

1803-027

Sole of Wight County

Chancery Causes: Elizabeth Day, by & c & al vs Robert Tynes' admr,  
Timothy Tynes' exor, + David Tynes

Other SURNAMES: Purdie, Dobb's  
Jordan, Fulgham, King, Woodley  
Johnson, Moody, Todd, Martin  
Hubard, Pyland, Godfrey, Gay

To the Worshipful the Justices of the County of Wight  
County in Chancery sitting

Humbly complaining shew unto your Worships your Orators and Oratrices Robert  
Tynes, Elizabeth Day, an infant under the age of twenty one years, who sues by Davis Day her next  
friend, Thomas Purdie and Sarah his wife, Pleasant Jordan and Elizabeth his wife, Robert Tynes  
Fulgham, Mary Fulgham, Martha Fulgham, Jane Fulgham, and Charles Fulgham Junior, they the  
said Mary, Martha, Jane, and Charles Fulgham being infants under the age of twenty one years, and  
suing in this behalf by Charles Fulgham their next friend,

That a certain Robert Tynes the Grand-  
father of some of your complainants, being possessed of a large estate, consisting ~~both~~ of lands  
Houses, and personal property, being far advanced in life, and having a number of Grand-  
children, for whom, as their claims upon him were <sup>strong & natural</sup> ~~equal~~, he was anxious to provide ~~what~~ deter-  
mined to make a last will and testament, whereby he might make <sup>such</sup> a disposition of his estate as  
accorded with his desire. That accordingly he sent for a certain Timothy Tynes, his eldest son,  
in whom therefore he reposed much confidence, for the purpose of drawing his said will and  
testament as aforesaid, and upon the arrival of the said Timothy Tynes, he informed him that  
he had sent for him for this purpose, and requested him the said Timothy, to make a will  
for him the said Robert Tynes, whereby he should dispose of all his estate after the death  
of his wife, ~~equally~~ among his Grand children in such proportions as <sup>his</sup> father & mother  
would have <sup>would</sup> taken if alive -

~~Timothy Tynes and others, beg leave further~~  
to state to the court, that the said Timothy Tynes instead of obeying this the said Robert Tynes's  
solemn direction, and writing his will according to these instructions, on hearing his intentions  
expressed as is aforesaid, relative to the disposition of his property, and knowing the very great  
influence he had with the said Robert Tynes, who from his advanced life, (being) incapable of  
acting in almost any manner for himself, relied entirely upon the said Timothy, began to expostu-  
late with his father, the said Robert Tynes, as to these his intentions, saying that his grand children  
were then all very young, that it was wrong to divide his estate at that time among them, that it  
had better be all kept together, in the possession of one person, who would thereby be able to make  
much more profit from it than if it was separated into many parcels, and that at some future  
day his grand children would receive much larger portions by this disposition of the property  
than if it should be now divided among them; his father the said Robert Tynes had therefore  
better give the whole estate to him, that he was then an old man, and still a bachelor, that he  
never intended to marry, and upon his death, <sup>he</sup> should of course give all his estate to his nearest  
relations, who would be his nephews and nieces, the Grand children of the said Robert Tynes  
in the same manner as his father wished whose interests would thereby be greatly promoted. That the said Robert Tynes not being  
satisfied by these representations of his son, the said Timothy Tynes, for a long time refused to  
make his will in any other manner than as he had first expressed, but at length influenced  
by the great confidence he had in his son, Timothy Tynes aforesaid, or terrified by his abrupt  
and rude manner conduct, he permitted the will to be made in any manner that he the said  
Timothy thought proper, who accordingly prepared the will, a copy whereof is hereto annexed

and had it immediately subscribed and attested, and as soon as it was executed took it into his possession and left the house.

And your orators and Oratrices further shew to your Worships, that so soon as the said Timothy Tynes was gone, and the old man was again left to his own reflections, uninfluenced by persuasion or terror, he declared to a certain Samuel Godfrey, who was one of the subscribing witnesses to the said will, all these circumstances above related, saying to the said Godfrey, that the paper which Timothy had in his possession, was not his will, but Timothy's, made against his the said Robert Tynes's express directions, and bid him <sup>remember</sup> this if ever hereafter he should be called upon concerning it. And here your Orators and Oratrices beg leave to remark, that the said Timothy Tynes was so well convinced of the truth of this transaction as already stated, that when this writing was offered afterwards by him for probat before this Worshipful court, he took care not to call upon the said Samuel Godfrey, who was a subscribing witness, and who would have stated all that happened, to prove the will, but had the probat made by the other witnesses, who knew nothing of these declarations of the said Robert Tynes.

And your orators and Oratrices further state, that some <sup>years</sup> ~~days~~ after the making and publishing of the will aforesaid by him the said Robert Tynes, <sup>as he drew near his end</sup> he became more uneasy upon this subject, and the said Timothy Tynes still keeping possession of the paper, and avoiding his fathers presence, he the said Robert Tynes a very few days before his death, sent for the said Timothy Tynes, requesting the said Timothy Tynes to come to him immediately, and to bring the will with him, which he accordingly did. Immediately upon his arrival the old man stated to him that the paper which he had, was not his will, as he knew well, that the existence of such a paper made him very uneasy, and directed the said Timothy to destroy it, and to write him another will, conformable to his first directions. Upon this request the said Timothy again began to expostulate with his father, using the arguments which he had before used, and solemnly promising and engaging to do what he had before said he would do. Robert Tynes his father however not being satisfied with this, but still persisting in making a new will, and destroying that which Timothy had, the said Timothy at length absolutely refused either to make a new will or to destroy the old one, and immediately left the house, to which he did not return until after the death of the said Robert Tynes. Upon his departure from the house in this manner, the old man began to weep, saying that he thought it hard he could not do with his own as he thought proper. He repeated these circumstances frequently to several persons, expressing at the same time apprehension that Timothy would not do as he said he would do, to <sup>his</sup> ~~his~~ <sup>wife's</sup> ~~his~~ Grand Children, lamenting the circumstance of his being placed beyond his control - and always saying and bidding them remember it was not his will, but Timothy's.

And your orators and Oratrices beg leave further to state unto your Worships, that shortly after this, Robert Tynes departed this life, and that soon after his death the said Timothy Tynes, produced the paper which he had obtained as is aforesaid before this Worshipful court, where being proved by the proper number of witnesses, who knew nothing of these circumstances, it was admitted to record, and that then the said

Timothy Tynes took possession of all the property derived by the will to him immediately and upon the death of the wife of the said Robert Tynes, which happened shortly after became possessed of the residue thereof, and has continued so possessed until his death. Most of your orators and oratrices, during this period were, and still are minors, and hence could not exert their rights by instituting an enquiry into this matter; and such of them as were capable of doing so, together with the parents and friends of the others who were infants, knowing that the said Timothy Tynes was, and would probably ever remain a bachelor, believing that upon his death he would either bequeath his estate to the grand children of his father, as he had promised to do, or if he died intestate, that they as his nearest relations would inherit it, and seeing that he was managing the property with much industry and propriety, whereby it was daily becoming of more value, forbore to make this investigation, under the impression that however unfairly and improperly the estate of old Robert Tynes had been originally taken from them, that still ample justice would be done on the death of the said Timothy Tynes to your orators and oratrices.

But now so it is may it please your Worships, that the said Timothy Tynes notwithstanding the premises, a short time before his death, to wit, on the 9<sup>th</sup> day of May - in the year 1802 made a last will and testament, a copy whereof is hereto annexed, whereby instead of complying with his promise he had made to his father Robert Tynes of giving to ~~his~~ <sup>his</sup> Nephews and nieces who are some of your orators and oratrices, all his estate, he has manumitted all the slaves which he possessed, and except a small bequest and devise to a ~~and another~~ <sup>and another</sup> ~~devise to your Gratrix Sarah Burdett~~, certain David Tynes, has given to his slaves so emancipated, his whole estate both real and personal, and that James Johnson who the said Timothy Tynes appointed the executor of his said will, and who hath duly taken upon himself the burden of the execution thereof, is now about to carry the said will into complete execution by relinquishing all claim to the several slaves mentioned or referred to in the said will, and delivering up to them as free the instruments of their emancipation made necessary by law, all which is manifestly contrary to equity.

And your orators and oratrices further state to your Worships, that most of the slaves of which the said Timothy Tynes died possessed, are either the very slaves which were formerly the property of his father the said Robert Tynes dec<sup>d</sup>, and of which the said Timothy Tynes possessed himself under the will obtained fraudulently as is aforesaid, or the descendants of these slaves. That the small number which are not embraced within either the one or the other of these descriptions, together with the other property of the said Timothy Tynes, will be by no means sufficient to satisfy the claims which your orators and oratrices have upon the estate of the said Timothy Tynes, for the hires of slaves, the rents of Lands, and the interest of money which he honestly owes unto them for detaining these several kinds of property which they were justly entitled to in his possession. And if any of these slaves of either description shall be emancipated, and the executor should be permitted to part with the possession of them, they will, when informed that the right to their freedom is now in controversy, most probably quit the country, whereby when your orators and oratrices shall succeed in this their reasonable claim, the specific property which will be decreed to them, will not be within their reach, and that which under the law, notwithstanding the emancipation remains still chargeable to the amount

of their debt will no where be found, so that the decree of this court will then be rendered  
void, and of no benefit whatever to your complainants. Your Orators and Oratrices also  
state, that the property devised to the said David Tynes, under the will of the said Timothy  
Tynes, is also property derived unto the said Timothy Tynes by the will of his said father.  
Robert Tynes, fraudulently obtained as is aforesaid, and which therefore the said Timothy  
Tynes had no right to devise.

And your Orators and Oratrices further state to the court, that  
the said Robert Tynes at the time of his death, left the following Grand Children, to wit,  
~~your orator~~ Robert Tynes, son of Henry Tynes dec<sup>d</sup>, a son of the said Robert Tynes; your Ora-  
trix, Elizabeth Day, daughter of Juliana Day, who was daughter of Elizabeth Day,  
late Elizabeth Tynes, the daughter of the said Robert Tynes; your oratrix Sarah Purdie,  
who hath lately intermarried with your orator Thomas Purdie, and who is a daughter of  
Mary King, late Mary Tynes, a daughter of the said Robert Tynes; Your Orators and  
oratrices Elizabeth Jordan, late Elizabeth Fulgham (who hath lately intermarried with  
your orator Pleasant Jordan) Robert Tynes Fulgham, Mary Fulgham, Martha Fulgham  
Jane Fulgham, and Charles Fulgham Junior, sons and daughters of Jane Fulgham, late  
Jane Tynes, who was daughter of him the said Robert Tynes; and all of whom are  
the heirs, as well of him the said Robert Tynes, as of him the said Timothy Tynes  
deceased. That since the death of the said Timothy Tynes, administration de bonis  
non with the will annexed of the said Robert Tynes deceased, hath been duly granted  
by this court to a certain James Johnson, who hath also duly qualified and taken  
upon himself the burden of the execution of the will of the said Timothy Tynes deceased,  
and who in conformity with the directions of the last mentioned will, is now, (unless  
prevented by the order of this court) about to emancipate the slaves, mentioned in  
the said will, and to fulfil all the other bequests therein contained.

And your Orators and Oratrices further state, that the aforesaid Robert Tynes, the grandson  
of the elder Robert Tynes, hath voluntarily executed unto the rest of your orators and oratrices  
who are also grandchildren of the said Robert Tynes, a release and conveyance of all rights  
claims and demands whatsoever, which he hath or may have unto any part of the estate of  
the said Robert Tynes deceased, or of the said Timothy Tynes deceased, either under the will of the  
said Robert, or as one of the heirs of the said Robert, or under the agreement aforesaid, stated  
to be made by him the said Timothy with him the said Robert, his father, at the time of the  
making the will aforesaid, whereby your orators and oratrices are now entitled alone as they  
are advised to all the estate of the said Timothy Tynes provided the facts herein before stated  
can be established - to a copy of which deed or release hereto annexed your orators and oratrices  
beg leave to refer your worships as a part of this their bill.

In tender consideration whereof, and for as much as your orators and oratrices  
are without relief in the premises, except by the interposition of a court of equity, whose  
peculiar province it is to relieve against frauds, and to decree the specific execution of  
contracts of this sort. To the end therefore, that the said James Johnson admor  
de bonis non with the will annexed of the said Robert Tynes deceased, and the same

Day of 1803  
Bill  
Tynes & Co.

~~Bill filed & began to stay the~~  
~~cause of Tynes & Co. by~~  
~~Tynes.~~

~~April 1803~~  
~~Bill filed & began to stay the~~  
~~cause of Tynes & Co. by~~  
~~Tynes.~~

Day of 1803  
Bill  
Tynes & Co.

Jan'y 1803 Bill filed, and  
Injun: to stay the Cause of the  
Negroes set free by T. Tynes

Mar: 1803  
Rept. of Commr. awarded.  
April 1<sup>st</sup> 1803  
Ans<sup>r</sup> filed  
April 15<sup>th</sup> 1803  
Depon filed

~~Nov: 1803~~  
~~Bill filed~~

Nov: 1803. this cause  
came on - & the Bill of  
the Compt<sup>rs</sup> dism<sup>d</sup>

November Judgments  
1803

Judge of Wright County Court  
This day Charles Fulliam and Henry and  
Thomas Pindie, three of the within named Complainants, Came before  
me, one of the Commissioners and Justices of the peace for the said County,  
and made oath  
That the allegations contained in the bill are true so far as they depend  
on their own knowledge, and that so far as they depend on the  
knowledge or information of others, they believe them to be true.

Given under my hand this 3rd day of January 1803

Wm. S. Boykin  
Jp.

*[Faint, mostly illegible text, likely bleed-through from the reverse side of the page.]*

*[Faint, mostly illegible text at the bottom of the page, likely bleed-through.]*

James Johnson as executor of the last will and testament of the said Timothy Tynes, and the said David Tynes, ~~whereof~~ whom your orators and oratrices pray may be made defendants to this their Bill, may be compelled on their several respective corporal oaths, full true and perfect answer to make to all and singular the premises herein before set forth, and that as fully as if the same were here again repeated, and they thereto especially interrogated. That the said James Johnson as executor of the last will and testament of the said Timothy Tynes decd. and all others concerned, may be enjoined and restrained from making out and delivering unto any of the Slaves emancipated by the will of the said Timothy Tynes deceased, a copy of the instrument of their emancipation, made necessary by the act of assembly, to perfect their liberation, until the further order of this court. That the said James Johnson as executor aforesaid, may by the decree of this worshipful court, be directed to retain in his possession, or otherwise dispose of the slaves emancipated, as aforesaid, so that they with their increase may be hereafter forthcoming, to answer the demands of your orators and oratrices. That the said James Johnson as executor aforesaid, and the said David Tynes may be decreed to deliver up unto your orators and oratrices all the estate as well real as personal whereof the said Timothy Tynes died seised or possessed, agreeable to the promise <sup>and engagements</sup> of him the said Timothy with the aforesaid Robert Tynes to this effect, and may be compelled to account unto your orators and oratrices for and pay to them the rents and profits received from this estate since the death of the said Timothy Tynes. Or that the will of the said Robert Tynes so fraudulently obtained as is aforesaid may be set aside, and your orators and oratrices decreed to have such part of the estate formerly belonging to the said Robert Tynes and ~~any~~ <sup>as they would have succeeded to</sup> ~~as if the~~ <sup>as if the</sup> said Robert Tynes had died intestate, together with the rents of lands, hires of negroes and the profits of other property to which your orators and oratrices may be so entitled from the death of the said Robert Tynes until paid, an account of which rents, hires and profits your orators and oratrices pray may in such case be directed. That partition may be made between your orators and oratrices of all such estate as they may by the order of this court be decreed to have, in such manner and in such portions, as to this Worshipful court may seem most proper. And that your orators and oratrices may have such other and further relief in the premises as is most consistent with equity and good conscience.

May it please your Worships to grant unto your orators and oratrices the Common wealths writ or writs of Subpoena and injunction directed &c. Commanding &c.  
And your orators and oratrices will pray &c.

Tazewell. p. qf.

The Answer of James Johnson as executor of Timothy Tynes deceased and administrator de bonis non of Robert Tynes deceased to the bill of complaint exhibited against David Tynes and himself in the worshipping court of Isle of Wight, by Elizabeth Day an infant who sues by David Day her next friend, Thomas Purdie and Sarah his wife, Pleasant Jordan and Elizabeth his wife, Robert Tynes Fulgham, Mary Fulgham, Martha Fulgham, Jane Fulgham and Charles Fulgham jr. They the said Jane and Charles Fulgham being infants and suing by Charles Fulgham senior their next friend.

This Defendant now and at all times hereafter saving and reserving to himself all and all manner of benefit and advantage of exception to the manifold errors, uncertainties and imperfections of and in the Complainant's said bill of complaint contained, for answer thereto, or to so much thereof as this Defendant is advised is material for him to make answer unto; he answereth and saith, That he doth believe and admit it to be true, that the abovesaid Robert Tynes at the time of his decease was legally seized as a possessor of a considerable estate both real and personal; That some of the Complainants are his grand-children, and that his testator Timothy Tynes was his only son then living. This Defendant also admits that the said Robert Tynes did

execute and publish such a last will and testament as is annexed to the complainant's said bill of complaint, but he is fully convinced that the said complainants are incorrect, in stating that the said will was fraudulently or surreptitiously obtained by the said Timothy from the said Robert Tynes. This Defendant alleges that the said Robert and Timothy Tynes were upon very friendly terms as father and son, about the time the said will was made, as well as always afterwards, and he believes that the same intimacy and affection had always existed between them, prior to the date of the said will. It is therefore most improbable that the former should ever have wished to ~~the latter~~ disinherit the latter, and it is equally improbable, if such had been his wish or desire that Timothy Tynes against whom the said will was intended to operate, should be the very person called upon by his said father to write his will. This Defendant thinks it possible that Timothy Tynes his testator might have written the said will of Robert Tynes, but from the fair character which the said Timothy always maintained, this Deft. is induced to believe, that if he was the writer of the said will (which is by no means admitted) he strictly pursued the instructions of his said father. This Deft. also states that the said will was attested by four witnesses and has been duly recorded in the

court of this county upon the testimony of three of the said witnesses who must have sworn that the said Robert Tynes was in his perfect senses at the time of signing it, and also that he acknowledged it to be his last will and testament; otherwise this Deft. is convinced that the said will would not have been admitted to record. He adds too that the three witnesses upon whose oaths ~~that~~ the said will was allowed by the court to be recorded, have always been considered as persons of the strictest veracity. This Deft. further states that the said will of the said Robert Tynes was made ~~about~~ four years before his death, that at the time of its execution, the said Robert was a merchant, and personally engaged in active business, and that he continued in the same active employment for a considerable time afterwards. He also states that the said Robert Tynes was a man of at least as much cleanness, as the said Timothy, and that he retained his intellects to the last, so that it is more than probable that he himself wrote the will; but if he was not the writer, it follows from his possessing equal cleanness with Timothy, that he was able to detect and prevent so glaring a fraud as it is pretended) was practised upon him by the said Timothy. This Deft. begs leave to repeat that the said Robert lived about ~~it~~ four years after the date of the said will, so that had he been dissatisfied with it, he would have

revoked the same by making a new one, if the said Timothy did in reality refuse to return him the first. With respect to the declarations pretended to have been made by the said Robert Tynes to Samuel Godfrey, this Def<sup>t</sup> is advised that it is unnecessary to say any thing; but he can not avoid expressing his surprise, that the said Robert should while in his perfect senses have acknowledged the said will to be his last will and testament, in the presence of the said Samuel Godfrey and three other witnesses and immediately afterwards tell the very same Samuel Godfrey that the same will was not his will, but Timothy's. Indeed, were the statements of the said Samuel Godfrey more consistent with probability or reason, this Defendant from his low character and desperate situation would think himself perfectly authorized to doubt them. That Robert Tynes should have taken the extraordinary trouble to have collected such an extraordinary number of witnesses for the express purpose of establishing his will, and immediately afterwards privately whisper to Samuel Godfrey that the will which he had just acknowledged to be his will, in the presence of the same Samuel Godfrey and three other witnesses (all of whom signed their names to it as such) was not his, but Timothy's is a position pregnant with absurdity and too monstrous to require any kind of an answer.

that Timothy Tynes should have been expected to take any trouble to have called upon Samuel Godfrey, the fourth witness in order to prove his father's said will, when he had already proven the same by one witness more than the law required, was an expectation as ridiculous, as the act itself would have been unnecessary. This Defendant further states that the said Robert Tynes could both read and write, that he signed the said will with his own hand and he thinks that the said Robert Tynes must have known that the gift to the said Timothy was unclogged and untrammelled by any conditions whatever. He adds that from the face of the will itself, it evidently appears that the said Robert intended to convey his whole estate to his said son Timothy, because he has therein given the fathers of all the complainants five shillings a piece, which is a strong mode of manifesting his dislike to them; but this Defendant means to retate some other circumstances which will further illustrate this obvious fact. He begs leave first to state, that he has been advised and believes it to be true, that a bare intention to annul or revoke a will is not sufficient for the purpose, that nothing less than an actual revocation will do, and that if the said Samuel Godfrey had been in court at the time the said will was proven and had there sworn to what he seems now willing to swear to, that the said will would never-

the ~~left~~ have been admitted to record. This Dept. states that the said Timothy lived about eight years longer than his said father, during all of which time he remained in the quiet, peaceable and uninterrupted possession of all the estate which he derived under the said will and which is now claimed <sup>by</sup> by the complainants. This Defendant acknowledges his surprise that the said complainants did not assert their rights to the said estate in his the said Timothy's life time, instead of locking them up in their own breasts as profound secrets. He is convinced from the situations of some of the grand children of the said Robert Tynes, that they never would have remained so long out of the use of ~~their own~~ property to which they thought themselves intitled as eight years, without having made some efforts to obtain it. This Defendant well knows that the said Robert Tynes despised Charles Bulgham the father and next friend of most of the complainants, and that he (the said Robert Tynes) equally detested Davis Day the father and next friend of the complainant Elizabeth Day: And he believes that his hatred for those two characters was even extended to their children. This Dept. perfectly recollects that while his former wife was alive who was an own sister of the said Davis Day, Elizabeth Day the complt. was living with him; and he well remembers that his said wife and himself were about paying

visit to a distant neighbour and not having any convenient way or mode of carrying the said Elizabeth with them, they sent her to the said Robert Tynes to stay until their return; and the said Robert Tynes so far from suffering the said Elizabeth Day to remain as long in his house, as this Defendant and his said wife wished; that he actually turned her out of ~~doors~~ in a hard rain so that she got perfectly wet before and also that this circumstance happened about the time the said will was made that could return to this Defendant's house. This Dept. further states that Julianna <sup>The</sup> ~~his~~ <sup>of the said Robert Tynes</sup> granddaughter, who was the mother of the complainant <sup>Elizabeth</sup>, intermarried with the said Davis Day very much against the wishes of the said Robert Tynes which probably was one reason why he wished to disinterr the said ~~will~~. This Defendant likewise states that Thomas King the father of the complainant Sarah Purdie was one of the securities to the said Timothy Tynes in his ~~administration~~ bond which was given in court for the faithful administration of the estate of the said Robert Tynes, which shows that at that time, he considered the will of the said Robert Tynes as a good one, and that it had been fairly attained. This Defendant lastly prays to be hence dismissed with his costs in this behalf most wrongfully sustained.

James Johnston

Side of Wright County, to wit,

This day James Johnston  
made oath before me a Justice of the Peace for the  
County of said, - that the foregoing answer is true so far  
as it is founded on his own knowledge, & that so far  
as it is otherwise derived, he believes it to be true.  
Given under my hand this 1<sup>st</sup> day of April  
in the year 1803.

J. S. Southall J.P.

David Sykes made oath before me a justice of the peace  
for the county of Isle of Wight that the within answer  
contains all that he knows about the case, and nothing  
but the truth —

April 5<sup>th</sup> 1883.

Joseph Moody

David Sykes, Ans.

The answer of David Tynes an infant under the age of twenty one years by Philip Moody his guardian to the bill of complaint exhibited against James Johnston as executor of Timothy Tynes deceased, and administrator de bonis non of Robert Tynes deceased and himself, in the Worshipful court of Isle of Wight by Elizabeth Day an infant who sues by David Day her next friend, Thomas Purdie and Sarah his wife, Pleasant Jordan and Elizabeth his wife, Robert Tynes Fulgham, Mary Fulgham, Martha Fulgham, Jane Fulgham and Charles Fulgham jr. They the said Jane and Charles Fulgham suing by Charles Fulgham senior their next friend -

This Defendant now and at all times hereafter saving and reserving to himself all and all manner of benefit and advantage of exception to the manifold errors and uncertainties contained in the complainant's said bill of complaint, for answer thereto, or to so much thereof as he is advised is material for him to make answer unto; he answers and says, that he believes it to be true that his uncle Timothy Tynes did leave him such a legacy as is mentioned in the said bill of complaint, but he states that he is a stranger to all and every the matters and things in the said bill contained, and he leaveeth the said complainants to make good the same if they can, by due proof, and he submitteth the same to the judgment, order and decree of this Worshipful Court. He lastly prays to be hence dismissed with his costs in this behalf most wrongfully sustained -

Tynes & Co.

Is.

Sp. in Chg.

Tynes's Almon. per

To March 1803

Executed by  
Wm. Bland

THE Commonwealth of VIRGINIA to the sheriff of *Isle of Wight* county,  
greeting. We command you, that you summon *James Johnston Administrator with*  
*the will annexed of Robert Tynes decd. and the said James Johnston*  
*executor of Timothy Tynes decd. and David Tynes*

to appear before our Justices of our county court of *Isle of Wight* at their courthouse  
of said county, on the *first Monday in March* next, then and there  
to answer a bill in Chancery against *them* exhibited by *Robert Tynes Elizabeth*  
*Day an* infant under the age of Twenty One years by Davis Day her next friend,  
*Thomas Purdie Sarah his wife Pearah's widow and Elizabeth his wife Mary*  
*Martha & Robert Tynes Fulgham & Jane & Charles Fulgham infants by Charles Fulgham*

*this next friend* And this *they* shall in no wise omit under the penalty of *rool*, each And have then  
there also this writ. WITNESS *Nath. Young* clerk of our said court  
the *13<sup>th</sup>* day of *December 1802* and in the  
*2<sup>yth</sup>* year of the commonwealth.

*Nath. Young*

W<sup>m</sup> David Tynes,  
Sir.

Take notice that on Friday, the 15<sup>th</sup>  
of this present month, in the Town of Thomas Grantham,  
in the Town of Smithfield, and County, of Isle of Wight,  
between the hours of ten in the morning and four in the afternoon  
the depositions of Samuel Godfrey, William Jordan and  
Will<sup>m</sup> others -

will be taken, by virtue of a Commission awarded by  
the Court of Isle of Wight County, to be read in evidence in  
the Cause now depending, in the said Court in which  
Elizabeth Day & others, are plaintiffs, and James Johnston  
Executor of Timothy Tynes and administrator of Robert Tynes,  
and yourself, are defendants. - I am Sir. your obt<sup>d</sup> &c

Isle of Wight. April 4<sup>th</sup> 1803

John Barber  
one of the Plaintiffs Attornies  


Isle of Wight County, April the                      This day  
made oath before me, a Justice of the  
Peace, for the said County, that he did on the                      instant  
deliver to the above named ~~Robert Tynes~~ David Tynes, a true copy  
of the above notice. - Given under my hand

Acknowledg. the service of the within  
David Tyner

James Johnston Esq<sup>r</sup> Executor of Timothy Lynes dec<sup>d</sup>; and  
administrators of Robert Lynes dec<sup>d</sup>. —

Take notice that on Friday, the 15<sup>th</sup>

of this present month, in the town of Thomas Grantham  
in the town of Smithfield and County of Isle of Wight,  
between the hours of ten in the morning and four in  
the afternoon, the deposition of Samuel Godfrey, William  
Jordan & others John Martin & Robert Lynes —

Will be taken, by virtue of a Commission awarded by the  
Court of Isle of Wight County, to be read as evidence in  
the cause now depending in said Court, in which Elizabeth  
Day & others, ~~plaintiffs~~ are plaintiffs, and you  
and David Lynes are defendants. — I am Sir. Respectfully,

Your obt<sup>s</sup> Serv<sup>t</sup> —

Isle of Wight. April 4<sup>th</sup> 1803

John Barber.  
one of the plaintiffs attorneys

Isle of Wight County. April the ninth. This day Bate  
Lightfoot made oath before me, that he did on the  
instant, deliver to the above named James Johnston, a true  
Copy of the above notice. — Given under my hand

I acknowledge the service of the within notice  
Ja. Johnston

1

Day 1. 1840.

13

Comm. to

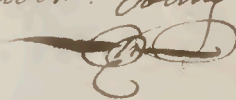
Examine Uch.

Lyns. 1840

The Commonwealth of Virginia to John Goodrich Thomas Pierce  
& James B. Lawrence Gentlemen greeting know ye that we trusting  
to your fidelity and prudent circumspection in diligently examining John  
Martin Samuel Godfrey and Robert Lynes —

as well as the behalf of Elizabeth Day an infant under the age of Twenty ~~one~~ years  
by David Day her next friend, Thomas Purdie and Sarah his wife, Pleasant Jordan  
and Elizabeth his wife, Robert Lynes Fulgham, Mary Fulgham, Martha  
Fulgham, Jane Fulgham, and Charles Fulgham the said Jane and Charles  
being infants and under the age of Twenty one years by Charles Fulgham  
their next friend Plaintiffs and James Johnston executor of Timothy Lynes  
deceased and Administrators de bonis non of Robert Lynes deceased <sup>& David Lynes</sup> Defendants

Command you or any two or more of you that at such certain days and  
places you shall appoint, you assemble yourselves and the Attorneys aforesaid  
before you or any two or more of you, you call and cause to come and  
diligently examine on the holy evangelist of almighty god, & such examination  
on or writing into our said Court of Record of Right, distinctly and plainly  
without delay you shall send & certify inclosed, returning also to us this  
Certified Attorneys Nathaniel Young Clerk of our said Court at the Court  
house the 15.<sup>th</sup> day of April 1803 in the 27.<sup>th</sup> Year of the Commonwealth

Nathl. Young  


Isle of Wight County to wit.

This day Bartholomew Lightfoot made  
oath before me, a Justice of the Peace for the  
said County, that he did deliver to the  
Within named David Lyles, on the 13<sup>th</sup> day  
of this present month, a notice of which  
the Within is a true copy. — Given  
under my hand this 29<sup>th</sup> day of June  
1803.

Geo Purdie

W. David Tynes  
Sir

Please take notice that on Thursday the  
thirtieth day of this present month, at the house of Thomas  
Grantham in the Town of <sup>Smithfield</sup> in the County of Isle of Wight, between the  
hours of nine in the morning and five in the evening, the  
depositions of John Woodley, John Dobbs Esq<sup>r</sup>, Pyland, William  
Gan, and William Jordan (Carpenter) Will then and  
there be taken, to be read in evidence on the trial of the  
Cause which is now depending and undetermined, in  
the County Court of Isle of Wight, in which Elizabeth Day  
and others, are ~~defendants~~ Plaintiffs and, you and  
James Johnston, as representative of Robert Tynes and  
Timothy Tynes <sup>Estates</sup>, are defendants. - I am Sir. Your obed<sup>t</sup> &c

John Barber atty  
for the Plaintiffs. -

Isle of Wight June 8<sup>th</sup> 1803 -

File of Wright County, to wit.

This day Bartholomew Lightfoot appeared before me, a Justice of the peace for the said County, and made oath that on the 11<sup>th</sup> day of this present month, he delivered a notice to the within named James Johnston, of which notice, the within is a true copy: —

Given under my hands this  
29<sup>th</sup> day of June — 1863.

Geo. Carder

James Wharton Esq. adm<sup>r</sup> Helton's nom<sup>s</sup> of Robert Tynes and  
Executor of Timothy Tynes dec<sup>d</sup>  
Sir

You will please take notice that  
on Thursday the thirtieth day of this present month, at the  
house of Tho<sup>s</sup> Grantham in the Town of Smithfield in the County of Isle  
of Wight, between the heirs of mine in the morning and  
Sirs in the evening; the deposition of John Woodley, John Nick-  
James Pyland, William Gay, & William Jordan (carpenter) will  
there and there be taken, to be read in evidence on the  
trial of the cause which is now depending and undetermined  
in the County Court of Isle of Wight, in which Elizabeth  
Gay and Thos. are plaintiffs, and you and David  
Tynes are Defendants. I am Sir your<sup>t</sup> Obedt<sup>t</sup> John Barber  
att<sup>y</sup> for pl<sup>ts</sup>

Isle of Wight June 8<sup>th</sup> 1803

The Commonwealth of Virginia To James B. Southall, & Thomas King  
Gentlemen, greeting, know ye that we trusting to your fidelity  
and provident circumspection in diligently examining John Woodley, William  
Gay, James Pylane, as well on the behalf  
of Elizabeth Day an infant under twenty one years of age by Davis Day her  
mat friend, and others complainants, and James Johnston Administrator  
de bonis aron of Robert Tynes dec'd: and Executor of Timothy Tynes dec'd: and  
David Tynes Defendants, command you or any two or more of you, that at  
such certain days and places you shall appoint, you assemble yourselves & the  
witnesses aforesaid before you or any two or more of you, you call and cause  
to come and diligently examine on the holy Evangelist of All mighty God, &  
such examination in writing into our County Court of Isle of Wight, distinctly  
& plainly without delay you shall send and certify inclosed, returning also  
to us this writ. Witness Nathaniel Young Clerk of our said Court at the  
Court house the 30<sup>th</sup> day of June 1803 in the 27<sup>th</sup> Year of the Common  
wealth —

Nathl Young

My David Dick personally appeared  
before me of the justices of the peace for the county  
of Isle of Wight and made oath that he did  
deliver true copies of the within notice to all  
the complainants within named, except to Sarah  
Purdie and to Mary Fulgham; and he further  
made oath that he delivered a copy of the said  
notice to Thomas Purdie the husband of the said Sarah  
for her, and that he left another copy for Mary  
Fulgham with Charles Fulgham her father,  
at her usual place of abode. Given under my  
hand this 1<sup>st</sup> day of October 1803

Wm. Luce JP

a true copy

Wm. Luce  
JP

Elizabeth Day an infant under the age of twenty one years by Davis Day her next friend - Thomas Purdie & Sarah his wife Pleasant Jordan and Elizabeth his wife - Robert Tynes Tullgham - Mary Tullgham - Martha Tullgham - Charles Tullgham & Jane Tullgham - They the said Charles & Jane being infants under the age of twenty one years, by Charles Tullgham Sen<sup>r</sup> their next friend - Complainants against James Johnston Executor of Timothy Tynes and administrator Admon<sup>r</sup> non with the will annexed of Robert Tynes deceased & David Tynes defendants in a suit now depending in the County Court of Isle of Wight

The defendants doth hereby give notice to the said Complainants that in virtue of a Commission issued from the said Court for the taking of testimony to be read on the trial of the said cause - They will proceed to take the deposition of Carter Lillidge and others in the Town of Suffolk at the tavern of Matt Jones on the seventeenth of October between the hours of ten o'clock in the forenoon & six in the afternoon -

The said defendants also give notice to the said Complainants that they will proceed to take the depositions of the Reverend William Hubbard Malory Todd - Samuel Lightfoot Copeland Whitfield John Joyner George Pittitt & others in the Town of Smithfield at the tavern of Thomas Hancock on the twenty second of October between the hours of ten o'clock in the morning & six in the afternoon & the said Complainants will be pleased to attend on the above mentioned days if they think proper - - -

October 5<sup>th</sup> 1803

James Johnston Ex<sup>r</sup> of T. Tynes  
& adm<sup>r</sup> Ad. of R. Tynes dec<sup>d</sup>

The Commonwealth of Virginia to James B. Southall and Andrew Woodley Gentlemen, Greeting; know ye that we trusting to your fidelity and provident circumspection in diligently examining John Joyner, Copeland Whitfield, Samuel Lightfoot Malory Todd as well on the behalf of James Johnston ex<sup>r</sup> of Timothy Tynes, and adm<sup>r</sup> de bonis non of Robert Tynes, and David Tynes dec<sup>d</sup> as on behalf of Elizabeth Day an infant by Davis Day her next friend, Thomas Purdie and Sarah his wife, Pleasant Jordan and Elizabeth his wife, Robert T. Tullgham, Mary Tullgham, Martha Tullgham, and Charles Tullgham and Jane Tullgham infants by Charles Tullgham Sen<sup>r</sup> their next friend and any two or more of you that at such certain days and places you shall appoint, you assemble yourselves and the witnesses aforesaid before you or any two or more of you, you call and cause to come and diligently examine on the holy evangelist of almighty God; & such examinations in writing into our County Court of Isle of Wight, distinctly & plainly without delay you shall send and certify inclosed, returning also to us this writ. Witness Nathaniel Young Clerk of our said Court at the Courthouse the 4<sup>th</sup> day of October 1803 in the 22<sup>th</sup> year of the Commonwealth -

Nathaniel Young

In behalf of the Plaintiffs I acknowledge  
the within notice. John Barber att<sup>y</sup>  
  
October 26th 1873

Elizabeth Day an infant under the age of 21 years by David Day her next friend. Thomas Purdie and Sarah his wife - Isaac Jordan & Elizabeth his wife - Robert Tynes Fullyham - Mary Fullyham - Martha Fullyham - Charles Fullyham & Jane Fullyham - the said Charles & Jane being infants under the age of 21 years by Charles Fullyham Sen<sup>r</sup> their next friend complainants against James Johnston Executor of Timothy Tynes & Administrator D. Belton of Robert Tynes Dec<sup>d</sup> & David Tynes defendants in a Suit now depending in the County Court of Isle of Wight -

The defendants doth hereby give notice to the said complainants that in virtue of a commission issued from the Court of the said County for the taking of testimony to be read on the tryal of the said cause that they will proceed to take the deposition of the Turrend William Hubbard at the place at present occupied by said Hubbard on the fifth of November between the hours of ten o'clock in the forenoon & six in the afternoon and the said complainants will be pleased to attend on the above mentioned day if they think proper

Isle of Wight County

October 26<sup>th</sup> 1873

James Johnston Ex<sup>r</sup>  
of T. Tynes & Adm<sup>r</sup> D. Belton  
of Ro. Tynes Dec<sup>d</sup>

The Commonwealth of Virginia to Andrew Woodley, James  
Qualting, Fulgodrich . . . Gentlemen Greeting know ye, that we, trusting  
to your fidelity and provident circumspection in diligently examining  
William Hubbard

as well on the behalf of, James Johnston Esq<sup>r</sup> of Timothy Tynes, and  
admiral Nelsons son of Robert Tynes and Anne Nelson Tynes  
as on behalf of Elizabeth Day by Davis Day her next friend,  
Thomas Purdie and Sarah his wife, Phasants Jordan and Elizabeth  
his wife, Robert Tynes Tullgham, Mary Tullgham, Martha Tullgham,  
Charles & Jane Tullgham by Charles Tullgham for their next friends  
or more of you that at such certain days and places you shall appoint  
you assemble your selves and the witnesses aforesaid before you or any two or  
more of you, you call and cause to come and diligently examine in the  
holy evangelist of almighty God, and such examinations in writing into  
our County Court of Isle of Wight, distinctly and plainly without delay you  
shall send and certify inclosed, returning also to us this writ: witness  
Nathanial Young clerk of our said Court at the Courthouse the 1<sup>st</sup> day of  
November 1803 in the 28 year of the Commonwealth

This day personally appeared before me Robert  
Tyner and made oath that on the Tuesday  
before Robert Tyner the elder died the said Robert  
Tyner sent for Timothy Tyner his eldest son  
to come down to his house & being with him he  
will which he the said Timothy then had of him  
he said Robert Tyner, That according to the said  
Timothy came down & this affidavit with him -  
The next morning when this affidavit came down  
stairs he found the said Robert Tyner and the  
said Timothy Tyner ~~sitting at a table~~ together, Timothy  
being engaged in preparing a new will for the said  
Robert Tyner - That after the expression of some  
directions on the part of the said Robert Tyner, which  
he verily inserted in his will, the said Timothy  
Tyner stop'd writing saying to his father ~~that~~ that  
the old will was by much the best - Robert Tyner  
insisted then upon giving his estate as he had before  
directed to his grandchildren ~~as~~ Timothy Tyner  
replied that he might rely that he Timothy Tyner  
would do this at his death which would be much  
better for the grandchildren - But Robert Tyner  
still persisting, & Timothy Tyner refusing to ~~alter~~ <sup>make</sup>  
the will as was directed, Robert Tyner then directed

Timothy to burn the will he had saying it was not  
his will but Timothy's whereupon Timothy got up &  
taking with him the will <sup>left in his possession</sup> left the house. When he was gone the old man  
began to cry, saying it was hard he could not do with  
his own as he thought proper. On the Saturday  
after this conversation Robert Tyner said not having  
seen Timothy Tyner after this until his death.

Adona to before me this 3<sup>d</sup> day of Jan<sup>y</sup> 1843

Thos. Boykin

J.P.

To the Clerk of Island Weight

~~Lynnet~~

Mulloy, Tades

Depos

time in a loose way, that he ought to give a part of his estate to his grandchildren, in answer to which the said Robert replied that he the said deponent might have it after Timothy's death, thereby inducing him to believe that the said Robert was careless about his grand children, and that he did not wish them to have any part of his estate.

Questions by the plaintiffs

How long before Robert Tynes death were the conversations held by him and you of which you have made mention. -

Answer - at several different periods, the last might have been a year or two before his death. -

Question - You say though you cannot recollect Robert Tynes expressions, yet you were impressed with a belief that it was his intention to give his estate to Timothy - were his expressions, special or general kind. -

Answer. His expressions were special he told me several times that he was ~~intended~~ determined to give it to his son. -

Question. Did you understand his determination to leave his estate to his son Timothy, to extend to an absolute right in all the estate, or only a life estate therein

Answer. I think he intended an absolute right. -

Question. You state that Robert Tynes seemed careless what became of the estate after Timothy's death - do you remember his words on that part of the subject. -

Answer. I remember no further words but that he told me I might have it - and said if I would maintain Timothy, I might have it. but our conversations on this point were ~~very~~ <sup>on this point were</sup> in a laughing and joking way.

Question. Did Robert Tynes mention to you on any occasion any of his grand children. -

Answer. He never did; but I mentioned one of them to him, to wit Robert Tynes the younger, in reply to which, he said Robert was Timothy's child; thereby intimating that Timothy would provide for him

Question. Had you ever any conversations with Timothy on the subject of his father's will. -

Answer. Never a word. -

Question. Might not ~~Timothy~~ <sup>Robert</sup> Tynes have changed his mind about the disposition of his property after you had these conversations with him. -

Answer. I can't tell that. -

Question - Do you not think it probable Robert Tynes calculated on Timothy's giving the property at his death to his (Robert's) grand children. -

Answer. I think it probable enough. I should have done so. -

Question. Do you know that Robert did not injure Timothy, to do so, as a condition of his giving him the estate. -

Answer. I don't know that he did ~~not~~ or did not.

and further this deponent saith  
note. -

Notice given and sworn to before us, Justices  
for the County of Essex in right - agreeable  
to the notice and Commission. - This 22<sup>nd</sup> Oct.  
1803 -

James B. Southwell  
And. Wood

The deposition of Mallory Todd, taken at the  
Tavern of Thomas Hancock in the Town of  
Smithfield on the twenty second day of October  
A.D. 1703, between the hours of ten o'clock in the  
forenoon and six o'clock in the afternoon  
of the said day, relative to a suit depending in the  
court of Isle of Wight county, wherein Elizabeth  
Day an infant by David Day her next friend,  
Thomas Purdie and Sarah his wife, Pleasants  
Jordan and Elizabeth his wife, Robert Fynes Fulgham  
Mary Fulgham Martha Fulgham, Charles Fulgham  
and Jane Fulgham infants under the age of  
twenty one by Charles Fulgham her next  
friend are complainants, and James Johnston  
executor of Timothy Fynes, and administrator  
de bonis non of Robert Fynes dec'd and David  
Fynes defendants. The said Mallory Todd  
of lawful age, being first sworn on the holy  
Evangelist of Almighty God, deposes and says  
that he has repeatedly had conversations with  
Robert Fynes the elder respecting the disposition  
of his estate; and although he can not recollect  
the particular expressions of the said Robert  
Fynes, he is convinced that his intention was  
to leave his whole estate to his son Timothy,  
as he has done in his will. Although he  
does not remember the particular words  
used by the said Robert, yet he states that  
the impression made upon his mind  
by the said Robert in his different conversations  
was, that it was his determination to leave  
his estate to his said son Timothy. He also  
states that he gave it forth as his opinion  
to the said Robert Fynes that as his said son  
Timothy was living single and spending his

$$\begin{array}{r} 4012-6 \\ 20 \\ 0/62 \\ 42 \\ 7/59 \\ 2/00 \end{array}$$

on 9<sup>th</sup>

$$\begin{array}{r} 1104 \\ 18 \end{array}$$

Hubbard  
 Hubbs

I swear right solemnly to write

This day Wm Hubbard made oath  
 before us Justices of the Peace for the said  
 County, to the truth of the within deposition  
 to the best of his knowledge &c.

Given under our hands and

5<sup>th</sup> 1803

And Woodly

James Gooding

to sign as a witness as men usually are to ordinary papers. —

Answer I was called on to sign the will and I ask him the said Robert Tynes if he acknowledged that paper to contain his last will and testament, and he answered in the affirmative.

Q. Was you present when the will was written

Ans. No I was not. —

Q. Who produced the paper called the will

Ans. I cannot recollect

Q. Was Timothy Tynes present —

Ans. of that I am not perfectly certain; but rather suppose he was. —

Q. Do you remember any conversation particularly which took place at the time, by the said Robert and any other person respecting the will aforesaid

Ans. I do not. —

Q. Can you tell whether Robert Tynes on his death bed sent for his son Timothy & requested him to write a will for him & that Timothy refused

Ans. I know nothing of it. —

Q. Do you know that such a circumstance did not take place.

Ans. No. I do not.

Q. Had you ever heard Robert Tynes express uneasiness at his son Timothy's behaviour

Ans. No. —

Q. Was not Timothy considered as a very disorderly man during his father's lifetime

in a moral point of view.  
Answer. That all men kind who knew him would acknowledge. —

Q. Was not Robert Tynes considered as lover of morality and virtue —

Answer. I do not think I have right to answer ~~but~~ I dare say he might have been considered as such. —

Q. Question by the Defendant

When you speak of Timothy Tynes being considered as a disorderly man in a moral point of view — do you mean that the said Timothy was a man that would defraud people of their just right or only that he was considered to live in a loose way with a woman to whom he was not married. —

Answer I never heard of his defrauding any person. But have often heard of his living in a loose way with a woman to whom he was not married. from which may be inferred immorality. —

Questions by Plaintiff

Do you think Robert Tynes was well pleased, or very much dissatisfied with Timothy's manner of spending his time generally

Answer I cannot give an answer having never heard him express himself on the subject. —

~~Question by the Plaintiff~~

~~Ans.~~

Q. Was the circumstance of Timothy's living in a loose way with a woman. the only reason on which you founded an opinion of his immorality.

Answer. No — he would get up late & was given to having at certain times. — ~~and further this defendant said not.~~ — W. Hubbard

The deposition of the Juror William Hubbard taken at the place  
at present occupied by the said Hubbard on the fifth of November  
between the hours of ten o'clock in the forenoon & six in the  
afternoon of the same, relative to a suit depending in the Court  
of Isle of Wight County wherein Elizabeth Day an infant by David  
Day her next friend, Thomas Purdie & Sarah his wife - Phasany  
Jordan & Elizabeth his wife - Robert Tynes Tullyham - Mary Tully  
gham - Martha Tullyham - Charles Tullyham & Jane Tullyham  
the said Charles & Jane suing by Charles Tullyham Sen<sup>r</sup> their next  
friend are complainants, and James Johnston Executor of Timothy  
Tynes and administrator de bonis non of Robert Tynes deceased & John  
Tynes defendants - The said William Hubbard an elderly Man being  
first sworn on the holy evangelist of Almighty God deposes & Says -

That in the Month of 1790 he put his signature to a paper  
as a witness, which paper was signed and Sealed by Robert Tynes  
which Land and Seal the said Robert Tynes acknowledged to be  
his - and also that that paper, contained his last will and testament  
which will hath since been recorded in the County Court of Isle  
of Wight

This deponent further states that at the time of his signing the  
aforesaid will as a witness he had no Idea, but that the said Will  
was made by Robert Tynes of his own free will and accord - nor  
has he ever heard from the time of signing the said will as a witness  
untill since the death of Timothy Tynes, that the said Will was surreptitiously  
obtained by Timothy Tynes from the aforesaid Robert Tynes

This deponent also states that Robert Tynes lived about four years  
after this deponents signature as a witness to his Will, and although  
he was frequently in company with the said Robert Tynes, being a  
near neighbour & upon very intimate & friendly terms - yet he  
never once heard him mention the circumstance of his having made  
a will after the day on which this deponent signed it as a witness

Questions by the plaintiffs.

2. When you signed the paper as a witness which has since  
been recorded as the Will of Robert Tynes. Did he  
declare in a solemn manner that that paper contained  
his last Will and testament, Or were you requested

# Dobles Deposition

Ex: by Def.

Do you know how long it was before Robert Tynes' death that the conversation between Tim. Tynes, & Minnet took place?

An: I do not, It might have been a Year or more or less.

Ex: by Def. Was Robert Tynes the

Can you speak positively as to the conversation, & will you relate it nearly in the words of Timothy Tynes as you can -

An: I cannot; but I remember that other persons were present at the time, but who they were I do not now positively recollect; but think Ben

-net & Welder were there. Timothy was then uncle, & was speaking of the petulance of his Father, & as an instance mentioned that some days before, he had been directed to write something for his Father, which I think <sup>he said</sup> was either to draw a week or to alter one, & that when he told him he was tired & unwell ~~he~~ could write no more, the old man said, "don't <sup>you</sup> ~~write~~ <sup>would</sup> ~~do anything~~ <sup>do anything</sup> for yourself - that I would you to do" or that, "You would do any thing for yourself - I don't remember which.

Ex: Did you live near Robert Tynes -

An: No - I lived near Timothy Tynes -

Ex: Did Timothy say whether his Father was unjust or otherwise when he made this reply -

An: Timothy was laughing when he mentioned it & I can't say whether any thing was said which ought to induce me to believe that Timothy thought his father much displeased with him. The language used by his father seemed to indicate it I thought.

Ex: Was Robert said to be sick when this observation was made by him to his son -

An: He said his father was unwell, & had been so for

some time -

Questions by Plaintiff

When Timothy Tynes was relating what ~~he~~ <sup>he</sup> ~~father~~ <sup>father</sup> passed between his father & himself - Did you positively state that Timothy, & he told his father he was tired & unwell, and unable to write.

Answer: I don't remember the precise words; but it was to that purpose as near as I can remember. His father asked him if he had done it, & when Timothy gave him some such answer, his father said, "Don't you do" as before stated, and he quitted his writing and lay down.

When you say Timothy was laughing, do you mean to say he was uncommonly pleased with what he was stating, or that he was smiling in his usual way.

Answer: in his usual way when he was pleased at any thing. -

~~Direct from the Plaintiff's deponent~~  
Said the deponent -

Ex: by Def. Had you ever mentioned this conversation to any person before the death of Timothy Tynes -

An: No - I never had <sup>to the best of my knowledge</sup> ~~but I know that~~ I ever should have mentioned it had I not been asked if I had ever heard Timothy speak on the subject by Capt. Burg - Burg

2: Is not Capt. the Father of one of the parties -

An: He is - And further this deponent said not

John Dobb

The Deposition of John Hobbs - to be read in  
evidence on the trial of a cause depending  
in Equity - in which Elizabeth Day  
and others are plaintiffs, and James Johnston  
Ex<sup>r</sup> of Timothy Tynes and adm<sup>r</sup> - Administrator  
of Robert Tynes, and David Tynes are  
defendants - taken by Consent of  
parties at Francis Perkins Nov - 9<sup>th</sup> 1803.  
before me - & duly sworn to by the  
deponent -

Em<sup>d</sup> Mills

This deponent being duly sworn on the holy evangelists  
of almighty God deposes and saith - That some short  
time before the death of Robert Tynes - He was at the house  
of Timothy Tynes when the said Timothy was in conversation  
with John Birnie and, ~~testifies~~ John Willard that this  
respondent heard the said Timothy say, that he had  
been sent for by his father, a day or two before that,  
to make an alteration in his will, or to make a  
new will, this respondent cannot precisely say  
whether - That ~~he~~ - Timothy, had set down to do  
it, <sup>had begun it</sup> but felt himself ~~indisposed~~ <sup>did not finish it</sup> and ~~did not finish it~~,  
that, Robert the father, ~~had~~ asked him if he  
had done it, meaning as this respondent understood,  
if he had finished the will as directed, to which  
Timothy answered that he was tired, indisposed  
or poorly, or some such expression, - That Robert  
then said to him Timothy - Did you, you  
never would do any thing <sup>you</sup> ~~ought~~ to do or  
that I desired you to do, <sup>or for yourself</sup> but which of these  
expressions this deponent does not remember

*[Faint, mostly illegible handwriting in a cursive script, likely from the 18th or 19th century. The text appears to be a letter or a formal document.]*

*James Dylanes*

*Aspo: H*

*[Faint, mostly illegible handwriting continuing from the top section, possibly a signature block or a concluding paragraph.]*

The Deposition of James Pyland taken at the house of Thomas Grantham in the town of Smithfield on Thursday the 30<sup>th</sup> day of June 1803. in pursuance of Notice and Commission, to be read as Evidence in a suit now depending in the County Court of Isle of Wight, in which Elizabeth Day, and others are Plaintiffs and James Johnston Administrator de bonis non of Robert Tynes &c. and Executors of Timothy Tynes, and David Tynes are Defendants - This deponent being duly sworn on the holy Evangelist of Almighty God, deposes and saith, that soon after Robert Tynes's death, Timothy Tynes and this deponent were riding together about midnight some what intoxicated, when this deponent asked Timothy Tynes if his Father had made a Will, to which Timothy answered yes: This deponent then asked him who wrote it, and on Timothy's answering he wrote it, this deponent expressed a supposition that he Timothy had written it to please himself, to which Timothy answered yes, that he did; and being asked by the Defendant this deponent said he considered this a conversation as a loose one in deed, the said Timothy very shortly afterwards fell from his horse, from Intoxication; - Questions by the Plaintiff, have you seen Timothy Tynes intoxicated more than once, Answer - I have frequently, Question when he was intoxicated, did he lose the use of his senses, Answer, when drunk as to the use of his senses he was much the same as sober, ~~as to the use of his senses~~ Question, when you say he was much the same when drunk as when sober, as to the use of his senses, are we to understand that he frequently <sup>equally</sup> adhered to truth, and that he was equally capable of expressing the truth, Answer he was as far forth as I know, - Question by Defendant, did you always consider him as an honest man, Answer I did, Question did you ever hear him Timothy Tynes say or acknowledge that some of the people of colour mentioned in Timothy Tynes's Will were his children, Ans<sup>r</sup> when bantered on the subject he would say they are as likely yours as mine, meaning John and Chris, but I believe he never seriously denied them to be his, the general opinion of the neighbourhood was that they were his, and from the distinction he treated them with, this deponent is of opinion he Timothy believed them to be his - This deponent also heard Davis Day one of the Plaintiffs say that he heard Timothy Tynes acknowledge them to be his - - Question by Plaintiff - Did you ever hear Timothy Tynes that they were his children, Answer I never did, and I know nothing at all about it, only as to report, in ~~all~~ all I know is mentioned above, and further this deponent saith not -

James Pyland

Attest Nathl. Young Esq.

Depositions

*[Faint handwritten text, likely bleed-through from the reverse side of the page.]*

he used the words cousins, he is however equally precise he meant Robert Tynes's Grand Children especially as Robert Tynes the son of Henry Tynes and nephew to said Timothy was named as one of them, this defendant said To Timothy Tynes Capt. Fulgham has six children and three others of Robert Tynes's Grand Children, you had better divide the Estate equally among them, in answer to which Timothy Tynes said he was willing to do so, he having promised his father that he would do so, and he was willing to comply with his promise. - Questions asked by Defendant: when Robert Tynes asked you at the first meeting spoken of to walk into the house, how long did you stay there? Answered only two or three hours, as he was engaged in shipbuilding - but that he lived there. - How many persons did you find at the house when you arrived there with Robert Tynes? Answer. I don't know; was Robert Tynes in the room at the time when you signed your name to the paper, as a witness? I believe he was. when you signed your name did not you ask what it was you were going to witness? Answer. I did not. when Timothy Tynes asked you to sign that paper did he not speak of it as his father's Will? Answer did not. - Did the other witnesses sign the paper at the time you did? Answer. they did. Did none of them ask any questions about the contents of the paper they were about to sign. Answer. I did not hear them. were the other witnesses who signed the said paper in Robert Tynes's house before you got there or did they come afterwards? Answer. I found them there upon my first arrival, when Timothy ~~unrolled~~ the paper, and put it in pocket, in the absence of Robert Tynes did not he the said Robert ask any questions about it on his returning in the room? Answer. I did not hear him make any inquiries about it, how long did Robert Tynes live after the time of attesting that paper? Answer. I don't remember. Was he Robert was a neighbour to you, and as you were in the habit of intimacy with him, can't you tell whether he lived two or three years after the aforesaid period or whether you suppose he died in the course of a month or thereabouts? Answer. I have forgotten. have not you been living in the country ever since? Answer. I have been living in the country for I suppose forty years. how old are you? I am going into sixty two years of age. what induced you to ask Robert Tynes three or four days after you attested the said paper, what paper it was you signed, as you had not the curiosity to ask any questions about its contents at the time of your signing it? Answer. I thought it was a Deed of gift to Timothy. Did you always consider Timothy Tynes as the greatest favourite of the said Robert Tynes? Answer. I know he was. Did not the same preference for Timothy remain with the said Robert Tynes until his death? Answer. I don't know, but I never heard of any difference or misunderstanding between them, did you not hear Robert Tynes repeat in this second meeting, say that the paper you had witnessed was his will? Answer. I did not. Did you not understand from the General run of his conversation, that such was the case, Answer No. Do you not believe that Robert Tynes knew that the paper which you witnessed was a will, from the General drift of his conversation? Answer. I don't know. had not Timothy Tynes said at the time of his telling you he should give his Estate to his cousins agreeable to his father's Will? Answer. I don't know. How many Grand Children are there now living of the said Robert Tynes? Answer. I suppose eight or nine - what are their names? Answer. Robert Tynes, Robert Fulgham's others - did you ever mention in the lifetime of Timothy Tynes, to any person or persons other than the said Timothy Tynes the circumstances respecting

the Will of old Robert Tynes which you have related to two or three persons since the said Timothy's death, and which you now relate otherwise, I never did mention the said circumstances to any person whatever, in the lifetime of the said Timothy Tynes, but I have mentioned them often since his death, at the time that David Day married Julia Anna Day the Grand Daughter of the said Robert Tynes, was not the said Robert Tynes very much opposed to this marriage? Answer. I don't know, of my own knowledge but I heard people say so, but I did not believe it. Did you know that Robert Tynes before his death took up a great ~~or great~~ dislike to Capt. Fulgham the father of some of the Complainants? I don't know; but people said so, tho I did not believe it. Questions by the Plaintiff. As you were a near neighbour to old Robert Tynes do you not believe that if the said Robert Tynes had entertained any ill will against the said Charles Fulgham you would have heard him mention it? Answer. I surely would, for he talked frequently to me on all most every subject. do you know whether the wife of old Robert Tynes had much influence over him? Answer. whatever she said was the law with him, at the time you talked with Timothy Tynes about disposing of the Estate agreeable to his father's desire did not he seem to understand you as alluding to the promise to give all the Estate to Robert Tynes's Grand Children, which the said Timothy had made to his father? Answer. I did. Did you put him in mind of the promise and of his father's observations to you on that subject? I did. Did he seem to consider that he had received the Estate on that Condition? Answer he did and said he would do it. Question - by Defendant. what is your situation and are you not upon the parish? Answer. I do derive a part of my support from the parish - or in other words from the Overseers of the poor in their public capacity. Questions by Plaintiff. Did not old Robert Tynes in his lifetime tell you that Timothy Tynes has promised him whatever Estate he should give him should be transmitting to the said Robert's Grand Children? Answer he did. Did you not understand old Robert Tynes to desire his Estate to go to his grand children because he believed Timothy would never marry and of course have no lawful issue, Answer I did. what were the reasons Robert Tynes believed Timothy would never marry? Answer. Robert Tynes gave as a reason that Timothy was in the habit of keeping other Women besides his own Colours. - Question by Defendant. Was not Timothy Tynes <sup>always</sup> considered as a respectable and honest man, Answer. he cheated me out of One hundred & twenty pounds in conjunction with Willis Wills - and further this Defendant saith not. I am Godfrey

Sworn to before us, Justices of the Peace for the County of Isle of Wight, this 15<sup>th</sup> of April 1803

John Goodrich  
Bouhall

The Deposition of Samuel Godfrey taken the 15<sup>th</sup> day of April 1803. at the house of Thomas Grantham in the town of Brighthelm in a case now depending in the County Court of Isle of Wight in Chancery, in which Elizabeth Day an infant under twenty one years of age by David Day her next friend, and others are plaintiffs and James Johnston Executor of Timothy Tynes deceased and Administrator de bonis non of Robert Tynes decd. and David Tynes are Defendants, in conformity to Notice given to have been delivered to the Defendants, a copy of which is hereto annexed, and by virtue of the annexed, Commissions, the Defendant James Johnston being personally present. This deponent being duly sworn on the Holy Evangelists of Almighty God; depone and saith that he was at the store of the Robert Tynes on the day a paper was signed by him, which this deponent subscribed as a witness, and which appears to be a Will; that he was asked by the said Tynes to walk into the dwelling house, which he was in the habit of doing, that some time after being in the house, a paper was brought out of the other room by the said Tynes' son Timothy, which was signed by the old man, who observed, Timothy had plagued and teased him about his Will and had framed it to his own liking, but that he did not like it, the said Timothy the son then presented the paper to this deponent, and others present to sign as witnesses, who did so, but this deponent did not know whether it was a Will or what other instrument, nor were there any solemnities, such as acknowledging hand and seal, used as is customary, he said Robert Tynes put his hand to the paper, which this deponent and the others then present witnessed, the said Robert Tynes did not make any acknowledgment of the papers being a Will, or of the signature, when the paper was so signed, Timothy Tynes wrapped it up and put it in his pocket, of his own accord without any instructions from his father which this deponent heard, at which period the old man Robert Tynes had stepped out of the house. This deponent verily believes that Robert Tynes did not know what had become of the paper, which Timothy had put ~~put~~ in his pocket; for he was then in his <sup>dot</sup>bed as this deponent thinks and believes. About three or four days afterwards this deponent was at the store of the said Tynes when he asked Robert Tynes what paper it was, they all signed the other day, to which Tynes answered, it was a Will which Timothy made, that it was not his Will, for that Timothy had made it to suit himself, but that it might stand as his Will, if Timothy would be as good as his word, which word of Timothy was that at his death he would give all the Estate to his Roberts, Grand Children at which time the old man shed tears, and said he had no objection that Timothy should enjoy the Estate as long as he lived, but that he wished it to go to his Grand Children at Timothy's death, for he knew <sup>very</sup> well Timothy would never marry, that he had been teased by Timothy's mother to make a Will, giving to Timothy all his Estate, so much that he had no peace of his life, and that if he could lay his hands on the Will he would burn it, and would never make an other in his life. About nine or ten months before Timothy Tynes died. This deponent, being frequently in his company, had a conversation with him which turning on the subject of the Estate of the said Robert Tynes, the said Timothy, in answer to a question asked by the said deponent, said he intended to give his Estate to his Cousins in conformity to his father's will. Observing to this deponent, do you think I would be worse than my word, and being asked who he understood the said Tynes to mean, when he said his Cousins he answered he understood him to mean the same persons which Robert Tynes meant, when he said Grand Children, as the observation was made as relating to the promise made to his father as before stated, but he is positive he

Received of  
John Martin

John Martin's depo<sup>o</sup>

had made his will. Answer I did. Did you understand from any conversation which you had with him that the conditions of which you speak were written in said Will. Ans. I did not learn whether they were written in the Will or whether they were verbal conditions - did you ever hear Robert Tynes say that his will was not written as he wished it. Ans. I did not. Did Robert Tynes call upon you as a Witness to Notice or remember the aforesaid declarations or did you hear them accidentally as you heard his conversation upon other subjects. Ans. he did not call upon me to remember the conversation as a Witness but only conversed with me on that subject as he did upon others. Did Timothy Tynes say that his father had given him his Estate in his Will upon conditions that he would dispose of it at his death as you have before stated. Did he only say his father requested him to do so. Ans. he did not speak of it as a condition upon which he held the Estate from his Father but only that his father required him to dispose of it to his grand children in manner aforesaid. Upon this the said Timothy's death did you hear Timothy say that he agreed to take the Estate of his father with a condition to leave the same to his father's grand children upon his death. Did this declaration come from his Father. Ans. I never heard Timothy say that he had agreed to any such proposition but I heard his father Robert Tynes say that Timothy had made such promises to him. Did you hear Timothy say that he did not consider himself bound by any requisitions were not in writing or did you hear him say that any promises which he Timothy made to his father were not binding because the promises were not in writing. Ans. Timothy's observations went to the conditions which his father required him to perform and not to any promises made by Timothy to his father Robert. Questions by Plaintiff from your several conversations with Timothy Tynes that he did not state in so many words that he had made his father promises in conformity to the requisitions of his father before stated that he had for a length of time after his father's death considered himself bound to perform these requisitions and that he considered them as so many conditions in which his father gave him the Estate. Ans. I did. Do you believe Timothy Tynes considered himself so bound until the period when he became offended with his relations. Answer I do. You have stated that Robert Tynes told you that he had great difficulty in ordering his matters in his Will to the satisfaction of his wife and son Timothy. Did he ever tell you from what particular causes his difficulties arose. Ans. he did tell me that the difficulties originated in his wife and Timothy's great anxiety that he should give all his Estate to Timothy. Did Robert Tynes ever tell you that his wife or Timothy plagued or teased him to give Timothy his whole Estate. Ans. he did not. Did you understand by what he said to you on that subject that he felt himself under any degree of constraint or embarrassment from the solitations of his wife and Timothy. Ans. I did for that he said he could not give all satisfaction that some would be displeased that if he gave it equally among his grand children and son Timothy it would displease his wife and Timothy and if he gave it to Timothy alone he would probably displease others and that he therefore gave it to Timothy under injunctions and promises that at Timothy's death he would give it as before stated. Are you positive Robert Tynes expressly said that the conditions herein before stated were expressly annexed to the bequest made as aforesaid in favor of Timothy though only verbally. Ans. I am certain. Did you hear Robert Tynes assign any reason why he did not wish to give Timothy all his Estate. Answer he said he thought it unjust that his grand children should be deprived of due proportions. Did Timothy Tynes ever acknowledge that his father had required him to dispose of the Estate to his grand children at his Timothy's death before the old man would sign his

Will, and that Timothy had promised to comply therewith. Ans. he stated expressly that such thing were required by Robert Tynes before he would sign the Will, he did not say he had ~~not~~ promised but he said he did not consider himself bound by those promises from which exceptions I infer he had promised when Robert Tynes talked with you about the restraints and reservations which he said he had laid his son under about the disposition of the Estate you say he talked as on other subjects in what manner did he treat other subjects with truth and sincerity or was he a man of a light thoughtless turn of mind and expression. Answer he was a very serious man and one whose conversation was much to be depended on, his mind seem to be deeply impressed upon those ~~occasions~~ <sup>occasions</sup> when you conversed on those subjects, Answer it did appear to me he was, and indeed it seemed to be his principal concern at that time. Questions by Defendant, Did you ever hear Timothy Tynes acknowledge or say that his Father had laid him under any conditions or injunctions in making to him the said Gift as you have before stated until the year 1802. Answer I did not. At the time of these conversations which you had with Robert Tynes did you consider him in his dotage. Ans. I did not but on the contrary I considered him in the perfect use of his intellects. Did you ever commit any part of the conversation with Timothy or with Robert Tynes to writing until this day. Answer I did not. Question by Plaintiff - what induce the observations made by Timothy Tynes to you in 1802 relating to the aforesaid estate, the period being so recent from old Robert Tynes's death. Ans. T. Tynes was much indisposed and his mind seemed to be occupied with the disposition of the Estate which induce the conversation on his part, at least I thought so, as it was in that way it was commenced, and further this Deponent saith not.

John Martin

Sworn to before us, Justices of the peace for the County of Isle of Wight, the 15<sup>th</sup> day of April ~~1803~~ 1803.

John Goodrich  
James Boothall

The Deposition of John Martin taken at the house of Thomas Grantham on the 15<sup>th</sup> day of April 1803. in the town of Smithfield, in a suit now depending in the County of Isle of Wight in Chancery, by virtue of the annexed commission and in conformity to the annexed Notice, in which Elizabeth Day an infant under twenty one years by David Day her next friends, and others, are plain tiffs, of James Johnston Executor of Timothy Tynes decd. and Administrator de bonis non of Robert Tynes decd and David Tynes are Defendants. — This Deponent, after being duly sworn on the Holy evangelist of Almighty God, deposes and saith. Being intimately acquainted with Capt. Robert Tynes decd. of Isle of Wight County have had frequent conversations with the said Robert Tynes concerning his private affairs; and in several conversations that took place between the said Robert Tynes and myself in the years 1792 & 1793. he the said Robert Tynes did inform me that he had great difficulty in ordering matters in his Will to the satisfaction of his wife his only surviving child Timothy Tynes and his grand children but had at length come to this resolution and signed a will to the following effect, on his son Timothy Tynes firmly agreeing carefully to preserve the Estate entire, which his father Robert Tynes was about to possess him of by a bequest of his will, and which the said Timothy Tynes did agree to distribute amongst the grand children and heirs of the said Robert Tynes on the decease of him the said Timothy Tynes by his the said Timothy Tynes will, and agreeable to the private instructions of his father Robert Tynes. First that a certain sum of money together with a certain number of Negroes should to Mrs Mary Tynes to be at her disposal during her natural life designed for the comfortable maintenance of the said Mary Tynes during that time the residue of which if any to fall to Timothy provided he survived his Mother Mary Tynes.

That three thousand pounds should be given to Sally Tynes King Daughter of Thomas King, including a tract of land known ~~known~~ by the name of Pearrys the rest in Negroes and other movable property at their estimated values — All the rest of his said estate to be equally divided between his grand children and the Daughter of David Day child of his of his grand Daughter Juliana Day. In consequence of his son Timothy Tynes having given him a firm promise to distribute his Estate at his decease in form & manner as above stated he did by his will vest his said son Timothy Tynes with his whole Estate both real and personal and did acknowledge it to his Will provided his son Timothy Tynes did comply with the aforementioned injunctions and promises and that if he failed to perform them it was not his will — but that if his said son Timothy Tynes should contrary to his expectations intermarry and have large families he wished them too him only to share equal with his other children or grand children — In some conversations that took place between the Deponent and the said Timothy Tynes in the beginning of the year 1802 the said Timothy Tynes did then say that his father Robert Tynes required him at the time he signed his Will which put him in possession of all his Estate to leave it to his relations at his death but he did not think himself bound by those promises he then made as nothing of them was committed to writing

That his relations had ~~all~~ displeased him and that he would feed them all out of one spoon except his Niece Sally Tynes Pierce a Daughter of Thomas King to whom he would give the small tract of land called Pearrys because he knew it was the desire of both his father & Mother that she should have it. I then on my Defendant. Did you hear Robert Tynes the elder say that he had made his Will upon the terms you before mentioned, or that he would make it upon those terms. Ans<sup>r</sup>. to the best of my recollection he said he had done it, but he is not positive. — Was this conversation in the year 1792 or in the year 1793. Ans<sup>r</sup>. I heard the same things <sup>from him</sup> upon the subject in both these years. Did you hear the said declarations or any part thereof in the presence of his son Timothy Tynes. Ans<sup>r</sup>. I did not. Did you not understand from one of the conversations which you had with Robert Tynes that he

Robert Lyness  
Deposition

John H. Smith

James H. Smith

without any compensation, Answer as my uncle had given it as he did it was better for his  
Robert's other grand children to have it than for Negroes to have it; do you not expect to be benefited  
in any manner whatever, In case of the complainants succeeding in this suit, Answer No.  
Questions by Plaintiff: When you mentioned coming down stairs next morning after  
you went with Timothy Tynes to Robert Tynes did you mean to say or convey the idea that  
you stayed at Robert Tynes all night, Answer Yes - Did not Robert Tynes appear to be very much  
displeased at Timothy's refusing to proceed with the new will, Answer he was. When  
you say Timothy Tynes had from his father's Estate forty or fifty Negroes do you speak  
positively or do you not, believe the number might have been much greater, Answer  
No I don't believe he had over fifty in his possession at his home house, and at his  
quarters - Did Timothy promise his father in a positive manner that the Estate should  
be disposed of among his Robert's grand children as herein before stated, if the old will  
was not destroyed, or words to that effect, Answer he did, and promised moreover he would  
never marry - Questions by the Defendants - have you ever received  
any Estate by way of advancement from your grand father or from his Estate Answer only  
a house from my grand father in his lifetime, and nothing from Timothy - What Estate  
are you possessed of, Answer I have four or five Negroes and a small plantation  
unimproved &c - have you a wife and children, Answer I have a wife and two  
children - ~~Is further this deponent so with out~~ - Question by the defendant

Have you not been promised by the complainants or either of them, that you  
should lose nothing by relinquishing your title to the estate of Robert Tynes,  
or in other words that although you have made a formal relinquishment of your  
title thereto, that some part thereof should be given to you in case of their succeeding  
or that some equivalent should be made to you in the right or complexion  
of a present? Answer no - Question by plaintiff - Had your grand mother an uncon-  
mon degree of influence over her husband, Answer Yes she had, he would not do  
anything contrary to her will.

~~Sworn to before me, District of the peace for the County of~~  
~~of Wright, this 15th of April 1853.~~ What kind of a man was  
Timothy Tynes as a man of principle and conduct in life generally - And  
he generally abuses people behind their backs and usually bitches with black  
Women, who did Timothy Tynes make companions of generally - And he kept  
company with different descriptions of ~~many~~ <sup>man</sup> kind, but generally made com-  
panions with his Negroes - was not there some considerable time when  
you & Timothy Tynes were not upon speaking terms and how long was this  
the case - And he believes between two & three years, and the reason was that  
I married against his consent, do you not know that Timothy Tynes did associate  
very much with many respectable persons in this County and particularly  
with one or more of the complainants in this suit - And he did associate  
with many respectable persons in this County ~~and~~ and even with some  
of the plaintiffs - And further this deponent so with out -

Rob. Tynes

The foregoing deposition sworn to before us this 15th day  
of Apr. 1853 - by Robert Tynes -

John Goodrich

W. S. S. Hall

The Deposition of Robert Tynes a witness in a cause now depending in the County Court of Isle of  
Wight in Chancery, in which Elizabeth Day an infant under twenty one years of age by David Day  
her next friend and others, are plaintiffs, and James Johnston Executor of Timothy Tynes decd. and  
Administrator de bonis non of Robert Tynes decd. and David ~~Day~~ <sup>Tynes</sup> are Defendants, taken at the house  
of Thomas Grantham the 18<sup>th</sup> day of April 1803. by virtue of and in conformity to the annexed  
commission and Notice. This defendant after being duly sworn on the holy Evangelist of Almighty  
God, deposeth and saith that he lived with Timothy Tynes for several years before and at the  
time of Robert Tynes death that on the Tuesday before the said Robert died he sent for his son  
Timothy Tynes to come to him and bring the will with him which he had in his possession which  
Timothy complied with and this deponent accompanied him next morning when this deponent  
came down stairs, he found Robert Tynes and his son Timothy sitting at a Table, Timothy was  
writing, this deponent sat himself by them, after writing a few lines Timothy stopped  
writing and said that it was not worth his while to make a new Will, that the old one was  
abundantly best, to which Robert replied he would have a new one made for there was  
not a word in the old Will which he approved of, said that was not his Will and told Timothy  
to write one, for he would not have <sup>any</sup> thing in his new <sup>will</sup> as it was in the old one, after some  
hesitation Timothy began to write again, but did not write much in before he again  
replied that the old Will was by far the best, and promised he would divide the Estate  
equally among his Roberts, Grand Children & he Robert wished it at his death, in the same  
proportions as though the fathers and mothers of the said Grand Children were alive, to which  
the old man replied it was hard that he could not do as he pleased, with his own property,  
and went on to repeat that he should make a new will, for that the old one was not his  
but Timothy's Will, and ordered Timothy to burn it. On Timothy finding his father in-  
sist on his making a new Will, he got up from the table seized the old Will and put it  
in his pocket, and went out, at which the old man cried bitterly said it was very hard  
and went to bed. — Questions by Defendant — Are you not a Grandson of the same  
Robert Tynes whose will the complainants are now endeavoring to upset? Answer I go for  
it I dont know it. Did not the said Robert Tynes always call you his Grandson? Answer he did.  
Did not you call him your Grand father? Answer Yes had you any Brother or Sister by  
your father? Answer No. How long has your ~~father~~ <sup>your Grand father</sup> died? Answer I dont know  
certainly but believe it was in 1798. In what month did he die? Answer I dont know  
precisely, but think it was in October. Did you understand from the said Robert Tynes  
that his Estate should be divided equally among all his Grand Children, or that all the children  
of one of his children should take one part only? Answer they were to take their parents part only as  
understood. What is that part of the Estate of which Timothy Tynes decd. seized and possessed, worth  
which he derives under his said fathers will? Answer I dont know, but I believe he had  
six or seven plantations if no more, and forty or fifty Negroes besides stocks at five of his s.  
plantations were there not a great many debts due to him, Answer he told me there were.  
If the will of the said Robert Tynes was to be upset would you not derive considerable  
advantage from it, Answer No. How could it happen that the other Grand Children of the  
said Robert Tynes should be entitled to a considerable part of his Estate upon his wills being over-  
thrown and that you who are equally related to him should derive no advantage  
from the same circumstances? Answer he excused & relinquished my right to the  
rest, did you receive any you to receive any compensation for the said relinquishment?  
Answer No. In what way have you made the relinquishment? Answer by writing.  
Why did you make a voluntary relinquishment of your right to so much property?

Robert Tynes's

Repo: 4

he did Did not you call him your grandfather. Ans. yes had you any brother or sister by your father. Ans. No, in what year did your grandfather die Answer I dont know certainly, but believe it was in 1794. in what month did he die Answer I dont know positively, but think it was in October: did you understand from the said Robert Tynes that his Estate should be divided equally among all his grand children, or that all the children of one of his children should take one part only. Answer they were to take their parents part only, as I understood: what is that part of the estate of which Timothy Tynes died seized and possessed worth which he devised under his said fathers will. Ans. I dont know but I believe he had six or seven plantations if not more and forty or fifty Negroes besides stocks at five of his said plantations were there not a great many debts due to him. Ans. he told me there were. If the will of the said Robert Tynes was to be over set would you not derive considerable advantage from it. Answer yes. how could it happen that the other grand children of the said Robert Tynes should be entitled to a considerable part of his estate upon his wills being over thrown, and that you who are equally related to him should derive no advantage from the same circumstance. Answer because I relinquished my right to the rest, did you receive or are you to receive any compensation for the said relinquishment Answer no In what way have you made the relinquishment. Answer, by writing, why did you make a voluntary relinquishment of your right to so much property without any compensation. Ans. as my uncle had given it as he did it was better for his Roberts other grand children to have it than for negroes to have it, do you not expect it to be benefited in any manner whatsoever, In case of the Complainants succeeding in this suit. Ans. no. Questions by Plaintiff when you mentioned coming down stairs next morning after you went with Timothy Tynes to Robert Tynes did you mean to say or convey the idea that you stayed at Robert Tynes all night. Answer I did. Did not Robert Tynes appear to be very much displeased at Timothys refusing to proceed with the new will. Ans. he was: when you say Timothy Tynes had from his fathers Estate forty or fifty Negroes do you speak positively or do you not believe the number might have been much greater. Answer no I dont believe he had over fifty in his possession at his home house or at his quarters. Did Timothy promise his father in a positive manner that the estate should be disposed of among his Roberts grand

grand children, as herein before stated if the old will was not destroyed or words to that effect. Answer he did, & promised more over he would never marry - Questions by the Defendants - have you ever received any Estate by way of advance ment from your grand father or from his estate answer only a horse, from my grandfather in his life time, and nothing from Timothy - what estate are you possessed of, answer I have four or five Negroes and as small plantation unimproved - have you a wife & children. Ans. I have a wife and two children - Question by the Defendant, have you not been promised by ~~the~~ complainants or either of them, that you should loose nothing by relinquishing your title to the estate of Robert Tynes or in other words that although you have made a formal relinquishment of your title thereto, that some part thereof should be given to you in case of their succeeding, or that some equivalent should be made to you in the light or complexion of a present. Answer No. Question by Plaintiff, had your grandmother an uncommon degree of influence over her husband. Answer yes she had, he would not do anything contrary to her will. what kind of man was Timothy Tynes as a man of principle and conduct in life generally. Ans. he generally abused people behind their backs & usually bedded with black women, who did Timothy Tynes make companions of generally. Ans. he kept company with different descriptions of mankind, but generally made companions with his negroes. was not there some considerable time when you & Timothy Tynes were not upon speaking terms - & how long was this the case. Ans. I believe between two & three years, & the reason was that I married against his consent, do you not know that Timothy Tynes did Associate very much with many respectable persons in this County & particularly with one or more of the Complainants in this suit. Answer he did Associate with many respectable persons in this County & even with some of the Plaintiffs - and further this deponent saith not -

Robert Tynes

Attest Teste Nathl. Young Clk.

The Deposition of Robert Tynes a witness in a cause now depending in the County Court of Suffolk in chancery, in which Elizabeth Day an infant under twenty one years of age by Davis Day her next friend, & others, are Plaintiffs; and James Johnston Executor of Timothy Tynes decd. & Administrator de bonis non of Robert Tynes decd. and David Tynes are Defendants, taken at the house of Thomas Grantham the 15<sup>th</sup> day of April 1805. by virtue of and in conformity to the annexed Commission and Notice. This respondent after being duly sworn on the holy Evangelist of Almighty God, deposes and saith, that he lived with Timothy Tynes for several years before and at the time of Robert Tynes' death, that on the Tuesday before the said Robert died he sent for his son Timothy Tynes to come to him and bring the will with him which he had in his possession, which Timothy Tynes complied with and this deponent accompanied him next morning when this deponent came down stairs, he found Robert Tynes and his son Timothy sitting at a Table Timothy was writing. this deponent seated himself by them, after writing a few lines Timothy stopped writing and said that it was not worth his while to make a new will, that the old one was abundantly best, to which Robert replied he would have a new one made for there was not a word in the old will which he approved of, said that was not his will, and told Timothy to write one for he would not have one thing in his new will as it was in the old one, after some hesitation, Timothy began to write again, but did not write much before he again replied that the old will was by far the best, & promised he would divide the Estate equally among his Robert's Grand children as the Robert wished it, at his death, in the same proportions as though the fathers & mothers of the said Grand children were alive, to which the old man replied it was hard that he could not do as he pleased with his own property, and went on to repeat that he should make a new will, for that the old one was not his but Timothy's will, & ordered Timothy to burn it. on Timothy's finding his father insist on his making a new will, he got up from the Table seized the old will & put it in his pocket, and went out, at which the old man cried bitterly, said it was <sup>very</sup> hard and went to bed - Questions by Defendant - are you not a Grandson of the same Robert Tynes whose will the complainants are now endeavouring to upset, Answer, I go for it, I don't know it, did not the said Robert Tynes always call you his Grandson Answer, he

him to be his this deponent also heard Davis Day one of the Plaintiff say  
that he heard <sup>Timothy</sup> Tyms acknowledge them to be his Questions by Plaintiff -  
did you ever hear Timothy Tyms say they were his to hold now - Answer  
I never did, and I know nothing at all about it, only as to report, indeed  
all I know is mentioned above, and further this deponent saith not. -  
James Pyland

The foregoing Deposition was sworn to before us Jus-  
tices of the Peace for the County of Isle of Wight, at the  
same Place mentioned in the preamble

W<sup>m</sup> King  
J<sup>ts</sup> de Pace

James Pyland

Depo.<sup>d</sup>

The Deposition of James H. [unclear] taken at the house of [unclear] in  
the Town of [unclear] on the 20<sup>th</sup> day of June 1885 in presence  
of [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear] [unclear]  
in the County of [unclear] in which Elizabeth Day & others are  
Plaintiffs and [unclear] is Defendant do hereby depose and say that  
[unclear] [unclear] of Timothy Tynes, & David Tynes are Defendants -

This deponent being duly sworn on the holy evangelist of Almighty God, de-  
poseth and saith, that soon after Robert Tynes's death Timothy Tynes and  
this deponent were riding together about midnight somewhat intoxicated,  
when this deponent asked Timothy Tynes if his father had made a Will,  
to which Timothy answered yes; this deponent then asked him who wrote  
it, and on Timothy answering he wrote it, this deponent expressed a sup-  
position that he Timothy had written it to please himself, to which Timothy  
answered yes that he did; and being asked by the Defendant ~~which~~ this  
deponent said he considered this a conversation as a loose one in deed, the  
said Timothy very shortly afterwards fell from his horse from intoxication.  
Questions by the Plaintiff, have you seen Timothy Tynes intoxicated more  
than once? Answer I have frequently, Question, when he was intoxicated  
did he lose the use of his senses, Answer when drunk as to the use of his  
senses he was much the same as sober, Question, when you say he was much  
the same when drunk as when sober, as to the use of his senses, are we to  
understand that he equally adhered to truth, and that he was equally  
capable of expressing the truth, Answer, he was as far forth as I know,  
Question by Defendant. did you always consider him as an honest man,  
Answer I did, Question, did you ever hear him Timothy Tynes say or  
acknowledge that some of the people of colour mentioned in Timothy  
Tynes's Will were his children, Answer, when bantered on the subject  
he would say they are as likely yours as mine, meaning John and Iris, but  
I believe he never seriously ~~came~~ <sup>dined</sup> them to be his, the general opinion  
of the neighbourhood was that they were his, and from the distinction he  
treated them with, this deponent is of opinion he Timothy believed  
them

John Woodleys

Depo:

his father about the disposition of the Estate at his (Timothy's) death. -

Answer Yes I did, and I further thought he intended that Timothy was to be an agent of his father, in disposing of his Estate, do you recollect whether old Robert Tynes ever mentioned to you ~~any~~ thing about Timothy's marriages.

Answer. he asked me if I was going to live all my life like his son Timothy, and then went on to observe about the house that Timothy was about to build on the river as before mentioned. Question by the Defendant. were you not persuaded, that if the old man always continued in the same temper that he wished Capt. Fulghams children never to have a shilling of his property.

Answer. It was my impression, he did not intend Capt. Fulgham should have any, - was it your belief from the whole tenor of the conversation that he did not intend Capt. Fulghams children to have any part of his property.

Answer. I thought the old man had made some rash promise, as related to Capt. Fulgham, and that to save his promise in favour of Capt. Fulghams children he was about to use Timothy, as an agent, through whom they would participate in his Estate, but I did not suppose they were to have as much as the others, because he expressed himself very warmly in their favour, (meaning Robert & Sally).

Question, was it not your opinion from the whole of this conversation, that Timothy was to have the whole Estate for life. - Answer It was -

Questions by the Plaintiff. while it was your opinion (founded on your conversations and other circumstances then within your knowledge) that Timothy was to have the whole <sup>estate</sup> for life, was it not your impression that he was laid under promises to dispose of the same at his death in some manner pointed out by his father to him. Answer Yes I did, fully expect so. -

Questions by Defendant, were not all these ~~circumstances~~ conclusions drawn from the conversations stated on the other side to have been had

between yourself and Mr. Tynes Sen? Answer, they were - Question, how long before Mr. Tynes's death did this ~~conversation~~ <sup>conversation</sup> take place,

Answer, It was about 1788 or 1789. Question by Defendant, - Was Robert Tynes Sen. in the habit of entering into loose conversations with every person on this subject. Answer. I never heard him talk to any person on the subject but myself. - How many conversations than one. Answer I had, all of which were to nearly the same effect - Questions by Defendant, do you think Robert Tynes intended for his son Timothy only an Estate for life in his whole estate, Answer I do not know, but the old man seemed to think Timothy never would marry, and was desirous in that case that his estate should go to his grand children - on a repetition of the question. This defendant said he did not think that Robert Tynes intended to give his son Timothy more than a life estate and wished his Estate to go to his grand children. -

Question Is it not generally considered that some of the people of colour manumitted by Timothy Tynes's Will are his own children, and that he recognized them as such by sending them to school and treating them with greater kindness than is generally received <sup>from persons of</sup> this unfortunate description. Answer It is. I have heard David Day one of the parties say so. -

Questions by Plaintiff, do you know of your own knowledge that Timothy Tynes recognized any people of colour as his children, Answer that I do not but I have understood from report that such was the case - and further this defendant saith not - John Woodley

The foregoing deposition sworn to before me Justices of the peace for the County of Isle of Wight, at the time and place mentioned in the preamble.

J. King  
J. B. Santhall

The Deposition of John Woodley taken at the house of Thomas Grantham in the Town of Smithfield, on Thursday the 30<sup>th</sup> day of June 1803. in pursuance of a notice and commission to be used as evidence in a suit now depending in the County Court of Isle of Wight in which Elizabeth Day and others are Plaintiffs and James Johnston and David Syms are Defendants —

This Deponent being duly sworn on the Holy Evangelist of Almighty God, deposes and saith, that he was at the house of Robert Syms the elder shortly after the death of Mrs Fulgham (one of his Daughters) when the said Robert observed that his son Timothy was about to build ~~buildings~~ a fire house on the river and that he was at a loss to know what he meant to do with it, but he supposed Robert would get it, (meaning Robert Syms Junr). He observed in continuation that by and by this Robert Sally King now the wife of Thomas Purdie would be fortunes worth looking at. That he was determined Cap<sup>t</sup> Fulgham should never be the better for any thing he had. — This Deponent then observed that ~~this~~ displeasure to the Father should not extend to the children, and <sup>that</sup> he ought to give something to them, his answer was, "not him" (a word common with Robert Syms to express displeasure) I think it best of all — to give it to Timothy and he will do with it what is right. Questions by the Plaintiffs, when Robert Syms the elder said Timothy would do what was right with the property, did you infer that Timothy was instructed what to do with it, by his father, or did you suppose that Timothy was left at full discretion on the subject. Answer, I thought very little about it, at the time but supposed his intention was to give it to Timothy and that he might do with it as he pleased. — did you not suppose ~~that~~ when Robert Syms saying that Robert Syms Junr. and Sally King would be fortunes by ~~by~~ that Timothy was under some promise to an Injunction of

John Woodleys

depois

his Property. Answer It was my impression, he did not intend Capt. Fulgham should have any, was it your belief from the whole tenor of the conversation that he did not intend Capt. Fulgham's children to have any part of his property.

Answer. I thought the old man had made some rash promise, as related to Capt. Fulgham, and, that to save his promise in favour of Capt. Fulgham's children, he was about to use Timothy as an agent, through whom they would participate in his Estate, but I did not suppose they were to have as much as the others, because he expressed himself very warmly in their favour, (meaning Robert & Sally) Question, was it not your opinion from the whole of this conversation, that Timothy was to have the whole Estate for life - Answer It was - Questions by the Plaintiff, while

it was your opinion (founded on your conversations and other circumstances then within your knowledge) that Timothy was to have the whole estate for life, was it not your impression that he was laid under promises to dispose of the same at his death in some manner pointed out by his father to him - Answer yes I did fully expect so.

Questions by Defendant, were not all these conclusions drawn from the conversations stated on the other side to have been had between yourself and Mr. Tynes senr. Answer, they were - Question how Long before Mr.

Tynes's death did this conversation take place, answer, It was about 1788 or 1789. Question by Defendant, was Robert Tynes senr. in the habit of entering into loose conversations with every person on this subject.

Answer. I never heard him talk to any Person on the subject but myself had you more conversations than one, answer I had, all of which were to nearly the same effect - Questions by Defendant: do you think Robert Tynes intended for his son Timothy only an estate for life, in his whole estate, Answer I do not know, but the old man seemed to think Timothy would marry, and was desirous in that case that his estate should go to his grand children - in a repetition of the question; This deponent said he did not think that Robert Tynes intended to give his son Timothy more than a life estate, and wished his Estate to go to his grand children - Questions, It not generally considered that some of the

people of colour manumitted by Timothy Tynes's Will are his own children, and that he recognized them as such by sending them to school and treating them with greater kindness than is generally received of persons of this unfortunate description. Answer It is, I have heard

Davis

Davis Day one of the parties say so. - Questions by Plaintiff do you know of your own knowledge that Timothy Tynes recognized any people of colour as his children, Answer that I do not, but I have understood from report that such was the case - If further this Deponent saith not -

John Woodley

Abolij Teste. Nathl. Young Cl.

before the will was made

The Deposition of John Woodley, taken at the house of Thomas Gasithan in the Town of Smithfield, on Thursday the 30<sup>th</sup> day of June 1803 in pursuance of Notice and Commission to be read as evidence in a suit now depending in the County Court of Middlesex in which Elizabeth Day and others are Plaintiffs, and James Johnston and David Tynes are Defendants. This Dependant, being duly sworn on the Holy Evangelist of Almighty God deposeth and saith, that he was at the house of Robert Tynes the elder shortly after the death of Mrs Fulgham one of his Daughters when the said Robert observed that his son Timothy was about to build a fine house on the river, and that he was at a loss to know what he meant to do with it, but he supposed Robert would get it, (meaning Robert Tynes Jun.) he observed in continuation that bye and bye this Robert, & Sally King now the wife of Thomas Purdie would be fortunes worth looking at. That he was determined Capt. Fulgham should never be the better for any thing he had. This Dependant then observed that his displeasure to the father should not extend to the children & that he ought to give something to them, his answer was not him a word common with Robert Tynes to express displeasure, I think it best of all, to give it to Timothy and he will do with it what is right. Questions by the Plaintiffs, when Robert Tynes the elder said Timothy would do what was right with the property, did you infer that Timothy was instructed what to do with it, by his father, or did you suppose that Timothy was left at full discretion on the subject. Ans. I thought very little about it, at the time but supposed his intention was to give it to Timothy & that he might do with it as he pleased. did you not suppose from Robert Tynes saying that Robert Tynes Jun. & Sally King would be fortunes bye & bye, that Timothy was under some promise to an Injunction of his fathers about the disposition of the Estate at his Timothys death. Answer yes I did. & I further thought he intended that Timothy was to be an agent of his fathers, in disposing of his Estate, do you recollect whether old Robert Tynes ever mentioned to you any thing about Timothys marriages, Answer. he asked me if I was going to live all my life like his son Timothy, and then went on to observe about the house that Timothy was about to build on the River, as before mentioned. Question by the Defendant. were you not persuaded that if the old man always continued in the same temper that he wished Capt. Fulghams children never to have a shilling of

have been so, But I cannot now say - on putting the same question again, this deponent said he had reason to believe Timothy was impressed with a belief that his father would not have given him the land, but on condition that he should give it to Robert - And further this deponent saith not -

Wm Gay

William Gays

Depo<sup>t</sup>

The Deposition of William Gay taken at the house of Thomas Grantham in the town of Smithfield on Thursday the 30th day of June 1803 in pursuance of notice and Commission, to be read as evidence in a suit now depending in the County Court of Isle of Wight in which Elizabeth Gay and others are plaintiffs & James Johnston administrator de bonis non of Robert Tynes and executor of Timothy Tynes and David Tynes are defendants - This Depoant having been duly sworn on the holy evangelist of Almighty God, deposes and saith, that soon after the marriage of Robert Tynes the younger, this Depoant was at the house of Timothy Tynes now deceased, who mentioned to this deponent his dissatisfaction at the marriage which had lately taken place between the aforesaid Robert & his wife and said that altho his father (the father of Timothy) had required him the said Timothy to give to the said Robert aforesaid, the Tract of Land on which Robert sen<sup>r</sup> formerly lived, yet that the said Timothy was determined not to do so, and the said Timothy at the time and place above written, mentioned that when this request was made by his father he told him by way of answer "who else is to have it?" Question by the plaintiffs what did you understand by the answer of Timothy to his father, to wit, who else is to have it? Answer I expect he meant that it was his fathers desire that his estate should go to his grandchildren at Timothys death - Question by Defendant was it your impression from the language of Timothy Tynes in this conversation, that he considered himself at liberty notwithstanding this request of his father ~~to make~~ to make any disposition of the property which he thought proper Answer he said it was in his power to do as he pleased with it, but said if he or they turned out well he did not know but that he would give it to him or them, Question did you consider the answer made by Timothy Tynes to his father as an absolute promise to give the Land to Robert Tynes Jun<sup>r</sup>? Answer I did - Questions by plaintiff was it your impression at the time, from what Timothy told you in conversation that he believed his father would not have made a will devising the Land on which he lived to Timothy had he believed that he (Timothy) would not give it to him (Robert) Answer I cannot say now, my opinion at the time might possibly