1884-011 Chancery Causes: J. Hennings Nelms, gdn of Ella Sue Nelms vs Ella Sue Nelms, Nonne
Isle of Wight County Shepherd. Gibbs, by & c & al

other SURNAMES: PITMAN, BARNES, TURNER, GRAY, EDWARDS, RANDOLPH

This my last will and testament made this eleventh day of October in the year of our Lord one thousand eight hundred and eighty. I will and bequeath to my daughter Ella Lee, that part of the Lawson farm lying between the James River and the Smithfield road. I will and bequeath to my daughter Minnie Shepherd, the Atkinson farm, commencing at the James River, coming up the hill to the intersection of the Smithfield and Mill Swamp roads, (opposite the Red House) thence to a large pine at Mrs. McAlister's avenue, thence down the said avenue to Mrs. McAlister's gate; thence down the said Mrs. McAlister's line to Ferguson's line; thence to the James River; thence down the said River to the beginning. I will and bequeath also to my said daughter Minnie Shepherd the corner lot with about a half acre of land commonly known as the Red House, and which was formerly a part of the Atkinson farm. I will and bequeath to my son Robert Walton the tract of land with appurtenances on which I now reside, known as the "Frank Ward farm", and that part of the Lawson and Atkinson farms west

of the road leading from Burwell's Bay to Smithfield the "Dodes land" containing one hundred and four acres, more or less, situated in the County of Surry, Virginia, I desire to be sold with my chattel property. I will and bequeath my piano to my daughters Ella Sue and Minnie Shepherd, and is not to be sold with my chattel property.

If either of the legatees of this will should die without living issue, the property hereby bequeathed to such an one shall be divided equally between the surviving legatees. The proceeds of the "Dodes land" and my chattel property, after paying my just debts, I desire to be equally divided between my children, Ella Sue, Minnie Shepherd and Robert Walton Gibbs.

I hereby nominate my friend James T. Edwards, as the executor of this, my last will and testament, and as guardian of my children. Witness my hand and seal, the day and year above written.

Acknowledged in our } W. T. Gibbs — (Seal)
presence, all being }
present together, at the same time
& W^m H. Casey.
Alexander S. Barlow.
James T. Gordon.

In the County Court of Isle of Wight County, the 1st day of Nov: 1880. The last will and testament of R. W. Gibbs died: was presented in Court for probate by the Executor, and proved by the oaths of W. H. Casey, Alexander E. Baldwin and James T. Gordon, the subscribing witnesses thereto, and ordered to be recorded.

Teste,

R. P. Young. Clk.

A copy.

Teste, R. P. Young clk.

Rec'd Mr. Gibbs'

Will.

A copy.

Gibbs Ella S. surfd.

vs. Inches.

Gibbs' gdn. & Etc.

Eph 6t. A. filed
with plfs. bill.

Nelms J. N. Exdr.,

vs.

Nelms Ella S. Substituted,

In the Circuit Court of
Isle of Wight County.

On motion of the plaintiff this cause is ordered to be dismissed at the cost of the plaintiff.

Holmes A.N. Co. ...

vs.

Holmes Ella J. Gibbs et al

April Term

1884

To be entered,

Geo. Reed

Entered #12

Helms &c
vs.
Gibbs et als

In the Circuit Court of the County of Isle of Wight.

This cause came on this day to be heard on the bill of complaint and exhibits therewith filed, the answer of Ella S. Helms & Minnie S. Gibbs, and Robt. W. Gibbs by Geo. R. Atkinson guardian ad litem, the answer of the said Ella S. Helms and Minnie S. Gibbs infants over the age of 14 years in their own proper persons, the answer of Henning Helms, in his own right with general publication thereto and on the depositions of witnesses and was argued by counsel; on consideration whereof the court doth adjudge, order and decree that Henning Helms who is hereby appointed special commissioner for that purpose, do proceed to sell either publicly or privately as he may deem best the tract of land in these proceedings mentioned as that part of the Casey farm lying between the James river and the South-

field road containing 149½ acres upon the following terms to wit: two fifths cash, and for the remainder to be divided into equal instalments, taking therefor the purchasers bond with good security, waiving the benefit of the homestead exemption payable to himself as commissioner in this suit respectively one and two years from day of sale, bearing interest from day of sale at the rate of 6% per annum, and the title of the property retained until the whole purchase money is paid, and a conveyance directed by the court, but the said L. Herring Hess commissioner shall receive no money under this decree until he shall enter into a bond with sufficient security in the clerks office of this court payable to the commonwealth of Va, in the penalty of $ and conditioned for the faithful discharge of his duty under this or any other decree

herein. And whatever he may do under this decree is hereby required to report same to this court

Nebraska gov.
vs.
Gibbs et als

Rough decree
Oct. term 1883
To be entered.

The depositions of A.W. Pitman & others taken before me, K. K. Chapman a notary public in & for the county ~~of~~ Isle of Wight state of Virginia, pursuant to notice hereto annexed at my office in the town of Smithfield on the 15th day of October 1883 between the hours of 8 o'clock A.M. & 6 P.M. to be read as evidence in behalf of J.H. Atkins guardian of Ella S. Atkins in a certain suit in Equity depending in the circuit court of said County of Isle of Wight, wherein the said J.H. Atkins guardian of Ella S. Atkins is plaintiff and the said J.H. Atkins in his own right, the said Ella S. Atkins, Minnie S. Gibbs & Robt W. Gibbs ~~and~~ by Geo. R. Atkinson their gdn. ad litem appointed to defend their interest in this suit, defendants.

Present R. E. Baynham atty for plaintiff and Geo. R. Atkinson gdn. ad. litem for the infant defendants

over

Wm. Pitman being duly sworn deposes and says as follows:

Quest 1st by Plaintiffs atty:

Quest Please state whether or not you are well acquainted with the tract of land at Burwell's Bay known as that part of the Carson farm lying between the James River & the Smithfield road, devised to Ella S. Nelms, lately Gibbs, by her late father Robt. W. Gibbs; & if so please state the condition of said Real estate, i.e. the ~~farms~~ dwelling and out houses, and the character of the soil, and the condition of the fences.

Quest Also state your age, occupation, and place of residence.

Answ I am 29 years old, am a farmer, and live in the County of Isle of Wight, near Burwell's Bay & have lived near there for 7 years. Am very well acquainted with the Carson farm & that part of it above mentioned. The dwelling house is in a very bad condition

not fit for anyone to live in;
the back porch has fallen down
& the front porch is propped up
with poles; the window lights &
windows are entirely out of repair
and in fact the whole house is
in a very dilapidated condition
that it would take at least
seven or eight hundred dollars
to put it in habitable repair.
the out houses are also in
a very dilapidated condition
and it would cost considerable
to repair them. There is about
two miles of fence around the
said ~~piece~~ & part of the Capen
farm which is almost entirely
rotten down, and there is
not any rail timber on the farm
to fence it with.

It has been rented out ever
since I can recollect & the
condition of the soil has greatly
reduced as a consequence & it
is now in a very poor condition

Ques 2nd. Why is it that you should
know so particularly the condi-
tion of said houses, fences

& loud 2.

Ans. Because I went there & examined it about 2 years ago with a view of renting it; but did not do so on account of the condition of the farm as I have already said.

And further This deponent saith not. J. W. Pitman

J. A. Barnes being duly sworn deposes and says as follows:

Ques 1st by Plaintiff's atty:

Please State your age, residence & occupation.

Ans. I am 46 years old, am a farmer, and live now & have lived in about 1 mile from Burwell's Bay, in Isle of Wight County for four years.

Ques 2 State whether or not your farm adjoins that part of the Carson farm devised to Ella A. Nelms (lately Gibbs) by her late father Robt. W. Gibbs.

Ans. It does, just the road between us

Ques 3rd Will you please state the

condition of that part of the
Coson farm above referred to -
of the soil, dwelling, out-houses
fences, timber &c.

Answ. The soil of said estate is very
much exhausted, occasioned by
its having been rented out for
quite a number of years and
the tenants not having manured it -
then is no trash or other natural
resources for keeping it up.
The dwelling house is very much out
of repair - one porch having fallen
down & the other is proped up I
think with rails, or poles of
some sort. The windows and
blinds are rotten and the entire
building is almost uninhabitable -
is not comfortable for anyone -
The house is in short in a very
dilapitated & ruinous condition. I noticed
this particularly about 2 years ago
when Mr. Jos Borham died there &
I with some others sat up there
& were had to put boards up at
the windows & they were badly broken
to pieces and rotten. I should
say that to make the house

habitable it should have to have new weatherboarding, a new roof & new windows which I suppose would cost at least five hundred dollars. The out-houses too are in a very ruinous condition and I think it would cost at least $200.00 to put them in repair.

There is about 2 miles of fence around said farm which is in a very bad condition totally unfit to protect any crop from trespass by stock- I would not undertake to grow a crop under such a fence. And there is not enough timber on the farm for firewood and absolutely none at all for fence purposes— there is not more than 3 acres of timber land on the said farm & the timber on that is very scattering.

I know that there has been a good deal of trouble in collecting the rents for said farm— I don't know how the negroes who now rent it have paid up; but

I know that the ~~party~~ year before they went there the crops were levied on to pay the rent, and I don't think that paid all the rent due for that year.

Ques 4 Please state whether in your opinion from all the facts in the matter, now would be a good time to sell said farm or if it would be advantageous to the infant owner for it to be sold?

Answ. I think it will sell for more money now than it will at any future time - and that it will be to the owners interest for it to be sold, because unless it is repaired in a very few years it will entirely useless as a source of income. x

And further this deponent saith not. W A Barnes

x I think $1400 could be a fair price for said farm.

Dr. W. D. Turner being duly sworn deposes and says as follows:

Ques 1st by pltff's atty:

Please state your age, occupation and place of residence?

Dr

Answr. I am 24 years old, am by profession a M.D. but my present occupation is farming, & live on the farm known as Shoal Bay which adjoins the Carson farm.

Ques 2 Will you please state what is the condition of that part of the Carson farm lying between the James River and the Smithfield road, of the soil, fences, timber dwelling houses & out houses?

Answr. I think the soil is exceedingly poor, having reduced very much by being rented out for a number of years and not improved by tenants - The fence now around the farm is almost worthless & to make it safe to cultivate a crop there, you would have to put a new fence around it at once; And there is not enough timber there for firewood, and none for fence purposes. As to the condition of the dwelling house I will say that a year or so ago I examined it with a view to buying it & if I could have bought it for anything like a reasonable price

I should have burnt the dwelling house down so as to have built an entire new house there - I think there is not enough good timbers in it to pay for pulling it down & it would certainly not pay to repair it, it is in such a very ruinous & dilapidated condition The out houses are also in a very ruinous condition, only one kitchen being worth repairs.

Ques 3rd State what you know, if anything, in regard to the reliability of the Class of tenants who have been renting the said farm

Answ I know nothing as to how the negroes who now live there have paid up their rents; but I know that the tenant who lived there before them, was irresponsible and his crop had to be levied on to secure the rent due by him and after all that was said my father & myself who were the securities on his bond, had to pay about sixty dollars balance. I regard the tenants that now live there as entirely

irresponsible they having no property except the horses cows & farming implements with which they cultivate said farm

Ques 4 Please state whether from all the circumstances, in your opinion now would be a good time to sell said farm & if a sale thereof would benefit the infant owner

Ans. I think that it will sell for a greater sum now than ~~ever~~ at any time in the future, because it is bound to depreciate. I think a sale would be for the good of the owner; because if the house & fences are not repaired at once she wont be able to get any one to rent it, so it will not be worth anything to her as property to bring income.

And further this deponent saith not.

W. D. Turner

x I consider that $1400.00 would be a fair price for the said tract of land

J. W. Gray being duly sworn, deposes and says as follows:

Ques 1st by pltffs atty.

Please state your age, occupation and residence.

Answ. I am fifty years old, am a farmer and now live near Smithfield in the County of Isle of Wight; but I lived for a number of years very near Burwell's Bay.

Ques 2nd. Please state whether or not you are familiar with that part of the Carson farm ~~by~~ devised to Ella S. Nelms, ~~to her~~ by her late father Robt. W. Gibbs, lying between Jas. River and the Smithfield Road.

Answ. I am very familiar with it; for I was an intimate friend of Mr. Gibbs & often went with him over the land, and have been there frequently since his death.

Ques 3 State the condition of the said land, timber thereon and buildings & fences &c.

Answ. The land is greatly reduced by cultivation ~~it~~ without manure. The fences are in a very ruinous and rotten condition, not safe to grow a crop under unless they should be repaired at once, and there is no timber on the farm to fence it with. The dwelling house is entirely out of repair & is entirely

unfit for anyone to live in. And I think it would cost eight hundred dollars to repair it so as to make it in habitable condition. The outhouses too are in a very bad condition and are hardly worth repairing.

Ques 4 Please state what in your opinion is a fair valuation for said farm and whether under all the circumstances now would be a good time to sell it & if a sale is necessary for the benefit of the infant owner.

Answ. I think $1500 is a fair valuation for said farm, but I think if it should be sold now it would bring a good deal more than that — I think it will bring more now than it will ever bring at any future time.

I think if it is not sold now it will be entirely worthless as a source of income after a very little while.

And further this deponent saith not.

Jno. W. Gray

Jas. T. Edwards being duly sworn deposes and says as follows:

Ques 1st By pltffs attorney:

Please state your age, occupation & residence, and whether you were the guardian of the infant defendants in this cause appointed by their father's will?

Answ. I am 57 years old, am a farmer and live in about five miles of Burwell's Bay in Isle of Wight County. I was guardian of the infant defendants in this cause up to the 1st of last January when J. H. Atkins ~~qua~~ their present guardian qualified. I was appointed gdn. by their fathers will.

Ques 2 Please state ~~the~~ condition of that part of the Carson farm owned by Ella S. Atkins (lately Gibbs).

Answ. The house & out houses are entirely out of repair and unless very soon repaired will fall down, one of the porches having already fallen. I think it would take $1000.00 to put the dwelling and out houses in repair. The fences around the farm are in a very ruinous condition almost entirely fallen

down and there is no timber whatever on the land to keep the fence up. There is'nt enough timber for firewood. The land has been constantly cultivated without being manured until it is very much depreciated.

Ques 3rd Please state whether in your opinion now would be a good & suitable time to sell said real estate & if a sale thereof would benefit the said ~~if~~ of our owner?

Answ. I think ~~this~~ fall will be the best time that she will ever have to sell it & I think if it ~~is~~ sold now it will bring more than its assessed or its real value & more than it will bring at any future time.

I think it best for the owner that it should be sold now, because if it is not it will be worthless to her as a source of income, for her income is nothing like enough to permit of its being repaired.

Ques 4 Please state whether or not

you are a party (as guardian) to the contracts under which the ~~land~~ is realestate mentioned is rented at present & if so what is about the net annual income.

Answr. I am a party to the said contracts, and the net annual rents & profits are about $170.00 which is with very great difficulty & risks collected, the tenants to whom I was compelled to rent it, being ~~totally~~ unreliable & unable to give security: & although I have accounted for the full collections of the rents due, yet there is still actually due me some eight much that has never been paid.

And further this defendt saith not.

James. T. Edwards

R. H. Randolph being duly sworn deposes and says as follows:

Ques 1st By pltffs atty:

State your age occupation, & residence & whether you are familiar with that part of the Carson forest lying between

James River & the Smithfield Road.

Answ. I am 71 years old, am a farmer, and do now & have for about 25 years lived in Isle of Wight County about one mile from Burwells Bay, and I am very familiar with the land you mention

Ques 2nd Please state the condition of said real estate - fences, buildings Timber, &c.

Answ. I have not ~~lately~~ been to the dwelling house to notice it but I know it is a very old house; the out houses are very much out of repair & the land ~~has~~ is very much reduced by reason of having been rented & very badly cultivated without having been manured. The fences are in very bad order & there is no timber on the land to do them up. (& 24 yrs ago when I last ~~stuck~~ it was in very bad condition & I dont reckon it has been improved.)

Ques 3rd Please state whether or not in your opinion now is a suitable Time to sell said real estate & if the infant owner would be benefited by a sale thereof.

Answ. I think now is a good time

to sell it & that it will sell for more now than at any future time unless it should be greatly improved & that it would be for the infants interest to sell it.

And further this deponent saith not.

R. N. Randolph

State of Virginia }
Isle of Wight County, to wit }

I, S. T. Chapman a notary public in & for the said county & state do hereby certify that the foregoing depositions of A. W. Pitman, J. A. Barnes, W. D. Turner, J. W. Gray, Jas. T. Edwards & R. N. Randolph were duly taken, sworn to & subscribed before me at the place & time mentioned therein & in the caption thereto pursuant to the annexed notice. In witness whereof I have hereto set my hand this 15th day of October 1883.

S. T. Chapman
Notary Public

Time in taking depositions
6 Hours @ 75¢ = $4.50

Nelms gdn

vs.

Gibbs et als

Octs. 20th 1883.

Came to hand.

endorsed & filed.

= Test. S. P. Jennyce

To J. H. Nelms in his own right & Geo. K. Atkinson guardian ad litem of Ella S. Nelms, Minnie S. Gibbs and Robt. W. Gibbs infants under the age of 21 years

Take notice that I shall on the 13 day of October 1883, ~~instt.~~ at my office ~~of A. Thomas~~ in the town of Smithfield in & county of Isle of Wight in

between the hours of 8 a. m. and 6 p. m. of that day, proceed to take the Depositions of Jas. T. Edwards and Jno. H. Tracy and others, to be read as evidence in my behalf, in a certain suit depending in the Circuit Court of Isle of Wight County, wherein I am plaintiff and you the said J. H. Nelms in his own right & Geo. K. Atkinson guardian ad litem of Ella S. Nelms, Minnie S. Gibbs & Robt. W. Gibbs infants under the age of 21 years, Ella S. Nelms, Minnie S. Gibbs & Robt. W. Gibbs ~~are plaintiffs, and~~ & Robt. W. Gibbs the last three infants as aforesaid are defendants; and if from any cause the taking of the said Depositions be not commenced on that day, or if commenced be not concluded on that day, the taking of the same will be adjourned and continued from day to day or from time to time, at the same place and between the same hours, until the same shall be completed.

Respectfully.

J. H. Nelms
Guardian of Ella S. Nelms

To the Sheriff of ~~Isle of Wight~~ County to execute.

I acknowledge service of the within notice

[illegible] Robertson by [illegible]
of [illegible] Adams Express Co
and R W Hobbs

I hereby acknowledge legal service
of the within notice
Oct. 3rd 83 L. H. Robertson in his own right

The Commonwealth of Virginia,

TO THE SHERIFF OF ISLE OF WIGHT COUNTY, GREETING

WE COMMAND YOU TO SUMMON J. Henning Nelms and Ella S. his wife formerly Gibbs. Minnie S. Gibbs and Robt. W. Gibbs, the Last three infants,

to appear at the Clerk's Office of the Circuit Court of Isle of Wight County, at Rules to be holden for the said Court, on the first Monday in September next to answer the Bill in Chancery of J. Henning Nelms guardian of Ella S. Nelms

~~of a plea of ~~ ~~for $~~ ~~Damages $~~ And have then there this writ.

Witness, N. P. YOUNG, Clerk of our said Court at the Court House, the 28th day of August 1883, in the 108th year of the Commonwealth.

N. P. Young clk.

Adams Gen.

v. Stud. in Chy.

Adams, Gibbs

et al.

To Supt. Ch. 1883.

Boykin Esq.

Executed Sept 15th 1883.

W. B. Edwards

Sheriff

In the Circuit Court of Isle of Wight Co.

The answer of J. H. Nelms in his own right to the bill of complaint in said court exhibited by J. H. Nelms guardian of Ella S. Nelms against the said J. H. Nelms in his own right et als. answering says, that he believes to be true the statements and allegations in said bill contained — that the said Ella S. Nelms an infant under 21 years of age is entitled to the estate mentioned in the tract of land mentioned in said bill and that she has no other property real or personal that now brings or is likely to bring any income whatever — that this respondent believes that a sale of the aforesaid tract of land would greatly promote the interest of the said infant for the reasons mentioned in said bill — that the net annual income of said

real estate does not now exceed $1.75.00 and is very likely to be much less — that this respondent has reason to believe that the said real estate can be sold now to a much greater advantage than at any future time, and therefore this respondent joins in the prayer of the said bill that the said land be sold and proceeds of the sale, may be invested as the court may direct, And having fully answered this respondent prays henceforth to be dismissed with his reasonable costs in this behalf most unreasonably expended &c.

Nelson Gobin
vs.
Estate of Hall

Answer of J. H. Nelson
his costs right

Virginia!

Isle of Wight County to wit:

This day J. Henning Nelms appeared in person before me, a Comr. in Chancery for the Circuit Court of the County of Isle of Wight and State aforesaid, and made oath that the matters in the foregoing answer stated as of his own knowledge are true and those stated upon the information of others, he believes to be true.

Given under my hand this 19th day of Oct in the year, 1883

R. D. Boykin Comr

Nelson John
vs.
Gibbs et als

Answer of J. H. Nelson
in his own right.

In the Circuit Court of Isle of Wight Co.

The answer of Minnie S. Gibbs an infant over the age of 14 years to the bill in chancery exhibited against her et als in said court by J. H. Nelms guardian of Ella S. Nelms.

For answer to the said bill, the said Minnie S. Gibbs answers and says, that she knows nothing as to the truth or falsity of the statements in the bill contained, but commits her interest to the keeping of this honorable court of chancery and now having fully answered, this defendant prays hence to be dismissed with her cost in this behalf most unreasonably expended.

Minnie S Gibbs.

Isle of Wight County Town

I, R. H. Boykin a Commissioner in chancery for the Circuit Court of said county aforesaid in the State

Virginia:

County of Isle of Wight to wit:

This day Minnie S. Gibbs appeared in person before me, a Comr in Chancery for the circuit Court of the county of Isle of Wight and state aforesaid, and made oath that the matters in the foregoing answer stated as of her own knowledge are true, and those stated upon the information of others she believes to be true.

Given under my hand this 19th day of Oct in the year of 1883

R E B [illegible] Comr

Nelson &c
vs
Gibbs et als
Answer of Minnie
S. Gibbs

In the Circuit Court of Isle of Wight Co:

The answer of Ella S. Helms (formerly Gibbs) an infant over the age of 14 years, to the bill in Chancery exhibited against her et als. in said court by J. H. Helms guardian of the said Ella S. Helms.

For answer to the said bill, the said Ella S. Helms, answers and says that although under full age she believes she knows what are her interests in the matters referred to in the bill; she believes the statements in said bill are true, that it will be to her advantage to sell the land as therein prayed for. And now having fully answered the prayer hence to be dismissed with her reasonable costs in this behalf most unreasonably expended

Ella S. Helms

Nelson for
vs
Robb et als
Answer of Ella
S. Nelson

Virginia;

Isle of Wight county to wit;

This day Ella S. Nelson appeared in person before me, a Comr. in Chancery for the Circuit Court of the County of Isle of Wight and State aforesaid, and made oath that the matters in the foregoing Answer stated as of her own knowledge are true, and those stated upon the information of others she believes to be true.

Given under my hand this 19th day of Oct in the year 1883

D. D. Boykin Comr

In the Circuit Court of Isle of Wight County.

The joint and several answer of Ella S. Nelms, formerly Gibbs, Minnie S. Gibbs and Robt W. Gibbs infants under 21 years of age by their guardian ad litem assigned to defend their interests in this suit, to the bill of complaint exhibited in said court by J. H. Nelms guardian of Ella S. Nelms, against them et als:

These defendants saving and reserving all to themselves all right of exception to the many errors and imperfections in said bill contained, for answer thereto, or to so much thereof as they are advise it is material or necessary for them to answer, answering say that they are infants under the age of 21 years and commit their interest in the premises to this honorable court: and having answered they pray hence to be dismissed with their reasonable costs in this behalf most unreason-

ably expended.

Geo R Atkinson

Virginia:

County of Isle of Wight to wit:
This day Geo. R. Atkinson in person appeared before me, a Comr. in Chancery for the Circuit Court of the county of Isle of Wight and state aforesaid and made oath that the matters in the foregoing answer stated as of his own knowledge are true, and those stated upon the information of others he believes to be true.

Given under my hand this 19th day of Oct., in the Year 1883

R. A. Boykins & Comm

Nelms &c
vs.
Gibbs et als

Suft to answer
by G. &c. as to Atkinson

To the Hon. Geo Blow judge of the circuit court of the County of Isle of Wight:

Humbly complaining, sheweth unto your honor, your orator J.H. Stokes guardian of Ella S. Stokes an infant under 21 years of age, that the said Ella S. Stokes under and by virtue of the last will and testament of her deceased father Robt. W. Gibbs Sr. is entitled to a fee simple estate, contingent upon her having living issue, in that certain tract or parcel of land in Isle of Wight County adjoining the lands of W.D. Turner J.A. Barnes others and known as that part of the Carson farm lying between the James River and the Smithfield road, which is the only real estate owned by said infant, except that in the event of the death of Robt. W. Gibbs Jr. or Minnie S. Gibbs without living issue, the said Ella S. Stokes would be entitled to share equally with the surviving child of Robt. W. Gibbs Sr. in the estate devised and bequeathed to the child so

dying without living issue, as shown by a copy of the last will & Testament of the said Robt. W. Gibbs Sr. herewith filed marked exhibit "A." & prayed to be taken as a part of this bill.

Ex. "A"

That the only personal property owned by said Ella S. Nelms consists of a one half interest in a piano. yielding no income whatever.

That the said Ella S. Nelms & Minnie S. Gibbs are over the age of 14 years.

That Minnie S. Gibbs & Robt. W. Gibbs Jr. and Stenning Nelms husband of the said Ella S. Nelms would be her sole heirs and distributees if she were dead.

Your orator states that a sale of the aforesaid tract of land would greatly promote the interest of the said infant, for the reasons following viz, that the net annual rents and profits of said real estate do not now exceed the sum of one hundred seventy five dollars even when all are collected, and will for reasons herein after to be shown be very considerably less.

That the fences around said real estate are ruinous and out of repair, and are almost entirely rotten down, so that it is unsafe to cultivate crops on said land for fear of trespass by stock.
That there is not near sufficient timber on said real estate to furnish firewood for the use of the tenants; and absolutely no timber at all to be used for fence and rail purposes.
That the dwelling and outhouses are ruinous & greatly out of repair, and unless the dwelling should be speedily repaired, it will become uninhabitable and will in all probability fall to pieces, the porches having already fallen.
That the said dwelling could not be put in good habitable order for less than five hundred dollars.
That on account of the above condition of the property, the class of tenants which are now & have for some time occupying said premises, are totally irre-

sponsible so that the rents are with great risk & difficulty collected and sometimes are entirely lost. That the said real estate has been rented for a number of years, in consequence of which the land has greatly depreciated in value and will soon be almost worthless unless it should be improved by mourning & which the income of the said Ella S. Nelms will not admit & justify.

That your orator has reason to believe that the said real estate can be sold now to a better advantage than at any time hereafter and for a sum greatly exceeding its assessed value.

That the said Ella S. Nelms is only 16 years of age and unless said real estate is permitted to be sold it will in great probility be entirely worthless to her as a source of income, after one, or at most two years more.

Your orator further states that the rights of no person will be

~~will be~~ violated by the sale of the said real estate.

To the end therefore that justice may be done and forasmuch as your orator is remediless in the premises save by the aid of a court of Equity where matters of this kind are alone and properly cognizable, he prays that the said infants Ella S. Nelms Minnie S. Gibbs & Robt. W. Gibbs jr., and J. Fleming Nelms in his own right may be made parties defendant to this suit, that a proper guardian ad litem may be appointed to defend the rights of the said infants; and that the said Ella S. Nelms, Minnie S. Gibbs, the said guardian ad litem as well as the said J.N. Nelms in his own right, may be required to answer the allegations contained in this bill, on oath.

That the said tract of land may be sold & the proceeds of the sale invested for the benefit of the said infant as the court may direct.

OSM

That all proper orders & decrees may be made and all proper accounts and inquiry directed and for such other and further and general relief as the nature of the case may require or to equity shall seem meet. And your orator will ever pray &c

J. H. Nelms
Son of Ella S. Nelms

Virginia:

Isle of Wight county to wit:

This day J. Henning Nelms appears in person before me, a Com. in Chancery for the Circuit Court of the county of Isle of Wight, and state aforesaid and made oath that the matters in the foregoing bill stated as of his own knowledge are true and those stated upon the information of others he believes to be true.

Given under my hand this 19th day of Aug in the year 1883.

R. B. Boston Jr Com

Nelson &c
vs.
Gibbs et als

Bill &c exh.

Sept. Rls. 1883.
Bill &c filed - Summ. Exhs.
Edm. admitted appr. to
writs. Their ans. filed & sh.
also ans. of H. Nelson
Wife, Minnie S. Gibbs &
J. H. Nelson & gnd. exh.

Octo. Rules - Set for
hearing.

Appr. June 1884 -
Removed from docket
&c - Writs out -