

1843-004

Chancery Causes: William Carroll, by & c VS Willis N. Brace, executor of Mary

Isle of Wight County

W. Carroll & al

other SURNAMES: Holleman,
Pierce, CARROL, Peirce,
Cofield

In the name of God Amen I Mary W. Carroll of Isle of
Wight County do make this to be my last Will and Testament
in manner and form as follows. Item the 1.st I lend to my friend
Willis N. Groce for the benefit of my daughter Elizabeth Anne
Pierce two hundred dollars to be paid to her as she may ^{require} ~~request~~
it and her receipt shall be his discharge, and should she die
before receiving the whole amount, I give the balance to my
grand daughter Mary F. Pierce to her and her heirs forever.

Item 2nd I give to my son & daughter I bequeath one Booby to him
and his heirs forever.

Item 3rd I give to my daughter Martha C. Carroll one negro
girl Caroline and her increase, one Seaster Bedstead, Bed and good
clothing and all my extra bed clothing, Two looking glasses one
walnut table one chest one Trunk and chest of drawers six silver
table spoons & six silver tea spoons all my china ware and Clock
to her and her heirs forever.

Item 4th I give to my son William Carroll one large trunk and
four hundred dollars to him and his heirs forever.

Item 5th The rest of the bonds and money found in my possession
at my death if any there should be after deducting the amount
given to my daughter Elizabeth Anne. Pierce, & son William
Carroll above mentioned I give to be equally divided between my
daughter Martha C. Carroll & son William Carroll to them and their
heirs forever.

Item 6th The balance of my estate of whatsoever nature or
kind it may be. I leave to be exposed to public sale and the ~~rest~~
^{money} arising from such sale after paying all my just debts and
funeral expenses I give to be equally divided between my daugh-
ter Martha C. Carroll & William Carroll to them and their heirs for-
ever.

Lastly I constitute and appoint my friend Willis N. Groce execu-
tor to this my last will and Testament. In witness whereof I have here
unto set my hand and ^{affixed my} seal this 8th day of Apr. one thousand

Eight hundred and forty one

Signed sealed and
acknowledged in presence

of

Robert T. Gibbs.

Joseph S. Hall

Mary W. Carroll

At a Court held for the county of Isle of Wight Nov^r 1st 1841. The last
will and Testament of Mary W. Carroll Dec^d proved by the oaths of Robert
T. Gibbs and Joseph S. Hall the witnesses thereto and ordered to be recorded
and on motion of Willis W. Bruce the executor named in the said will
who made oath according to law and with Joseph Driver and Slaughter
Cofield his securities (who justified) entered into and acknowledged a bond in
the penalty of \$3000 conditions as the Law directs certificate is granted him
for obtaining a probate thereof in due form

Teste

A Copy
Teste

N. P. Young ed

Wm. Banks D.C.

Exhibit (C)

Mary W. Carrolls
Will.

a Copy.

(A)

fee 50 Cents

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Isle of Wight County, GREETING:

WE COMMAND YOU to summon *Willis R. Groce son of*
May W. Canoll decd; *Spencer Prince and Elizabeth*
ann his wife, Ilaughta Cefield and Martha C.
Canoll an infant daughter of Law. Canoll
decd.

to appear before the Judge of the Circuit Superior Court of Law and Chancery for the County of Isle of Wight,
at the Court House of said County, on the first Monday in *June*, next,
being Rule day, to answer a bill in Chancery in the said Court exhibited against *them* by *William*

Canoll by his next friend and Guardian *Isiah Holliman*
and then they shall in no wise stout under the
penalty of \$100 each.

and if *they* shall fail to answer the Bill within ^{*Two*} ~~four~~ months thereafter, the Court will take the said Bill
for confessed, and proceed to decree the matter thereof accordingly. And have then there this Writ.—Witness
NATHANIEL YOUNG, Clerk of our said Court at the Court House, the *10* day of *May* 18*72*
18*77*, in the *66th* year of the Commonwealth.

Nathl. Young Clk.

Enclosed by delivering true ^{of this} copies to the
N. Groce & daughter J. Coffin on May
20th. 1842
At Whitehead Is for
Benj. Drew Esq.

Enclosed by delivering true copies of this
to Martha Carroll & Spencer Percival wife
June 1st 1842
Los Is Built Deputy
for Benjamin Drew Esq.

Carroll for Ben
m: 3 Sha. in City
Carroll's spor. 400.
in June Dec. 1842.

The Answer of Willis N. Joice Esq^r, with the Will annexed,
of Mary W. Carroll, To a Bill filed ~~th~~ him, in the Circuit-Sup^r Court
of Chancery for the county of Isle of Wight, By Josiah Holleran
as the Guardian & next friend of William Carroll; Saving to himself
all manner of advantages of exception to the many errors &c, in said Bill contained,
this respondent, for answer sheweth, or to so much thereof as may be material, answers
and says, that it is true as asserted in the said Bill, that the said Mary
W. Carroll, died on or about the time therein mentioned; That she
made & published her last Will & Testament, in which your respon-
dent was appointed ^{her} ~~her~~ ~~exor~~; That as such, in due time after the death
of his testatrix, he took possession of her estate (personal), and exposed
at public auction her perishable property, as the Law directs.
But as it respects the Right of Complainant in the said Bill, to dem-
-and of him the said ~~exor~~, the ~~afors~~ legacy therein mentioned. Of \$400.
to W^m Carroll, before the expiration of 9. or 12 months, after the death of
the testatrix, this respondent utterly denies & objects, as the Law allows
that period in order to ascertain & pay off, the debts of the deceased
and before ~~th~~ or within that period, this respondent avers that he
cannot be compelled to pay off legacies: and in this case, the said
Respondent to the several interrogatories, in the said Bill, addressed
to him, answers & says: that the said Mary W. Carroll, did not, as
far as he is advised, or knows, leave, at her death, any money (in
cash), sufficient to pay even her funeral expenses, much less
to pay off the legacy of \$400, to the Complainant; if it had been proper
for him to have done so. That he has used all proper diligence to
collect & arrange all claims, bonds &c. due his testatrix's estate
as well to pay off debts &c, against the same, as the legacies, when
it may be proper & safe so to do. And that he is ^{or will be} ready, within the
time prescribed by Law for the settlement & distribution of estates,
to render a true & complete accounts &c, of all his transac-
tions as ~~exor~~ of the said Mary W. Carroll: and to pay to the several
legatees the several legacies to them bequeathed: and hence, he denies
the necessity of the hint instituted by the said Complainant, ~~th~~ him

the said ~~case~~ (of this respondent), as it has been commenced
before even the ^{amount} "Sales" had become due, or before even this respondent
could (by legal process) collect the bonds &c. due the estate of
his said testatrix - thereby ~~was~~ subjecting the said ~~case~~, to undue
anxiety, trouble, & suspicion: & the estate itself to expense & loss, which
this respondent avers should be paid by the complainant
individually for being so premature in the commencement
of the said ~~suit~~: and that therefore he ought not in consequence
of this ~~trial~~, be compelled to settle up his transactions, as ~~stated~~
aforesaid, or pay over the legacy aforesaid; as he is ready & willing
to do the same whenever the law deems it proper to do so
and should have so settled &c. in due time, if this suit had
never been commenced. This respondent, having answered &c
pay. here to be dismissed with his costs & expenses &c.

Wm. H. R.

Jess of High Co. N.H.

Wm. H. R. personally appeared before me a
Justice of the Peace for the County of ~~Mass.~~, & made oath
that the facts as stated in the above answer, are true & correct
to his best belief & knowledge. Given under my hand & seal
this 2^d July 1842.

E. Morrison J.P. Seal

Canot p. finis

m. 3 ans. of def. Gen

Gen upon of Canot

July 1842 filed

by def. atts.

To the Judge of the circuit superior
court of Law and Chancery for the county
of Wicomico in chancery sitting

Humly complaining shews unto the court
your orator William Carroll by his next
friend and guardian Josiah W. H. H. H.
that a certain Mary M. Carroll late of said
county died on or about the 10th day of
October 1841 after having duly made and
published her last will and Testament
which on the 1st Nov. 1841 was duly ad-
mitted to probate in the county court of
Wicomico and therefore a certain Willis
N. Grace the executor therein named qual-
ified ~~and~~ and took upon himself ^{the} ad-
ministration of her estate and has reduced
the same into his possession; an attested
copy of said will is herewith filed marked
A as is prayed to be taken as part of
this bill; by the fourth item of said will
the testatrix bequeathed to your orator "one
large trunk and four hundred dollars
to him and his heirs forever" and by
the fifth item of said Will it manifestly
appears that the said four hundred dol-
lars was to be paid out of the money
and bonds in the house at the death
of the testatrix, as the balance of said
money and bonds if any were to be equal-
ly divided between your orator and his
sister a certain Martha C. Carroll; the
balance of her estate not specifically
disposed of by the will was directed to be
sold and after the payment of debts

to be equally divided in like manner:
your orator is advised that at the time
of the death of the said Martha M Carroll
she left a large sum of money in
cash which together with bonds due
her were sufficient to have paid the
legacy to your orator as well as to ratios
by the sum of two hundred dollars
loaned to the executor for the benefit
of Elizabeth Anne Pierce ^{wife of George Pierce} and other daughters
of the testatrix, and that the said Millis
St Groce as in duty bound ought forth-
with to have paid the said legacy of four
hundred ^{dollars} ~~out~~ of the assets which then
came to his hands, which your or-
ator by his said next friend and
guardian was willing and offered to
receive, and which he expressly charg-
ed were sufficient ~~and sufficient~~ for the
purposes aforesaid and not necessary
to be retained by the executor for the
payment of debts against the estate
of his testatrix: But now as it is
may it please the court be the said
Millis St Groce executor as aforesaid in
all various pretences and evasions
to delay and hinder your orator ~~and~~
and to deprive him of his just rights
has refused to pay the said legacy
of four hundred dollars or to come
to any settlement of the estate: To the
end therefore that relief may be had
and provided as he is without
remedy at law and can be relieved
only in a court of equity where

matters of this sort are duly cognizable
your orator prays the court that the said
Millis St Groce executor as aforesaid and in
his own right, the said Martha C Carroll
(who is an infant under 21 years) by her guardian
ad litem to be appointed, ^{George Pierce &} the said Eli-
zabeth Anne Pierce ^{his wife} and a certain Haughton
J Copfield who is also a legatee in said will
be made defendants ~~to~~ to this bill and
be made to answer the same fully and
distinctly, that be the said Millis St Groce
particularly be required to state how much
money was found in the house at the
death of his testatrix and what amount
of bonds, whether the same were necessary
to be retained for the payment of debts
and whether the guardian of your orator
did not offer to receive the same in
payment of the said legacy of four hun-
dred dollars; and your orator moreover prays
that the said Millis St Groce be required to
make and return an inventory of the estate
which has come to his hands and to re-
turn a full and perfect account
of his transactions on the said estate
before a com. of the court and settle
and pay over the same to the parties
entitled thereto according to the provi-
sions of the said will and may it
please the court to grant all further
relief which may be found necessary
and proper and award the common
costs upon commanding the said de-
fendants to answer &c and your
orator as in duty &c

W. H. W. P. 2

Carroll per next
friend }
us } Chene
Carroll Esq. &c

1842
Many Rules bills filed

July Rules ans. of Def. Cases filed
& go. Rep. Sp. up? on the others.

1842 Sept Rules set for h g on
Pls ans.

1843 May term.
Dismissed by pl. &c.

To be reviewed

to be reviewed