1860-015 Chancery Causes Thomas Holloway, extor of Titus Holloway & Isaac Holloway vs Titus Holloway et al

Isle of Wight County

Plat

other surnames: Butler, Pope, Patrick, Banks, Pritlow, Bailey, Pretlow

Hayden ft al.

Holloway & als.

85. } Chy. Supn.

Holloway & als.

1860.

Affd. subs. Bill filed. Sumd. 2 defs. gdn. ad litem appd. to inft. sci. and. filed & refd. to Master to ascertain & report &c.

May Rules. Bill taken for confd. & ref. for hearing

May 1860. Decree for partition.

Oct. 18. 1860. Report filed.

Oct. Term 1860 final decree.

Hayden Esq.

Holloway Sar.
v. Bill &c.

Holloway Sar.

1860.

April rules. Bill filed
Sum. & Pet. acc. & gen. ad
litem appt. instr. his
ans. file & dep. & dem
misi v. adults.

May rules. Bill taken
for confessed v. adult defs.
Set for hearing.

to this end your complainants pray that that the said Titus Holloway - Joe Peter Holloway, Lewis Holloway - Willis Butler & Martha, his wife (late widow of said testator) James Patrick & Martha his wife, Benjamin Banks & Eliza his wife Robert Pitten & Priscilla his wife, Samuel Bailey & Silley his wife - Tena Holloway & Sally Holloway, the last an infant under 21 years of age by some person appointed her guardian ad litem to defend her in this suit may be made party defendant to this bill & be required to answer the same - that this court will construe said will, ascertain & determine whether said widow has right of dower in said land & the respective rights of the surviving sons of said testator & the parties aforesaid in said land & decree partition thereof accordingly - that all other & further relief may be granted, as may suit the equity of the case & to the court may seem meet & your complainants will ever pray &c

Hayden p.q. -

widow has since intermarried with Willis Buttler & Jonathan the son has died since the testators unmarried & without issue — that your said complainants & the other said sons of the testator, owing to the difficulty in construing said will, are in doubt & much embarrassed as to their respective rights in said land — they charge that the sons named in said clause took a fee simple estate in said land — & are entitled to have partition of said estate made accordingly — that besides the aforesaid sons said testator left as his heirs at law, Martha Pope who has since intermarried with James Patrick, Eliza who has intermarried with Benjamin Banks, Priscilla who has intermarried with Robert Pittlow, Willey who has intermarried with Samuel Bailey, & Tena & Sally the last an infant under twenty one years of age — that owing to the difficulties in the construction of said will your said complainants are in great difficulty in ascertaining their rights in said land under said will & they are informed & do charge that they have a right to invoke the aid of this court in the construction of said will & to ascertain the rights of the said parties in the land aforesaid & to have partition of the same among the severing sons of said testator according to their rights

To the Honorable Richard H Baker Judge of the Circuit Court of Isle of Wight County, in Chancery sitting, humbly complaining, Sheweth to the Court your Complainant, Thomas Holloway in his own right, & as Executor of Titus Holloway decd & Isaac Holloway - that on or about the day of 1849, the said Titus Holloway departed this life in the county aforesaid, having previously executed his last will & testament which at the July term of said court was admitted to probat & at the same term of said court the aforesaid Thomas Holloway therein nominated executor, qualified as such, as will appear from an official copy of said will, with the certificate of probat of said execu-
Exhibit A - toial qualification annexed, marked A & hereunto filed as a part of this bill - that by the 1st clause of said will the said testator lends to his widow Martha, during her life & widowhood his plantation (the only real estate of which said testator died seized) & all his chattel estate - that by the second clause of said will, said testator at the death or marriage of said widow lends to his sons Thomas, Isaac, Titus, Jonathan Joe Peter & Lewis & their heirs forever lawfully begotten of their bodies all his land, but if any said sons should die without lawful issue of their bodies, such sons portion is to be divided among the surviving sons - that the

Holloway
Pals
-vs-
Holloway
Pals.

In Chancery

Exhibits Answer

To the Honorable Richard H Baker, Judge of the Circuit Court of Isle of Wight in Chancery sitting. The Answer of Sally Holloway infant a phan of Titus Holloway, by N P Young her guardian ad litem, to the Bill of Complaints in said court, exhibited by Thomas Holloway in his own right & as Executor of Titus Holloway & Isaac Holloway, against her & others — This defendant, saving reserving all right of exception to the said Bill of complaint, for answer thereto, answering says, that she is an infant under twenty one years of age, that she knows nothing of the allegations & matters in said bill contained & submits her interests in the same, to the protection of this honorable court, & having answered prays hence to be dismissed with her costs in this behalf most unreasonably expended —

Signed —

N. P. Young

Gen ad litem

Holloway's Exor. &c.

vs. Ejectment in
Chy.

Holloway &c.

To April rule 1860
Cir. Ct.
Haydon Pl

Entered on all
the Parties
Jno. P. Gray
Pl Atty
March
27 - 1860

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ISLE OF WIGHT COUNTY,—GREETING:

WE COMMAND YOU TO SUMMON Titus Holloway, Joe, Peter Holloway, Lewis Holloway, Jaims Patrick & Martha his wife, formerly Holloway, Benj.ª Banks & Eliza his wife late Holloway, Robt. Pasteur & Dorcas his wife late Holloway, Samuel Bailey & Willey his wife, late Holloway, Jas. Holloway, Willis Butler & Martha his wife late Holloway, Widow of Titus Holloway, and Sally Holloway late infant orphan of Titus Holloway

to appear at the Clerk's Office of our Circuit Court of Isle of Wight County, at rules to be holden for the said Court, on the first Monday in April next, to answer the Bill in Chancery of Thomas Holloway as executor of Titus Holloway & in his own right, and of Isaac Holloway,

of a plea of

damages

and have then there this writ. WITNESS, NATHL. P. YOUNG, Clerk of our said Court, at the Court House, this 20th day of March in the year 1860, in the 84th year of the Commonwealth.

N. P. Young c.c.

respectively to Thmas Holloway Isaac Holloway, Titus Holloway Joe Peter Holloway and Lewis Holloway and Make report to Court of their proceedings under this Decree. —

A Copy

Teste F. C. Latimer D.C.

This day Wm. M. Crocker J. O. Thomas and Jorge W. Brott came before me & qual ified that they would devide the land & name in this decree between the parts to the best of their ability, given under my hand this 15th day of October 1860

H. H. Chapman D.C.

H. Holloway &c
vs
Wm. Holloway Decrs
Holloway's Heirs &c.

At a Circuit Court continued and held for Isle of Wight County on the 18th day of May 1860.

Thomas Holloway as Executor of Titus Holloway & in his own right & of Isaac Holloway. Plfs

Against } In Chancery.

Titus Holloway, Joe Peter Holloway, Denis Holloway James Holloway & others. Defts.

This cause in which the bill is taken for confessed as to all the adult defendants on whome proces has been duly served - they still failing to appear - plead - answer and demur - On the answer of the ~~Infants~~ infant defendants by N.P. Young the guardian ad litem general replications thereto & Exhibits filed & was argued by Counsel; On Consideration whereof the Court is of opinion - and doth adjudge order & decree that according to the true Construction of the will of Titus Holloway dec'd. the property given to his wife Martha by the first clause of said will - is in lieu of Dower - & that the limitations in the second clause are good and valid. & the Court doth further adjudge order & decree that William M. Crocker, Richard Edwards, Julius O. Thomas - Geo. W Britt and William H. Stephenson who are hereby appointed Special Commissioners for that purpose - Any three of whome may act, having been first duly sworne do proceed to lay off & divide the real estate of which Titus Holloway died seized & possessed in the county of Isle of Wight - into five equal parts - having regard to quantity and quality - And assign one of said parts

Holloway Sals.

vs. Z Reford.

Holloway Sals.

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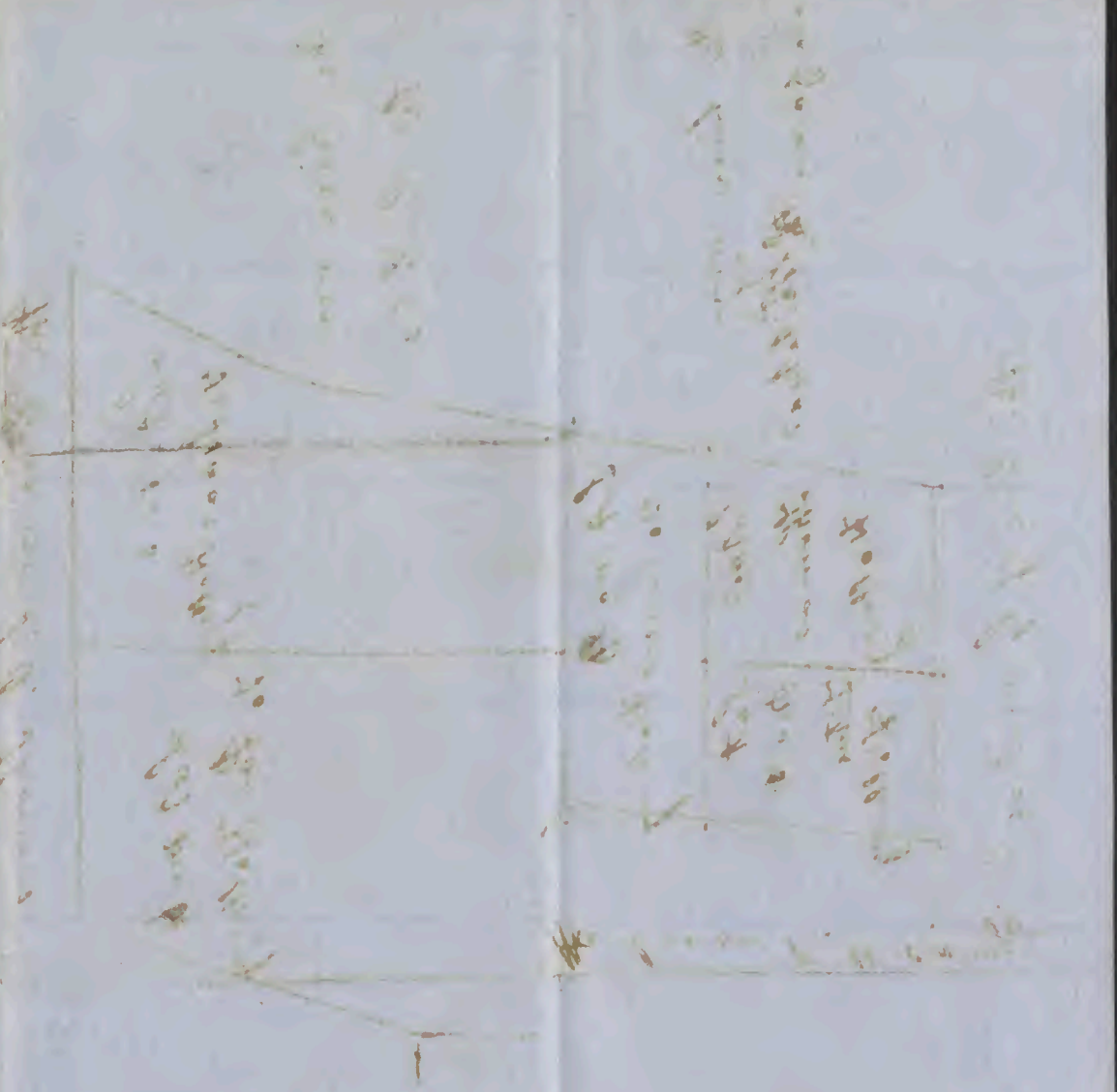
Oct. 18. 1860. filed



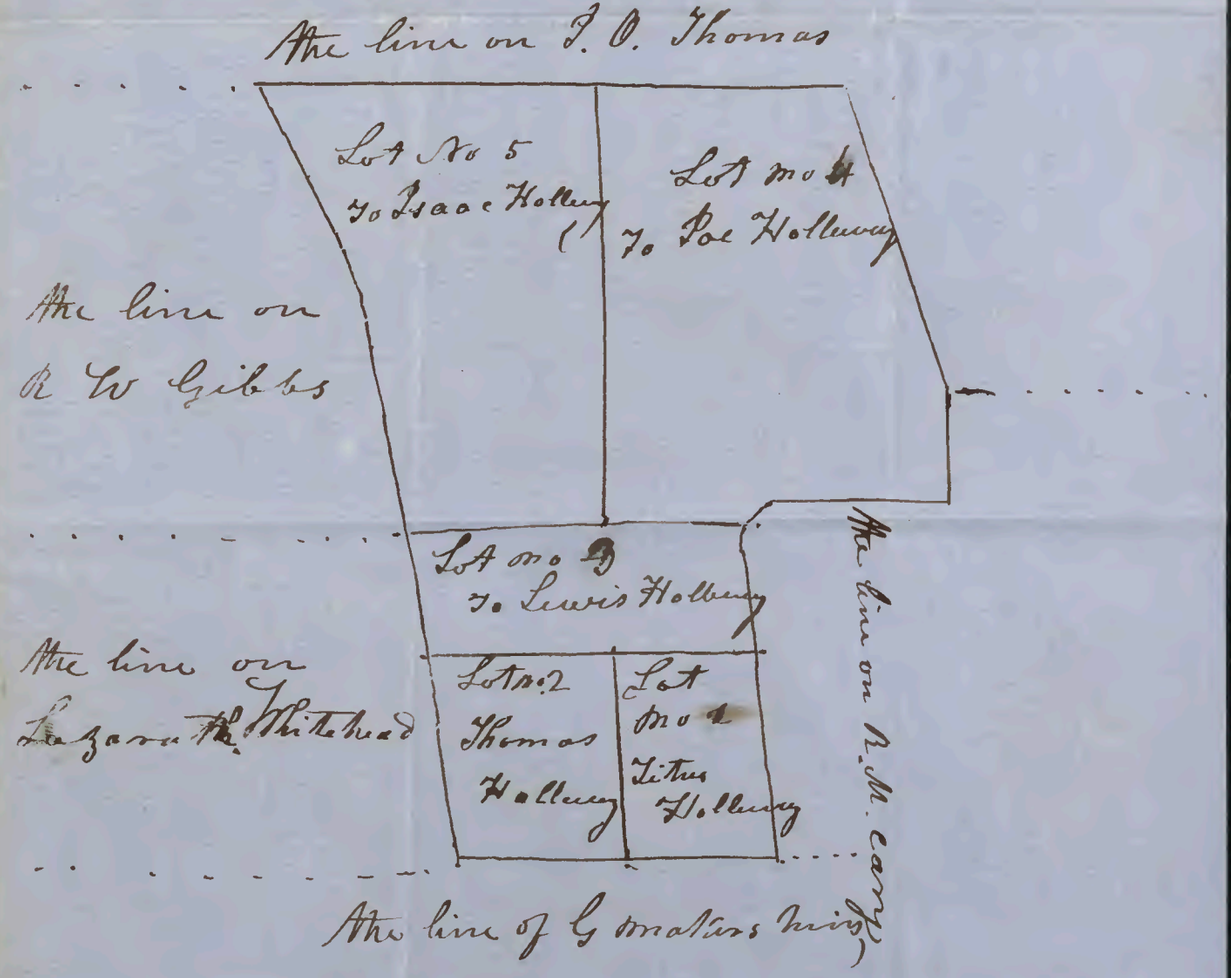
thence a West coast to a large (pine) a corner tree between Thomas. Holliway and Lewis. Holliway, and adjoining the land of Lazarith Whitehead. commencing at a Black Gum, a corner tree between Lewis Holliway and Joe. Holliway, and adjoining the land of R.M. Cary, thence a West coast to a Persimmon tree, a corner tree between the said Joe Holliway and Isaac Holliway. thence a West coast to a Pine in the swamp a corner tree between Isaac Holliway and Lewis Holliway, and adjoining the land of R.W. Gibbs.

Lot. No. 4 was allotted to Joe Holliway commencing at a large red oak on the line of J.A. Thomas and a corner tree between Isaac. Holliway and Joe. Holliway, thence a South coast to a Persimmon tree. a corner tree between the said Isaac. and Joe. Holliway, thence a East coast to a black Gum, a corner tree between Lewis. Holliway and Joe Holliway, and adjoining the land of R.M. Cary

Lot. No. 5 was alloted to Isaac Holliway commencing at a Large oak on the line of J.A. Thomas. and a corner tree between Isaac. Holliway and Joe Holliway, thence a South coast to a Persimmon tree. a corner tree between the said Isaac. Holliway and Joe. Holliway, thence a West coast along a line of Mark Trees to a Pine, a corner tree between Isaac Holliway and Lewis Holliway. and adjoining the land of R.W. Gibbs. which report is most respectifully submitted. Oct 3rd 1860

W.M. Crocker Com
Geo W Brill. Com
Julius O. Thomas Com

A Plot of the land, awarded Between the Lines



N. M. Crocker

The commissioners Jno. A. Thomas, Geo. W. Britt. & who was appointed by the Circuit Court held for the County of Isle of Wight on the 18th of May eighteen hundred and sixty.
and first being duly sworn, we proceeded to divide the lands as viz.
Lot No. 1 was alloted to Titus. Holliway and bounded as viz. commencing at a red oak on the line of R. M. Cary and a corner tree, between the said Titus. Holliway and Levis. Holliway, thence a west coast along a line of Mark Trees to a poplar, a corner tree between T. Holliway and Thomas. Holliway, thence a south coast along a line of Mark trees to a large maple in the swamp of on the line of the heirs of Geo. W. Maker,
Lot. No. 2 was alloted to Thomas. Holliway. commencing at a large maple, adjoining the land of the heirs of Geo. Maker, a corner tree between. Titus. Holliway and Thomas Holliway, thence a North coast along a line of Mark trees to the poplar, a corner tree between the said Titus. Holliway and Thomas Holliway. thence a west coast to a Black Gum, a corner tree between Thomas Holliway and Levis. Holliway. adjoining the lands of Lazarth. Whitehead.
Lot. No. 3 was alloted to Levis. Holliway. commencing at a red oak, a corner tree between Titus. Holliway and Levis Holliway. and adjoining the land of R. M. Cary, thence a west coast along a line of Mark trees to a poplar

Holloway
& als
vs
Holloway
& als

In
Chancy

Rough Sketch
May Term 1860
To be entered
R. H. B.

Cult. 25

Holloway & als -
vs
Holloway & als -

This cause in which the bill is taken for confessed as to all the adult defendants on whom process has been duly served, they still failing to appear plead answer or demur, on the answer of the infant defendants by A P Jones their guardian ad litem, several replications thereto & exhibits filed was argued by counsel, on consideration whereof the court is of opinion, & doth adjudge order & decree that according to the true construction of the will of Titus Holloway deceased, the property given his wife Martha by the 1st clause of said will is in lieu of dower & that the limitations in the 2d clause of said will are good & valid & the court doth further adjudge order & decree that Wm M. Crocker, Richd Edwards, Julius O. Thomas, ~~Geo W Bird~~ Wm H. Alphonso, who are hereby appointed & special commissioners for that purpose any three of whom may act, having been first duly sworn, do proceed to lay off & divide the real estate of which Titus Holloway died seized & possessed in the county of Isle of Wight, into five equal parts ~~shares~~ parts & to quantity & quality, & assign one of ~~said shares~~ said parts respectively to Thomas Holloway, Isaac Holloway, Titus Holloway, Joe Peter Holloway & Lewis Holloway, & make report to court of their proceedings under this decree -

Holloway
Lab. –
&
Holloway
Lab. –

Holloway

Rough Sketch
Oct. June 1860
To be entered
R. H. B.

JB – Box 7

Holloway

vs

Holloway &c. -

This cause this day came on to be again heard on the papers formerly read & on the report of partition of Wm M Crocker, Geo W Bilt & Julius C Thomas, three of the commissioners under the decree herein of May Term 1860, was argued & counsel in consideration whereof the court doth adjudge order & decree that said report to which no exception hath been filed be confirmed & that the partition made by the report aforesaid be held perpetual & binding between the parties, & the court doth further adjudge order & decree that Thomas Holloway, Isaac Holloway Titus Holloway, Jac Pelin Holloway & Lewis Holloway contribute equally to the costs of this suit -

Titus Holloway Sr.

Will

A Copy

at the death of his mother— also my horse— to him and his heirs forever.

And lastly I do hereby Constitute and appoint my Son Thomas Holloway my Executor— to this my last will and testament. Given under my hand and Seal this 18th. day of the 9th Month 1849. Signed— Sealed— and published as the last will and testament of

Titus Holloway. his / Titus x Holloway (Seal) / mark

Joel Cook Senr.
William Binford
Joel Cook Jr

In Isle of Wight County Court. July 2— 1849. the last Will and testament of Titus Holloway dec'd was proved in Court by the oaths of Joel Cook Senr. and William Binford— two of the witnesses thereto. & ordered to be recorded. And on the motion of Thomas Holloway the executor therein named— who made oath, and with Willis White and Mike Roberts— his security (who justified) entered into & acknowledged a bond in the penalty of $500: Conditioned according to Law. Certificate of probate is granted him on said Will in due form of law.

Teste. N. P. Young ex

A Copy
Teste. F. C. Latimer D.C.

In the Name of God Amen, I Titus Holloway Sr. of the county of Isle of wight and State of Virginia, do hereby make and ordain this to be my last will and Testament, in the manner and form as followes. — to wit:

Item 1st, I lend my dear wife Martha my plantation where on I Now live with all my chattle estate during her life or widowhood, but in consequence of any of my Sons wishing to Settle, they are at liberty to do so — if she thinks proper for them to Settle.

Item 2nd I lend to my Sons at the death of their mother or marriage (Namely, Thomas, Isaac, Titus, Jonathan, Joe, Peter and Lewis all my land to them and their heirs forever — lawfully begotten of their bodies, but in Consequence of any of my Sons dying without a lawful issue their part of my real estate is to be divided among my Surviving Sons. —

Item 3rd I have given my Daughter Martha Pope one feather Bed and furniture and I give her out of my estate ten Dollars. more at my death.

Item 4th I give and bequeath to my dear daughter Eliza, Drewsilla, Willa, Jemar and Sally, to each of them one feather bed and furniture to be as near equal in Value as my representative Can make them and ten dollars to each at my death. —

Item 5th; It is my wish and desire that if any of My daughters should be left destitute of husband by misfortune, So that they require further assistance their Mother or brothers, during her life should let them have a place on my farm to live on.

Item 6th. I give to my Son Titus my brandy Still