

1820-036

Chancery Causes: Matthew Westray vs Elisha Ballard's executor & al

Isle of Wight County

other SURNAMES: Drake,
Bracy

Mr. Westray
As
Bill
Ballard

Westray
Bill

Westray cor.

March 1800

Bill file

Nov. 1800

Ans. file

May 1820 dismissed
with leave to reinstate
in 3 months

Jeremiah Westray his last guardian, he made dependants to this bill of Complaints, and on their several oaths full, true and perfect answer make to all and singular the allegations it contains and that a Specialty, as though they were here again repeated and they, thereunto severally & particularly interrogated. Now especially, whether they are not the proper representatives and persons described in the former part of the bill. What estate of said Robert Westray, came to the hands of said Elisha Ballard, what did it consist of; what was the value and how was it disposed of: —

What estate came to the hands of said Drake as your Complainants Guardian, from whom was it received, what did it consist of, what its value and how disbursed. How much of your Orators estate came into the possession or under the management of Westray as his Guardian, what did it consist of, when did he receive it, what has been the profits arising from it, how much was it worth when received and how has it been disbursed. — Your Complainant humbly prays your honours, that after a fair, full and perfect hearing of the parties ~~that~~ and such evidence as may be adduced, that such decree may be entered for your Orators relief and benefit against all or any of the said dependants as shall do perfect Justice to all; and especially to your Orator, who considers himself aggrieved and defrauded by the dependants. May it please V.
L. Barber for Comt.

To the worshipfull Court of Isle of Wight in Chancery
sitting, humbly Complaining sheweth unto your honours
your Orator Matthew Wistray, That your Orator is the
son of Robert Wistray, That the said Robert died many
years since testate, leaving a considerable estate
which went into the hands of Elisha Ballard the Ex^r.
That one Cordy Drake became Guardian to your
Complainant—and that subsequently, Jeremiah
Wistray qualified as such. That your Orator is
entitled to such estate as his said father left or
Certain parts thereof, as will more fully appear
by his will, a Copy of which, for greater Certainty, is
hereto annexed and prayed to be Considered and
taken as a part of this bill. That though he is so
intitled he can get no account of his said fathers estate
from Joseph Ballard the executor of Elisha Ballard
who was the Executor of said Robert Wistray, from
Jesse Bracy and Mary his wife, which Mary was
the widow of said Cordy Drake & the the Ex^r or adm^r,
of the said Cordy, who was your Complainants first
Guardian, Or from Jeremiah Wistray, his second
Guardian; by which means he is intirely, deprived
of the estate intended for him by his said father.

In tender Consideration whereof and
forasmuch as he is, only and properly relievable
in a Court of Chancery. Your Complainant pray
your Worships that the said Joseph Ballard Ex^r
of Elisha Ballard who was executor of Robert
Wistray, the said Jesse Bracy and Mary his
wife, legal representatives of Cordy Drake, who
was your Orators first Guardian, and the said

The separate answer of Benjamin Westray to the Bill of Complaint exhibited against him & others by Matthew Westray in the ~~the~~ the Court of Isle of Wight County. This Def. now & at all times hereafter saving & reserving to himself all & all manner of necessary & proper exceptions to the many errors, untruths & other imperfections in the Compl. said Bill of Compl. contained for answer thereto or to so much thereof as he is advised is material for him to make answer to. he answering saith: That it is true as stated that ^{this} Def. succeeded ⁱⁿ Cedy Drake in the Guardianship of the Compl. That this Def. was chosen by the Comp. & appointed his Guardian in the year 1796. This Def. states that the mother of the Comp. & wife of Robert Westray not being pleased with the will of her husband refused to stand to it, & his her renunciation became entitled to her thirds of her husband's Estate. That although she so entitled herself to her thirds she did not have them assigned to her. That the s^d widow of Robert Westray had leased the whole of the land belonging to his Estate which lay in this County for three years when this Def. became the Guardian of the Compl. That she had also hired out the two negro boys belonging to her husband's Estate for one year. they were young & hired for little. That this Def. on becoming Guardian of the Compl. rented out the land left by Robert Westray in Southampton. That this Def. was Guardian of the Comp. & his brother Benjamin treated out the proportion of the land ^{and lowish up. warty were entitled} leaving one third of the ~~land~~ land for the widow. That the land was very little improved when it came to the hands of this Def. & rented for but little viz not more than nine dollars per year. This Def. states that after the lease had expired made by Mary Bracy the mother of the Compl. he this Def. rented out for one year the land in this County towards the Compl. was entitled under his ~~will~~ will. That this Def. took a bond for

the rent, which Bond he has transferred to the Compt.
since he came of age. That there were as this def.
believes only two negroes boys belonging to the Estate of
Robert Westray, that as he has stated they were hired
out for one year, that at the end of the year they
came to his possession, that he hired them out
that the Widow was entitled to one third of the hire
the Compt. to one third & Benjamin Westray to the
other third. That the negroes were going & the most this
Def. could ever obtain for them in any one year was
seven pounds a piece. This Def. states that he has made
a great many advances to his s^d wife the Compt.
that he is not prepared to annex an account to his
answer, nor can he suppose it necessary he should
as he presumes the Court will direct an account to
be made up by their Commissioner. That this Def.
will be perfectly willing to go before the Commissioner
or at any moment he may be directed & there exhibit
a fair correct and honest statement of his s^d wife's
-terms. He states that he has paid money for board
clothes, &c. That he has paid Taxes on land, & made
sundry other payments: as he shall be able to establish
he denies all fraud & contumacious & prays to be
hence dismissed with his reasonable costs &c.

I Sle of Wight copy Nov^r 5. 1806. The
S^d wit I above answer sworn to
before me a Justice of Peace for s^d copy
off copy
Thos King

Westray

10.

Spa. in lhy.

Ballard

Barber and
for Compt

August 1803

Spa.

Oct. 1805

p. Spa.

At one end for month of June

Henry M. Mills Esq

for

At Mills Esq

The Commonwealth of Virginia to the Sheriff of Isle of Wight
County Greeting: we Command you, that you Summon
Joseph Ballant executor of Olisha Ballant decd. who was executor of Robert Westray
decd. and Jesse Bracey and Mary his wife - of Gordy Drake who
was the Gov. of the said Matthew Westray. - and Samuel Westray his last Gov.
To Appear before the Justices of our County court of Isle of Wight
- at their Courthouse of said County, on the first Monday
in August next, then & there to answer a bill in Chancery
against them - Exhibited by Matthew Westray

and this they shall in no wise omit under the penalty of
£100 each and have then & there this writ. Witness
Nathaniel Young Clerk of our said Court, the 10th day of
June 1805 in the 29th year of the Common
wealth

Nath. Young

Not found

Many persons see

the marks of the

History

3rd A. Spa. in Chy

History, Cap. 10

Barber M. 2
for Longfellow 3

The Commonwealth of Virginia to the Sheriff of Sleepyight County
Greeting we Command you, that you summon Joseph W. Ballans exor. of
Clisho Ballans - who was exor. of Robert Westray decd. and Jefe Piracy & Mary his wife
of Cordy Drake - who was Exor. of Matthew Westray & Jeroniah Westray
to appear before the Justices of our County court of Sleepyight at their
Courtthouse of Said County, on the first Monday in September next then
there to answer a bill in Chancery against them Exhibited
by Matthew Westray

and this they shall in no wise omit, under the penalty of \$100
each and have then there also this writ, Witness Nathaniel
Young Clerk of our Said Court the 10th day of August 1805
Y in the 30th year of the Commonwealth

Nath. Young

Westay

15:

A.P. Sp. in City

Westay exp: 84

Barber att. for
Compt.

Enc. to the

Young in with letter

Wm. H. H.

The Commonwealth of Virginia to the Sheriff of Isle of Wight County
Greeting; we Command you, that you Summon Joseph W. Ballard
exor. of Elisha Ballard. who was exor. of Robert Westray died and
Jesse Bracey and Mary his wife of Cordy Drake. ^{Westray & Dec^d Westray} who was Gen^l of Math^{ew}
to appear Before the Justices of our County Court of Isle of Wight at their
Courthouse of said County on the first Monday in November
next then & there to answer the Bill in Chancery against
them Exhibited by Matthew Westray

and this they shall in no wise omit, under the penalty of £100
each and have then there also this writ. Witness Nathaniel
Young Clerk of our said Court the 10th day of October 1805
in the 30th year of the Commonwealth

Nathl. Young