

1833-012 Chancery Causes: Robert Culchin vs Thomas Shepherd + ex & al
Isle of Wight County

othersurnames: Everitt,
Gray, Hall, Everitte,
Dixon, Lightfoot

Virginia:—

In the Superior Court of Chancery for the District
of Williamsburg

Re: *J. F. Fitch*

Plt

vs. *Thos. Sheppard and Elizabeth his wife, for Everett & others*
By his wife, Rachel Gray & Josiah Fitch — *sees*

Shas. if? the — 1st April 1831. —

July Rule 1831. Bill filed —

1st July 1831. Mr. Sheppard and wife & Ind. Replication

" " " do: Everett and wife & do: — do:

Jan: rule 1831 — cause set for hear: in proceps as to R. Gray &
Josiah Fitch

March rule 1831. cause set for hear: as to Everett and wife
and Sheppard & wife in the answer

And then the cause stood on the 1st Sept 1831 —

J. Shalvick C. C.

Fitchin

3 3/4: 1843 N.C. —

Shepard

Virginia In the circuit Superior Court of Law and Chancery for the county of
Musselwhite

Robert Cutchin

Plff.

against

2 In Chancery

Thomas Shephard and Elizabeth his wife, Admrs.

Esther & his wife Rachel Gray & Asiah Cutchin

2 Defendants

May 11th. 1832 Bill taken according to Rachel Gray & Asiah Cutchin
and an issue decreed to be made up and tried to

May 6th. 1833 Decree rendered for acct. see decree in chg. order book page 16 W.C.L.

Catchin

17

2 Rules in 16.
2 Nights 1846.

Shepherd & Co

3 Papers

Cutcher's 10
Papers

Bay 2

Sheppard

1870 Aug. Rice

1871 May 1st for rice 100 to G. & Cutcher
1871 May 1st for rice 100

May 4th 1832

Rice taken as confisco as to
Rachel Gray & Josiah Cutcher. &
an ipew dienes to be made up
with the current of, & sent to
Lansdowne

May 11th 1833 Deane rendered for acct
(Deane) in chg. order book page 16. 1833.

July 31st 1833 some report with sundry
documents involved therein was the
very intricate & filed

October 8th 1833 Report of commissioners
confirmed, & Judgment as to St. Thomas
Sh. & Leno for \$117.50 with 1/2 cent interest
thereon from this date till paid, & Judgment
for the same with costs.

lower \$73.05 for 1/2 cent

the sum of
which the said

ha recovered against

ree of our said Court;

whereof the said

convicted, as appears to us of record. And have then there this writ.

Witness, *Edmund Christian*, Clerk of our said Court, at *Williamsburg*,
this day of 182 and in the year
of the Commonwealth.

To the Honorable the Judge of the chancery district
Court of Williamsburg Humbly complaining sheweth unto
your Honor your Orator Robert Butcher, that Samuel
Butcher, his brother, being in his life time & at the time
of his death seized & possessed of an estate both real
and personal, and being of sound & disposing mind,
memory & understanding did on or about the day
of in the year duly make & publish his last
will & testament in writing, by which the said testator
devised to your orator a certain tract or parcel of
land, with all & singular its appurtenances, situate
in the county of Salisbury, and containing by
estimation one hundred & twenty acres: which
said will was duly signed, published & declared by
the said Samuel Butcher in the presence of two
or more witnesses whose names are subscribed to
the said will: and your orator farther sheweth that
shortly after making the said will, the said Samuel
Butcher departed this life, without revoking or making
any alteration of the same, so seized & possessed as afore-
said, leaving your orator, Elizabeth now the wife of
Thomas Shepherd, Esther G. now the wife of Joseph Ewell,
Rachel Gray, widow of Henry P. Gray, and Loriel Butcher
his brothers & sisters his only heirs at law: and the said
Samuel Butcher having duly made & published his last
will & testament in manner aforesaid, your orator well
hoped he should have been permitted quietly & peaceably
to hold & enjoy the said tract or parcel of land with
its appurtenances according to the directions of the said
will as in all justice & equity he ought to have done:
But so it is, the said last will & testament has been
fraudulently suppressed or destroyed, and the said

Thomas Shepherd & Elizabeth his wife, Joseph Ewell & Esther G. his wife, Rachael Gray and Josiah Cutchin in order to defeat your orator of the benefit of his said brother's will and the premises thereby to him devised, sometimes pretend that your orator's said brother never made & published such last will and testament as aforesaid, and therefore claim title to the premises aforesaid - all which is contrary to equity and good conscience, and tend to injure & oppress your orator. In Tender consideration whereof, & forasmuch as your orator cannot be otherwise relieved in the premises than by the aid & assistance of this Honorable Court: To the end therefore that the said Thomas Shepherd & Elizabeth his wife, Joseph Ewell & Esther G. his wife, Rachael Gray & Josiah Cutchin, may true answer make to all & singular the premises as fully & particularly as if the same were here again repeated & interrogated, and may set forth whether the said Samuel Cutchin was not in his life, & at the time of his death seized of the premises before mentioned, and what estate he had therein, and whether he did not & when, make such will as aforesaid, and may set forth whether he was not of sound & disposing mind, memory & understanding at the time of his making & publishing thereof, and whether he had not power to make such devise of the said premises in manner aforesaid: and may also set forth what title or interest they the said depts claim to or in the same, and in whose possession the same now is, and that your Honor, by a decree of your court, will set up & establish the said last will & testament; that you will decree to your orator the tract or parcel of land, with its

appurtenances: that you will direct an account of the rents & profits of the said tract or parcel of land & the payment to your orator of such balance as may be ascertained to be due thereon: and finally your orator prays that your Honor will make such other or further order or decree in the premises as may be required by justice & equity - May it please the court &c.

Rich^d. H. Baker p. g.

Bar

Robert Cutchin

v  Bill.

Thos. Shepherd bal

83¢

10th Decry 1830

BRUFF & REPITON PRINTERS, WILLIAMSBURG, VA.

THE COMMONWEALTH OF VIRGINIA,

To the Marshal of the Superior Court of Chancery for the *Williamsburg* District, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Thomas Shepherd*
& Elizabeth his wife, Joseph Ennitt & Esther G. his wife,
Rachel Gray and Josiah Cutchin

to appear at the former Capitol in the City of Williamsburg, at the Clerk's Office of the Superior Court
of Chancery, directed by Law to be holden in the said City, on the first Monday in *August*
next, to answer a bill exhibited against *them* in the said Court, by *Robert*
Cutchin

And unless the said defendants, shall answer the said bill within four months thereafter, the Court will
take the same for confessed and decree the matter thereof accordingly. And this *they* shall in no
wise omit, under the penalty of 100 *each*l. And have then there this writ.

Witness, EDMUND CHRISTIAN, Clerk of our said Court, at Williamsburg, this *6th*
day of *April* 18*30*, and in the *54th* year of the Commonwealth.

[The Marshal is requested to note, in his return, the time of executing this process. One copy to be served on
each defendant.] *E. Christian*

Executed Apr. 15th 1830 on Thomas Shep.
herd & Jos. Everett and on the 12th of May
1830 on all the other defendants

Wm Whitehead
for Chas. Livingston
on S. C. C. v. D

Robert Butcher

or
in 4/10

Whitaker & Sons

Wm & Sons in 4/10

one copy to be sent to
each of the following the
named persons

Messrs Thomas Shepherd & Elizabeth his wife Joseph Everett and
Esther G. his wife Josiah Cutcher & Mrs Rachel Gage —

Take notice that on Tuesday the 24th of August 1830 at the
Tavern of Repley and Thomas in the Town of Smithfield in the County
of Isle of Wight between the hours of nine in the morning and six
in the evening I shall proceed to take the depositions of
William Hall Mildred Dixon and others until the said and
shall continue from day to day between the same hours until
the taking of said Hall, Dixon and other depositions be
completed which depositions are to read in evidence in a suit
now pending in the Superior Court of Chancery for the Williams
burg District in which you are defendants and I am plaintiff at
which time and place you and each of you may attend
if you think proper.

Yours To

Robert Cutcher
August 5th 1830
— " —

Shelbourn County, To wit,

This day Albert G. Shivers, personally
appeared before me Esq. C. Jordan Justice of the Peace for
said county and made oath that on the 7th of August 1830
he delivered two copies of this notice to Joseph Eberth and
Cather G., his wife, Thomas Shepherd and Elizabeth Hys wife
and Mrs. Rachel Gray, also on 13th of the same month he
delivered a true copy of the same to the wife of Josiah Cutchum
having explained the same to her. She being a bore the age
of sixteen years given under my hand this 23rd of August 1830

Esq. C. Jordan J.P.

Cutchum or Shepherd
& others, notices

To Robert Cutcher, Take notice, that on the
20th day of September 1830 at the State House
of Archibald Briggs in St Lawrence County
between the hours of 8 o'clock in the morning
and 6 o'clock of the Evening of same day
we shall take the expositions of Robert Law-
rence and others to be read as evidence
in ~~the~~ a suit in the Superior Court of Char-
-ter in the district of Williamsburg, in which
you are complainant and several of
others are defendants - You &c.

August 27. 1830.

Thos. Shepherdson
Joseph Everett
Jury

I admit this notice to have
been delivered Legally -

Wm Whithead
for Wm. Cuthbert
Sept 20 - 1830

Cuthbert

Whithead

Cuthbert
for
Whithead
Sept 20 - 1830

Messrs Thomas Shepherd and Elizabeth His wife Joseph Everett
and Esther G. His wife Josiah Cutcher and Mrs Rachel
Gray.

Take notice that on Saturday the 9th day of October 1830
at the House of Mrs Hollands P. Moody in county of Isle of
Wight between ^{the} hours of nine in the morning and six in the
evening I shall proceed to take the deposition of Nancy House
and others to be read in evidence in a suit now pending in the
Superior court of chancery for the Williamsburg District in
which you are defendants and I am plaintiff at which time and
place you and each of you may attend if you think proper
Sept 27th 1830 Yours &c

Robert Cutcher

September 27th 1830

I do of wright county low d

This day Affrs L. Shivers personally
appears before me Jordan Parry Justice of the peace
for said County and made oath that on the 28th day of
September 1830. he delivered true copies of this notice to
Thomas Shepherd and Elizabeth His and Mrs Rachel
Gray and that on the 2nd day of the same month a
true copy of the same to the wife of Isaac
Cutchen having explained the same to her she
being above the age of sixteen years on the
same day a true copy of the same to the wife
of Joseph Everett he having explained the
same to her she being above the age of sixteen
years and on the same day a true copy
of the same to Esther S. Everett given
under my hand this 5th day of October
1830
Jordan Parry JP

Mr Robert Cutcher take notice that on the Seventh day
of February 1831 at the Tavern of Mr Francis M Boykin
in the County of Isle of Wight, between the hours of 8. O'clock
A.M. and 5. O'clock P.M. of the Same day, We have taken
the depositions of Bartholomew Lightfoot and others to be
read as evidence in the Suit in the Superior court of
Chancery for the district of Williamsburg in which
you are plaintiff and our Selors and others defendants
January the 24th 1831

~~Wm~~ Yours &c
Jos Shepard & Wise
Joseph C Veritt & Wise

Isle of Wight county to wit
This day came before me the Subscriber a Justice of
the peace for said county Thos Ripley who made oath that
on the 28th day of January 1831 he delivered to Robert Catchin
a true copy of this given under my hand this 7th day
of ~~January~~ ^{Feb} 1831

Jath C. Jordan JP

Catchin
& notice
Sheppard

The Commonwealth of Virginia to the Sheriff of Stafford County
County Greeting: Now an Henry commands to summon
Mildred Dixon, Nancy House, Wilkinson Hall, William Hall
and Rachel Gray

to appear before the Judge of our Superior court of ^{Law and} Chancery at
the courthouse of said County on the 1st day of October next
to testify and the truth to speak on behalf of Robert Butcher
and certain matter of controversy in our said court depending
and undetermined between the ^{vs} Robert Butcher plaintiff &
Thomas Shepherd and Elizabeth his wife, Joseph Everett and Esther
& his wife, Rachel Gray & Josiah Butcher Defendants
and this they shall in no wise omit under the penalty of \$100 each
and have then then this writ: Witness Nathaniel Young Clerk of
our said court at the courthouse the 21st day of September 1831 in
the 56th Year of the Commonwealth.

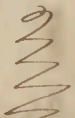
Nath^l Young

executed Sept., 1831

Alfred G. Shew as Deft.

James Johnson Plff.

Catchin

vs  Shew

Shepherd & Co.

To October Superior court
of Law & Chancery

The Commonwealth of Virginia to the Sheriff of Solis Wright county
Greeting: You are hereby commanded to summon Mildred Deane
Stanley House, Wilkinson Hall, William Hall, and Rachel
Gray
to appear before the Judge of our circuit Superior court of Law and
Chancery at the courthouse of said county on the 16th day of Novem-
ber next it being a special term, to testify and the truth to speak
on behalf of Robert Catelin

in a certain matter of controversy in our said court depending and
undetermined between the said Robert Catelin plaintiff &
Thomas Shepherd &c Defendants

And this I layshall in us wise omit under the penalty of five each
and have then this writ. Witness Nathaniel Young clerk of our
said court at the courthouse the 13th day of October 1831, in the
5th year of the Commonwealth

Nathl Young

Entered Nov^r 1831

A. S. Shreve Dr for
James Johnson M^{fr}

butcher

or 3rd Apr
Shepherd P.

To November 3rd Apr
1831

The Commonwealth of Virginia,

To the Sheriff of *Isle of Wight* — County, GREETING :

YOU ARE HEREBY COMMANDED TO SUMMON *Nancy House Wilkerson*
Hacc & William Hall —

to appear before the Judge of the Circuit Superior Court of Law and Chancery for the County of Isle-of-Wight, on the first day of *October* term next; to testify and the truth to speak on behalf of

Robert Catchin —

in a certain matter of controversy in our said Court depending and undetermined between *the said*

Robert Catchin and Thomas Shepherd —

and this *they* shall in no wise omit, under the penalty of £100 *each* and have then there this writ: Witness NATHANIEL YOUNG, Clerk of our said Court, at the Court-House of said County, the *24th* day of *September* . 1832, in the *5th* year of the Commonwealth.

Nathl Young

Executed

Darwin D Hall Appty for Exam Eley Dkt

Cutcheon

vs.

Shiplers

3
3
3

Sp. 2

To Oct^o Sup^r Court 1832

Cutcher v Shepherd - The plaintiff applied to the court for leave to retake the deposition of William Hall & stated that his object was to prove the hand writing of Thomas Hall as a subscribing witness to the will of Sarah Cutcher - the plff further stated that the said William Hall is prepared to prove the hand writing of the said Tho^s Hall; that proof of the same is important to him, the plff, in this case, and that when the deposition of the said W^m Hall was before taken the officer taking the same omitted to ask interrogatories so as to establish the hand writing of the said Tho^s Hall as above mentioned

Prob. Cutcher

Judge of Wright county, to wit: This day Jo. B. Whitehead appeared before the subscriber a justice of the peace for the county aforesaid. He made oath that he believes the above statement to substantially true & correct - Given under my hand this 9th day of Oct^r 1832.

Wm. C. Edwards, J.P.
"CC"

Thomas Shepherd & Elizabeth his wife, Joseph Everett
& Esther his wife, Machel Gray & Josiah Cutchin
Take notice that on Saturday the 13th day of April
1833 between the hours of nine in the morning &
again in the afternoon at the Tavern of Mr James
Whaddon in the Town of Smithfield in the
County of Isle of Wight by virtue of an order of
the Circuit Superior Court of Law and Chancery
obtained at the last term for Isle of Wight County
I shall proceed to relate the deposition of William
Hall as to the handwriting of Thomas Hall dec.
to be read as evidence in a cause now depending
in said Court in which I am plaintiff and
you are defendants at which time and place
you may attend if you choose

March 29th 1833

Yours &c

Robert Cutchin

Cutcheon
vs.
Shepherd

Sale of Westchester County to wit

This day Henry Heywood personally appeared before
me a Justice of the peace for said County and made
oath that on the 30th day of March 1833 he delivered
a true copy of this notice to Rachel Gray Thomas Shepherd
& Elizabeth his wife & on the same day he delivered a true
copy of the same to Esther Everett and he also delivered
~~true copies~~ of the same to the wives of Joseph Everett & Josiah Litcher
~~on the same day~~
they being above sixteen years of age he having explained the
same to them given a true and correct hand that
1st day of April 1833
H. Heywood

The Commonwealth of Virginia,

To the Sheriff of *Nassau* County, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON *Robert Lawrence*

to appear before the Judge of the Circuit Superior Court of Law and Chancery for the County of Isle-of-Wight, on the first day of *May* term next; to testify and the truth to speak on behalf of

Thomas Shepard & others

in a certain matter of controversy in our said Court depending and undetermined between *Robert Butcher* plaintiff and the said *Thomas Shepard & wife & others* defendants

and this *he* shall in no wise omit, under the penalty of £100 and have then there this writ: Witness NATHANIEL YOUNG, Clerk of our said Court, at the Court-House of said County, the *29th* day of *April* 1853, in the *57th* year of the Commonwealth.

Nathl Young

Shepard H.

ads.

Sp. a

Cutcheon

To May Sept. Court
1833 - Schofield County

I acknowledge the service of the within
summons.

Wm. S. 31st 1833

David Garrison

The deposition of William Hall, of lawful age, taken on the 24th day of Aug^r in the Year 1830, at the house or Tavern of Ropley & Thomas in the Town of Smithfield County of Jefferson, between the hours of nine o'clock in the morning and six o'clock in the evening of the same day, before Meris Jordan a Notary Public in & for the County of Jefferson aforesaid, to be read as evidence in a certain suit now depending in the Superior Court of Chancery for the District of Maryland in which Robert Cutcheon is plff: and Thomas Shepherd and Elizabeth his wife, Joseph Escoffie and Ecoster G. his wife, Josiah Cutcheon and Mrs Rachel Gray are defts.

This deponent being first sworn upon the Holy Evangelist of Almighty God, deposes and saith, That about twelve or fifteen days after the death of David Cutcheon, and about nine or ten days after the death of Thomas Hall, his Brother, that he went to the house of the said Thomas Hall, for the purpose of searching among the papers of the said Hall for a subscription paper for the benefit of Mills Barratt, a Minister in the Christian Church, and in searching for which, he found a paper purporting to be the will of David Cutcheon, which he believes to have been written by the said Thomas Hall, which paper purports to have been executed by the said David Cutcheon and witnessed by the said Thomas Hall & Mildred his son, in which will he the said Cutcheon devises his land to the said Cutcheon the plff: and

appointed the ^{1st} Tho: Hall his Executor.

Question by ^{the} plff: Did you, or did you not, in the life time of Saml. Cutcheon hear him express his intention of devising his land to the ^{plff} No: Cutcheon?

Answer, I have, more than once, stating that his father had never given Robert any thing, and that he should therefore give Robert his land. -

Question by the ^{plff}: Have you ever heard Henry Gray assign any reason for not witnessing Saml. Cutcheon's will? Answer, I have, heard him say that he was fearful that the Brothers and Sisters of Saml. Cutcheon would dislike it, as the will was made in his house. -

Question by ^{the} deff: In what year did you see the paper purporting to be the will of Saml. Cutcheon? Answer, In Decr. 1824 - - Question, What was the age of Robert Cutcheon the ^{plff}: at the time you saw the will? Answer, I think he was about ~~ten~~ ^{sixteen}. - Question by ^{the} deff: What date did that will bear? Answer, I do not know that it was dated. -

Question by ^{the} plff: Did, or did not, all the ^{deffs}: in this suit, ~~agree~~ with the exception of Mrs. Elizabeth Shepherd, who was then a single woman, agree upon your application, to make a right to this land to No: Cutcheon the ^{plff}: believing that his Bro: Saml. had devised it to him? Answer, They did, Mrs. Shepherd observing

that Ro: had the land, and she did not know what more he wanted. - And further this deponent saith not.

Signed

Wm. Hall

Virginia

Shenandoah County to wit

Be it known, that I Merck Jordan a Notary Public, in & for the County afores^d by lawful authority duly admitted and qualified, do hereby certify &

make known, that on this day, the foregoing deposition of Wm. Hall was taken and sworn to before me according to Law. Given under my hand and seal of Office this 24th day of August in the Year 1830. -

M. Jordan Not. Pub.

The deposition of Elilona Wixon, of lawful age,
taken on the 24th. day of August in the Year 1830.
between the hours of nine O'clock in the morning,
and six O'clock in the evening of the same day,
at the Tavern of Ripley & Thomas in the Town
of Smithfield and County of Jefferson, before
Merritt Jordan a Notary Public in and for the
County aforesaid - to be read as evidence in
a certain suit now depending in the Supe-
-rior Court of Chancery for the District of
Williamsburg, in which Robert Cuttching is
plff: and Thomas Shepherd and Elizabeth
his wife, Joseph Everett and Esther G. his wife,
Josiah Cuttching and Mrs. Rachel Gray are
defts: -

This deponent being first sworn
upon the Holy Evangelist of Almighty God,
deposed and said, That she was present when
Saml Cuttching made a will, that she was called
on to witness it, which she did, and that she
believes he the said Cuttching was in his pro-
-per senses at that time - Question by the plff:
Who wrote that will? Answer, Thomas Hall,
Question by Same, Did you hear that will
read, and if so, to whom did he devise the
-trust of land of which he was then in pos-
-session? Answer, I heard it read, and he
devised the land to his Brother Ro: Cuttching
the plff: - Question by Same - Did Thomas
Hall witness that will? Answer, He did.
Question by Same - Did you see Samuel
Cuttching sign that will and hear him ac-
-knowledge it as and for his last will and
Testament? Answer - I did.
Question by defts: counsel - Who was present when
that will was made? Answer - Miss Nancy Houn-

Thomas Hall, Henry Gray, and the peff.th Ro: Cutchin.
Question by Same - Who called on you to witness the
will? Answer - Thomas Hall - Question by Same -
Did any other person witness it? Answer -
No other person, but Thomas Hall and my-
self - Question by Same, Did you write
your name, or make your mark? Answer -
Mr. Tho: Hall wrote my name, and I made
my mark - Question by peff.th Was Tho: Hall
the uncle of said Cutchin? Answer - He was
for if - Question by peff.th Who was the Executor named
in the will? Answer - I do not know whether there
was any executor named or not -

Question by Same - What property, other than the
land was named in the will? Answer -
None, that I know of -

Question by Same - What was done with the
will after its execution? Answer - It was
carried home by Thomas Hall, at the request
of said Cutchin. - Question by Same - In what
year was this will executed? Answer -

I do not know - Question by peff.th Did Thomas
Hall offer the will to Robert Cutchin? Answer -
He did, but said Cutchin said, "Don't give
it to him Uncle Tommy, he will lose it,
keep it yourself" - Question by peff.th Who
wrote ~~the name~~ the name of said Cutchin
to the will? Answer - Thomas Hall -

Question by peff.th - Did said Cutchin appear
Thomas Hall, to write his name to the will,
saying he was too weak to set up, but that
he would make his mark? Answer -
He did - Question by Same - How long
did said Cutchin live, after the will was
executed? Answer - About 24 hours.

Question by peff.th at whose house was Samuel
Cutchin, when he executed this will, of which
you have spoken? Answer, at the house of
Mr. Henry Gray, who, I have before stated,
was present when the will was executed,
he the said Henry Gray being the Brother in
Law of the said Samuel. -

Question by peff.th - Can you read writing?
Answer - I can't -

And further this deponent saith
his
not. - Sign'd, Milford & Keifow
man

Virginia

Frederick County to wit

Be it known, that I Meritt
Jordan a Notary Public in &
for the County aforesaid by lawful
authority duly appointed and
qualified, do hereby certify &

and make known, that on this day, the foregoing
deposition of elicitor Keifow, was taken and
sworn to before me according Law. -

Given under my hand and seal of
Office this 24th day of August in the
Year 1830.

Meritt Jordan Not. Pub.

The deposition of Bartholomew Lightfoot
taken at the town of Framble Bay
- kin in the County of Isle of Wight
agreeably to notice on this ~~first~~ ^{fourth}
day of ~~November~~ ^{February} 1834 between the hours
of 10 o'clock A.M. & 10 o'clock P.M.
of the same day to be read as
evidence in the said in the Superior
Court of Chancery for the & is, to wit of
William Light in which Wm. Lightfoot
is p[er]s[on] and Thomas Shipley &
wife and others are defendants.
This deponent having been sworn
on the holy Evangelist of Almighty
God the truth to speak and
and saith that he has been acquainted
for several years with Wm. Lightfoot
and his general character, & from
his knowledge of that personal
character he says, that he is not to be
deceived on oath and further says, not.

And above deposition sworn
to before us according to law
this 7th day of July 1834

Barth. Lightfoot

Thos. Shipley
W. Lightfoot

Catchin
" 3 Sept. 1831
Shppard - foot

Red gale 8
12 July 1831

The deposition of William Hall of Lawful age of the County
of Isle of Wight & State of Va. retaken or taken a second
time by virtue of an order of the Circuit Superior
Court of Law & Chancery for the County of Isle of
Wight a copy of which is hereunto annexed, as
to the Hand writing of Thomas Hall; at the Court
of James Wharton in the Town of Smithfield
County of Isle of Wight
on the 16th day of April in the year 1853 between
the hours of nine in the morning & six in
the afternoon before us William Hollman
& Jas. C. Jordan two of the Justices

of the peace for Isle of Wight County to be read
as evidence in a suit depending the Circuit
Superior Court of Law & Chancery for said County
Robert Cutchin is complainant and Thomas
Stephens & Elizabeth his wife Joseph Everett & Esther
& his wife Rachel Gray & Lorain Cutchin are
defendants

This deponent being first duly sworn on the
Holy Evangelist of Almighty God deposes
& swears shortly after the death of Thomas Hall
he the deponent had occasion to look amongst said
Hall's papers and among them he found a paper purp-
-osing to be the will of Samuel Cutchin to which paper
Tho: Hall's name was signed as a subscribing witness
and he verily believes that the whole paper name & all
was written by Thomas Hall himself

Ques: by Plaintiff were you well acquainted with the
of Thomas Hall & have you seen him write often
or note. Answer I have seen him write often times and
was well acquainted with his hand writing

Ques: Do you or do you not believe from your know-
ledge of Thomas Hall's Hand writing that the
paper purporting to be the will of Samuel Cutchin
was written by Thomas Hall and that the name

of Thomas Hall was written by himself
Answer Ado. given under my hand 13th day
of April 1833

Wm. Hall

This day William Hall personally appeared before
us William Hallman & James Jordan two of
the justices of the peace for Isle of Wight County
between at the Tavern of James Whitaker in
the Town of Smithfield in the County of Isle
of Wight, on the 13th day of April 1833
between the hours of nine in the morning
& six in the afternoon and made oath to the
the foregoing deposition according to law
given under our hands & Seals this 13th
of April in the year 1833

Wm. Hallman Seal
J. A. Jordan Seal

At a circuit Superior Court of law and Chancery continued and
held for the county of Isle of Wight the 9th day of October 1832.

Robert Catchin - - - - - complainant. In
against - - - - - chancery
Thomas Shepard and Elizabeth his wife Joseph
Everitt and Esther G. his wife Rachel Gray Depts: - - -
and Josiah Catchin - - - - - 3

On motion of the plaintiff by his attorney and for reasons
appearing to the court leave is given to take a second time the
deposition of William Hall as to the hand writing of
Thomas Hall as a subscribing witness to the will of Samuel
Catchin decd.

Attest. Nath. Young Clk.

Cutchin

vs.

Shepard

Copy order
to take
depos.

Cutchin ~
vs ~ deposition
Shepard ~

April 13th 1833 came to
hand under seal and
filed in the papers by M.
Whithead for its complt.

At a Circuit Superior Court of Law and Chancery held for Isle of Wight County the 6th day of May 1833.

Robert Butchins

Complt.

against

Thomas Shepherd and Elizabeth his wife, Joseph Smith
& Esther G. his wife, Rachel Gray & Josiah Butchins

In Chancery

Defts

This cause came on this day to be heard on the papers formerly read, together with the Verdict, or finding of the Jury upon the issues hitherto ordered to be tried in this cause and was argued by Counsel; On consideration whereof the Court being of opinion that Samuel Butchins in the proceedings mentioned, did Testate, that he devised the lands whereof he died intitled, to the Plaintiff Robert Butchins in fee simple, and that the last Will & Testament of the said Samuel Butchins has since his death been destroyed or suppressed, doth adjudge, order, and decree that the Plaintiff of the Defendants the said Lands with its appurtenances, and that the said Defendants by good and sufficient deeds, release and convey their respective rights and interest in the same to the said Plaintiff in fee simple with special warranty of the title thereof in the proportions to which they severally claim title as heirs of the said Saml. Butchins or as purchasers under them against the claim or demand of themselves & their heirs & all persons claiming under them. And the Court doth adjudge order and decree that Bartholomew Lightfoot, Commissioner of this Court take an account of the rents and profits of the lands aforesaid from the time at which the said Defendants or any one or more of them obtained possession thereof, and if any buildings or other like improvements have been erected or put upon the said Land by the said defendants or any of them - the said Commissioner is ~~directed~~ required to state & show by the said account, the kind and amount, and value thereof, which account the said Commissioner is directed to examine, state and to the Court report, with any matter specially stated & urged pertinent by himself, or which may be required by the parties to be so stated.

Attest Teste Nathl. Torrey Ck

Attest Teste

Barth. Lightfoot Comr.

Smithfield Commissioners Office June 22^d 1833

Your Commissioners having given notice of the time and place of the execution of the foregoing order of court in this cause, the proof of which notice to the parties concerned is shown by paper marked A. Evidence was introduced, shewing that the Defendant Thomas Shepherd on or about the first day of January 1827 took possession of three fifths of the Land in the order alluded to, one fifth in right of his wife - one fifth in right of Henry Gray and Rachel his wife from whom he purchased - and one fifth in right of Josiah Butcher from whom he also purchased

that the Defendant Joseph Everett (in right of his wife) on or about the said first day of January 1827 took possession of one other fifth of said Land - that the said Thomas Shepherd and Joseph Everett held the same for six years ending the last of December 1832, when the plaintiff took possession thereof - that the rents and profits of that part held by Shepherd for the said six years are

\$ 112.50

The rents and profits of that part held by Everett for said term are

37.50

\$ 150.00

The remainder one fifth of said Land seems not to have come to the possession of any of the defendants. It was not in evidence before your Commissioners that the Defendants or any of them had erected any buildings or other like improvements on said Land - all of which is respectfully submitted to the Court.

Barth. Lightfoot. Comr.

Commissioners fee
Time employed 8 $\frac{1}{2}$ hours \$ 8.50

Smithfield Isle of Wight County to wit

Barth. Lightfoot this day made oath before me a Magistrate that the fee charged by him for this report is just & proper -

Witness my hand this 17th July 1833

W. D. Jordan

The foregoing account remained in my office more than ten days before returned to the clerks Office of this County

Barth. Lightfoot Comr.

Butcher

no. 2 Report.

Shepherd & Co.

July 31st 1833. this rept. &c.
the within documents was
rot. & filed

Virginia: at a Circuit Sup. Court of Law and Chancery held
at the former Capitol in the City of Williamsburg the
1st day of Sept^r 1831.

Robt. Fitchie Pl^t
against

Thos. Sheppard and others Def^s

By consent of the pl^t and ^{the} def^s, of course, and
sufficient reason appearing to the Court, It is ordered that
this suit be transferred to the Circuit Superior Court of Law
& Chancery for the County of Isle of Wight.

Atty Genl J. S. Calhoun C. C.

Catchin

43 London

Shippin

D. D. Cunningham

de 27.00

At a circuit Superior Court of Law and Chancery held for Isles of Wight
county the 5th day of May 1832

Robert Butcher - - - - - Compl't

against -

Thomas Shepard and Elizabeth his wife

Joseph Corit & Esther S. his wife Rachel

Greg and Josiah Butcher

Def'ts

In Chancery

The Subpoena and decree nisi heretofore
awarded against the defendants Rachel Greg and Josiah Butcher having
been returned duly executed, and they still failing to file their answers
The bill of the complainant as to these defendants is taken for confessed
and the cause came on to be heard on the bill, the answer of the other
defendants and the plaintiffs replication thereto the depositions of the witnesses
and was argued by counsel; On consideration whereof, the court doth
as judge order and decree that an issue be made up and tried at Law
before a jury of the circuit superior court of Law and Chancery for the
county of Isles of Wight to ascertain whether Samuel Butcher in the bill
mentioned died testate; and if so, whether he the said Samuel Butcher
devised in fee simple to the complainant the lands whereof the said
Samuel died intestate and in the proceedings referred to; and if the said
Samuel did not devise the said lands as aforesaid; to whom or in what other
wise did he devise the same: And the court directs that the deposition of
such the witnesses as may be dead or who may be out of the commonwealth
or unable to attend in person shall be read as evidence on the trial
of the said issue.

Attest Teste Nathl. Henry Clk.

Butcher

vs.

Shepard & Co

Copy of an
order of
Court for an
issue &c

Butcher vs. Shepherd-

This cause came on this day to be again heard on the paper, formerly read, together with the verdict or finding of the jury upon the issues, heretofore ordered to be tried in this cause, and was argued by counsel: On consideration whereof the court, ~~doth adjudge order & decree~~ being of opinion that Samuel Butcher in the proceedings mentioned did testify, ~~that~~ that he devised the land whereof he died entitled to the pty. Robert Butcher in fee simple, and that the last will & testament of the said Samuel Butcher has since his death been ~~forfeitedly~~ destroyed or suppressed, doth adjudge order & decree that the pty's recover of the defendant the ^{said} land, with its appurtenances, ~~freedom~~ and that the said def^t by good & sufficient release & ^{release &} ~~convey~~ ^{convey} their ^{respective} ~~rights~~ ^{rights} ~~in the~~ ^{in the} ~~land~~ ^{land} pty's in fee simple with special warranty of the title, ^{in the proportion to which they severally claim title as heirs of the said Robert Butcher} ~~themselves~~ ^{themselves} against the claim or demand of themselves & their heirs & of all persons claiming under them - and the court doth adjudge order & decree that Nathl. Lightfoot one of the assessors of this court take an account of the rents and profits of the land aforesaid from the time at which the said def^t or any one or more of them obtained possession thereof, ~~standing~~ ~~standing~~ ~~by the said account~~ ~~to the said court~~ ~~it, if any, do~~ ~~any improvements~~ and if any buildings or other like improvements have been erected or put upon the said land by the said defendants or any of them, ~~standing & claiming~~ ~~the said account~~ is required to state & show by the said account the kind & amount thereof: which account the said court is directed to examine, state & settle & to the court report, with any matter specially stated deemed pertinent by himself or which may be required by the parties to be so stated -

Catcher
v. 3 Decade.
Shepherd.

At a circuit Superior Court of Law and Chancery held for Island of Nippon
County the 6th day of May 1833.

Robert Cutchin

Complt.

against

Thomas Shepard, and Elizabeth his wife,

Joseph Corrie & Esther G. his wife Rachel

Gray and Josiah Cutchin

Defls.

In Chancery

This cause came on this day to be heard:
on the papers formerly read, together with the verdict, or finding
of the jury upon the issues heretofore ordered to be tried in this
cause and was argued by counsel; On consideration whereof, the
court being of opinion that Samuel Cutchin in the proceedings
mentioned died testate, that he devised the lands whereof he died
intitled to the plaintiff Robert Cutchin in fee simple, and that
the last will and testament of the said Samuel Cutchin has
since his death been destroyed or suppressed, doth adjudge, order,
and decree that the plaintiff of the defendants the said lands with
its appurtenances, and that the said defendants by good and
sufficient deeds, release and convey their respective rights, and
interest in the same to the said plaintiff in fee simple with
special warranty of the title thereof, in the proportions to which
they severally claim title as heirs of the said Samuel Cutchin
or as purchasers under them against the claims or demands of
themselves, and their heirs, and all persons claiming under
them. And the court doth adjudge order and decree that Barthe-
lomew Lightfoot commissioner of this court, take an account of
the rents and profits of the lands aforesaid from the time at which
the said defendants or any one or more of them, obtained possession
thereof and if any buildings or other like improvements have been
erected or put upon the said land by the said defendant or any
of them the said commissioner is required to state, and show by the
said account, the kind, and amount, and value thereof, which
account the said commissioner is directed to examine, state, &
to the court report, with any matter specially stated deemed
pertinent by himself, or which may be required by the parties to
be so stated.

Attest

Wm. H. Hony Ck.
Clerk

Witchin
vs. 3 copy decree
3
3
Shupard VAS.

At a Superior Court of Law and Chancery held for the County of Middlebury the
10th day of May 1833.

Robert Butcher

Compt.

against

In Chancery

Thomas Shepherd & Elizabeth his wife,

Jos. Everett & Esther his wife - Rachel Gray &

Sarah Butcher

Defts

This cause came on this day to be heard on the papers formerly read, together with the Verdict or finding of the Jury upon the issues heretofore ordered to be tried in this cause and was argued by counsel. On consideration whereof the Court being of opinion that Samuel Butcher in the proceedings mentioned did testify, that he devised the Lands whereof he died entitled, to the Plaintiff Robert Butcher in fee simple; and that the last will and Testament of the said Samuel Butcher has since his death been destroyed or suppressed, doth adjudge order and decree that the Plaintiff of the Defendants by the said Lands with its appurtenances, and that the said Defendants by good & sufficient deeds, release and convey their respective rights and interest in the same to the said Plaintiff in fee simple with special warranty of the title thereof in the proportions to which they severally claim title as heirs of the said Samuel Butcher or as purchasers under them against the claims and demands of themselves & their heirs & all persons claiming under them. And the Court doth order adjudge and decree that Bartholomew Lightfoot Commissioner of the Court take an account of the rents and profits of the Lands aforesaid from the time at which the said defendants or any one or more of them obtained possession thereof, and if any buildings or other like improvements have been erected or put upon said Land by the said defendants or any of them, the said Commissioner is required to state and shew by the said account the kind and amount and value thereof which account the said Commissioner is directed to examine state & settle to the Court report with any matter specially stated deemed pertinent by

himself, & which may be required by the parties to be so stated

Attest

Wm

Nathl Young esq

Attest

John

Barth. Lightfoot com.

Commissioners Office June 6th 1833

The parties interested in the foregoing order are hereby notified, that I have appointed the twenty second day of the present month June, to commence the settlement of the accounts directed by the preceding order of Court, on which day they are requested to attend at my Office at 9 O'clock of the forenoon with such papers, vouchers & other evidence as will enable me to execute the foregoing decree

Barth. Lightfoot com.

I hereby certify that on the 17th day of June 1833 I delivered true copies of the said order to all the parties except Josiah Cutcher and on the same day I left a true copy of the same with the wife of Josiah Cutcher having explained the same to her she being above the age of twenty years given under my hand this 22nd day of June 1833

Henry Reynolds Esq
for Esq. Eley M^r

signed

A

Catchen vs. Shepherd - This cause came on this day to be again heard on the papers formerly read & on the report of the Commissioner, ^{to which no exceptions have been filed} and was argued by counsel: On consideration whereof, the court, confirming the said report ~~adjudge~~ ^{adjudge} order & decree that the plaintiff recover of the defendant Thomas Shepherd the sum of one hundred and twelve dollars and fifty cents with interest thereon after the rate of six per centum ^{per annum} from the ^{the record} day of ~~date~~ ^{until paid}; and the court doth further adjudge, order & decree that the plaintiff recover of the defendant Joseph Everett the sum of thirty seven dollars and fifty cents with the like interest from the same time until paid, and that the defendants pay to the plaintiff his costs about his suit in this behalf expended &c.

Tested this 24th

etc etc
The plaintiff's counsel thinks that interest ought to be given from the settlement of the account or from the time at which the demand is rendered - the plaintiff's counsel has drawn the decree charging all the debts with the costs, & the court will of course decide whether or no the decree in this respect be correct.

Batter p. 72

Cuttings

✓ 3 Deer
Shepherd

Exim this
1884

Clerke fees at Williamsburgh	\$10.02
Suagors fee & tax	18.15
~~Sherriff~~ & Marshall at 5 ^o	5.40
Sherriff	19.25
Notary publick for taking depo:	3.00

~~Witness attendance~~

Clerk of Island Wright
Commissioners fee

8.72	50
8.50	18
<u>\$73.03</u>	68
	72
	<u>1.40</u>

Bill of costs —

Virginia:

In the Circuit Superior Court of Law and
Chancery for the County of Sumner City and
City of Williamsburg.

Catchers

v 3 Copy Costs.

Shepherd & Co:

Plts: Costs.

\$ 4

Clerk 10.02

Spec. Clave 18.10.

\$ 20.18.

Defendant Thos. Shepherd & wife's Costs

Clerk \$ 1.09

Def: Cos: Every & disc: Costs 1.09

Joint Costs of acc Defs:

Clerk 83

Spec 10.00

\$ 19.97

Costs

Wm P Underwood & Co.

The costs of the Sheriff's Marshal are not taxed for cost
of the papers.

C. P. H.

Joseph B Whitehead

Smithfield

Cutler

in.

Chapard

copy costs

6th July 1832 present
by J. B. Whitehead & files