

1794-040

Chancery Papers: Barnes v al vs Barnes, widow

3/1794

Southampton County

Other SURNAMES: ROBERTSON

Barnes v. Bill  
Barnes ) imp.

March 1794 interlocutory  
decre.

To the worshipful Court of Low Hampton County  
in Chancery sitting, humbly complaining, shew unto  
your Honorships your orators John Barnes & Cordell  
Barnes, by John Robertson his next friend - That  
Nathan Barnes of this County departed his life  
some time about the day of anno dom.  
being seized, in his life time, & at the time of his death,  
of a considerable estate in lands, & leaving your  
Orators his children, & Martha Barnes his widow.  
Nathan Barnes left his last will which has  
been duly proved & recorded in this Court; by which  
will he devised one third part of his lands to his said  
Widow, during her life, & the remainder to be equal-  
ly divided between your Orators, as will appear  
by the said will - The said Martha Barnes has re-  
ceived divers other property, as devised by the said will  
has made her election to stand to & abide by the  
said will of the said Nathan for party her husband.  
Notwithstanding the premises, the said widow has in-  
sisted herself of the whole of the said lands, & refuses  
to make partition of the said lands pursuant to the  
will aforesaid; which proceeding your Orators con-  
ceive to be contrary to equity & good conscience. In  
tender consideration whereof, & forasmuch as your Or-  
ators are properly relievable in a Court of Chancery

To the end, therefore, that the said Martha may, upon oath, full & true answer make to the allegations in this bill contained - but especially - Did not Nathan Barnes depart his life some time about the day of ~~and~~ ~~son~~ ~~son~~? Was he not in his life time, & at the time of his death, seized of a considerable estate in land, & did he not leave your Petors, his children, & Martha Barnes his widow? Did not the said Nathan leave his last will which has been duly proved & recorded in this Court; by which will he devised one third part of his lands to his said widow Martha during her life, & the remainder to be equally divided between your Petors? Did not the said Martha receive divers properties, other than lands, devised by the said will, & make her election to abide by the said will? Did she not possess herself of the whole of the said lands, & refused to make partition pursuant to the said will, & that the Court will appoint proper persons to make partition of the said lands pursuant to the said will, and make such other or further decree for the relief of your Petors as may be equitable. May it be.

The answer of Martha Barnes to the bill of complaint exhibited against her in the worshipful Court of Sessions in the County of York by John Barnes & Cordell Barnes her next friend.

This respondent for answer to the said bill says that true it is Nathan Barnes died having been in his life time, & being at the time of his death, seized of a considerable estate in lands, & leaving the complainants his children, & this respondent his widow. Nathan Barnes left his last will which has been duly proved & recorded in this Court; by which will he devised one third part of his lands to this defendant, during her life, & the residue to be equally divided between the complainants - This respondent has received property (other than lands) devised by the said will, & has declared her willingness & intention to abide by the said will. It is true that this respondent has possession of the lands; but she has never refused to deliver them, & partition thereof might be made pursuant to the said will; & she now only waits the order of this worshipful Court for that purpose - She prays to be hence dismissed &c.

C. Taylor