1933-017 Chancery Causes J. Peter Holland & Wf, Nannie V. Bradshaw & Jacob T. Bradshaw 120
Dsln of Wight County vs John M. Ballard & Davis Rawles, extors of Joseph H. Duck & al

OTHER SURNAMES LAWRENCE, HILL
BEAMON, BUTLER, HAYES, RAWLS CLEMENTS
[BEAVER DAM BAPTIST CHURCH]

Know all Men by These Presents: That we J. Peter Holland, principal and The United States Fidelity and Guaranty Company, surety, are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of five hundred dollars to the payment whereof well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

And as to this bond we hereby severally waive the benefit of our Homestead Exemption, and also any right, claim or privilege to discharge any liability arising hereunder to the said Commonwealth, or by virtue of the said office or trust for which this bond is given, with coupons detached from the bonds of this State.

IN TESTIMONY WHEREOF, the said J. Peter Holland, principal, and the said The United States Fidelity and Guaranty Company, surety, by W. G. Elam, its duly authorized agent and attorney in fact, has caused its corporate name and seal to be hereunto affixed, the said seal to be attested by the signature of the said W. G. Elam, its said agent and attorney in fact, this, the 12th. day of March, A. D. 1912.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas, on the 11th. day of March, 1912, an injunction order was entered upon a bill filed in the Circuit Court of the County of Isle of Wight, in vacation, to the plaintiffs, J. Peter Holland, Annie M. Holland, Nannie V. Bradshaw and Jacob T. Bradshaw, in a certain suit in Chancery in the said court depending and undetermined, and in which John M. Ballard, and Gavin Rawls, alleged executors of Joseph H. Duck, deceased and others are the defendants, to restrain and prohibit John M. Ballard and Gavin Rawls executors of the alleged will of Joseph H. Duck, all their agents from administering the estate of said Joseph H. Duck, or any part thereof, and from paying out any money belonging to the said estate which may not be in their hands or which may hereafter come into their hands, or under their control, until the further order of this Court. Now if the said plaintiffs shall pay all such costs as may be awarded against them and all such damages as may be incurred in case the said injunction shall be dissolved, and all such damages as shall be incurred in case the said injunction shall be dissolved, the the above obligation to be void, or else to remain in full force and virtue.

J. Peter Holland, (SEAL)

The United States Fidelity & Guaranty Co.,

(SEAL) By W. G. Elam, Its duly authorized agent and attorney in fact.

Attest:
W. G. Elam,
Agent and attorney in fact.

Virginia: In the Clerk's Office of the Circuit Court of the County of Isle of Wight the 12th. day of March 1912, this bond was duly acknowledged by the obligors to the same and ordered to be recorded.

A. S. Johnson, Clerk.

A copy, Teste, _____ Clerk.

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J. Peter Holland et als.

vs) Chancery

Duck's Exrs. et als.

Copy of injunction bond
Filed Marbh 12th. 1912.

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(1)

The Court instructs the jury that every person possessing testamentary capacity is entitled, under the law, to make a will and dispose of his property or any part thereof as he pleases.

(2)

The Court instructs the jury that if you believe from the evidence that Joseph H. Buck at the time he executed the will in controversy, had sufficient understanding to clearly comprehend the nature of the business he was engaged in, and consented freely to the same, and had testamentary capacity as defined in the instructions; that no fraud or undue influence was used to bring it about, then the validity of said will cannot be impeached,

And the Court further instructs you that you are not called upon to determine the propriety or impropriety of the disposition of the property made in the will but only the testator's capacity to make it.

The Court instructs the jury that the opinion of a witness as to the sanity of a person depends for its weight, on the capacity of the witness to judge, and his opportunity. That physicians are considered as occupying a high grade on such questions, both because they are generally men of cultivated minds and observation, and because from the course of their education and pursuits, they are supposed to have turned their attention more particularly to such subjects, and, therefore, to be able to discriminate more accurately.

The Court instructs the jury that the influence to vitiate a will must amount to force and coercion destroying free agency; it must not be the influence of affection or attachment; it must not be the mere desire to gratify the wishes of another, for that would be very strong ground in support of a will. Further there must be proof that the will was obtained by coercion; by importunity that could not be resisted, that it was merely for the sake of peace, so that the motive was tantamount to force and fear. And the burden of proof of undue influence is upon the Defendants in this cause.

6.

The Court instructs the jury that neither sickness, old age nor impaired intellect, even if the jury believes from the evidence that any one of or all of them existed in this case, are sufficient to render void the provisions of said paper. If the jury also believe from the evidence that the testator at the time of executing the same was capable of recollecting what property or money he was about to dispose of and the purpose for which it was to be used, then you must find that he had legal capacity sufficient to make a will.

(7)

The Court instructs the jury that if you believe from the evidence that the bequest made by Joseph H. Duck by the will in controversy is in accord with his ~~xxxxxxxxxxxx~~ previous declarations and intentions, then the Court instructs you that this is in itself persuasive evidence of testamentary capacity.

(8)

The Court instructs the jury that the opinion on the question of sanity of one who has been the family physician and attended the testator for a great number of years, up to the time of and during his last illness is entitled to great and peculiar weight. But if the jury believe that the opinion of the family physician is the opinion of one who is interested in the result arising, or who has a peculiar interest in the establishment of the will, then the jury may take into consideration such fact, together with all the other facts in determining what weight to give the said opinion of such physician.

(9)

The Court instructs the jury that suggestion and advice do not constitute undue influence; nor does solicitation, unless the party be so worn by the importunities that his will is overcome ~~gives way~~. Ernest entreaty, importunity and persuasion may be employed, but if the influence is not irrestible it is not undue, and its exercise is immaterial, even though it is yielded to.

(10)

The Court instructs the jury that to set aside a will for undue influence, it must appear that the influence was such as wholly to destroy the free agency of the maker, and to substitute the will of another for his; and unless such taking away of free agency appears, the showing of a motive and an opportunity to exert such undue influence, together with failing mental powers of the grantor, are not sufficient to overcome ~~flow~~ the will.

4.

The Court instructs the jury that it is not necessary that a person should possess the highest qualities of mind in order to make a will, nor that he should have the same strength of mind he may formerly have had; the mind may be in some degree debilitated, the memory may be enfeebled, the understanding may be weak, the character may be eccentric, and he may even want capacity to transact many of the ordinary business affairs of life; it is sufficient if he have mind enough to understand the nature of the business in which he is engaged, to recollect the property or money which he means to dispose of, and the purpose for which it is to be used,

4.

The Court instructs the jury that in deciding this case you are to determine the mental capacity of the testator at the time the will was made and if you believe that at the time the same was executed he was capable of making a will as set forth in the other instructions, the mere fact that he was not of sound mind at the time of his death should in no way affect your verdict.

The court instructs the jury that while it is incumbent upon the party propounding a will to show that the will was executed by a person of sound mind still in considering the evidence of soundness of mind of decedent the jury must take into consideration the fact that the law presumes every man to be of sound mind until the party attacking the soundness of mind has found it to be unsound; But no person of unsound mind, as defined in the other instructions, is capable of making a will.

INSTRUCTIONS

1.

It is the duty of the Executors to establish to the satisfaction of the jury, not only that the will in question was executed with the formalities required by the statute, but also that, at the time it was executed, Jos. H. Duck was of sound and disposing mind and memory; not only that the instrument was in writing and signed by the said Jos. H. Duck, and attested in his presence by subscribing witnesses, but also that it was executed by one who understood its contents and was capable of being a testator; by one to whom the statute had given the right of making disposition of property by will. And otherwise, theverdict must be against the will.

2.

The will cannot be sustained unless the jury believe from the evidence the testator at the time of the execution understood its contents and had sufficient mind and memory to be capable of making a testamentary disposition of his property with sense and judgment in reference to the situation and amount of such property, and the relative claims of the different persons who are, or might be, the object of his bounty. Unless the testator thus understood, and was capable, the verdict must be against the will, even though the jury may believe from the evidence that he was capable of undertaking and conducting other transactions, but the fact that he was capable of conducting other transactions may be considered in determining whether he was capable of making a will.

3.

Direct proof is not necessary to overthrow a will, but any facts and circumstances are sufficient as evidence that satisfy the jury of the incapacity of the testator to make a testamentary disposition of his property at the time of the execution of the will.

4.

In order to make a good will, the testator must have been not only capable, but a free agent, Pressure of whatever character, if so exerted as to overpower the volition without convincing the judgment, is a species of restraint under which no valid will can be made. Importunity which the testator has not the strength to resist, and to which he yields for peace and quiet, if carried to a degree in which the testator's judgment, discretion, or wish is overborne, will constitute undue influence, although no force is used or threatened. In other words, will must be the offspring of the testator's own volition, and not the record of the wishes and desires of others, and in determining whether the testator's volition was overborne or controlled, the jury must conside his age, his mental and physical condition, and all the circumstances surrounding him at the time the will was executed, and should they believe from the evidence that the will was the product of undue influence, their verdict must be against it.

5.

While undue influence which operates to defeat a will must be such as to overcome the free action of the mind at the time of the execution thereof, yet it is also true that the pressure may sometimes have been brought previously. If pressure, constituting undue influence, has been brought previously, and remains so as to unduly influence the mind of testator at the time of the execution of the will, the will cannot be upheld.

6.

Proof of undue influence must, in most instances, be made out, if at all, by proof of facts, and circumstances. Such facts and circumstances, standing alone, may be trivial, but if when taken together they are sufficient to satisfy the jury that the will was procured by undue influence then they may so find.

7.

If the jury believe from the evidence that the testator wasa man of advanced age, that his health was impaired and his mind weak at the time of the execution of the will, that ~~the defendant~~ Gavin Rawls was his advisor and drew the will, that the said Gavin Rawls was also his physician and attended him in that capacity at the time the will was made, and if they further believe that by the terms of his will the said Gavin Rawles was appointed as Executor of his estate, and the Church of which the said Gavin Rawls was a principal officer is the only legatee under the will, then ~~it is encumbent upon the defendants who claim under the will to satisfy the jury by a preponderance of proof that~~ the jury may take these facts into consideration in considering whether the will was the free and voluntary act of the testator and the intelligent expression of his wishes respecting the disposition of his property and the selection of his executors. ~~And if the jury be not so satisfied, their verdict must be against the will.~~

(Whitelaw vs. Sims, 90 Va. 588).

8.

The amount of undue influence sufficient to invalidate a will may vary with the strength or weakness of mind of the person making it. The influence which would not subdue or control a mind unimpaired by age, disease, or other cause, might subdue or control a mind thus impaired, even though the mind had not become so impaired as to render the person incapable of a testamentary act, free from such undue influence.

will, if it was read to him,or the meaning and effect of the words therein employed; or if the jury believe from the evidence that he did not have sufficient active mind and memory to recollect the nature and extent of his property which he wished to dispose of by will, then they must find against the will.

15.

The court instructs the jury that although they may believe from the evidence that Jos. H. Duck earnestly desired to give his property by will to the plaintiffs in this issue, yet, if they shall further believe from the evidence that this desire was the offspring or result of a mind so impaired as to deprive him of testamentary capacity, they must find against the will.

16.

The jury must be satisfied that the testator knew the contents of the will at the time of executing it. 78 Va. 592.

17.

The Burden of proving capacity of the testator to make a will is upon propounder of will. ~~Nothing short of clear and convincing evidence will suffice.~~ 26 Gratt. 152.

18.

That the testator had sufficient mind to answer ordinary questions is not of itself evidence of testamentary capacity, if he did not have sufficient active memory to collect in his mind without prompting, particulars of the business to be transacted, and to hold them in his mind a sufficient length of time to perceive at least their obvious relations to each other, and to be able to form some rational opinion in relation to them. 90 Va. 849.

19.

The court instructs the jury that even though they may believe from the evidence that Jos. H. Duck desired to provide for the keeping of the family burying ground, and was willing to set aside a small amount for this purpose, yet if they believe at the same time he was unduly influenced to name an amount in excess of what would have been adequate for the purpose, and that the influence brought to bear upon him was more

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT
JUNE 20TH. 1912.

John M. Ballard and Gavin Rawls, executors of Joseph H. Duck, deceased, A. R. Butler, Thomas J. Bradshaw, Charles Hayes and Lafayette Rawls, Trustees of Beaver Dam Baptist Church, Mollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J. C. Bradshaw, her husband, E. Lulian Bradshaw and W. V. Bradshaw, her husband, Annie Maud Clements and E. A. Clements, her husband, and Irene A. Duck,

vs) Issue out of Chancery.

J. Peter Holland and Annie M. Holland, his wife, Nannie V. Bradshaw and Jacob T. Bradshaw, her husband.

This day came the parties by their attorneys, and also came a jury, to-wit: John J. Atkins, H. J. Manning, D. E. Lufsey, Granville C. Allman, R. N. Turner, W. H. Chapman and Raleigh T. Bowden, who were duly sworn well and truly to try and ascertain whether or not any of the paper writing in the proceedings mentioned and admitted to probate as the true last will and testament of Joseph H. Duck, deceased, by the Clerk of this court, on the 6th. day of November, 1911, be the true last will and testament of the said Joseph H. Duck, deceased; and having heard the evidence in part were adjourned till to-morrow morning at half past ten o'clock. And this case is adjourned till to-morrow morning at half past ten o'clock.

A copy,

Teste, _____ Clerk.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT
JUNE 21ST. 1912.

Duck's Executors et als.
vs) Issue out of Chancery
J. Peter Holland et als.

This day again came the parties, both plaintiff and defendant, and also came the jury which was, on yesterday, empanelled and sworn for the trial of this case, and having fully heard the evidence and argument of counsel, retired to their room to consider of their verdict; and after some time returned into court and presented their verdict, which is as follows, to-wit: "We, the jury, find that the whole of the paper writing dated July 29th. 1908, admitted to probate as the last will and testament of Joseph H. Duck, deceased, is the true last will and testament of the said Joseph H. Duck". Whereupon, the defendants, J. Peter Holland et als., by their attorneys, moved the Court to set aside the said verdict and to grant them a new trial, stating their grounds for said motion as: that the verdict is contrary to the law and evidence; misdirection of the jury by the court in granting certain instructions objected to by the said defendants; and the rejection by the Court of certain instructions asked for by the said defendants and not granted. And the court not being advised as to its action upon said motion at this time, doth take time to consider same, and doth continue this case till July 5th. 1912. And this case is adjourned till July 5th. 1912.

A copy,

Teste, W. Johnson Clerk.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT
JULY 5TH. 1912.

Duck's executors et als.
vs) Issue out of chancery
J. Peter Holland et als.

This day came again the parties, both plaintiff and defendant, by their attorneys, and the Court, having heard argument of counsel for the said defendants in support of their motion to set aside the verdict of the jury, in this case, made of the twenty first day of June, 1912, and to grant them a new trial, as well as argument of counsel for the plaintiffs in opposition to said motion, doth over-rule the said motion and doth refuse to set aside the verdict of the jury and to grant the defendants a new trial, and doth find and determine from the verdict of the said jury, and it is the judgment of this court, that the paper writing in this issue is the true last will and testament of the said Joseph H. Duck, deceased; and, further, doth order that the verdict of the jury rendered on the twenty first day of June, 1912, as well as the judgment of this court thereupon, be certified to the Chancery side of this court to be there dealt with according to law. And defendants, by counsel, excepted to the ruling of the Court in refusing to set aside the said verdict, and in refusing to grant them a new trial, and asked leave to file their Bills of Exception, which leave was granted.

The defendants, by counsel, also having expressed their intention to take an appeal from the said verdict and the judgment of this Court thereupon, in this case, ninety days is allowed them, from the rising of this Court, in which to make up, prepare and file their Bills of Exception noted, for the consideration of this Court.

A copy,

Teste, _____ Clerk.

9

Holland Pass

x Chancery

Ducks Exrs et als

Copies of orders
entered in "Done
Out of Chancery"

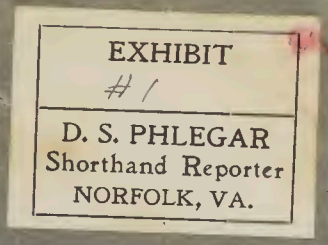
EXHIBIT
#1
D. S. PHLEGAR
Shorthand Reporter
NORFOLK, VA.

May 23rd, 1911.

Mr. Gavin McLea,

Carrsville,

Va.

Dear Sir:-

Replying to your letter of May 19th in regard to the status of the account of Mr. Joseph H. Duck, I beg to say that this morning at nine o'clock the balance appearing on our ledger [illegible] 170.87.

We do not find that Mr. Duck has sent us the deposit of $750.00 mentioned by you.

Our records show that on the 6th day of July, 1909, Mr. Duck's pass book was balanced and returned to him. We have since then requested that he send us the book that we might write up the account, but so far he has not sent it. We would be glad to have him do so.

Yours very truly,

Asst. Cashier.

J. T. BRADSHAW

Manufacturer of

Yellow Pine Lumber, Gum and Cypress

BILLS CUT TO ORDER

Carrsville, Virginia,_____191____
R. F. D. No. 1

Dear Sister

Glad to
hear you received Bonny
& another thing don't think
any one will get any
thing, as Peter & I are going
to look out for our
rights. You go & you will
find out all about it, it
won't be any use for me
to go to missouri, If we
do get take some (minors)
they will drench our good
I would of come to see you
this year & told you about
what we are doing but
the weather is so bad. Peter
was sure this Co. Dec. ours
there will be some blank
faces. Your Brother J. B.

EXHIBIT
#3
D. S. PHLEGAR
Shorthand Reporter
NORFOLK, VA.

19
4
64

Invoice of Goods
& Sales Book of
Coose

Commonwealth of Virginia
DEPARTMENT OF PUBLIC INSTRUCTION
ISLE OF WIGHT DIVISION

Bal 130 83

RECEIVED 7/6/09
Book Department

Carrsville, Virginia. May 22nd 191 1.

Mr. H. H. Jones,
Suffolk, Va.

Dear Sir:

In acting for Mr. Jos. W. Duck at some business matters straight, he seems to be uncertain as to amount he has on deposit with you. He thinks he sent to you $700.00 paid to him for some lumber sold about six or eight weeks ago, but is not sure. Will you kindly advise me if this deposit was made & also of amount now to his credit with you.

Very truly yours,
Gavin Rawls.

Duck will case
Ex h proponents fail in objections
granted at request of Defts
Ex h Defts to all granted for proponents
Ex h Defts framed on last & issue
Verdict for proponents & grant instrument
Judgment entered June 21, 1912.

10.

The jury, in determining whether there was undue influence must consider the age and physical and mental condition of the testator all the circumstances by which he was surrounded, incouding the condition character and conduct of the persons around him, his family relations, the extent and nature of his estate, and the dispositions of the will.

11.

Even though the jury may believe from the evidence that the testator was mentally capable of making a will, yet in determining whether the will in question was procured by undue influence, the jury must consider any evidence showing or tending to show, that at the time of the execution of the will his faculties had become so weakened by age, disease, or other cause, as to render him more subject to undue influence than he otherwise would have been.

12.

No person of unsound mind is capable of making a will.
C. V. 2513.

13.

In order to execute a valid will, the alleged testator must be shown to have had, at the time of making it, sufficient active memory to recall his family and his property, and to form some rational judgment in regard to the claims of the one and the dispositions of the other, with reference to the ties of blood and kinship; it must further be shown by those who support the alleged will that at the time the will was executed, the alleged testator was capable of knowing and understanding the nature of the business he was then engaged in, the elements of which the will was composed, the disposition of his property he meant to dispose of and the person to whom he meant to convey it, and he must also be capable of understanding the meaning of the effect of the words used in his devise and bequest.

14.

If the jury believe from the evidence, that, at the time of executing the alleged will in question, Jos. H. Duck, did not have sufficient active mind and memory to fully know and understand the provisions of the

in the case, that the opinion of the family physician is the opinion of one who is interested in the question at issue, or who has a peculiar interest in the establishment of the will, then the jury may take into consideration such fact together with all other facts in determining just what weight to give to said opinion of such physician.

The court instructs the jury that if they believe from the evidence that the disposition contained in the alleged will is contrary to the custom of the testator, and unusual under the circumstances, and not to be expected from the habits, inclinations and disposition of the testator, then there is a strong presumption against the will which must be overcome by the propounder.

21.

The court instructs the jury that if they believe from the evidence that the testator was weak and feeble at the time of the execution of the alleged will, and that it was more the will of his attending physician who drew it and urged its execution; and that the attending physician wholly omitted his duty in testing testator's mental capacity before taking part in procuring its execution, then they must find against the will has having been obtained by undue influence.

Chappell vs. Trent, 90 Va. 849.

22.

The court instructs the jury that if they believe from the evidence that Gavin Rawls drew the alleged will of the testator and that he was appointed one of the two executors for the entire estate and that he was the family physician of the testator, then these circumstances call for unusual vigilance to see that it was consistent with the views and wishes of the testator and unless they do believe that it was consistent with the views and wishes of the testator they they shall find against the will.

Riddell vs. Johnson, 26 Gratt. 152.

23.

The court instructs the jury that the opinion upon questions of sanity, of one who has been the family physician and attended the testator for a great number of years, up to the time of and during his last illness, is, unless the physician be an interested party, entitled to great and peculiar weight. But if the jury belive from the evidence

I, Joseph H. Duch, of Isle of Wight County, State of Virginia, do make this my last will and testament, providing for the burial of my body and the keeping in order of my family burial ground. I direct that my body shall be buried in the family burial ground on my place, and in order to keep said burying ground in a sightly and respectable condition, I make the following provision therefor, to-wit:

I give, devise and bequeath out of my estate of which I may die seized and possessed, to A. R. Butler, Thos. J. Bradshaw, Charles Hayes and Lafayette Rawls, Trustees of Beaver Dam Baptist Church, the sum of two thousand dollars to be used to establish a library in said church to be known as the Nancy B. Duck Library in honor of my mother, Nancy B. Duck, who died a member of said church, upon condition that said church through the said Trustees or otherwise shall keep my burial ground wherein my body and the bodies of my ancestors lie buried in such order and condition as said church burial ground is kept, annually cleaning, shrubbing and putting in condition the same. And I further provide that a right of way at least ten feet wide shall be perpetually provided and reserved across my land from the county road to the burial ground to the said Trustees or their successors by which they may have ingress and egress to said burying ground.

No will I may hereafter make providing for or disposing of the residue of my estate among my heirs or otherwise shall in any way annul of affect this will providing for my burial and the keeping in order of my burial ground and this bequest therefor unless specifically mentioned in said will and otherwise therein provides for.

I hereby appoint and name John M. Ballard and Gavin Rawls executors of my estate and I especially direct that they shall see that this trust is faithfully executed by the said trustees of Beaver Dam Church when the above bequest has been accepted by them for Beaver

Dam church.

Witness my hand and seal this 29th. day of July 1908.

Jos. H. Duck, (SEAL)

WITNESSES: W. L. Bryant

R. C. Councille.

Virginia: Clerk's Office of the Circuit Court of the County of Isle of Wight November 6th. 1911. A paper writing purporting to be the last will and testament of Joseph H. Duck, deceased, was this day presented for probate and proved by the oath of W. L. Bryant, one of the subscribing witnesses thereto, the other subscribing witness, R. C. Councille, being dead, and ordered to be recorded as the true last will and testament of the said Joseph H. Duck, deceased.

Teste,

A. S. Johnson, Clerk.

A copy,

Teste, A S Johnson Clerk.

THIS DEED, made this 17th day of January, in the year 1912, by and between Thomas W. Hill and M. V. Hill, his wife, formerly of Murfreesboro, North Carolina, but now residing in Isle of Wight County, Virginia, parties of the first part, and J. Peter Holland, of Southampton County, Virginia, party of the second part, WITNESSETH: that for and in consideration of the sum of eight thousand dollars, the said parties of the first part have bargained sold, assigned, transferred and conveyed, and by these presents do hereby bargain, sell, grant, assign, transfer and convey unto the said party of the second part with general warranty all their right title and interest in and to the estate, real, personal and mixed, of every kind and description wheresoever located of which Joseph H. Duck died seized and possessed, said estate consisting in part of the following property:

1st. All that certain tract or parcel of land located in Windsor Magisterial District of Isle of Wight County, Virginia, known as the "Elijah Place" and containing one hundred and eighty-six acres, and a certain other tract of land known as the "Home Place" on which the said Joseph H. Duck formerly resided, containing about seven hundred fifty six acres, as well as any other land or interest therein owned by said Joseph H. Duck in the County of Isle of Wight, Virginia.

2nd. All their right, title and interest of every kind and description in the personal estate of which said Joseph H. Duck died seized and possessed, said personal estate consisting in part of accounts, notes, bonds, stocks, choses in action, chattel estate and life insurance.

The purpose of this deed being to convey all the right, title and interest of the said parties of the first part in the estate of Joseph H. Duck to J. Peter Holland, so that said J. Peter Holland may be substituted in their places and subrogated to all their rights in said estate howsoever required.

And the said parties of the first part do hereby authorize and empower the said party of the second part to execute such receipts, releases and acquittances for them and in their names as may be necessary to collect all their right, title and interest in said personal estate; and to do and perform all and every act or acts, thing or things in law needful and necessary to be done in order to collect for the use and benefit of said party of the second part all the right, title and interest of said first parties in said estate.

Said parties of the first part covenant that they have the right to convey their right, title and interest in said estate that they have done no act to encumber the same; that the said party of the second part shall have quiet possession of same in fee simple, free from all encumbrances; and that they, the said parties of the first part, will execute such further assurances of the same as may be necessary.

WITNESS the following signatures and seals:

Thomas W. Hill, (SEAL)

M. V. Hill, (SEAL)

STATE OF VIRGINIA,

Isle of Wight County, to-wit:

I, J. F. Duke, a Justice of the Peace for the County aforesaid in the State of Virginia, do certify that Thomas W. Hill and M. V. Hill, whose names are signed to the writing hereto annexed, bearing date on the 17th. day of January, 1912, have acknowledged the same before me in my County aforesaid.

Given under my hand this 2nd day of February, 1912.

John F. Duke,
Justice of the Peace.

Virginia: Clerk's Office of the Circuit Court of the County of Isle of Wight February 5th. 1912, at three thirty o'clock P. M. this deed was received and with the certificate annexed, admitted to record.

Teste, A. S. Johnson, Clerk.

aCopy,

Teste, A. S. Johnson Clerk.

Upon the complainant, J. Peter Holland's, entering into and acknowledging a bond, with security deemed sufficient by the Clerk of the Court, ~~in the Clerk's Office of the Circuit Court of Isle of Wight County~~, before ~~the Clerk of said Court~~ in the penalty of $500.00 condition to pay all such cost as may be awarded against the complainants and all such damages as may be incurred in case the injunction shall be dissolved, ~~and further conditioned according to law~~, an injunction is granted to the complainant, in compliance with the foregoing bill ~~filed~~ herein, to restrain and prohibit John M. Ballard and Gavin Rawles, Executors of the alleged will of Joseph H. Duck, and all their agents from administering the estate of the said Joseph H. Duck, or any part thereof, and from paying out any money belonging to the said estate, which may now be in their hands, or which may hereafter come into their hands, or under their control until the further order of this court. But this injunction shall stand dissolved after ninety days unless sooner enlarged and extended. All of which is certified by the Clerk of this Court to be entered in vacation in the Chancery order book.

Test Clerk of the Circuit Court of Isle of Wight County.

P. J. Holland

than he could resist under the circumstances, then the jury must find against the will.

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA:

To A.S.Johnson, Clerk:

J. Peter Holland, Annie M. Holland, his wife, Nannie V.Bradshaw, and Jacob T. Bradshaw, her husband.

v.

John M. Ballard and Gavin Rawles, Alleged Executors of Jos. H. Duck, deceased, A.R.Butler, Thomas J. Bradshaw, Charles Hayes, and Lafayette Rawls, Trustees of Beaver Dam Baptist Church, Mollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J.C.Bradshaw, her husband, E. Lulian Bradshaw and W.V.Bradshaw, her husband, Annie Maud Clements, and E.A.Clements, herx husband, and Irene A. Duck.

Summons in Chancery to Second March (1912) Rules.

R.H.Rawles and H.L.Holland p.q.

1-C

J. Peter Holland et als.

vs) Chancery

Jos. H. Duck's Exrs. et als.

Attorney's Memo.

Filed March 12th. 1912.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT

APRIL 26TH 1933.

Holland et als

vs: # 120

Clerks Administrati

It appearing, pursuant to a decree entered herein on the 6th day of March, 1933, that the parties, or their Counsel, have been notified by the Clerk of this Court of the terms of said decree, and no good cause having been shown, it is ordered that this cause be removed from the docket, with leave to reinstate the same as provided in Section 6172 of the Code as Amended.

Holland Adv.

vs. #120

Duck's Administrator

March TERM 1933 Filed

CLK.

Fr 013.

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT

MARCH 6th 1933.

Holland et als

vs: # 120

Duck's executors

IT APPEARING that this cause has been on the docket of this Court for more than two years, and that no order has within said period been entered herein, it is therefore ordered, pursuant to the provisions of Section 6172 of the Code of Virginia, as amended, the Clerk of this Court is directed to notify the parties to this cause, if known, or their counsel of record, at his or their last known address, in writing, at least fifteen days before the 25th day of April, 1933, so that on said day all parties named have an opportunity to be heard, and that, except for good cause to then be shown, this cause will be removed from the docket for failure to prosecute the same to a final decree.

Holland Neb
on # 120
Hucks exc.
C.O.B. #9
Page 78.

J. Peter Holland, et als.

vs.

Joseph H. Duck's Executors, et als.

This cause came on this day to be heard on the papers formerly read, and was argued by counsel.

By consent of all parties entered of record, it is ordered, ~~adjudged, and decreed~~ that the injunction heretofore granted in this ~~case~~, on the _____day of _____1912, enjoining and restraining J. M. Ballard and Gavin Rawles, Executors of the last will and testament of Joseph H. Duck, deceased from collecting or distributing any of the money belonging to the estate of the said Joseph H. Duck, or from doing any other acts in regard to the estate as such Executors, until the further order of the court, be and the same is hereby dissolved.

J. Peter Holland, et als.

vs.

Joseph H. Duck's Executors,
et als.

1913
June 2
Entered
B.D.C.

We consent to this decree.

Hugh A. Holland,
R. H. Rawls
Counsel for
plaintiffs

Jno. E. Price Jr. Counsel
for Annie L. Brothers, E. Selma
Brothers, Annie Maud Chesnutt
& Irene A. Duck

C.O.B. 7, p. 180

VIRGINIA, IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY:

J. Peter Holland, et als. complainants.

vs.

John M. Ballard and Gavin Rawles,Executors,et als. defendants.

This cause came on this day to be again heard on the papers formerly read; and the issue which was directed to be made up and tried at the bar of this court, by a decree heretofore entered on the 12th day of April, 1912, and having been submitted to a jury, duly impanelled and sworn according to law, and said issue having been decided by said jury in words and figures, to-wit: "We, the jury find that the whole of the paper writing, dated July 29th, 1908, and admitted to probate as the last will and testament of Joseph H. Duck, deceased, is the true last will and testament of the said Joseph H. Duck, deceased."

And the said defendants on the common law side having moved the court to set aside said verdict, 1st. Because said verdict is contrary to the law and evidence in this case,and 2nd. Because improper instructions were given the jury over the objection of the defendants, and proper instructions offered by the defendants were refused by the court, which motion was overruled by the court.

On consideration whereof, the court doth adjudge, order and decree that the whole of the paper writing, dated July 29th 1908, admitted to probate as the last will and testament of the said Joseph H. Duck, deceased, is the last will and testament of the said Jospeh H. Duck, deceased. And upon other issues raised by the complainants in their bill in said cause, the court being of the opinion that the said will is not null and void for uncertainty as to the beneficiaries nor because the provisions thereof are incapable of being enforced, and that said will is not in contravention of the statute of Virginia, which provides that not over one thousand dollars shall be bequeathed at one time for the improvement,

repair or embellishment of any single lot in a cemetery or burial ground, doth adjudge, order and decree that the Executors named in said will do pay to the Trustees of the Beaver Dam Baptist Church of Isle of Wight County, Virginia, the sum of two thousand dollars which was bequeathed to said Trustees in said will of the said Joseph H. Duck, deceased, the Court being of the opinion that said bequest is not liable to a collateral inheritance tax.

The Court doth further adjudge, order and decree that the papers in this cause be referred to one of the Commissioners of this Court who is directed to ascertain and report to Court, after due notice to all parties concerned.

1st. The proper method of distribution of the estate of Joseph H. Duck, deceased, and how the parties in interest shall take.

2nd. Whether any party in interest has had or received his or her share of said estate, either in whole or in part, by way of advancement, and if so what part has been so had or received, and by whom.

And the complainants by counsel having expressed an intention to apply to the Supreme Court of Appeals, for an appeal and supersedeas under this decree on motion of the said complainants by counsel it is ordered that the execution of this decree be suspended for sixty days from the adjournment of this Court, upon the said complainants or some one of them executing before the Clerk of this Court a suspending bond, in the penalty of $200.00 with security to be approved by the said Clerk and conditioned according to law.

10

J. Peter Holland et als.

DECREE.

John M. Ballard and Gavin Rawles, Executors.

Enter 7th. Oct. 1912.

B.D.W.

Entered in Chancery Order Book No. 7, page 143.

JAMES U. BURGES
ATTORNEY AT LAW
SUFFOLK, VA.

SUFFOLK PRINTING AND STATIONERY CO.

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY, VIRGINIA.

J. Peter Holland and Annie M. Holland, his wife,
Nannie V. Bradshaw and Jacob T. Bradshaw, her husband----Complainants.

vs.

John M. Ballard and Gavin Rawles, executors
of Joseph H. Duck, deceased, A. R. Butler, Thomas J.
Bradshaw, Charles Hayes and Lafayette Rawles, trustees
of Beaver Dam Baptist Church, Mollie A. Lawrence
and T. Livie Lawrence, her husband, Mamie I. Bradshaw
and J. C. Bradshaw, her husband, Annie Maud Clements and
E. A. Clements, her husband, E. Lulian Bradshaw and
W. V. Bradshaw, her husband, and Irene A. Duck----------Defendants.

This cause came on this day to be heard on the bill and exhibits filed therewith, the answer of John M. Ballard and Gavin Rawles, executors of Joseph H. Duck, deceased, and A. R. Butler, Thomas J. Bradshaw, Charles Hayes, and Lafayette Rawles, trustees of Beaver Dam Baptist Church, Mollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J. C. Bradshaw, her husband, E. Lulian Bradshaw and W. V. Bradshaw, her husband, Annie Maud Clements and E. A. Clements, her husband, and Irene A. Duck, and was argued by Counsel.

On consideration whereof, the Court doth adjudge, order and decree that an issue be made up and tried at the bar of this court to ascertain and try whether or not any of the paper writing in the proceedings mentioned admitted to probate as the last will and testament of Joseph H. Duck, deceased, be the true last will and testament of the said Joseph H. Duck, and if any part, how much of the said paper writing is the true will of the said Joseph H. Duck; and on the trial of the said issue the said defendants, John M. Ballard and Gavin Rawles, ~~alleged~~ executors of Jos. H. Duck, deceased, A. R. Butler, Thomas J. Bradshaw, Charles Hayes and Lafayette Rawles, trustees of Beaver Dam Baptist Church, Mollie A. Lawrence, and T. Livy Lawrence, her husband, Mamie I. Bradshaw, and J. C. Bradshaw, her husband, E. Lulian Bradshaw, and W. V. Bradshaw, her husband, Annie Maud Clements and E. A. Clements, her husband, and Irene A. Duck, are to maintain the affirmative, and the said plaintiffs, J. Peter Holland

and Annie M. Holland, his wife, and Nannie N. Bradshaw and Jacob T. Bradshaw, her husband, the negative.

I consent to the within decree.

J. C. Parker. Atty. for Trustees of Bear Swamp Baptist Church defendantes.

We consent to the within decree.

J. Peter Holland
Annie M. Holland
Annie V. Bradshaw
Jacob T. Bradshaw
by R. H. Rawls
and Hugh L. Holland
their attorneys.

Jacob Rawls and
John M. Ballard
Executors of Joseph H. Duck dec'd
by
James U. Burges
their attorney

8

J. Peter Holland et als.

vs....Decree.

Executors of Jos. H. Duck, et als.

1912
May 8.
Enter this
B. D. W.
C. O. B. #7 - Page 122

JAMES U. BURGES
ATTORNEY AT LAW
SUFFOLK, VA.

SUFFOLK PRINTING AND STATIONERY CO.

VIRGINIA: CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

J. Peter Holland et als.
vs) Chancery.
Joseph H. Duck's Executors, et als.

TO HONORABLE B. D. WHITE,

JUDGE OF THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT.

The undersigned, one of the Commissioners in Chancery of the Circuit Court of the County of Isle of Wight, to whom has been referred the papers in the above entitled cause for the execution of a decree entered therein on the 7th. day of October, 1912, which requires a commissioner to ascertain and report to Court:

1st. The proper method of distribution of the ostate of Joseph H. Duck, deceased, and how the parties in interest shall take.

2nd. Whether any party in interest has had or received his or her share of said estate, either in whole or in part, by way of advancement, and of so what part has been had or received, and by whom.

Your Commissioner respectfully reports that in the suit now in the said court depending and undetermined, on the chancery side thereof, in which Mamie I. Bradshaw and others and the complainants, and J. Peter Holland and others are the defendants, the same questions are raised as are here directed to be inquired into and reported. That on the 5th. day of December, 1912 your Commissioner attended the taking of depositions at Mount Carmel, in this County, to be used in the execution of the decree entered in the other suit herein mentioned entered on the 21st. day of June, 1912, the taking of which depositions was adjourned, and again, on the 18th. day of December, in the

city of Suffolk the taking of depositions was resumed, all of which, as to the time and places of taking such depositions was agreed to by counsel representing all of the parties, complainant and defendant, and which would have, had the evidence been completed, served to make a report herein upon. Now, by agreement of counsel, it has been reported that property whereof Joseph H. Duck died siezed and possessed, as to the real estate, cannot be conveniently divided in kind among the parties entitled to share therein, and that the interests of all parties will be promoted by a sale of said property and a division of the proceeds in accordance with the direction of the Court.

Your Commissioner has been informally informed that the personal estate of the said Joseph H. Duck has been distributed among the heirs, and if this is true and the other questions raised in the Bill in this suit having been disposed of, it is recommended that this suit be either dismissed or merged with the suit herein referred now pending styled Mamie I. Bradshaw et als vs. J. Peter Holland and others.

Respectfully submitted,

Fee 15.00

Report of Comm

Holland et als

vs

Dudley Ewell et als

Filed

In the CLERK'S OFFICE of the

CIRCUIT COURT,

OF THE

COUNTY OF ISLE OF WIGHT

this 23 day of April 1913

Wm. A. Pitman Clk

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Isle of Wight:

WE COMMAND YOU to summon Wm L Johnson

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20th day of June 1912, to testify and the truth to say in behalf of the plaintiffs in a certain controversy in our said court, before the said Judge depending and undetermined between Jos H Lewis & Brothers, Plaintiffs, and J Peter Holland & ors Defendant, And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 17th day of June 1912

A S Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

Duncan Ezell

N

SUBPOENA FOR WITNESS

Holland vs

CIRCUIT COURT OF ISLE OF WIGHT COUNTY

the 20 day of June 1912

Mr Jones.

R Ang Edwards

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Isle of Wight:

WE COMMAND YOU to summon John Pressy, Col

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20" day of June 1917, to testify and the truth to say in behalf of the plaintiffs in a certain controversy in our said court, before the said Judge depending and undetermined between Jno H. Davis' Exs, Plaintiff s, and Peter Holland et als, Defendants, And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 17" day of June 1917

A. S. Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

Jos H Lucas Exr

vs

SUBPOENA FOR WITNESS

L T Holland road

CIRCUIT COURT
OF
ISLE OF WIGHT COUNTY

the 26 day of June 1912

Executed 6/24/12
R Aug Edwards
Shff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Isle of Wight:

WE COMMAND YOU to summon Robert Chapman and Mary Daughtrey, Col. Jos. R. English and R. L. Davis

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20th day of June, 1912, to testify and the truth to say in behalf of the Defendants in a certain controversy in our said court, before the said Judge depending and undetermined between W. H. Davis & Sailors, Plaintiff's, and Peter Holland & Sons, Defendant's,

And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 17th day of June, 1912

Test. A. Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

Holland vs

ads } **SUBPOENA FOR WITNESS**

Lewis Exr vs

CIRCUIT COURT
OF
ISLE OF WIGHT COUNTY

the 17th day of June 1912

Executed June 18 - 12
R. Aug. Edwards
Sh'ff.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Isle of Wight:

WE COMMAND YOU to summon S. T. Saunders & Jasper Daughtrey

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20th day of June, 1912, to testify and the truth to say in behalf of the plaintiffs in a certain controversy in our said court, before the said Judge depending and undetermined between the Executors of Jas. H. Dunn, Plaintiff, and J. Peter Holland et als, Defendant,

And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 14th day of June, 1912.

A. S. Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

Jos H Lucks Exrs

vs

SUBPOENA FOR WITNESS

A Tabb Holland exrs

CIRCUIT COURT
OF
ISLE OF WIGHT COUNTY

the 20th day of June 1912

Executed 6/14/12
R Eug. Edwards
Shff

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Isle of Wight:

WE COMMAND YOU to summon J. L. Harcum, (S. V. (Demus) Butler), Rev. G. C. Duncan, (James A. Johnson) Richard T. Fraser, Claude J. Bradshaw, (Thos. W. Hill), (Solomon Eley) Elisha Lankford, John Lankford, J. E. T. Joyner, Irvin Jenkins, Hugh Royster, Chas. W. Bailey, (Wiley J. Bradshaw) (R. B. White), T. Livy Lawrence,

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20th. day of June, 1912, to testify and the truth to say in behalf of the defendants, in a certain controversy in our said court, before the said Judge depending and undetermined between the Executors of Jos. H. Duck, deceased, Plaintiff, and J. Peter Holland et als Defendant, And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 14th. day of June, 1912.

A. S. Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

J. E. B. Holland & als

ads { **SUBPOENA FOR WITNESS**

Jos. Holladay Exr
& als

CIRCUIT COURT
OF
ISLE OF WIGHT COUNTY

the 21 day of June 1911

Executed June 15-11.
R. A. Edwards
Shff.

THE COMMONWEALTH OF VIRGINIA,

To the ~~Sheriff of the County of Isle of Wight~~:

WE COMMAND YOU to summon W H Jones Jr

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20th day of June 1912, to testify and the truth to say in behalf of the defendants in a certain controversy in our said court, before the said Judge depending and undetermined between Jno H Dunn's Executors &c, Plaintiff, and Pet Holland &c, Defendant, And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 14 day of June 1912

A S Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

H. Holland Pres

ad

SUBPOENA FOR WITNESS

Duke Eastern

CIRCUIT COURT
OF
ISLE OF WIGHT COUNTY

the 10 day of June 1912

Executed 6/15/12 1912
by calling at the usual place of abode of the defendant and not finding him there, nor his wife, nor any member of his family above the age of sixteen years, I posted a copy hereof in writing at the front door of the said usual place of abode.

City Sergt.

Deputy City Sergt.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Isle of Wight:

WE COMMAND YOU to summon James A. Vaughan (Carrsville)

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20th. day of June, 1912, to testify and the truth to say in behalf of the plaintiffs in a certain controversy in our said court, before the said Judge depending and undetermined between The Executors of Joseph H. Duck et als., Plaintiff, and J. Peter Holland, et als., Defendant, And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 8th. day of June, 1912.

Dest. R. Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

Ducks Exs

vs. } **SUBPOENA FOR WITNESS**

Virginia
Holland Exs

CIRCUIT COURT
OF
ISLE OF WIGHT COUNTY

the 12th day of June 1912
Jc. 14

Executed
June 6-12
R. A. Edwards
Shff
By J. Francis Jones
D.S.

THE COMMONWEALTH OF VIRGINIA,

To the ~~Sheriff~~ Sgt. City of Suffolk of the ~~County of Isle of Wight~~:

WE COMMAND YOU to summon Dr. Thomas H. Barnes,

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20th. day of June, 1912, to testify and the truth to say in behalf of the plaintiffs in a certain controversy in our said court, before the said Judge depending and undetermined between The Executors of Joseph H. Duck, et als., Plaintiff, and J. Peter Holland et als, Defendant, And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 5th. day of June, 1912.

Taste, A. S. Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

Davis &c. vs.

N. } SUBPOENA FOR WITNESS

Holland &c.

CIRCUIT COURT
OF
ISLE OF WIGHT COUNTY

the 20 day of June 1912

I hereby accept due, legal and sufficient service of the within subpoena.

Wm. H. Brown

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of the County of Isle of Wight:

WE COMMAND YOU to summon (W. L. Bryant), (Gavin Rawls), (A. R. Butler), (J. M. Ballard), John F. Duke, (R. B. White), (S. V. Butler), (James A. Johnson), C. F. Joyner, (Parke P. Deans), W. J. Bradshaw, (Joe Mitchell (col)), (Solomon Eley, (col)) and T. W. Hill,

to appear before the Judge of our Circuit Court of the County of Isle of Wight, at the courthouse thereof, on the 20th. day of June, 1912, ------, to testify and the truth to say in behalf of the plaintiffs, ---------- in a certain controversy in our said court, before the said Judge depending and undetermined between Joseph H. Duck's, executors, et als. ---------- , Plaintiff , and J. Peter Holland et als, ---------- , Defendant , And have there this writ. Witness, A. S. JOHNSON, Clerk of our said court, at the court-house, the 5th. day of June, 1912.

Teste, A S Johnson Clerk.

NOTE—APPEAR BEFORE THE CLERK AND CLAIM YOUR ATTENDANCE.

CONTROVERSY

Duncan Exel

v. } SUBPOENA FOR WITNESS

Virginia Holland et al

CIRCUIT COURT
OF
ISLE OF WIGHT COUNTY

the 20 day of June 1912

Executed 6/14/12
R. Aug. Edwards
Sheff

COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ISLE OF WIGHT COUNTY—Greeting:

We command you that you summon John M. Ballard and Gavin Rawls, alleged executors of Joseph H. Duck, deceased, A. R. Butler, Thomas J. Bradshaw, Charles Hayes and Lafayette Rawls, Trustees of Beaver Dam Baptist Church, Mollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J. C. Bradshaw, her husband, E. Lulian Bradshaw and W. V.Bradshaw, her husband, Annie Maud Clements and E. A. Clements, her husband, and Irene A. Duck,

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules to be holden for the said Court on the 3rd. Monday in March, , 191 2, to answer a bill in chancery exhibited against them in our said Court by J. Peter Holland and Annie M. Holland, his wife, and Nannie V. Bradshaw and Jacob T. Bradshaw, her husband,

And have then and there this writ.

Witness, A. S. JOHNSON, Clerk of our said Court, at the Court-house, this 12th. day of March, 1912, , 191 , and in the 136th. year of the Commonwealth.

Testa, A. S. Johnson Clerk.

J. Peter Holland et als.

vs) Subpoena in Chancery

Joseph H. Duck's Exrs. et als.

Returnable to 2nd. March rules, 1912.

Executed the with-in Injunction order and summons this the 18th, day of March 1912, by serving true copies of same on A. R. Butler, Charles Hayes and Thomas Bradshaw in person with-in the County of Isle Of Wight-the other named Trustee of Beaver Dam church Lafayette Rawles, I found to be a resident of Nansemond County.

R. Augustus Edwards Sheri-ff

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT,

IN VACATION, MARCH 11TH. 1912.

J. Peter Holland, and Annie M. Holland, his wife, Nannie V. Bradshaw, and Jacob T. Bradshaw, her husband.

vs)

John M. Ballard and Gavin Rawls, ~~alleged~~ executors of Jos. H. Duck, deceased, A. R. Butler, Thomas J. Bradshaw, Charles Hayes, and Lafayette Rawls, Trustees of Beaver Dam Baptist Church, Mollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J. C. Bradshaw, her husband, E. Lulian Bradshaw and W. V. Bradshaw, her husband, Annie Maud Clements and E. A. Clements, her husband, and Irene A. Duck.

Upon the complainant, J. Peter Holland's entering into and acknowledging a bond, with surety deemed sufficient by the Clerk of this Court, in the penalty of $500.00, conditioned to pay all such costs as may be awarded against the complainants and all such damages as may be incurred in case the injunction shall be dissolved, an injunction is granted to the complainant, in compliance with the foregoing Bill filed herein, to restrain and prohibit John M. Ballard and Gavin Rawls, Executors of the alleged last will and testament of Joseph H. Duck, and all their agents from administering the estate of the said Joseph H. Duck, or any part thereof, and from paying out any money belonging to the said estate, which may now be in their hands or which may hereafter come into their hands or under their control until the further order of this court. But this injunction shall stand dissolved after ninety days unless sooner enlarged and extended. All of which is certified to the Clerk of this Court to be entered in ~~the~~ vacation in the Chancery Order Book.

B. D. White.

A copy, Teste, _____ Clerk.

The bond required in the above order has been executed, according to law.

Teste, _____ Clerk.

COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ISLE OF WIGHT COUNTY--Greeting;

We command you that you summon John M. Bollard and Gavin Rawls, alleged executors of Joseph H. Duck, deceased, A. R. Butler, Thomas J. Bradshaw, Charles Hayes and Lafayette Rawls, Trustees of Beaver Dam Baptist Church, Hollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J. C. Bradshaw, her husband, E. Lulian Bradshaw and E. V.Bradshaw, her husband, [illegible], Annie Maud Clements and E. A. Clements, her husband, and Irene A. Duck,

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules to be holden for the said Court on the 3rd. Monday in March, , 191 2, to answer a bill in chancery exhibited against them in our said Court by J. Peter Holland and Annie M. Holland, his wife, and Mernie V. Bradshaw and Jacob T. Bradshaw, her husband,

And have then and there this writ.

Witness, A. S. JOHNSON, Clerk of our said Court, at the Court-house, this 12th. day of March, 1912, , 191 , and in the 136th. year of the Commonwealth.

Teste, A. S. Johnson Clerk.

1-b

I hereby accept due , legal
and sufficient service
of the within notice.

Trustee of Beaver Dam
Baptist Church.

Lafayette Rawls

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT,

IN VACATION, MARCH 11TH. 1912.

J. Peter Holland, and Annie M. Holland, his wife, Nannie V. Bradshaw, and Jacob T. Bradshaw, her husband.

vs)

John M. Ballard and Gavin Rawls, alleged executors of Jos. H. Duck, deceased, A. R. Butler, Thomas J. Bradshaw, Charles Hayes, and Lafayette Rawls, Trustees of Beaver Dam Baptist Church, Mollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J. C. Bradshaw, her husband, E. Lulian Bradshaw and W. V. Bradshaw, her husband, Annie Maud Clements and B. A. Clements, her husband, and Irene A. Duck.

Upon the complainant, J. Peter Holland's entering into and acknowledging a bond, with surety deemed sufficient by the Clerk of this Court, in the penalty of $500.00, conditioned to pay all such costs as may be awarded against the complainants and all such damages as may be incurred in case the injunction shall be dissolved, an injunction is granted to the complainant, in compliance with the foregoing Bill filed herein, to restrain and prohibit John M. Ballard and Gavin Rawls, Executors of the alleged last will and testament of Joseph H. Duck, and all their agents from administering the estate of the said Joseph H. Duck, or any part thereof, and from paying out any money belonging to the said estate, which may now be in their hands or which may hereafter come into their hands or under their control until the further order of this court. But this injunction shall stand dissolved after ninety days unless sooner enlarged and extended. All of which is certified to the Clerk of this Court to be entered in xxx vacation in the Chancery Order Book.

B. D. White.

A copy, Teste, A Johnson Clerk.

The bond required in the above order has been executed, according to law.

Teste, A Johnson Clerk.

COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ISLE OF WIGHT COUNTY--Greeting;

We command you that you summon **John M. Ballard and Gavin Rawls, alleged executors of Joseph H. Duck, deceased, A. R. Butler, Thomas J. Bradshaw, Charles Hayes and Lafayette Rawles, Trustees of Beaver Dam Baptist Church, Mollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J. C. Bradshaw, her husband, E. Lulian Bradshaw and W. V. Bradshaw, her husband, Annie Maud Clements and E. A.Clements, her husband, and Irene A. Duck,**

to appear at the Clerk's Office of the Circuit Court of the County of Isle of Wight at the rules to be holden for the said Court on the **3rd.** Monday in **March, 1912,** , 191 , to answer a bill in chancery exhibited against **them** in our said Court by **J. Peter Holland, Annie M. Holland, his wife, Nannie V. Bradshaw, and Jacob T. Bradshaw, her husband,**

And have then and there this writ.

Witness, A. S. JOHNSON, Clerk of our said Court, at the Courthouse, this **12th.** day of **March,** , 191**2** , and in the **136th.** year of the Commonwealth.

Teste, A. S. Johnson Clerk.

We hereby accept due, legal and sufficient service of the within process

Mollie A. Lawrence

By _____, Counsel

T. Livy Lawrence,

By, _____, Counsel.

John M. Ballard and Gavin Rawls,
executors of Joseph H. Duck,

By _____, their counsel.

Mamie I. Bradshaw
J. C. Bradshaw
E. Julian Bradshaw
W. V. Bradshaw
Annie Maud Clements
E. A. Clements, and
Irene A. Duck

By _____ their Counsel

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ISLE OF WIGHT,

IN VACATION, MARCH 11TH. 1912.

J. Peter Holland, and Annie M. Holland, his wife, Nannie V. Bradshaw, and Jacob T. Bradshaw, her husband.

vs)

John M. Ballard and Gavin Rawls, alleged executors of Jos. H. Duck, deceased, A. R. Butler, Thomas J. Bradshaw, Charles Hayes, and Lafayette Rawls, Trustees of Beaver Dam Baptist Church, Mollie A. Lawrence and T. Livy Lawrence, her husband, Mamie I. Bradshaw and J. C. Bradshaw, her husband, E. Lulian Bradshaw and W. V. Bradshaw, her husband, Annie Maud Clements and E. A. Clements, her husband, and Irene A. Duck.

Upon the complainant, J. Peter Holland's entering into and acknowledging a bond, with surety deemed sufficient by the Clerk of this Court, in the penalty of $500.00, conditioned to pay all such costs as may be awarded against the complainants and all such damages as may be incurred in case the injunction shall be dissolved, an injunction is granted to the complainant, in compliance with the foregoing Bill filed herein, to restrain and prohibit John M. Ballard and Gavin Rawls, Executors of the alleged last will and testament of Joseph H. Duck, and all their agents from administering the estate of the said Joseph H. Duck, or any part thereof, and from paying out any money belonging to the said estate, which may now be in their hands or which may hereafter come into their hands or under their control until the further order of this court. But this injunction shall stand dissolved after ninety days unless sooner enlarged and extended. All of which is certified to the Clerk of this Court to be entered in vacation in the Chancery Order Book.

B. D. White.

A copy, Teste, O. Johnson Clerk.

The bond required in the above order has been executed, according to law.

Teste, O. Johnson Clerk.

The joint and separate answers of A.R.Butler,Thomas J.Bradshaw,Charles Hayes and Lafayette Rawls, Trustees of Beaver Dam Baptist Church,duly and legally appointed as such,to a bill in chancery exhibited against them and others by J.Peter Holland,Annie M.Holland,Nannie V.Bradshaw and J.T. Bradshaw in the Circuit Court for Isle of Wight County,Virginia.

These respondents,reserving to themselves the benefit of all just exceptions to the said bill,for answer thereto or to so much thereof as they are advised that it is material they should answer,answer and say:

(1) That the paper writing which has been admitted to probate in the office of the Clerk of the Circuit court of the said county as the last will and testament of the late Jos.H.Duck,as alleged in said bill,is the true last will and testament of the said Joseph H.Duck and as such was duly and lawfully admitted to probate as stated in said bill,and the allegation of the bill that the said paper writing is not the will of the deceased Jos.H.Duck is hereby denied.

(2) That the bequest contained in said will bequeathing the sum of $2000. to your respondents,for the purposes and upon the conditions named, is a perfectly lawful and valid bequest,and is free from uncertainty either as to beneficiary or beneficiaries,or as to the purpose for which same is bequeathed or the conditions upon which the same is bequeathed,and respondents deny the allegation in the bill that the said legacy should not pass on account of uncertainty as to beneficiaries or beneficiary,but on the contrary charge that the bequest is lawful and valid in every respect and should be paid over to your respondents for the purpose indicated.

Your respondents therefore pray that the order admitting the said paper writing to probabte as the last will and testament of said Jos.H.Duck be not set aside,but that said paper be declared and decreed by this court to be the last will and testament of the said Jos.H.Duck,and that the court declare and decree that the legacy therein bequeathed to your respondents as Trustees for Beaver Dam Church Baptist Church is valid and lawful and that the same be paid over to your respondents by the Executors named in said will. Notice is hereby given that respondents will ask the court to allow a proper fee to the attorney for respondents to be paid out of the funds belonging to the estate of the said Jos.H.Duck in the hands of said Executors.

And now having fully answered the complainants' bill, respondents pray to be hence dismissed with their reasonable costs in this behalf expended.

* A. R. Butler
Thos J Brotherton
* C. F. Green
Lafayette Bowles

TRUSTEES OF BEAVER DAM BAPTIST CHURCH.

J. C. Parker p.d.

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Harland, et als

vs.

Answer of Trustees for Brady Dam Baptist Church

Leach's Executrix, et als

Filed 1st May 1912

J. C. PARKER,
ATTORNEY-AT-LAW,
Franklin, Va.

IN THE CIRCUIT COURTb OF ISLE OF WIGHT COUNTY,
VIRGINIA.

J. Peter Holland et als — Complainants.

v.

John M. Ballard, Gavin Rawls, executors, et als, Defendants.

The joint and separate answers of Mollie A. Lawrence and T. Livy Lawrence to a bill in equity exhibited against them and others in the Circuit Court of Isle of Wight County, Virginia, by J. Peter Holland and others.

These respondents, saving and reserving to themselves the benefit of all exceptions or objections which may be had or taken to the many errors, omissions and uncertainties in the said bill contained, for answer thereto, or to so much thereof as they are advised it is material they should answer, answer and say:

That true it is that Joseph H. Duck departed this life on or about the 11th day of October, 1911, leaving as his heirs at law the persons named in the said bill.

Your respondents are not sufficiently advised as to the facts to make any denial or admission as to the intestacy of the said Joseph H. Duck, or as to the allegation in said bill that the bequest or legacy mentioned in the will of the said Joseph H. Duck is insufficient.

Yourrespondents deny that the said J. Peter Holland is entitlted to one-half of the said estate. They say that he can be entitled to no greater estate than his grantor, Thomas Hill; that the said Thomas Hill was at most entitled only to an un-

divided one-third interest in the estate of the said Jospeh H. Duck.

If the allegation in complainant's bill with reference to advancements made by the said Joseph H. Duck to some of the heirs at law and distributees was intended to apply to these respondents they deny the same and say that at no time has the said Joseph H. Duck made any advancements, large or small, of any kind whatever to them, and that they cannot, therefore be held to account for any such advancements.

Your respondents do not believe that there is much, if any indebtedness against the estate of the said Joseph H. Duck, and they therefore, see no valid objection to having a distribution of the monies now in the hands of the executors, or a large portion thereof, made to the persons entitled thereto. There is certainly no reason, so far as the complainants are concerned, why the same should not be made except a desire to have the amount withheld from the parties entitled thereto, and it is, therefore? denied that the payment by said executors can be either to the prejudice or damage of the complainants.

All other allegations in the said bill contained, if any therebe, which have not herein been expressly answered, are either denied or not admitted, and strict proof as to each is expressly called for.

And now having answered the complainants' bill, these respondents pray that they may be hence dismissed with their reasonable cost, etc.

Notice is hereby given that the Court will be asked to allow reasonable attorneys fee to Parke P. Deans, counsel for these respondents, for services rendered and to be rendered in this suit, out of any funds coming under the control of the Court in this cause.

And these respondents will ever pray.

Parke P. Deans p.q.

Orville A. Lawrence
T. L. Lawrence

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Holland et al

v.

Duck's Executors, et als.

Answer of Mollie A. Lawrence and T. Livy Lawrence.

Filed 14 May 1912

PARKE P. DEANS
ATTORNEY AT LAW
WINDSOR, VA.

SUFFOLK PRINTING AND STATIONERY CO., SUFFOLK, VA.

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY,

VIRGINIA.

J. Peter Holland et als----------Complainants.

vs.

John M. Ballard, Gavin Rawles, executors, et als----Defendants.

The answer of John M. Ballard and Gavin Rawles, executors of the last will and testament of Joseph H. Duck, deceased, to a bill of complaint exhibited against them and others in the Circuit Court of Isle of Wight County, Virginia.

These respondents, reserving to themselves the benefit of all just exception to the said bill of complaint, for answer thereto or to so much thereof as they are advised it is material they should answer, answer and say:

(1) That it is true that Joseph H. Duck, of Isle of Wight County, Virginia, departed this life in the said County of Isle of Wight on the 11th day of October, 1911, leaving as his only heirs-at-law:

Nannie V. Bradshaw, Mollie A. Lawrence, Etta Lulian Bradshaw, Mamie I. Bradshaw and Annie Maud Clements, who are the only descendants of I. W. Duck, deceased, the only brother of said Joseph H. Duck, deceased, and Thomas W. Hill, who is the only descendant of Martha Beamon, deceased, who was the only sister of said Joseph H. Duck, deceased.

(2) That while it is true that said Joseph H. Duck did not dispose of his entire estate by will, it is not true that he died intestate. But on the other hand these respondents are advised and charge that he left a will, duly executed, nominating and appointing them as executors, and bequeathing Two Thousand Dollars ($2000.00) to the Trustees of Beaver Dam Baptist Church of Isle of Wight County, which said will was admitted to probate in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia, on the 6th day of November, 1911, a copy of which is made a part of complainants' bill marked "Exhibit A".

(3) These respondents are advised and charge that said paper writing is the true last will and testament of the said Joseph H. Duck, deceased, and being so advised have performed nearly all the duties of such executors, and are ready to make distribution of the estate whenever authorized to do so.

(4) That the legacy therein mentioned is certain and definite and can be shown conclusively to apply to only one Baptist Church in Isle of Wight County known as Beaver Dam Baptist Church, of which the mother of said Joseph H. Duck was a member at the time of her death, and whose trustees were at the time said will was executed the trustees named in said will.

(5) It is true that there is some contention among the parties entitled to share in the personal estate as to ~~to~~ what is a proper distribution thereof, but these respondents are advised and charge that said estate should be distributed, after paying the debts of decedent, the cost of administration and the specific legacy herein mentioned, as follows:

One-third part thereof to Nannie V. Bradshaw, who is now living, the only daughter of I. W. Duck, deceased, the only brother of said Joseph H. Duck, deceased.
One-third part thereof to Thomas W. Hill, who is now living, the only descendant of Martha Beamon, deceased, who was the only sister of Joseph H. Duck, deceased.
One-third part thereof to the children of Dr. J. J. Duck, deceased, who was the only son of I. W. Duck, deceased, the only brother of Joseph H. Duck, deceased.
However, these respondents desire and are anxious to properly distribute said estate and pray that they be instructed by the Court as to their duty in the premises.

(6) That these respondents are informed that J. Peter Holland has purchased the interest of said Thomas W. Hill as charged in said bill, but neither affirm nor deny the same, and strict proof thereof is called for.

(7) That these respondents neither affirm nor deny that any of the heirs-at-law and distributees of the estate of Joseph H. Duck have received any advancements from said estate and strict proof thereof is called for.

(8) That it is true that these respondents have collected a large sum of money- to-wit: $ _____.
In fact they have realized on nearly all of the assets of said estate and have converted the same into money.

(9) That it is also true that at the earnest request of all of the heirs of said estate these respondents agreed to distribute a part thereof,but reserving enough to meet any contingency that might arise in the settlement of the estate and with this purpose in view called a meeting of all of the heirs to be held at the office of their counsel on the 6th day of March, 1912. But on that day they were

notified by J. Peter Holland, as assignee of Thomas W. Hill, and the said Nannie V. Bradshaw that objection was raised to any distribution being made and immediately thereafter this suit was instituted.

(10) That after this suit was instituted these respondents deposited in the Farmers Bank of Nansemond, of Suffolk, Virginia, at interest at the rate of 4% per annum, so much of the funds in hand as they believed would not be necessary for the current expenses and taxes. These respondents, therefore, pray that they be instructed as to what further steps are necessary in the premises.

And now having fully answered the said complainants' bill these respondents pray to be hence dismissed with their reasonable costs by them in this behalf expended.

John W. Ballard
Jamie Rawls
Executors of Joseph H. Duck.
by
James L. Parker
their attorney.

James L. Parker
Counsel.

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J. Peter Holland et als.

Vs. Answer of Executors.

John M. Ballard and Gavin Rawles, Executors, et als.

Filed 1st May 1912

JAMES U. BURGES
ATTORNEY AT LAW
SUFFOLK, VA.

SUFFOLK PRINTING AND STATIONERY CO.

VIRGINIA:

IN THE CIRCUIT COURT OF ISLE OF WIGHT COUNTY.

MAMIE I. BRADSHAW and J. C. BRADSHAW, her husband, E. LULIAN BRADSHAW and W. V. BRADSHAW, her husband, ANNIE MAUD CLEMENTS and E. A. CLEMENTS, her husband, and IRENE A. DUCK, Plaintiffs,

vs.

J. PETER HOLLAND and ANNIE M. HOLLAND, his wife, NANNIE V. BRADSHAW and JACOB T. BRADSHAW, her husband, MOLLIE A. LAWRENCE and T. LIVY LAWRENCE, her husband, Defendants.

The joint and separate answers of Mamie I. Bradshaw, J. C. Bradshaw, E. Lulian Bradshaw, W. V. Bradshaw, Annie Maud Clements, E. A. Clements and Irene A. Duck to a bill in equity exhibited against them and others in the Circuit Court of Isle of Wight County, Virginia, by J. Peter Holland and others.

These respondents, saving and reserving to themselves the benefit of all exceptions or objections which may be had or taken to the many errors, omissions and uncertainties in the said bill contained, for answer thereto, or to so much thereof as they are advised it is material they should answer, answer and say:

That true it is that Joseph H. Duck departed this life on or about the 11th day of October, 1911, leaving as his heirs at law the persons named in the said bill.

Your respondents are not sufficiently advised as to the facts to make any denial or admission as to the intestacy of the said Joseph H. Duck, or as to the allegation in said bill

that the bequest or legacy mentioned in the will of the said Joseph H. Duck is insufficient.

Your respondents deny that the said J. Peter Holland is entitled to one-half of the said estate. They say that he can be entitled to no greater estate than his grantor, Thomas Hill; that the said Thomas Hill was at most entitled only to an undivided one-third interest in the estate of the said Joseph H. Duck.

If the allegation in complainant's bill with reference to advancements made by the said Joseph H. Duck to some of the heirs at law and distributees was intended to apply to these respondents, they deny the same and say that at no time has the said Joseph H. Duck made any advancements, large or small, of any kind whatever to them, and that they cannot, therefore, be held to account for any such advancements.

Your respondents do not believe that there is much if any indebtedness against the estate of the said Joseph H. Duck, and they, therefore, see no valid objection to having a distribution of the monies now in the hands of the executors, or a large portion thereof, made to the persons entitled thereto. There is certainly no reason, so far as the complainants are concerned, why the same should not be made except a desire to have the amount withheld from the parties entitled thereto, and it is, therefore, denied that the payment by said executors can be either to the prejudice or damage of the complainants.

All other allegations in the said bill contained, if any there be, which have not herein been expressly answered, are either denied or not admitted, and strict proof as to each is expressly called for.

And now having answered the complainant's bill, these respondents pray that they may be hence dismissed with their reasonable costs, etc.

Notice is hereby given that the court will be asked to

allow reasonable attorneys fee to John N. Sebrell, Jr., counsel for these respondents, for services rendered and to be rendered in this suit, out of any funds coming under the control of the court in this cause.

And these respondents will ever pray.

Frank S. Bradshaw,
J. C. Bradshaw,
E. Lulian Bradshaw,
H. V. Bradshaw,
Annie Maud Clements,
E. A. Clements,
Irene A. Duck.

By John N. Sebrell, Jr.
Their Counsel.

John N. Sebrell, Jr.
p.q.

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VIRGINIA: IN THE CIRCUIT COURT OF ISLE OF WIGHT CO.

MAMIE I. BRADSHAW AND OTHERS,

vs.

J. PETER HOLLAND AND OTHERS

Joint and Separate Answers of Mamie I. Bradshaw and others.

1st May 1912

Filed

JOHN N. SEBRELL, JR.
Attorney and Counsellor at Law
NORFOLK, VIRGINIA
525-527 SEABOARD BANK BUILDING

DOMINION PAPER CO., NORFOLK, VA

TO THE HONORABLE B. D. WHITE,

Judge of the Circuit Court of Isle of Wight County, Virginia.

Humbly complaining, showeth unto the court your complainants J. Peter Holland, and Annie M. Holland, his wife, Nannie V. Bradshaw, and Jacob T. Bradshaw, her husband, the following case:

Your complainants say that Joseph H. Duck, of said county, departed this life in said county, on or about the 11th day of October, 1911, intestate. The said Joseph H. Duck leaving as his heirs-at-law the said Nannie V. Bradshaw, Mollie A. Lawrence, E. Lulian Bradshaw, Annie Maud Clements, and Mamie I. Bradshaw, who were the descendants of I. W. Duck, deceased, the only brother of said Joseph H. Duck, and also Thomas W. Hill, who was the only descendant of Martha Beamon, deceased, who was the only sister of said Joseph H. Duck. Since the death of the said Joseph H. Duck a paper writing purporting to be his last will and testament has been admitted to probate in the Clerk's Office of the Circuit Court of said county, whereby the said Joseph H. Duck gives the sum of two thousand dollars to A. R. Butler, Thomas J. Bradshaw, Charles Hayes, and Lafayette Rawls, trustees of Beaver Dam Baptist Church, on certain conditions named in said paper writing; that the order admitting the said paper to probate was made on the--2th---day of November---1[illegible]

An attested copy of said paper is herewith filed, marked Exhibit "A" and prayed to be read as a part of this bill. By said writing John M. Ballard and Gavin Rawles, were named as executors of said alleged will or paper writing, have qualified as such in said Clerk's Office, on the----------day of ---------- ----,1911.

Your complainants allege and charge that the paper writing aforesaid is not the will of the decedent Joseph H. Duck.

Your complainants further charge that even though the said paper writing was the will of the decedent, the bequest or legacy therein mentioned could not pass on account of uncertainty as to the beneficiary or beneficiaries.

Your complainants further say that there is a serious contention among the parties entitled to share in the real and personal estate as to what is a proper division of the proceeds thereof.

Your complainant J. Peter Holland is informed and believes and therefore charges that he is entitled, for the reasons stated below, to one-half of said estate, he having purchased by deed, all the right, title and interest of the said Thomas W. Hill, in said estate, a copy of which deed is herewith filed, marked Exhibit "B" and prayed to be read as a part of this bill.

Your complainants further say that they are informed and believe and therefore charge that some of the heirs-at-law and distributees of said estate of Joseph H. Duck have received from said Joseph H. Duck, in his life-time, large advancements of said estate, which your complainant insists they should account for as such advancements.

Your complainants further charge that one year has not elapsed since the qualification of the said alleged executors of the said alleged paper writing or will.

Your complainants further charge that notwithstanding the above facts, they are informed and believe and therefore charge that the said executors or alleged executors of said paper writing, have collected and now have on hand large sums of money belonging to said estate, and are about to proceed to distribute and pay out the same to certain such parties as they think are entitled to receive the same, and in such proprtions as they themselves may decide, and that in fact they are now administering the affairs of the estate, and paying out funds belonging to the same. All of which acts and doings are to the great prejudice and damage of the interest of the complainants in said estate, and that unless they are restrained and prohibited they will proceed forthwith to pay out and distribute all the funds in their hands, belonging to said estate.

In tender consideration whereof, and forasmuch as your orators are without remedy in the premises, save by the aid of a court of equity, where such matters are alone and properly cognizable, your orators pray:

That the said John M. Ballard and Gavin Rawles, Executors of the said paperwriting, A. R. Butler, Thomas J. Bradshaw, Charles Hayes, and Lafayette Rawls, trustees of Beaver Dam Baptist Church,

and named as such in said paper writing, Mollie A. Lawrence, and T. Livie Lawrence her husband, Mamie I. Bradshaw, and J. C. Bradshaw, her husband, E. Lulian Bradshaw, and W. V. Bradshaw, her husband, Annie Maud Clements, and E. A. Clements, her husband, and Irene A. Duck, the widow of said J. J. Duck may be made parties defendant to this bill, and required to answer same, though an answer under oath is hereby waived; that proper process may issue; that all proper accounts and depositions may be taken; that an issue devis-tavit vel non be made up and tried by a jury at the bar of this court to ascertain and try whether the said paper writing, admitted to probate as aforesaid, is or is not the last true will and testament of the said Joseph H. Duck; that the said probate of said paper writing be set aside; that the said paper writing be declared and decreed not to be the last will and testament of the said Joseph H. Duck; that the court may determine who are the legal heirs-at-law of the said Joseph H. Duck, and in what proportion they shall receive any part of his estate; that the court may determine whether or not any of said parties in interest have received any proportion of said estate by way of advancement, and if so that they may be required to account for same, before taking any further part of said estate; and in the event the said paper writing should be decreed to be the last true will and testament of said Joseph H. Duck, whether the said clause therein bequeathing to certain trustees of Beaver Dam Baptist Church is a valid bequest or legacy, and whether the same should be paid or not; that the said John M. Ballard and Gavin Rawles, Executors of the said alleged will or paper writing of Joseph H. Duck, may be restrained and prohibited from paying out any of the funds belonging to said estate, until this court shall have heard and determined the issues above mentioned; and for all such other, further and generalrelief as this case may require, or which to equity may seem meet; and your orator will ever pray, etc.,

Notice is hereby given that the court will be asked to allow a proper counsel fee for services rendered by counsel for the complainants in this cause.

J. Peter Holland
annie M. Holland
Mamie I. Bradshaw
Jacob T. Bradshaw

By J. P. Holland & R. H. Rawles } Counsel

Virginia:

City of Suffolk to-wit:

I, Hugh L. Holland a Notary Public, for the City aforesaid, in the State of Virginia, do certify that J. Peter Holland, whose name is signed to the foregoing bill has this day personally appeared before me, in my City and after being duly sworn, did solemnly swear that the facts stated in the foregoing bill as coming of his knowledge are true, and that all other facts therein stated as coming from knowledge or information derived from others he believes to be true.

Given under my hand this - 11th day of March, 1912. My term of office expires on the 26th day of October 1915.

Hugh L. Holland
Notary Public

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J. Peter Holland, et. als.

v. IN CHANCERY.

John M. Ballard et. als.

BILL OF COMPLAINT.

2nd March 1912
Proof ordered & entered
de nisi

3rd March 1913
Case set down for hearing

R. H. RAWLES,
ATTORNEY - AT - LAW,
SUFFOLK, VA.

SUFFOLK HERALD--PRINTERS, PUBLISHERS, STATIONERS

X

We the jury find that the
whole of the paper writing
dated July 29th 1908
admitted to probate as the last will and testament
of Jos. H. Duck, deceased, is the true
last will and testament
of the said Jos. H. Duck.

R. N. Turner, Foreman