

1909-83

Southampton County Chancery

Oape, Caroline
Est.

v.

Darden, Mallev, et al

Barham
Biggs
Darden
Fay
Harvard
Lighth
Muegrane
Myrick
Oape
Oance
Oance
Wardlaw

Bill to Construct
Will

Wardlaw, J. D.
Barham, J. L.
Darden, J. J. dec.
Estate Est.
Oape, Caroline

Muegrane, R. D.
Muegrane, Joseph T.
Myrick, Carrie
Muegrane, Rosa A
Myrick, William D
Fay, Thomas J.
Barham, Joseph L.
Darden, Sarah E.
Darden, Jas. J.
Oape, Bettie T.
Fay, Josephine
Oance, Nannie B.
Lighth, Tom. H.
Harvard, Richard
Darden, J. B. Esq.
Oance, J. H. Esq.
Fay, J. D. Esq.
Nancy Briggs
Est

Popes' Exors

vs. { Bill in chancery

Darden et al

1901 2 Aug. Rules filed
E. A. May 6/02

Wm. SHANDS & SON, P2.
ATTORNEYS AT LAW.
CROFTLAND, VA.

TO THE HONORABLE R. R. PRENTISS, JUDGE OF THE,

CIRCUIT COURT OF SOUTHAMPTON COUNTY, VIRGINIA.,

Respectfully show unto the Court that said Caroline R. Pope, having first made her last will and testament, departed this life testis in the year 1885.

That at August term 1888 the County Court of Southampton County, Virginia, her said will was duly admitted to probate, and the aforesaid Executors duly qualified as such, all of which will more fully appear from the certified copy of said will, and a certified copy of the said qualifications, herewith ^{filed} marked exhibit No. 1 and 2, and prayed to be read as a part of this bill.

That J. J. Barden, one of the said Executors, has since died, having departed this life, testis in the year 1889, that at August term 1889 of the County Court Southampton County, Virginia, J. R. Barden, and J. R. Rives, duly qualified as ^{his} Executors, all of which will more fully appear from the a certified copy of the order of their qualifications herewith filed, marked exhibit No. 3, and prayed to be read as a part of this bill. That the Executors of said Caroline R. Pope, have carried out and executed the provisions of her said will, so that nothing (except possibly a very small amount) remains in their hands undistributed, except the six (6) bonds of one thousand (\$1000.) each, and the accrued interest thereon from January 1st., 1881, (and said bonds bearing 5% interest,) and which were to be held and set aside by the said Executors, according to provisions ^{of} and item third of the said will and which item is as follows:

ITEM 3rd:

I wish to give to my Aunt, Nancy Briggs, during her life, the

interest on six (6) one thousand (1000) dollar bonds, amounting to three hundred (\$300.) per annum, said bonds described as follows: Bonds of the Georgia, Carolina & Northern Railroad, some being 5% coupon bonds, payable in gold and interest payable semi-annually, 1st of January and July respectively, secured by first mortgage on said Railroad and guaranteed by the Seaboard & Roanoke and the Raleigh & Eastern Railroads. Said bonds registered in my name, and maturing July 1st., 1920. The Mercantile Trust Company of Baltimore, Md., Trustees. The numbers of said bonds run from 2806 to 2808, inclusive. I wish these six bonds, as mentioned, to be set aside out of my estate, and to be held by my Executors, and the interest on same, which amounts to three hundred (\$300.) annually, to be paid over to the said Nancy Briggs, during her life for her maintenance and support.

At the said Nancy Briggs' death, I wish the principal of the said bonds, with whatever accrued interest thereon, to revert back to my estate, and to be divided among my legatees as hereinafter named.

In the event my Aunt, Nancy Briggs should not be living at the time of my death, then this item (3rd) is null and void.

That after making sundry other legacies and devices, all of which have been carried out and executed as she had directed, the parties to whom they were made being alive at the time of her decease, and have received the said legacies and devices, by the following items in her will, ^{being among these} namely:

By item 4 there was a devise of certain real estate ^{being among these} for Hester De Barry, by item 5 a legacy of five hundred (\$500.) to Mrs. Kate Story, by item 10 a legacy of one hundred (\$100.) dollars to Mrs. M. E. Wren, by item 15, a legacy of one thousand (\$1000.) dollars to J. W. Ferson, by item 16 a devise of certain real estate to George E. Long, which were conditioned upon their being alive at the death of the testator, and to

be null and void in case they were not alive at her death. And by item 18, a legacy of two hundred (\$200.) dollars to Patsy Pope, provided she was living at the death of the said testator, and a legacy of one hundred (\$100.) dollars to Miss Alice Panton, provided she was in the testator's employ at the time of her death, and that ^{there are} no provisions in the said items as to how the said legacies and devices were to go in case the said conditions were not complied with by the said parties to whom they were given. ^{and there are referred to as they might} That said testator then made the following provisions: ^{now not taken effect. and hence they may have} ^{some bearing upon the question of what right intended} ^{for the residue my legacies as herein set forth. These}

ITEM 25th:

"It is my will and desire that all my bonds, accounts, and evidences of indebtedness of every description, not hereinbefore disposed of, shall be divided into eleven (11) shares", and she then disposes of said shares, as follows; as will appear by referring to items 26 to 39, inclusive, namely:

To Nathan H. Burgrave, one half of one of the said shares,
To Joseph E. Burgrave, "
To Mrs Carrie Myrick, wife Wm. A. Myrick, ditto,
To Mrs. Rosa A. Burgrave, wife J. E. Burgrave, "
To William A. Myrick, "
To Thomas J. Fox, "
To Joseph L. Barnum, "
To Sarah E. Burden, wife Jas. J. Burden, "
To Jas. J. Burden, one and one half of said shares,
To Mrs. Bettie T. Pope, widow R. P. Pope, ditto "
To Nellie J. Burden, wife Jas. J. Burden, one half of one share,
To Josephine Fox, wife Frank T. Fox, one of said shares, "
To Mrs Nannie B. Prince, widow J. B. Prince, one of said shares,
To Wm. H. Leigh, one of said shares, "
To Richard Howard, one half of one of said shares.

Then made the following provisions, namely:

ITEM 40TH:

"I herewith declare as my residuary legacies, S. M. Burden, wife of Jas. J. Burden, Nellie J. Burden, wife of J. B. Burden, and Bettie T. Pope, widow of R. P. Pope, deceased, to whom I equally give all my estate, of every kind, not heretofore disposed of."

That the said Mary Briggs departed this life testate, on June 26th, 1901, ^{That} when T. J. Fox, duly qualified as executor, ^{has} at the July term, 1901, at the County Court of Southampton and should be paid to by your order.

County, Virginia, as will more fully appear from the certified copy of the order of said qualifications herewith filed, marked exhibit No. 4, and prayed to be read as part of this bill.

Now, the question having arisen as to who is entitled to the said bonds, (and interest thereon, due,) referred to in item three, namely: Whether they go in the general fund and are to be collected and divided in eleven (11) shares, as per item twenty-five, and paid out according to provisions and items 28 to 30, inclusive, or whether they are to be collected and paid over to the parties named as residuary legatees, in item forty.

And also, as to who is entitled to the accrued interest on said bonds, and your Grators, fully realizing that the legal and proper course for them to pursue is to ask the Court to construe the said will, in regard to the said bonds and interest, and to direct them what to do in regard to the same.

In tender consideration whereof, and in as much as your Grators are without relief save in the Court of Equity, where such matters are alone and properly cognizable, they pray that said R. H. Mangrove, Joseph T. Mangrove, Mrs. Carrie Myrick, Mrs. Rosa A. Mangrove, William A. Myrick, Thomas J. Fox, Joseph L. Barden, Sarah B. Barden, Joe. J. Barden, Mrs. Bettie T. Pope, Mrs. Nellie J. Barden, Josephine Fox, Mrs. Annie B. Prince, Wm. H. Leigh, and Richard Howard, - J. B. Barden and J. H. Rivin, Executors of J. J. Barden, deceased, and T. J. Fox, Executor of Henry Briggs, deceased, may be made parties defendants to this bill and required to answer to the allegations therein contained (but answers under oath are hereby specially waived) as fully as if they were thereunder more specially and particularly interrogated.

That the Court would pass upon and construe said will and decide to whom said bonds and interest, now belong, and should be paid to by your Grators.

That all necessary orders may be entered, inquiries direct to be made and reported to the Court, and all such other, further general, and special relief given your Orators as the nature of the case may require, or to Equity seem meet.

And your Orators hereby give notice to all parties interested that they shall ask the Court to allow out of the said funds, a reasonable Attorney's fee, to William Shands, their Attorney, for his services in this case.

All of which, as in duty bound, your Orators will ever pray, May it so please the Court.

Wm Shands p.q.

Thirty one hundred and eighty seven of the
annuities

as per Josephine C. F. 17

Greenville

Form No. 300%

Pap's Exors

vs.

}

SUBPENA

IN CHANCERY.

Darden et als.

Wm Shands p. q.

To 1901. 2" Aug. Rules.

Levenish Court.

The Commonwealth of Virginia,

To the Sheriff of the County of Greenville Greeting:

We COMMAND YOU, That you summon Josephine Foy

to appear at the Clerk's Office of the District Court of the County of
Savannah at the rules to be held for the said court on the 3rd Monday in
Aug. 1901, to answer a bill in chancery exhibited against her et als.
in our said court by J. J. Woodward and J. L. Barham
Surviving Exors of Thomas and J. J. Darden,
decd, Exors of Caroline R. Pope decd.

And have then there this writ. Witness L. A. Gay, Clerk
of our said court, at the courthouse, the 16th day of July 1901, and
in the 176 year of the Commonwealth.

Teste: L. A. Gay C. C.

Brief of Counsel for Appellee in the cause of Musgrave
& Others v. Pope's Executor.

Praxler v. Praxler, 2 Leigh, 642.

"An undisposed of remainder passes to the residuary legatees."
The contention in this case, and the question for the
court to decide, is one that is well defined. It is simply
what estate do the residuary legatees take under the will of
Mrs. C. R. Pope.

One of the first rules in the exposition of wills is,
that the intention of the testator, expressed in his will,
shall prevail, provided it is consistent with the rules of
law. "And in order the better to understand the scheme which
the testator had in his mind for the disposition of his estate,
the judicial expositor is permitted to place himself, fig-
uratively speaking, in the very shoes of the person whose will
he is called upon to construe, and with the aid of such extrin-
sic evidence as is admissible for the purpose, possess him-
self of the condition of the testator and his family; and of
such surrounding circumstances as may be reasonably supposed
to have influenced him in the disposition of his property."

Wooten v. Redd, 12 Gratt., 196.
Hatchler v. Hatchler, 80 Va., 169.
Waring v. Basher, 91 Va., 286.
Massey v. Powell, 93 Va., 258.

"I wish these six bonds of my estate and be held by my executor, which amounts to \$300 annually to be paid over to the said Mary. The court will make the amplest allowances for the unskillfulness and negligence of the testator, technical in- formalities will be disregarded, the most perplexing complica- tion of words and sentences will be carefully unfolded, and

traces of the testator's intention will be sought out in ev- ery part of the instrument and the whole carefully weighed

together." "It is my will and desire that all my bonds, and all my estate, and all my property, shall be divided into eleven shares and I give to Reuben N. Musgrave one share."

Wooten v. Redd, 12 Gratt., 196.

Walker v. Webster, 95 Va., 379.

"All specific or pecuniary legacies that lapse pass to residuary legatees, except where there is a lapse among re- siduary legatees themselves, when, as to such part, there

shall be no distribution to the residuary legatees. In the following language: "I give to Reuben N. Musgrave one share, to Mollie J. Barden, wife of James

J. Darden and Bettie T. Pope, widow of R. F. Pope, deceased, is intestacy." I give all my estate of every kind not here-
disposed of." *Frazier v. Frazier*, 2 Leigh, 642.

"An undisposed of remainder passes to the residuary legatees."

Jarman on Wills, 588, 594.
Maynew v. Godfrey, 103 Mass., 298.
Stout v. Stout, 44 N.J. Eq., 479.
Read v. Payne, 3 Call, 225.
Markells v. Markells, 32 Grat., 544.

"A general residuary bequest carries to the residuary legatees all the property of the testator that is not otherwise disposed of by will, including all lapsed legacies and all void legacies." *Legatee vs. General*.

That the legatees...
Theyer v. Wellington, 9 Allen, 283.
Biglow v. Gillett, 123 Mass, 106.
Kennon v. McRoberts, 1 Wash., 97.
Stonestreet v. Doyle, 75 Va., 367.

Item 3 of the will reads:

"I wish to give my aunt Nancy Briggs during her life the interest on six one thousand dollar bonds, amounting to three hundred dollars per annum, said bonds described as follows, namely, bonds of the Georgia, North Carolina & Northern railroad, same being 5 per cent coupon bonds payable in gold, the interest payable semiannually 1st. January and 1st. July respectively. Secured by first mortgage on said railroad and guaranteed by the Seaboard & Roanoke and Raleigh & Gaston railroad. Said bonds registered in my name and maturing July 1st, 1929. The Mercantile Trust Company of Baltimore, Md. trustees. The numbers said bonds run from 2989 to 2992 inclusive.

I wish these six bonds as mentioned to be set aside out of my estate and be held by my executors and interest on same which amounts to \$300 annually to be paid over to the said Nancy Briggs during her life for her maintenance and support. At the said Nancy Briggs' death I wish the principal of said bonds with whatever accrued interest thereon to revert back to my estate and be divided among my legatees as in hereafter named. In the event my Aunt Nancy Briggs should not be living at time my death then this item is null and void."

Following this are numerous specific legacies, after which is item 25:

"It is my will and desire that all my bonds, accounts, evidences of indebtedness of every description not hereinbefore disposed of shall be divided into eleven shares and I give to Reuben W. Musgrave one half of one said shares."

Testatrix then distributes to numerous persons the bulk of her estate, and coming to item 40, names her residuary legatees in the following language:

"I hereby declare as my residuary legatees Sarah E. Darden, wife of J. J. Darden, Mollie J. Darden, wife of James

3--
J. Darden and Bettie T. Pope, widow of R. P. Pope, deceased, to whom equally I give all my estate of every kind not hereinafore disposed of."

That the legatees under item 25 are not the remaindermen of the life estate, seems clear from the language employed by the testatrix; in item 3 the testatrix is particular to identify the bonds from which the life interest is to arise; they are indicated by name as well as by number; it is a specific bequest; whereas, "the bonds, accounts, evidences of indebtedness, &c." mentioned in item 25, are not particularized; there the bequest is general.

That the legatees under item 25 are not residuary is expressly stated, for in item 40 the testatrix mentions the residuary legatees, calling them such by proper designation. In item 25 the testatrix bequeaths generally to certain named persons "all bonds, accounts, evidences of indebtedness of every description not hereinbefore disposed of," and was intended to cover such property as could be divided in due course, after her death, without delaying the distribution, and therefore she collects and distributes all of the property that could be distributed immediately, and at the same time have respect for her previous bequests.

Her language, "to be set aside out of my estate", clearly indicates that these bonds were not to be considered as embraced in item 25. To hold otherwise would be extremely inconvenient, as it would delay the general distribution indefinitely (till the death of Mrs. Nancy Briggs), at the same time leave nothing for the residuary legatees to take; for if these residuary legatees are not to take the bonds in question, then the creation of a residuary clause was a vain and useless effort. The same reasoning that devolves to the residuary legatees the six railroad bonds, would, with greater force, deprive them of any possible benefits under clauses 4, 9, 10, 11, 12, 14, 15, 16 and 23, although the learned counsel for appellants says in his brief, that these last mentioned

clauses were doubtless the occasion for item 40, contending at the same time that the language in clause 3rd., "In the event that my aunt Nancy Briggs should not be living at the time of my death, then this item is null and void," would, in the event of her death before testatrix, cause these six bonds to fall into the general estate and be disposed of under item 25, a line of reasoning which must be applied to all the special legacies, if applicable to this one, but which, in our judgment, has no application to the question at issue.

We beg to submit in answer to these contentions,

1st. Mrs. Nancy Briggs survived testatrix, and at her death, all the estate, save the bonds in litigation, had been distributed and the estate settled.

2nd. These bonds having been "set aside out of my estate", could not, and clearly were not, intended to have been disposed of by item 25, which collected all of the estate not already dealt with by testatrix in previous clauses of the will.

3rd. They were in item 3 entirely and effectively disposed of; the life estate to Mrs. Briggs, the remainder to "my legatees as in hereafter named." Significant indeed is it that she, nowhere in her will, says who the legatees are until she reached clause 40, wherein she designates Sarah E. Darden, Mollie J. Darden and Bettie T. Pope as her "residuary legatees". Notice the word legatees is only twice used in the entire will, first in item 3, where she disposes of the corpus of the bonds, as follows: "I wish the principal of said bonds, &c. . . . to be divided among my legatees as in hereafter named;" and in item 40, wherein she names her residuary legatees; a very strong, well high conclusive, indication of what was passing in the mind of the testatrix at this time, and who she intended the language, "my legatees"

5--

as in hereafter named," to refer to.

Unless this construction is placed on the will, those whom she has demonstrated to be the especial objects of her consideration would receive nothing at all under item 40, and under the contention of opposing counsel, could, by no means, take as residuary legatees, there being nothing to take; a construction which the courts will not adopt unless the language admits of no other.

If "legatees as hereinafter named", used in clause 3, does not refer to the residuary legatees, then it must embrace all of those who are technically legatees. This will embrace all of those mentioned in items from 3 to 25, for they are all legatees, and as respects item 3, are "hereinafter named"; but as this could not be the intention of testatrix, we conclude that she did not use the words in their strict legal sense, indeed had no thought of the technical meaning; that she connected the idea of legatees with the residuary clause, and when disposing of the bonds in item 3 intended giving them to those "hereinafter named" specifically mentioned in item 40.

This view of the case reconciles the apparent conflicts growing out of the language, "not hereinbefore disposed of" used by testatrix in item 25, and also in item 40. As respects clause 25, these bonds had been segregated and carried over to the legatees, (only named in item 40) by operation of item 3, taking effect as soon as the legatees were named in item 40, and therefore were disposed of. The words, "not hereinbefore disposed of", as used in clause 40, referred to such estate as was not covered by item 25, which was the general clause covering the bulk of the estate, and the only clause absolutely disposing (independent of all others) of

her estate; and the only clause, we think, in the mind of the testatrix, when she placed the words "not hereinbefore disposed of" in the residuary clause, the bonds not having been disposed of until the residuary clause was written, which clause related back to clause 5, and made a complete disposition of all decedent's property.

NOTE OF ARGUMENT FOR R. N. MUS-
GRAVE ET AL.

POPE'S EXECUTORS.

VS.

POPE'S LEGATEES &C.

WATTS & HATTON,
Attorneys and Counsellors at Law
COMMERCIAL BUILDING,
322 HIGH STREET, PORTSMOUTH, VA.

VIRGINIA.

IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY.

POPE'S EXECUTORS)
)
VS.) IN CHANCERY.
)
POPE'S LEGATEES &C.)

NOTE OF ARGUMENT FOR R. N. MUSGRAVE, J. S. MUSGRAVE ET AL.
CLAIMING \$6000.00 OF G. C. & N. BONDS UNDER ITEMS 3RD AND
25TH OF THE WILL OF CAROLINE R. POPE, DECEASED.

The legatees named in items 25th to 39th inclusive of the will of Caroline R. Pope, deceased, believe that they are entitled to the \$6000.00 of bonds named in item 3rd, because if those bonds do not pass under those items there is no other item under which they can, by any reasonable construction, be held to pass and there can be no doubt as to the intention of the testatrix to make some testamentary disposition of the principal and interest of these bonds, as there is enough in the will to make that intention plain to the most casual observer.

If these bonds did ~~not~~ pass under item 25th, it is beyond question that they did not pass under item 40th because that last named item only applies to such of the property of the testatrix as did not pass by any other item of the will. But it is claimed by the legatees named in item 40th that these bonds did not pass under item 25th because that item only applies to "bonds, account, evidences of indebtedness of every description not hereinbefore disposed of". It is admitted that the words "bonds, accounts, evidences of indebtedness of every description" are sufficiently comprehensive to include the bonds in question, but it is contended that the words "not hereinbefore disposed of" will exclude these bonds because they are previously disposed of in item 3rd of the will. We claim that this is not sound reasoning, and if it was sound, the result would be to deprive the lega-

tees under item 40th of these bonds even more effectually than the legatees under item 25th, because exactly the same language occurs in item 40th.

If it could be shown that at the time of the making of this will, it was not possible for the legatees under item 40th to have taken anything and that the construction contended for by them was necessary in order to give any significance whatever to item 40th, the position of those legatees would be in some degree strengthened, but such is not the case, because it appears that the testatrix directed her executors to sell all her real and personal estate save that specifically disposed of, and it was impossible for her to determine whether the proceeds of sale would not exceed the specific bequests made and she desired to dispose of that excess, if any there should be. And this would be a sufficient answer to any such argument on the part of the legatees under item 40th; but there is a further answer to be found to it in items 4th, 9th, 10th, 11th, 12th, 13th, 16th, 18th and 23rd of the will, which contain in some cases devises and bequests of specific or general property and under the terms of which if the devisee or legatee had not been alive at the testatrix death or had not been in her employment at that time or had not preached her funeral sermon, such devisee or legatee would have taken nothing and the devise or bequest would have passed to the legatees in item 40th. So it abundantly appears from an examination of the will that this construction contended for by the legatees under item 40th is not, in any degree, the necessary construction, but is altogether strained and unsatisfying to the mind.

If the testatrix thought she had disposed of these bonds in item 3rd and therefore intended to exclude them from item 25th by the language "not hereinbefore disposed of", she must

have been equally mindful of that fact when in item 40th she used the same words. And the fact that in item 25th the words "not hereinbefore disposed of" had relation to "bonds, accounts and evidences of indebtedness" would create no distinction in favor of item 40th, because in that item those words had relation to "all my estate of every kind".

The words "not hereinbefore disposed of" in item 25th clearly have reference to the bonds specifically disposed of in the preceeding sections 14th and 15th. The descriptive language "all my bonds, accounts" &c. being general, it was necessary to use the restrictive words "not hereinbefore disposed of" to prevent a conflict between item 25th and items 14th and 15th. The items 3rd and 25th can be read together and should be so read, and it is apparent that item 3rd was intended to be read with some other item, Without being read with some other item, it is meaningless so far as it deals with the interest on the bonds after the death of Nancy Briggs and the bonds themselves. In item 3rd the testatrix says those bonds are to go to her legatees as therein-after named, and no other item in the whole will so meets the demands of this reference in item 3rd as does item 25th.

It is apparent that the testatrix intended her estate, after satisfying the several specific devises and bequests of the will which are not here disputed, to be divided into two classes, one composed of bonds, accounts and evidences of indebtedness and the other composed of all other kinds of property. All of the first class not otherwise specifically disposed of should pass to those designated in items 25th to 39th inclusive, and all of the second class not before disposed of should pass to those designated in item 40th.

For these reasons and for others plainly apparent upon the face of the will, we respectfully submit that the bonds before mentioned should be decreed to the legatees named in

items 25th to 39th inclusive.

Respectfully submitted,

J. Hatton

for R. H. Mueggen
+ others.

Jan'y. 13, 1902.

Musgrove et al.

vs.

Papua, Exors et al.

to

Superior

BOND.

with J. L. Barker

and T. J. Fox

as sureties

Commonwealth

1902. 15th Sept. filed

L. R. Hay 4.49

Know all Men by these Presents, That we, *R. N. Musgrave*
J. L. Barham and J. J. Fox

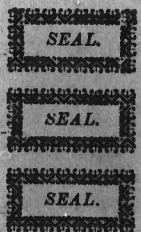
are held and firmly bound unto the Commonwealth of Virginia, in the sum of *(200.00)*
Two Hundred & no Dollars, to the payment whereof, well and truly to be made to the
said Commonwealth of Virginia, we bind ourselves, and each of us, our and each of our heirs, ex-
ecutors and administrators, jointly and severally, firmly by these presents. And we hereby waive
the benefit of our exemption as to this obligation, and any claim or right to discharge any liability
to the Commonwealth arising under this bond, or by virtue of said office, post or trust with cou-
pons detached from the bonds of the State. Sealed with our seals, and dated this *15th*
day of *September*, one thousand nine hundred and *Two*.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas *a writ of super-*
seas having been issued by the Court of the Supreme Court
of appeals of Virginia on the petition of R. N. Musgrave et al.
appellants, staying proceedings on a final decree entered
in a chancery suit in which J. J. Woodard and J. L. Barham
surviving executors of themselves and J. J. Barham, decd,
executors of Caroline R. Pope, decd, were plaintiffs and
R. N. Musgrave et al. defendants, which said suit was
pending in the Circuit Court of Southampton County,
and which said decree was entered on the 7th day of
May 1902.

Now if the said R. N. Musgrave et al. shall perform the said decree on the
part thereof, proceedings on which are stayed, in accordance with said decree
be affirmed or the said superseas be dismissed and also pay all damages,
costs & fees, which may be awarded against or incurred by the appellants
or petitioners in the appellate Court and all actual damages incurred in
consequence of the said superseas,
then this obligation to be void, or otherwise to remain in full force and virtue.

R. N. Musgrave
J. L. Barham

J. J. Fox



Clerk's office of the

In the *Circuit* Court of the *County* of *Southampton* in the *15th*
day of *September* 190*2*

This bond was executed and acknowledged in *the Clerk's office* ~~open Court~~ by the obligors, and ordered to
be recorded.

J. L. Barham and J. J. Fox
the sureties therein having first justified on oath that *their* estate s, after the payment of all
their just debts, and those for which they are bound as security for others and expect to
have to pay are worth the sum of *Two Hundred* dollars, over and above
all exemptions allowed by law.

Teste:

L. A. Gay

Clerk.

C.R. Phipps Engraver
w. { Rough
{ Beaman
Borden & Co

[illegible]

1

This cause came on this day to be heard upon the Bill of the complainants and the exhibits therewith filed, taken for confessed as to the defendants Joseph L. Barham, William S. Leigh^{and}, Richard Howard, and J. C. Darden and J. W. Rivers Executors of J. W. Darden deceased, and T. J. Fox Executor of Nancy Briggs deceased on whom process has been duly served, and they still failing to appear and plead answer or demurr; The joint and several answers of R. N. Musgrave, Joseph S. Musgrave, Carrie Myrick, William A. Myrick, Rosa A. Musgrave, T. J. Fox, Josephine Fox, Annie B. Prince, Sarah E. Darden, Indlie Darden and Bettie J. Pope, with general replications thereto, and was argued by counsel.

On consideration whereof, the Court being of the opinion that by the third ~~clause~~ ^{clause} of the last will and testament of Caroline R. Pope deceased the six one thousand dollar bonds of the Georgia North Carolina and Northern Railroad therein referred to reverted to the estate of said Caroline R.

2

Pope at the death of Nancy
Briggs ^{with the interest accrued since that date} ~~and~~ passed to Sarah E.
Warden, (wife of J. Warden) Mollie
J. Warden (wife of James J. Warden)
and Bettie J. Pope (widow of R. P.
Pope deceased) equally ~~under~~
~~the fourth item of her~~
as residuary legatees under the
fourth item of the said
will, doth accordingly so
declare, adjudge order and
decree.

It is further adjudged, ordered
and decreed that the executors
of Caroline R. Pope, deceased
proceed, after first paying
^{the taxes} the costs of this suit and
expenses of administration in-
cluding a fee of \$150. to
William Shands their counsel
for services and advice, to
distribute the said bonds,
and accrued interest, to
the said Sarah E. Warden,
Mollie J. Warden and Bettie
J. Pope equally and they
shall make report to Court.

Pope's Exhortations

vo. } Stat. of Rules.

Darden et al.

J. J. Woodard and J. L. Barham
 surviving Exors of themselves and
 J. J. Darden dead, Exors of Caroline - } Plff's
 R. Pope dead,

vs.

R. N. Musgrave, J. S. Musgrave,
 Mrs. Carrie Myrick, Mrs. Rosa A.
 Musgrave, Wm A. Myrick, Thos.
 J. Foy & J. L. Barham, Mrs. Sarah E.
 Darden, J. H. Rivers & J. R. Darden
 Exors of J. J. Darden dead, Mrs. B. J. Pope, } Defs
 Mrs. Mollie J. Darden, Josephine Fox,
 Mrs. Nannie B. Prince, Wm H. Leigh,
 and Richard Howard, J. J. Foy
 Exor, of Nancy R. Briggs dead.

1901. 16th July, Process issued to 2nd Aug. Rules.

1901. 2nd Aug. Rules process returned executed,

Bill and exhibits filed

Declarative vs defendants

1901. 1st Sept. Rules. Bill taken for confessed

and answer set for hearing.

In Chancery

Virginia, In the County Court of Southampton
County. August Term 1899.

I see in instruments of writing, one dated the
9th day of April 1888, with Codicil thereto,
and the other dated the 12th day of August
1893, each of said writings purporting to be
the last will and Testament of Jas. J. Darden,
decd, were this day produced in Court, and
the Court being requested to decide which of
said writings shall be probated as the will
of said decedent, and having carefully exam-
ined said writings and duly considered the
same - doth reject the one dated the 12th day
of August 1893, and is of opinion that the
writing dated April 9th 1888, with Codicil
thereto is, and should be probated as the true
last will and Testament of the said Jas. J. Darden,
deceased. And there being no subscribing
witnesses to said Will. Dr W. H. Doughty
and R. N. Mangrove were sworn and
duly depose that they are well ac-
quainted with the hand writing of the Testator,
and verily believe the said writing and the
name thereto subscribed to have been wholly
written by the Testator's own hand, where-
upon it is ordered that the said writing
and Codicil thereto, be recorded as and
for the last will and Testament of the said

John J. Darden, decd.

And on motion of J. R. Darden and J. Hicks Rivers
the executors therein named, who made oath
according to law entered into and acknowledged
a bond in the penalty of Twenty Five Thousand
Dollars, conditioned as the law directs (but
without security - the Will directing that
none be required and the Court requiring
none), which bond is ordered to be recorded -
certificate is granted the said J. R. Darden
and J. Hicks Rivers for obtaining a probate
of the said Will in due form.

A copy. Test: D. F. Williamson 4.4.

Dr. L. A. Hay O.C.

Piper's Examinations

vs { copy of Examination
of J. J. Darden's estate

Darden et al.

Ex. "3"

Virginia: In the County Court of Southampton.
July Term 1901.

A writing purporting to be the Last Will and Testament of Nancy Briggs, dead, was produced in Court, and proved by the oath of Wm A. Myrick, one of the subscribing witnesses thereto - and G. N. Messgrave the other subscribing witness thereto being dead, the said Wm A. Myrick deposes and says; that the said G. N. Messgrave and himself signed the said Will at the same time and place in the presence of each other, &c in the presence of the Testatrix and at her request; Whereupon the said Will is ordered to be recorded as the Last will and Testament of the said Nancy Briggs, dead. And upon ^{the} motion of Thomas J. Fox, the Executor therein named, who made oath according to law, entered into &c a acknowledged a bond in the penalty of Four Thousand Dollars, conditioned as the Law directs - (but without security, the Will directing that none be required) which bond is ordered to be recorded, certificate is granted the said Thos. J. Fox for obtaining a probate of the said Will in due form.

And upon the further motion of said executor

S. B. Drury. J. R. Pond and F. P. Pope are
hereby appointed appraisers who will,
after being duly sworn, appraise the
estate of said decedent, and return the same
under their hands as the law directs.

A copy. Test: D. F. McLemore C. C.

Dr. L. A. Gay D. C.

Pap's Excesses
copy of Qualification
of Henry May 8th, 1882
Excesses
Darden et al.

"4"
Ex

Pope's Exors.

v. { Answer of Warden,
S.E. and others.
Warden et al

~~~~~



The Joint and Several Answer of Sarah E. Darden, Mollie J. Darden, and Bettie T. Pope to a Bill of Complaint Exhibited in the Circuit Court of Southampton County against Themselves and Others by the Surviving Executors of C.R. Pope, Decd.

These respondents saving and reserving all just grounds of exception to the said bill, for answer thereto say: That they believe and charge that C.R. Pope, decd., intended by the provisions of her will that they should receive the six bonds of one thousand dollars each devised by said Pope to be held by her executors and the interest thereon to be paid to Mrs. Nancy Briggs during her life. That they believe that this is the residuum of said C.R. Pope's estate and that it was not intended by her will that it should be distributed under Item 25th, but that it should be distributed under Item 40 of said will, and they ask that your Honor will so decree.

And having answered they pray hence to be dismissed &c. May it please the Court &c.

*Sarah E. Darden,*

*Mollie J. Darden,*

*Bettie T. Pope,*

*By J. B. Prince & Son, Their Attys.*









RECEIVED

TO MESSRS. J. B. PRINCE & SON, ATTORNEYS FOR RESIDUARY  
LEGATEES UNDER THE WILL OF CAROLINE R. POPE, DECEASED,  
and  
WILLIAM SHANDS, ATTORNEY FOR EXECUTORS OF  
CAROLINE R. POPE, DECEASED.

Take notice that we will forthwith apply to the Clerk  
of the Circuit Court of Southampton County for a copy of so  
much of the record in the case of Caroline R. Pope's Execu-  
tors against Caroline R. Pope's legatees and others as is  
embraced in the following:

Bill and exhibits therewith filed; all answers and ex-  
hibits therewith filed, and all decrees.

Very respectfully,

*Jul 8, 1902*

*J. Hatton, atty. for*  
*R. H. Munday*  
*J. S. Musgrave*  
*Carrie Myrick*  
*W. A. Myrick*  
*J. H. Fox*  
*Stephen Fox*  
*Napier B. Prince*  
*J. A. Barkham*

RECEIVED



WATTS & HATTON,  
Attorneys and Counsellors at Law  
COMMERCIAL BUILDING,  
322 HIGH STREET, PORTSMOUTH, VA.  
GH-W.

July 10th, 1902.

L. A. Gay, Esq.,  
Courtland, Va.

Dear Sir,

Enclosed I hand you notice for making up record in the case of Pope's Executors against Pope's legatees and others. Please make up the record as provided in the notice and let me have the same as early as possible together with your bill for fees. I wrote you sometime ago requesting this record, but have no reply to my letter.

Yours very truly,

A handwritten signature in dark ink, appearing to read "J. Hatton". The signature is written in a cursive style with a long horizontal line extending to the right.



J. J. WOODARD AND J. L. BARHAM,  
SURVIVING EXECUTORS OF CAROLINE  
R. POPE, DECEASED.

VS.

R. N. MUSGRAVE, J. S. MUSGRAVE  
ET AL.

THE JOINT AND SEVERAL ANSWER OF  
R. N. MUSGRAVE, J. S. MUSGRAVE,  
CARROE MYRICK, W. A. MYRICK,  
ROSA A. MUSGRAVE, T. J. FOX,  
JOSEPHINE FOX AND NANNIE B.  
PRINCE.

WATTS & HATTON.  
Attorneys and Counsellors at Law.  
COMMERCIAL BUILDING.  
322 HIGH STREET, PORTSMOUTH, VA.



VIRGINIA.

IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY.

J. J. WOODARD AND J. L. BARHAM,  
SURVIVING EXECUTORS OF CAROLINE  
R. POPE, DECEASED.

VS.

R. N. MUSGRAVE, J. S. MUSGRAVE  
ET AL.

The joint and several answer of R. N. Musgrave, J. S. Musgrave, Carrie Myrick, W. A. Myrick, Rosa A. Musgrave, T. J. Fox, Josephine Fox and Nannie B. Prince to the bill of complaint filed against them and others in the above entitled cause by J. J. Woodard and J. L. Barham, Surviving Executors of Caroline R. Pope, deceased.

The said defendants reserving to themselves all manner of exception to the said bill, for answer thereto say:

1st. It is true that Caroline R. Pope died in the year 1895 leaving a last will and testament which was duly admitted to probate by the County Court of Southampton County at the August term 1895 and at the time of such probate J. J. Woodard J. L. Barham and J. J. Darden, the Executors named in such will, duly qualified as such Executors, and that the said J. J. Darden has since died testate and J. R. Darden and J. H. Rives have duly qualified as his executors.

2nd. That these defendants are not fully advised as to the assets of said Caroline R. Pope now remaining unadministered in the hands of said Executors.

3rd. The 25th item of the said will of said Caroline R. Pope, deceased, is as follows:

"It is my will and desire that all my bonds, accounts, evidences of indebtedness of every description not hereinbefore disposed of shall be divided into eleven shares and I give to Reuben N. Musgrave one half of one said shares".



4th. By items 26, 27, 28, 29, 30, 36 and 37 respectively of said will one half of one of the said shares mentioned in said item 25 was bequeathed to Joseph S. Musgrave; one half of one of said shares was bequeathed to Mrs. Carrie Myrick; one half of one of said shares was bequeathed to Mrs. Rosa A. Musgrave; one half of one of said shares was bequeathed to William A. Myrick; one half of one of said shares was bequeathed to T. J. Fox; one of said shares was bequeathed to Mrs. Josephine Fox and one of said shares was bequeathed to Mrs. Nannie B. Prince.

5th. By item 3 of said will the testatrix bequeathed to her aunt Nancy Briggs during her life the interest on six bonds of the Georgia, North Carolina and Northern Railroad for one thousand dollars each. Said bonds bearing five per cent (5%) interest, payable semi-annually and numbered from 2986 to 2992 inclusive, and said testatrix directed said bonds to be held by her Executors and the interest thereon to be paid over to said Nancy Briggs during her life and further directed as follows: "At the said Nancy Briggs' death I wish the principal of said bonds with whatever accrued interest thereon to revert back to my estate and be divided among my legatees as in hereinafter named. In the event my aunt Nancy Briggs should not be living at time my death then this item is null and void".

6th. These defendants aver that the said Nancy Briggs was living at the death of said testatrix and so continued until June 26th, 1901 when she died and that during her life she received the interest on said bonds in accordance with the said 3rd item of said will.

7th. These defendants are advised that upon the death of said Nancy Briggs the said six bonds for one thousand dollars each together with all interest thereafter accruing thereon

passed to these defendants along with the other bonds, accounts and evidences of indebtedness mentioned in the said 25th item of said will and that these defendants are entitled to their respective shares therein as provided for in the 25, 26, 27, 28, 29, 30, 36 and 37 items of said will respectively.

8th. These defendants therefore pray that a decree may be entered directing the Executors of said Caroline R. Pope to deliver to them their respective shares in said bonds, accounts and evidences of indebtedness as provided in said will.

9th. That a reasonable fee may be allowed to their counsel for his services herein, payable out of said estate.

And having fully answered these defendants pray to be hence dismissed with their reasonable costs.

*Watts & Hutton*

*p.d.*



Proprio Experiments

vs } Statement of Costs to date

Borden et al.

# Paper's Exors

vs. { Statement of Costs to date (Dec. 17th. 1903)

Costs made up to Dec. 17th. 1903

Barden et al.

|                                                                                    |      |
|------------------------------------------------------------------------------------|------|
| Sum. 25, 15 Copies 1.95, another Sum. 25, 2 cop 26c                                | 2 71 |
| Receipt for both 36, another Sum. 25, 1 cop 12, receipt 18c                        | 92   |
| att'y. 10, docket 18, Rules 100, entering return 25c                               | 1 63 |
| filing bill 15, D.C. exhibits 15, copy exhibits 4 35c                              | 4 65 |
| filing 2 ans. 30, replication 15, fil. notes of argument <sup>for R.N.M. 15c</sup> | 60   |
| D.C. for residuary legates 15, 2 decess 72, Tax costs R. 40c                       | 1 27 |
| 2 continuances on the docket 75c                                                   | 75-  |
| filing decision of Supreme Court 25c                                               | 25-  |

to Lark \$1 2 78

Shiff 4 50

Surgt. of Norfolk 1 00

Lancaster 16 50

\$34 78

Costs in Supreme Court 68 12

\$102 90

Note: L. A. Gay to be.

This statement should be made to include \$7 54 paid for transcript of the record.

*[Signature]*





1  
Brief in the Construction of Mrs. C. R. Pope's Will on behalf of the Residuary Legatees.

*Brief of Counsel for Appellee in the Cause of Musgrave v. Pope's Exors*

(It is to be noted, upon our death, as to the residuary legatees the contention in this case, and the question for the court to decide is one that is well defined. It is simply what estate do the residuary legatees <sup>Take</sup> under the will of Mrs. C. R. Pope.

Copy  
One of the first rules in the exposition of wills is, that the intention of the testator, or testatrix, expressed in his or her will, shall prevail, provided it be consistent with the rules of law. "And in order the better to understand the scheme which the testator had in his mind for the disposition of his estate, the judicial expositor is permitted to place himself, figuratively speaking, in the very shoes of the person whose will he is called upon to construe and with the aid of such extrinsic evidence as is admissible for the purpose, possess himself of the condition of the testator and his family; and of such surrounding circumstances as may be reasonably supposed to have influenced him in the disposition of his property."

Wooten v. Redd, 12 Gratt. 196.  
Metcher v. Metcher, 80 Va. 169.  
Waring v. Bosner, 91 Va. 286.  
Massey v. Powell, 95 Va. 258.

copy  
"The court will make the amplest allowances for the unskillfulness and negligence of the testator, technical informalities will be disregarded, the most perplexing complication of words and sentences will be carefully unfolded, and traces of the testator's intention will be sought out in every part of the instrument and the whole carefully weighed together."

Wooten v. Redd, 12 Gratt. 196.  
Walker v. Webster, 45 Va. 370.

In construing the will in question it seems to us that the intention of the testatrix was that the Rail Road bonds, the income from which was bequeathed to Mrs. Nancy Briggs for life,

See 3rd App.

will read:

(copy item 3.)

Following this are

numerous specific

legacies after which is the

following: (copy

Clause 25)

She then distributes to numerous persons the bulk of her estate, and coming to item 40 names her residuary legatees in the following language: (copy item 40)



(Item 3.) should, upon her death, go to the residuary legatees, (Item 40) and not to the legatees under Item 25 for the following reason:-

omit { 1st:- The testatrix expressly states that in the event that the said Nancy Briggs should die before her, "then this item is null and void"; showing that it was the desire and intention of the testatrix in the event of the lapse of the life interest, that the principal of the bonds should go to the very legatees to whom the law would have carried it, even though her express intention had been omitted, i.e. to the residuary legatees. "All specific or pecuniary legacies that lapse

3 \* 2. pass to residuary legatees, except where there is a lapse among the residuary legatees themselves, when, as to such part, there is intestacy."

Frazier v. Frazier, 2. Leigh 642.

"An undisposed of remainder passed to the residuary legatees."

Jarman on Wills 568, 594.

Wayne v. Godfrey, 103 Mass. 292.

Stout v. Stout, 44 N.J. Eq. 479.

Read v. Payne, 3 Call. 225.

Markells v. Markells, 32 Gratt. 544.

4 "A general residuary bequest carries to the residuary legatee all the property of the testator that is not otherwise disposed of by the will, including all lapsed legacies and all void legacies."

Theyer v. Wellington, 9 Allen 283.

Sigelow v. Gillett, 123 Mass. 106.

Kennon v. McRoberts, 1 Wash. 97

Stonestreet v. Doyle, 75 Va. 367.

5 2nd:- That the legatees under Item 25 are not the remaindermen of the life estate, (Item 3,) seems clear from the language employed by the testatrix; in Item 3 the testatrix is particular to identify the bonds from which the life interest is to



3.

*Copies*  
arise; they are indicated by name as well as by number; it is a specific bequest; whereas, "the bonds, accounts, evidences of indebtedness &c." mentioned in Item 25 are not particularized; there the bequest is general.

*6* { *Ex 12*  
That the legatees under Item 25 are not residuary is expressly stated, for in Item 40 the testatrix mentions the residuary legatees, calling them such by proper designation. In Item 25 the testatrix bequeaths generally to certain named persons "all bonds, accounts, evidences of indebtedness of every description not herein-before disposed of;" *and was intended* under Item 3 the bonds in question are fully and effectually disposed of; first, the income therefrom arising is to be paid to Nancy Briggs for life; and after her death, the principal thereof is to be divided "amongst my legatees as in ~~####~~ (are) herein-after named". The life estate added to the remainder, constitute a perfect legal disposition of the testatrix whole interest in the said bonds; no language that the testatrix might have employed could more fully or effectually have accomplished that object; consequently, since the said rail road bonds had already been disposed of the legatees under Item 25 can not take the principal; "ex nihilo nihil fit." *or should say in*  
Nor are the legatees named in Item 25 to be identified as the legatees in Item 3, ~~but~~ designated as those "herein-after named," for, if that were the intention of the testatrix her language does not so express it, and it is inconceivable that she should have intended the remainder in the Rail Road bonds after the death of Nancy Briggs to the Item 25 legatees when she expressly limits them to such bonds &c. as have not herein-before been disposed of. And this conclusion is strengthened by a careful reading of Item 3 of the will; there the testator says "I wish these six bonds as mentioned, to be set aside out of my estate



and to be held by my executors and the interest on the same to be paid &c.," setting aside the said bonds; taking them out of the general mass of the estate of the testatrix, especially when considered in the connection with the use of the words "not herein-before disposed of", in Item 25, clearly indicates that the testatrix intended that the legatees under Item 25 should take only such bonds, accounts, evidences of indebtedness &c. as might be left after paying specific legacies; they are to take only such of her personal estate of that particular kind, as had not before been disposed of in the will in any manner.

In the case of *Springett v. Jennings*, L.R. 6 Chan. Ap. 332 (1871) Sir W.M. Jones, L.J., said: "The question is, whether the gift contained in this will of what has been called a particular residue of lands in a particular parish amounts to a residuary clause. The words are 'I devise the rest of my freehold hereditaments situate in the parish of Hawkhurst to &c.' There is no doubt that the word 'rest' may in some cases, have the character of what is called a residuary devise, either general or particular but that must depend upon the construction of the particular instrument. Suppose the testator should say in substance 'I give a portion of my property to A and I give the rest to B'; that would mean the rest he had in the world, and the gift were a residuary clause. But it seems to me impossible to apply that construction where what is given is the rest, or residue, of property in a particular place, or some property out of which there has been a previous gift.

What would be said in a case like this: \* The testator says, 'I give all my 3 per cents (Government Bonds) to A, and all the rest of my Government Stocks to B' and the gift of the 3 percents to A fails by lapse, will they go to B? It appears



5.

to me that the answer must be in the negative, for it is quite clear that by the 'rest of the Government stocks' there was not a residuary bequest which could take in the particular thing which was given by a separate description to some one else."

See also Minor v. Dabney, 3 Rand. 203.

From the statements made in the bill of the complainants and the ~~answers~~ answers of the residuary legatees it appears that the whole of the estate of Mrs. C. R. Pope has been distributed and paid over to the specific and general legatees and not a vestige of anything remains except the six Rail Road bonds as described in Item 3. Our contention has been to show the court that these bonds cannot be embraced under Item 25. That unquestionably cannot be the construction for that is not a residuary clause that will take in these particular bonds. The testatrix evidently meant something by adding a special item, Item 40, in which she names certain of her friends and kindred as her residuary legatees and she intended that they should take something by that clause. That something is these six Rail Road bonds, mentioned in Item 3. It is inconceivable to suppose that after taking so much pains to name certain parties as residuary legatees there should be no residuum for them to take.

We ask the court to enter a decree in conformity with our contention.

Respectfully submitted,

*J. B. Purvis*

*ssm*



In the name of God Amen,

I Caroline R. Pope recognizing the uncertainty of life, and being anxious to dispose of my property whilst in health, do make this my last Will and Testament in form as follows:

I Item 1- As soon after my death as may seem best to them, I desire my Executors whom I shall hereafter nominate, to sell for cash or on reasonable credits as may be best under the circumstances all my personal and chattel estate of every description, except what I may hereafter dispose of. I further desire my Executors to sell for cash or on reasonable credits all my real estate I may own at my death except what I may dispose of by this will, and should it seem best for my Executors to sell my lands on credits, I desire that at least one third cash shall be required. I desire all the Trusts debts and liens of every kind I may hold at my death to be enforced as speedily as possible and upon such terms as may seem best to my Executors, and that will be of the best interest to my estate, except however balance on a bond of about twelve hundred dollars,

and also a bond of five hundred dollars I took against Wm M. Beaton, both bonds making about seven hundred dollars. I wish the said Wm M. Beaton to have two years if he wishes it after my death to settle said bonds.

Item 2- I give and bequeath unto J. J. Woodward the farm upon Meherrin river devised to me by my father Peter Edwards, but said bequest is made upon the following conditions namely:

First, that he shall be farming on said farm in the manner and arrangements that he has been for a number of years:

Second- that he shall consider there is a charge upon said farm for the sum of Five thousand dollars, \$5,000- that the said J. J. Woodward shall execute his bond for said amount to my Executors and said amount and interest I desire to go into my estate for distribution as may be hereafter named, and the said J. J. Woodward to have two years if so desired to make said paid payment. Now in the event of said J. J. Woodward's death while I am living, or if said Woodward at time my death should not be farming on said place



in manner above mentioned; and also if he should decline to take said farm upon the conditions specified then this item (2<sup>nd</sup>) is null and void and I give and bequeath said farm to Mrs. Nannie B. Prince, widow of John E. Prince, deceased, in fee simple for her sole use, and her children by said John E. Prince.

Item 3- I wish to give my Aunt Nancy Briggs during her life the interest on six one thousand dollar bonds, amounting to three hundred dollars per annum, said bonds described as follows, namely, bonds of the Georgia North-Carolina and Northern Railroad, same being 5% Coupon bonds payable in gold, the interest payable semiannually 1st. January & 1st. July respectively, secured by first mortgage on said Railroad & guaranteed by the Seaboard & Roanoke & Raleigh & Gaston Rail Roads. said bonds registered in my name and maturing July 1st. 1929. The Mercantile Trust Company of Baltimore Md. Trustees. The numbers said bonds run from 2986 to 2992 inclusive. I wish these six bonds as mentioned to be set aside out of my estate and be held by my Executors and the interest on same be paid by my Executors and

4 the interest on same which amounts to \$300-  
annually to be paid over to the said Nancy  
Briggs during her life for her maintenance  
and support, At the said Nancy Briggs'  
death I wish the principal of said bonds  
with whatever accrued interest thereon  
to revert back to my estate and be divided  
among my legates as in herein after named.  
In the event my Aunt Nancy Briggs  
should not be living at time my death  
then this item is null and void,

Item 4, If Roscoe Deloroy (Col'd) is living at time  
of my death and in my employment I give  
to him the sum of two hundred dollars,  
and also a lot and parcel of land estimated  
at eighteen acres lying & being in Smith-  
ampton County Va. near Newsoms Va, it  
being part and parcel of what is known  
as the "Revell Place" and for more accurate  
description of said parcel land - a diagram  
is herewith filed and attached to this Will.  
There is a building on said land now  
occupied by Solomon Wood, If said  
Roscoe Deloroy (Col'd) is not living at  
time my death then this item 4 is null  
and void.

Item 5- I give and bequeath in fee simple to



to Charles H. Simmons and his heirs forever,  
the balance of the "Revell Place" as mentioned  
in item 4<sup>th</sup> and for more accurate description  
of number acres etc. I refer to deed ~~to deed~~  
recorded to me in Clerk's Office Southampton  
County Va.

Item 6 - I desire my Executors hereinafter named,  
to purchase and put in position at my grave  
in my family section in cemetery at Newsoms  
a marble monument and other marble to har-  
monize and correspond with that at the grave  
of my beloved husband, at a suitable time  
after my death.

Item 7 - I give to Josephine Fox, wife of F. J. Fox,  
my burial lot or family section in cemetery  
at Newsoms with the requests that she  
will appropriately keep it up. I also give to  
said Josephine Fox all the paintings in my  
house executed by her.

Item 8 - I give to Carrie E. Fox, daughter of F. J.  
and Josephine Fox my piano.

Item 9 - If Mrs Katie Story wife of Robert Story is  
living at time my death I give her in  
fee simple the sum of Five hundred dollars,  
but if not living this item is null & void.

Item 10 - I give to Mrs M. E. Newsom, the sum of  
one hundred dollars, if she is living at

time my death.

Item 11-

If Rev. R. H. Dumas now pastor of Newsum Baptist Church should be living and preach my funeral I desire my Executors to give him out of my estate fifty dollars for the same.

Item 12-

If L. Carrie Pope Read daughter of Rev. M. S. Read is living at time my death I give and bequeath to her the sum of one thousand dollars, which amount I wish my Executors to pay over to her father without security if the said L. Carrie Pope Read is not twenty one years of age, if however she has attained that age, I wish it paid to her.

Item 13-

If J. W. Person son of W. B. Person should be living at time my death, I give and bequeath to him the sum of One Thousand dollars.

Item 14-

I desire to give to Rev. H. L. Smith a certain bond I hold against him for the sum of Two hundred dollars and in the event he is dead at time my death I give the same to his present wife Mrs. Jennie Smith, but in the event both should be dead at time my death then this item to <sup>be</sup> null & void,

Item 15-

I give and bequeath to W. B. Person all bonds I may hold against him and his wife



at time my death provided however they do not exceed the sum of ~~two~~ thousand dollars, and in the event of the death of said H.B. Person, then this bequest is intended for the benefit of his children by his present wife, I wish however his present wife to have the benefit this bequest unless however she should marry again then in that event it is intended for his children as above mentioned, continued to another sheet continued from another sheet.

Item 16-

I give to George H. Leigh if he is living at time my death a certain lot or parcel of land I own in the City of Roanoke Virginia Situated on Commerce street of that City #402, and bounded as follows, beginning at the South east corner of Commerce & Kirk streets running thence with Kirk st. 88.° 30' east 109 feet to an alley, thence with same same South 80.° 30' east 25 feet to a point thence North 88.° 30' West 109½ feet to Commerce street, thence with Commerce street North 70.° 30' West 25 feet to the beginning. In the event the said George H. Leigh is not living at time my death then this item (16) is to be null and void.

Item 17-

I give to Mrs Bettie Andrews wife of Robert J. Andrews the sum of Fifty

hundred dollars for her sole use and her children, with the provision however that whatever amount the said R. J. Andrews may be due my estate to be deducted therefrom.

Item 18- I give to Patsy Pope (Cald) my former cook two hundred dollars if she is living at time my death.

Item 19- I give to Mrs. Maccie J. Darden wife of James S. Darden my large portrait and all my silver ware.

Item 20- I give to James S. Darden the large portrait of my beloved husband Benja C. Pope and uncle of said Jas. S. Darden.

Item 21- I give to Mrs. Bessie J. Pope widow of R. P. Pope my iron safe.

Item 22- I give to Eunice M. Fox daughter of Thomas J. Fox my gold watch.

Item 23- I give to Miss Alice Panten if in my employment at time of my death the sum of one hundred dollars.

Item 24- I devise to Rufus E. Darden, George W. Prince to H. Simmons and James H. Bryant and their successors in office the same being Trustees of the Baptist Church at Newsum Va one half acre land adjoining said church lot, commencing at the North west corner of said church lot & running north, &



running along the line of said church lot  
seventy yards, thence nearly north along  
Jas. S. Dardens line thirty five yards, thence  
nearly west along J. S. Dardens line to the  
County road, & thence along the County road  
to the starting point at the corner of said church  
lot and is the same parcel or lot of land bought  
of Jas. S. Darden by deed of bargain & sale.

I Item 25- It is my will and desire that all my bonds,  
accounts evidences of indebtedness of every  
description not herein before disposed of shall  
be divided into eleven shares, and I give to  
 $\frac{1}{2}$  Reuben H. Messgrave one half of one said  
shares.

I Item 26- I give to Joseph S. Messgrave one half of  
 $\frac{1}{2}$  one of said shares.

I Item 27- I give to Mrs Leannie Maynard wife of  
 $\frac{1}{2}$  William R. Maynard one half of one said share.

I Item 28- I give to Mrs. Rosa A. Messgrave widow of  
 $\frac{1}{2}$  Dr H. N. Messgrave one half of one said shares.

I Item 29- I give to William R. Maynard one half of  
 $\frac{1}{2}$  one of said shares.

I Item 30- I give to J. J. Fox, one half of one of the said  
 $\frac{1}{2}$  shares.

I Item 31- I give to Joseph L. Barham one half of one of  
 $\frac{1}{2}$  the said shares.

I Item 32- I give to Mrs Sarah E. Darden wife of Capt.  
 $\frac{1}{2}$  J. J. Darden one half of one of said shares.

- Item 33 - I give to J. J. Darden one half ( $1\frac{1}{2}$ ) of said shares with the provision however that whatever amount the said Darden may be due my estate by bonds, accounts equity or otherwise to be deducted therefrom.
- $1\frac{1}{2}$
- Item 34 - I give to Mrs Bettie J. Pope widow of R. P. Pope one half ( $1\frac{1}{2}$ ) of said shares for sole use and her children.
- $5\frac{1}{2}$   
 $1\frac{1}{2}$
- Item 35 - I give to Mrs Mollie J. Darden wife of James D. Darden one half of <sup>one of</sup> said shares.
- $\frac{1}{2}$
- Item 36 - I give to Mrs Josephine Foy wife of Frank T. Foy one of said shares.
- 1-
- Item 37 - I give to Mrs Nannie B. Prince widow of John E. Prince one of said shares.
- 1-
- Item 38 - I give to William H. Lough one (1) of said shares.
- 1-
- Item 39 - I give to Richard Howard and the last one half one of said shares.
- $\frac{1}{2}$   
 $\frac{1}{2}$
- Item 40 - I hereby declare as my residuary legatee Sarah E. Darden wife of J. J. Darden, Mollie J. Darden wife of James J. Darden and Bettie J. Pope widow of R. P. Pope deceased, to whom, equally I give all my estate of every kind not hereinbefore disposed of.
- Item 41 I hereby constitute and appoint as my Executors Capt. James J. Darden, J. J. Woodard and Joseph L. Darden, And I request of the



11  
11  
to and before which this will shall be  
afforded for probate to allow said Executors  
to qualify without giving security nor  
to require joint bonds but to allow them  
to give their individual bonds for the  
amounts each may receive.

Witness my hand and seal this 18th day  
of April 1895.

Witness Caroline R. Pope *[Signature]*

Jas. M. Lovell

W. L. Lewis

W. M. Beaton

Codicil of Will made by me this  
18th day of April 1895

I give and bequeath in full to  
Mrs. Mollie J. Darden wife of James D. Darden  
for her sole use and her children my  
homestead lot at Newsums Va Southampton  
County containing about thirteen  
acres on which I now reside & bounded  
as follows, on the North by Land of Wm.  
Myrick, East by Land formerly of Mrs.  
Caroline V. Jones, South by Lot of Simmons  
Lot, West by the County road and Jas. D.  
Darden's shop lot. I also give to the said  
Mollie J. Darden all appurtenances attached  
thereto and every thing I may have at

time my debt on said lot, namely,  
 horse and carriages, vehicles of every kind, farming  
 implements and stock of cattle, hogs,  
 &c. &c. and also all the household and  
 Kitchen Furniture of every kind in  
 said house and on said lot, except what  
 may have been heretofore provided for,  
 I also give and bequeath in fee simple  
 to the said Mollie J. Darden a parcel or  
 tract of land containing about thirty  
 acres, purchased during the year 1892,  
 of Mrs Caroline V. Jones, and for more  
 particular description of said land, I refer  
 to deed from said Mrs Jones to me and  
 recorded in Clerk's Office Southampton  
 County Va. This bequest is however  
 made with the distinct provision that the  
 said Mollie J. Darden shall consider a  
 debt upon all the premises above mention-  
 ed to the amount of two hundred and fifty  
 dollars, and twenty five dollars of said  
 amount to be paid annually by said  
 Mollie J. Darden or her heirs - to whoever  
 may be the Pastor in charge of Newsum  
 Baptist Church. If the twenty dollars  
 as before mentioned shall be paid  
 annually for the period of ten years.



I do not desire interest paid on said sum of two hundred & fifty dollars, and when said sum is paid in installments as above named, then said charge of two hundred & fifty dollars is to cease, otherwise to remain in full force and virtue.

Given under my hand & seal this 19<sup>th</sup> day of April 1895-

Caroline R. Pope Seal

Witness

Jos. M. Corbitt

L. L. Lewis

W. M. Beaton

In Southampton County Court; the 19<sup>th</sup> day of August 1895- a writing purporting to be the Last Will and Testament and Codicil annexed, of Caroline R. Pope, decd., - was produced in court and proved by the oaths of Jos. M. Corbitt, L. L. Lewis and W. M. Beaton, the subscribing witnesses thereto, and ordered to be recorded as and for the Last Will and Testament and Codicil thereto annexed, of the said Caroline R. Pope, deceased, and on motion of Jas. J. Darden, J. J. Woodland and Jos. L. Barham, the Executors therein named, who made oath according to law.

entered into and acknowledged a bond  
in the penalty of One hundred and twenty  
five thousand dollars conditioned as the  
law directs - but without security - the  
Will directing that none be required -  
and the Court requiring none - which  
bond is ordered to be recorded - Certificate  
is granted the said Jas. J. Darden, J. J.  
Woodard and Jos. L. Barkani for obtaining  
a probate of the said Will and Codicil  
in due form

And on the further motion of said Executors,  
P. D. Story, J. S. Darden, H. W. Finner and  
J. R. Darden are hereby appointed apprais-  
ers, any three of whom may act, who, being  
duly qualified, will appraise the estate  
of said decedent, and return the same  
under their hands as the law directs.

Teste: B. F. McLeone J. C.

A copy,

Teste: L. A. Gay D. C.

Copy of Bond

Copy of L. A. Gay's Will

Darden et al

Ex. 142,



Constitutional Convention,  
Virginia.

Richmond, Jan'y 24<sup>th</sup> 1902.

Dear Judge Prentiss,

In reply to your letter of the 21st. inst. which has just reached me, I beg to say that I do not now know of any testimony that would render you any assistance in the direction indicated.

The wire was written by Mr. Wm. Beaton, with whom I have not talked relative to the matter, but my information as to his statements on the subject leads me to the conclusion that they would be of no value in this case.

Very truly yours

J. Hatton

Hmt.

Robert R. Prentiss

Suffolk

Jan.

Paper's Executors

vs. } Spa. In Chancery

Darden et als.

1901. 2<sup>nd</sup> Aug, Rules

in lot

Executed in the City of  
Norfolk on the 1<sup>st</sup> day  
of July 1901, by delivering  
a copy here of to Mrs  
Carrie Myrick, and  
not finding William  
A. Myrick at his usual  
place of abode, this 1<sup>st</sup>  
day of August 1901, I  
sent a copy here of  
for him, on Mrs Carrie  
Myrick, she being  
there and a member  
of his family, above  
the age of sixteen  
years and gave infor-  
mation of its contents  
to her.

J. T. Lawler Sergt  
City of Norfolk  
by C. L. Darden  
Sergt for 1<sup>st</sup> time Deputy  
C. L. D. - 57

William Shands P.G.



THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County Greeting:

WE COMMAND YOU THAT YOU SUMMON *Supt. of the City of Norfolk* *William A. Myrick*

*Mrs Carrie Myrick*

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to be holden for the said Court on the *3d* Monday in *Aug. 1901* next, to answer a Bill in Chancery exhibited against *Them* in our said Court by *J. J. Woodard* and *J. L. Parkman Surviving Exors. of themselves* and *J. J. Darden decd. Exors. of Caroline R. Pope decd.*

And this *they* shall in no wise omit under penalty of law. And have then there this writ.

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this *16th* day of *July 1901*, 189, in the 12<sup>th</sup> year of the Commonwealth.

Teste: *L. A. Gay* C. C.

Papio Exone

vs } Spa Inchanany

Darden et als.

1901. 2<sup>nd</sup> Aug. Rules

leis let.

We hereby acknowledge  
legal service of the  
within summons

Mrs Sarah E. Darden

" B. F. Pope

" M. J. Darden by

J. B. Pannison  
their attor.

J. H. Pires

Jas. R. Darden } Exec J. H. Pires

~~J. B. Pannison~~

~~J. B. Pannison~~

Executed by delivering a  
copy of this Sp. in Chan. to each  
of the within named parties  
at aft such a time acknowledged  
as a.

J. H. Pires

(9)



THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County--Greeting:

WE COMMAND YOU THAT YOU SUMMON *R. A. Musgrave, J. S. Musgrave,*  
*Mrs. Carrie Myrick, Mrs. Rosa A. Musgrave, Wm. A. Myrick,*  
*Thos. J. Foy, J. L. Barham, Mrs. Sarah C. Darden, J. H. Rives,*  
*vs. J. R. Darden Executors of J. J. Darden dec'd, Mrs. B. J. Pope,*  
*Mrs. Nellie J. Darden, Josephine Foy, Mrs. Hannia B.*  
*Paine, Wm. H. Leigh, and Richard Howard and*  
*J. J. Foy Executors of Nancy R. Briggie dec'd*

to appear at the Clerk's Office of our Circuit Court of Southampton county, at the Rules to  
be holden for the said Court on the 3rd Monday in Aug. 1901 next, to answer  
a Bill in Chancery exhibited against them in our said Court by J. J. Woodward and  
J. L. Barham Surviving Executors of themselves and J. J. Darden  
dec'd, Executors of Caroline R. Pope dec'd.

And this 1th shall in no wise omit under penalty of law. And have then there  
this writ.

WITNESS, L. A. GAY, Clerk of our said Court, at the Courthouse, this 16th day of  
July 1901, 189, in the 12 & year of the Commonwealth.

Teste:

L. A. Gay C. C.

Pope's Exors.,

vs. Decree.

Darden et als.

October 8th, 1901.

Enter this

*Robert R. Hanks*

We consent

Attys. for residuary legatees.

*E. B. Price*

Atty. for other parties.

*Wm. Shands*

*Entered*

*# 14 Page 388*



J.J. Woodard and J.L. Barnam, surviving executors of themselves  
and J.J. Darden, decd., Executors of Caroline R. Pope, decd.,  
~~Against~~ Plaintiffs.  
VS.

R.N. Musgrave, J.S. Musgrave, Carrie Myrick, Rosa A. Musgrave,  
William A. Myrick, Thomas J. Fox, J.L. Barnam, Sarah E. Darden, J.N.  
Reeves and J.R. Darden, Exors. of J.A. Darden, decd., Bettie T. Pope,  
Mollie J. Darden, Josephene Fox, Nannie B. Prince, Richard Howard,  
T.J. Fox, Exor. of Nancy R. Briggs.

Defendants.

By consent of parties entered of record in term it is hereby  
decreed that this cause be submitted to the Judge of the Cir-  
cuit Court of Southampton county to enter such order, or orders,  
therein in vacation as may be made in term.

C.R.Pope's Exors.

v. Decree.

Darden et als.

---

In vacation.

Enter this,

May 7, 1902  
Robert R. Dennis

Entered page 488



\*\*\*\*\*  
C.R.Pope's Exors.,  
v.  
Darden et als.  
\*\*\*\*\*

Circuit Court of Southampton County, Virginia, In Vacation, on the  
1<sup>st</sup> day of May 1902.

This cause came on this day <sup>by consent</sup> to be heard upon the Bill of the  
Complainants and the exhibits therewith filed, taken for confess-  
ed as to the defendants Joseph L. Barham, William H. Leigh, ~~and~~  
Richard Howard; and J.R. Darden and J.H. Rivas, Executors of J.J.  
Darden, deceased, and T.J. Fox, Executor of Nancy Briggs, deceased,  
on whom process has been duly served, and they still failing to  
appear and plead, answer or demur: the joint and several answers  
of R.N. Musgrave, Joseph S. Musgrave, Carrie Myrick, William A.  
Myrick, Rosa A. Musgrave, T.J. Fox, Josephine Fox, Nannie E. Prince,  
Sarah E. Darden, Mollie J. Darden and Bettie T. Pope, with general  
replications thereto, and was argued by counsel.

On consideration whereof, the court being of the opinion that  
by the third item of the last will and testament of Caroline R.  
Pope, deceased, the six one thousand dollar<sup>s</sup> bonds of the  
Georgia, North Carolina and Northern Railroad therein referred to,  
reverted to the estate of the said Caroline R. Pope at the death  
of Nancy Briggs, with the interest accrued since that date, and  
passed to Sarah E. Darden, (widow of J.J. Darden, deceased), Mollie J. Darden,  
(widow of James J. Darden, deceased) and Bettie T. Pope, (widow of R.P. Pope,  
deceased,) equally, as residuary legatees under the fortieth item  
of said will, doth accordingly so declare, adjudge, order and  
decree.

It is further adjudged, ordered and decreed that the Executors  
of Caroline R. Pope, deceased, proceed after first paying the taxes  
costs of this suit, and expenses of administration including  
a fee of \$150. to William Shands, their counsel, for services and  
a fee of \$100. to J.P. Prince & Son, counsel for the residuary legatees, and a fee of \$100. to Walter  
advice, to distribute the said bonds and accrued interest to the  
said Sarah E. Darden, Mollie J. Darden and Bettie T. Pope, equally,  
and they shall make report to court.

To the Clerk of the Circuit Court of  
Southampton County:

Robert R. Brantley.

Attest, Counsel for R. N. Musgrave and others.



Decree.

C.R. Pope's Executors,

vs.

*Remitted.*  
*July 1909*  
Darden, et al.

*Feb 26*

*Enter July 24 1904*

*Robert R. Huntis*

*Entered. C. O. B*

*Wm Shands P. 53*

*all for execs.*

*Joseph B. Prince* } attys. for  
*and* } *Residuary Legatee*

*Walter Hatton for Legatee entitled*  
*to bonds.*

WATTS & HATTON,  
Attorneys and Counsellors at Law,  
COMMERCIAL BUILDING,  
322 HIGH STREET, PORTSMOUTH, VA.



Mrs. Carrie Myrick, one-half of one-eleventh;  
VIRGINIA.

Mrs. Rosa A. Musgrave, one-half of one-eleventh;  
IN THE CIRCUIT COURT OF SOUTHAMPTON COUNTY.  
William A. Myrick, one-half of one-eleventh;  
IN VACATION.

T. J. Fox, one-half of one-eleventh;

On the 24th day of February, 1904.  
Joseph L. Barham, one-half of one-eleventh;

C. R. Pope's Executors, one-half of Plaintiffs.

J. J. Darden, one-eleventh and one-half of one-eleventh;

Darden, and others, Pope, one-eleventh Defendants. of one-eleventh;

Mrs. This cause came on this day, by consent, to be again heard upon the papers formerly read therein, and upon the decree of the Supreme Court of Appeals entered therein on the third day of December, nineteen hundred and three, by which said decree of the Supreme Court of Appeals, the decree entered in this cause on the seventh day of May, nineteen hundred and two, was reversed and annulled, and was argued by counsel. ~~privately, and for the best price ob-~~

tainable Upon consideration whereof, it is adjudged, ordered and decreed that upon the death of Nancy Briggs, deceased, Reuben N. Musgrave, Joseph S. Musgrave, Mrs. Carrie Myrick, Mrs. Rosa A. Musgrave, William A. Myrick, T. J. Fox, Joseph L. Barham, Mrs. Sarah E. Darden, J. J. Darden, Mrs. Bettie T. Pope, Mrs. Mollie J. Darden, Mrs. Josephine Fox, Mrs. Nannie B. Prince, William H. Leigh, and Richard Howard, the legatees named in the last will and testament of Caroline R. Pope, deceased, became entitled to the six one said thousand dollar bonds of the Georgia, North Carolina and Northern Railroad, mentioned and described in item three of said will, together with the interest accrued on said bonds after the death of the said Nancy Briggs. The said legatees being entitled to the said bonds in the following propositions: ~~ing~~ executors of Caroline R. Pope,

~~dec~~ Reuben N. Musgrave, one-half of one-eleventh;

Joseph S. Musgrave, one-half of one-eleventh;



Mrs. Carrie Myrick, one-half of one-eleventh;  
And it is further adjudged, ordered and decreed,  
Mrs. Rosa A. Musgrave, one-half of one-eleventh;  
that the said executors do pay out of the estate of said  
William A. Myrick, one-half of one-eleventh;  
Caroline R. Pope, deceased, the costs of this suit, includ-  
T. J. Fox, one-half of one-eleventh;  
ing the costs taxed in the Supreme Court of Appeals, and  
Joseph L. Barham, one-half of one-eleventh;  
the expenses of selling the said bonds, and including also  
Mrs. Sarah E. Darden, one-half of one-eleventh;  
a fee of ONE HUNDRED AND FIFTY DOLLARS to William Shands,  
J. J. Darden, one-eleventh and one-half of one-eleventh;  
counsel for the executors; a fee of ONE HUNDRED DOLLARS to  
Mrs. Bettie T. Pope, one-eleventh and one-half of one-  
J. J. Darden, one-eleventh;  
eleventh; and J. B. Prince, counsel for the residuary  
leg  
Mrs. Mollie J. Darden, one-half of one-eleventh; and  
Mrs. Josephine Fox, one-eleventh; titled to said bonds.  
Mrs. Nannie B. Prince, one-eleventh;  
William H. Leigh, one-eleventh;  
Richard Howard, one-half of one-eleventh.  
It is further adjudged, ordered and decreed, that  
the executors of said Caroline R. Pope, deceased, shall  
proceed to make sale privately, and for the best price ob-  
tainable, of the said six bonds of the Georgia, North Caro-  
lina and Northern Railroad, and distribute the proceeds  
thereof to the several legatees hereinbefore decreed to be  
entitled thereto, and such distribution to be in the propor-  
tions in which said legatees have been hereinbefore decreed  
to be entitled to said bonds, save and except that the  
proportion to which the said Reuben N. Musgrave may be en-  
titled, after deducting therefrom any fees due his counsel  
in this cause for services herein, shall be held by the said  
executors to await the action of this court in the chancery  
suit therein pending, wherein J. L. Gillette, Sherriff, who  
sues at the instance and for the benefit of G. T. Partridge  
and William Shands, Administrator of W. D. Harris, deceased,  
is plaintiff and Reuben N. Musgrave and J. L. Barham and  
J. J. Woodard, surviving executors of Caroline R. Pope,  
deceased, are defendants.



And it is further adjudged, ordered and decreed, that the said executors do pay out of the estate of said Caroline R. Pope, deceased, the costs of this suit, including the costs taxed in the Supreme Court of Appeals, and the expenses of selling the said bonds, and including also a fee of ONE HUNDRED AND FIFTY DOLLARS to William Shands, counsel for the executors, a fee of ONE HUNDRED <sup>and fifty</sup> DOLLARS to J. L. McLemore and J. B. Prince, counsel for the residuary legatees, and a fee of ONE HUNDRED <sup>and fifty</sup> DOLLARS to Watts and Hatton, counsel for the legatees entitled to said bonds.

Robert R. Hunt  
To the Clerk of the  
Circuit Court of  
Southampton County.