

1820-040 Chancery Causes: James B. Southall vs Thomas Bevan, admr of Robert Driver, Drewry Driver & al
Isle of Wight County

other SURNAMES: Gray,
Gibbs

J.B. Louthall

W

J. Driver, Burn

Gray

Wm

18th May. Subp a Chf

Law. Bld filed & Remus
answ. filed in the

And what rights do they purport to have? They are the
 lands themselves, ^{the largest amount in goods & money on the things for sale in the town}
 after a full hearing of the parties to let a line all interests relating
 to the premises which shall appear to be founded in collusion
 or in fraud, & tending to deprive your orator of the means
 of collecting his just debt herein claimed - ~~and~~ that he
 may have an order of this Worshipful Court to prevent the
 said Defendant from delivering or paying away any goods, money
 or chose in action which he has in hand which in law or
 equity ^{in the} came to his possession brought in to Drury, Drury - till
~~and~~ has the further order of this Court - That there the Court
 will afford your orator such equitable and just relief as
 the nature of the case requires. This is in duty ~~Yr~~
 and that Thomas Gray be ~~admitted~~ ~~admitted~~ ~~admitted~~ in like manner

B. L. L. }
 D. Drury } Bill

July 1814 Bill filed order
 of publication &c.

Nov. 1814 Bill filed

June 1817 Bill decreed
 Apr. 19th 1820 Mr. Lobb's report filed -

May 1820 cont^d for debt.

July 1820 Dec. for £12. 7. 6
 & costs - & to give bond &c. see
 minutes of court -

Costs £16. 65

It was contemplated at that time, if the test could
be found, was to be cancelled so far as to advance Quincy
equally with the others; but one Thomas Gray, who married
the widow Charlotte, of Bevan's said intestate, who was then the
administratrix of said intestate (the first administrator died),
obtained possession & control of the then unadministered part
of the estate and among the rest the said bond of the said
Quincy and, as your orator understands, has collected the
same, so that Quincy stands entitled to his full and entire share
of his father's Chattel estates at this day.

your Auditor is further informed that the said Thomas Gray, knowing that the said Drury owed debts in this State, and contrary to a considerable amount, that he had no other, visible prospect or means of paying them but what was to be derived from that part of his father's estate which was held by the said Gray Drury as her own for life, and the balance of said estate administered, part of the said part of the estate, together with a share of the estate of said Robert Drury before mentioned - and that without the said Drury was unwilling to come among his creditors, or to pay them ^{the thing} continuing, an ^{agreement} with the said Drury ~~to defer~~ with a view to his (Gray's) immediate presumptive gain, and to defraud and injure your Auditor's other creditors of the said Drury, entered into a fraudulent contract with him, and for some trifling consideration procured from him a deed of conveyance of his rights & interests in and to the said estate of his father - and under that deed claims all rights of Drury, not only to his portion of his father's estate but also that of his brother also - and in the division of the money arising from the sale of the Down part of the estate, to wit. of land and slaves, that said Gray has drawn & received a large sum of money - and in the distribution of that part which fell to the estate of Robert Drury Jr. said Gray drew another sum of money, of considerable amount, and claims for an absolute right to Drury's share of the estate.

estate in the hands of the administrators, which is in perfect
violation of all the rules of justice and equity and tends
directly to the injury of your estate; being a plain fraud
by between the said Deery & Gray. — In law & conscience
whereof ~~you~~ and ~~fraud~~ as your estate is properly ruined
in a Court of equity whose province ^{it is} is to enquire into & relieve
against such impositions — Wherefore he prays that the said
Thomas Deery and the said Thomas Gray, be made defendants
with the said Deery & Gray, and on their corporal & their
full true answers and discoveries make to ^{the plaintiff} the allegations
and enquiries in this bill contained, and that as fully, as though
they were here again repeated and they themselves specially and
singly interrogated: — Moreover especially that the said Deery answer
and say whether your estate claim herein made against him is not
justly due? — whether he could not have paid it with ease had
he not conveyed away his rights in his father's estate? ^{Part 8 page 2}
whether ^{he intended to} ~~he intended to~~ convey away his rights in his
father's estate? whether ~~he intended to~~ ^{he intended to} convey away his rights in his
and in what was the payment made? and when and where
was the contract made and entered into between them? who
were present? Was not Gray well acquainted with his Deery's
situation as to debt in this country? and did not Gray
know of the debt due to the complainant which is now claimed

And that said Guy, specially answered & say
whether he was not well informed as to Drury Dimes debts due
in this County & whether he did not know of the one he claimed?—
Whether, he was not enabled, from his acquaintance with the
estate of Robert Dime, especially that part of it which was his wife's
Power, to ascertain pretty nearly, its value before he contracted & or
he attempted to contract with Drury on the subject?— When
& where was the contract made & consummated?— In which
did he pay, or contract to pay, for Drury's right? & what
did he pay, in money or bonds & if in bond or bond, in what
or bond?— And how & when was the conveyance or assignment
under which he claimed the rights of Drury Dime made?—

To the worships Court of Isle of Wight County in Chancery
Sitting, Humbly Complaining, sheweth unto yourships, your
Orator James B. Southall. — That one Henry Drew late
of this County was indebted to your Orator in the sum of
£12.7.6 of Bank Money of Virginia, due by account on
the 30th day of September 1852 and which he still owes
to your Orator; he, the said Henry having never
paid the same or any part thereof. — That the said Henry
has since left the State of Virginia and resides in
some parts to your Orator unknown. Your Orator is
advised and informed that the said Henry has in
this State, to wit. in this and Nansemond Counties, goods,
money, rights & credits belonging & due & owing to him,
which in justice ought to be subjected to the payment of
your Orator's claim. Your Orator is informed that
Thomas Bewan of the said County of Nansemond being
the administrator or executor of the estate of Robert
Drew, who was said Henry's father, ^{late} Appts to a considerable
amount to a proportion of which the said Henry is
entitled as one of the distributees. (That one Robert Drew
a brother of Henry's and a distributee also of the estate of
his father Robert, died lately single & intestate without
having received his portion of his said father's estate & since
therefore the said Henry, as one of his heirs, is entitled to
one fourth part of his estate also; a part of which is Robert's
portion of his ^{late} father's estate & of course is in the hands
of B. Bewan the father's administrator as aforesaid. — Further
your Orator is informed, that the other distributees ^{being 3} of the said
Bewan's estate, have received from him under the first & second
ordon. \$80.00 each, and probably other advances in part of
their several shares of the residue of their father's estate, that
Henry, being then of lawful age became a purchaser at his father's
sale to the amount of about \$200 for which he gave his bond.

Re. m. d. d. }
ad. }
Southwell }
Apr 17

Whereupon, in proceedings in equity had in this worshipful
Court, by sundry bill and answer, having for their object
the sale of sixty six acres of land and six slaves, ~~which~~
part of intestate's estate which had been assigned to and
held by his widow for and during her life, & which, by her
death lately, reverted to the said six distributees, the said
Gray, in right of said Drury and by virtue of the power,
rights and authority, then believed to be vested in him by
the said deed ~~and~~ from the said Drury, was permitted to
act as agent for him, and under the then impression as
to the extent of his rights, he drew one sixth part of the
proceeds of sale of the above apportioned one fourth part of
one sixth part; being $\frac{1}{24}$ th of the share which fell to Robert
Drury — that is to say, he the said Gray received in the division
of the proceeds aforesaid ^{about} \$367 — being $\frac{1}{6}$ th part, as Drury's
proportion of his father's estate which the widow had held
as her dower — and ^{about} \$91 — as Drury's proportion of
his brother's share of the said Drury estate; both which being
brought into one Decree to save trouble and expense: all
which will more fully be made appear on reference had
to the bill, answers ~~and~~ ⁱⁿ decree, the the clerk's office of this Court.

This respondent begs leave to suggest that since
the said distribution took place, he has discovered that the
consequence which the said Gray then had from said Drury
comprehended only his rights in & to his father's estate, & that
therefore he improperly, had assigned to him Drury's part
of his brother Robert's share, namely ^{about} \$91 — under a
mistaken impression of the extent of his rights & powers from
said Drury; and of course, if that be correct, he holds so
much of the property of said Drury, which, in justice, this
respondent thinks, ought to be subjected to the payment
of Drury's last debts. This respondent has understood and
believes the fact to be so, that the said Drury sold his rights
in and to his father's estate ~~and~~ for under its value, in order

to prevent its falling into the hands of his ^{or some of them} Creditors in Virginia,
& that the said Gray, well knowing of many if not all
the debts Drury owed in this State, and his unwillingness
to come & pay them, took advantage of the Circumstances &
to accomplish his end went to ~~the~~ Drury's residence in North
Carolina and prevailed on Drury to sell out his rights in
his father's estate, so as to gain a considerable pecuniary
advantage, & enable Drury thereby, to ~~keep~~ keep his Creditors
here out of their money. — This respondent is clear
of all fraud and Combination whatsoever, in and concerning
the premises, will submit cheerfully to whatever Decree
order this Honourable Court may deem just & necessary, so
that he is saved himself in his own estate — and prays
leave to be dismissed with his costs in this behalf sustained.

Thomas Bevan adm & B Non of
Robert Drury decd.

The answer of Thomas Swan administrator, Debonis here
of Robert Driver dec'd to a bill in Chancery exhibited against
him and others, in the Worshipful Court of Isle of Wight
by James B Southall, claiming the sum of £12.7.6. charged
to be due to the complainant from Drewy Driver who
is the principal defendant, and ^{this respondent} ~~respondent~~ charged
in character of a garnishee. This respondent having to
himself all manner of right of exception &c, for answer
saith, that he has in his possession the undivided part
of Robert Driver dec'd ^{remains, except the share of his wife & children} to about the amount of \$200 ~~in hand~~,
but having lately administered, and being ignorant of
what debts or other claims exist against it, he he is
unable to say at this time, what will be the exact amt.
which will finally be left for distribution among the
children of intestate; however, he has reason to think,
so far as he is yet informed, that the unsatisfied debts
of his intestate, are inconsiderable. He avails that Drewy
Driver, who is now, as is understood, a resident of North
Carolina, is one of the six distributees who will be
entitled to the residue of the intestate's estate. Here it
is proper, as this respondent is advised, that he should
state, that one of intestate's six children, Robert, died
lately intestate, single and without issue, so that the
remaining five (of ^{which} Drewy is one) are ^{entitled} ~~jointly~~ ~~entitled~~
to his share of the father's estate among them. That the
defendant Thomas Gray, has set up a claim for all
Drewy's proportions by virtue of ^a deed, purporting to be
a deed from said Drewy to said Thomas Gray. That
in consideration thereof, it having been understood to be
a deed for conveying all Drewy's rights in and to his share
of both his father's estate and that of his dec'd brother Robert,

Executed on Thomas Bivan Drury Driven
no Inheritance

Executed on ~~The~~ Gray

Josiah Wallman Dr
for James Johnston Dr

Wm Wallman Dr for
James Johnston Dr

Southwell

Sp. in Chg

Daniel Dr

Barber for compelt

The Commonwealth of Virginia to the Sheriff of Staffordshire
County greeting; you are hereby commanded to summon
Quincy Driver, Thomas Gray and Thomas Bower
to appear before the Justices of our county court at the Court House
of the said county on the first Monday in August next
to answer a bill in Chancery exhibited against them
by James B. Pothall

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 at the Court House
the 1st day of May 1814 in the 38th year of the
commonwealth

Nathl. Young
clerk

Acknowledgment service book
april 10th 1820. Thomas Bowen

Indult
" 3rd
Benedict

Sir, take notice that I shall on the 19th instant
at the Clerk's office of Isles of Wight County, between
the hours of 8 o'clock in the morning and
5 o'clock in the evening of the same day,
proceed to take the deposition of John Gibb and
others to be read in evidence in a chancery
suit depending and now determined in the County
Court of Isles of Wight, in which I am complain-
ant and George Driver, yourself ^{and} other
are defendants -

Wm. Thos. Benson
+
Thos. Benson atty. for
George Driver

Yrs. &c.
James B. Southwell
10th April 1820

Came to hand under seal 19th Apl: 1820

N. Young C^d.

The commonwealth of Virginia: Bartholomew de ~~de~~
I have no doubt — Gentlemen justices greeting know ye that we
trusting to your fidelity and provident circumspection in diligently examining
John Gibbs & others —

as well on behalf of James B. Southall (in a suit in chancery
depending and undetermined in our Court between the said Southall
Complainant ~~and~~) as Henry Driver Thomas Bevan & Wm. Gray depts.

Command you every two or more of you that at such certain day & places
you shall appoint, you assemble yourselves and the witnesses aforesaid before you or
any two or more of you, you call and cause to come and diligently examine on the holy
Evangelist of almighty God, and such examination in writing into our County
Court of Isle of Wight distinctly and plainly without delay you shall
send and certify inclosed returning also to us this writ witness Nathaniel Young clerk
of our said court at the courthouse the 19th day of April 1820 in the 24th year of the
Commonwealth. —
Nathl Young

Highgate County Court; this day appeared and then
Commissioner directed us to take the foregoing
deposition of John Gibbs of Cambridge at the Clerk's office
of Highgate County Court, on the 10th day of April, 1820.
The said John Gibbs being having had notice

And W. Quinn conducted our cause & read this
17th April 1820 -

Saml. Woodbury J.P. Read

Wm. Highgate J.P. Read

The deposition of John Gilly of Lenoir Co. taken ^{as aforesaid} ~~by~~ ^{at} the clerk's office of Lenoir County, on the 19th April 1870 between the hours of 8 o'clock in the morning and 5 o'clock in the evening of the same day to be read as witness in a chancery suit depending in Lenoir County Court in which James Southgate is comp^t. & Henry G. Smith are defendants - This deponent being sworn on the holy Evangelist of Almighty God the Great Comforter to depose and saith that he was acquainted with the family of the aforesaid Drury Driver in the year 1870 that he knows that Doctor James Southgate was in the habit of attending the family of Drury Driver - that he saw Doctor Southgate in the year 1872 or 1873 on his way to visit the wife of said ^{and during} Driver and he said Driver says that Dr. Southgate was in the habit of visiting her and that he thinks Mrs. Driver wife of Drury was sick 2 or 3 weeks previous to her death and that she died of that illness - and further this deponent saith not.

John Gilly.

John Gibbs.

Not executed for want of time

Wm. H. Allen

Wm. H. Allen

Southall

in

Dr. H. Allen

Dr. H. Allen

Isle of Wight County Court,

June Court 1818

James B. Southall

Comptt:

against

In Chancery

Drury, Driver, Thomas Gray & Tho. Perren Defendants

The defendants having failed to file their answer to the bill of the complainants, exhibited against them by the complainants in this cause - It is ordered that unless the said defendants appear here on the first Monday in August next & file their answer, that judgment will be entered for the complainants against them agreeable to the prayer of the said bill -

Test David Dick D.C.

a copy of the within notice proved
by the oath of Mr. Holliman to
have been legally given in open
Court -

Wm. D. Young A.
C.

Southall
in
Ala. evidence
Driver in

Recd by A. W. Young, left with the U.S. A.
the within named person. Recd. the 17th day 1895
Wm. D. Young
Ala. evidence

Isle of Wight County August Court 1818.

Jamies B. Southwell

Complainant

In Chancery

against

Prayer of Driver Thomas Gray & The Board

Defendants

The defendant Thomas Gray having failed to file his answer to the Bill of the complainant exhibited against him and the other defendants by the complainant in this cause - It is ordered that unless the said Thomas Gray appear here at the next court and file his answer that Judgment will be entered for the complainant against him agreeable to the prayer of the said bill -

Teste David Dick, D.C.

Drury Driver.

at
R. Southall

Sept 7. 6

Sept 7. 6

Drury Driver

from 13.00 to 14.00

18. 1/2 1/5. Sat 2-

for from.

Drury Deever

1812

To Dr. Bartlett Dr

July 20th To visit your wife venereal: 6th anody. pillⁿ att. pow: 3
 2 doses Castor oil 10th Cord. anody. astragal. mixture 3 2. 6. 6
 28 To visit repeated 10th Cord. astragal. anody. mixture apd 1. 1. 1.
 Aug. 2 To 2nd Compound sp. Lavend. & Ziz. Al. abayethin. 7. 6
 14 To 3 anody. astragal. pills for wife 3. 9
 17 To visit kept Cord. anody. astragal. smet. att. pow: purge 3
 9 astragal. anody. powder 3 anody. pills & Ziz. best bark 2 3 2. 8. 9
 21 To examine for y. wife smet. att. pow: Ziz. att. pow: 2 anody. pills - 7. 6
 28 To spike & purge for self 5
 Sept. 8 To 2 anody. pills & Ziz. Al. Ricini for wife 7. 6
 10 To visit up^d venereal. up^d smet. att. pow: 6 gelb. powder }
 7 anody. pills. for wife & spike for y. sister & purge for } 2. 8. 6
 y. step son }
 11 To visit up^d examine 10th gelb. anody. powder 1. 13. 0
 17 To spike & purge for y. sister 5
 12 7. 6

W^h L. B. Southall

Smithfield

Virginia

(Dear Sir)

I have at this time an opportunity of
informing you that as quick as I possible can
I will pay you for the friendly services
rendered unto my Companion &c &c
in his Shop. I expect if I live it will be in my
Power to pay you by Christmas. I Remain
Yours &c

Doct^r James B. Southall
January 18th 1713
Dionys Driver

12th Nov
1846

6

Edmond Peddie

Smiskfield

M^r. James B. Southall

To James Connor D^r

1874 }
July 22 } To adug Decrees of Chancery Court in
the Case of Southall, vs. Gray, Driver
and Devins — 2mo ————— \$5. —

Rec^d pay from John Barber Esq^r
J Connor
By the S^r Broughton
J

know all men by these presents that we James B. Southall
Josiah Holliman — are held and firmly bound to Drury
Driver in the husband full sum of One hundred fifteen dollars Eighty Cents
to the true payment whereof to be made to the said Drury Driver
his heirs, executors, & administrators, we hereby bind ourselves and each
of us and each of our heirs, executors & administrators jointly and severally
firmly by these presents, sealed with our seals and dated this day of
August 1820

The Condition of the above obligation is, that whereas in a certain
suit in chancery instituted in the county court of Ashepough by the
named James B. Southall — plaintiff against Drury Driver an
absent debtor — and Thomas Bevan administrator of the estate of
Robert Driver dec'd Judgment was at a Court held for the said
county the third day of July in the year 1820 granted to the said
Jas. B. Southall against the said defendants — for fifty seven dollars
& ninety cents.

including principal costs —
with a condition that the said Jas. B. Southall should give bond and
security to the said Drury Driver as is directed by law in such
cases made & provided; Now therefore if the said Jas. B. Southall
his heirs executors and administrators shall well and truly perform
the future order or decree which may be made or entered in favour
of the said Drury Driver his heirs executors or administrators for
restoring the aforesaid sum according to law; then the above
obligation to be void or else to remain in full force and virtue

Attest
Wm. B. Hamer

James B. Southall
Josiah Holliman

Deeds
Cell

know all men by these presents that we James B. Southall
Josiah Holliman

are held and firmly bound to

Thos Bevan in the just and full sum of ~~one hundred & fifteen dollars~~
80. Cents to the true & faithful pay

ment whereof to be made to the said Thos Bevan - his heirs executors
and administrators we bind ourselves, our heirs each of our heirs executors
and administrators jointly & severally firmly by these presents;
sealed with our seals and dated this day of August 1820;

The Condition of the above obligation is such that Whereas now
Suits in chancery instituted in the county court of Isle of Wight by the
above bound James B. Southall - complainant against Drury Driver
an absent debtor, and the said Thomas Bevan the administrator de bonis
non of Robert Driver dec'd, which said Robert was the father of
the said Drury; Judgment was rendered against the said Drury Driver
and the said Thos Bevan - it appearing to the court that

the said in his representative capacity as aforesaid having
money in his hands which the said Drury was intitled to as one of
the distributees of the said Robert dec'd and it appearing to the court
that the said Thos Bevan as administrator as aforesaid under the
Law of the State of Virginia, had the same right to require a
refunding bond from the said Southall - as he would have
to require one from the said Drury Driver as a distributee was
he to receive his proportion in person, decreed, that the said Jas.

B. Southall should execute such a bond, Now therefore if the
said James B. Southall his heirs, executors, and administrators, shall
well and truly pay, or refund, to the said Thomas Bevan his heirs
executors and administrators ^{of fifty seven dollars & thirty cents} the aforesaid sum, or a due proportion
thereof in the proportion that the said Drury Driver would
have to do, to meet any debt or debts due, or demands which may
hereafter be recovered against the said Robert Driver dec'd Estate

when thereto legally required, then the said obligation to be void
or else to remain in full force and virtue

Witness

Math. Henry

J. B. Southall Seal

Josiah Holliman Seal

a Court held for Isle of Wight county, the 4th day of July, 1814.

James B Southall, Complainant,
against
Drewry Driver, Thomas Grey and
Thomas Bevans, Defendants. } In
Chancery.

THE Defendant Drewry Driver, not having entered his appearance and given security for performing the decree in this case, according to the Act of Assembly and the Rules of this Court; and it appearing to the satisfaction of the Court, that he is not an inhabitant of this State: On motion of the Complainant by his Council, It is Ordered, That unless the said Defendant appear here on the first day of September Court next, and answer the Complainant's bill, the same shall be taken as confessed as to him; and that a copy of this order be forthwith inserted in one of the Newspapers published in the Borough of Norfolk for two months successively, and posted at the front door of the court-house of said county.

A copy. Teste.

DAVID DICK, D. C.

Norfolk Borough, to w. t.

Personally appeared before me, one of the Aldermen of said Borough, Thomas S. Broughton, who made oath that the above Order was published in the Norfolk and Portsmouth Herald Newspaper for and during the period required in said order, that is from the 22nd of July to the 21st of September 1814. Given in my Hand, this 30th day of July, 1818

Geo. Newton