

1872 - 34

Southampton County Chancery

Wills, James

vs

Wills, Irvin C. & Wills, Thomas R.

division of sale of timber.
(mmeu)

Massenburg, E. W. (Exec)

74 91 85 79 74 65 4

Will's Error

~ } Papers

Will's

1869 November Term

1872 May Term

To be returned to

Wm. W. Will

95-94

Willis E. in

no Bill

Willis & c

1867 October Rules

To the Hon. Richard H. Baker, Judge of the Circuit Court for the County of Southampton.
Humbly complaining sheweth unto your Honor your Grantee E. W. Massenburg Esq. of James Willis dec'd. That in the year 1862 his testator did after having made and published his last will & testament which was admitted to probate at the November Term of the County Court of Southampton County in the year 1862 at which time the Exrs then named qualified according to law a copy of which will & certificate of qualification is herewith filed marked (H) and prayed to be taken as a part of this bill. That by the 2^d & 3^d clauses of the said will the testator devises to his sons Grain C & Thos N Willis a tract of land each and by the 10th clause he bequeathes to the said Grain C & Thos N Willis the debt due him from the Nottingham Saw mill Company for timber cut off the lands given to them by the 2^d & 3^d clauses to be divided between them in the same proportion that the timber has been cut from the lands given to each, and directs that if the said testator should collect the said debt or any part of it then that his Exrs should divide the amount so collected in the proportion aforesaid between the said Grain C & Thos N Willis before he divides any of the managed estate under the 7th & 8th clauses. That the said testator did collect the whole of the said debt in August 1856 amounting to \$810.26 with interest thereon from June the 26th 1853 - Your Grantee further sheweth that he will soon ^{have} in hand a sum sufficient to pay the said amount, but that he has no means

of ascertaining in what proportion the said sum
should be divided between the said legates being entirely
ignorant of the quantity of timber cut from each
tract of land - That the said John C & Thomas N Wills
can not agree between themselves to what amount
each is entitled the one claiming nearly all and
the other claiming one half and have refused to
~~submit~~ their difference to arbitration whereby
your Orator is forced to ask the aid of this Hon-
orable Court to be enabled to settle the estate of
his testator - Your Orator further sheweth that
it is in doubt whether any interest should be
paid on the said sum of \$810.26 and if any
should be paid from what time
In tender consideration of all of which and in as-
much as your Orator is without remedy in the
premises save in a Court of Equity where matters
of this kind are only cognizable to the end
therefore that justice may be done he
prays that the said John C Wills & Thomas
N Wills may be made Defendants to this bill
and required to make answer unto the allegations
therein that one of the Commissions of this
Court may be directed to ascertain & report
what proportion of the said sum of \$810.26
should be paid to John C Wills & what pro-
portion should be paid to Thomas N Wills
and that your Honor will grant such other
and general relief in the premises as
Equity may dictate and as in duty bound
he will ever pray &c. Pray it please the
Court &c

Properbury Jr

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Willis^d Ev

n^o { Report
Willis

May 1st 1872

In obedience to a decree of the Circuit
Court of Southampton rendered at November
Term 1869 in the Chancery suit of Willm^r Esq
against Willm, I have paid to the Defen-
dants J. C. Wells & Thomas R. Wells the
following sum directed to be paid by said
Decree "to wit" to J. C. Wells one thousand
44 $\frac{1}{2}$ + $\frac{33}{100}$ dollars and to Thomas R. Wells
one hundred & seventeen $\frac{84}{100}$ dollars. it
being the principal & interest of said sum,
as will appear by their receipts herewith
returned as a part of this Report

Respectfully Submitted

A. S. Doles Shff

Jadw Jar Wells ad.

May 6th 1872

Received March 19th 1890 of A. S. Doles
Sheriff of Southampton County, through the
hands of W. C. Briggs one thousand & Six
233/100 Dollars in full of the amount ordered
to be paid by a Decree of the Circuit Court
of Southampton County, rendered at November
Term 1869, in the Suit of Mapeburg Ex.
gr Jas Will, against J. C. Will & R. Will.

A. B. Mills

Recd of J. L. Toley late Sheriff and Commissioner of
James Mills decd - the Sum of two hundred and Seventeen
dollars and seven ($\$117.07$) in full of principal
and interest ordered to be paid to me, by a Decree
of the Circuit Court of Southampton County
rendered at the May Term thereof held 1870
November Term A.D. 1869, of said Court.
May 22nd 1871

Thomas R. Mills

Wills com
as 3 Decem
Wills

To be Entered
E. J. Pitts

Wills ex

vs 3 Decm

Wills

It being suggested to the court that since the institution of this suit and the last order rendered in this cause Edward W Mappenberg executor of the last will of James Wills deceased has departed this life and that the estate of James Wills has been committed to the hands of Demareus L Dole sheriff of Southampton as administrator de bonis non with the will annexed on motion Irving & Wills one of the parties to this ^{suit} the name of Demareus L Dole admin of James Wills is substituted in place of E. W. Mappenberg and the suit stands moved in his name and is to be prosecuted in his name only and thereupon this cause came on this day again to be heard and the ~~report~~ ^{former} ~~was~~ ^{and} and the report of commissioners made pursuant to a decree of November term 1867 and to which no exceptions have been ~~made~~ ^{made} and was argued by counsel on consideration whereof the court doth adjudge, order, and decree that the said report be confirmed and that Demareus L Dole administrator de bonis non of James Wills with the will annexed pay to Irving & Wills the sum of \$729.23cs with interest thereon from the 17th of November 1863 and to Thomas R Wills the sum of \$81.03cs with interest from the 17th of November 1863 to be paid out of the assets of his testator in his hands

Wills Am
or 3 Dec
Wills

May Jan 1892

to be entered

Geo W. B. L. S. D.

Wills on -

as 3 Decem

Wills

This day this cause came on again to be heard on the papers formerly read and the report of D. L. Dole of the payments made by him under the decree of the November Term 1869 of this court and it appearing that the said Dole has paid on the to which no exceptions have been filed and was argued by counsel on consideration whereof the court doth adjudge order and decree that the said report be confirmed and it appearing to the court that there is nothing further to be done in this cause the court doth order the same to be removed from the docket

Hill's Ex.

is } Co. D. 1st

Hills

9/10 of the
timber cut off
of J C Wills land
as proved by B D
Moore. George T
Camp & J C Wills

Southampton Circuit Court, November Term 1867

E. W. Mapenburgh Exor. of James Wills, Plff.
against — } Subscribers.
Irvin C. Wills and Thomas A. Wills, Defs.

This day this Cause came on to be heard on the Bill taken for
Compulsory as to the Defendants Irvin C. and Thomas A. Wills and Exhibits,
and was argued by Counsel. On Consideration whereof the Court
doth adjudge, Order and Decree, That one of the Commissioners
of this Court ascertain and report, in what proportion the said
Sum of Eight hundred and ten dollars and twenty six cents,
Should be divided between the said Irvin C. and Thomas A. Wills,
Under the 10th Clause of the Will of the said James Wills deceased.

Attest

Teste

L R Edwards Clk

2-15-68
Attest
Clerk of Court
L R Edwards
Scribbled as found

Wills

Wills

Wills 2000
to My Dear
Wills 2c

Nov. 10. 1867
To be entered
R. 14. 13.

Wills

Wills

Wills 2000
to My Dear
Wills 2c

Wills 2000
to My Dear
Wills 2c

Wills 2000
to My Dear
Wills 2c

Wills 2000
to My Dear
Wills 2c

Wills 2000
to My Dear
Wills 2c

Wills

as

{ James

Wills

}

This ~~they~~^{this} case came on to be heard
on the bill taken for confessed as to the defendant
James C and Thos R Wills and exhibits and was
argued by counsel on consideration whereof
the court doth adjudge order and decree that
one of the commissioners of this court
ascertain and report in what proportion the
said sum of \$810.26 should be divided
between the said James C & Thos R Wills under
the 10th clause of the will of the said James Wills
decd?

Wills ex

Wills } Com. Notice
Wills }

Executed on Irvin Co. Wills
March 6th. 1868 and on E.
W. Massenburg Mar. 16th
by delivering to each a copy
and on Thos. R. Wills
Mar. 6th. 1868 by leaving
a copy at his house with
a white member of his
family over 16 years old
& explaining its purport
he being from home.
E. S. Story Sept
for G. Wills Chff

COMMISSIONER'S OFFICE,

Jerusalem, *Jan'y 14th* 1868

To *E. W. Mapeburg Executor of James Wills*

Deft

Against

Irvin C. Wills & Thomas R. Wills

Deft

You are hereby notified that I have fixed upon the *17th* day of *March* next, if fair, if not, on the next fair day thereafter, (Sunday excepted,) to take and settle, at my office, the following accounts, to wit:

That one of the Commissioners of this Court ascertain and report in what proportion the said sum of Eight hundred and Ten dollars & Twenty six cents should be divided between the said Irvin C. and Thomas R. Wills under the 10th clause of the will of the said James Wills dec'd

required to be taken by a decree of Southampton Circuit Court, rendered on the _____ day of *November Term* 1867, in a suit in Chancery, depending in said Court, in which you are parties, plaintiffs, and defendants; at which time and place you are required to attend.

Given under my hand as Commissioner in Chancery of the said Court, the day and year first aforesaid.

Henry S. Bernard Commissioner.
Wm. H. Prutton

To the Sheriff of Southampton County to execute.

In the Name of God amen:

I James Wills of the County of Southampton and State of Virginia do Ordain, Constitute and appoint this my last will and Testament in manner and form following—

Item 1st: To my son James W. Wills I give and devise the tract of Land known as the Lawrence tract containing about Four Hundred acres to him and his heirs forever—

Item 2^d: To my son Irvin Wills I give and devise that part of my Land lying on Mattaray River known as ~~the~~ Briggs & Barnett Land, containing about Four Hundred acres and divided from the Homestead or Old place by a line recently chopped by myself, to him and his heirs forever—

Item 3rd: To my wife Edith Wills I give and devise that part of my Land known as the Homestead or Old place to have and to hold during her life or widowhood and after her death or Marriage then I give and devise the said Homestead or Old place to my son Thomas W. Wills to him and his heirs forever—

Item 4th: To my wife Edith Wills I give and bequeath my Slaves Jacob, Ben, Agnes and Winney to have and to hold during her life or widowhood, and after her death or Marriage then I give and bequeath the said Slaves to be equally divided among all my children—

Item 5th: I give and bequeath the remainder of my Slaves to be equally divided among all my children, no regard being had in such division to any advancement which I may heretofore have made to either of my said children in Slaves or money, it not being my intention that such advancement shall be brought into Hotchpot or accounted for in the division of any part of my Estate—

Item 6th: I desire my Executor herein after named to sell all the balance of my Chattel estate—

Item 7th: I give and bequeath to my wife Edith Wills one third of the proceeds of the Sale of my Chattel estate and one third of my Moneyed estate to have and to hold during her life or widowhood and after her death or Marriage I give and bequeath the same to be equally divided among all my children—

Item 8th: I give and bequeath the other two thirds of the proceeds of the Sale of my Chattel estate, and of my Money'd estate to be equally divided among all my children. -

Item 9th: I hereby nominate and appoint Edward W. Mapenbury the Executor of this my last Will and testament, hereby revoking all other and former wills and testaments by me heretofore made. -

Item 10th: I give and bequeath to my Sons Irvin C. and Thomas R. Wills the debt due me from the Yottoway Saw Mill Company for timber cut off the Lands given them under 2^d and 3^d Clauses of this will to be divided between them in the same proportion that the timber has been cut from the lands given to each, and should I collect the said debt or any part of it, then I desire my Executor to divide the amount so collected in the proportion aforesaid between my said Sons Irvin C. and Thomas R. Wills, before any of my Money'd estate is divided under the 7th and 8th Clauses. -

Item 11th: I give and bequeath my Stills to my three Sons James C., Irvin C. and Thomas R. the said Stills to remain where they are and to be jointly and equally used by all three. -

Item 12th: I give and bequeath to my three Sons and to my wife one bid each. -

In Witness whereof, I hereunto sign my Name and affix my Seal this day of 1854.

In the presence of

James Wills Seal
J. A. Scoggin Seal
Joshua Crumpler Seal
Edwin Daughtry Seal

At a Court held for the County of Southampton on the 17th day of November 1862.
The last will and testament of James Wills decd. was this day proved by the Oaths of J. A. Scoggin, Joshua Crumpler and Edwin Daughtry the subscribing witnesses thereto and thereupon ordered to be recorded, and on the Motion of Edward W. Mapenbury the Executor therein named who made Oath and together with James S. Mapenbury & William W. Cobb his Securities (who qualified on Oath as to his sufficiency) entered into and acknowledged a bond in the penalty of Twenty five thousand dollars Conditional according to law, Certificate is granted him for obtaining a Probate of the said Will in due form. -

Teste.

W. Edwards, Ck

Wells Es? }
as } Comp?
Wells } Report

1868 April 1st

An Account showing in what proportion
the sum of Eight Hundred and Ten Dollars
and Twenty six cents (\$810.26) should be divided
between Jovin C and Thomas R Wills under
the 10th claim of James Wills will.

To Jovin C Wills

729 23

" Thomas R Wills

81 03

Respectfully submitted
Wm W. Norton Compt.

Comptroller's office
Jamestown April 15th 1868

It is the order of the Court of Southampton County

Present

in a case of the Court of Southampton County
rendered on the day of November term 1867, in
a case in Chancery depending in said Court
between E W Chapman Compt. Exr of James Wills
decd Plaintiff and Jovin C & Thomas R Wills
defendants, it is ordered one of its Com-
missioners of said Court, to whom was
referred for settlement, by said Court, in what
proportion the said sum of \$810.26 should be
divided between the said Jovin C & Thomas R Wills
under the 10th claim of the will of James Wills decd
appears to Court that on the 14th day of January 1868
he issued notices against the several parties afore-
said requiring them to attend the settlement of
said account before him, at his said office,
on the 17th day of March, which was returned in
good Commission duly executed. That the parties

affidavit appeared before the Commissioner in obedience
to said notice, and he thereupon after examining the
parties and other witnesses, stated and signed the
following account marked "A". The Commissioner
further reports to court that after the completion
of said account he retained the same in his
office ten days for examination of parties,
which with the deems and notices, affidavits are
herewith returned.

Given under my hand as
Commissioner of said court, the day and year
first above said

Comp: Fee \$10.00 }
Signed to Parties }

Wm. H. Taylor
Commissioner

Wills' Exr

Er. { Sams. Chy.

Wills

1867 October Rules

Executed Sept. 16th. 1867
on Irvine G. Wills by deliver-
ing him a copy, and on
Thos. M. Wills Sept. 18th.
1867 by leaving a copy at his
house with a white person
over 16 years old & explain-
ing its purport, he being
from home.

E. L. Story Esq
for S. Kello Esq

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF SOUTHAMPTON COUNTY—GREETING:

WE COMMAND YOU to summon

Irvin B Wells & Thomas R Wells

to appear at the Clerk's office of our

Superior

Court of Southampton County, at the Rules

to be holden for the said Court on the first Monday in

*October next to answer a bill in Chancery
exhibited against them in our said Court by E. W. Maffenburg Exor. of James
Wells dec^d*

and have then there this writ. Witness LITTLETON R. EDWARDS, Clerk of our said Court, at the Court-
house, this *16th* day of *September* 186*7*, in the *92^d*
year of the Commonwealth.

L. R. Edwards

66 64 56

Will's Exon

to } Stat. Rules.

Will's

In Southampton Circuit Court.

E. W. Maffenberg Exor. of James Wills

against
Jesse C. Wills & Thomas R. Wills.

1867 Sep 16. Summons issued &

" Oct R. Summons ret. Executed. Bill filed. Dece nisi is aft.

" Nov " - Bill taken for confessed & cause set for hearing &

" " J. Dece foramt to

1868 Apr 1st.

1869 Nov. Dece final.

1872 May Removed from Docket: