

1802-007 Chancery Causes: Nathaniel Cutchen; James Murphy & wt vs Polly Cutchens' exors

Isle of Wight County

other surnames: Murphrey,
Young, Gibbs, Benn,
Cutchin

Cutchins. allanby

vs

Cutchins Ex^{rs}

} Bill

complainants, but notwithstanding the promissaries, the said Polly
cutlins before her decease, made her last Will and
testaments, and appointed George Benn, & Bennett Young
her executors, in which said Will she has liberated
the said slaves, thereby, intending to defeat the inten-
-tion, of the said Sarah Gibbs, and to deprive your
complainants of their rights, in under consuetud-
-ion whereof, and for as much as your complainants, are
relievable only in a court of equity, to the end
therefore that the said George Benn & Bennett
who your worships may be made defendants to this bill of compl-
-ying the executors of the said Polly cutlins, may
upon their corporate oaths, full true, and perfect
answers make to all and singular the allegations
in this bill of complaint contained, and that
as fully as if the same were here again repeated
and interrogated — And that your worships will decree
that the said defendants, deliver up all the slaves
that were allotted to the said Polly, out of the estate
of the said Sarah, and all their increase; and
~~that they~~ appoint proper persons, to make division
thereof in five equal parts, and assign one of
the 5 parts to your complainants North. None other
of the 5 parts to your complainants Lysa. Murphy
and Wife, and make any other and further decree
in the premises, as may be consistent with right —
may it please

J. Barber for Compt^{ts}

To the worshipping Justices of the County of Wright county, in chancery sitting
humly complaining shew unto the court, your Orlors and
Oratrix, Nathaniel Cutchin, and Liza Murphy, Liza his
Wife, formerly Liza Cutchin; That a certain Sarah Gibbs, late
of this county ~~de~~ after having made her last Will and testam-
ent departed this life on or about the day of 17th

in which said Will she made the following devise, to Wit.
first, I lend the use of all my estate, to my loving daughter
Elatch Cutchin during her life, after her death it is my will
and desire, that the said estate shall be equally divided
between all my grand children, namely, Liza Cutchin,
Ralph Cutchin Polly Cutchin, Nathaniel Cutchin, Loretta
Cutchin, and Sarah Pitt Cutchin, to them and their heirs
for ever, Secondly if either of my grand children last
before mentioned die after the division takes place, without heir,
in that case it is my will and desire, that her parts of my
estate be equally divided between all the survivors,
a copy of which Will is hereto annexed for greater
certainty; in the said testators estate there were a
number of slaves, some all of which, namely,

Were allotted to
the grand daughter, Polly Cutchin, who hath since depa-
-ted this life without issue, whereby a proportion of the
said slaves (and increase if any) under the will aforesaid
has accrued to your complainants, to Wit. One fifth part
to your complainant Nathaniel, and one other fifth part
to your other

Cutcheon Jr. &
Young & Co. *Answee*

him, in that case, its my will and desire, that
her part of my estate be equally divided
between all the survivors. They also confess
there was a division of the property of Sarah
Gibbs did take place and that some of the
Slaves belonging to the s^d Estate, were
allotted to the Granddaughter Polly Cushman
who hath since departed this life without
issue. It is also acknowledged that the s^d Polly
by will (wherein she nominated themselves
her executor) liberated her portion of the
said Slaves. But from these facts, your
Respondents draw conclusions extremely
different from those inferred by the
Complainants in their modest bill. They
consider that by the Laws of the Land,
the absolute right to the negroes &c. allotted
to ^{by s^d Polly} ~~her~~ in the division, was vested in her,
and that she consequently was legally
authorised to make such a disposition
as the one of which, the Compl^t survivors.
They think it unnecessary to intrude

a longer answer upon the patience of
the Court & pray to be hence dismissed
their reasonable costs in this behalf
expended.

Geo. Beck
Burnett Young

The Defendants made oath before me
that they believe the within answer to
be true. Given under my hand and
seal this day of May 1800

Thos King

The answer of George Benn and Bennett
Young to the bill of complaint exhibited
against them in the Worslippell Court of
Isle of Wight County by Nathaniel Cutchen
and Jesse Murphrey and Lois as his wife -

They admit that Sarah Gibbs late of
this County departed this life after having
truly made and published her last will and
Testament. They admit also that the said will
contains this clause to wit: "first I lend the
use of all my estate to my loving daughter
Elatch Cutchin during her Life, after her death
it is my will and desire that the said estate
shall be equally divided between all my
Grandchildren, namely Linisa Cutchin, Ralph
Cutchin, Polly Cutchin, Nathaniel Cutchin,
Josiah Cutchin and Sarah Pitt Cutchin to them
and their heirs forever, secondly if either of
my Grandchildren just beforementioned
die before the division takes place, without

If the Will had stop'd here it w^d be
final. —

The whole Will must be taken together
a devise in possession, ^{even} may be limited.

Conditionally ^{for contingent fee estate} out of all book or contingent
remainder, — I contend not for the
tail. See the date.

maintaining charge

2. } 1/2 per. in 100y
Outlawry 1000.

Executed

V. Young of
for

Los. Fullingham

Aug. 29.
Bills paid & cleared

March 1800
Bills taken in complete

THE Commonwealth of VIRGINIA to the Sheriff of *Shelby* county, greeting.
We command you, that you summon *Bennett Young Esqr* & of *Polley*

butler due:

to appear before our Justices of our county court of *Shelby* at their courthouse
of said county, on the *first Monday in May* next, then and there
to answer a bill in Chancery against *him* exhibited by *John Murphy*
and does his wife

And this *he* shall in no wise omit, under the penalty of 100l. And have then
there also this writ. WITNESS *James Young* clerk of our
said court, the *4th* day of *April* 1799. and in the
23 year of the commonwealth.

J. Young
clerk

Copy Sarah Gibbs's
Will

W. Barber

In the name of God Amen I Sarah Gibbs of the County of Isle
of Wight being very Sick and weak in body but of perfect Mind and
Memory thanks be given to God, do make and Ordain this my last
Will and Testament in manner and form as followeth, First I lend
the use of all my Estate to my loving Daughter Elatch Cutchin
during her life after her death its my Will & desire that the said
Estate shall be ^{legally} divided between all my Grandchildren namely Lewis
Cutchin, Ralph Cutchin, Polly Cutchin, Nathaniel Cutchin,
Josiah Cutchin & Sarah Pitt Cutchin to them & their heirs forever,
Secondly if either of my Grandchildren Just before mentioned
die after the division takes place without heir in that case its my
Will & desire that her part of my Estate be equally divided between
all the Survivors. — Thirdly if it should so happen that all my Grand
Children should die without heir in that case its my Will and
desire that the aforesaid Estate shall be & Ralph West to him &
his heirs forever. I constitute Appoint & Ordain my loving Dau-
ghter Elatch Cutchin & Ralph West to be my whole & Sole Execu-
tors to this my last Will & Testament Witnes where of I have here-
unto set my hand & affixed my seal this 7th day of March 1785.

Signed & Sealed

in presence of

Nancy ^{her} Copeland

George Benn

Isham ^{his} Copeland

Sarah ^{her} Gibbs ^{Seal}

At a Court held for Isle of Wight County the
the 3rd 1785. This Will was presented in
by Ralph West
Court one of the Executors therein named who

Refused in Court to take upon himself the burthen of the Execution
there of & the same being proved by the Oaths of George Benn & Isham
Copeland two of the Witnesses thereto & Ordered to be Recorded, And
at a Court held for the said County the 5th day of October 1785. Then
^{following} Elatch Cutchin the Executrix therein named came into Court
made Oath to the said Will according to Law; And on the motion
of the said Executrix who together with Ralph West her Security entered
into & Acknowledged their Bond in the penalty of one thousand pounds
with Condition as the Law directs Certificate is granted her for
obtaining a probat thereof in due form

Respy Teste Jⁿ Young Wth Sec^y