

1825 - 017 Chancery Causes: John Herring VS John Hutton, admr of Daniel Herring vol

Dale of Wright County

other surnames: Bridger,
Andrews, Battin, Seeds,
moody, Powell, Whitley

To the worshipping Court of Isle of Wight County in
Chancery sitting humbly complaining sheweth unto your worship
your orator John Herring that some time in the year eighteenth
hundred and twenty three a suit in chancery was commenced
in this court by Thomas Herring, James Bridger and others
Complainants, against John Hutton admor. &c. of Daniel Her-
ring dec. & the said John Hutton & Martha his wife and others
defendants, for an account, division and settlement of the estate
of the said Daniel Herring, dec. & will more fully appear by
reference to the record & proceedings of the said cause, a copy of
which is hereto annexed & prayed to be, considered as a part
of this Bill. It is true, as the said record & proceedings shew,
that the said Daniel Herring left a will, which, as to the
personal property therein mentioned, was duly & legally proved
in the superior court of law of the said county of Isle of
Wight; and it is also true, that the said testator left considerable
real & personal estate, to which the descendants of his
dec. & brother & sister are entitled as his heirs at law: your
complainant states that he is the son of Jesse Herring dec.
who was a brother of the said testator, and is therefore entitled
to a share or proportion of the real & personal estate now
disposed of by the said last will & testament of his said
uncle the testator: your comp. &c. admits he was not born
in wedlock, but states that subsequently to his birth his father
the said Jesse Herring intermarried with your complainant's mother
and having recognized him as his son, he thereby, under the law,
became legitimated & entitled to one sixteenth or more of the
said testator's undivided real & personal estate, by reason of which
he has applied to be made a party to the said cause, with the
view that he may recover & receive the property to which he is so
as aforesaid justly & legally entitled; but this reasonable request has
hitherto been utterly denied & refused, & the said John Hutton having
already permitted a part of the 1st undivided real & personal ^{estate} to be
distributed, is still going on to make a final close settlement of
his said testator's estate. In Tension consideration whereof &c.
To the end therefore that the said plaintiffs and defendants in

the said cause (who are prayed to be made defendants hereto),
may upon their corporal oath, full & perfect answers, make to
all singular the said allegations & that as fully as if the
same were here again repeated & they should interrogated. That they
may set forth whether the said Jesse Herring was not the reputed
father of your orator: whether the said Jesse Herring, after the birth
of your orator, intermarried with his mother & recognizes him as
his legitimate son: that the said defendants may be decreed to
come to a just & fair account with your orator for the undivided
real & personal estate of the 1st testator: that the said ^{John Herring} ~~John Herring~~,
be enjoined from paying over the 1st personal estate until the
rights of your orator can be heard, & that the 1st defendants,
or such of them as may ^{be} ~~seem~~ proper, may pay to your orator
what upon such account, shall appear to be due to him,
as also let into the possession, if yet unseized, such part of
the 1st real estate as he may be entitled to, & that your orator
may ~~may~~ have such further & other relief in the premises
as to your worship shall seem meet. May it please yr

Wm. H. Baker,
att. for p^{ty}

John Heming

vs.  Bill &c

Mrs. Hatton &c.

Baker.

April 1824 Bill filed and
order of publication at rules

July 5th 1824 Ans. of severae
Defts. filed - & Genl. repl. Thom.

June 1825 Scizal. v. Martha
Battin Admin: of Saml. Battin
Int. decd. - & Mary Battin Admin:
with the will annexed of Clements
Battin decd. -

Isaac Wright & Co.

To the worshipful Court of Chancery
sitting in Chancery.

The joint and several answers of Thomas
Kerring, James Briggs and Elizabeth his wife, Mary
Briggs, Martha Andrew, Samuel Batten and
Martha his wife formerly Martha Kerring,
Clement Batten, William Batten, Wiley Batten,
William Jedd and Emily his wife, Isaac Moore
and Mary his wife, Dan & Whittier admors.
of James Batten junior, John Katten and
Martha his wife, John Katten as administrator
&c of said Kerring

to a bill of complaint exhibited against them both
in the County Court of said by John Kerring

Then respondents saving and reserving to themselves,
now and at all times, benefits all and every
manner of benefit advantage of exception to
the manifold errors, imperfections, uncertainties
and false allegations in the complainant's bill of
complaint contained - for answer thereto, or
unto so much thereof as they are advised it is in any
way material for them to make answer unto,
for answer, say it is true that sometime in the
year One thousand eight hundred and twenty three
a suit in Chancery was commenced in the County
Court of Chancery by Thomas Kerring to this couple
against John Katten and Martha his wife to this date
for ~~the~~ ~~division~~ and settlement of the estate of the
said ~~deceased~~ Kerring not disposed of in his last will
& testament. That at a Court holden on the day of
January in the year One thousand eight hundred
and twenty four, the Court of said did decree
that Bartholomew Lightfoot was the lands and
slaves of which the said said Kerring did seize

in the County aforesaid and of which no legal
disposition was made by the said wife of said Herring.
Your respondents admit that the said High Court
in conformity to the said decree hath sold the
lands and places aforesaid which produced a
net sum of

of which your respondents have received the proportion
to which they were entitled under the decree aforesaid.
These respondents have been informed and believe that
Jesse Herring was married to the mother of the
Complainant John after his birth but they deny that
the said Jesse Herring did recognize him as his son
after the intermarriage; on the contrary they have
been informed and do believe that Jesse Herring altho
he married the mother of the said John of
subsequently to his birth, did deny that the complain-
ant was his son and they call upon the said
John for proof that he was ^{the son or that he was} generally acknowledged
by Jesse Herring as his son. These respondents admit
that where a man having by a woman one
or more children, shall afterwards intermarry with
such woman, such child or children (if recognized by
him becomes thereby legitimated. But they do not
believe that the plaintiff did ever become
legitimated according to the aforesaid principles
and having answered they pray to be dismissed

for
sign.

James Bridger
Isaac Moody
Samuel Batten

Wm. Batten
William Batten
Wiley Batten
Nancy Batten
John Batten

West Hight County Jct. This day came before me
a justice of the peace for the County aforesaid
Thomas Herring, James Batten, Isaac Moody
James Bridger who have sworn that the
statements in the foregoing answer is true or
for or depends upon their knowledge and that
so far as they depend upon the knowledge of
others they believe them to be true - given
under my hand this 5th day of July
1844 —
Jordan Parr, J.P.

Sale of Wright County Ga. This day came before me Mr. Seely,
Mr. Battin jr. Henry Battin, Wiley Battin Mr. Battin
~~Mr. Holloman~~

who made oath that the foregoing answers contain
the truth as far as depends upon their knowledge, &
that so far as it depends upon the knowledge of
others they believe the foregoing answers to be true
Given under my hand this 7th day of June 1824
as a Justice of the County aforesaid —

~~Witness~~
J. H. Chapman (as to John Herring)

~~John Herring~~
John Herring
James Bridger
William Ballinger
Henry ^{his} Battin
Wiley ^{mark} Battin

Herring Hother
as: 3 Am was
Herring —

Sale of Wright County (Ga.)
This day came before the Clerk of the Court and made oath
that the foregoing answers contain the truth as far as depends upon his
knowledge, and that so far as it depends upon the knowledge of others he
believes the foregoing answers to be true. Given under my hand this 8 day of
June 1824.
John A. McPherson

At Rules held in the Clerk's Office of the Court
of the County of Isle of Wight, the 10th day of
April, 1824.

John Herring,
AGAINST

William Battin, Daniel Battin, Clements
Battin, Wiley Battin, Samuel Battin,
Money Battin, William Battin, jun.
Henry Battin, Samuel Battin, jun.,
Louisa Battin, George Powell, Wil-
liam Seeds, and Emily his wife, Isaac
Moody, and Nancy his wife, James
Bridger, and Elizabeth his wife, John
Hutton, and Martha his wife, Martha
Bridger, Martha Andrews, Martha
Herring and Thomas Herring,

THE Defendants Daniel Battin, Money Battin,
and George Powell, not having entered their
appearance and given security according to law
and the rules of this Court, and it appearing from
the affidavit of the Plaintiff, that the said Defend-
ants Daniel Battin, Money Battin and George Pow-
ell are not inhabitants of this Commonwealth—On
motion of the Plaintiff, by his Counsel, It is ordered,
that the said Defendants Daniel Battin, Money
Battin and George Powell, do appear here on the
first Monday in July next, and answer the bill of
the Plaintiff, and that a copy of this order be pub-
lished for two months successively, in one of the
public newspapers printed in the Borough of Nor-
folk, and that another copy be posted at the front
door of the Court House of this County.

A Copy.—Teste:

BARTH LIGHTFOOT, D.C.

Apr 20

Tu2m

Certify that the annexed notice, in the case
of Herring vs. Battin and others, has been
inserted in the American Beacon, a new
paper published in Norfolk, for two months
successively, commencing on 20th April 1824.
D. Appa Philas

Sworn to before me, an Overseer of the Borough
of Norfolk, this 10th day of January 1825.

Geo. Newton,
Recorder of Norfolk Boro.

Henry
in 3 or 4
Halter.

Mr John Herring
1824.

TO SHIELDS, ASHBURN & CO. } DR.
Office of the "American Beacon and Daily Advertiser."—Norfolk.

April 20. To Publishing Herring's Notice in
the case of Herring vs Patton,
and for 2 months } \$6

2
The Commonwealth of Virginia to the Sheriff of Isle of Wight
County greeting: You are hereby commanded to summon William
Battin Sen; Clements Battin; Wiley Battin; Samuel Battin Sen; Money
alias Edmund Battin; William Leeds and Emily his wife; Isaac Moody
and Nancy his wife; James Bridger and Elizabeth his wife; Mary Bridger
Martha Andrews; George Powell; William Battin junr; Henry Battin
Daniel Battin; John Watton and Martha his wife; Daniel Whitley
Admor. of Samuel Battin junr died; Louisa V. Samuel Battin infant
children of the said Samuel Battin junr died; Martha Herring; Tho:
Herring and John Watton Admor. of Daniel Herring died; to appear
before the justices of our county court at the courthouse on the first Monday
in April next to answer a bill in Chancery exhibited against them
by John Herring: and this they shall in no wise omit under the
penalty of \$100 each. And have then there this writ. Witness Sa-
thaniel Young Clerk of our said court at the courthouse the 10th
day of March 1824 in the 10th Year of the Commonwealth

Sath. Young

Executed on ~~Wm~~ ^{Wm} Patton Wiley Patton, Samuel
 Patton, Wm ^{Leeds} ^{Leeds}, Isaac ^{Mary} ^{Martha} Andrews,
 Wm. Patton junr, Henry Patton John Patton & wife
 Daniel Whitley ^{and} Thomas Herring Jf Money Patton
 Edmund Patton, George Powell,
 Daniel Patton, No Inhabitants.

April 10 24 AM 4 p.m.
 they as to their addition
 to the list of persons
 not included

of Whitley & Sons
 for a third day
 for a third day
 for a third day

The Commonwealth of Virginia to the Sheriff of Isle of Wight County
greeting. We command as you have been heretofore commanded to summon
Elements Battin, James Bridger and wife Martha Bridger, Martha Herring
Louisa Battin and Samuel Battin junr. (the said Louisa and Samuel Battin
are infant children of Samuel Battin decd.) to appear before the justices of
our County Court at the courthouse of said county on the first Monday in
May next to answer a bill in Chancery exhibited against them and
others by John Herring

And this they shall in no wise omit under the penalty of £100 each.

And have them there this writ. Witness Nathaniel Young
Clerk of our said court at the court house the 04 day of April
1824 in the 40th Year of the Commonwealth

Young

Excused J. W. Adams D. for a week by staff

Morning

3:00 P.M. (in City)
Martin's Road

The Commonwealtth of Virginia to the Sheriff of Isle of Wight County greeting,
Whereas in a suit in Chancery depending and undetermined in the court of the
said County between John Herring Plaintiff against William Battin Senr. Cle-
ments Battin, Wiley Battin, Samuel Battin Senr, Mosey Battin Alias Edmund
Battin, William Seads and Emily his wife Isaac Mosey and Nancy his wife, James
Bridges and Elizabeth his wife, Mary Bridges, Martha Andrews George Powell,
William Battin junr Henry Battin, Daniel Battin, John Hatton & Martha his
wife Daniel Whitley Admor: of Samuel Battin decd. Louisa and Samuel Battin
infant children of the said Samuel Battin decd. Martha Herring, Thomas Herring
Thomas Herring and John Hatton Admor: of Daniel Herring. decd. Defendants -
it was so far prosecuted in our said court that the Plaintiffs bill was filed and the
answer of several defendants were filed: but before a final decree was had therein;
the said Samuel Battin Senr and Clements Battin departed this life: and Admi-
nistration on the estate of the said Samuel Battin Senr. hath been in due form granted
to a his relict and widow Martha Battin: - and Administration with the will
annexed of Clements Battin decd. hath been in due form granted to Mary Battin
widow and relict of said Clements Battin decd. Nevertheless the said suit is
still undetermined as by the insinuation of the said John Herring we are infor-
med: and because those things which in our said court are rightly done we would
have duly put in execution: We command you that you make known to the
said Martha Battin Administratrix of Samuel Battin Senr decd. and Mary
Battin Administratrix with the will annexed of Clements Battin decd. that they
appear before the Justices of our said court at the courthouse on the first Monday in
February next, to shew cause if any they have or can say why a final decree in
the said cause shall not be entered for the Plaintiff, if to him it seems expedient:
and further to do and receive what our said court shall in that part consider.

And have them thus this writ. Witness Nathaniel Young Clerk of
our said court at the courthouse the 10th day of January 1725 in the 49th Year of
the Commonwealtth

Nathl. Young

Executed on Martha Nathan the 14th of
Jan. 1825 not Executed on Mary for
want of time
J. B. Whitehead
for a Woody Ship

Morning
at
Zephaniah
Martin & Son in. No
14 February 1825