthews, partners
in trade as A. Brinkley & Co. Pltff.
Against

J. G. Holland Def.

In

Judgment for the Plaintiff against the Defendant for \$100.⁰⁰ with
legal interest thereon from 20th day of Aug, 1893, till paid,
and costs, \$7.²⁵

Extract.

Teste:

T. H. Howard C. C.

In Southampton Justice Court,

Nov 7 Term, 1894

B. E. Oberndorfer & B. Kahn, partners
trading as Oberndorfer & Co. Plff.
Against

In

J. G. Hulland Def.

Judgment for the Plaintiff against the Defendant for \$46.³⁸ with
legal interest thereon from 1st day of Aprill, 1894, till paid,
and costs, \$1.⁰⁰

Extract.

Teste: B. F. McLeary C. C.

A. Brinkley & V. C. Matthews
partners trading as A. Brinkley,
& Co., M. L. P. Davis & B. D.

Thomas partners trading as
M. L. P. Davis & Co., Aubrey
Pearce, James M. Fisher, Edward
V. Shook, Wm. H. Miller, & Harry
C. Davis, partners trading as
Pearce Bros. & Co., & Thomas Pltffs.

A. Jones & Patrick H. Savage
partners trading as Savage,
Sons & Co., B. E. Abendorfer,
& B. Kahn partners trading
as Abendorfer & Co.

(Dr)

J. G. Hallant.

In Chancery

Deft.

1894 Oct 10 Process filed to 2nd Oct Rules.

" 2 Oct Rules. Process not executed

Bill & Ex filed deors nisi

1894 1st Nov Rules Bill taken for con-

ferred & cause set for hearing.

Brinkley & Lea et al
v. } Stok: Rules
Holland J. S.

2 Acc. Rules

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A. Brinkley & Co. et. als:

vs } Notice

J. G. Holland

1895. ~~Mar~~ Feb. 27. 5

Executed Feb. 18/95
by delivering a copy of
this notice to J. G. Holland

R. T. Stillman, notary
for Massachusetts

We acknowledge receipt
of the within notice for
the plaintiffs

J. A. Parker } p. v.
J. L. Manning }

Commissioner's Office,

Southampton,
Jerusalem, Va., Jan'y 15th 1895

To A. Brintley & Co.
M. L. J. Davis & Co.
Pearce Bros & Co.
Savage, Son & Co.
Almendorfer & Co.

^{and}
J. G. Holland

You are hereby notified that I have fixed upon the ~~15th~~ day of ~~February~~ ^{7th March} next, if fair, if not, the next fair day thereafter (Sunday excepted), to take and settle, at my office, the following accounts, to wit:

- 1st: What was the value of the real and personal property of J. G. Holland, as of April 14, 1894, which was mentioned and described in a writing of that date, setting aside the same as a Homestead, which writing is made a part of the Plaintiffs' bills.
- 2^d: What permanent improvements, if any, have been put on said real estate since April 14, 1894.
- 3^d: Any other matter deemed pertinent.

required to be taken by a decree of Southampton Circuit Court, rendered at the November term, 1894, in a suit in chancery depending in said Court, in which you are parties, plaintiffs and defendants; at which time and place you are required to attend.

Given under my hand, as Commissioner in Chancery of said Court, the day and year first aforesaid.

B. F. McLenahan

Commissioner.

To the Sheriff of Southampton County to execute.

Brinkley Hall et al

Ar¹¹ } Decees

J. G. Halland.

A Copy.

Mar 5-

~~Feb. 14~~

by the Court on any party interested.
J. G. Halland
Hester: J. M. Howard, & Co.

Southampton Circuit Court Nov Term 1894.

A. Brinkley & Co et als.

@

Mem

Decree.

J. G. Halland.

This day this cause came on to be heard upon the Bill & Exhibits filed, the bill taken for confessed as to the defendant and was argued by Counsel - On consideration whereof the Court doth adjudge order and decree that this cause be referred to one of the Commissioners of this Court who will take & report the following to this Court in order for a future decree.

1st What was the value of the real & personal property of defendant as of April 14th 1894, which was mentioned & described in a writing of that date setting aside the same as a Homestead, which writing is made a part of the plaintiffs bill Marked "A" - said Commissioner will report a separate value for each article of property so mentioned & set apart and also return with his report the evidence upon which he bases his values & his report.

2nd What permanent improvements if any have been on the real estate since said April 14th 1894

3rd Any other matter deemed pertinent

Brinkley & Co. et al:
r } Sp'a.

Holland

1895. ~~Feb 1st~~
mch. 5

Executed Feb. 18/95,
by delivering a copy of
this Sp'a. to each
of the within named
parties

R. Williams Sepn
for J. Williams
Shy

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—Greeting:

WE COMMAND YOU TO SUMMON

Mr. W. H. Daughtry - B. J. Bryant and R. J. Farris

B. F. McLemore, Clerk of
to appear before the ~~Judge of~~ our County Court of Southampton County, at the Courthouse thereof,
on the *5th* day of *Feby March* Term, 189*5*, to testify and the truth to
speak on behalf of *A. Brinkley & Co. et al*

in a certain matter of controversy in our said Court depending and undetermined between
Brinkley & Co. et al, plaintiff, and
J. G. Holland, defendant.

And this *They* shall in no wise omit, under the penalty of the law. And have then there this writ.

Witness, B. F. McLEMORE, Clerk of our said Court, at the Courthouse, this *2* day
of *Feby*, 189*5*, in the *11th* year of the Commonwealth.

TESTE:

B. F. McLemore, C. C.

An Account showing the value of the real and personal Estate of J. G. Holland, as of the 14th day of April 1894., which was mentioned and described in a writing of that date, setting aside the same as a "Homestead". reported by B. F. McLemore, Comr in Chancery of the Circuit Court for Southampton Co. in obedience to a decree of said Court rendered at the November Term 1894. in the Cause of "H. Brinkley & Co. et. al. vs. J. G. Holland." Upon the evidence of Dr. W. B. Daughtry - B. J. Payant and R. T. Fiers.

Tract of land - Containing 143 Acres.	1000.00
" " " " 135 "	500.00
9 head of Cattle	54.00
1 Ox	15.00
12 hogs	48.00
Cart Wheels	8.00
Buggy & harness	15.00
1 Single Gun	2.00
Household Furniture, Exclusive of P. D. Exempt	10.00
15 Bbls Corn	40.00
6 Bushels Stock Pear @ 75 [¢]	450
1000 lbs meat @ 10 [¢]	100.00
140 bags P. Nuts.	252.00
Stock of Goods, Store fixtures &c.	200.00
Due Rec. by J. E. Vann	325.88
Aggregating	2574.38

Respectfully Submitted,
B. F. McLemore
Comr in Chancery.

Commissioner's Office.
Courtland, Va.

March 5th 1895.

To the Circuit Court of Southampton Co.

In obedience to a decree of the Circuit Court for Southampton County, entered at the November Term 1894, in the Chancery Cause of A. Brinkley & Co. et. al. vs J. G. Holland. The undersigned, one of the Commissioners of said Court. to whom the aforesaid decree has been referred. reports to Court, that on the day of 1895 he issued Notice against the parties to the suit. requiring them to appear before him, at his Office in Courtland on the 5th day of March 1895. at which time and place he should proceed to enquire into and report: "What was the value of the real and personal property of J. G. Holland, as of April 14th 1894, which is mentioned and described in a writing of that date, setting aside the same as a Homestead". Your Commissioner also issued Subpoenas against Dr. H. B. Daughtry, Benj. J. Bryant and R. J. Fiers. requiring them to appear before him as witnesses, at the time and place aforesaid. The above named gentlemen reside near Mr. J. G. Holland. and are men of intelligence, sound judgment and worthy of confidence. and have appeared before the Commissioner. in obedience to the summons aforesaid. he proceeded to examine the Homestead deed herein before referred to, and caused the said witnesses to place

upon each article of property mentioned in the said deed. its fair cash valuation according to the best of their judgment and belief. And having valued each and every article of property. and adding the several sums together, he finds that, according to this valuation of the witnesses aforesaid - the property set aside in the Homestead Deed of J. G. Holland, as of the 14th day of April 1894, aggregates the sum of \$2574.³⁸ -

The Commissioner reports further that no improvements, of a permanent nature, have been added to or placed upon the real estate herein mentioned, since April 14. 1894.

In making this report the Commissioner has relied, entirely, on the information obtained from Dr Daugherty, Mr Bryant and Mr Fiero. the witnesses hereinbefore mentioned.

The appraisement of the property, together with the Notices of the time and place of making this report. are filed herewith.

Respectfully Submitted.

B. F. McLenore

Clerk in Charge

Committed \$10.⁰⁰ to
Ch Pliffs.

Farm 148.	\$1000.00
" 135.	500.00
9 head Cattle - @	54.00
1 Ox	15.00
12 hogs	48.00
Cart & wheel	8.00
Buggy & harness	15.00
1 Single Gun.	2.00
House hold furniture. Excluding glass	10.00
1000 lbs Corn	40.00
6 Bar Stock Peas @ 75¢	
1000" meat @ 10¢	
140 bags of meal	252.00
Stock Goods &c.	200.00
Due bill. by J. E. Vann	325.88
	\$2469.88

No improvement in real estate since
Apr 14. 1894.

Dr W. H. Daugherty	\$0.90
B. J. Bryant -	0.90
Rechn J. Fiers -	0.90
	2.70

20
80
50

1.30

50.

Brinkley to et al.
v. Decree
Holland J. G.

1894 Nov. 12
To be returned
O. M. B.

Exhibit 696 -

A. T. Brinkley & Co et al
v.
J. G. Hallam
Decree

This day this cause came on to be heard upon the bill & exhibits filed, the bill taken for compasses as to the defendant and was argued by Counsel. On consideration whereof the Court doth adjudge order & decree that this cause be referred to one of the Commissioners of this Court who will take & report the following to this Court, in order for a future decree.

1st. What was the value of the real & personal property of defendant as of April 14th 1894, which was mentioned and described in a writing of that date setting aside the same as a Homestead, which writing is made a part of the Plaintiff's bill marked "A". Said Comm. will report a separate value for each article of property so mentioned & set apart and also return with his report the evidence upon which he bases his value & his report.

2nd. What permanent improvements if any have been on the real estate since said April 14, 1894.

3rd. Any other matter deemed pertinent by the Comm or any party interested.

Brinkley & Co. et al.

vs.

J. G. Halland

This day this cause came on to be again heard upon the papers formerly read, upon the report of B. J. McLenore, Esq., filed March 7th 1895-6 which report no exceptions have been filed, and the amendment of the plaintiffs to their bill & the exhibits filed therewith, and was argued by counsel.

Upon consideration whereof the court doth adjudge, order & decree that the tract of land containing 135 acres valued by the Esq. at \$5000, & the 9 head of cattle & one ox, valued by the Esq. at \$69, be subjected to the payment of the ^{judgments} ~~debts~~ of the plaintiffs as shown by the exhibits in this cause, and doth adjudge, order, & decree that J. C. Parker & J. L. McLenore, who are hereby appointed for that purpose, be and they are hereby appointed Special Commissioners, either one of whom may act, to sell said property to the highest bidder at public auction for cash, after giving thirty days notice of the time and place (which place shall be at the Courthouse in Southampton Co.) of sale by advertisement in ^{some} ~~the~~ newspaper published in Southampton Co. & by hand bills posted at public places in said

* The personal property shall be sold for cash and the real estate for one third cash and the residue in six and twelve months from the day of sale, the purchaser to execute his bonds binding not sell the title to be released as administrative security

County, & also shall give direct notice in writing to the defendants in this cause of said sale.* But before entering upon the discharge of their duties under this decree the said commissioners shall enter into a bond in the penalty of One Thousand Dollars, with security deemed sufficient by the clerk of this court, conditioned for the faithful discharge of their duties under this decree, and said commissioners shall report to this court at the next term thereof what they have done.

A. Brinkley Es. it do
vs. } 2^d Decer
J. G. Halland

March Term 1895
To be entered.
Robert J. Flinders
Mar. 27, 1895-

Brinkley Co. it als.
vs. Lual Decree
Holland.

Sep. Term 1895-

To be entered.

Sept. 25, 1895-

Robert I. Hunt.

Brinkley & Co. et als.

VS.

Holland.

This day this cause came on again to be heard upon the papers formerly read and was argued by counsel.

Upon consideration whereof and upon the motion of the plaintiffs in said cause, the court doth adjudge, order, and decree that this cause be dismissed from the docket at the cost of the plaintiff.