

1858-008 SOUTHAMPTON COUNTY
CHANCERY PAPERS

GRANT and Wife vs. MYRICK et al

5/1858

other surnames: Miller,
Bailey, Oliver, Randall,
Spratley, Nicholson, Barham
Holt Simmons Barnes,
Bendall, Crump, Pope,
Mallory, Malley,

36 # 25. 19

Grant & wife

~ } Papers.

Myrick & Co.

Grant wife
2 } Stat: Rules

Myrick's father

Spa. Cont.

Coke	9	13	44
Shiff.		6	60
Wet		18	14
Comm.		1	50
Sum 12		16	50
	9	5	618

In Southampton Circuit Court.

Elisha Grant & Mary Grant his wife

Plffs.

against

Owen G. Myrick and John Myrick, Robert Myrick, and David Myrick, Cadmus Lanson Bailey and Elizabeth his wife, Skipwith Oliver, Richard Wendall and Lucy his wife, William H. Spradley both as heir at law and as curator of Nancy Miller, John Spradley and Jas. E. Nicholson & Anne his wife

Defts

1856 Jan'y 22^d. Sum. issued retble. to March Rules.

" Mar. R. Sum. ret. Ex. on Owen G. Myrick, Cadmus L. Bailey & wife, Richard Wendall & wife, Wm H. Spradley, & Jas. E. Nicholson & wife, John, Robert & David Myrick, Skipwith Oliver, & John Spradley not residents &c. - Bill filed - Dece. nisi to Dfts on whom process Ex. - Or. sub. to Dfts John, Robert & David Myrick, Skipwith Oliver & John Spradley -

" Apr. 7th, Bill taken for confessed as to Dfts. Owen G. Myrick, Cadmus L. Bailey & wife, Rich. Wendall & wife, Jas. E. Nicholson & wife, & Wm H. Spradley.

" " 28th, Baker James assigned Gen. ad litem to Dfts. John, Robert, & David Myrick - Ans. of infants. G. Rep. - Cause set for hearing as to Dfts. Owen G. Myrick, Bailey & wife, Wendall & wife, Wm H. Spradley & Nicholson & wife on bill &c. and as to Infant Dfts on their ans. &c.

" Aug. 20th Amended bill process issued.

" Sept. R. Sum. ret. Ex. on O. G. Myrick, Richard Wendall & wife, Oliver P. & Robert T. Wendall, Nancy Myrick admx. &c. Cadmus L. Bailey & wife, Wm H. Spradley, & John E. Nicholson & wife. Dece. nisi to Dfts. on whom process issued -

" Oct. R. - L. R. Edwards assigned gen. ad litem to infant Dfts. Francis M. Edoligo, James R. Solomon M. Lewis A. Edward P. & Benj. M. Bailey & Julia F. Lucy J. Isaac G. Wm P. Edward F. Rosa, & Richard A. Wendall, & Anna H. Benj. O. Robert W. Mary W. Charles H. & Alonzo M. Simmons, & Henry L. Mary Anne, Nathaniel T. Francis E. Solomon C. & Lucy J. Myrick - Answers of infants filed Gen. Rep. Bill taken for confessed as to Dfts. O. G. Myrick, Rich. Wendall & wife, Wm H. Spradley, & John E. Nicholson & wife, Nancy Myrick adx. Cadmus L. Bailey & wife, & Oliver P. & Robert T. Wendall

" Nov. R. Cause set for hearing &c.
I. Ans. to Dece.

1857 May 9. Jury. Juror withdrawn + case cont.

1858 May 11. Jury Verdict for Dft. + Deora. Depy bde 1.

Grant and wife
is } Bill
Myrick & co

1856 March Rules

1896 words.

To The Honorable Richard B. Baker judge of The circuit
court of Southampton County in Chancery sitting

Humbly complaining your orator Elisha Grant
and Mary Grant his wife shew unto your Honor, That Mrs
Nancy Miller of the county of Southampton, both at the time
of making her will and at the time of her death possessed
of considerable estate both real and personal in fee simple
and being of a sound mind and memory and understanding
duly made and published her last will and Testament
which was executed in the manner necessary to pass real
and personal estate sometime about the year 1844
which was substantially as follows

I Nancy Miller of the county of Southampton and state
do hereby make and ordain this my last will and Testament
revoking all former wills by me made in the manner and
form following to wit

First I deem and wish my executors hereafter named as soon
after my death as may seem to them practicable see the whole
of my perishable estate and out of the monies arising therefrom
pay all my just debts and funeral expenses

Secondly I give to my nephew Benjamin A Myrick the whole
of my land and estate except and save the dwelling house
kitchen, smokehouse garden & yard as now vailed in, where
I now live, also the following negro slaves to wit, Ben
Jordan, Anne, Isaac, Mary, Caroline and child Frank and
their future increase to him and his heirs forever, with
this proviso that the said Benj^r A Myrick is to support
his father Lewis Myrick decently during his natural life

Thirdly I give to my niece Louisa Holt the dwelling house
kitchen, smokehouse, garden and yard as at present vailed in
where I now live and the following negro slaves to wit, woman
Winney and sons Isaac and George and their future increase
to her and her heirs forever

Fourthly I give to Elizabeth Holt and ~~Mary~~ Mary Holt daughters of Louisa Holt the following negro slaves to wit, Isaac, Robert, Louisa, Cornelia and Elizabeth and their future increase to be equally divided between them, to them and their heirs forever

Fifthly I wish and desire my executors to live out yearly the following negroes and their increase say Abby, Susan, Lewis, David, Moses, Louisa & Anthony for the benefit and support of Elizabeth Wendell the wife of Richard Wendell and her children and the monies arising therefrom after paying all necessary expenses I wish paid over yearly to the said Elizabeth Wendell during her natural life and at her death I give the same negroes and future increase to her then living children to be equally divided between them to them and their heirs forever

Sixthly I wish and desire my executors to live out yearly the following negroes and their future increase say Betty, Silva, Henry, Patsy and Joseph for the benefit and support of Martha Simmons the wife of Thomas Simmons and her children and the amount that may be in their hands after deducting all necessary charges, I wish them to pay over yearly to the said Martha Simmons, and at her death I give the said negroes and their future increase to the then living children of the said Martha Simmons to be equally divided between them, to them and their heirs forever

Seventhly I wish my executors to live out yearly the following negroes and their future increase say Christopher, Sarah, Harrison, William and Chancy for the benefit and support of Elizabeth Bailey the wife of Lawson Bailey and her children after a deduction of expenses &c I wish the balance paid over yearly to the said Elizabeth Bailey and at her death, I give the same negroes and their future increase to her then living children to them and their heirs forever

Eighthly I give to John Myrick the son of Joshua Myrick and his brother and half brother whose names I

know not the following negro slaves to wit and their future increase say Oppus, Martha, Julia, John, Benjamin and Nancy to be equally divided between them to them and their heirs forever

Ninthly I give to my niece Mary Grant the wife of Blake Grant the following negroes and their future increase to wit Isham, Eliza, William, Chancy and Annis to her and her heirs forever

Tenthly I give all the remainder of my estate of every kind

not herebefore disposed of to my nephew Benjamin C Myrick and my niece Louisa Holt to be equally divided between them to them and their heirs forever

Lastly I ~~solely~~ constitute and appoint

Before going into a statement of the destination of this will which ^{you} orators will presently charge and state your orators show unto your Honor that Nancy Miller was a woman advanced in life that she had been twice married and since childless and a widow, and that her heirs at law are a brother and the descendants of brothers and sisters, there are Aaron J. Myrick a brother John Myrick, Robert Myrick and David Myrick three infants and non residents of this ^{state} children of Joshua Myrick as son of John Myrick a brother of Nancy Miller, Elizabeth Bailey who was Myrick married to Benjamin L Bailey and a ~~young~~ daughter of John Myrick the brother of Nancy Miller, Skipwith Olm a son of Fanny Myrick who was the sister of Nancy Miller and who intermarried with Isaac Olm and both dead leaving the said Skipwith Olm an only child, Lucy Wendell wife of Richard Wendell and only surviving child, of Lucy Olm a sister of Nancy Miller, who married Asa Olm and both are dead leaving the said Lucy their only now surviving child, and Wm B Spratly John Spratly and Ann Nicholson who was a Spratly now married to John B Nicholson brother and sister and grand children of Sally

* who is also a descendant of this stock

Myrick who was a sister of Nancy Miller

Upon an examination of the will as set forth in this bill your Honor will perceive that Nancy Miller in a will drawn with much care has provided for all her heirs at law then living except Skiphith Oliver who had been a man of very large estate who had not only squandered that but had also incurred the deep displeasure of Mrs Miller and long since removed from Virginia somewhere to the Southwest ^{and} the Sprattys grand children of her sister Sally, she knew and saw but little they ever were to do in the world and she never intended giving them anything, but she always intended making the legacies and devises named in her will the objects of her bounty, as has been stated before she was old and childless by thrift and economy she had accumulated a handsome estate mostly in negroes, the legacies named in the will are all good and ready, wanting society she had gathered many of them around her and adopted them as the children of her affections, and she determined to give her property at her death to those who made it most

But Lucy Bendall who is provided for in the will ~~was~~ ~~the~~ ~~named~~ ~~will~~ by the name of Elizabeth (a mistake of the drafterman) and to whom Mrs Miller in her lifetime delivered some of the negroes bequeathed to her by the said will, after ascertaining that her name was not correctly given in the will and also losing by death some of the slaves delivered to her by Mrs Miller became dissatisfied with the provision made for her by the will and desired a change. In the meantime Oliver P Bendall a son of Lucy Bendall was acting as her agent and sometime during the winter of 1854 & 1855 in looking over her books in a trunk or chest where she Mrs Miller kept her valuable papers he found the aforesaid will and ascertaining Mrs Miller that it was of no value because his mother's name was written

Elizabeth instead of Lucy Bendall he took the will away with him and it was never found until after Nancy Miller's death and then in a mutilated condition. Your orator charges that the will set forth substantially in the preceding part of this bill was destroyed and mutilated by either Oliver P Bendall or some one for him, it was neither torn or mutilated when it came into his possession, and when Mrs Miller died and an examination was made of her papers in Oliver P Bendall's presence, when this will was mentioned and he was asked about it he studiously avoided saying anything, he told many tales about, but when at the Septentennial County court of Southampton an application was made by Mr J C Sprattly to qualify as administrator of Nancy Miller on the ground that she had died intestate the said Oliver P Bendall then handed the will into court by the hands of E. W. Mapenburg his attorney with the attesting clause torn off. It is not for your orator to explain but it devolves upon the said Oliver Bendall to show how either he or some one else destroyed this will, this will is now in the clerk's office of the county court of Southampton and mutilated and torn in the way above described and your orator asks that a subpoena duces tecum may be served on the clerk of the county court of Southampton at the proper time to have the said papers at the trial of this cause to ascertain whether it be the last will and testament of Nancy Miller or not

In tender consideration of the fact and inasmuch as your orator is without relief at law and only entitled to relief in a court of equity, where such matters are peculiarly cognizable they therefore humbly pray that George Myrick and John Myrick Robert Myrick and David Myrick their infants by some fit and proper person their guardian ad litem appointed for that purpose, Cadmus Lawson Bailey and Elizabeth his wife Skiphith Oliver, Richard Bendall and Lucy his wife

William G. Spratly both as heir at law and as curator of
Nancy Miller, John Spratly and Jos. E. Nicholson and Anne his
wife heirs at law of Nancy Miller may be made parties
defendant to this bill and compel them as full and perfect
answer on oath to the allegations herein contained as if they had
been examined more fully and specially interrogated, That the
court may by its order restrain Wm G. Spratly the curator from
distributing the estate of Nancy Miller until the question of the
validity of her will be tried, That an issue at law may be
directed to try the validity of the will of Nancy Miller as
above substantially set forth, and if the will shall be found
valid, then that the court would decree to give orators
the legacy herein bequeathed them and that the court would
grant such other and general relief the premises considered
as equity may dictate and the nature of this case may
require and as in duty bound your orators will ever pray we
Shanda J. J.

Grant & wife
is } Amended bill
Myrick &c

1856 August 20th

To the Honorable Richard H. Baker judge of the circuit
court of Southampton county in chancery sitting

Humbly complaining your orators Elisha Grant and
Mary Grant his wife shew unto your honor, that your
orators did on or about the March rules 1836 exhibit their
original bill of complaint in this court against Owen
& Myrick, John Myrick and thus stating that sometime
about the year 1849 Nancy Miller of Southampton county
~~did~~ having first duly made and published her last will
and Testament, and setting forth that paper or will substantially
(as it had been mutilated or destroyed) showing how the
said will left the possession of Nancy Miller prior to her
death, stating who were her heirs at law, and under
what circumstances the mutilated will was brought to
light, all of which is fully and particularly therein stated
and praying that Owen & Myrick and John Myrick
Robert Myrick and David Myrick their infants by some
fit and proper person their guardian ad litem appointed
for that purpose, Cadmus Lawson Bailey and Elizabeth his
wife, Skiffith Olson, Richard Bendall and Lucy his wife
William H. Sprattly both as heirs at law and as curator
of Nancy Miller, John Sprattly and Saml E. Nicholson and
Anne his wife heirs at law of Nancy might be made
parties defendant to the said original bill and compel
them as full and proper answer make to the allegations
therein contained as if they had been thereto sworn
fully and specially interrogated, that the court would by its
order restrain Wm H. Sprattly the curator from distributing
the estate of Nancy Miller until the question of the validity
of her will be tried, that an issue at law may be directed
to try the validity of the will of Nancy Miller as above
substantially set forth, and if the will shall be found
valid, then that court would deem to your orators

* and deposited this bill sometime in the year 1855

The legacy therein bequeathed them, and that the court would grant such other and general relief the premises considered as well more fully appear by reference to the said original bill which is hereby referred to and made a part of this bill and of record in this court

And your orator further shew to your honor that that the said defendants have been served with the process of subpoena and order of publication and have appeared to the said bill but have not yet put in their answers to the said original bill, And your orator further shew unto your honor by way of amendment, that they are advised that it is necessary to make new parties to this said original bill, that not only the heirs at law of Nancy Miller, but also all parties claiming an interest under the will of the said Nancy Miller as legatees or devisees, They are as follows Benjamin C Myrick dead leaving Nancy Myrick his widow and administratrix, and Henry C, Mary A, Nathl. T. Francis C, Solomon C, and Lucy I Myrick his children all infants his heirs at law, Louisa Holt ~~next executrix to~~ ^{Barnes} Elizabeth Holt since married to Nathaniel C Simmons, Mary Holt since married to Charles Barnes, Lucy Bendall wife of Richard Bendall and their children to wit, Robert T Bendall, Oliver P Bendall and Julia F, Lucy I, Isaac I, William P, Edward F, Rosa, and Richard A Bendall the seven last infants Martha Simmons the wife of Thomas Simmons, and their children, Anne H, Benj C, John W, Mary W, Charles H, and Alonzo M Simmons all infants, Elizabeth Bailey ^{wife of} ~~and~~ ^{headman} Lawson Bailey and their children to wit Francis M, Adeline, James R, Solomon M, Lewis A, Edward P, and Benjamin W Bailey all infants, In tender consideration whereof and to the end that all parties may be before the court and justice thereby done, your orator humbly pray that, Owen J Myrick, John Myrick, Robert Myrick and Dana

Myrick their infants, Ladmus L Bailey and Elizabeth his wife and Francis M, Edeline, James R, Solomon M, Lewis A, Edward P, and Benjamin W Bailey seven infants, Skipton Oliver, Richard Bendall and Lucy his wife and Robert T Bendall, Oliver P Bendall and Julia F, Lucy I, Isaac I, William P, Edward F, Rosa and Richard A Bendall seven infants and Thomas Simmons and Martha his wife and Anne H, Benj C, Robert W, Mary W, Charles H, and Alonzo M Simmons six infants, William H Sprattly as curator and him at law, John Sprattly, John E Nicholson and Anne his wife, Nancy Myrick ^{widow} ~~and~~ ^{and} administratrix of Benj C Myrick dead and Henry C, Mary Anne, Nathaniel T, Francis C, Solomon C, and Lucy I Myrick six infants Louisa Holt, Nathaniel C Simmons and Elizabeth his wife Charles Barnes and Louisa his wife, the heirs at law and legatees and devisees of Nancy Miller under the will which your orator seek to establish, may be made parties defendant both to the original and amended bills and that the court will compel them as full and perfect answer make, them of age by themselves and the infants by some fit and proper person their guardians ad litem appointed for that purpose to the allegations contained both in the original and amended bills as if they had been themselves more fully and specially interrogated, that the court may by its order restrain Wm H Sprattly the curator from distributing the estate of Nancy Miller until the question of the validity of the will be tried, that an issue at law may be directed to try the validity of the will of Nancy Miller as substantially set forth in the original bill, and if the said will shall be found valid then that the court would do as to your orator the legacy therein bequeathed them, and that the court would grant such other and general relief the premises considered as equity may dictate and the nature of this case may require and as in duty bound your orator will ever pray we

Shanas J. J.

Mynick's sale
lids 3
gravel & wife

Assent of John, Robert
and David Mynick by
James most friend

received by consent
Wm B Shanks
att'y for plffs

1856 Apr. Rules. 28th

The answer of John Myrick, Robert Myrick and David Myrick three infants of tender years by Baker James their guardian ad litem to a bill in chancery against them and others brought by Elisha Grant and wife

This defendant for answer to the said bill or as much thereof as he is advised it is material for him to answer, answering says that he knows little or nothing of the facts set forth in the bill, and undertakes the interest of his wards to the care of this court whose duty it is to protect the interest of infants and having fully answered prays hence to be dismissed with his costs &c.

Myrick
Accts 3
Grant is wife

Answer of John. Robert,
and David Myrick by me

Received by consent
Wm B Shand
att. for Plaintiff

1856. October Rules

The answer of John Myrick, Robert Myrick
and David Myrick infants by Robert James Their
guardian addition to the amended bill ~~is~~ in
obedience of Eliza Grant is wife of John and
others

This defendant for answer to the said
amended bill or as much thereof as he is advised
it is material for him to answer says he knows
nothing of the allegations of the plaintiffs bill or the
facts therein set forth but requires proof and submits
the interests of his wards to the care of this honorable
court whose guardian duty it is to protect the interests
of infants and having fully answered prays leave
to be discharged with this costs etc

Myrick
ads 3
Grant is wife

Answer of Francis M. Bailey
is also by L. R. Edwards their
guardian ad litem

Rec'd by consent
Wm B. Shandas
att'y for the plffs

1956. October Rules

The answer of Francis M, Editha, James R, Solomon M,
Lewis A, Edward P, and Benjamin W Bailey, and
Julia F, Lucy S, Isaac S, William P, Edward F, Rosa,
and Richard A Bendall, and Anne G, Benjamin C,
Robert W, Mary W, Charles G, and Abigail M Simmons
and Henry C, Mary Anne, Nathaniel T, Francis C,
Solomon C, and Lucy F Myrick all infants of tender
years by L R Edwards their guardian ad litem
opposite to that purpose to a bill and amended
bill in chancery brought by Elisha F Grant and
wife as Plaintiff and others

This defendant for answer to the said ~~bill~~
original and amended bills or as much thereof as
he is advised it is material for him to answer.
answering says he knows nothing of the allegations
therein but submits the interests of his wards to
the care of This honorable court whose judicial
duty it is to protect the estates of infants and
having fully answered pray leave to be dismissed
with his costs &c

Grant wife

or $\frac{3}{4}$ An. of
Myrick's lab.

Oliver P. Bondall

1856 Nov. 3. filed by leave.

The Answer of Oliver J. Wendall to a bill and Amended Bill of Complaint exhibited against him and others in the Circuit Court of Southampton County, by Eliza Grant and Mary his wife.

This respondent saving to himself all manner of benefit of Exception to the said bills for their many errors, misstatements and false allegations for answer thereto or to so much thereof as he is advised it is material for him to answer, answering says that it is true as charged in the original bill that Elacey Miller departed this life some time during the past year and was supposed of a considerable real and personal estate, but this respondent utterly denies that the said Elacey Miller left any last will and testament as far as he knows and believes, and the charges contained in the said original bill, that a will of the said Elacey Miller came into the possession of this respondent in the winter of 1854-5 or at any other time whatsoever, and was destroyed and mutilated by this respondent, or some one for him is wholly and patently false and untrue in every particular. This respondent states and charges that there are the facts in regard to his connexion with the paper now lodged in the clerk's office of this Court and sought to be set up as the last will and testament of the said Elacey Miller, viz. some time in the year 1854, (he thinks in the Spring of that year) Elacey Miller, for whom this respondent was at that time in the habit of transacting business, sent for this respondent, and directed him to look in a trunk

in which she kept her valuable papers, and
took out a bond which she wished to have
collected, and then, in looking for the bond, the
respondent found the paper now in question,
and seeing it had the appearance of a will
he remarked to his Aunt that there was her
will, to which she immediately replied, it is
of no account, is worth nothing, and has
been destroyed, or words to that effect, and
then told this respondent he might take it
out if he chose, which he did, placed it in
his pocket, and after getting home threw it aside,
and some day or two before or a few days be-
fore Mr. Spradley moved to qualify as adminis-
trator this respondent having heard that he
had been charged with destroying or making away
with the said paper, instituted a search at home
for it when after some time it was found
by his sister in the back part of a draw, in
a bureau, just in the same condition as
when he found it among his Aunt's Mrs. Miller's
papers; such is this respondent's connection with
the matter, and he again indignantly denies
the charge that he tore, destroyed or mutilated it,
and again positively states and affirms, that it
is now just as he found it in Nancy Miller's
trunk, and therefore, if it were now a valid
and duly executed will, (which this respondent
can not admit) the cancellation of it must
have been made by Nancy Miller herself, or by
some one by her direction; And in this connex-
ion this respondent further states, that he has
been informed, and believes, and therefore
charges that some time between the time of the
alleged Execution of the paper in question, and

the period at which it was found by this re-
spondent, the said Nancy Miller had made another
and different disposition of her estate by will,
which was destroyed by being burned by her direc-
tion, and has never been found, which was in
effect a revocation of any and all former wills,
and was no doubt the reason of her tearing and
cancelling the paper now in controversy.

The allegation contained in the bill that Lucy
Bendall the mother of this respondent, was dissatis-
fied with the provision made for her in the said
paper, is wholly untrue and false, and respon-
dent believes and states that she never made any
objection or expressed any dissatisfaction to it
whatsoever.

This respondent further states that the allegation
that he "avoided saying any thing" when this paper
was asked for, ^{at the time the paper was examined} and that he told "many tales" as
about it, is an allegation wholly & entirely
false.

And this respondent again denies each
and every allegation of the said bill, as being
wholly untrue, which is not specifically ad-
mitted in this answer, and having ~~been~~ fully
answered pray to be hence dismissed with his
costs &c.

Oliver P. Bendall

San-Thompson Co: to wit.

Personally appeared before me Oli-
ver P. Bendall who made oath that the facts set out
in this answer, and stated as of his own knowledge
are all true, and those stated as derived by in-
formation of others he believes to be true. Given under
my hand this 5th Nov. 56.

E. L. Story J.P.

Grant wife

Mr. G. Anson of
Myricks tal

Wm H. Spratley

1856 Nov. 3 filed by Lewis

The separate answer of Wmth Spratley administrator of Nancy Miller deceased, and in his own right as one of the heirs at law and distributees ~~of the said~~ Nancy Miller, to a Bill and Amended bill exhibited against himself and others in the Circuit Court of South-
ampton County, by Elisha Grant and Mary his wife.

This respondent saving to himself, all manner of benefit of exception to the bills of the Complainants, for their many errors, misstatements and unfounded allegations, for as, we think, or to so much thereof as he is advised it is material to answer, answering says that it is true as charged in the said original bill that Nancy Miller died. This life some time in the Summer of 1855, died and possessed of considerable estate real and personal, but this respondent utterly denies that the said Nancy Miller left any last will and testament, executed in the manner prescribed by law, disposing of her said estate; on the contrary this respondent charges that the said Nancy Miller died intestate. In regard to the paper which is attempted to be set up as the will of the said Nancy Miller, the facts are that some time in the Spring of 1854, Oliver P. Wendall a great nephew of the said Nancy Miller who was at that time an agent for the said Nancy Miller, and transacted her business for her, was directed by her to go to a trunk in which her valuable papers were kept, and take out a bond which she wished to have collected, and then, he found this paper, which he took out and called her attention to, when she immediately stated that it

was of no account, was valueless, and had been in point of fact cancelled and destroyed, as turned out to be so upon opening the paper for it was discovered at once to be exactly in the condition it is at present. This respondent therefore states and charges that the said paper had been entirely cancelled ~~as~~ before it ever came into the said Wendall's possession and that the charge contained in the complainant's bill that Oliver P. Wendall destroyed or in any manner mutilated the said paper is utterly and entirely false - so far from it, the said paper was found in the possession of the said Nancy Miller in its present condition, and if it were now a duly executed will, which this respondent does not admit, the same must have been cancelled by the said Nancy, or by her direction -

In regard to the devise and bequest contained in the said paper, to Benjamin O. Myrick, your respondent believes and therefore states and charges that the said Benjamin O. Myrick died before the said Nancy Miller, and anterior to the 1st of July 1850, and therefore the devise & bequest to him lapsed, as the law then was, so that the children of the said Benj. O. Myrick and his personal representatives, have no interest in the said property, whether the said paper procured as the will of the said Nancy Miller be established or such or not, and the same will therefore pass to ^{her} heirs at law & distributees.

Your respondent further states that he is informed, and believes, and therefore charges that the interest of Stephen M. Oliver as one of the distributees and heir at law of Nancy Miller

deceased, has been assigned and conveyed by him by deed ~~and~~ to Robert M. Smith, who is therefore entitled to the same; And this respondent further states that the interest of C. L. Bailey wife in the said estate has been assigned by them by deed of trust to John H. Sibley for the benefit of the wife & children of the said C. L. Bailey.

This respondent again denying all and every allegation of the said bills not specifically admitted in this answer, and having fully answered the prayer to be never disengaged with his costs &c.

Wm. Spratley attorney
of N. Muller & in ^{his} own
right

County of Southampton &c.

M. H. Spratley this day personally appeared before me, and made oath that the facts set forth in the foregoing answer as of his own knowledge, are true, and those stated as derived by information of others he believes to be true - Given under my hand this 8th day of November 1856.

E. L. Story J.P.

Grant and wife
vs $\frac{2}{3}$ Dean
Myrick & als

This cause in which the plaintiffs have proceeded against the absent defendants Skjvith Olsen and John Spratly in the mode presented by law against absent defendants This day came on to be heard on the bill and amended bill taken for confessed as to the defendants Owen G Myrick, Richard Bendall and Lucy his wife Cadmus L Bailey and Elizabeth his wife John E Nicholson and Ann his wife, Nancy Myrick, Robert T Bendall, Thomas Simmons and Martha, Louisa Holt Bartholomew H Simmons and Elizabeth his wife, Charles Barnes and Louisa his wife on whom process had been duly served They were failing to appear and plead, answer and demur to the said bill on the answer of William H Spratly and Owen G Bendall ^{This day filed by leave of court} of the infant defendants John, Robert, and David Myrick by Walter James their guardian ad litem assigned them for that purpose of Francis M, Edulija, James R, Solomon M, Lewis A, Edward P, and Benjamin W Bailey, and Julia F, Lucy J, Isaac S, William P, Edward F, Rosa and Richard A Bendall and Ann H, Baily D, Robert W, Mary W, Charles H, and George M Simmons and Henry L, Mary Anne, Nathl J, Francis E, Solomon C, and Lucy E Myrick infant defendants by Letherton R Edwards their guardian ad litem

him appointed for that purpose both to the original
and amended bills general exceptions to the said
answers and was argued by counsel On consideration
whereof the court doth adjudge order and decree that an
issue be made up and tried by a jury at the bar of
this court at the next term Thence whether Nancy
Miller did testate or intestate and if testate in what
way and to whom she disposed of her estate, upon the
trial of such issue the depositions of witnesses which
have been properly taken and returned in this cause
may be read in evidence if the witnesses themselves after
having been summoned shall fail to appear and it is
ordered that this cause be continued until the next term

Grant is wife
or 3 Decm
Myrick was

Box of the Grey Bird that Nancy Miller
died in the state -

H. M. Butts

Grand June

to be made

My wife's hat

Nov. Term 1856.

To be returned

R. M. B.

Grant & wife

m 33

Myrick

May 6. 58

To be returned

Richd. H. Bates

Grant & wife

vs

illegible & al

This cause came on
this day to be again heard upon
the papers formerly read, and upon
the verdict of the jury rendered upon
the issues made up by the decree
of November term 1856, and was
argued by Counsel; On consideration
whereof the Court doth adjudge
order and decree that the Bill
of the plaintiffs be dismissed, and
that they pay to the defendants their
costs by them about this suit, in that
behalf expended.

THE COMMONWEALTH OF VIRGINIA : *Subsd*

To the Sheriff of ~~Southampton~~ County—GREETING

We command you to summon *Richard Bondall & Lucy his wife, John Spratley & John E. Nicholson & Ann his wife*

to appear at the Clerks office of our Circuit court of Southampton county at the Rules, to be holden for the said court on the first Monday in *March* next, to answer a bill in Chancery exhibited against *them & others* in our said court by

Edisha Grant & Mary his wife

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said Court at the Courthouse, this *22^d* day of *January* 185*6* in the *80th* year of the Commonwealth.

L.R. Edwards Clk

I did on the 8th day of February 1856,
 deliver to John E. Nicholson, and Ann,
 his wife, each a copy of the within
 summons. — John Spratley, is not an
 inhabitant of this State; and of course
 not found within my bailiwick.
 I am told he lives in { Miss Harrison (Shff.)
 Mississippi. }

Grant & wife
 { Sum's Chy.

Myrick &
 1856. March Rules

Executed, 5th Feb 1856.
 on Jas E. Nicholson & wife —
 Miss Harrison (Shff.)

Supra

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of Southampton County—GREETING :

We command you to summon *Owen G. Myrick, John Myrick, Robert Myrick & David Myrick & Skipwith M. Oliver & Richard Randall & Lucy his wife* —

to appear at the Clerks office of our Circuit Court of Southampton county at the Rules, to be holden for the said Court on the first Monday in *March* — next, to answer a bill in Chancery, exhibited against *them & others* in our said court by —

Elisha Grant & Mary his wife

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said Court at the Courthouse, the *22^d* day of *January* 185*6* in the *80th* year of the Commonwealth.

L R Edwards. 66

Some ally neck Robert
Myrick Received ally neck
and the several children
are not residents of this
County

At I Kello Deputy
for S. Kello Sheriff

Grant Myrick
Sum. Chy.

Myrick &

1856 March Rules.

Sh:

Executed on Owen G. Myrick
& Henry Bondall by deliver-
ing a copy. Feby 28th 1856
+ on the same day went
to the residence of R. Bondall
he being from him I left
a copy of the written with
his wife, (over)
~~At I Kello Deputy~~
~~for S. Kello Sheriff~~

and explained to her the
contents thereof. She being
white member of the family
under 18 above the age of
Sixteen Years

A. J. Kello Deputy
for S. Kello Sheriff

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of ^{Greensville} ~~Southampton~~ County—GREETING :
We command you to summon *Adamus L Bailey & Elizabeth his wife* *William M. Spratley*
& *John Spratley*

to appear at the Clerks office of our Circuit Court of Southampton county at the Rules, to be
holden for the said Court on the first Monday in *March* next, to answer a bill
in Chancery, exhibited against *them & others* in our said court by

Elisha Grant & Mary his wife

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, the *22^d* day of *January* 1856 in the *80th*
year of the Commonwealth.

L R Edwards Clk

Executed on M. H. Sprally C. S. Bailey & wife
John Sprally no Inhabitant

John S. Turner Shffo of
Gunnarss County

Edmund Sprally

to Edmund City.

Myrick & P

1856 March Rules

Gunnarss

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of ^{Superior} ~~Southampton~~ County—GREETING :

We command you to summon

John E. Nicholson & Anne his wife

to appear at the Clerks office of our Circuit Court of Southampton county at the Rules, to be holden for the said Court on the first Monday in *September* ^{an original & amended bill} next, to answer ~~a~~ bill in Chancery, exhibited against *them & others* in our said court by

Elisha Grant & Mary Grant his wife

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said Court at the Courthouse, the *20th* day of *August* 185 *6* in the *81st* year of the Commonwealth.

L.R. Edwards

Grant & wife
} Sims. Lohy
~

Myrick &
1856. September Rules

Ex. cut. q.

Subject

August 29th 1886. Executed by delivering
true copies of the within summons to John
E. Nicholson. ~

Louis P. Hargraves dep.
William Harrison shd

Grant & Wife

to } Bruns. Chy

Myrick &

1856 Sept Rules

Executed

John S. Turner Siff &

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of ^{Granville} ~~Southampton~~ County—GREETING :
We command you to summon *Madame D Bailey & Elizabeth his wife of William*
H. Spradley as curator & her at Law

to appear at the Clerks office of our Circuit Court of Southampton county at the Rules, to be
holden for the said Court on the first Monday in *September* ^{an original & amended bill} next, to answer ^a bill
in Chancery, exhibited against *them & theirs* in our said court by

Elisha Grant & Mary Grant his wife

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, the *20th* day of *August* 185*6* in the *81st*
year of the Commonwealth.

L. R. Edwards

Grant & wife

& } Summ. Chy.

Myrick Jr

1856 September Rules

Occurs in Rich^d Bendall and Lucy his wife, Oliver P. Bendall
and Nancy Myrick adm^{rs} of Ben^g. Myrick deceased Owen G
Myrick by delivering a Copy to each August 30th 1856
Went to the residence of Robt. I Bendall, he being from home
I left a copy of the within with Rich^d Bendall a white member
of the family in which Robt. I Bendall resides abso. The age of
16 years and explained to him the purport thereof.
John Myrick, Robt. Myrick, David Myrick, Stephen
Oliver John Spratley and Bartholomewth Simmons & Elizabeth
his wife are not residents of this County

A. J. Skiles Dep. Sec. A. Skiles Stg.

The Commonwealth of Virginia. To the Sheriff of Southampton County.
Greeting we command you to summon ~~Arrest~~ ^{Arrest} G. D. Myrick, John Myrick,
Robert Myrick & David Myrick, Skipwith Oliver, Richard Wendall and
Lucy his wife, Robert F. Wendall, Oliver P. Wendall & Julia, Lucy J. Isaac S.
William P. Edward F. Ross & Richard A. Wendall, Thomas Simmons & Martha
his wife & Anne St. Benj. O. Robert W. Mary W. Charles St. & George W.
Simmons, ~~Solomon Spradley~~, Nancy Myrick ^{widow} & administratrix of Benjamin O.
Myrick dec'd & Henry L. Mary Ann, Nathaniel T. Francis C. Solomon C. &
Lucy J. Myrick, Louisa Stolt, Bartholomew H. Simmons & Elizabeth his wife
& Charles Barnes and Louisa his wife to appear at the Clerks Office of our Circuit
Court of Southampton County at the Rules to be holden for the said Court on the
first Monday in September next to answer an original & amended bill in Chancery
exhibited against them & others in our said Court by Elisha Grant & Mary
Grant his wife. And have them there this writ. Witnesses Littleton R. Edwards
Clerk of our said Court at the Courthouse this 20th day of August 1856 in the
81st year of the Commonwealth

L. R. Edwards Clk

Sprattley & Co
add } Sp^{rs}

Grant & wife
1st day May Term 1857

Executed
Wm C. Gill shff

Chesterfield D

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of ^{*Chestnutfield*}~~Southampton~~ County—GREETING :

We command you to summon *John I. Gruntpf*
to appear before the *Judge* of our *Orphans* Court of Southampton county,
at the Courthouse, on the *1st* day of *May* Term *next*. to testify and
the truth to say on behalf of *Wm H. Sprattley & others*
in a certain matter of controversy in our said Court, depending and undetermined between

Elisha Grant & wife

Plaintiff and

Wm H. Sprattley & others

Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, the *9th* day of *April* 185 *7* in the *81st*
year of the Commonwealth.

L. R. Edwards Clk

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of ^{Super}Southampton County—GREETING :

We command you to summon Oliver P. Bendall
to appear before the Judge of our Orisnt Court of Southampton county,
at the Courthouse, on the 1st day of May Term next to testify and
the truth to say on behalf of Wm H. Sprutley & others
in a certain matter of controversy in our said Court, depending and undetermined between

Wm H. Sprutley & others

Plaintiff and

Wm H. Sprutley & others

Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, the 9th day of April 1857 in the 81st
year of the Commonwealth.

L R Edwards Clk

April 17.th 1857 No inhabitant
but lives in your county
Jas H. Mangum Shff
" —————

✓
Spratley do

as Spr.

Grant Swift

1st day May Term 1857

Super.

✓
Spratley & Co.
and } Sp^{rs}

Grant & wife

1st day May Term 1857

Executed on all
except Boon-

N. B. Blow & Co.

for Wm W Briggs
S^{ts}

Ben Boon Not a resident
of this County Wm Briggs-off

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of Southampton County—GREETING :

We command you to summon

John Barkins, Nancy Myrick, James Scarborough
(Lewis Thorpe), Benjamin Boon

to appear before the *Judge* of our *Circuit* Court of Southampton county
at the Courthouse, on the *1st* day of *May* Term *next* to testify and
the truth to say on behalf of *M^{rs} H. Sprattley & others*
in a certain matter of controversy in our said Court, depending and undetermined between

Elesha Grant wife

Plaintiff and

M^{rs} H. Sprattley & others

Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, this *9th* day of *April* 185 *7* in the *81st*
year of the Commonwealth.

L R Edwards Clk

✓
✓
Spratley & Co

an } Spr.

Grant & wife

1st day May Term 1857

Executa N. B. Lane

Depty for Wm

W. Briggs & Co

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of Southampton County—GREETING :

We command you to summon

Wm M. Gurnett & Jos H. Barham

to appear before the *Judge* of our *beniant* Court of Southampton county
at the Courthouse, on the *1st* day of *May* Term *next* to testify and
the truth to say on behalf of *Wm H. Spralley & others*
in a certain matter of controversy in our said Court, depending and undetermined between

Brantford wife then
Spralley & others

Plaintiff and
Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, this *21st* day of *April* 185 *7* in the *81st*
year of the Commonwealth.

L R Edwards

THE COMMONWEALTH OF VIRGINIA:

To the Sheriff of ^{Subst} ~~Southampton~~ County—GREETING:
We command you to summon *Romulus Magee. John Richardson. Robert T. Wendall*

to appear before the *Judge* of our *Circuit* Court of Southampton county
at the Courthouse, on the *12th* day of *May* Term *next* to testify and
the truth to say on behalf of *Wm H. Spratley & others*
in a certain matter of controversy in our said Court, depending and undetermined between

Grant Hillier Plaintiff and
Spratley & others Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, this *21* day of *April* 185*7* in the *81st*
year of the Commonwealth.

L.R. Edwards

May 7.th 1857 came to hand to
day too late to execute

Jas H. Mangram Esq

Sprattley to

as } Sp^r

Grant's Guide

1st day May Term 1857

Supper

THE COMMONWEALTH OF VIRGINIA :

Super
To the Sheriff of ~~Southampton~~ County—GREETING :

We command you to summon

Joseph H Gilliam & Wm Holloman

to appear before the *Judge* of our *Circuit* Court of Southampton county
at the Courthouse, on the *1st* day of *May* Term *next*. to testify and
the truth to say on behalf of *Elijah Grant & wife*
in a certain matter of controversy in our said Court, depending and undetermined between

Grant & wife

Wm H. Spruntley &c

Plaintiff and

Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, this *21st* day of *Aprl*. 1857 in the *81st*
year of the Commonwealth.

L. R. Edwards

May 9. 1857. Came to day
too late to see either.

Geo. H. Morgan

Grant & wife

to } Sp^{rs}.

Sprabley & Co

1st day May Term 1857

Executed,

Jas Turner Esq

To Cadmus L Bailey. Elizaeth Bailey and Wm B Spratley

Take notice that I shall on the 17th day of June
meet at the office of Wm B Shanes in Jerusalem
between the hours of sunrise and sunset proceed to
take the depositions of Benjamin B Pope William
Mallory and others to see as evidence in a certain
suit in chancery in my behalf now pending in
the circuit court of Southampton wherein I am
plaintiff and you and others are defendants to be
continued from day to day until finished

Yours &c

Elisha F. Grant

May 18th 1837

Wm. Harrison D.D.

I did on Thursday the 28th day of
May 1857, deliver to John E.
Nicholson, and Ann his wife, each
a Copy of the within Notice.

Wm. Harrison, Secy for
Jas H. Mangram, Shff.

To John E Nicholson and Anne Nicholson

Take notice that I shall on the 17th day of June
next at the office of Mr B Shandas in Fenchurch
between the hours of sunrise and sunset proceed
to take the depositions of Benjamin E Pope, William
Mallory and others to be read as evidence in my
behalf in a certain suit in shewing over finding
in the circuit court of Southampton wherein I
am plaintiff and you and others defendants to
be continued from day to day until finished

May 18th 1857

Yours "

Elisha F Grant

✓
Grant is wife
is 3 notice
Myrick is als

Executed.
Wm. P. Briggs skff

To, Owen & Myrick, Richard Bendall, Lucy Bendall, Robert T.
Bendall, Oliver Bendall, and Nancy Myrick

Take Notice that I shall on the 14th day of June next at
the office of Wm B Chanda in Pendalme between the
hours of sunrise and sunset and to be continued from
day ^{to day} until finished proceed to take the depositions of
Benjamin & Pope William Mallory and others to be made
as evidence in a certain suit in chancery now pending
in the circuit court of Southampton in my behalf
wherein I am plaintiff and you and others are
defendants

May 18th 1857

Yours &c

Oliver T. Grant.

Shriff will summon the following witnesses to attend at the
time and place above said to wit, Benjamin & Pope, William
Mallory, Luther D Barham, and George Clements

Chanda for Grant

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of ^{Super}~~Southampton~~ County—GREETING :

We command you to summon Oliver. P. Wendall
to appear before the Judge of our Bricent Court of Southampton county,
at the Courthouse, on the 1st day of November Term next to testify and
the truth to say on behalf of Wm A Spratley & Co
in a certain matter of controversy in our said Court, depending and undetermined between

Grant & wife
Spratley & Co

Plaintiff and
Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, the 2^d day of Sept. 1857 in the 82^d
year of the Commonwealth.

L. R. Edwards

Sept The 16th 1857 Executed by
Witnessing a True Copy of the
within Spc Wm Mangum Sept
For Jas. H. Mangum

Spurlock & Co

ad Z Spc.

Grant & wife

1st day November Term 1857

Spurlock

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of Southampton County—GREETING :

We command you to summon *Benj. E Pope. Luther D Baskins George Clements.*
William Mallory. Elizabeth Simmons. Lewis Thorp.

to appear before the *Judge* of our *Circuit* Court of Southampton county
at the Courthouse, on the *1st* day of *November* Term *next* to testify and
the truth to say on behalf of *Elisha Grant & wife* —
in a certain matter of controversy in our said Court, depending and undetermined between

Said Grant & wife _____ Plaintiff and
Wm H. Spruntley &c _____ Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, this *2^d* day of *Sept.* 1857 in the *82^d*
year of the Commonwealth.

L.R. Edwards

Executed on C D Barham. Ben E
 Pope. George Clement. Wm Mallory vs
 Lewis Sharp. - Eligabets Simons
 Not a resident of my County
 Dno H Slick Wdy for
 Wm W Briggs. Shff

Grant Grifed
 W. Grifed.

Spratley & P
 1st day November Term 1854

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of Southampton County—GREETING :

We command you to summon *John Barkum. Nancy Myrick. James Scarborough*
Lewis Thorp. Benj. Boone. Wm M. Everett. Jos H. Barkum

to appear before the *Judge* of our *Grants* Court of Southampton county
at the Courthouse, on the *1st* day of *November* Term *next* to testify and
the truth to say on behalf of *Wm H Spradley & others -*
in a certain matter of controversy in our said Court, depending and undetermined between

Grant Dulife

Plaintiff and

Said Spradley &c

Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, this *2^d* day of *Sept.* 1857 in the *82^d*
year of the Commonwealth.

L R Edwards Clk

Executed on all the within named
Winters, except Benjamin Boon, who
is not a resident of my County.

Done at St. Louis Mo for
Wm W Driggs shff

Charles D.
as E. D. M.

Grant D.

1st day November 1857

Benjamin Boon

THE COMMONWEALTH OF VIRGINIA : *Albemarle*
To the Sheriff of *Southampton* County—GREETING :

We command you to summon *Robert J. Bendall*
to appear before the *Judge* of our *Circuit* Court of Southampton county,
at the Courthouse, on the *2nd* day of *November* Term *next* to testify and
the truth to say on behalf of *Wm. H. Spratley &c*
in a certain matter of controversy in our said Court, depending and undetermined between
Grant Hulife Plaintiff and
Spratley &c Defendant,

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, the *19th* day of *October* 185 *7* in the *82^d*
year of the Commonwealth.

L. R. Edwards

Not found
J. S. Barksdale &
for Dr. Bunnely &c

Gravely to
as
Zeph.

Grant & wife
2 day abridgement done 1857

(At University)

Nancy Wynne

Executed.

Im. N. Stick Dy
for W. W. Briggs skff.

To Nancy Myrick

Take Notice that I shall on
Friday the 5th of March 1858 return the house
of sunrise and sunset at the house of James
& Peter in the county of Southampton proceed to
take the depositions of Martha J. Burham and
others to be made as evidence in my behalf in a
certain suit now pending in the circuit court of
Southampton in which I and wife are plaintiffs
and you and others defendants

Yours

Elisha F. Grant

July 8th 1858

To the Sheriff of Southampton }
County of York & Cate }

Grant is wife

is 3 Peter

Myrick is

To L. R. Edwards guardian ad litem for John,
Robert and David Myrick, Francis M, Edeline,
James R, Solomon M, Lewis A, Edward P, and
Benja W. Bailey, and Julia F, Lucy J, Isaac S,
William P, Edward F, Rosa, and Richard A
Bundall and Anne H. Bayne C, Robert W,
Mary W, Charles H, and Eliza M Simmons
and Henry S, Mary A, Nathaniel T, Francis E,
Solomon C, and Lucy J Myrick infants

Take notice that I shall on the 5th
day of March 1858 at the house of James B Pitts
in the county of Southampton between the hours
of sunrise and sunset proceed to take the depositions
of Martha J Barham and others to be read as evidence
in my behalf in a certain suit now pending in the
circuit court of Southampton in chancery in which
I and wife are plaintiffs and John Bayne and
others are defendants

Gives
Elisha F Grant

I acknowledge due service of the above notice - Feb'y 8. 1858

L. R. Edwards for. &c

Grant is wife

is 3 Notice
Wynneke

To Messrs Cadmus C Bailey and Ebenezer Bailey
Richard Bundall, Lucy Bundall his wife, Robert B
Bundall and Oliver P Bundall, William H Spratley
John Spratley, John E Nicholson and Anne Nicholson
his wife and Skifford Oliver

Take notice that I shall on Friday
the 3rd day of March 1858 at the house of
James E Peters in the county of Southampton
between the hours of sunrise and sunset
proceed to take the depositions of Martha J
Markham and others to be read as evidence in
my behalf in a certain suit now pending
in the circuit court of Southampton in chancery
in which I and wife are plaintiffs and you
and others are defendants

Elisha F Grant

Feb 8th 1858 we acknowledge service of the within
notice

Chambliss Mapmakers
per Deft

Grant is wife

by 3 notice

Mynck

I acknowledge service of notice to take the
depositions of Martha J. Warkham and others
at James E. Peters on the 15th of March 1858
for Owen J. Myrick, Thomas Simmons and
Martha his wife Louisa Holt, Bartholomew
Simmons and Elizabeth Simmons, Charles Barnes
and Louisa his wife

William B. Shands
attorney for the above defendants

Grant & wife

v. Spratley

Spratley & Co

1st day May Term 1858

Executed on all
Writ. except Elizabeth
Simmons who is not
a resident of this
County

Done at St. Louis
for W. L. Spratley

The Commonwealth of Virginia,

To the Sheriff of Southampton County—GREETING.

YOU ARE HEREBY COMMANDED TO SUMMON *Benj^x C. Pope. G. D. Barham, George Clements, William Mallory, Elizabeth Semmon, Lucie Thorne, Martha J. Barham*

before the Judge
to appear ~~at the Clerk's Office~~ of our *Vircuit* — Court of Southampton County, on the first
~~Monday in~~ *day of May Term* — next, to ~~answer~~ *testify and the truth to speak in behalf*
of Elisha Grant Jr wife against W. M. Spralling to

and have then and there this Summons.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at his Office, this *10* day of
March 185 *8*, in the *82* year of the Commonwealth.

L. R. Edwards

Sprathley J^r

and } Sp^r

Grant J^r

1st day May Term 1858.

Executed on all
Writ. except Bona
Bona who is not a
resident of My County
Hester Vickery
for Wm Briggs off

The Commonwealth of Virginia,

To the Sheriff of Southampton County—GREETING.

YOU ARE HEREBY COMMANDED TO SUMMON

*John Durham, Nancy Myrick, James
Scarborough, Lewis Thorpe, Benj. Dorn, Wm. H. Everett, Jos. H. Durham*

before the Judge
to appear at the ~~Clerk's Office~~, of our *Circuit* -

Court of Southampton County, on the first

Monday ~~in~~ *day of May Term* next, to answer *testify and the truth to speak on behalf*
of Wm. H. Everett, &c. at the suit of Elisha Grant Judge.

and have then and there this Summons.

Witness, LITTLETON R. EDWARDS, Clerk of our said Court, at his Office, this

10

day of

March

1859, in the

72nd

year of our Commonwealth.

L. R. Edwards

THE COMMONWEALTH OF VIRGINIA :

To the Sheriff of ^{Isle of} ~~Southampton~~ County—GREETING :

We command you to summon *Oliver P. Biddall & Robert F. Biddall*
to appear before the *Judge* of our *County* Court of Southampton county,
at the Courthouse, on the *1st* day of *May* Term *next*, to testify and
the truth to say on behalf of *W. A. Spratley and Nancy Miller &c*
in a certain matter of controversy in our said Court, depending and undetermined between

Grant & wife

Plaintiff and

Said Spratley and wife

Defendant

And have then there this writ. WITNESS, LITTLETON R. EDWARDS, Clerk of our said
Court at the Courthouse, the *10th* day of *March* 185 *8* in the *82^d*
year of the Commonwealth.

L. R. Edwards

apl 5th 1838 Execution on Robt
T. Bendall but Oliver P. Bendall
no inhabitant but lived in Greens-
ville at Mrs. Mrs. Coles
Jas. H. Mangum Sheriff

Spending of
as \$5000

Grant of
1st day May Term 1858

Superv

Spradley

no } Sp.

Grant 10

1st day May Term 1858.

Executed
In & Sub by
for W W Briggs off

The Commonwealth of Virginia: To the Sheriff of Southampton
County. Greeting. We command you to summon John Williams & William
H. Holman

to appear before the Judge of our Circuit Court of Southampton County at the Court
house on the first day of May Term next to testify and the truth to say
in behalf of Wm. H. Spradley vs. Mary Miller &c —
in a certain matter of controversy in our said Court depending and undetermined
between Elsie Grant & wife — Plaintiff and
said Spradley vs. &c. — Defendant.s

And have them there this writ. Witness L. L. Edwards Clerk of our
said Court at the Courthouse this 20th day of April 1858 in the
82^d year of the Commonwealth.

L. R. Edwards Clk

Grant Litch

~ { Affidavit.

Myrick &

1856 Jan'y 22.^d

Southampton Court Court Clerk's Office Jan'y 22 1836.

William B. Shands maketh oath & saith that he has been informed & verily believes
that Skipwith M. Oliver, John Myrick, Robert Myrick, David Myrick, Defendants in
a suit in Chancery depending in the aforesaid Court, in which Eloise Grant & wife are
Plffs. and Owen G. Myrick & others Defts. are not residents of the State of Virginia.

JR Edwards Clerk

Grant & wife
w. } dep. J. I. Grump

Myrick

Game to hand sealed May 23. 1857
JRG

The deposition of John J Crump of lawful age, taken before me, C. A. Mann a Notary Public for the City of Petersburg, Va, on Friday 22^d day of May 1857, between the hours of 9 O'clock A.M. & 6 O'clock P.M. at the office of R. K. Meade in the City of Petersburg in pursuance of the annexed Notice, to be read as evidence in a Chancery suit now depending before the Circuit Court of Southampton County, in which Elisha Grant and Mary his wife are plaintiffs and W^m H. Spratley adm^r of Nancy Miller & in his own right and others are defendants.

Deposition taken ~~on~~ behalf of Defendants.
Present. R. K. Meade Counsel for Defendants.

The deponent John J Crump being first duly sworn on the Holy Evangelists of Almighty God, deposes and says in answer to Interrogatories propounded to him as follows, Viz:
1st Question by R. K. Meade atty for W^m H. Spratley adm^r Nancy Miller & in his own right &c.
~~Answer.~~

Were you acquainted with the late Nancy Miller of Southampton County Va and how near did you live to her?
Answer.

I was acquainted with her ~~and~~ lived within about an half mile of her.

2nd Question by Same.

Did you witness a will of hers in 1853, 1854 or 1855 or in 1852.

Answer.

I witnessed a will of hers in one of those years.

3rd Question by same.

Did any one else witness it at the same time with you, and who?

Answer.

Yes, a man named Boon witnessed it with me at the same time.

4th Question by same.

Did you both sign your names as witnesses in her presence and at her request?

Answer.

We both signed it in her presence and with her sanction.

5th Question by same.

Was the will read over to her?

Answer.

Yes.

6th Question by same.

At whose house did this take place?

Answer.

At Mrs Nancy Myricks.

7th Question by same.

Did any one else sign it as a witness at that time?

Answer.

No sir, only Boon and myself.

8th Question by same.

Where does Mr Boon live?

Answer.

In Northampton County, State of North Carolina.

9th Question by same.

Was Mr Boon staying at your house at the time and what was he doing there?

Answer.

He was at my house at the time varnishing furniture. He travels about the Country doing such work. And further the deponent saith not.

John J. Crump

State of Virginia,

Corporation of Petersburg, to wit:

I Robert H. Mann a Notary Public in & for the Corporation aforesaid, in the State of Virginia, do hereby certify that the foregoing deposition of John J. Crump was this day taken subscribed and sworn to before me, at the time and place and for the purposes mentioned in the Caption thereof.

Given under my hand this 22nd day of May 1857.

Fee \$1.50

paid by Deft. Spratly adw gr
R.H.M. N.P.

R.H. Mann
Notary Public

To Eliza Hunt and Mary Hunt his wife-

I take notice that on Friday the 22^d day of May 1857, we shall proceed, between the hours of 9 o'clock A.M. and 6 o'clock P.M., at the office of R. K. Meade Esq. in the City of Portland, to take the deposition of John J. Beump and others, to be read in evidence in a Chancery suit, now depending before the Circuit Court of Santhampton County, in which you are plaintiffs and we are defendants, and if from any cause the said depositions are not then taken, or being begun, are not completed, the same will be taken, or the taking thereof completed, at such other time as may then be appointed, adjourning from time to time and from place to place as may then be appointed.

Wm H Shurtleff admr. Nancy
Miller on his own right & others
by their Counsel. —

May 6. 57

July 13 to Win

S. C. West left for S. A. Bailey off of
July 13 this day spent before me in
my city and made out that he died
on the 12th day of Aug 1857. Letter to
Edwin Grant, and wife in City of
this state, from under my hand
this 13 of Aug 57.

W. H. Garrison

(P)

Grant & wife

Mr. B. Norton to

Elizabeth Cook

Letter deposited

Grant & wife
vs Statement
of each side

of Mrs. Simmons

May 1857

Grant & wife

m.

My dear Sir

3

Statement of Mrs Elizabeth Simmons,
a Min of Henry Mills, made by her as
a witness for the Plaintiff at May Term 1857, and
agreed by Counsel to be read in evidence
at any subsequent trial of the Cause, after
legal process has been awarded to secure
her attendance, subject to all legal exceptions
as to her competency.

"Oliver Wendall took the mill and carried it
away, I saw the mill about two or three
weeks (not more than four weeks) before Oliver
Wendall took it, It was in the same fold, Mr
Pope left it and it was then intrusted; The
Witness Mr, Capt Simmons and Mr Bond,
I will not be certain whether Mr Pope
was witness or not, I asked her one day
after the mill was taken when her mill
was; She said, ^{I don't know,} the last time she saw it,
Oliver Wendall had it; Five of the negroes
left Mrs Wendall said I think, viz James
Anthony David and Susan, and I think
Susans child; I would not be sure. The mill
was also signed by Mr Pope as administrator;
I know from Wendalls conduct or acts that
he had the mill, He kept this mill in a small
leather trunk with his bonds papers and
money; the trunk was not locked but the
chest in which the trunk was kept was
locked and she carried the key. I frequently

went into the trunk to get her papers or money:
I don't know that I ever read the will to Mrs
Miller but I have read it ^{and have seen it frequently}; Bandal was in the
habit of going to the trunk also, and on this
occasion she gave him the key of the chest & he
brought the trunk & put it on the table before
her, and took out papers; The next time I
saw the will it was here at the Court House
I lived with Mrs Miller eleven years, and was
there frequently from my childhood; She with Ol-
son came to see once or twice while I was there,
the Speckles not at all, as I recollect—

Crop. Examined—

The Paper name was written down
there with the rest. The names were not on the
same line; The will was written on two sides
and $1\frac{1}{2}$ of the 3^d side of a sheet of paper. I
think it was in the Spring of the year 1854, that
he took the will; It was about 9 or 10 o'clock in
the morning; It will kept in a small trunk
which was nearly full of papers; Subsequently
I turned the papers over and saw no will;
I did not look particularly at each paper:
I saw a second will; she showed it to me, and
read it once, Mrs. Olmsted; Benj. Boone and
James Scarborough were the witnesses; Aunt Mil-
ler told me she did not like the new will
and intended to burn it; The name was
to the will; This will was kept in a little tin
box, in a chest of drawers, the time she
did keep it. The last time I heard her speak

of this last will she said she intended to burn
it—this was before Bandal carried the ^{old} will
away. He did not act generally as her agent
he hunted out some of her negroes that year
before she died; He told her he would hunt
out her negroes and collect her money for
nothing. Bandal lives not very far, some
8 or 9 miles from Aunt Miller; On the occa-
sion referred to when Bandal took the will,
I was not in the same room, but in an adjoin-
ing room; I could not see them through
the door, but I saw them through the lattice;
the partition was latched on both sides; I could
see through the lattice when I tried

Memo: Before the witness (Mrs. Simmons) was Exam-
ined, she was sworn upon her "sacred Bible" and
testified that she had no interest in the result
of this suit, and that no promise of compen-
sation had been made to her—

Grant's wife
as 3 notice
Myrick

Southampton County to wit

This day Wm B Shames
personally appeared before me a justice of the peace
for Southampton County and made oath that he gave
L. R. Edwards guardian ad litem for the infant
defendants, Francis M, Edleya, James R, Solomon M,
Levin C, Edward P & Bayard W Bailey, and Julia F,
Lucy J, Isaac S, William P, Edward F, Rosa and
Richard A Wendall, and Anna H, Mary Anne,
Beyn C, Robert W, Mary W, Charles H and Abner
M Simmons and Henry L, Mary Anne, Nathan & T
Francis E, Solomon C, Lucy S Myrick and also to
L. R. Edwards acting as the agent of the infant
defendants John, Robert, and Davis Myrick some of
whom have come of age since the institution of this
suit (as the Myricks) ~~given my hand this 17th~~
notice of the taking the depositions of Bayard &
Pope & also at his office on the 17th of June
1857 to be read ^{as evidence} in favor of Abner Grant in
suit of Grant vs wife & Myricks & also given
under my hand this 17th of June 1857

Thos. Vaughan J P

Service of notice acknowledged for Cornisa Holt for
B. W Simmons and Elizabeth his wife Charles Barnes
and Mary his wife Thomas Simmons and Martha his wife
June 17th, 1857

Wm B Shames }
Geo S Kindred } Counsel for
Wm S Goodwyn } the parties
abovesaid

Deposition of B. E. Pope
and others and notices
inclosed taken before Mr
B. Shands Commr.

Tested in by Mr B. Shands
Commr. Jan 18 1857-

B. E. Pope's
Deposition

Depositions of Benjamin E. Pope, Wm. Mallory & others
at the office of Mr. J. S. Chanda, in the town of Leavenworth
on the 17th of June 1857

Benjamin & Pope having been first duly sworn on the
holy evangelists ^{of Matthew 20th} digest and says as follows

To the best of my recollection, some time between the

Mrs. Miller frequently called on the old servant to know who was the mother of such a Boy or girl and what such a negro woman's daughter or son's name was. I thought her object was to try and arrange her negroes in families after a while with the assistance of the old servant she seemed to get them arranged to suit herself. I do not believe she could have arranged them well without the assistance of the old servant. While writing Mrs. Louisa Both came down the stair case, who it seemed had been up stairs and I supposed immediately over us at the time. I think this was about the time I had gotten through with Mrs. Holt's legacy. I thought Mrs. Both spoke to Mrs. Miller in an excited tone and said to her, Aunt Miller, did you not promise to give me such a servant or such an such servant. Mrs. Miller replied to her in some short way. Mrs. Holt went up stairs again. I do not think I saw her any more while writing, about this time I had gotten through with all the legacies. I said to Mrs. Miller that might be some portion of her estate that she had lost sight of, and had not given away. I think she then named Benjamin Ostryck and Mrs. Holt as the residuary legates. About this time she remarked and I thought as though she had forgotten them, that she had not given the Sprattles any thing, but continued by saying that they never visited her, and that they were rich, about this time I asked Mrs. Miller who she wished to witness her will saying to her it required two witnesses, she at once sent for Capt. Nathaniel Simmons and a young man by the name of Brink both of whom are dead. Capt. Simmons

and Brink very soon came over. I read the will over carefully to Mrs. Miller. I think before Simmons and Brink had gotten there, Mrs. Miller signed the Will either by writing her name or making her mark. I do not recollect which. Mrs. Miller acknowledged it to be her Will to Capt. Simmons & Brink both being present together at the same time. When Capt. Simmons and Brink both subscribed their names as witnesses. I do not recollect that I did subscribe my name as a witness, some years after the execution of this Will Benjamin Ostryck who was a considerable legatee in the will, died, and thinking I had learned from Mrs. Miller that Ostryck & family were favorites of hers I rather felt it a duty to send her word that if she desired that portions of her estate she had given Ostryck to go to Ostryck's wife and children, I thought it best for her to have another Will written some time after. I can't recollect how long first, I received a message from Mrs. Miller that she wished me to come & write her another Will. I promised to do so and intended it, but neglected to attend to it, after a while I can't say how long first, John Barham came to my house with what he said was the heads of Mrs. Nancy Miller's Will, and that she wished me to draw her a Will from those heads. I recollect seeing the heads of the Will in the hands of John Barham but have no recollection of having written it. I recollect in my examination of the heads of this last Will

4 That I discovered Mrs. Miller had ~~given~~ given that portion or most of it which she had first given to Benja. O'Leary in the first will, to his O'Leary's wife & children, and I recollect she had made some alterations in the legacy to Mrs. Louisa Holt, but do not recollect what they were. I was never present at the execution of any other will than the one offered for probate Novr. Term 1855 and accepted by the County Court of Southampton, this will now before me to wit the one offered for probate at the November term 1855 - is the one written by me and witnessed by Simmons and Brett upon examination of this will I think it is complete except the attesting clause which ~~is~~ is torn off I was appointed executor in this will I was present the whole time during the execution of this will. I will not say that I did or did not witness this will, from my recollections of the heads the will shown me by John Barham the other legacies were pretty much the same as they were in the will witnessed by Simmons & Brett and written by me.

Question by defendant's counsel, Did Mrs. Miller request Simmons & Brett to witness

Answer

I do recollect that she did

Benjamin E. Pope's deposition continued 5

Question Was the name of Ephraim's name as it now appears in this will then at the time the will was executed

Answer

I think not

Question by Plaintiff's Counsel were not Captain Simmons and Brett sent for the express purpose of witnessing this will

Answer

They were

Question by defendant's Counsel, By whom were they sent for

Answer By Mrs. Miller at my suggestion

And further this deponent says not

Ben E. Pope

In the deposition of Mrs Mallory the ~~defendants~~
comes except to the declarations of Oliver P
Burdall, Mrs Burdall and Nathaniel Simmons
Wm B Shanks Corro

5

William Mallory having been first duly sworn on the
holy Evangelists of Almighty God deposes and says as
follows

In August I think some fortnight after
Mrs Miller died I went to her house, ~~tho~~ ^{tho} William
Thomas Simmons Capt. Mrs Lebell and Mrs Emitt
were sitting round the table and Capt Nath Simmons
was sitting a little off Oliver Bundall was sitting
a little off I took a seat near Mr Nath Simmons
in the same room at Mrs Miller's house I asked
Capt Simmons if they were examining her
Mrs Miller's papers if they had found any will
Capt Simmons said No, I asked him what ^{had} become
of the will that Ben Pope ^{wrote}, he said he did not
know, that he was a witness to that will him
Jim Britt, and Ben Pope I think, he said was
the witnesses, I asked him if Ben Pope did not
have that will, he said No the will was not
carried away from him, I had heard about the
time Mr Pope wrote the will that ^{there was} such a will
Oliver Bundall was present at this conversation
and said nothing, Captain Simmons was sitting
to my right and Oliver Bundall to my left
Simmons being nearer than Bundall a little
when we got in the buggy together to go home after
getting off a little, Oliver Bundall commenced talking
about the estate and what it was worth, and that
there was no will and how many legacies there
were and what it was worth a share, that he
was going to administer, he would settle the
estate very easily, that three negroes of Mrs Myrick
would have to come back to the estate, and I
observed to him that would be a hard case as they
had taken a good deal of pains in raising them
he frequently would exclaim that there was no will
I said to him Oliver then say that you cannot find

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will away from them his answer was ~~that~~ they were mistaken. I said I don't know that was what the women said when you went out, he said I was looking over Aunt Nancy's Papers. I found a will I said to Aunt Nancy ^{is} your will but it is no account Mother's name is wrote Elizabeth then is no such a woman as Elizabeth Bendall, you have given Elizabeth Bendall property and there is no such a woman, Mrs Miller said the will was no account it went with ⁱⁿ while to keep it, he took it and carried it home and showed it to his mother, and flung it up on the shelf and he did not know what had become of it, ^{in other} that will was not witnessed, I said to him it could not then have been the will that Ben Pope wrote, for ^{Simmons} Capt. told me that day he was a witness to that will he said it was the same will, he believed it was witnessed, I believe that ended the conversation at that time in regard to the will it changed ^{then} to counting I believe, sometime after that perhaps a week I went over to Mr Bendall's for a bottle of Brandy, Oliver and me went into the house together, he took a seat near the front door, Mr Bendall was sitting near the other door, she asked me how they were at Aunt Nancy's I told her all well, have they found any will, I replied no, but there was about to be a mighty fuss about the will Oliver fetched away, she said it was an old will no account, that Aunt Nancy was not capable of making a will, that her name was wrote Elizabeth, I said to her that perhaps she was mistaken that it was Elizabeth Bailey, she replied that she would swear her name was written Elizabeth, I told her perhaps that was the same will that Ben Pope wrote, that Capt. Simmons said he was a witness to that will that Ben Pope

wrote, she said the will was witnessed but I can't say whether ^{she} said Capt. Simmons was a witness or not. I said there was a good deal of talk about the will, Oliver replied they can't hurt me unless they swear to lies. Oliver said afterwards that the will could not be found. At court at the trial of this cause Mr Chamberly asked me if I had not said I would establish this will for two hundred dollars my reply was that I did not recollect I had said it, on reflection Mrs Miller died sometime in the fore part of the week on Saturday ^{following} ^{spring} then at Clanton's old ~~place~~ ^{place} there was a good ^{deal} chat about this old will it was not known then that O. Bendall had it, I might have said then that I would establish ^{this} will for two hundred dollars, but as one has now offered me one cent and I have no interest whatever in this will

Cross examined by defendant's counsel

Oliver Bendall and myself are not now on friendly terms we have been but have fallen out in regard to this will and do not now speak

I stated at Court on my examination that I believed my friend Oliver Bendall with the Juratentary caused this will to be produced, I think it was sometime early in September that the altercation at my house with Oliver Bendall in regard to Mrs Miller's ^{will} occurred and I was mistaken as I am satisfied on reflection when I stated it occurred some two or three months after Mrs Miller's death. I stated to him if he did not get that will he would go to the Juratentary.

And further this deponent saith not

Wm. Waller

Grant & wife

or

Sprattley &c

Deputizing C D Bacham

17 June 1857

9

Cuthbert D Barham having been first duly sworn on the Holy Evangelists of Almighty God deposes and says as follows

On and of the Court days, in the latter part of the year 1855: a young man approached me in the street of Jerusalem and commenced a conversation with me in relation to Mrs Nancy Miller, and the subject of her Will. He first inquired if I knew Mrs Mr. how long I ~~had~~ known her, and if I thought her capable of (making) a will. I told him I knew her, had known her all my life, and considered her capable the last time I saw her of making a will. I then inquired of him who he was, and he said his name was Oliver D. Biddall. My next question was to know why he was making those inquiries? and what he wished to do? whether to establish, or to destroy the will? His answer was I, or we, wish to prevent it from being made a will. I then said I supposed it would not make much difference with him either way, as his Mother was related to Mrs Mr. and ~~she~~ would be a legatee, if there was no will; to which remark he replied, that it would make right smart of difference. Given under my hand this 17 day of June 1857 And further this deponent saith not

C. D. Barham

The above depositions of Bayn & Pope, Mrs Mallory and C. D. Barham were taken ~~seen~~ and subscribed before me a Commissioner in Chancery of the county court of Southampton at the time and place mentioned in the caption given under my hand this 17th of June 1857

Wm B Shanes Commissioner in Chancery

Grant & wife
v { Aff.^o

Myrick & ad

1857 Aug 28th

Virginia.

Garrison county to wit.

This day, William

H. Slaty, personally appeared before me, a Justice
of the Peace for the county aforesaid - and made
oath, that Skipwith M. Oliver - a nitup whom
he wishes to examine, in the case of ~~of~~
Grant wife against Miller, adw. father, apen-
-ding in the circuit Court of Southampton,
within without the State of Virginia

Given under my hand, this 27th
day of August A.D. 1857.

Geo. W. Potts J.P.

Mr Edwards.

Please send to me, a com^m.
to take the above deposition. The nitup
lives in Lunenburg.

Very truly yrs.
J. R. Chambers

Grant J. J. J.

~ } Dep:

Myrick J.

Came to hand sealed March 6th

1858

L.R. Ca

The deposition of Martha I Barham Taken at the house of James E Peters in the county of Southampton on the 5th day of March 1858 between the horns of sunrise and sunset pursuant to notice duly given to be read as evidence in behalf of Eliza F Grant and wife in a certain suit now pending in the circuit court of Southampton County on the chancery side in the case of Grant & wife vs Dora G Myrick & als

The deponent Martha I Barham having been first duly sworn deposes and says as follows

Question by the plaintiffs counsel

State the conversation that occurred between you and Oliver P Wendell concerning Nancy Millers will, and to this question the defendants counsel objects.

Answer I asked Oliver P Wendell if he had found his Aunt Millers will he said he did not find it, but it was found when he and his mamma was from home when it was found it was no account the names were torn off, he did not know how come they off except some of the children tore them off, he said his Aunt Miller sent for him to look over her papers, in looking over the papers he found the will. he said to her he wanted to take it home and read it, she said to him she did not care if he burnt it, it was no account, he took it home and read it and threw it over the fire place he saw it no more until a fuss was made about it, and some of the children found it

Question by the defendants counsel, when, where and in whose presents did this conversation occur

Answer The year before last at John Williams in Stilling season in the presents of John Williams and wife, William Holloman Francis Williams and Elizabeth Williams a part of the time farther than this the deponent saith not

Martha I Barham

The above deposition was taken sworn to and subscribed
before me a justice of the peace for the County of Southampton
at the time and place named in the caption

Jamus C. Peters, J. P.,

Grant Guide
v. } Br. Pub.
Myrick & Co

Copy posted at front door Br. House
March 6th 1856

L.R.E. 66

At Rules held in the Clerks Office of the Circuit Court of Southampton County on
the 3^d day of March 1856.

Elisha Grant and Mary his wife

against

Plffs

{ In Chancery }

Owen G Myrick, & John Myrick, Robert Myrick and David Myrick, Cadmus Lawson
Bailey and Elizabeth his wife, Skipwith Oliver, Richmond Wendall & Lucy his wife, William
H Spratley, both as heirs at law and as executor of Nancy Miller, John Spratley, & John E
Nicholson & Anne his wife heirs at law of Nancy Miller

Defts.

The object of this suit is to establish a certain writing as the last Will and Testament of
Nancy Miller deceased, and affidavit having been made and filed that the defendants Skipwith
Oliver, John Myrick, Robert Myrick, David Myrick and John Spratley are not residents of
this Commonwealth the said defendants are notified to appear here ^{within one month after due publication} on the first day of the next Term
of this order ^{of the said Court} and do what is necessary to protect their interest in this suit, and it is ordered that a
copy of this order be published once a week for four successive weeks in some newspaper published in the City
of Petersburg and posted at the front door of the Courthouse of this County on the first day of the next County Court
thereof

Teste

L R Edwards Clk

Elisha Grant
U.S.
The Mysakes &
Others

April 10

to be sent to Wm B Shando
Jerusalem

1856 Apr. 15th filed

VIRGINIA in Chancery.. At rule
 held in the Clerk's Office of the Circuit Court
 of Southampton county, on the 3rd day of March,
 1856,

Eliza Grant and Mary his wife—Plaintiffs,
 Against
 Owen Myrick, John Myrick, Robert E. Myrick,
 David Myrick, Cadmus, Lawson Bailey, and Eliza-
 beth his wife, Skipwith Oliver, Richard Bendall
 and Lucy his wife, William H. Spratley, both as
 heir at law and as curator of Nancy Miller, John
 Spratley, and John E. Nicholson and Anne his
 wife heirs at law of Nancy Miller—Defendants.

The object of this suit is to establish a certain
 writing as the last will and testament of Nancy
 Miller, dec'd. and affidavit having been made and
 filed that the defendants Skipwith Oliver, John My-
 rick, Robert Myrick, David Myrick, and John Sprat-
 ley are not residents of this Commonwealth, the said
 defendants are notified to appear here within one
 month after publication of this order and do what is
 necessary to protect their interest in this suit, and
 it is ordered that a copy of this order be published
 once a week for four successive weeks in some
 newspaper published in the city of Petersburg,
 and posted at the front door of the Courthouse of
 this county on the first day of the next County Court
 thereof.

A copy—Teste.
 mh10—w4w L. R. EDWARDS, Clk.

City of Petersburg to Wit—
 This day personally appeared before me
 a Justice of the Peace in the City
 of Petersburg, H. H. Harris, Clerk in the
 Office of the South Side Democrat,
 who made oath that the order of
 publication of which the annexed is
 a copy has been inserted in the
 "South Side Democrat" once a week for
 four weeks consecutively

Given under my hand. This 8th
 of April 1856

Chas. Cortling, J. P.

Printers fee \$2.50

Grant & wife

& } Or. Pub.

Myrick &

Copy posted at front door of the
Ct. House. Sep. 6. 1856

At Rules held in the Clerks Office of the Circuit Court of Southampton County on the first day of September 1856.

Elisha Grant and Mary Grant his wife

Defts.

against

} In Chancery

Owen G. Myrick, John Myrick, Robert Myrick, and David Myrick, Cadmus L. Bailey and Elizabeth his wife and Frances M. Adeline, James R. Solomon M. Lewis A. Edward P. & Benjamin W. Bailey, Skipwith Oliver, Richard Bendall & Lucy his wife and Robert F. Bendall, Oliver P. Bendall and Julia F. Lucy J. Isaac S. William P. Edward F. Rosa & Richard A. Bendall, Thomas Simmons & Martha his wife and Anne H. Benj: O. Robert W. Mary W. Charles H. and Alonzo M. Simmons, William H. Spratley as curator and next of kin, John Spratley, John O. Nicholson & Anne his wife, Nancy Myrick widow and administratrix of Benj: O. Myrick dec. and Henry L. Mary Anne, Nathaniel F. Francis O. Solomon O. and Lucy J. Myrick, Louisa Holt, Bartholomew A. Simmons & Elizabeth his wife, Charles Barnes & Louisa his wife. Defts.

The object of this suit is to establish the last Will and Testament of Nancy Miller deceased and affidavits being made that the defendants Skipwith Oliver, John Myrick, Robert Myrick, David Myrick and John Spratley are not residents of this State, the said defendants are notified to appear here within one month after due publication of this order and do what is necessary to protect their interest in this suit, and it is ordered that a copy of this order be published once a week for four successive weeks in some newspaper published in the City of Petersburg and posted at the front door of the Courthouse of this County on the first day of the next County Court term.

Attest

Teste. L R Edwards Ck

Order of Publication

Church & Brother.....31 Bollingbrook st
J. W. Davis & Bro.....Washington st

BOOK-STORES.

George E. Ford.....73 Sycamore st
J. H. Shumons.....57 Sycamore st
E. F. Nash.....cor Bank and Sycamore st

DRUG-STORES.

G. B. Jones & Co.....65 Sycamore st
F. H. Robertson.....cor Bell & Sycamore st
N. F. Rives.....107 Powell's Row
Bennett & Beers.....Richmond

PATENT MEDICINES.

Bennett & Beers.....Richmond
O. J. Wood & Co.....316 Broadway, N. Y.
Ewing Bros.....Pittsburg, Mo
Sells S. Hance.....105 Bull, Pittsburg, Mo
Prof. Holloway.....30 Maiden Lane, N. Y.
Prof. Deverich.....30 North 13th st, Phila
Dr. G. M. Jackson.....Philadelphia
F. Brown.....Chestnut st., Phila

LAW OFFICES.

A. C. Butts.....Bank
R. K. Meade.....opposite Court House
J. E. Watson.....cor Sycamore and Back s

JEWELRY STORES.

Lumsden & Shortl.....39 Syc
Thomas Nowlan.....34 Syc
J. T. Young.....40 Syc

GROCERY STORES.

Muir & Stevens.....55 Syc
Kerr & Marbury.....74 and 76 Syc

VIRGINIA--IN CHANCERY.—At Rules held in the Clerk's Office of the Circuit Court of Southampton County on the first day of September, 1856:

Elisha Grant and Mary Grant his wife—Plffs.
against

Owen G. Myrick, John Myrick, Robert Myrick and David Myrick, Cadmus L. Bailey and Elizabeth his wife, and Francis M., Adeliza, James R., Solomon M., Lewis A., Edward P.; and Benjamin W. Bailey, Skipwith Oliver, Richard Bendall and Lucy his wife, and Robert T. Bendall, Oliver P. Bendall and Julia F., Lucy J., Isaac S., William P., Edward F., Rosa and Richard A. Bendall, Thomas Simmons and Martha his wife and Ann H., Benjamin O. Robert W., Mary W., Charles H. and Alonzo M. Simmons, William H. Spratley, as Curator and heir at law, John Spratley, John E. Nicholson and Ann, his wife, Nancy Myrick, widow and Administratrix of Benj. O. Myrick, dec'd, and Henry L., Mary Ann, Nathaniel T., Frances E., Solomon C., and Lucy J. Myrick, Louisa Holt, Bartholomew H. Simmons and Elizabeth his wife and Charles Barnes and Louisa his wife—Defendants.

The object of this suit is to establish the last will and testament of Nancy Miller, deceased, and affidavit being made that the Defendants, Skipwith Oliver, John Myrick, Robert Myrick, David Myrick and John Spratley, are not residents of this State, the said Defendants are notified to appear here within one month after due publication of this order and do what is necessary to protect their interest in this suit; and it is ordered that a copy of this order be published once a week for four successive weeks, in the South-Side Democrat, a newspaper published in the city of Petersburg, and posted at the front door of the Court House of this county on the first day of the next county court thereof.

A Copy—Teste.
L. R. EDWARDS, Clerk.

se 6—S4w

This day personally appeared before me, a Justice of the Peace for the city of Petersburg, Thos. C. Throckmole our made affidavit that to the best of his knowledge and belief the above order of publication in the case of Elisha Grant vs. Owen G. Myrick & others has been published in the Southside Democrat once a week for four weeks.

Oct 31st 1856

Wm. Swanwick

City ~~Town~~ of Petersburg, TO WIT:

THIS DAY personally appeared before me, an Alderman for
the Town of Petersburg,

Albert B. Anthony, Clerk in & of Democrat
~~THE REPUBLICAN,~~
a newspaper published in the ^{*City*} ~~Town~~ aforesaid, who made oath
that the Order of Publication, of which the annexed is a copy,
has been regularly inserted in said newspaper once a week for
Four weeks successively.

Given under my hand and seal, this *12th* day of *June*
in the year of our Lord one thousand eight hundred and *87*

M. J. L. Moore S. C. [SEAL.]

**TWO SKIPWITH OLIVER AND JOHN
SPRATLEY, ABSENT DEFENDANTS.—**

Take notice, as you are non-residents of this State,
that I shall, on the 17th day of June next, at the
office of Wm. B. Shands, in Jerusalem, between the
hours of sunrise and sunset, and to be continued
from day to day until finished, proceed to take the
depositions of Benjamin E. Pope, William Mallory
and others, to be read as evidence in my behalf, in
a certain suit now pending in Chancery in the Cir-
cuit court of Southampton county, Va., in which I
am plaintiff and you and others, are defendants.

Yours, &c.,

ELISHA F. GRANT.

my 22—F4w

Lyonsville

2 } Instructive

Mother -

1st - The testimony in this cause, if believed by the jury, is sufficient proof of the execution of the paper set up, as the last will and testament of Nancy Millicott.

2^d - That the said paper ^{offered by the plaintiff} containing the valid last will and testament of Nancy Millicott, unless it was cancelled by her or by some one in her presence and by her direction, in her lifetime - or unless it was revoked by the execution of a subsequent will of the said Millicott or by some writing executed by her in the same manner as the law requires a will to be executed

3^d - That a subsequent will cannot operate as a revocation of a prior will made by the said Millicott, unless the subsequent will contains an express clause of revocation - or unless the provisions of the subsequent will are so incompatible and inconsistent with the provisions of the prior will that both wills cannot stand.

4th - That the burden of proof that the subsequent will did contain an express clause of revocation of the prior will, or that its provisions were so inconsistent with the provisions of the prior will that both wills cannot stand, is on the party alleging the same; and in the absence of evidence on the subject, the subsequent will does not revoke the former.

8 - If the Jury believe from the testimony that the record will made by Stoney Michu remained in his possession and was not found after his death, it is presumed that it was cancelled or destroyed by the said Stoney Michu in his lifetime; and the burden of proof is on the party alleging the contrary -

Instructions

① That a subsequent will cannot revoke a former will unless the subsequent will be also executed in the manner in which a will is required to be executed.

② That a subsequent will or codicil duly executed operates as a revocation of a former one, only when it contains an express clause revoking all former wills, or when it makes a different and incompatible disposition of the property devised by the former one.

③ That when a second will has no clause of revocation of all former wills, and does not make any disposition inconsistent with the former will it does not operate as a revocation of such former will but both are good.

④ That an obliteration or alteration of part of a will does not operate as a revocation of the whole will, but only the parts obliterated and the rest remains good, unless obliterated with intent to destroy the will.

1. The Court instructs the Jury that if they believe from the evidence that Nancy Miller made and Executed a subsequent will to the paper propounded for Probate, making a different disposition of her property, such subsequent will is a revocation of all former wills, and the destruction of such subsequent will does not revive the former -

The Court instructs the Jury that if they believe from the Evidence that the note offered for Probate, was only Executed and was found in the testatrix's possession in a cancelled condition, prima facie it was ^{Cancelled} ~~destroyed~~ by the testatrix herself or by her direction.