

Defendants By Original Bill

And Between Richard Hanbury Gurney Plaintiff

Elizabeth Lucy Birkbeck Henry Birkbeck & John Henry Gurney Defendants by Supplemental Bill

Upon Motion this day made unto this Court by Mr Prior Counsel for John Henry Gurney it was alleged that by the Decree of Foreclosure made in these Causes dated the **19th day of March 1851** it was referred to the Master to take the Mortgage Accounts therein mentioned with successful redemptions as by the said Decree will appear that various proceedings have been made under the said Decree and by an Order dated the **29th**

[3]

day of July 1853 It was ordered that the said Defendants John Benjamin Heath John Druce Ellen Yatman William Hamilton Yatman should pay the sum of Thirty nine thousand three hundred and ninety five pounds sixteen shillings and four pence the amount due to the Plaintiff for principal Interest and Costs on his Mortgage of the **16th and 17th days of November 1824** up to the **19th day of July 1853** to the said Plaintiff at the Chapel of the Rolls in Chancery Lane London on **Monday the 29th day of August 1853** between the hours of eleven and twelve o'clock in the forenoon and in default of such payment It was Ordered that the said Defendants should stand foreclosed according to the said Decree dated the **19th day of March 1851** and in default of such payment by the last named Defendants It was Ordered that the Defendants Anthony George Wright Biddulph John Wright Dominic John

[4]

Corrigan Henry Robinson Edmund William Jerningham Margaret Campbell Mary Campbell Clare Campbell and Henry Campbell and Henry Burton and Robert Burton John Bartlett Anthony John Wright Biddulph Vincent Eyre Thomas Barnewall William Blount Charles Weld Michael Ellison George Charlewood Edward Edwards and the said John Wright and Edmund William Jerningham as their Trustees should pay the sum of thirty nine thousand three hundred and ninety five pounds sixteen shillings and four pence to the said Plaintiff at the Chapel of the Rolls aforesaid on Thursday the **29th day of September 1853** between the hours of eleven and twelve o'clock in the forenoon and in default of such payment It was ordered that the said Defendants Sir George Duckett George Floyd

[5]

Duckett and Isabella his wife George Burrard and Isabella his wife Sir Henry Pottinger Walter Warde William Alexander MacKinnon the younger should pay the sum of Thirty nine thousand three hundred and ninety five pounds sixteen shillings and four pence to the said Plaintiff at the said Chapel of the Rolls on **Thursday the 29th day of December 1853** between the hours of eleven and twelve o'clock in the forenoon and in default of such payment Ordered that the said last named Defendants should stand foreclosed according to the said Decree the Plaintiff appropriating the monies received by him for Tolls and otherwise in respect of the Mortgaged premises after the said **19th of July** towards the payment of the subsequently accruing Interest and if the sums so received should be less than the subsequently accruing interest waive all claim to the balance of such interest That by an Order of the **2nd day of November**

[6]

1853 It was ordered that the Defendants John Benjamin Heath John Druce Ellen Yatman William Hamilton Yatman and also the Defendants Anthony George Wright Biddulph John Wright Dominic John Corrigan Henry Robinson Edmund William Jerningham Margaret Campbell Mary Campbell Clare Campbell and Henry Campbell and Henry Burton Robert Burton John Bartlett Anthony John Wright Biddulph Vincent Eyre Thomas Barnewall William Blount Charles Weld Michael Ellison George Charlewood Edward Edwards and the said John Wright and Edmund William Jerningham as their Trustees should severally stand absolutely debarred and foreclosed of and from all right title Interest and Equity of Redemption of in and to the premises comprised in the Indenture of Mortgage dated the **16th and 17th days of November 1824** That the interest of all parties in the property in question in the Suits except the Plaintiff and the Interest of the Defendants Sir George Duckett George Floyd Duckett and

[7]

Isabella his wife Sir Henry Pottinger Walter Warde William Alexander MacKinnon Elizabeth Lucy Birkbeck and Henry Birkbeck have had by reason of the last therein mentioned Order of the **2nd day of November 1853** ceased and determined that on the **29th Day of December 1853** the Plaintiff (since deceased) by his Attorney duly authorized under a power of Attorney dated the **11th day of December 1852** duly attended at the said Chapel of the Rolls between the said hours of eleven and twelve o'clock in the forenoon but the said last mentioned Defendants or any of them did not nor did any one on their or any of their behalf attend or pay to him the sum of Thirty nine thousand three hundred and ninety five pounds sixteen shillings and four pence but the same sum still remained due and unpaid **That the said Plaintiff died on the 1st day of January 1854** whereby

[8]

the said Suits became abated That the Mortgage debt in respect of which this Suit were instituted was advanced out of funds which were the partnership property of the Co-Plaintiff and other persons who carried on the business of Bankers in co-partnership and the Mortgages in the pleadings mentioned were taken in the name of the said Co-Plaintiff as a Trustee for the said Partnership and as part of the Capital stock and effects thereof and the said Co-Plaintiff was and up to his death continued a Trustee of the said Mortgage Security for the ~~same Company~~ the said Banking Co-Partnership That the Plaintiff left his Co-Partners him surviving and the Interests of the Co-Plaintiff in such Co-partnership ceased and determined with his death That the Co-Plaintiff made his Will dated the **8th day of November 1851** duly executed and attested and thereby appointed the Defendant John Henry Gurney and Sampson Foster and Hudson Gurney Executors of his Will and the said Co-Plaintiff

[9]

thereby gave and devised unto the said John Henry Gurney all such real Estates as were vested in him as a Mortgagee or Trustee either in his own right or as heir at law or otherwise according to his the said Plaintiffs right title and interest therein respectively upon the trusts and for the intents and purposes for which the same respectively were held by him That the said Will was duly proved in the Prerogative Court of Canterbury being the proper

Eccliaſtical Court on the **18th day of February 1854** by the ſaid John Henry Gurney and Sampſon Foſter only That by the means aforeſaid the ſaid John Henry Gurney was as ſuch Deviſee and Executor as aforeſaid entitled to revive the ſaid Suits and to proſecute them as Co-Plaintiff The ſaid John Henry Gurney therefore prayed And this Court did accordingly Order that the ſaid Suit and Proceedings might be revived by the ſd. John Henry Gurney againſt the ſaid Samſon Foſter and Hudson Gurney as Executors of the ſaid

[10]

Richard Hanbury Gurney and the ſaid Defendants Sir George Duckett George Floyd Duckett and Isabella his wife Sir George Burrard and Isabella his wife Sir Henry Pottinger Walter Warde William Alexander MacKinnon Elizabeth Lucy Birkbeck and Henry Birkbeck and be in the ſame plight and condition they were in at the time of the ſaid abatement and that the ſaid Decree made on the hearing of the ſaid original and Supplemental ſuits dated the **19th day of March 1851** and the ſaid Order of the **29th day of July 1853** be carried on and proſecuted by and between the ſaid John Henry Gurney Plaintiff and the ſaid Sampſon Foſter Hudson Gurney Sir George Duckett George Floyd Duckett and Isabella his wife Sir George Burrard and Isabella his wife Sir Henry Pottinger Walter Warde William Alexander MacKinnon Elizabeth Lucy Birkbeck and Henry Birkbeck in the like manner as thereby ordered between the parties to the ſaid original and supplemental ſuits

EwdEA