

APPENDIX C

CHANCERY RECORDS

Account No. 15- Estate Records of Thomas Bourne (S 512-290-6)

Calvert County

October 1805 Received of John Fitzhugh four hundred and thirty dollars which amount being now advanced for my convenience and having ever intended to make my god daughter Elizabeth M. Fitzhugh a compliment of my claim for medical services gainst said Fitzhugh -- The amount now advanced exceeding such claim - I do hereby oblige myself, my heirs executors & administrators to pay over to or assign to my said God Daughter E.M. Fitzhugh shares in the Union Bank of Maryland to full amount principal & interest four hundred and thirty dollars from date here of on or before 1st of January eighteen hundred and ten. In witness where I've hereunto set my hand & seal the day & year above-

Thomas Bourne {seal}

witness Wm. Meather

Calvert County fe.

Be it remembered that on this 11th day of June eighteen hundred and eleven personally appears John Fitzhugh (the father and natural guardian of Eliza M. Fitzhugh now a minor) before me the subscribor one of the Justices of the peace of the State of Maryland for Calvert County aforesaid and makes oath on the Ady Evangely of Almighty God that no part of the money intended to be secured by the annexed note hath been recieved or any security or satisfaction given for the same.

Sworn Before

James Morsell

This note will pass when paid

By order of Court

Jo. Wilkenson Reg. Of Wills

1810 Deposition of Mensham Parker for Chancery Court

(MD HALL OF RECORDS - S 512-2290-2)

Calvert County - State of Maryland, St Leonards, November the twentieth, Eighteen hundred and Ten, personally came Mensham Parker (of the County and State aforesaid) and having taken the Oath in such case required, deposed as follows: (On the part of Eliza Bourne, and others) that he was at the last Sale of the personal property of the late Doctor Thomas Bourne, conducted by William E Hungerford, administrator; present Thomas Hellen, Mrs. Eleanor Hungerford, and William E. Hungerford, before the Sale began; when in a conversation Mrs. Hungerford enquired, what was the hour? And being told- observed that it was past the time of Day for the sale to begin, and that It was past the time to of day for the sale to begin, and that, as There was a Bidder, she insisted on the property being set up - Capt. Hellen answered, that they had better wait half an hour- Mr. Hungerford likewise observed, that he had been censured already, and that he wished to have a fair sale; accordingly it was agreed on to wait half an hour - Capt. Hellen and This Deponent both told them, they did not mean to purchase; This Deponent only mentioning, that he wished to purchase a Negroe Fellow; but declined bidding, in consequence of hearing Mrs. Hungerford say. That no man of honour, or no gentlemen, would bid against her - This Deponent - told Mr. Hungerford, that he said he saw Doctor Taylor the Evening before, and that he (Taylor) told him (Parker) that He (Taylor) would be down to bid for the property. Mrs. Hungerford still insisted on the Sale beginning; saying that her Brother intended the property for her - and that if the Law was such as to deprive her of it, she ought to have the advantage to bidding it as low as She could get it. We then all went in the Piazza (said this Deponent) for no particular purpose that He knew of - as he thought it was before the half hour had expired; when Capt. Hellen immediately observed, that Doctor Taylor was coming or some one like him on a grey or white Horse; which seemed to hurry Mr. Hungerford with the Sale, for instantly on Doctor Taylor's name being announced; He (Mr. Hungerford) without any furthur pressing from Mrs. Hungerford. Put a Glass of wine into this deponents hand; and asked this deponent to set up them Negroes, or knock off them Negroes - this Deponent remembered not which -- they being previously all assembled in the yard before the Door; This Deponent accordingly proceeded to sell them all tho Mr. Hungerford had never before that moment mentioned to this Deponent, to act as Auctioneer and this Deponent said, that he sold as he thought, six Negroes, before Doctor Taylor got to the House, who was not this Deponent supposed, more than two hundred yards off, when He began--

no one making a bid except Mr. William Hungerford and Mrs. Hungerford --all the best most valuable Negroes were sold first -- One young fellow, that was not present but in the auction was sold before Doctor Taylor got in -- altho--there were Negroes present, such as women, that were not yet sold-- It was a cloudy rainy morning, and (as this deponent thought) but very little past ten o'clock (which was said to the best of his recollection, to be the hour) when the Sale began-- Wm Hungerford, the administrator did personally bid for, and buy Severall Articles----- The Negroes sold much lower before Doctor Taylor came than they did afterwards; Mrs. Hungerford, (when there was no one there to bid against her) bought the young Fellows, for two hundred and ten dollars each--and the young women for one hundred and fifty five-- but after Taylor got in, and bid against her -- the same two hundred Dollars and upwards for a woman-- and Mrs. Hungerford say (after a woman, who was a good weaver, was knocked off to Mrs. Hungerford) that she would have given much more rather than not have her -- and this Deponent was confident that the Negroes, which were sold before Doctor Taylor arrived, would have sold for much more had Taylor been present-- A few days previous to the Sale at Mrs. Hungerford's House, Mr. Hungerford in conversation respecting Doctor Bourne's Property, he would shew the Land to the Sheriff, whenever a Judgement should be obtained,-- when it would be sold for cash, and they would have an opportunity of buying it in low -- and further This Deponent said not

Jno Broome {seal}

Test John Brooke, commissioners Clerke

St. Leonards: November the twenty ninth, Eighteen hundred and Ten, the within Deponent (Mr. Parker) cross examined by Mrs. Hungerford's council - by way of Question and ansewr:

Did you, or did you not, act as auctioneer, at the request of Mr. Hungerford, to sell the property of the late Doctor Thomas Bourne? I did. Did you or did you not, set the property up, and knock it off to the highest bidder? I did. What time did the Sale begin? After ten O'Clock. State any conversation, which took place between You and Mrs. Hungerford, respecting the sale of the property of the late Doctor Thomas Bourne, and when, and where, that conversation took place? A conversation took place, in my presence, at Mr. Hungerford's House, (as to the postponment of the sale for a half hour, which was proposed by Capt. Hellen, between Mrs. Hungerford, Mr. Hungerford and Capt. Hellen, Mr. Hungerford agreed to postpone the Sale for half an hour, and said he had been censured, and wished to steer clear of it, for the Future-- some short time after which (this Deponent further said) went into the Piazza, when Mr. Hungerford requested this

deponent to set the property up, and knock it off, and further said this Deponent not--

Jno Broome {seal}

*Test. John Brooke Comissioners Clerke
(also includes a notation that this was filed on 15 February 1811)*

Hungerford vs Bourne order April 8th 1813 Chancery Record

(MD HALL OF RECORDS - S512 -2290 -1)

Eleanor Hungerford

ag

Dorcas Bourne

Thomas Reynolds

Joseph Blake

James Heighe

Samuel Chew

William E. Hungerford

In Chancery - February Term 1813

This case was submitted on behalf of the complainant, and the defendant Dorcas Bourne and notes in Writing have been filed
By this council

The Chancellor has hmslf a small Claim against the real estate of Doctor Bourne mentioned in the proceedings, and has lately filed a Petition for the Sale himself - But if it should appear on further Conversation that He is not mentioned in this suit he will proceed to a decision on it when it is ready.

There appears to have been some Misapprehension as to the injunction -an Injunction was prayed and a Bond filed Payable to Chew, but there is no appearance of any order for an Injunction -The defendants Reynolds Blake and Heighe do not mention the injunction in their answers which were filed in June, July and August 1808 and in September 1808 a letter from Reynolds and Blake to William E. Hungerford is filed stating their determination to give up to Chew the Money & Bonds in their Hands. An order of Publication was made against Chew, but his answer was afterward filed in which no mention was made of any injunction.

It appears however that in December of 1808 an order was drawn up by the Council for the defendants and signed by the Chancellor for hearing a Motion to Dissolve the Injunction at the next Term.

Among the Papers there are Notes (without date) filed by the Same Council with a Submission on the motion to dissolve signed by J. Johnson Esq. -but the Chancellor does not recollect that they were laid before him until the present Term.

[p2>] There is at present ni submission of the Case for final decree on the part of Blake and Chew

But William E. Hungerford was made a defendant to the Bill and an account of the Personal Estate was prayed by the complainant -and He has not appeared.

The Chancellor has no hesitation in declaring his opinion that the complainant is entitled to Stand in the place of the Creditors who may have exhausted the Personal Estate in whole or in part -but the defendant Dorcas Bourne being interested in the real Estate that interest may be affected by the Manner in which the Personal Estate was administered. Her Testimony taken under the Commission might have been taken better to The Orphans Court which has power on the Subject under the Testimony Law Sect. 8 - as to the effect that it may have on the Hearing no opinion is now cofessed.

This Case not being ready for decree it will not with the Parties whether to proceed in it, or to have the Claim of the Complainnant devised by the Judge who will have to act on the Chancellors Petition for a sale.

W. Kilty , Ch.

Chancery Papers: Elizabeth S. Fitzhugh vs. John R. Plater

filed July 1, 1819 (MdHR17,898-1845-1/2; MSA S 512-1912)

"To the Honorable William Kilty Chancellor of the State of Maryland

Humbly complaining to your Honor Sheweth your orator Elizabth S. Fitzhugh of Baltimore former Elizabeth S. Parran of Calvert County in this State, that by the Death of her father, She and two sisters, who are now deceased were left his coheirs & ~~~ of all the real estate of which he was ~~ & possessed at the time of his Death her father having died intestate and leaving no other children- That in consequence of the Division, which took place between herself and her two sisters, of the real estate , which so descended to them, and of a subsequent division between her and her surviving sister, after the Death of Sarah Gunn

Said three coparceners, who had married James Gunn and died without children, your orator was possessed of all the real property , which is more particularly described and set forth in a deed, which was thenceforth executed & delivered by a certain John Fitzhugh to John Rousby Plater which will be hereafter exhibited in this Bill of Complaint, And being ~~ and posesseed of said real estate which was of very considerable value, and likewise of a valuable personal estate, consisting of Negroes, Plate, Stock & other articles, which had been delivered over to her by the Administrator of her fathers personal Estate, as her ~~~~~she was given in Marriage , when not more than sixteen years of age by that who had the care of her person to John Fitzhugh of Calvert County, to whom she was at that early age united in the holy bonds of Matrimony --Your Orator. respectfully therewith [p.2>] that in a short time after the said John Fitzhugh in Virtue of that Marriage had possessed himself of all your orators real and personal property through his Imprudences and his Profligacies he wasted and spent every cent of the personal estate of which he was the manager at he time of the said Marriage and that on or about the sixth day of May in the year eighteen hundred and eight ----he Conveyed to the said Defendant Plater all his the said John Fitzhugh's right , Interest and Title in the Lands, of which your orator was passed at the time of his marriage, or at any time after which descended to her in consequence of the Death of her said Father, and also of her said Aunt, who married the said James Gunn and died without issue-- Your Orator further respectfully sheweth, that the said John Fitzhugh had long practised upon her many acts of wanton cruelty and Outality(?) To compel her to join in a conveyance of her In her Home which she so apply refused ~~-which he left the City of Baltimore, where they both were residing - forsook his family entirely , - he took himself to Calvert County, where he took up her residence with the permission and consent of said John Rousby Plater- hath resided there ever since , and yet resides there. This complainant further saith that from the time said John Fitzhugh thus left her and forsook his family She has not been supplied with any means of any kind from the said John Fitzhugh towards the support of herself and family - nor hath she been

furnished with, or received from, her said Lands or Estate or the proceeds thereof, any thing whatsoever towards the support of her self and her family, ever since that passed; And that being thus left destitute and reduced to extreme Distress, She was obliged to apply to the Legislature of this state at their last session for relief: at which session they passed in her favor an act of assembly an attached copy of which your orator files here with, and prays that the same should be taken as part of this Bill of [p.3>] complaint.

Your orator further shews, that the said Deed from the said John Fitzhugh to the said Plater was executed in the day of [Blank] in the year of our Lord sixteen hundred and eight--of which she exhibits a copy and prays the same to be received as part of this her Bill and on face of it appears to be an absolute conveyance for a valuable compensation in money actually paid by the said Plater to the said Fitzhugh. Whereas the said Plater hath acknowledged in writing, that he did not pay to the said John Fitzhugh any sum of money for the same; and that the same was not intend to be an absolute Conveyance, but was executed by the said John Fitzhugh to him the said Plater, for the purpose of assigning to him the said Plater a sum of money of some few thousand Dollars amount, which he pretends the said Fitzhugh was at the time and assessed to him, and for no other purpose your orator further shews, that the said John Fitzhugh as the Uncle by half blood of the said Plater, the Mother of the said Plater being the half Sister of said John Fitzhugh; and that she doth not believe that the said Plater hath any just debt due him from the said John Fitzhugh, but that , upon an Investigation of all transactions between him the said Plater is justly indebted to said John Fitzhugh, as she believes, that the said John Fitzhugh had in the early part of said Platers life advanced for him or supplied him with large sums of money.- Your orator further shews that since the time of said Conveyance form John Fitzhugh aforesaid to said Plater, the said Lands belonging to your orators which were cleared lands fit for cultivation, have been [p.4 >] in a constant state of Cultivation, either by said Plater or by those he has suffered to cultivate them, and that they have been cultivated in such an improper manner in such a course of husbandry as hath been very prejudicial to the Estate of Inheritance in the lands belonging to your orator on the D[smudge] of said John Fitzhugh, and the said Plater, as having a life Estate in the Land, is not legally entitled to cut wood or Timber Thereon, except for the necessary use of the place the farms and plantations, of which it is composed, and the Buildings thereon; yet the said Plater hath permitted Large Quantities of Wood & Timber to be cut, sold and carried to market, which grow upon the land; and great waste to be done therein to the great injury of your Orator, who had & yet has the Estate of Inheritance in the said Land. Your Orator further shews that her family consists of herself and an only Daughter, who is the cousin of the said Plater in the first degree, she and said Plater being Brother and Sister children, and at least confers as (much Honor upon, as She can increased (?) From, her said relation, yet , altho with and having obtained an act in her favor from the last legislature your orator and her Daughter, his truly respectable cousin, who he had for years had no resources, with which presume her making wearing aparell, but by the labor of her hands, which have been destitute of every means of support, the said Plater cruelly and ungenerously opposed the Petition, and endeavored to prevent her

obtaining the Relief she Sought for, - visited your Orator endeavoring to dissuade and discourage her from her filing; and when he failed in his object, he left her to go to Annapolis avowedly to escort exort himself against her. In addition to which thereon of said Plater, then a representative in the House of Delagates from Calvert County, who has recently been enjoying the Hospitality of your Orator and the Right of afforchanate attending of your Orator's said Daughter, his own relation, at the House of your orator [p.5 >] in Baltimore, Exerted all his influence to defeat your Orator's petition and repeatedly worked against it. Beside which your Orator thus had the Said John Fitzhugh twice after the said Deed was executed by him to the said Plater applied for, and obtained each time, She Beneficial of the insolvent Laws of the State, both of which times he returned a Schd. Utes, Whence he lives that he had improperly real personal, or mixed has done either the knowledge and Riverby of the said George Rousby Plater - your oratrix further says that as in consequence of that Deed being in appearance an absolute deed to said Plater whereby he was deprived of appealing to the laws of her cunty to obtain any support from siad property her husband not appearing to have any interest in it during his life, but to have wholly conveyed all his interest to said Plater: and as the said Plater who fallist by your Oratrix in her debt situation, refused to suffer her to have some wood cut on her plantation and transported to Baltimore to supply her in the winter, while at the same time he was suffering the said John John Fitzhugh [unreadable phrase], and make use of them as his own for his own Benefit she can not and believing that the said Plater combined with the said John Fitzhugh to oppress and persecute your Oratrix, and took that Deed from the said Fitzhugh for life hoping that from the accumulated Debt or as with which his own conduct assisted in overwelming your oratrix she might be compelled to make over Lands for a trifle, The Inheritance of the lands to him the said Plater whereby he would acquire the absolute Estate In a most valuable plantation to the great injury of your Oratrix and the descendt of her children her near relatives; However what ever may have been the nature of the Infraction or the indiscretion of the partner there to your oratrix is willing and ~~ to come to an account and settlement with the [p.6] said John Rousby Plater and if there is anything due to the said Plater from the said John Fitzhugh she is ready and willing to pay & discharge the amount upon the said Lands being by the said Plater reconveyed to her But the said Plater refuses to comply with this her reasonable proposal and claims under the said deed to hold the same in his possession and avail himself of that legal title which he at present the same, to deprive your Oratrix there of and to suffer the said property to be wasted and spoiled in such manner as daily to become greatly depressed in value...

[p.10>] ...and your oratrix will ever pray.

William Pinkney
William Martin
for Orat.

HUNGERFORD et al. PETITION IN CHANCERY 12, Jan 1830

(MDHR 17898, box 2290/ file 11)

[Location Deck:1 range 36, Sect.: 02, Container 52]

"To the Honorable Theoderick Bland Chancellor of Maryland--

The petiiton of Jesse Hungerford Thomas B. Hungerford William E. Hungerford Elizabeth Hungerford-James Pattison and Eleanor his wife Samuel Turner and Sarah his wife and Mary Ireland respectfully sheweth that on the 2nd day of November 1807 a certain Eleanor Hungerford filed a bill in this Honorable Court against Dorcas Bourne and Elizabeth Bourne as heirs at law of Thomas Borne in which she alleged that the said Thomas Bourne by his last will and testament had bequeathed to her the said Eleanor Hungerford all his personal property that the said personal property amounting to a large sum of money was exhausted in the payment of the debts of the said Thomas Bourne and praying that the real property of of the said Thomas Bourne might be sold to reimburse her - Your petitioners further shew that the the said Eleanor Hungerford departed this life soon thereafter that letters of admiinistration were granted by the Orphans Court of Calvert County on the estate of the said Eleanor Hungerford to your petitioners Samuel Turner and William E. Hungerford that the said administrators filed their bill of revision in the aforesaid case and that in July 1816 a decree was passed for the sale of so much land of the said Thomas Bourne as may not have been sold that Thomas Wilkinson was appointed trustee for the sale of the aforesaid land that on the 22nd day of November 1816 the Trustee reported that he had sold the said land to Benedict Stewart for the sum of fourteen thousand and ninety three dollars and sixty two cents and that the said Stewart had given bond for payment of said sum payable on the 22nd of October 1817 with interest from the 22nd of October 1816 and that on the 22nd of Februaury 1829 the sale of the said land was ratified and confirmed all of which will more fully appear by reference to the proceedings in the said cause which your petitioners [p.2>] pray may be taken and considered as part of their petition. Your petitioners further show that persiding the said case a certain William Kilty on behalf of himself and other creditors of Thomas Bourne filed his bill in your Honorable Court alleging the insufficiencies of the personal estate of the said Thomas Bourne to pay his debts and praying a decree for the sale of his real estate or a part there of that in September 1815 a part of the real estate of Thomas Bourne was decreed to be sold that Thomas H. Wilkenson was appointed Trustee who reported that he had sold one parcel of the aforesaid property to a certain [BLANK] Pattison for the sum of twenty seven hundred and nineteen dolars with interest from the 115th of January 1816 and another parcel to a certain William Hungerford for the sum of three thousand six hundred and forty dollars with interest from the 15th of January 1816 and that the said sales have been ratifiedas will appear by reference to the proceedings in the last mentioned cause which they pray may be taken and considered as part of this petition -

- Your petitioners further state that said Eleanor Hungerford made her last will and testament on or about the seventh day of April 1811 (a copy of which is herewith filed) and soon there after departed this life by which said will the said Eleanor Hungerford bequeathed among other things two third part of the residue of her estate after payment of her debts to your petitioners Jesse Hungerford and the other third to be divided among the rest of her children who are your petitioners Thomas B. Hungerford, William E. Hungerford, Elizabeth Hungerford, Eleanor the wife of James J. Pattison and Sarah the wife of Samuel Turner and Mary Ireland --

Your petitioners further state that it is alleged in the will of said Eleanor Hungerford she was the sister of the said Thomas Bourne and that Dorcas Bourne and Elizabeth Bourne were the daughters of a deceased brother of the said Thomas Bourne -- Your petitioners [p.3>] further state that your petitioners interests as devisers under the will of said Eleanor Hungerford are not bound by decrees in the said case but they are willing and hereby submit to the said decrees on condition that they may be admitted to a distribution of the funds created by the sales under said decree-- Your petitioners further shew that after payment of the debts of the said Thomas Borne and the claim of the administrators of the said Eleanor Hungerford of which your petitioners Jesse Hungerford is entitled to two third parts and your petitioners Jesse Hungerford is entitled to two third parts and other petitioners to the other third part there will be a large balance in the hands of the trustee which your petitioners allege should be divided in the following manner one half to John Parran and Dorcas his wife and the other half to your petitioners in the prportion of two thirds to your petitioners Jesse Hungerford and the other third equally among your other petitioners - your petitioners pray your honor to pass an order directing the said Thomas H. Wilkinson and the said John Parran and Dorcas his wife to appear in this court by a certain date to show cause if any they have why the balance which may be in the hands of the said Thomas Wilkinson should not be distributed and divided in the manner above mentioned ~

John Pinkney		for
A.H. Dorsey		pet ^{rs} .

Exhibit A

[see 1811- Eleanor Hungerford Will above]