

1816-012 Chancery Causes, Mary Baker vs Emanuel Wells, admr of William Malcolm [John Malcolm]

Dale of Wight County

other SURNAMES: Sinclair

of subpoena directed to the sheriff

Le I will ever pray Le

Coke for the

comptrol

Baker

J. C.

is of
Will

Ans. filed Apr. 1802

Nov. 1802

Quadrupl. & comm.

June 1804

Cont.

July 1806

Cont.

April 1810

Cont. dismissed

will statement of John Malcolm decess'd
(& that part thereof which ought to have
been paid to her in the years proceeding
the present) untill the whole of the
one fourth part of the sd John Malcolm's
estate, as abovementioned should be
paid to your Complot.

But so it is necessary it to leave the court,
the sd Emanuel wills, fraudulently
intending to injure your Complot,
gives out in speeches that the estate
of the sd John Malcolm, after his
just debts repaid, will not be sufficient
to discharge to your Complot any
part of the legacy abovementioned.
All which saying & saying things
your Complot knows to be false
& evincous and intended solely
to injure your Complot.

In consideration whereof, & as
your Complot's relief is properly
in a court of Equity - your
Complot prays that the sd Emanuel
may be made defendant to this ~~bill~~
Cause - that he may on his corporal
oath true & perfect answer make to this
bill stating particularly the debts due to
John Malcolm at the time of his death,
what has been collected of the same, &
what remains now due. That he render

in answer an account of the sales of all
the estate, real & personal, at what time
sold, what has been received thereof, or
what is yet due of the amount of sales,
and likewise of the profits, of the different
parts of the estate, that were kept in hand,
untill sold; and the profits of what, is now
in hand, unsold. Also, that he render in
answer hereto an account of his admin-
istration as far as he has gone, shewing
what money he has received & the applica-
tion thereof; Also a statement of
the liquidated debts yet due, from the
said John Malcolm, with their dignity,
and a statement of the nature of such
claims against the sd John Malcolm,
as are unliquidated.

Your Complot farther prays that the
court will decree that the sd Emanuel
wills pay unto your Complot the several
sums of £25. that may ^{be} now due & those
that may hereafter become due untill
the one fourth part of the said estate of
John Malcolm is made good ther, & that
the court will allow interest on the sd
several sums of £25. from the time they
became due, untill the sd sums are paid
to your Complot. Your Complot prays that
the court will make any other or farther
decree in the premises ^{that} may seem to them
most just - I call for the Com-
mon wealth's writ or writs of

To the Justices of Isle of Wight County
in Chancery Setting.

Mary Baker complaining Shew to the court
that on the day of in year of
Christ 17 John Malcolm of this county departed
this life possessed of a considerable estate and
by his last will & testament, which your
complainant prays may be made part of
this bill, devised to your complainant
one fourth part thereof to be paid to her
in annual payments of twenty five pounds
each. Your Complainant states that the
said last will & testament was duly proven
& recorded in this court & the execution
thereof committed to the hands of a certain
~~person~~ ~~who~~ who has since departed
this life - without ever paying to your
complainant any part of the abovementioned
legacy, that he became due in the several
years, that he, the said William, had
the administration of the said John Malcolm's
estate. Your Complainant states that since
the death of the said William, she
believes the administration of the said John
Malcolm's estate has been committed
to the care of ~~of~~ a certain Emanuel
Wells of this county, who has the estate
now in his hands.

Your Complainant has applied to the said
Emanuel Wells to pay to her the aforesaid
Legacy in the manner & form the said last

believe, but has not positive evidence to establish the facts, that
the complainant received, retained more of the said John's
estate than ever came to ~~the~~^{his} hand of it, especially that she
did obtain possession of a Gold Watch worth forty pounds
and a bed worth twelve pounds, and your respondent
has paid her, through the hand of Capt John Sinclair ~~the~~ at the
sum of £14 or £15.0.0 pounds; so that upon the whole he
conceives the complainant has no just cause of complaint.

Whenever he can bring his account to a close whatever
balance may appear due to the estate (if any) he
will cheerfully pay to the complainant, or any other
person fairly intitled agreeably to law. Your respondent
begs hence to be dismissed with his costs, in this case
so very unnecessarily incurred - may it please

Barber for Resp^t -

Sworn to before me

Jos. Fullerton

Witness of Malcolm
adv
Polly Baker } ans.

The answer of Emanuel Wells adm^r of the rights goods and Chattels of William Malcolm dec^d? late of the county of Isle of Wight. to a bill of complaints exhibited in the Chancery side of the courts of said County, by Mary Baker. This respondent, now and at all times hereafter, saving and reserving to himself all manner of exception & right to exception to the errors, misstatements, and untruths in the complainants said bill contain'd; for answer thereto, or to so much thereof as he considers is material for him to answer, he answering saith: That he admits William Malcolm to have been the of John Malcolm dec^d? and doubts not, that John did make and leave such ~~de~~ Will as is stated in the complainants bill, that he (this respondent) is the administrator of said William, and that he never had, nor now has any objection to the complainants deriving all and every benefits from the estate of said John, to which he is or may be intitled, either by virtue of his will or otherwise, so far as the estate is able to make good the appropriations. The estate of said John, which came into this respondents possession was very inconsiderable, except a parcel of trifling and uncertain credits, this respondent verily believes ~~not more than~~ ^{two} ~~one hundred~~ ^{seventy five} dollars of assets came into his hands belonging to said John, that he has brought a number of suits at law to recover the debts due to the estate, that those suits which have terminated, have not produced more than a sufficiency of money to support the others; some of which have been bar'd by the act of Limitations, and some are now depending. that he has paid a number of claims justly due by John, and that he has no assets belonging to said Johns estate wherewith to discharge others still due, or to pay the legacy claim'd by the complainants. — This respondent cannot, with any degree of certainty, make up an account of his administration untill he can have an account from the attorneys intrusted with the prosecution of the claims due to said estate, but he will call for these accounts, and make up an account current of the admⁿ as soon as possible, in the mean time he has no objection to lay before commissioners appointed by this worshipful full court, every paper and account belonging to the estate, whenever call'd on. — This respondent has good reason to

Presented L. C. Wells at NY
for Dr. G. W. H. H. H. H.

Baker

to

{ Sp. in City

Malcolm's advisor.

THE Commonwealth of VIRGINIA to the sheriff of *Isle of Wight* county,
greeting. We command you, that you summon *Emanuel Wills administrator with*
the well annexed of John Malcom Decd.

to appear before our Justices of our county court of *Isle of Wight* at their courthouse
of said county, on the *first Monday in August* next, then and there
to answer a bill in Chancery against *him* exhibited by *Mary Becker*

And this *he* shall in no wise omit under the penalty of 100l. And have
then there this writ, WITNESS *Francis Young* clerk of our
said court, the *Court house the 10th* day of *July 1800.* and in
the *25th* year of the commonwealth.

F. Young