

1847-004

Charcerty Causes: Jonas Edwards, John P. Cawson v ex VS Mary Edwards, etx of
Dshl, Wight County James Edwards

²
John R. Carson surp^{as}

against In Chancery

Mary Edwards executrix
of James R. Edwards

September Rules 1847
Sp^{ec} executed & bill filed

Nov. Rules 1847. Set for hearing

~~May 1848~~
~~Sp^{ec} Mary Edwards filed~~

Bill dismissed with
Costs

R. 14. 13.

Ref. Costs \$18.39

James from his Mother was purely a voluntary one without any consideration from the said James - That it was not her intention in the conditions of the bond {B} before referred to express the manner in which the said James should hold the said two hundred dollars - but her only object in having the said Bond executed was to secure the payment of the said money by the said Allen to the said James on certain conditions - she never regarded it either at the time or subsequently as an absolute gift to him - That the said testatrix up to the time of her death expressed her intention that the said James should only enjoy the said amount of money during his life if he left no child or children - that she expressed the said intention in her will written soon after the said conveyance, as well as in a ^{subsequent} ~~letter~~ one which after her death was duly admitted to probat in the County Court of N. H. of Wight - that in the said last will & testament by the 3^d clause thereof she gives the said two hundred dollars to your complainants ~~James~~ James Edwards & Martha Carson in the event that the said James R Edwards dies without a lawful ~~legitimate~~ child, as is evident from the said will - An attested copy of said will with certificate of probat marked {C} is here with
Exhibit {C} filed as a part of this bill - That the said James R Edwards after the payment of said two hundred dollars to him by the said Allen & subsequent to the death of his Mother has departed this life leaving no lawful child, ~~now~~ his widow executrix - That in accordance with the intention of the said testatrix, at the time of the execution of said Bond, & as subsequently expressed & under her ^{said} last will & testament, in consequence of the death of the said James without a lawful child, the said two hundred dollars with interest from the death of the said James is due to the said Martha Carson & James Edwards - That even if it had not been the intention of the said Martha at the time of the execution of said Bond to make a conditional gift, but an absolute one after death of the said

two hundred dollars, as the gift was executory until completed by the payment of the amount, the said Martha a Party had a right to alter her intention before its payment, either by making it conditional or entirely revoking it - your complainants chose that both by the understanding of the said Martha & the said James before her death & under her last will & testament the said James Edwards & Martha Carson are entitled to the said two hundred dollars & they have frequently demanded the same of Mary Edwards whom the said James appointed his executrix

Exhibit {D} by his last will & testament & who has duly qualified as such as appears by exhibit {E} - but she has constantly refused to pay the same & still refuses to the injury of your complainants - In tender consideration whereof & for as much as your complainants are without remedy at law & can only be relieved by this Honorable Court, your complainants pray the said Mary Edwards executrix as aforesaid may be made a party defendant to this bill & be compelled to answer the same fully & unreservedly & that by a decree of this Honorable Court the said executrix may be required to pay out of the assets of her testatrix the sum of two hundred dollars with interest from his death, to be equally divided between James Edwards & Mrs R Carson in right of his wife Martha - & that your Honor will make any other & further decree that may seem just & proper in the premises &c

Hayden Atty for Complainants

To the Honorable Richard H Baker Judge of the Circuit Superior
Court of Law & Chancery for the County of Isle of Wight, humbly
complaining sheweth to the Court, your complainant James
Edwards, The R Carlon, & Martha his wife, that in the year
1839, one Martha alias Patey Edwards of the County of Isle of Wight
sold to her son Allen Edwards a certain tract of land in said
County, with the understanding that the said Allen should on
the death of the said Martha or Patey pay to James R Edwards
should he survive the said Martha or Patey the sum of
two hundred dollars & that the said Martha did on the
20th day of December 1839 - convey to the said Allen the said
tract of land by a deed lawfully executed & of record in the
Exhibit { County of Isle of Wight, which deed marked {A} is herewith filed
{B} } as part of this bill, which deed recites as the consideration of
said conveyance of land from the said Martha or Patey to the
said ^{Allen} a Conditional Bond executed by the latter to one James R
Edwards of the same date as the deed, in which ~~said~~ Bond
it was intended to express the conditions upon which the said
conveyance was made, but owing to the unskillfulness of
the writer of said bond the said conditions were improper-
ly expressed as will appear from the said Bond marked
Exhibit { {B} & filed as a part of this bill - That the said Allen did in
compliance with the terms of sale from his mother of the said
piece of land after the death of the said Mother the said Patey
or Martha pay to the said James R Edwards the sum of
two hundred dollars - That it was never the intention of
the said Martha that the said James should receive the
said two hundred absolutely & in fee simple, but condition-
ally & dependant upon his leaving a child or children at
his death, in which event it was her intention to give him =
the said amount absolutely & in fee, ~~but~~ that if he died
without child or children she always intended that he
should enjoy the said money only for his life & at his death
it was to be given to ~~one~~ of his other children James Edwards
& Martha Carlon - That the said Conditional gift to the said

Edward Cor.

at 3/4 Ch.

Edwards has

Ann of Def.

Ann. 1841. 1/2 of 1/2

in the recollection of all parties, and executed too, in exact fulfilment of the wishes
& purposes of the donor. Should embody & carry out the true design of the parties, than a
a subsequent paper - a will - not drawn with special reference to this special object
and notwithstanding the assertion in the Bill to the contrary, your oratrix asserts that the
"Deed & bond" are drawn with decidedly more skill than the "Will" of which (the "will")
in one of its clauses ^(in 2nd clause) has been already a subject of suit, afterwards of compromise, between the
parties - who were brothers, and to the interruption of the peace of the family; and your oratrix cannot
help from supposing that this Bill, is but an effort to deprive her as the widow of their brother
of the small provision made for her support &c:

Furthermore your respondent asserts, that there is nothing in the said will of Patrick Edwards, which
shows any intention of altering the condition of the payment of the two hundred dollars, by Allen
~~Patrick Edwards~~ ^{Edwards} to James, but simply to ratify & confirm that transaction.
For surely Allen Edwards taking the land upon a certain condition, could not be divested of his interest
by any subsequent & independent condition. ^{he} ~~the~~ was to take the land, upon executing a bond for \$200.
to James. This was executed to James, and the transaction was not executory, but executed
for as the title of each of these parties - to the money - and the land - was concerned, and
Patrick had no control ^{over} of either - certainly left over the money than the land, because the interest
accruing to James was the result of an agreement between Patrick & Allen Edwards - and your
respondent therefore denies altogether the statements & conclusions in said Bill, as to ^{the} alteration of
the intention on the part of Patrick Edwards, from the intention appearing on the face of the
"Deed & bond": and that, as ^{he} James Edwards was alive at the death of his Mother, and
had had a "lawful heir", the condition was performed - and his interest was absolute &
the payment of the money to him by Allen Edwards was in compliance with his rights & title.
It indeed the condition itself was a legal one, as there is much doubt if the interest of James Edwards
was not absolute as in fee, immediately upon the execution of the bond to him. your respondent
denies that the parties ~~have~~ ^{have} Compts have any right at all to the sum in controversy, or even to
maintain this suit; as there was no limitation to them at all in the 3^d Deed & bond.

and having answered prayers here to be dismissed &c.

Mary ^{her} Edwards
mark

Whitfield & Whitfield pro. Defend.

To the Hon. Nathl H Baker judge of the Circuit Sup Court of Law & Chy. for the County
of Wm of right: In Chy. selling: The answer of Mary Edwards Executrix of James Edwards es.
To a Bill of Compt. filed against her, By Jonas Edwards and Ino R. Barton and Martha Cannon her ^{late} wife.

This respondent saving and reserving se. for answer to so much of said Bill as she is advised
it is material for her to answer; - Says it is true as in the said Bill is alleged that she is the
executrix of the last Will & Testament of James Edwards es. her late husband; and that there was
executed in the lifetime of the said Martha (or Patsy) Edwards, the mother of said James Edwards es.,
the said conveying a certain tract of land therein mentioned to Allen Edwards another son of the said
Patsy Edwards; upon the condition specified in the said Bond of equal date with said deed and referred
to ⁱⁿ and made a part of said deed of conveyance; and your respondent has always understood that the
said Allen Edwards took possession of said land and the profits thereof to his own use, and upon
the death of his mother (the s^d Patsy Edwards) paid the sum of two hundred dollars to his
brother James Edwards who had had a child (and lame ^{born} her) by your oratrix the
wife of s^d James Edwards, (though the said child died before its ^{said} father), and this was conceived
by all parties to be in fulfillment of the wishes of their mother, as it was a tolerable compliance
with the condition of the s^d Bond inclosed by the Son of the said Land, and which became
a part and a consideration of the s^d deed of conveyance. your oratrix continues that it was the purpose
as it was the moral duty of their parent, the s^d Patsy Edwards, to provide for her children, and
that she obviously designed ^{as Edwards if he ever had a child, to give} the same interest in the \$200. as Allen Edwards took in the land which
was immediate as to Allen Edwards (interest) on the land, and ^{his little for} light of Jas Edwards, must have
been the same in the money, only a post-ponement of the payment until a certain period, to wit.
the death of Mrs. Patsy Edwards, ^{was made} that is if James was living or have, or ever have (had) a
lame ^{born} her. your oratrix denies therefore that it was such a gift as could be afterwards revoked
or be controlled by Patsy Edwards, either in regard to the \$200. or to the land; and she also denies
that there was any other intention, as is stated in said Bill, than ^{the} ~~such~~ intention appearing
on the face of, and by the language of the deed, as it is more probable and reasonable
that the papers (to wit the deed) ^{about} were cut at the time when the facts of the transaction were fresh

Green - London St

John R. Carson and
wife Jas.

no. 27 Spr. in Chf.

Mary Edwards exor.
of Jas R. Edwards

To Sept. 1877.

Wagden Reg.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Isle of Wight County, Greeting:

You are hereby commanded to summon *Mary Edwards executrix*
of James B. Edwards decd.

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery for
Isle of Wight County, at the Rules to be holden for the said Court, on
the first Monday in *September* next, to answer a ~~Bill~~
Bill in Chancery, exhibited against *her*
in the said Court, by *John B. Carson and Martha his wife*
and Jonas Edwards

And unless the said Defendant shall answer the said Bill within two months thereafter,
the Court will take the same for confessed, and decree the matter thereof accordingly.
And this *she* shall in no wise omit, under the penalty of £ 100.
And have then there this Writ.

WITNESS, *A. P. Young* Clerk of our said
Court, at the Courthouse, the *5th* day of *August* 1847, and in the
78th year of our Foundation.

A. P. Young Clk.

(One Copy to be delivered each Defendant.)

Patsy Edwards
to $\frac{1}{2}$ copy of duet
Allen Edwards

[A]

for C. B. Hayden

This Indenture made and entered into this 20th day of December 1839 Between Patsy Edwards of the county of Isle of Wight and State of Virginia, of the one part, & Allen Edwards of the same County and State of the other part Witnesseth that the said Patsy Edwards doth for and in consideration of one bond executed by Allen Edwards to James H. Edwards bearing date of this day for two hundred dollars with conditions therein annexed the receipt whereof is hereby acknowledged, have granted bargained sold, and by these presents doth, grant bargain sell, release, satisfy & confirm unto the said Allen Edwards and his heirs forever all that tract or parcel of Land lying & being in the county of Isle of Wight, containing one hundred and twenty acres more or less, and bounded by the lands of Allen Edwards West, Miles Dray north and Thomas Marshall South, to have and to hold the said tract or parcel of land together with all and singular its Appurtenances unto the said Allen Edwards his heirs and assigns forever And the said Patsy Edwards doth for her self and her heirs, Warrant and forever defend the title of said land to the said Allen Edwards his heirs, against the claim of the said Patsy Edwards her heirs and assigns and every other person or persons claiming under them or either of them As Witness the said Patsy Edwards hath hereunto set her hand and seal this — day and date first above written —

Signed sealed & acknowledged

Patsy ^{her} Edwards (seal)
mark

in presence of

Thomas Hall

Dr. R. Pope

John N. Carson

Isle of Wight County, Clerk's office January 6th 1840 The foregoing deed from Patsy Edwards to Allen Edwards was proved by the Witnesses therein and admitted to record
Test (Mark) Young clk

A. copy

Test

J. P. Mills Sec.

131

Allen Edwards
to 3 Bond

James R Edwards
\$200.

Know all men by these presents that I Allen Edwards
am held and firmly bound unto James R. Edwards in
the sum of two hundred dollars good and lawful
money of Virginia for the true performance of
which I bind my self my heirs, Executors and Assigns
as witness my hand & Seal this 20th day of
December 1839.

The Condition of the above Obligation is
Such as Pharras Patsy Edwards has given me a
deed for a tract or parcel of land containing by
estimation One hundred and twenty acres be the same
more or less (which the deed will show, in the Clerk's
office of Stafford County) now therefore if the
said W. Edwards shall at the death of his mother
Patsy Edwards pay the above sum of two hundred doll-
ars without interest to that time to James R. Edwards
should he the said Edwards be alive and have a law-
ful begotten heir or ever have a lawful begotten
heir then this Obligation is to be in full force
& Virtue (Otherwise) is to be null and Void (as
given under my hand and Seal this day
and year first above named in presents of
us.

J. H. Hall
R. H. Pope
J. B. Garrison

Allen Edwards

In Isle of Wight County Court January 1st 1844 the foregoing
Will of Martha Edwards decd. was presented in Court by Jonas
Edwards and James R. Edwards the Executors therein named,
and proved by the oaths of No. N. Pope and John Westray Two
of the Witnesses thereto, and ordered to be recorded.

Teste

A. copy

Teste

N. D. Young Geo.

J. F. Mills D.C.

Martha Edwards

Will

101

101

49.81

19

51.81

I Martha Edwards of the County of Isles of Wight and State of Virginia being at this time enjoying good health and in perfect mind and sound memory and calling to mind the uncertainty of this life, do think fit to make this my last Will and Testament to dispose of all my worldly goods and estate which it hath pleased God to bless me with as follows, I commit my soul to God that first gave it, and my body to the earth from which it was taken to be decently buried at the discretion of my Executors hereafter named. Item 1st I give and bequeath to my Daughter Charlotte Chapman the sum of five dollars in cash to her and her heirs forever. Item 2nd I give and bequeath to my son Davis Edwards three hundred dollars in cash for which he has two hundred of it already in his own hands to him and his heirs forever. Item 3rd I give and bequeath to my son Allen Edwards all the land I purchased of Mills Daniel after his paying to my son James N. Edwards two hundred dollars and provided James N. Edwards die without a lawful heir the said sum of two hundred dollars to be equally divided between my son Jonas Edwards & my daughter Martha Carson to them and their heirs forever.

Item 4th I give and bequeath to my daughter Elizabeth Daniel five dollars in cash to her and her heirs forever. —

Item 5th I give and bequeath to my son James N. Edwards one bed & furniture one Desk one mahogany Table one large chest one yoke of oxen If there should be enough left after giving other legacies to him and his heirs forever. —

Item 6th I give and bequeath to my son Jonas Edwards all the lands I purchased which was sold by a decree of the court of Isles of Wight County belonging to the estate of Josiah Edwards decd. orphan of Jonas Edwards decd. also all my house hold and kitchen furniture which is not named in other legacies, also two horses one still which I purchased at Benjamin Wistraps sale, one sow & pigs & five shotes one cow & calf one yoke of oxen with enough provisions that will be sufficient to support him and his family one year with all the carts & wheels and all other farming utensils belonging to the plantation but should Jonas Edwards die without a lawful begotten heir the above named legacies shall be equally divided between Martha Carson and James N. Edwards to them and their heirs forever. —

Item 7th I give and bequeath to my daughter Martha Carson one negro boy Dennis one small bed & furniture one sower and gear and one set China ware to her and her heirs forever. —

Item 8th And after paying all of my Just debts it is my desire that the remainder of my estate not named should be sold and equally divided between James N. Edwards and Jonas Edwards and Martha Carson, I also I do appoint Jonas Edwards and James N. Edwards as my sole and sole executors to see this my last Will & Testament done & performed agreeable to the true meaning thereof as given under my hand and seal this 3rd day of March 1843 Legal sealed and

Acknowledged in presence of
Ro. R. Pope
John Wistrap
Martha ^{mark} (Whitfield)

Martha ^{her} Edwards ^{mark}

Answer of Mary J. Edwards in the hand of
V.D. Hayden

Atto. 8

ans. 15

~~Ans. 15~~

~~Ans. 36~~

cost. 38

Ans. 18

Ans. 58

B.C. 1.73

Atto. 16.66

18.39