

1933-070 Chancery Causes: James River Bridge Corporation vs Ollie May Dale, Mary Virginia 522
Dale of Wight County Davis & John Claiborne Davis, by & c

other SURNAMES: Batten,

Said report & decree
given to Judge White
to take home today,
July 3-1933.

REN.

VIRGINIA: IN THE CHANCERY COURT OF THE COUNTY OF ISLE OF WIGHT
APRIL 26TH 1933.

James River Bridge Corp.
vs: # 522
Gale

It appearing, pursuant to a decree entered herein
on the 6th day of March, 1933, that the parties, or their Counsel,
have been notified by the Clerk of this Court of the terms of
said decree, and no good cause having been shown, it is ordered
that this cause be removed from the docket, with leave to rene-
state the same as provided in Section 6172 of the Code as
Amended.

James River Bridge Corp.

vs. } #522

Seale

March TERM 1933. Filed

CLK.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT
MARCH 6th 1933.

James Riber Bridge Corp

vs: # 522

Gale

IT APPEARING that this cause has been on the docket of this Court for more than two years, and that no order has within said period been entered herein, it is therefore ordered, pursuant to the provisions of Section 6172 of the Code of Virginia, as amended, the Clerk of this Court be directed to notify the parties to this cause, if known, or their counsel of record, at his or their last known address, in writing, at least fifteen days before the 25th day of April, 1933, so that on said day all parties named have an opportunity to be heard, and that, except for good cause to then be shown, this cause will be removed from the docket for failure to prosecute the same to a final decree.

James River Bridge Co.

vs # 522

Gule

C.O.B 9

Page 85

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VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

James River Bridge Corporation

v) Chancery. 522.

Ollie May Gale et als.

This cause came on this day to be again heard upon the papers formerly read, and upon the report of A. S. Johnson, special commissioner, this day, by leave of court, filed, and to which there is no exception, and was argued by counsel.

And it appearing from said report, ~~and the pleading filed in this cause,~~ that the bond required of the said special commissioner by decree entered herein on the 2nd. day of January, 1928, was duly executed; that he collected the purchase price therein mentioned, for the property sought to be obtained by the complainant, paid the same over to John I. Davis, as directed by said decree; took his receipt therefor, which is filed with his said report; ^{and} ~~that he~~ has paid all the costs of this suit: Upon consideration whereof, it is adjudged, ordered and decreed that the said report be, and is, hereby, confirmed.

Nothing further remaining to be done herein it is ordered that the same be stricken from the docket.

2
Virginia: In the Circuit Court
of Isle of Wight County.

James River Bridge Corporation

v) Chancery. 522.

Ollie May Gale et als.

Note for decree

Enter this

July 3, 1933.
Proctor

Chancery O. B. #9
Page 112

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

James River Bridge Corporation

v) Chancery. 522

Ollie May Davis, et als.

This cause came on this day to be again heard upon the papers formerly read, and upon the report of R. A. Edwards, Commissioner in Chancery, filed herein on the 20th. day of December, 1927, and to which there is no exception, and was argued by counsel.

And it appearing from said report that the complainant in this suit, and the defendants, are possessed of the tract of land mentioned in the bill of complaint, the complainant owning the curtesy right, a one tenth undivided interest in the whole, and a one fourth undivided interest in nine tenths undivided; that each of the defendants are owners of one fourth of nine tenths interest in said land, yet undivided; that the rights of the complainant were acquired by purchase from John I. Davis and Arnold Gilliam Davis; that the defendants acquired their rights by inheritance from their mother, Ada V. Davis; that the said land is situate on Chuckatuck Creek, in the County of Isle of Wight, Virginia, that the property has little or no value, it being estimated as being worth ten dollars; that there are no liens of record; that the said property cannot be conveniently and advantageously divided among those entitled to share therein; that the complainant will take the whole of the property and pay the others for their shares; that the parties named in the bill of complaint are the proper parties to this suit; and that they are properly before the court: Upon consideration whereof, it is adjudged, ordered and decreed that the said report be, and is, hereby, confirmed: And it is further adjudged, ordered and decreed that A. S. Johnson, who is hereby appointed a special commissioner for the purpose, do convey to James River Bridge Corporation the lot of land herein mentioned, upon payment to him of the sum of ten dollars,

by deed with covenant of special warranty.

And it ~~appearing~~ to the court from statement made at the bar of this court, that the complainant will pay all cost attending the prosecution of this suit, it is further adjudged, ordered and decreed that the said special commissioner shall pay the amount accruing to the infant defendant to John I. Davis, the father of said infants, for their proper maintenance and support, and file his receipt with the papers in this cause, and also collect from the complainant a sufficient amount to pay the costs of this suit, up to and including a final decree, filing with his next report receipts for such costs.

Before the said special commissioner shall do any act under this decree he shall execute a bond, before the Clerk of this Court, in the penalty of \$50⁰⁰, with security deemed sufficient by said clerk.

And this cause is continued.

5- 522

Virginia: In the Circuit
Court of Isle of Wight Co.

James River Bridge Corpora-
tion

v) Chancery. 522

Ollie May Gale, et als.

Note for decree.

Enter this Jan. 2nd. 1928.

@ O B 8-69428.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

Jan 2, 1928-

BB 79. P 312

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

James River Bridge Corporation

v) Chancery. 522

Ollie May Gale, who was Davis:

Mary Virginia Davis:

John Claiborne Davis:

all infants under the age of
twenty one years.

This day came James River Bridge Corporation, and, by leave of court, filed its bill of complaint against Ollie May Gale, who was Davis, Mary Virginia Davis, and John Claiborne Davis, all of whom are infants, under the age of twenty one years; and, on motion of the said complainant, E. H. Williams, a discreet and competent attorney at law, practicing in this court, is assigned as guardian ad litem for the infant defendants, Ollie May Gale, Mary Virginia Davis and John Claiborne Davis, to defend their interests in this proceeding; and, thereupon, the said E. H. Williams, as such guardian ad litem, by leave of court, filed the answer of the said infant defendants and his own answer to said bill of complaint; to which several answers the complainant replied generally; and, thereupon, by consent of all parties, this cause is set down for hearing; and, by like consent, this cause came on this day to be heard upon the bill of complaint, upon the answers filed thereto, and upon general replication to said answers, 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 inquire into and report to court:

Of what real estate the parties to this suit are entitled, within the jurisdiction of this court, how acquired, what are their respective interests therein, where situate, and what are the annual and fee simple values thereof; what liens, if any, are of record

for taxes or otherwise, together with their priorities and dignities; whether or not the said property can be, with convenience and advantage, partitioned among the parties entitled to share therein, or what disposition should be made thereof or can be made thereof as is provided by Section 5281 of the Code of Virginia, of 1919, and the amendments thereto; who are the proper parties to this suit and if they are properly before the court; together with any matter specially stated, deemed pertinent by the commissioner, or which may be required to be inquired into and stated by any party in interest. Any evidence taken by the commissioner shall be reduced to writing and returned with his report.

3

#522

Virginia: Circuit Court
of Isle of Wight County.

James River Bridge Corpo-
ration

v) Chancery. 522

Ollie May Gale et als.

Note for decree.

1927
Dec. 6th

Entered
B. H. H.

Bark 8-pg-422

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

ISLE OF WIGHT, VA.,

May 6

1933

M

Johnson & Stephens, Attorneys-at-Law

Smithfield, Virginia.

To R. A. EDWARDS, Jr.

CLERK OF THE CIRCUIT COURT OF ISLE WIGHT COUNTY

COMMISSIONER IN CHANCERY

PROMPT SETTLEMENT OF ACCOUNTS RENDERED INSURES PROMPT ATTENTION TO FUTURE WORK

In re: James River Bridge Corporation vs Gale, et als.

To writ tax and clerk fees, including recording
of deed from A.S. Johnson, Special Commissioner to
James River Bridge Corporation

11 07

To taxes attorney fees

15 00

To witnesses

5 00

To report of Commissioner in Chancery

10 00

Total

\$ 41 07

11.07
10.00
21.07

Ord 2107
5/13/33
RAB

Received of A. S. Johnson, Special Commissioner in the suit of the
James River Bridge Corporation v. Ollie May Gale et als., the sum of
ten dollars, being the amount directed to be paid, by the Circuit
Court of the County of Isle of Wight, State of Virginia, to me, by
decree entered in the said suit on the 2nd. day of January, 1928.

John J. Davis

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

James River Bridge Corporation

v) Chancery. 522.

Ollie May Gale et als.

To Honorable B. D. White,

Judge of the Circuit Court of the County of Isle of Wight, Virginia.

The undersigned, appointed special commissioner in the above entitled cause by decree entered therein on the 2nd. day of January, 1928, respectfully reports to the court that, after th bond therein provided for was executed by him, he collected from the complainant the sum of ten dollars, paid the same over to John I. Davis, evidenced by voucher hereto attached, and then executed a deed to the complainant for the interest in the property, mentioned in the bill and proceedings of this suit, as directed by the said decree. He has, also, paid the writ tax, clerk fees and fee of commissioner in chancery, for which voucher has been taken and is filed with this report. Taxed attorney fee and counsel fee and fee to the special commissioner is due to the undersigned, and full satisfaction therefor is hereby acknowledged.

Respectfully submitted,



Special Commissioner.

Virginia: In the Circuit Court
of Isle of Wight County

James River Bridge Corporation

v) Chancery. 522.

Ollie May Gale et als.

Report of special commissioner.

Filed 6-29-, 1933.

R. G. Edwards

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

J. F. Batten being duly sworn, deposes and says:

Q. Please state your name, age, residence and occupation? Ans. J. F. Batten, I am fifty five years of age, reside in Isle of Wight County, Virginia, near Carrollton, and am a farmer and lumberman.

Q. Are you acquainted with the marsh property of the estate of Ada V. Davis, located at what is generally called "Point of Marsh" in Isle of Wight County, Virginia? Ans. Yes.

Q. How long have you known this property? Ans Thirty two years.

Q. Do you own any real estate in Isle of Wight County, near this property, and are you, or are you not familiar with real estate values in this community? Ans. My wife owns real estate and I am familiar with real estate values in the neighborhood mentioned.

Q. The James River Bridge Company has purchased the interests of John I. Davis, who was the husband of Ada V. Davis, and Arnold Gilliam Davis, a son of Ada V. Davis, in a small lot of land, at the end of the Point of Marsh Road, as indicated by the plat I now show you, attached to the deed from John I. and Arnold Gilliam Davis to James River Bridge Corporation, the lot of land being bounded as follows, to-wit: Beginning at a point at mean low water mark on Chuckatuck Creek, on the line of J. Q. Adams, Jr., thence running North 49 degrees and 13 minutes W. 402 feet, more or less, to a point at or near the centre of the public road leading from Isle of Wight Wharf to Carrollton; thence N. 44 degrees and 4 minutes E. 30 feet, more or less, to a point; thence running South 44 degrees 56 minutes E. 400 feet, more or less to mean lowwater mark on said creek; thence along mean low water mark on said creek to the point of beginning. The bill filed in the suit shows that Ollie May Gale, who was Davis, Mary Virginia Davis and John Claiborne, all of whom are infants, are the other parties in interest in the said lot of land- If this be true can the parcel of land mentioned be conveniently and to advantage, divided among the parties entitled to share therein? An . No. It cannot.

Q. Will or will not the interest of the infants who are defendants

in this suit be promoted by a sale of the property mentioned and a division of the proceeds as the law provides in such cases? Ans. I understand that the James River Bridge Corporation desires the title to the strip of land in question to locate one end of its bridge, which will span Chuckatuck Creek. I consider the lot of land mentioned of no value. It is floating marsh, covered when the tide is very high, and subject to no use, whatever, of value. I would say that ten dollars, in any instance, would be all that it can be worth. The interests of the children can suffer none by a conveyance of their interest to the James River Bridge Corporation, at the rate of ten dollars for the whole lot. While it may have nothing to do with this case, the work of this concern is going to increase the value of the adjoining property owned by these children a great deal more than many times the value of the lot of land you have described.

Q. Do you know the heirs of Ada V. Davis? Ans. Yes, they are those you have mentioned, that is, Arnold Gilliam Davis, Ollie May Gale, Mary V. Davis and John Claiborne Davis, al but the first mentioned are under twenty one years of age.

Q. Who occupies the adjoining land to the lot mentioned? Ans. J. Q. Adams, Jr. own the property on one side of the road mentioned, and John I. Davis, and his children, occupy the other side, which was the property of Ada V. Davis, in her life time, and who was the wife of John I. Davis.

And further this deponent saith not.

John I. Davis being duly sworn, deposes and says:

Q. Please state your name, age, residence and occupation? Ans. John I. Davis, fifty eight years of age, reside in Isle of Wight County and am a farmer.

Q. Are you the John I. Davis who has conveyed your interest in the lot of land in the bill and proceedings of this suit mentioned, to James River Bridge Cprporation? Ans. Yes.

Q. Please state what, in your opinion, is the value of this lot of

land? Ans. I would say that it is valueless for anything but to build a road or something of that kind upon. It is not productive, being covered with high tides. Ten dollars would be a fair price for it. I have given my interest in it, for I believe the location of the bridge and road at this point will greatly increase the value of the adjoining land and be a great help to the community generally.

Q. Are you the husband of Ada V. Davis? Ans. She was my wife.

Q. How many children did she leave? Ans. Four, Arnold Gilliam, who is of age, and Ollie May (now Gale) Mary Virginia and John Claiborne.

Q. Can the lot of land mentioned be conveniently and advantageously divided between the parties entitled to share therein? Ans. No.

Q. Will the interests of the parties, and especially the infant defendants, be promoted by a sale of the whole and a division of the proceeds? Ans. I understand that the James River Bridge Corporation desires this piece of land for its bridge construction, one end of the bridge to be located upon it or the road leading to the bridge. As I have stated the piece of land is valueless for anything but for such a purpose. If it chooses to pay at the rate of ten dollars for the lot to the children who are parties in interest, it will be all that it is worth. The rest of the property will be greatly benefitted by such a construction.

And further this deponent saith not.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

James River Bridge Corporation

v) Chancery. 522

Ollie May Gale, who was Davis:
Mary Virginia Davis:
John Claiborne Davis:
all of whom are infants under
the age of twenty one years.

TO HONORABLE BENJAMIN DEY WHITE,

JUDGE OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT,
IN THE STATE OF VIRGINIA..

The undersigned, a commissioner in chancery of your Honor's Court, respectfully reports to the court that the papers in this cause have been referred to him for the execution of a decree entered therein on the 6th. day of December, 1927, and in the execution thereof, on the 20th. day of December, 1927, in the presence of Mr. A. S. Johnson, of Johnson and Stephens, counsel for the complainants, and Mr. E. H. Williams, guardian ad litem for the infant defendants, took the testimony of J. F. Batten and John I. Davis, which was reduced to writing and is herewith returned, and from which, together with the records in the Clerk's Office of this Court, it appears as follows, to-wit:

1. That the lot of land mentioned in this proceeding is a part of the "Knox" farm once owned by T. Q. Gilliam, and of which he died seized and possessed; that the said T. Q. Gilliam left ten children, one of which was Ada V. Davis, wife of John I. Davis, who conveyed his interest in this land to the complainant, and nine other children; that one of the said children conveyed his interest in said land to said John I. Davis, and the remainder, excluding Ada V. Davis, conveyed their interests therein to said Ada V. Davis.

Therefore, John I. Davis owned a one tenth undivided interest in the said property, and the said Ada V. Davis owned nine tenths interest therein. Later Ada V. Davis died leaving her surviving the said John I. Davis, her husband, and four children, to-wit: Arnold Gilliam Davis, Ollie May Gale, Mary Virginia Davis and John Claiborne Davis. The complainant in this suit has purchased the interests of the said John I. Davis and Arnold Gilliam Davis in said property, which covers the curtesy right of said John I. Davis and his undivided one tenth, and also has purchased the right of the said Arnold Gilliam Davis. It therefore owns:

The curtesy right of John I. Davis,
one tenth undivided interest of John I. Davis
one fourth of one tenth, the interest of Arnold G. Davis.

The defendants own, each, one fourth of nine tenths.

The lot of land is of little or no value, the evidence showing that it is not worth over ten dollars. It is a piece of marsh land over which the tide flows when it is very high.

There are no liens of record against the said property.

2. The property cannot be conveniently divided among the parties. Counsel for the complainant states to the commissioner that James River Bridge Corporation will take the entire property and pay the others for their shares therein.

3. The parties mentioned in the bill as complainant and defendants are the proper parties to this suit, and they are properly before the court.

4. James River Bridge Corporation is constructing a system of bridges and connecting roads, the piece of land which is the subject of this suit being intended for a landing place of one of the bridges, and the evidence shows that such construction will be of much benefit to the adjoining lands, some of which is owned by the defendants to this suit. It is, therefore, recommended that the interest of the infant defendants be conveyed to James River Bridge Corporation, upon the payment, by it, of the amount of money they are entitled to, at the value of ten dollars for the whole.

Respectfully submitted,

R. A. Edwards
Commissioner in Chancery.

4 522
Virginia: In the Circuit
Court of Isle of Wight Co.

James River Bridge Corpora-
tion

v) Chancery. 522

Ollie May Davis et als.

Report of Commissioner
in Chancery

Filed December 20th. 1927.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

James River Bridge Corporation

v) Chancery. 522

Answer of infant defendants

Ollie May Gale, who was Davis:
Mary Virginia Davis:
John Claiborne Davis:
all infants under the age of _____
twenty one years.

The joint and separate answers of Illie May Gale, who was Davis, Mary Virginia Davis and John Claiborne Davis, by E. H. Williams, their guardian ad litem, and the answer of the said E. H. Williams, guardian ad litem, to a bill in chancery filed against them, in the Circuit Court of the County of Isle of Wight, State of Virginia, by James River Bridge Corporation.

These respondents saving and reserving to themselves the benefit of all just exceptions to the said bill of complaint, for answer thereto, or to so much as they are advised it is material for them to answer, answer and say: That they are infants of tender years, and by reason of such infancy are incapable of understanding or of taking care of their rights and interests; and that they commend themselves and their rights and interests, to the protection of the court, and pray that no decree or order may be entered that will tend to their prejudice.

And now having fully answered complainant's bill, these respondents pray to be hence dismissed with their reasonable costs.etc.

Allie May Gale
Mary Virginia Davis
John Claiborne Davis
By E. H. Williams
their guardian ad litem.
E. H. Williams
Guardian ad litem.

Subscribed and sworn to
this 1st. day of December,
1927, before me

A. S. Stephens, Commissioner in Chancery.

2 522
Virginia: Circuit Court of
Isle of Wight County.

James River Bridge Corporation

v) Chancery. 522

Ollie May Gale et als.

Answer of infant defendants
and guardian ad litem.

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

James River Bridge Corporation

v) Chancery. 522

Bill of complaint.

Ollie May Gale, who was Davis:

Mary Virginia Davis:

John Claiborne Davis:

All infants under the age of
twenty one years.

TO HONORABLE BENJAMIN DEY WHITE,

JUDGE OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT, IN
THE STATE OF VIRGINIA.

Your complainant, James River Bridge Corporation, a corporation chartered under the laws of the State of Virginia, respectfully represents to the Court:

That it, and the defendants, all of whom are infants under the age of twenty one years, namely, Ollie May Gale, Mary Virginia Davis and John Claiborne Davis, are the fee simple owners of a small lot or parcel of land, in the County of Isle of Wight, State of Virginia, bounded and described as follows, to-wit: beginning at mean low water mark on Chuckatuck Creek, on the line of J. Q. Adams, Jr., and running thence North forty nine degrees and thirteen minutes West four hundred and two feet, more or less, to a point at or near the centre of the public road leading from Isle of Wight Wharf to Carrollton; thence North forty four degrees four minutes East, thirty feet, more or less, to a point; thence running South forty four degrees fifty six minutes East, four hundred feet, more or less, to mean low water mark, on said creek; thence along mean low water mark, of said creek, to the point of beginning:

That your complainant does not believe the said lot or parcel

of land is susceptible of partition, conveniently and advantageously, between and among the parties entitled to share therein, and that if, upon a proper and lawful investigation of the case it is found not to be then your complainant is ready and willing to pay the others in interest a proper sum for their respective shares, which, it believes it will be to the interest of all interested parties.

In tender consideration whereof, and forasmuch as your complainant is without remedy in the premises, save in a court of equity where matters of this kind are alone and properly cognizable, it prays that the said Ollie May Gale, Mary Virginia Davis and John Claiborne Davis be made parties defendant to this bill, and required to answer the same, but not under oath, answer under oath being hereby expressly waived, answer to be made by a guardian ad litem to be assigned by this court; that proper process issue; that the said real estate be partitioned among the parties entitled to share therein, or if it cannot be conveniently and advantageously partitioned that it be sold and the proceeds divided; that all proper orders and decrees may be entered, inquiries directed; and, that your complainant may such other, further and general relief in the premises as the nature of the case may require, or which to equity may seem meet.

And your complainant will ever pray, etc.

JAMES RIVER BRIDGE CORPORATION,

By counsel.

Johnson and Stephens p. q.

1 522
Virginia: Circuit Court
of Isle of Wight County.

James River Bridge Corpora-
tion

v. Chancery. 522

Ollie May Gale et als.

Bill of complaint.

Find
Dec 1927
NAE

LAW OFFICES
JOHNSON AND STEPHENS
SMITHFIELD, VIRGINIA

The Linden Printing Company, Hartford, Connecticut