

(Copy)

## Case

Hugh Kirkpatrick of the Island of Jamaica Esquire by Indenture bearing date the 13<sup>th</sup> day of July in the Year of our Lord 1713 Reciting /inter alia/ That King George the Second by Letters patent dated the 15<sup>th</sup> March 1720 did Give and Grant unto John Chambers of the parish of Westmoreland and Island aforesaid Planter Two hundred and fifty three Acres of Land Lying butting and bounding as is therein particularly mentioned and described And also reciting that the said Lands were afterwards by a certain Instrument of Writing bearing date the 16<sup>th</sup> day of February 1734 Conveyed and Assigned over by John Chambers of the parish of Westmoreland Planter Son of the above John Chambers and Sarah his wife to the said Hugh Kirkpatrick He the said Hugh Kirkpatrick for the Consideration of the Sum of £1777. - - - did give

Grant bargain sell alien Enfeoff Release Convey assign over Confirm unto James Dawes Esquire his Heirs and Assignees for ever The said piece or parcel of Land together with another piece of Land therein mentioned To Hold the said two pieces or parcels of Land to him the said James Dawes his Heirs and Assigns for ever more to the only proper Use and behoof of the said James Dawes his Heirs and Assigns for ever more. And the said Indenture contains the following Covenant.

And the said Hugh Kirkpatrick his Heirs and Assigns the said two pieces and parcels of Land and premises with all its Appurtenances aforesaid to the said James Dawes his Heirs and Assigns Against Him the said Hugh Kirkpatrick his Heirs and Assigns And every

Of them and also Against every other person or persons claim-  
ing or to claim by from or under them or either of them and  
Against every other person or persons that shall or may at  
any time hereafter have or pretend to have any Right Title  
Interest or Claim in or to the said two pieces or parcels of  
Land or any part thereof shall and will forever warrant  
and Defend by these presents free and clear of all manner  
of Incumbrances whatsoever except such Rent or Services as  
are or shall hereafter become due to our Sovereign Lord  
his Heirs and Successors — This Deed is properly proved  
and Recorded —

Hugh Kirkpatrick sometime after  
the Execution of the above recited Indenture died  
Intestate leaving Issue Two Daughters — One of  
the said Daughters sometime afterwards died unmarried  
and Intestate and the other of them Intermarried with  
Thomas Hall of the parish of Hannover Esquire who in  
her Right possessed himself of Hugh Kirkpatrick's  
Real and Personal Estate to a very considerable amount

Mr. Hall and his  
Lady being dead Hugh Kirkpatrick Hall their  
Elders son and Heir is now in possession of his said  
Grandfathers Real Estate as Heir at Law to his  
Mother —

Thomas Hall before his death  
made his Will and after giving certain parts of his  
Real Estate to his three Sons therein named he Devises  
all the Rest Residue and Remainder to his Eldest Son

The said Hugh Kirkpatrick Hall and those appointed  
Executors &c; —

The said James Dawes died sometime  
in the year 1748 leaving four Sons named William  
James John and Joseph to whom by his Will he  
devised all the Rest Residue and Remainder of his Estate  
both real and personal share and share alike and to the  
Surviver or Survivors of them —

The said William and Joseph Dawes died  
without Issue and Intestate so that the whole of the Estate  
vested in the said James and John Dawes —

James Dawes the Testator and  
his Devisees continued in the quiet and peaceable possession  
of the said Lands from the date of the said Indenture  
until May Grand Court 1772 when the said parcel  
of Land first mentioned was recovered from them by an  
Action of Ejectment brought at the suit of Thomas  
Chambers of the parish of Saint Elizabeth under the  
following Title —

The said John Chambers the  
Patentee and Father of John who conveyed to Kirk-  
patrick died sometime in the year of our Lord 1723  
leaving two Sons John and Ephraim and sometime  
before his Death made and published his Last  
Will and Testament whereby he gives to his second  
son Ephraim all that parcel of Land containing  
Two Hundred and Fifty three Acres being part and  
parcel of Three Hundred Acres Comprised within one

Patent granted to Himself dated 11<sup>th</sup> day of May 1721  
situated on the North side of the parish of Westmoreland  
and on the Green Island River, bounded North on Land  
lately patented by Rich<sup>d</sup>. Chambers And on Green Island  
River East on Mountain and Rocks unsurveyed and last  
on Land formerly patented by George Fawcett Esq<sup>r</sup>.

The said Will  
remained in the Custody of John the Son and John his  
Son And Grandson of John the Patentee without the  
Knowledge of Ephraim or any other person until  
the Month of October 1770 when it was accidentally  
discovered by Thomas Chambers the Eldest Son and  
Heir at Law of Ephraim

John the Son as Heir at Law to his  
Father John the Patentee Immediately on his Fathers  
decease Among others possessed himself of the above  
parcel of Land 25<sup>3</sup> Acres And which He afterwards  
sold to Hugh Kirkpatrick in manner above mentioned  
Ephraim Chambers

Died sometime in the Year 1759 Leaving Three Sons Thomas  
John and Ephraim and having before his death duly made  
his Last Will and Testament He thereby Gave and  
devised All the rest Residue and Remainder of his Estate  
Real and personal to his Three Sons Thomas John and Ephraim,  
to be equally divided Between them Share and Share alike  
Ephraim the Son died in:

: testate and without Issue sometime in the Year 1760. All  
the Witnesses to the Execution of the said Will of John the  
Patentee being dead before the Will was discovered the said

Thomas Chambers and John the surviving Sons and  
Devises of the said Ephraim Chambers filed a Bill against  
John Chambers the Son and Heir at Law of John who sold the  
Land to Markpatrick And against his Sister Mrs Cook praying  
that they might be at Liberty to prove the Execution of the  
said Will by proving the hand Writings of the Witnesses  
therein And of the Testator And upon such proof thereof being  
brought the Will was Established by the Chancellor

John Chambers the Son of Ephraim,  
by Indenture bearing date the 1<sup>st</sup> May 1772 Reciting  
the Will of Ephraim the Father And also Reciting that  
by the Death of Ephraim the Son the whole of the Estate  
devised by their Fathers Will vested in him the said John  
Chambers And his Brother Thomas Did for the Consideration  
therein mentioned Grant Release and Convey all his Right  
Title and Interest of in and to the said 253 Acres of Land unto  
the said Thomas Chambers his Heirs and Assigns To  
Hold to him his Heirs and Assigns for ever

Thomas being thus seized of the whole  
of the 253 Acres caused an Action in Ejectment to be  
brought for the same the Defence of which was taken in  
the Names of the said James and John Dawes

The Defendants upon  
scrutinizing the Title &c. were advised as we understand  
by their Counsel that they would not be able to support  
their Title to the Land in Question Against the Plaintiff  
And having planted the Land in Cane and as they alledge  
erected some part of their Works thereon the same had become

Of Great Value and Absolutely necessary for their Estate  
They therefore for fear of running a  
Risque of Losing this Land altogether on the Plaintiffs  
Recovery and being advised as we believe they really were  
by their Counsel that it would be Impossible to support  
their Title upon Tryal. Agreed previous to the Coming on  
of the Action with Mr. Chambers for the purchase of  
this Land at the sum of £1500 Jamaica Currency And  
then suffered the Plaintiff to give Evidence of his Title to  
the Court And a Verdict to go without Argument  
This is the Fact as to the manner of Recovery of the Land

Chambers and this made and Executed a  
Deed of Conveyance to Messrs. Dawes Accordingly

And under those Circumstances they  
have made a Demand upon the said Hugh Kirkpatrick  
Mall the Heir at Law in Right of his Mother of the said  
Hugh Kirkpatrick the Original Vendor for the Refund  
of this Money so paid to Chambers

You will therefore be pleased to Consider  
whether under the Title and Circumstances  
above stated Mr. Mall be liable to refund  
this Money to the said James and John Dawes  
Esquires and if with Interest or otherwise And  
to Advise him how to Act Accordingly?

N. B. Should you think Mr. Dawes  
could more properly have a Right of Action ag.  
the Personal Representatives of the Vendor on the  
above Warranty than against Mr. Mall the  
Heir at Law. All that distinction will be  
of no Consequence to him seeing the Recovery  
of Mr. Dawes if such should be the Event  
must fall upon Mr. Mall ultimately.

Answer

Am of Opinion that under the Title and Circumstances above stated Mr. Hall is liable as Heir at Law of the said Hugh Kirkpatrick to Refund the Monies paid to Chambers by Mr. Dawes together with the interest thereon from the Time of payment. I think Mr. Dawes would moreover Recover the Costs and Expences He and his Brother were put to in the Ejectment. I therefore advise Mr. Hall to settle on the best Terms He can I am satisfied that Mr. John and Mr. James Dawes were well advised in their Conduct under the Ejectment whether They or Mr. Hall, should be ultimately affected; for the Title of Chambers was clear and not barred by the Act of Limitation in this Country or in England; for the time could only be said to run by the Act and suppression of the Person under whom Hugh Kirkpatrick claimed And the title was pursued by Chambers as soon as it was known to accrue And whatever Steps were prudent on the part of Mr. John and James Dawes and tended to lessen their Loss must in the Event be equally Beneficial to Mr. Hall. — Tho. Harrison

It might have been thought prudent for Mr. Dawes to Compromise the Matter as the Land was so much Improved, And so exceedingly valuable to him, and the Sum demanded so moderate; even if Mr. Dawes was to pay out of his own pocket and not recover any part from Mr. Hall — But Tho' compromised I think it very probable that Mr. Dawes would by a proper Action recover from Mr. Hall what He paid And the Interest from that

Time And therefore Advise Him to settle on the best  
Terms He can get. — I suppose Mr. Hall has now  
in his hands real Assets by Descent, to the Amount  
of what Mr. Dawes paid; for on this Supposition  
I gave my Opinion — Richard Welch,  
Copy —

Copy  
Case

Collectors papers  
of Rev. Mr. Welch

Allen

# Hall Family Papers and Sugar Plantation Records

1709 - 1892

MSS.0220

Oversize: FB-226-25

**LEGAL DOCUMENTS - Cases with Legal Opinions - Hugh Kirkpatrick of the Island of Jamaica Esquire, [After 1772]**



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