1454

Brooke, Basil + Elizabeth
George Chandler + Deborah wife
William Stabler + Deborah wife
Mary (widow) Samuel, Mary Brooke
Richard Thomas + Deborah wife
Margaret, Sarah, Hannah, Roger,
+ Dorothy Brooke
vs

William H. Dorsey + Ann wife

Frederick County 1790

Bill, Answers, Decree

Wm H. Dorsey
Basil Brooke } Trustees
Samuel Brooke

Recorded in Liber # 21-500

Pembroke
Res. on Mt Radnor

17898-1454

To the Honorable Alexander Contee Hanson Chancellor of Maryland,

The Bill of Complaint of Basil Brooke, George Chandlee and Deborah his wife and Elizabeth Brooke, Daughter and Co-heirs of James Brooke; and William Stable and Deborah his wife the devisee of Thomas Brooke deceased; and Mary Brooke, widow, Samuel Brooke Mary Brooke, Richard Thomas and Deborah his wife, Margaret Brooke and Sarah Brooke of full Age, and Hannah Brooke, Roger Brooke and Dorothy Brooke, Infants by Samuel Brooke their next friend, the representatives of Roger Brooke late deceased;

Humbly Complaining Sheweth, That on or about the day of in the year 1770 Basil Brooke Roger Brooke, Richard Brooke, James Brooke, and Thomas Brooke heretofore in their Life time by mutual Consent as partners in equal Shares and at their Joint Expence did procure Warrants and take up Two Tracts of Land in Frederick (now Montgomery) County Containing One thousand three Hundred and Six Acres by the Names of Pembrook and Resurvey on Mount Radnor, with this Stipulation and Agreement, that the Warrants should be returned, and patents issue thereon in the Name of Richard Brooke Aforesaid, which was accordingly done

17898-1454 And it

being the Express intention and design of All the parties that the said Two tracts of Land should be sold and the profits thereof divided amongst the Brothers aforesaid and their legal Representatives, the said Richard Brooke in order to carry such Intention and Agreement into full and fair Execution, Executed a Bond, a Copy of which is herewith filed and which Your Orators pray may be taken as part of their Bill, in order to disclose and secure a performance of the Trust.

Your Orators State that after the Execution of the said Bond, Thomas Brooke one of the Obligees therein Mentioned died and devised his Interest in and arising out of the said Lands to his Niece Deborah Pleasants now the Wife of William Stabler, the ~~Complainants~~ Defts with others herein Mentioned; and that Roger Brooke died Intestate, leaving his Widow Mary, and Samuel, Mary, Margaret Sarah, Hannah, Roger Dorothy and Deborah the Wife of Richard Thomas, his representatives entitled to another fifth part of the Sales of said Lands; and Basil Brooke the surviving Brother entitled to one fifth, and Elizabeth Brooke and Deborah now the Wife of George Chandlee entitled to another fifth part thereof.

Your Orators State that Richard Brooke aforesaid in whose Name the said Lands were patented, died in the Year 1788 not having sold the said Lands pursuant to the Agreement and Bond aforesaid, leaving issue an only Child Anne an infant, on whom the legal title thereof hath devolved, and who hath lately intermarried with William Hammond Dorsey of Montgomery County the defendants herein named.

Your Orators State that the said William Hammond Dorsey and Anne his Wife are seised of the said Two Tracts of Land in trust for the purposes contained in the Bond herein before to referred, but by Reason of the Minority of the said Ann to the Great Injury and loss of Your Orators, the said Trust can not be carried into Effect without the Interposition of this Honorable Court, where Trusts are decreed to be performed and Contracts specifically carried into Execution. To the End therefore that the said William Hammond Dorsey and Ann his Wife may severally declare and set forth, whether such Agreement as is herein before stated was not entered into and made by the said Basil Thomas James, Roger and Richard Brooke in their Life time — whether in pursuance of such

Agreement the Bond herein referred to was not Executed — Whether the Same is not a true Copy of the original Bond Executed by Richard Brooke — Whether the Said Ann is not Sole Heiress of the Said Richard, and Whether She hath not intermarried with William Hammond Dorsey — of What Age She now is — and that they respectively Set forth Whether the Said Richard Brooke in his Life time Executed the Trust aforesaid, or made any and What Disposition of the Said Land, and Who hath the Same in possession at this time, and that the Said Defendants be decreed to a Specific Execution of the Trust by an immediate Sale of the Said Land, and that the Sale thereof be divided amongst your Orators and the Said William Hammond and Ann pursuant to the original Agreement, together with Such other relief in the premises as to your Honor Shall seem meet, May it please your Honor to Grant the States Writ of Subpoena to the Said William Hammond Dorsey and Ann his Wife to be directed Commanding them at a day Certain and under a Certain pain, to be and Appear before this Honorable Court there to Stand to and abide by Such order in the premises as to your Honor shall ~~seem~~ meet —

Philip B Key for Complt

To Alexander Contee Hanson Esq.
Chancellor of Maryland.

William Stabler and Deborah his Wife

complaining, respectfully sheweth.

That on or about the day of in the year of our Lord one thousand seven hundred and Seventy, Roger Brooke & Bazil Brooke, whom we (the complainants) pray may be made defendants to this our bill of complaint, and James Brooke and Richard Brooke now decea'd, and Thomas Brooke who is also dead, by mutual consent as partners or equal shares, and at their joint expence, did procure Warrants and take up two Parcels of Land in Frederick (now Montgomery) County on the branches and near the head of Patuxent River, containing one Thousand three hundred & six acres, by the names of Pembrook and Resurvey on mount Radnor, with this further stipulation, and agreement that the ~~warrants~~ warrants for the said Lands should be returned, and patents for the same be obtained in the name of the above named Richard Brooke dec.d he at the same time entering into Bond to the other parties concerned to pay unto them and each of them or their heirs, their equal shares (or one fifth part to each) of the money arising from the sale of the said Land, which it was then agreed should be sold rather than divided, but at the time of executing the same James Brooke aforenamed being dead his two daughters and only representatives Viz.t Deborah & Elizab.t whom we pray may also be made defendants to this our bill, were inserted therein as being intitled to their one fifth part;

Which Bond contains the following words. "Know all men by these presents that I Richard Brooke of Frederick county & Province of Maryland Am held and firmly bound "unto Roger Brooke, Bazil Brooke, and Thomas Brooke, of "the county aforesaid, and Deborah and Elizabeth Brooke "of Loudoun County and Colony of Virginia ~~daughters~~ of "my brother James Brooke dec.d) in the full & just sum of "eight hundred Pounds current money to be paid unto the "said Roger, Bazil, Thomas, Deborah, and Elizabeth Brooke "their certain Attorney, Executors, Administrators, or Assigns "to which payment well and truly to be made, and done I bind "myself, my heirs, Executors, and Administrators, and every "of them, firmly by these presents, sealed with my Seal and "dated this Eleventh day of August Anno Domini one "Thousand Seven hundred and Seventy.

"The condition of the above obligation is such that if the above bound

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"bound Richard Brooke his Heirs, Executors, or Administrators
"do and shall well and truly pay or cause to be paid unto the said
"Roger, Bazil, Thomas, Deborah and Elizabeth Brooke their
"certain Attorneys, Executors, Administrators, or Assigns, four
"fifths of the money that shall arise on the sale of two tracts or
"parcels of Land lying in Frederick County aforesaid (Viz.)
"Pembrooke and the resurvey on Mount Radnor, containing
"thirteen hundred and six acres, that is one fifth to Roger,
"one fifth to Bazil, one fifth to Thomas, and one fifth to
"Deborah and Elizabeth Brooke, on the said Deborah &
"Elizabeth Brooke paying the sum of six pounds ten Shillings
"like money with legal interest for the same to the above bound
"Richard Brooke in a reasonable time after the above lands
"are sold, and the money collected by the said Richard his
"Heirs, Executors, or Administrators then the above obligation
"to be void, else to remain in full force and virtue in Law."

Which said Bond is now in possession of these complainants, and which they pray may be taken and made a part of this their Bill of complaint.

And they (the Complainants) further shew that the aforementioned Thomas Brooke one of the obligees in the aforementioned Bond sometime in the year 1789 departed this life, and that by his last Will and Testament bearing date the 14th day of February 1789 among other things did devise as follows Viz. "Item I will and bequeath unto Deborah Pleasants daughter "of Thomas Pleasants two hundred and sixty Acres "of Land called Pembrook and mount Radnor, lying "and being in the county and State aforesaid, with "the appurtenances thereunto belonging, to her and her "heirs and Assigns forever." As by the said Will now in the possession of those complainants will appear and which they also pray may be taken and made a part of this their Bill of complaint, they also shew that the complainant Deborah is the daughter of Thomas Pleasants and the Person to whom the above recited devise was made, and conceived from the Will of the aforesaid Thomas Brooke that they are intituled to, and vested with all the right and title which the said Thomas Brooke had of, in, or to the aforementioned tract of Land taken up as aforesaid for the benefit of the parties herein before mentioned.

Those Complainants further shew that the aforementioned Richard Brooke the Obligor in the before recited Bond, sometime in the year 178[illegible] departed this life leaving Ann Brooke his only heir and Loyal Representative, (she being still an infant who has since intermarried with William Hammond Dorsey, both of whom those Complainants pray may be made defendants to this their Bill of Complaint. And that Wm Hammond Dorsey be admitted to answer as Guardian to the said Ann, to this their Bill of Complaint. And the said Deborah Brooke having intermarried with George Chandlee, that he also may be made a defendant to this their bill of Complaint.

They further represent that the said Richard Brooke never complied with the agreement for the sale of the Lands as aforementioned but that they still remain unsold producing no benefit whatever to these complainants and greatly to their hurt and prejudice. In tender consideration whereof and forasmuch as those Complainants can obtain no redress from the ordinary Courts of Law but are driven to a Court of Chancery, where Infants with the interposition of this Court, may be compelled to execute the trusts and specifically to perform the agreements of their Ancestors, where Legatees may obtain their Legacies, and where all such matters as these are properly cognizable and releivable. To the end therefore that those Complainants may obtain the benefit of their devise and a decree authorising and directing the defendant Ann and Wm Hammond Dorsey her Guardian, or some discreet and disinterested Persons to make a Sale of the lands agreeable to the intention of the parties, as recited in the aforementioned bond, and a division of the mony arising therefrom as aforesaid, if it shall be judged expedient, ~~but if that cannot be done to advantage a decree for a division of the lands according to the different Interests of the Claimants and the quantity and quality thereof if it shall be consistant with the opinion of this court and the wishes of the defendants herein before mentioned~~, and that such other orders and decrees may be made touching the premises as may be compat

-tible with the principles of Equity and good concience and that a writ or writs of Subpœna be directed against the defendants and each of them commanding them &c

Wm Stabler

Deborah Stabler

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Wm Stabler
and Deborah Stabler
vs
Bill
Wm Hammond Dorsey
and Ann his wife
Roger Brooke, Basil Brooke
George Chandlee, and Deborah
his wife & Elizabeth Brooke

Wm Hammond
Fee this
W D Bkey

Issue subpœnas as prayed
A C Hanson Ch.
Filed May 17th 1790
Same as by Subp. fund

Exhibit No 5

Know all Men by these presents that I Richard Brooke of Frederick County and province of Maryland am held and firmly bound unto Roger Brooke, Basil Brooke and Thos Brooke of the County aforesaid and Deborah and Elizabett Brooke of Loudoun County and Colony of Virginia (Daughters of my Brother James Brooke deceased) in the full and Just Sum of Eight Hundred Pounds Current Money to be paid unto the Said Roger Basil Thomas Deborah and Elizabett Brooke their Certain Attorney Executors Administrators and Assigns, to which payment well and truly to be made and done, I bind myself, my Heirs Executors and Administrators and Every of them firmly by these presents Sealed with my Seal and dated this Eleventh day of August Anno Domini One thousand Seven Hundred and Seventy six The Condition of the above Obligation is Such that if the above bound Richard Brooke his Heirs Executors or Administrators do and shall well and truly pay or Cause to be paid unto the Said Roger, Basil, Thomas Deborah and Elizabeth Brooke, their Certain Attorney Executors Administrators or Assigns four fifths of the Money that shall arise on the Sale of two Tracts or parcels of Land lying in Frederick County aforesaid Viz Pembrooke and the Resurvey on Mount Radnor Containing thirteen Hundred and Six Acres, that is one fifth to Roger, one fifth to Basil, one fifth to Thomas and one fifth to Deborah and Elizabett Brooke, or the Said Deborah and Elizabeth paying the Sum of Six pounds ten Shillings like Money with Legal Interest for the Same to the above bound Richard Brooke in a reasonable time after the above Land are Sold, and the Money Collected by the Said Richard his Heirs Executors or administrators, then the above Obligation to be Void else to remain in full Force and Virtue in Law

Richard Brooke (Seal)

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Basil Brooke, William Stabler and wife, George Chandlee and wife, and Elizabeth Brooke, Mary Brooke, Samuel Brooke, Mary Brooke Richard Thomas and wife, Margaret Brooke Sarah Brooke — and Roger Brooke, Hannah Brooke, Dorothy Brooke, infants, by Samuel Brooke their next Friend —

vs

Wm H. Doney & Ann his wife —

Mr Howard,

File this and let Subpoena issue

Yrs

P. B. Key

Issue subpd returnable immediately

Decr 22, 90 A. C. Hanson Clk.

The separate answer of William Hammond Dorsey to the Bill of Complaint of Basil Brooke and others —

This Defendant now and at all times hereafter saving and reserving to himself all manner of Benefit and Advantage to the manifold Errors and Insufficiencies in the Complainants said Bill contained for answer thereto or to so much as this Defendant conceives it material to answer — doth answers and says that he admits that Basil Brooke Roger Brooke Richard Brooke James Brooke and Thomas Brooke did heretofore in their Lifetimes take up two Tracts of Land in Frederick now Montgomery County named Pembroke and Reserve on Mount Radnor containing thirteen hundred and six Acres as partners in such manner at such time and under such Stipulations and Agreements as in the said Bill are proposed and that Patents did issue for the same in the name of Richard Brooke and the said Defendant further admits that Richard Brooke in pursuance of said Agreement between the said Parties signed sealed and executed the Bond in the said Bill mentioned —

This Defendant in answering further admits that after the Execution of the said Bond Thomas Brooke one of the Obligors died and devised his Interest in the said Land as mentioned in said Bill and that Roger Brooke one other of the Obligors died intestate leaving such Representatives as in the said Bill are mentioned —

This Defendant further admits that Richard Brooke in whose name the said Lands are patented died in the year 1788 not having sold said Lands — And that Ann Dorsey

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is the only Child of the said Richard and that the said Ann as he believes and admits is under the age of Twenty one years to wit of the age of Eighteen years and that she hath intermarried with this Defendant. - He further admits that the said Lands are now holden by him in trust for the purposes in the said Bill mentioned - which Trust this Defendant is desirous to carry into Execution but has been and still is prevented by the Minority of Ann his wife one of the Defendants and can by no Means execute the same unless by Order and Direction and under the Sanction of this Honourable Court, but this defendant is ready and willing to abide by such order and decree in the premisses as to your Honor shall seem meet.

Wm Hammond Dorsey

4th

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Wm Hammond Dorsey
ad
Brooke & others

Answer

1454

Filed Feby 4th 1791

Maryland Sr. the State of Maryland To Wilt.m H Dorsey and Ann his wife of Montgomery County Greeting. you are hereby Commanded, that all excuses set apart. you personally be And Appeare before the High Court of Chancery immediately at the City of Annopolis. to Answer unto the Bill of Complaint of Basil Brooke. Wm. Stabler & wife. George Chandlee & wife Mary Brooke. Saml. Brooke. Mary Brooke. Richd. Thomas & wife Margarett Brooke. Sarah Brooke. & Roger Brooke Hannah Brooke Dorothy Brooke infants by Saml. Brooke their next friend & Elizabeth Brooke. Against you in the said Court Exhibited. hereof. fail not as you will Answer the contrary at your peril. Witness the Honourable Alexander Contee Hanson Chancellor this 22nd day of December 1790

Sam H. Howard. Reg. Cur Call.

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Basil Brooke & others

Wm H Dorsey Wife

I hereby certify that on this 7th day of January 1791 I served the within Subpena upon William H Dorsey and Ann his wife.

Benjn Ed Jones Sheriff

Wm Hammond Dorsey
Basil Brooke
Samuel Brooke } Mont 77 –

Sales on One and Two years Credit
– 4 weeks notice in Baltimore paper
of Goddard and Angell — One of the
George Town papers — Sales not Valid
Unless notified and Approved by Chancellor

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Pembroke and
Rennway on Mount Radna

Cont^y - 1306 -

Mr Whitcroft Papers Cr Blackhook

Not forecast

Cont^y

Basil Brooke, William Stabler, his wife devisee of Thomas Brooke; Deborah George Chandlee and Deborah his wife and Elizabeth Brooke, daughter and coheirs of James Brooke; Mary Brooke, widow; Samuel Brooke; Mary Brooke; Richard Thomas and Deborah his wife; Margaret Brooke; Sarah Brooke; and Robert Brooke, Hannah Brooke, and Dorothy Brooke infants by Samuel Brooke their next friend

In Chancery

February term 1791

a

William Hammond Dorsey and Ann ~~Mary~~ his wife

The said cause standing ready for hearing; the bill, answers ~~and~~ exhibits, and proceedings were read — It is thereupon, this fifth day of March, seventeen hundred and ninety one, by the chancellor, and the authority of this court, adjudged, ordered, and decreed, with the consent of the parties, by their counsel, that the two tracts of land mentioned in the bill and answers, called Pembroke, and Mount Radnor, shall be sold at auction, for the purpose of carrying into effect the agreement, on which they were taken up by Richard Brooke, deceased, father of ~~Mary~~ Anne the defendant; that William Hammond Dorsey, the other defendant, and Basil Brooke, and Samuel Brooke of Montgomery, be, and they are hereby appointed trustees for the purpose of selling the same; and that their ~~—~~ proceedings be as follows — They or any two of them shall first execute, and lodge in this court, their bond, or obligation, with a sufficient surety, or sureties to be approved by the chancellor, to the state of Maryland, in the sum of sixteen hundred pounds

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current money, well and truly to fulfil and perform the trust, reposed in them by this decree, or to be reposed by any future decree or order in the premises. They shall then or any two of them (provided the third be dead, or shall decline to act) give public notice by advertisement, inserted four weeks successively in the news paper at Baltimore & Goddard and Angel, and in some news paper of George town in Montgomery county, of the time, place, and terms of sale, of the said tracts of land; that the said sale be by auction; the purchaser or purchasers giving bond or bonds, to the said trustees, as such, with at least two approved sureties, for paying the purchase money, with interest, at two equal annual payments, reckoning from the time of sale; that the said trustees, or any two of them, as aforesaid, may sell, at their discretion, the said two tracts, either entire, or divided into convenient parcels, and shall also at discretion take one or more bonds for each part of the land by them sold; that, upon as conveniently may be after such sale, they shall make and lodge in this court, under their hands, with an affidavit of the truth thereof annexed, a just and accurate account of the sales, specifying the time of sale, the purchaser, or purchasers, the price, or prices, the expences of sale, and their whole proceedings under this decree; that upon the chancellors approbation of their proceedings, the sales shall be valid; and, upon receipt of the purchase money from the purchasers respectively, the said trustees, or any two of them, who shall have taken upon themselves the performance of this trust, or the survivor of them, shall execute to the purchaser or purchasers who shall have so paid, a good and effectual deed indented, conveying to them the land sold, in fee simple; and the said purchaser or purchasers shall thereupon hold the same in fee, discharged from any claim at law or equity of any of the parties to this suit or of any person claiming by, from or under them; that the said trustees, or any of them, as aforesaid, as soon as conveniently may be after the receipt of the purchase money, or part thereof, shall bring the same into this court, to be applied according to the agreement, on which the land was taken up, and the interests of the several parties to this suit, or their legal representatives, after deducting the necessary expences in executing this trust —

A Hanson Chancr.

Basil Brooke & others
vs
William H. Darcy & wife

In Chancery May 19 1792

On the petition of the mayority of the complainants in this cause, and ~~with the consent~~ of the defendant, William Hammond Darcy, it is adjudged and ordered, that the lands mentioned in the decree in this cause, passed on the fifth day of March seventeen hundred and ninety one be sold either at public or private sale at the direction of the trustees or any two of them —

A Hanson Chancr.

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Decree

5th March 1791

The Separate Answer of Ann Dorsey an Infant under the age of twenty one years by William Hammond Dorsey her Husband and Guardian to the Bill of Complaint of Basil Brooke and others Complainants

This Defendant now and at all times hereafter saving and reserving to herself all manner of Benefit and advantage to the manifold Errors and Insufficiences ~~of~~ ~~exceptions~~ in the Complainants said Bill contained for answer thereto or to so much thereof as this Defendant is instructed is material to answer - She answers and says that she admits that Basil Brooke Roger Brooke Richard Brooke James Brooke and Thomas Brooke did heretofore in their Lifetimes take up two tracts of land in Frederick (now Montgomery) County named Pembroke and Resurvey on Mount Radnor containing thirteen hundred and six acres as partners in such manner at such times and under such stipulations and agreements as in the said Bill are expressed and that patents did issue for the said Land in the name of Richard Brooke And the said Defendant further admits that Richard Brooke in ~~order~~ pursuance of the agreement between the said Parties signed sealed and executed the Bond in the Bill mentioned -

This Def.t in answering further admits that after the execution of the said Bond Thomas Brooke one of the Obligors died and devised his Interest in the said Land as mentioned in said Bill and that Roger Brooke one other of the Obligors died intestate leaving such Representatives

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as in the said Bill are named.

This Defendant further in answering admits that Richard Brooke in whose name the said Lands are patented died in the year 1788. not having in any manner disposed of the said Lands and that this Defendant is the only Child of the said Richard and now under the age of twenty one years but of the age of Eighteen years and that she hath intermarried with William Hammond Dorsey one of the Defendants in the said Bill – She further admits and acknowledges that the said Lands are held by the Defendants in Trust for the purposes in the said Bill expressed and this defendant is ready and willing to abide by such Order and decree in the premises as this Honorable Court shall award and direct.

Sworn to by William Hammond Dorsey (this fourth day of February 1791) as Guardian by Appointment of the Honorable the Court of Chancery.

Answer
Ann Dorsey by
Wm H. Dorsey her Guardian
Vs
Brooke & others

filed 4 July 179

To Alexander Contee Hanson Esqr. Chancellor of the State of Maryland —

The Petition of the subscribers sheweth —

That Basil Brooke, Samuel Brooke and William H. Dorsey were heretofore appointed Trustees for the Purpose of disposing of two tracts of Land in Montgomery County the one called Pembroke & the other the Resurvey on Mount Radnor at Public Sale; We beg leave to state that the Lands have been exposed to Public sale by the said Trustees, but without effect; and that we believe they cannot be sold by public sale; & that they at present are unproductive and a mere burthen and expence to us — but we believe that a Private sale of the Lands might be effected, & therefore request, that the said Trustees be allowed to sell in that way upon the Terms, in the decree heretofore directed, & that the Chancellor may decree Accordingly. —

Margarett Brooke
Hannah Brooke
Richd. Thomas J.E.

Basil Brooke
George Chandlee
Wm. Stabler
Wm. H. Dorsey
Roger Brooke
Caleb Bentley
Thos. Moore Junr.
George Ellicott
Saml. Brooke
Saml. Brooke as Guardian to Roger Brooke and Dorothy Brooke

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Petition filed May 1919