

1837-012 Chancery Causes'. Richard Byrd val, by & c vs Charles Byrd's executor - Mrs. Virginia Byrd, adm
Isle of Wight County

Other surnames: Kennon,
Wilson, Day

To the honorable the Judge of the Circuit Super-
court of Law and Chancery for the county of Isle of Wight.
Humbly complaining, sheweth unto your Honor, your Orators
Richard Byrd and Virginia Byrd and Oratrix Emily Kennon
by ^{George} R. Wilson their next friend; That ^{they} Uncle Charles
W Byrd of the county of Isle of Wight departed this life
on or about the 10 day of June 1836 having made his last
will and testament, which is of record in the Clerk's office
of the county of Isle of Wight, an office copy of which
marked A is hereto annexed, and prayed to be taken as a
part of this Bill. That the said Charles W Byrd left a
large personal estate consisting of slaves and bonds, much more
than enough to pay his debts, which he devised to his nephews
George Byrd, Richard Byrd, and Virginia Byrd, and to his niece
Emily Kennon. The said George Byrd has since died,
of tender years, say not more than eight years old, not
indebted to any one at the time of his death, leaving
a Mother whose name is Virginia Byrd, and your Orators,
Richard Byrd and Virginia Byrd his heirs at Law. That the
testator appointed Wm H Day of the county of Isle of Wight
the only Executor of his will, who took upon himself
the burden and execution thereof; all of which will
more fully appear by reference to an attested copy of said
will and of the probat thereof, hereto annexed as a part of
this bill. That the said Executor has paid all or nearly
all the debts. Your Orators and Oratrix are in great
need of their proportion of their Uncle's estate, and with
a view to obtain it have made application in the
most friendly manner to the Executor and to Mrs Virginia

Byrd the Mother and Guardian of Your Orator, hereinafter
called defendants, have under various pretences refused, and say
that whilst they are willing to accommodate your Orator
and Oratrix in relation to their interest, they fear that the infancy
of your Orator and Oratrix may interpose an objection at
this time, but if it should not they are contented —

In tender consideration whereof, and for as much as your
Orator and Oratrix are without remedy at Law, and can only
be relieved in this Honorable court, when trustees are called
to an account, and the estates of Intestates distributed
equally to the act of Assembly in such case made and
provided. To the end therefore that the said defendants
may on their oaths, distinctly answer the foregoing allegations
as completely as if the same were again now repeated, and they
were thereby more particularly interrogated. And that by a decree
of this Honorable court, the said defendant Mrs H Day as the
Executrix of the said Intestate be required to settle his account —
ship, of the said Intestate's estate before a commissioner of this honor-
able court, and to pay any balance which may be due
to your complainants; And that Commissioner may be
appointed to allot to your Orator and Oratrix their propor-
tion in the slaves of the Intestate equally to his last will
and testament; May it please your Honor, that your Orator
and Oratrix may have all such other and further relief in
the premises, as may be equitable to equity & Justice — to
me and to them proach of Suppna directed &c.

Richardson, next friend
of the infants Plaintiffs

Mrs H Day for plaintiffs

The Joint and several answer of Mrs H Day Executrix
of Charles M Byrd deceased and Virginia Byrd, to a
Bill exhibited against them in the Circuit Superior court of
Law and Chancery for the County of Shelby right by Richard
Byrd and others by George Wilson their next friends, —

These Respondents, now and at all times hereafter,
saving and reserving to themselves, all benefit of exception, to the
allegations of the bill of the plaintiffs, for answer thereto, or to
so much thereof, as these Respondents are advised, material
for them to answer, they answer and say, that so far as they
are individually concerned in the subject of the Bill, they
believe the Material allegations thereof to be true, And the said
Virginia saith, that it is true that George Byrd died of
tender years, not indebted to any one at the time of his
death, and that he left himself and his two Brothers Richard
Byrd his heirs at Law — And the said Mrs H

Day for herself saith that she is ready to adjust before a
commissioner of this Honorable court his executrixship of the
Intestate's estate, and to allot to the plaintiffs their proportion of
the said estate so far as concerns herself, provided indem-
nifying bonds may be given for the estate, equally to the act
of Assembly in such case made and provided. The said
Respondents being anxious for the welfare of the plaintiffs will
submit to any decree, that this Honorable court may think proper
to make in the premises: Wherefore they pray hence to be
dismissed with their reasonable costs in this behalf expended —

Signed

Mrs H Day
Virginia Byrd

(11)

Rept & other }
Bill &
Day & other } Answer—

October 8th 1836

Interlocutory decree
& Cont^d for rept—

Feb^y 1836

rept. returned & filed within

May 6th 1837

final decree

Sup^r ch:

Byrd

3 ch.

Byrd ~~admiral~~ ^{exord.} d.

According to the decree of the Circuit Superior Court of law and Chancery for the County of Berkeley made on the day of October 1836, a copy whereof is herewith annexed, we the undersigned proceeded on the 23^d day of November 1836 to execute such part of the said decree as related to the division of the slaves whereof Charles W Byrd was entitled at his death, and which came to the hands of the ~~assignor~~ ^{Assignor} - we valued the said slaves as herein after mentioned - to wit;

Abraham	1000
Catharine & child	500
Child Rofella	-
Thomas	250
Sally	150
Fanny	100
Total	\$ 3000

we have allotted and set apart to Emily Keenan more than Abraham valued at \$1000.
and Catharine and child Rofella \$500.
to Mr. Virginia Byrd and Sally valued at \$150.
and to receive from Richd Byrd 8.33 1/3
and to receive from Virginia Byrd 8.33 1/3
166.66 2/3 166.66 2/3

To Virginia Byrd & Richd. Byrd we have allotted & valued John, Thomas & Fanny valued at \$333.33 1/3 cents

1333.33 1/3
\$ 3000.00

Having set apart to Emily Remson her moi-
-ety of the slave, and to Mr. Byrd her
share thereof, we found it impracticable
to divide the balance in kind between
Virginia Byrd and Richard Byrd, and
being two brothers, having the same ge-
-nial, and not being advised that it would
be convenient for either to pay money
to the other, we have contented ourselves
with setting apart the slave as an aforesaid
allottee to them, without making a divi-
-sion between the said Virginia and Richard
Byrd. - Given under our hands and
Seals, this 23^d day of November 1836.

Wm. Womble (L)

Robt. Butcher (L)

Arch^d. & Thomas (L)


Byrd Com's
in ~~the~~ report
Byrd ~~and~~ Co.

Richard Byrd, Virginia Byrd
and Emily Kennon by Saml
R Wilson their next friends
plaintiffs

Against

Wm H Day Executor of the
last will and testament of
Charles W Byrd deceased,
and Virginia Byrd defendants

In Chancery -

This day this cause came on to be heard ^{by consent} on the bill
answers and exhibits ^{and} was argued by counsel, on considera-
tion whereof, the Court doth ^{and} order and decree that
Wm H Day Executor of Charles W Byrd deceased under before a
Commissioner of this Court, an account of his transactions on
the said estate, which of the Commissioner is directed to
state and settle and to the Court what. And the Court doth
further Order ^{and} adjudge and decree that Archibald Atkinson
Robert Butler, Bartholomew Lightfoot and Milt Womble or
- any three of them do divide into two equal moieties
having regard to the quality and value of the same, the slaves
+ to which Charles W Byrd died entitled to wit, Abraham
John Byrd woman Catharine and Child, Thomas Sally and
Nancy, That they divide one moiety between Richard Byrd,
Virginia Byrd and the defendant Virginia Byrd in the following
Manner that is to say, one third and one ninth to Richard Byrd
one third and one ninth to Virginia Byrd, and one ninth
to Virginia Byrd the defendant. And the other Moiety to be
held by the Executor under the will of the testator. These several
~~parts of money~~ ^{slaves} to be ~~paid~~ ^{delivered} to the Guardian of Richard & Virginia Byrd

after the Guardian shall have given ^{or furnishing with security} Bond to the Executor
or as determined as the Surrogates —
~~for any debt which may hereafter come against the estate~~
~~of G. H. Boyd which the Executor may be compelled to pay by~~
~~law~~ And the Court doth further order and decree that
the Commissioners make report to this court in order to a
final decree —

Boyd and Thompson
Boyd & Thompson
de cur

Byrd & other vs Byrd Executor 3^d Ch. Chancery -

This cause came on this day to be finally heard on the papers for muly uad and the report of the Commissioners made pursuant to the order of the day of October 1836 - to which no exceptions have been filed and was argued by counsel on consideration where of it is decreed and ordered that the said division in manner and form as stated in the said report be held firm and stable forever - and the courts doth also decree that Richard Byrd pay to Virginia Byrd eight dollars and thirty three cents, and that Virginia Byrd pay to the said Virginia Byrd eight dollars 33 1/3 cents and that the costs be mutually borne by the parties - and the court doth furthermore order that the infant plaintiffs by their guardian on their behalf ~~and~~ the defendant Virginia Byrd do execute bonds with good security to the said Executor in the penalty equal to twice the value of the property by them to be received conditioned to refund due proportions of any debts or demands which may hereafter arise against the estate of her testator together with the costs attending the same - Liberty is reserved to the Infant Defendants to show cause if any they can against this decree within one year after they shall have arrived to twenty one years of age -

John Byrd
Byrd & other

11/2/37

John

Byrd Executor -

Byrd &

Byrd Cove

三

In Chancery—

This day this course again

Bond to
 By the Court of
 Foundation

Book for the Foundation

(Entire)

I Charles N. Byrd of the county of Shenandoah and State of Virginia do hereby make my last Will and Testament in manner & form following.

1st I desire that all my just debts & funeral expences be paid - 2^d I desire that all my estate both real and personal be divided into two equal parts; one half of which I give to George Byrd Richard Byrd & Virginius Byrd infant sons of my deceased brother George Byrd, to them and their heirs forever - The other half of my estate I give to the child or children of my sister Mary Ann Kinnon who maybe living at her death - The said moiety of my estate given to the children of my sister I wish to be kept in the possession and under the control of my executor hereafter named, until the death of my sister Mary Ann Kinnon and the profits to be applied by him towards their support and education - 3^d I do hereby constitute and appoint Henry Day executor of this my last Will and testament, revoking all other or former Wills by me heretofore made - In Witness whereof I have hereunto set my hand & affixed my seal this 9th day of December Eighteen hundred & thirty five -

Signed, sealed, published and declared
by Charles Byrd as for his last will
and testament in the presence & hearing
of us, who at his request & in his presence
have subscribed our names as witnesses

C. N. Byrd *[Signature]*

George Wilson

Rich^d F. Wilson *[Signature]*

Shem^l Goswin *[Signature]*

At a Court held for Shenandoah County the 4th day of July 1835 The foregoing will and testament of Charles N. Byrd decd., of which, the foregoing is a true copy, was presented in Court by Wm^l H. Day the executor therein named, and the same being proved by the oath of Richard F. Wilson & Shemuel Goswin two of the witnesses thereto was ordered to be recorded -

Teste Nathl. Young C. J. W. G.
[Signature]

Charles N. Byrd's Will
a copy for Wm. H. Dyer

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