

1895-025

Chancery Causes

J. Henning Nelms, adm of Robert W. Gibbs vs Robert W. Gibbs &

Isle of Wight County

Minnie S. Gibbs, by &c

other surnames: Turner, Gray,
Grimes, Bergen

Witness your oc
as. In chosen my
Gibbs et als infts.

In the circuit court of
Isle of Wight County

To Minnie S. Gibbs and Robt W. Gibbs
infants:

Take notice that I shall on the 29th
day of June 1886 apply to Judge Geo. Blood
Judge of the said court, at his office
in Norfolk Va for an interlocutory
decree in the above cause, for the
confirmation of the sale of the timber
made, or for its sale hereafter, and appli-
cation of the money received, and
for such other order or orders as
may be prayed for or to equity
may seem meet.

J. H. Nelson
for M. S. Gibbs

June 10th 86

Witness your se
ns, } In. Chauncy
Gibbs Dufts et al

Executed by delivering
a true copy of the within
on the within named
Mr. S. Gibbs and Robt
W. Gibbs on this 10th day
of June 1886

B. J. Edwards
Sargt

Whereas you &c
vs. } In Chauncy
Gibbs & Co et al

In the Circuit Court of Isle
of Wight County.

This cause came on this day
to be heard on the complainants
bill & exhibits filed, the answer of
the infants by A. P. Gann, their guardian
ad litem & in their own proper person
and the answer of the said A. P. Gann
guardian ad litem in his own proper
person under oath, the depositions with
general replication to said answers;
the depositions of witnesses in answer
to interrogatories agreed upon by said
A. P. Gann guardian ad litem, and notice
~~executed~~ to the defendants that this decree
should be asked for, duly executed
upon the defendants; and was argued
by counsel: On consideration whereof
the court being of opinion that the
sale of the timber so mentioned in
the bill was advantageous ^{it appearing} and that
the said Effie S. Gibbs is an invalid
& in immediate and great need
of more money than her annual
income supplies, doth adjudge
order and decree that said sale

may be confirmed, and made valid
and binding & that the said C. B. Turner
be relieved from any liability for dam-
ages for ~~having~~ cutting said timber
& removing the same from the
lands of the said Minnie S. Gibbs.

And the court doth further adjudge
order and decree that J. H. Nelson
guardian of the said, Minnie S. Gibbs
apply the proceeds of the sale of
said timber to the maintenance
and support of his said ward;
and the said J. H. Nelson guardian
of the said Minnie S. Gibbs is hereby
required to report whatever he may
do under this decree to this court.

Adams gone
vs. { Du Chouan
Libby Lufts et als

Deers

In vocation June 29-86
To be entered -

Geo. B. Low, Ind. r.

To the clerk of the
Circuit Court for the
County of Ind. of Wright.
June 29th 1886.

July 9. 1886

Received and admitted
to record in the Clk. o.
Office of the Cir. Ct.
of Indianapolis Co. Ind.
Teste: A. P. Farnham

Entered Chas. Ord. Rec.
vs. 5- p. 118.

To *R. W. Gibbs & M. S. Gibbs*

Take notice that *I* shall on the *19th* day of *October* 1885, next, at
my office in the town of
Southfield between the hours of 8 a. m. and 6 p. m. of that day, proceed
to take the Depositions of *A. L. Bergen & others*
and others, to be read as evidence in *my* behalf, in a certain *Choway*
Suit, depending in the *Circuit* Court of *Isle of Wight*
County, wherein *I* am plaintiff & you are
~~are plaintiffs, and~~

~~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 com-
pleted.

Respectfully.

To the Sheriff of *Isle of Wight Co.* } *J. H. Tobias* for *M. S. Gibbs*
County to execute.

309
Gibb Infts

executed Oct 9th by
delivering a true copy of
the within on the
within named
Mrs. Lados & Co. & Co.

B. F. Edwards
Sergeant

Nellus Gordon
vs. { In Chancery
Gibbs supts et als

The depositions of J. M. Gay
W. H. Gimes and A. L. Bergen taken
before me, R. S. Thomas a notary
public for the county of Isle of
Wight in the state of Virginia, pursu-
ant to notice hereto annexed, at
Smithfield Va. on the 19th day of Oct.
1885 between the hours of 8 A. M.
and 6 P. M. to be read as evidence
in behalf of J. H. Nellus Gordon of
Minnie S. Gibbs in a certain
suit in Chancery depending
in the Circuit Court of Isle
of Wight County wherein the
said J. H. Nellus Gordon of Minnie S.
Gibbs is plaintiff and the said
Minnie S. Gibbs and Robert W. Gibbs
are defendants. The questions being
asked having been agreed upon by
J. H. Nellus atty. for plaintiff and
A. P. Gentry Gordon ad litem for infant
defendants - Pres. J. H. Nellus atty. for
plaintiff.

~~The taking of~~ No witnesses appearing.
The taking of these depositions
was continued from time

to time until the 7th of June 1886
when the deposition of J. W. Gray were
taken, & then continued until the
26th day of June 1886 when the deposition
of ~~John~~ A. L. Bergen were
taken and then continued until
the 28th of June 1886 when the depo-
sition of C. J. Grimes was taken.

Ques 1

J. W. Gray being duly sworn
deposes and says as follows:
State your age, residence and
occupation:

Ans.

I am fiftythree years old, live
in Isle of Wight County, and am
a farmer.

Ques

State whether or not you are ac-
quainted with the "Atkinson tract"
of land in the bill mentioned owned
by Minnie S. Gibbs; & if yes, whether
or not you are of opinion that
the sale of the timber thereon as
mentioned in the bill was an advan-
tageous one, and should be con-
firmed; and your reasons therefor.

Ans

I am very well acquainted with
the "Atkinson tract" of land mentioned
as I lived within $1\frac{1}{2}$ mile of it
for 8 yrs & was her father's next
neighbor & most intimate friend.
I have frequently been all over
the said tract of land & know
all about the timber on it; &
I think if as much as \$150
~~can~~ can be got for the
stump can be gotten for it, it
would be advantageous to sell
it & more especially at the

price for which it was sold
as mentioned in the bill, for I
have never known of any ^{piece} timber
in this section to bring as much
as that; & if anything like that can
be gotten I think it should be
disposed of by all means & that
the sale should be confirmed, because
I know all about Mums property
and it is not enough to support
her even in health and ~~she~~
now that she has been sick &
helpless for over a year
I should certainly think it should
be arranged so as to help take
care of her - her condition is
such as to make it proper that
she should have immediate benefit
of it: And even if she were well
and had enough to support her
I should think the sale an
advantageous not only because
the price is so very large, but because
the timber is not needed on the
farm as there is plenty wood & timber
on it besides that & then those
trees are only fit for saw logs
& the money then used for her benefit

by being invested in the property; but
now I think it should ~~go~~ be applied
to the payment of her expenses.
And further this deponent saith not.
Jno W. Gray

Dr. W. J. Gibbs being duly sworn deposes
and says as follows

Ques 3^d

Please state your knowledge of the
financial condition of the said
Miss S. Gibbs affairs & also
what you may know of her physi-
cal condition now & what it has
been for the past 12 or 18 months.

Ans.

From all I know of the financial
affairs of Miss Minnie Gibbs, that is,
of the land to which she is heir I don't
think the rents will be sufficient
to support her in health and she
has been confined to her bed for
2 months with an abscess of the
anterior femoral region and the
probabilities are, that she will remain
an invalid for life. She came of
a Tuberculous family, having lost
a sister two years ago at the age of
17 years, of Pulmonary Phthisis. I have
been the attending Physician of Miss
Minnie Gibbs for the past 4 years

and I find the tendency to Tubercular
Consumption predominates over every
thing else and I think to the best of
my judgment - that, her future ~~life~~
is likely to be short, and think it
hardly probable that she will ever
be in a healthy condition again.
And further this deponent
saith not -

W. J. Brimley

Mr. A. L. Reger being duly sworn
deposes and says as follows

Ques 1

State your age residence and occu-
pation.

Ans

I am 45 years old live in
Smithfield, Isle of Wight county, and
am & have been for a number
of years sawmilling and a
lumber-getter.

Ques 2

State whether or not you are ac-
quainted with the "Atkinsan tract" of
land in the bill mentioned owned
by Minnie S. Gibbs & if yea, whether
or not you are of opinion that
the sale of the timber thereon as
mentioned in the bill was an ad-
vantageous one and should be

confirmed, and your reasons
therefor.

Ans.

I am acquainted with the
said tract of land & I think
the sale was very advantageous,
as the price named is very nearly
if not quite twice what the
timber is worth & it is old
timber & cannot improve.

I think \$140^{pr m. fut} would be at least
most as much as the timber
is worth, & if the money ~~that~~
could be otherwise invested or
applied to the payment of Miss
Gibbs ~~or~~ expenses, for maintenance
& comfort in her sickness, I
think it would be very advan-
tagious for the sale to be confirmed.
The trees are large & only fit for
saw-logs, & even if as much
as \$150^{pr m. fut} could be gotten
I ~~should~~ think a sale would be
an advantage. And further this
deponent thinks not.

(A L Bergen)

Over.

Virginia: county of Stafford, to wit:

I, R. S. Thomas a notary public
in and for the County aforesaid, in
the state of Virginia do hereby
certify that the foregoing deposi-
tions of John W. Gray, H. L. Bergen
and W. J. Grimes were duly taken
sworn to and subscribed before me
at the times and places and
for the purposes therein mentioned
Given under my hand this 28th
day of June 1886.

Signed, R. S. Thomas
Notary Public
#500

The Commonwealth of Virginia:
To the Sheriff of Isle of Wight County: Greeting:
We command you to summon M. S. Gibbs and
R. W. Gibbs, to appear at the Clerk's Office of the
Circuit Court of Isle of Wight County, at
Newport as before for the said Court, on the
first Monday in September 1885, to answer
the Bill in Chancery of J. H. Melungdon of
M. S. Gibbs, and have them there this 11th
Witness A. P. Young Clerk of our said Court,
at his Office the 5th day of September 1885,
and in the 11th year of the Commonwealth.
A. P. Young clk.

J. W. Nelsons gdn. of
M. S. Gibbs!

vs. $\frac{3}{3}$ Mms. in Chcy.

M. S. Gibbs et al.

//

To Sept. Rules 1885:

J. W. & M. S. Nelsons

I hereby certify that
I executed the within
summons by delivering
a true copy of the within
to M. S. & Geo Gibbs, (ack)
Gives under my hand this
7th day of Sept 1885 -

Geo H Towns

Subscribed & sworn to before
me this 7th day of Sept 1885 -

Wm. Nelsons
Clerk in Chancery

In the Circuit Court of the
Wright County;

The answer of N. P. Garry
the guardian ad litem to the infant
defendants Minnie S. Gibbs and
R. W. Gibbs to the bill in equity
exhibited against the said infants
in the Circuit Court of the
Wright County by J. H. Helms
god of the said Minnie S. Gibbs.
~~the said infants by their guardian ad litem~~

For answer to the said bill the
said god ad litem answers and says
that he does not know whether
the infant defendants would be
promoted by a sale of the property
as prayed for in said bill, or not.

~~And the said~~ These defendants saying
and reserving to them selves all right of
exception to the many errors & in-
flections in said bill contained
for answers thereto, or to so much
thereof as they are advised it is ma-
terial or necessary for them to answer
answering say that they are infants
under the age of 21 years of age
and commit their interest in the
premises to the honorable court.

And having answered they
pray hence to be dismissed with

their reasonable casts in this behalf
must unreasonably expended, & they
will never prove.

A. D. Young
you as then

Relius you
No. 1. In cleaf.
Garrison
you ad then
Lipts et al

Filed Sept. 1888

In the Circuit Court of Isle
of Wexth County:

The answer of M. S. Gibbs
& R. W. Gibbs infants defendants
over the age of 14 years to a bill
in equity exhibited against
them in the circuit court of
Isle of Wexth County by J. H. Adams
son of M. S. Gibbs.

In answer to the said bill
the said M. S. Gibbs & R. W. Gibbs
answer and say that although
~~over the age of 14~~ under full
age they believe they know what
are their interests to the matter
referred to in the bill - They
believe the statements in said bill
are true and that it will
be to their advantage to sell the
timber proposed to be sold in said
bill. And now having fully
answered they pray hence to be
dismissed so M. S. Gibbs.
R. W. Gibbs.

State of Virginia: Isle of Wexth County, to wit:
J. H. Adams a commissioner in chancery
for the county court of Isle of Wexth County do
certify that this day personally appeared

before me in my said county
Mr. S. Gibbs & R. W. Gibbs infants whom
names are signed to the foregoing
answer and made oath that they
believe the statements made in
the foregoing answer are true
J. Jennings Nelson
Comm. in chancery

Nelson gone
for Mr. Clerk.

Gibbs

Answer of the infants
defts. who are 14 yrs.
of age.

Filed Sept. Dec. 1880

To the Hon. Geo. Blood Judge of
the circuit Court of Law & Chan-
cery, for Isle of Wight County, in
Chancery setting:

Your com-
plainant J. H. Stevens gdn.
of Robt. W. Gibbs respectfully
represents to the court:

That on or about the 16th day
of October 188 Robt. W. Gibbs
Sr., father of the above named Robt.
W. Gibbs, departed this life after
having first made and published
his last will and testament
which was duly probated &
admitted to record in the
Clerks office of the county
court of said county, a
copy of which will with the
certificate of recordation is
herewith filed, marked "A" &
prayed to be taken as a part of
this bill.

That by his said last will
& testament the said Robt. W.
Gibbs Sr. devised to his son the
said Robt. W. Gibbs certain real
estate lying and being in the
said county of Isle of Wight

"A"

& state of Virginia & described in said will as "the Tract of land with appurtenances on which I now reside known as The 'Frank Ward' farm, & that part of the Carson & Atkinson Farms west of the road leading from Smithfield to Runwells Bay".

That the said Robt. W. Gibbs owns no other property real or personal.

That, scattered about on various parts of the tract of land thus devised, were a number of very large original growth pine trees which added nothing to the rents of said farm, nor to its value as a farm.

That said timber trees were only fit for saw-logs, being unfit for fence rails & other farm purposes.

That besides the large timber trees above mentioned there was & is on said farm timber amply sufficient for rail & fence timber, fire-wood & other farm purposes, both convenient & accessible to said farm.

That on or about the
day of 188 in close
proximity to said farm there
was located a sawmill belong-
ing to one C. B. Turner who had
operated there for a long time
and had sawed nearly all the
timber in that neighborhood
& who on account of the scarce-
ity of said timber around there
proposed to move his mill
to some other locality, which
move he has since made, to a
considerable and inconvenient
distance from said tract
of land.

That on account of the
facts as above set forth, your
complainant ~~feeling~~ thought
then was the best & most pro-
pitious time for selling said
timber trees & that more could
be obtained for them ^{then} than
at any time afterwards.

That at that time your com-
plainant was offered by the
said C. B. Turner for said timber
the very large price of \$2⁵⁰ pr.
thousand feet on the stump

the largest price that had been offered your complainant or that was likely to be offered for said timber at any time thereafter. That your complainant believing that under the facts as they existed as above set forth he would be promoting the interest of his said ward Robt. W. Gibbs accepted the price above named for said timber and permitted the aforesaid L. B. Turner to cut and move the same from the said tract of land and that your said complainant received for full payment of the same the sum of \$575⁰⁰ on the day of 188 and now holds the same subject to such order as this court may make.

That the said Robt. W. Gibbs is now 14 years old and at his death his only sister Minnie T. Gibbs will be his sole heir at law & distributee.

That the net annual profits or rents of the said Robt. W. Gibbs did not

nor do they now exceed the
sum of \$225⁰⁰ per annum
which was not & is not now
sufficient for his maintenance
and education.

That at the January Term 1883
of the county court of said
county, your complainant
qualified as guardian of the
said Robt. W. Gibbs, a certifi-
cate of said qualification is
herewith filed marked exhibit
"B" & prayed to be taken as a
part of this bill.

That the above mentioned
Minnie D. Gibbs is an infant over
the age of 14 years of age.

In tender consideration whereof
and forasmuch as your complain-
ant is without remedy at law & can
only be relieved by aid from this hon-
orable court of Chancery where mat-
ters of this sort are alone and prop-
erly cognizable, and to the end that
justice may be done your com-
plainant prays that the said
Robt. W. Gibbs & Minnie D. Gibbs
infants under the age of twenty-one
years be someone appointed

their guardian ad litem to de-
fend their interests in this suit
be made parties defendant to this
bill and that they be required to
answer the same upon oath.

That the sale of the timber as
above mentioned, made by your
complainant be confirmed, and
that such other and further general
relief may be granted your complain-
ant as the nature of the case may
require and to equity may seem meet
& let a subpoena go. And your
complainant will ever pray &c.

J. N. Helms
gov of R. W. Gibbs

Shelby County, State of Virginia
Personally appeared before me W. J.
Helms a notary public for the county
of said the above named J. N. Helms gov
of ~~the~~ R. W. Gibbs plaintiff in the foregoing
bill & made oath that he believes the
statements therein contained are true.
W. J. Helms
N. P.

Memo, you of Rev. Gibbs

Bill &
 In chq.

Gibbs' Infts

March Res. 1888.

Bill R. filed, good ad
between ap. to infts. this
and. filed, also acct. of
the infts. who are 14 yrs.
of age & good. replace.

Apr. Res. .. Set for
marriage.

April Term 1895

Final Decree
5 year clause