1902-011
Nansemond Co (Suffolk) Chancery Causes: Ira Ann White vs Edward E. Holland et al

Whitfield, Hare, Berkley, Bland, Vincent, Lucke, Barnes, Perden, Folder 1 of 2
Laurence, Forbes, Howell, Walden, Saunders, Morgan, Beaton,
Savage, Reed, Gurn, Poole, Jones, Rawls, West, Langston,
Jenkins, Reidell, Hunter, Walton, Reid, Lawrence, Bailey, Hill, Puckett
Lee, Barrett, Edwards, Cutchins, Scott, King, Winston, Copeland,
Jordan, Everett, Bruce, Betten, Keller, Dennis, Rawles, Boone,
Bacley

Hollands Witnesses in the Nare Mill Case.

1	Frances Whitfield	Clk	1.46
2	John E Vincent	J E Vincent 2/14	294
3	I A Luke		222
4	D L Darden	D L Darden 2/14	456
5	I E Laurence	Clk	98
6	Jachin Forbes	Delivered to E E Holland.	106
7	T L G Walden	T L G	344
8	Rev R N Holland	R N H 2/25/9x	66
9	Nardy Holland	To J E Hand 2/20	82
10	William F Morgan	2/17 W F Morgan	390
11	W J Holland Jr	Jno Haskett 2/20	66
12	S W Holland	S W Holland 2/20	66
13	I R Holland	To J E Hand 2/20	66
14	Bettie Savage	To Dr. Hall 2/13	90
15	Paul C Holland	P. C H	66
16	E T Holland	E T H	178
17	A I Peele	A. I. P	342
18	I Judson West	Jud West	106
19	Z T Langston	Z. T L	228
20	John D Langston	J T L	228
21	Luther Rawls	L. Rawls	104
22	I E Holland	J E H	66
23	Robert Reddell	To Jno Haskett 2/20	114
24	S R B Howell	S R B H	74
25	S T Jenkins	Mailed to Carrsville	226
26	B D Jones	B D J	114

A L Gomez Clerk

Holland & others
vs
Hare.

Hollands Cost.

Sob G Hollands Cost

October	1 Spa 20 1 Copy 10	30		
21st	1 " 20 2 Copies 20	40		
	1 " 20 1 Copy 10.	30		
	1 " 20 1 " 10	30		
	1 " 20 28 Copies c10 ¢	300		
	Clerks Costs for Oct 21st			$4.30
	1 Spa 20. 2 Copies c10	40		
December	1 " 20. 46 " c10 ¢	480		
Term	Empanneling Jury	75		
	Swearing 38 witnesses c 30¢	1140		
	Entering 7 Court Orders c 36¢	252		
	Pay Cost 20 Copy 20 filing papers 25	65		
	filing exhibit	15		
	Clerk's Cost for Decr.			$2067
	Total Clerks Cost			$2497

Sheriff Nansd.

Octo	31 Spas c 20 ¢			6,20
Decr	46 " c 20	920		
	Venire Facias	150		
	Shff for Dec			1070
	Total Sheriffs Costs,			$16.90
	Shff Norfolk Co. Oct 21st	40		
	" " " Dec Term	40		
	Total Shff Norfolk Co,			80

Witnesses

22	Francis Whitfield 50	Mileage 96	146	
17	Charlie Bland 50	" 56	106	
	John E Vincent 150	Mileage 144	294	
	I A Luke 150	Mileage 72	222	
17	Dr J M Baines 50	Mileage 56	106	
	John A Gunn		50	
	L L Darden 200	Mileage 256	456	
		Carried over	~~$1496~~ 13.80	

			and brot over		$13 80
16	Jonas E Laurence	50	Mileage 48		98
17	Jachin Forbes	50	" 56		106
18	W H Howell	50	" 64		114
18	T L G Walden	150	" 194		344
	~~Archie Saunders~~				~~66~~
12	R H Holland	50	" 16		66
14	Hardy Holland	50	" 32		82
	Wm F Morgan	150	Mileage 240		390
12	Wilson J Holland	50	" 16		66
12	S W Holland	50	" 16		66
12	I R Holland	50	" 16		66
	John T Beaton	150.	Mileage 168		318
15	Bettie Savage	50	" 40		90
18	Paul L Everett	150	" 192		342
12	Paul C Holland	50	" 16		66
22	Milly E Howell	150	" 288		438
	A I Reid				150
12	A T Holland	50	" 16		66
12	E T Holland	150	" 48		198
	A I Peel	150	Mileage 192		342
12	B D Jones	50	" 64		114
	Dr J E Rawles				50
17	J Judson West	50	" 56		106
	Jesse W Copeland	150	Mileage 72		222
	E T Jordan				50
	Z T Langston	100	Mileage 128		228
18	Luther Rawles	50	" 64		114
12	Jas E Holland	50	" 16		66
18	Jethro Haskett	50	" 64		114
18	Jno Haskett	50	" 64		114
18	Robert Rendell	50	" 64		114
	Jno D Langston	100	Mileage 128		228
	Elisha Holland	50	Mileage 56		106
13	S R B Howell	50	" 24		74
	T T Jenkins	50.	Mileage 176		226
17	Wm H Holland	50	" 56		106
			Total due witnesses		~~$526.6~~ 68.26

Recapitulation
Total Atty Gen's Cost- $24.97
Sheriff's " 16.90
Norfolk " 8.80
Witnesses " 52.56
Dr. Holland's bill Cost- 2.50+2.33
$95.23 + 2.50 = $97.73

Ira Ann Whites Cost

	Clerk			
	1 Spa 20 1 Copy 10		30	
1901	1 " 20 1 " 10		30	
October	1 " 20 4 Copies 40 c		60	
Term	1 " 20 31 Copies 3.10 c		330	
	Due clerk for Octo 21st.			$4.50
	Clerk			
	1 Spa 20. 4 Copies 40 c		60	
December	1 " 20 1 Copy 10		30	
Term	1 " 20 32 Copies 3.20		340	
	1 " 20 11 Copies Rule 1.10		130	
	Swearing 21 witnesses c 30 c		630	
	Due clerk for Decr. Term			11.90
	Total due clerk			$16.40
	Sheriff of Nansd			
October	33 Spas c 20 c		660	6.60
	Sheriff Nansd			
"	31 Spas c 20		620	
December	4 " c 20		80	
	1 " c 20		20	
	" " Rule 20 c		220	9.40
	Due Shff Nansd.			$16.00
	Sheriff Norfolk Co			
	2 Spas			.40
	Witnesses			
22	Mills E Howell 50 mileage	96	146	
	Silas Walden 50. Mileage	80	130	
	William Reed 250 "	400	650	
	Carried over		$~~9.76~~	
			926	

	~~Mat Thos Bailey~~ amt brot over			$926
	Jeff E Norvell 50.	mileay 80.		130
	Edward Darden 200	" 320		520
	Mack Barrott 150	" 240		390
	Wm L Holland 50	" 96		146
12	P L Holland 50	" 16		66
14	Mary B Scott 50	" 32		82
16	Elisha Darden 50	" 48		98
	W A King			50
	I A Luke 50	mileaye 24		74
	Leoney Hunter 50	" 96		156
	A L Harrell 150.			150
	Walter Weaver 50	mileaye 80		130
	Jim Hare 250.	" 1400		650
16	Annie Ashe 50	" 32		98
14	Meredith White 50	" 32		82
	B M Bruce			50
14	Joe Keller allowin Edward 100 +	64		164
				50
	Total Witnesses			$412

Recapitulation

Total due clerk by Ira A White	$16.40	
" " Sheriff " " " "	1600	
" " " Nor Co " " " "	40	
" " Witnesses " " " "	412	
Total Cost of Ira Ann White		$7492

To E. E. Holland, Jr & J. Holland et al.

Take notice that on Tuesday April 22 1902 We shall make application to the Circuit Court of Nansemond County to make an order for the allowance of a fee to counsel for complainant to be paid out of the estate of Dempsy Stone dec'd, in the Chancery suit of Jno Lee White vs Jno E. Holland et al.

Jno Lee White
By counsel

White

v.

Hacund

Service
accepted in
open court

Witnesses writ of Dempsey Hall.

× Frances Whitfield. Sup ducestecum
to bring old writ of Hall

Charlie Blair

Jno. E. Vincent

J. A. Luke

J. S. H. Barnes

Jno A. Gunn

Dempsey L. Landers

Jonas E. Laurence

× T. S. Jenkins Reynolds NC

Jackson Perkins

W. R. Howell

(Wm Howell of R)

T. L. G. Walden

Richard Saunders

R. N. Hallard

Mary Hallard

William Morgan

Wilson J. Hallard

E. W. Hallard

J. R. Hallard

John Benton

Peter Savage (Colr) of Wilson

John Benton

Paul L Barnett

Paul C. Holland

Mills E. Howell
A. J. Reed
A. J. Holland
E. J. Holland
a. J. Peele
B. D. Jones
Dr. J. E. Rawls

Witnesses in Chancery Suit of Ira Ann White Vs Job G Holland & others

Defendants Witnesses
Summoned for Act. 21st-
Frances Whitfield Duces Tecum
Berkley Wm S
Charlie Bland
John E Vincent
I A Luke
Dr. T N Barnes
John A Gunn
Dempsey L Darden
Jonas E Laurence
Jackson Forbes
W N Howell
T L G Malden
Richard Saunders
R N Holland
Nardy Holland
William Morgan
Wilson J Holland
S W Holland
I R Holland
John T Bealon
Bettie Savage (Cold) of Wilson
Paul L Everett
Paul C Holland
Mills E Howell
A I Reed
A T Holland
E T Holland

Ira Ann White
vs Witnesses
Sol G Holland &c &c

A L Bell
W D Sims
Dr. O. Sims
J Judson Wells

MEMORANDUM FOR SUIT IN CHANCERY.

Nansemond County, to-wit:,
In the Circuit Court, Second April Rules, 1901.

Ira Ann White, ----------Complainant.

vs. IN CHANCERY.

Job G. Holland and Edward E. Holland, executors of Dempsy Hare, deceased; Job G. Holland and Edward E. Holland, trustees; and Job G. Holland, Edward E. Holland, Frances Whitfield adult defendants, and Pretlow Holland, infant child of Edward E. Holland, and Gilmer G. Holland and Alar Job Holland, infant childred of Job G. Holland, infant defendants.
----------DEfendants.

The Clerk will appoint J. U. Burges, attorney at law, guardian ad litem for the infant defendants, and will issue process against all of these defendants to the Second April Rules, 1901.

February, 28th., 1901.

Say $1,50 Paid

W. H. Sargeant, jr.
Robt. W. Hutchens
Solicitors for Complainant.

Sargeant
Withers } Sol

Ira Ann White
vs In Chancery
Job G Holland & others &c

Memorandum

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Job G Holland and Edward E Holland executors of Dempsy Nan deceased; Job G Holland and Edward E Holland trustees; and Job G Holland Edward E Holland Frances Whitfield adult defendants and Prether Holland infant child of Edward E Holland and Gilmer G Holland and Alar Jo L Holland infant children of Job G Holland infant defendants

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the Third Monday in April 1901, to answer a Bill in Chancery, exhibited against them in the said Court by Ira Ann White

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this 28th day of February 1901, in the 125th year of the Commonwealth.

A copy—Teste:
A P Gomer, CLERK.

Teste:
A P Gomer, CLERK.

W. W. Sargeant Jr
Robt Whithers } p. q.

A Copy for
Frances Whitfield

vs. } In Chancery.

1901

April Rules.

Thurd Monday.

Nansemond Circuit Court.

Process Book No. 2

Page 206

W. W. Sargeant Jr
Robt Whithers } p. q.

A Copy for
Frances Whitfield

vs. } In Chancery.

Filed in my office
March 4th 1901
Wm. Baker Clerk
by [illegible] D.C.

CHANCERY SUMMONS.

The Commonwealth of Virginia,

TO THE SHERIFF OF NANSEMOND COUNTY—GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON Job G Holland and Edward E Holland, Executors of Dempsy Nave, deceased; Job G Holland and Edward E Holland Trustees; and Job G Holland Edward E Holland Frances Whitfield a duet-defendants and Pretlow Holland infant-child of Edward E Holland, and Gilmer G Holland and Alex Job Holland, infant-children of Job G Holland, infant-defendants

to appear at the Clerk's Office of the Circuit Court of Nansemond County, at the Rules to be held for the said Court, on the Third Monday in April 1901, to answer a Bill in Chancery, exhibited against them in the said Court by Ina Ann White

and have then and there this summons.

Witness, A. P. GOMER, Clerk of our said Court, at his office, this 28th day of February 1901, in the 125th year of the Commonwealth.

A copy—Teste:

_____, CLERK.

Teste:

A. P. Gomer, CLERK.

Executed this the 8th day of March 1901, by delivering a true copy of the within process to J. G. Holland & E. E. Holland & Trustees and to Job G. Holland & Admrs in person

J. F. Bryan, D.S.
for R. H. Walker, Sheriff

Executed this the 7th day of March 1901, by delivering a true copy of the within process, to E. E. Holland & Trustees and to E. E. Holland & Admrs. Executrix. Copies for Trustees & Admrs. Failed to find J. G. Holland & Admrs. Also failed to find Benjamin Brothers. Not found in my county. Wm. B. Sargeant, Sh'ff

Wm Sargeant Jr
Robt Worthen } p. q.

Ira Ann White

vs. } In Chancery.

Job G Holland &
E E Holland Exs & others

1901

April Rules.

Third Monday.

Nansemond Circuit Court.

Process Book No. 2

Page 206

In the Circuit Court of
Nansemond County on the 28th
day of February 1901
Ira Ann White
vs } In Chancery
Job G Holland and Edward E Holland
executors of Dempsy Hare deceased; Job G
Holland and Edward E Holland trustees;
and Job G Holland Edward E Holland
Frances Whitfield adult defendants
and Preston Holland infant child of
Edward E Holland and Gilmer G Holland
and Alan Job Holland infant children
of Job G Holland infant defendants

On motion of the Complainant
by Counsel J W Burges a discreet and
competent attorney at law is assigned
guardian to the defendants Preston
Holland, Gilmer G Holland and Alan
Job Holland who are infants under
the age of twenty one years to defend
them in this suit.

J P Gomes Clerk

Order
appointing Guard
ad litem

Ira Ann White

vs.

(Enter names of all the parties)

E.E.Holland and Job G. Holland, trustees et als.

This cause came on this day to be heard on the bill and exhibits filed, the answer of E.E.Holland and Job G. Holland, trustees, and E.E.Holland and Job G. Holland executors, and E.E.Holland and Job G. Holland as individuals, the answer of Frances Whitfield, and the answer of Pretlow Holland, Gilmer Holland and Alar Job Holland, the infant defendants by J.U.Burgess, their guardian ad litem, duly appointed at rules according to law, 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 Dempsy Hare deceased be the true last will and testament of the said Dempsy Hare, and if any part, how much of the said paper writing is the true will of the said Dempsy Hare; and on the trial of the said issue the said defendants, E. E.HOlland and Job G. Holland, trustees, E .E.Holland and Job G. Holland executors and E.E.Holland and Job G. Holland as individuals, Frances Whitfield and Pretlow Holland, Gilmer G. Holland,and Alar Job Holland are to maintain the affirmative, and the said Plaintiff, Ira Ann ~~Whitfield~~ White, the negative.

Entered on Chancery
Order Book No 3
Page 391.

Oct 31/1901

Decree

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, NANSEMOND COUNTY, TO-WIT:-
In Vacation, this 20th day of May, 1902.

IRA ANN WHITE----------Complainant.

vs. DECREE.

F.F.HOLLAND, JOB G.HOLLAND, et al.----------Defendants.

By consent of all parties to this suit, it being a chancery cause pending in the Circuit Court of Nansemond County, duly entered of record, it is ordered that this cause be submitted to the judge of the Circuit Court of Nansemond County for such decision and decree therein in vacation as might be made in term.

Robert R. Willis

To the Clerk of the
Circuit Court of
Nansemond County.

WHITE

v.

HOLLAND, et al.

ENTER; MAY 20, 1902.

Robt R Rawles

We consent to the within decree.

Robt. N. Nathes
Counsel for Complainant

D. N. Burgess
Guardian ad litem
for infant defendants

R. H Rawles
S E. Everett
D. N. Burgess
} Counsel for Defendant

Entered in Chancery
Order Book No 3 Page 428.

V I R G I N I A

In the Circuit Court of the County of Nansemond: In Vacation on the 20th. day of May, 1902.

IRA ANN WHITE

VS- FINAL DECREE (enter names of all the parties)

M.M.HOLLAND AND JOB. G. HOLLAND ET ALS.

by consent of all parties entering of record

This cause came on this day to be finally 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 31st. day of October, 1901, having been submitted to a jury duly empannelled and sworn according to law and said issue haing been decided by said jury in words and figures as follows, to wit: "We the jury find that the whole of the paper writing (dated January 4th. 1901) admitted to probate as the last will and testament of Dempsey Hare, deceased, is the true last will and testament of the said Dempsey Hare"; and the said Ira Ann White, by her counsel, having moved the court to set aside said verdict, which motion was over-ruled by the court.

On consideration whereof, the court doth adjudge, order and decree that the whole of the paper writing (dated January 4th..1901,) admitted to probate as the last will and testament of Dempsey Hare, deceased, is the true last will and testament of the said Dempsey Hare.

And the court doth further adjudge, order and decree that out of any legacy bequeathed to the said Ira Ann White and any money which the defendants, or any of them, may see fit to donate or give to the children of the complainant, Ira Ann White, out of the estate of the said Dempsey Hare, deceased, there shall be paid unto Robert W. Withers and W. H. Sargeant Jr., as attorneys fees in this suit, the sum of One Hundred and Fifty Dollars

($150.00), and the executors are directed to pay the costs of this suit. And nothing further remaining to be done in this cause it is ordered that this case be stricken from the docket.

Robert R. Davis

To the Clerk of the Circuit Court for the County of Nansemond:

Ina Ann White
vs
Jno. T. Holland et als

Filed May 20, 1902
Robt R. Ellis

For Council
Enlarged Chancery
Order Book No 3 Page 428

D. H. Duncan
J. E. Everett
R H Rawls

The joint and separate answers of E.E.Holland and Job.G.Holland, trustees, E.E.Holland and Job G.Holland, Exedutors, and E.E.Holland and Job G.Holland as individual defendants, to the bill of complaint exhibited against them and others in the Circuit Court of Nansemond County by Ira Ann White, complainant.

These defendants, now and at all times herefater, saving and reserving to themselves the benefit and advantage of all exception which can, or may be, had or taken to the many errors, uncertainties and others imperfections in the said bill of complaint contained, for answer thereto, or to so much and such parts thereof, as they are advised it is material for them to answer, answer and say:
That it is not true, as alleged in said bill, that Dempsey Hare died intestate, but, on the contrary, he died leaving a valid will duly executed according to law.

That it is not true, as alleged in said bill, that the paper writing purporting to be the last will and testament of the said Dempsey Hare, and which has been admitted to probate in the county court of Nansemond County, a copy of which is ~~marked~~ filed with said bill and marked "Exhibit A", is not the will of the said Dempsey Hare. The paper writing purporting to be such will and which was admitted to probate as aforesaid is, as these defendants allege, the true last will and testament of said Dempsey Hare, made by him when he was competent in all respects to make such will, and duly executed by him in the manner provided by ~~xxxxxx~~ the statute law of this State. These defendants, therefore ask, that the probate of said will be not set aside, but, on the contrary, that said paper writing as aforesaid may be declared and decreed to be the true last will of said Dempsey Hare.

And having now fully answered said complainant's bill these defendants pray to be hence dsimissed with their reasonable costs in this behalf expended, and they will ever pray, &c.

E.E.Holland Exor
E.E.Holland
E.E.Holland Trustee
Job G. Holland Exor
Job G. Holland Trustee
Job G. Holland

R.H.Rawles
S.E. Event
D.H. Burgess. Attys

Everett Waddey, Stationer and Printer, Richmond, Va. } Form No. 35.

In the Circuit Court for the County of Nansemond,

to wit:

THE ANSWER OF Pretlow Holland Gilmer G. Holland and Alar Job Holland

infants under the age of twenty-one years, by J. U. Burgess their guardian *ad litem*, assigned to defend them in this suit, to a bill of complaint exhibited against them and others in the Circuit Court for the County of Nansemond, by Ira ann white ~~and others.~~

The respondents, reserving to themselves the benefit of all just exceptions to the said bill, for answer thereto, answering by said guardian *ad litem*, say, that they are infants of tender years, and by reason of such disability are incapable of understanding, or of taking care of their rights and interests, they therefore commend the same to the protection of the court, and prays that no decree may be pronounced which will tend to their prejudice.

And having answered. the respondents pray to be hence dismissed with their reasonable costs in this behalf expended; and they will ever pray, &c. Pretlow Holland
Gilmer G. Holland
Alar Job Holland

By J. U. Burgess Guardian *ad litem.*

p. d.

Sworn to before me this 10th day of October 1901.

R. H. Rawles N. P.
for Nansemond County Va.

Form No. 35.

E. E. Holland et al

adv.

ANSWER
OF
INFANT DEFENDANT.

Ira Ann White

The answer of Frances Whitfield to a bill in chancery exhibited against her and others in the Circuit Court of Nansemond County by Ira Ann White complainant.

This defendant for answer to the said bill or so much thereof as it is necessary that she should answer, answers and says: that Dempsy Hare died leaving a valid will: that the paper writing which was admitted to probate in the County Court of Nansemond County on the 18th . day of Feb. 1901 and a copy of which is filed with the said bill and marked, exhibit "A", is the will of the decedent, Dempsy Hare. She therefore prays the probate of the same may not set aside, but that the said paper writing may be declared and decreed to be the last will and testament of the said Dempsy Hare. And having answered, she prays to be hence dismissed with her reasonable costs in this behalf expended and she will ever pray &c.

Witness:
R A Reeves
J E Everett

her
Frances × Whitfield
mark
By P. W. Rawls, J. E.
Everett & J. W. Burgess
her attorneys

Virginia, Nansemond County to-wit:

Answer of Defendant

Filed Jan 4 1901

IN THE CIRCUIT COURT OF NANSEMOND COUNTY, NANSEMOND COUNTY, TO-WIT.
SECOND APRIL RULES, 1901.

Ira Ann White----------Complainant.

v. In Chancery.

E.E.Holland and Job G.Holland, trustees, E.E.Holland and Job J.Holland executors, and E.E.Holland, Job G.Holland, Frances Whitfield, adult defendants, and Pretlow Holland, infant child of E.E.Holland and Gilmer G.Holland and Alar Job Holland infant children of Job G.

Holland, infant defendants----------Defendants.

To the honorable Robert R.Prentis, Judge of the Circuit Court of Nansemond County:-

Humbly complaining, showeth unto your honor, your oratrix Ira Ann White, of the County of Nansemond, State of Virginia, the following facts:-

That she is the only child and heir at law and distributee of Dempsy Hare, who recently departed this life, possessed of real and personal property. Your complainant believes that the said Dempsy Hare died intestate. Since his death a paper-writing, purporting to be his last will and testament, has been admitted to probate in the County Court of Nansemond, whereby he gives the chief part of his property to Edward E.Holland and Job G.Holland for life with remainder to their male children living at the death of the said Dempsy Hare, and, after that, the residue of his property to Edward E.Holland and Job G.Holland, trustees for a specific trust, Frances Whitfield and Edward E.Holland and Job G.Holland in their own right; the order admitting the said paper to probate was made on the 18th.day of February, 1901. An attested copy of the said paper is herewith filed, marked exhibit A. Edward E.Holland and Job G.Holland, named as executors of the said paper writing, have qualified as such executors in the County Court of Nansemond county on the 18th.day of February, 1901.

Your complainant alleges and charges, that the paper-writing aforesaid, of which probate has been received, is not the will of the decedent Dempsy Hare.

In tender consideration whereof, and forasmuch as your complainant is remediless in the premises, save in a court of equity where such matters are properly cognizable, your complainant prays that Edward E.Holland and Job G.Holland, trustees, Edward E.Holland and Job G.Holland, executors, and Job G.Holland, Edward E.Holland and Frances Whitfield, adult defendants in their own right, and Pretlow Holland, Gilmer G.Holland and Alar Job Holland, infant defendants in their own right, may be made parties to this bill and required to answer the same, though not under oath, and this merely as a step or part of this proceeding to obtain a trial before a jury; that proper process issue; that an issue devistavit 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 true last will and testament of the said Dempsy Hare; that the said probate be set aside; that the said paper writing be declared and decreed not to be the last will and testament of the said Dempsy Hare; and that such other, further and general relief may be afforded your complainant as the nature of her case may demand or to equity shall seem meet. And your complainant will ever pray etc.

N. F. Sargeant, jr. and Robt. R. Riches, } p. q.

"Exhibit A"

1

I, Dempsey Hare, of Nansemond County, Virginia, hereby revoking all former wills by me at any time made do hereby make my last will and testament as follows:

1st I direct that my just debts shall be paid.

2. I give and bequeath unto Dr. J. G. Holland and E.E. Holland, in trust, the sum of Five hundred dollars, the interest on which is to be used in Keeping the cemetery on my home place in good condition; upon their death other trustees are to be appointed by the County Court of Nansemond County. If this provision of said will is contested I then give said amount to Dr. J. G. Holland and E.E. Holland.

3rd I give to Frances Whitfield one hundred dollars in cash and one sewing machine provided she outlives me; but in the event she dies before I do, I give said one hundred dollars in cash to Charlie Bland Junior and said sewing machine to Ida Bland.

4th I give to Ora Ann White ten dollars.

5th All the rest and residue of my personal & mixed estate I give to Dr. J. G. Holland and E.E. Holland: and all my real estate I give & devise to Dr. J. G. Holland and E.E. Holland, for life, and upon their death, or the death of either of them, then to the male children of said Dr. J. G. Holland & E.E. Holland, living at my death, and if none living, then to their female children living at that time. But I authorize and empower said Dr. J. G. Holland and E.E. Holland, in their discretion, to sell the standing timber on my said land, and make valid contracts of sale of said timber.

I name and appoint Dr. J. G. Holland and E.E. Holland, Executors of this my will and request that they may be allowed to qualify and give bond without security.

Witness my hand and seal this the 4th. day of January 1901.

Dempsey Hare (Seal)

Signed, sealed and acknowledged by Dempsey Hare as and for his last will in our presence, who in his presence, at his request and in the presence of each other subscribe our names as witnesses:

Witness to
signature of
Wm Howell of R.
Jachin Forbes
J. J. Jenkins
W.H. Howell.

J. J. Jenkins
W.H. Howell
Jachin Forbes
Wm his X mark Howell of R

A copy
Teste:
A. P. Gomez D.C.

Dempsey Hare's
= Will =

A Copy.

1

Ira Ann White

vs } Bill

E. E. Holland, et al.

2d April Rules 1901.

W. F. Durgans jr.
and
Robt. M. Nichols } D. C.

Ira Ann White
against } Chancery Nole
Bob Holland and others

1901 Feby 28th Process issued returnable to
April rules third Monday
J W Burges appointed guardian
ad litem for infant defendants

" April 15. Process returned executed on
all adult defendants except
Frances Whitfield who is reported
not found
Bill filed and decree nisi
vs said adult defendants.

" May 6th Decree nisi confirmed and
cause set for hearing as to
all adult defendants except
Frances Whitfield

Chancery Notes.

Costs
Clerk 6.49
Jay 1.50
Shff 3.00
Atty 15.00
$28-99

Ira Ann White

vs

In Chancery

Jos G Holland & others

1902

May 20th

Final Decree

I A White vs J G Holland & oth

Dr. Jobe G Holland & others costs

Clerk

For issuing Spas at the October Term 1901	4 30	
For issuing Spas at the Dec Spec Term Swearing Witnesses &c	20 67	
Total due Clerk by Dr. J G Holland &c		$24 97

Sheriff

Executing Spas &c Oct Term	6 20	
Executing Spas &c Dec Spec Term	10 70	
Total due Shff by Dr. J G Holland &c		$16 90

Sheriff Norfolk Co. for Oct Term 1901	40	
" " " " Dec Spec " "	40	
Total due Shf N Co by Dr J G H &c		80

Witnesses

Buckley	22	Francis Whitfield	2 50	mile 96	1 46	Chk mde
Buckley	17	Charlie Bland	17 50	" 56	1 06	" "
		John E Vincent	1,50.	Mileage 144	2 94	
	(2)	J A Luke	1,50	" 72	2 22	
	17.	Dr Barnes	50 17	" 56	1 06	Paid
		John A Gunn			50	
		D L Darden	2 00	Mileage 256	4 56	
	16.	Jonas E Laurence	16 50	" 48	98	
	17 ✓	Jachin Forbes	17 50	" 56	1 06	
	18.	W A Howell	18 50	" 64	1 14	
	18	J L G Walden	18 1,50	" 192	3 44	
		~~Richard Saunders 19 50~~				
	12 ✓	R N Holland	12 50	" 16	66	
	14 ✓	Nancy Holland	14 50	" 32	82	
		Wm H Morgan	1,50	Mileage 240	3 90	
	12	Wilson J Holland	12 50	" 16	66	
	12 (2)	D W Holland.	12 50	" 16	66	
		Amt carried over.			$27.28	

	Amt brot over				$27.28	
12 ✓	I R Holland	12 50	Mileage	16	66	
	I T Bealon	150.	Mileage	168	318	
15 ✓	Bettie Savage	13 50	"	40	90	
18 ✓	Paul L Everett	18 150	"	192	342	
12 2	Paul L Holland	12 50	"	16	66	
22 ✓	Mills E Howell	22 150	"	288	438	
	A J Reid				150	Paid
12 ✓	A T Holland	12 50	"	16	66	
12	E T Holland	12 150	"	48	198	
	A J Peel	150	Mileage	192	342	
12 ✓	B D Jones	18 50	"	64	114	
	Dr J E Rawles				50	
17 (1)	J Judson West	17 50	"	56	106	
	Jesse W Copeland	150	Mileage	72	222	
	E T Jordan				50	
	Z T Langston	100.	Mileage	128	228	
18 ✓	Luther Rawles	18 50	"	64	104	
12 ✓	Jas E Holland	12 50	"	16	66 =	
18 ✓	Jethro Haslett	18 50	"	64	114	
18 ✓	Robert Reidell	12 50	"	64	164	
	Jno D Langston	100	Mileage	128	228	
	Elisha Holland	50.	"	56	106	
13 ✓	S R B Howell	13 50	"	24	74	
	I T Jenkins	50	Mileage	176	226	
17	Wm A Holland	17 50	"	56	106	
	Total due witnesses					$68.26 $67.78

Recapitulation

Clerk's Cost	24 97	
Sheriff of Nansd	16 90	
" " Norfolk Co	80	
Witnesses	68 26	
Atty	250	
Dr Hollands total Cost.		$113.43
		11343

Ira Ann White's Cost

	Clerk.				
	For issuing Spas at the				
	October 1901 Term.			450	
	For issuing Spas and				
	swearing Witnesses at				
	the Dec Special Term.			1190	
	Total due clerk by Ira Ann White				$1640
	Sheriff				
	Executing 33 Spas at the				
	October Term 1901			660	
	Executing Spas at the				
	Dec Special Term			940	
	Total due Shff by Ira Ann White				$1600
	Sheriff of Norfolk County				40
	Witnesses				
22	Mills E Howell 50 & 2 mile.		96		146
	Silus Walden 50. mileage 80 ¢				130
	William Reed 250	"	400		650
	Jeff E Howell 50	"	80		130
	Edward Darden 200	"	320		520
	Mack Barrott 150	"	240		390
	Wm le Holland 50	"	96		146
12	P le Holland 1250	"	16		66 196
14	Mary B Scott 1400	"	32		82
16	Elisha Darden 1650	"	48		98
	W A King				50
	I A Luke 50 mileage 24				74
	Looney Hunter 50	"	96		156
	A L Narrell 150	"			150
	Amt Carried over				~~$2596~~ 2788

Wm Allen Edwards
2 days 144 Miles

	Amt brot over			$27.88	
	Walter Weaver 50	mileage 80		130	
	Jim Hare 250.	"	400	650	
16	Annie Ashe 1450	"	48	98	
14	Meredith White 1450	"	32	82	
	B M Bruce			50	
	abulin Eawan 100+	"	64	164	
	Joe Keller			50	
	Total Witnesses				~~$40.12~~ 4012

Recapitulation

Clerks cost	1640
Sheriff of Nansd	1600
" " Norfolk leo	40
Witnesses	~~40.12~~ 4012
Iva Ann White's total cost	~~$72.92~~ 7292

Ira Ann White's costs
contested Will.

1901				
Oct Term	Amt due Clerk	$ 4.50		
Dec Term	" " "	11.90		
	Total due Clerk.			$16.40
Oct Term	Amt due Sheriff	6.60		
Dec "	" " "	9.40		
	Total due Sheriff Del May 24th ✓			$16.00
	Shff Norfolk fee Rountree			.40
	Witnesses			
×	Mills E Howell	1.46 ✓		
×	Delus Walden	1.30 ✓		
	William Reed del May 31st	6.50 ✓		
×	Jeff E Howell	1.30 ✓		
	Edward Darden del to D L D June 9th	5.20 ✓		
×	Mack Barrett	3.90 ✓		
×	Wm C Holland	1.46 ✓		
×	P C Holland	.66 ✓		
	Mary B Scott 1902 May 28th D White	.82 ✓		
×	Elisha Darden	.98 ✓		
	W A King paid May 24th Clerk	.50 ✓		
×	I A Luke	.74 ✓		
×	Leoney Hunter	1.56 ✓		
✓	A L Harrell del June 9th	1.50 ✓		
×	Walter Weaver	1.30 ✓		
	Izzie Hare marked to I A Luke	6.50 ✓ May 25-02,		
	Annie Ashe 1902 May 28th D White	.98 ✓		
×	Meredith White	.82 ✓		
	B M Bruce May 21st del	.50 ✓		
×	Absilon Edwards	1.64 ✓		
	Joe Kellay dem 2d del to Nor.	.50 ✓		
	Total Witnesses.			$41.12
	Total Costs of Ira Ann White			$73.92

A L Gomey Clerk

Those marked × were forwarded to Dr. J G Holland check drawn for each person May 24th 1902

A L Gomey

Total costs in the Hare Will case.

Due A P Gomer clerk by Ira Ann White	$16.40	
Due A P Gomer clerk by Dr Holland & others	24.97	
Total due clerk A P Gomer		$41.37
Due A A Baker Sheriff by Ira Ann White	$16.00	
Due A A Baker Sheriff by Dr Holland & others	16.90	
Due A A Baker Sheriff for executing 20 Spas in County Court c 20	4.00	
Total due Sheriff A A Baker		36.90
Due Sheriff of Norfolk County by Ira Ann White	40	
Due Sheriff of Norfolk County by Dr Holland & others	80	
Total due Sheriff Norfolk County		1.20
Due Witnesses by Ira Ann White	40.12	
Due Witnesses by Dr Holland & others	68.26	
Total due Witnesses		108.38
Attorney		2.50
Total Costs —		$190.35

Total costs in the Hare Will Case.

Due A P Gomer Clerk by Ira Ann White	$16.40	
Due A P Gomer Clerk by Dr Holland & others	24.97	
Total due Clerk A P Gomer		$41.37
Due A N Baker Sheriff by Ira Ann White	16.00	
Due A N Baker Sheriff by Dr Holland & others	16.90	
Due A N Baker Sheriff for executing 20 Subs. in the County Court 20	4.00	
	20.90	36.90
Due Sheriff of Norfolk County by Ira Ann White	40	
Due Sheriff of Norfolk County by Dr Holland & others	80	
Total due Sheriff of Norfolk County		1.20
Due Witnesses by Ira Ann White	40.12	
Due Witnesses by Dr Holland & others	68.26	
Total due witnesses		108.38
~~Attorney~~ not included in check		~~2.50~~
Total costs		$190.35

Rec'd Check for $112.37 from
I G & E Holland 24.97
Paid A N Baker $20.90 +

24.97

68.26
114.93

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Mary B. Scott

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 4th day of October 1901, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between said

Ira Ann White Plaintiff

and

Jot G Holland and others Defendant

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 4th day of October, 190 1 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Mary B. Scott
Barnetts Creek
School House

Not found
Last Pd

Nansemond
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS John Winston

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between said Ira Ann White Plaintiff

and Jot G. Holland and others Defendant

And this the witness shall in no wise omit, under the penalty of $100 eaeh. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his offiee. this 4th day of October, 1901 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

John Winston

Nansemond

Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Joe D. Hutchins

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between said

Ira Ann White Plaintiff

and

Jot G. Holland and others. Defendant

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 4th day of October, 1901 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

Joe Bleutchins

Nansemond

Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ~~NANSEMOND~~ Southampton COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Timothy Duck

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between said

Ira Ann White Plaintiff

and

Job G Holland and others Defendants

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 4th day of October, 1901 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

Sergeant
Withers } p q

Ira Ann White

vs } Spa

Job G. Holland

and others.

1901

Octo 21st

Docketed Octo. 5th

1901 by delivering a copy

of this "Spa" to Timothy Duck

J. W. Williams

Shff

Shff's fee 20 cts pd

J. W. Williams Shff

Nansemond

Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Mills E Howell, Turner Hunter, Titus Mallon, William Reid, J W Laurence, Mathew Bailey, My Hill, Jodie Howell, Savannah Howell, Pleasant Lee, Edward Darden, Dempsey Darden, Mack Barrett(col), Sarah Whitfield, John Vincent, Brock Jones, William M Howell, James Holland, William Holland, P L Holland, Ashley Holland, Joe Bleuchins, Mary B Scott, Elisha Darden, W A King, I A Luke, E T Holland, Elizabeth Hunter, John Winston and Cooney Hunter

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of

Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between Said

Ira Ann White Plaintiff

and

Job G Holland and others Defendant

And this the witnesses shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 4th day of October, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Sergeant's Writers } pg

Ira Ann White
vs
Spa
Job G Holland
and others

1901
Oct-21st.

Nansemond
Circuit Court

Nansemond
Circuit Court

Executed this the 9th day of Oct-1901 by summoning each of the within named Garlic as ordered except Maria P. Davis and John Winston not found in my county.
Joe P. Outlaw dead.

Jno. Duncan dep'y
for Robt. Askew Sheriff

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS John Pleutchins

to appear before the Judge of the Cireuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Ira Ann White

in a eertain matter of eontroversy in our said Court depending and undetermined between said

Ira Ann White Plaintiff

and

Job G Hollandsworth Defendants

And this the witness shall in no wise omit, under the penalty of $100 eaeh. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his offiee, this 18th day of October, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Executed this the 18th day of Oct-1901 by delivering a true copy of the within process to Jno T Cudahine in person

J T Duffy Deputy
For A H Baker Sheriff

Isaac Shannon White —
Pet Spa
for G Holland
1901
Oct 21st

Nansemond
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Button Edwards T. Grace Jones A. L. Darnell and Richard Saunders

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between said

Ira Ann White Plaintiff

and

Dock G. Holland & others Defendant

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 16th day of October, 1901 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

Executed this the 18th day of Oct. 1901. by delivering a true copy of the within process to Britton Edwards. J Grae Jones A L Hamm and Richard Simmons in person.

J. D. Berry Deputy
for R. H. Baker sheriff

Sheriffs Office
Spa
for G. Hallandale
1901
Oct 21st

Nansemond
Circuit Courts

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ~~NANSEMOND~~ Norfolk COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON Frances Whitfield to come and bring with her the old will of Dempsey Daw deceased

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Job G Holland and others

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White Plaintiff,

and said

Job G Holland & others Defendant.

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 30th day of September, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Executed in Norfolk Co Oct 5th 1901 not finding Frances Whitfield at her usual place of abode I left a copy hereof with Ida A Bland she residing in number of his family over the age of sixteen years and explained to her its purport

C W Campbell
Sheriff Norfolk Co
By Wm Cammil
Deputy

Sheriffs fees Serv 1 20

S E Everett
R A Rawles } pd

Job G Holland & others
ads } Spa Duces
Tecum

Ira Ann White

1901
Octo 21st.

Ida A Bland

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Jesse W Copeland and E T Jordan

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Job G Holland & others

in a certain matter of controversy in our said Court depending and undetermined between

Iva Ann White Plaintiff

and Said

Job G Holland Defendant

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 9th day of October, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Executed this the 19th Day of Oct-1901. Jesse W Copeland
Not being found at his usual place of abode. I delivered
a true Copy of the within process
to his wife Mrs L W Copeland a female whom
I found there over the age of 16 years. and to whom I
explained the purport of the same.

J T DeBerry Deputy
For A H Baker Sheriff

Sergeant & Bryan
Norfolk
Feb 21st
1901
Sheriff Nansemond
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON Charlie Bland

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Job G Holland and others

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White Plaintiff,

and Said

Job G Holland and others Defendants.

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 30th day of September 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Charlie Bland

West Norfolk

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY, Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Beverly P Baker

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Job G Holland and others

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White Plaintiff

and Said

Job G Holland and others Defendants

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 8th day of October, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Executed this 10th day of Oct 1901 by
leaving a true copy of the within
Summons with Mrs B P Baker the wife
of B P Baker a female over the age
of 16 years she not found at his usual
place of abode

R E Norfleet Dep
For A D Baker Shff

D Co Court
R N Rawles Clerk
for G. Hollandsworth
Ass't Dep
Sue Ann White
1901
Oct 21st

Nansemond
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ~~NANSEMOND~~ Norfolk COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Charlie Bland

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Job G Holland and others

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White Plaintiff

and said

Job G Holland and others Defendant.s

And this the witness shall in no wise omit, under the penalty of $100 eaeh. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his offiee, this 7th day of October, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Executed Oct 11 to 1901 by
delivering a copy hereof to
Charley Bland in Norfolk Co
M Cromwell Sh'ff
By Wm Cannon Deputy

S. E. Everett } Jud
R.N. Rawles } for Pl'ff
for Pl'ff Holland Notes
acts Spa
Ina. Ann. Writs

1901
Act-21 Sept

Person
Oct 11 Bland

Nansemond
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMON Charlie Bland John E Vincent I A Luke Dr T N Baines John A Gunn Dempsey L Darden Jonas E Laurence Jackson Forbes W S Howell T L G Walden Richard Saunders R N Holland Nandy Holland William Morgan Wilson J Holland S W Holland I R Holland John T Bealon Bettie Savage (Col'd) (of Wilson) Paul L Everett Mills E Howell A J Reed A T Holland E T Holland A J Peele B D Jones ~~and~~ Dr. J E Rawls and J Judson West

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 21st day of October 1901, to testify and the truth to say on behalf of Job G Holland and others

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White, Plaintiff...

and said

Job G Holland and others, Defendant.S.

And this the witness....shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 30th day of September, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Executed this 8th day of Oct-1901 by summoning each of the within named parties as ordered.

J. F. DeBerry Deply
For A. H. Baker Sheriff

Everett } Sub
Rawles } Sub
Sub to Hallandtorches
Adds Spa
Ina Ann White
1901
Oct-21st

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ~~NANSEMOND~~ Norfolk COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Frances Whitfield and Charlie Bland

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 4th day of December 1901, to testify and the truth to say on behalf of Job G Holland and others

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White Plaintiff

and Said

Job G Holland and others Defendant S

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 20th day of November, 1901 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

Everett Ira
Job & Holland & others
ads
Ira Ann White

1901

Decr 4th.

unlawful persons

Executed this
29th day of Nov
1901 by delivering
copy hereof to
Francis White field
and Charlie Bland
in Norfolk Co
A. C. Cromwell Shff
By Nanzen Hood Carnine
Deputy
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Dr. J. H. Lawrence

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 4th day of December 1901, to testify and the truth to say on behalf of Job G. Holland and others

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White Plaintiff

and

Job G. Holland and others Defendant

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 20th day of November, 190 1 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

Hat [illegible] Comm[illegible]

[illegible] Verbung Verlegt
für Ast B alten Schiff

Dr. J. A. Lausen

Kanzleirat
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS John E Vincent I A Luke T N Barnes John A Gunn Dempsey L Darden Jonas E Laurence Jackin Forbes W A Howell T L G Walden Richard Saunders R A Holland Hardy Holland William Morgan Welson I Holland S W Holland I R Holland John T Beaton Bettie Savage Paul L Everett Paul C Holland Mills E Howell A I Reed A T Holland E T Holland A J Peel B D Jones Dr. I E Rawles J Judson West-Beverly A Baker Jesse W Copeland E T Jordan Dr. I N Laurence Z T Langston Luther Rawles R N Saunders James Holland James E Holland Washington Boone Sarah Whitfield William Morgan Jethro Haslett Tom Haslett A B Everett and I W Everett Matthew Bacley and S R B Howell

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 4th day of December 1901, to testify and the truth to say on behalf of Job G Holland and others

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White Plaintiff

and

Job G Holland and others Defendant

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 20th day of November, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Commonwealth
Circuit Court

in a certain matter of controversy in our said Court depending and undetermined between.....

.....

.....Plaintiff.....

and.....

.....

.....Defendant.....

And this the witness.....shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this.....day of.....,

190.....in the 12.....th year of the Commonwealth.

....., CLERK.

Jamesmond
Circuit Court

in a certain matter of controversy in our said Court depending and undetermined between.....

.....

.....Plaintiff.....

and.....

.....

.....Defendant.....

And this the witness.....shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this.....day of.....,

190.....in the 12.....th year of the Commonwealth.

....., CLERK.

Executed this 4th day of Nov. 1901 by summoning the within named parties as ordered. (No Defendant was found in my county.)

J. T. Deyaney Deputy
for A. M. Barden Sheriff

Mc Robertson

Returned & d
Dob G Hollandsworth
adv Spa
Ira Ann White
1901
Dec 4th

Nansemond
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS B M Bruce Mansfield Ballen Joe Keller & Washington Dennis

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, ~~on the~~ ~~day of~~ forthwith, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between Job G Holland and others Plaintiff

and Said Ira Ann White Defendant

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 9th day of December, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Ira Ann White
adg Spa
Jo B G Holland Dcht
1901
Decrgth.

Nansemond
Ciscuit Court

Executed This the 9th day Dec 1901. by drumming each of the within named Jurors as ordered.

S.H. Northcutt Sergt Schmidt for A.H. Baker

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS John Winston

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 4th day of December 1901, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between

Ira Ann White Plaintiff

and

Jot G. Holland and others Defendant

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 20th day of November, 1901 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

Not found in my County

J. P. Dewberry Deputy
for Absalom Shuff

Absalom Winslow

Nansemond
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Jno Nave

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 4th day of December 1901, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between Said Ira Ann White Plaintiff

and Bob G Holland and others Defendants

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 25th day of November, 1901 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

Executed the 30th day of Nov 1901 by serving a true copy of the within Summons on Jim Hare in person

R. E. Norfleet Dept.
For A. H. Baker Sh'ff

Rule Writers Ivy
Ann Ann Wheeler -
vs.
U.S. Fire
Ins. Co. Richmond Va.

1901
Dec 4th

Norfolk
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ~~NANSEMOND~~ Southampton COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Timothy Duck

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 4th day of December 1901, to testify and the truth to say on behalf of Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between said Ira Ann White Plaintiff

and Bob G Holland and others Defendants

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 20th day of November, 1901 in the 126th year of the Commonwealth.

A. P. Gomer, CLERK.

R W Withers p.g
Ira Ann White
vs
Spa
Job G Holland Withers
1901
Dec 4th.

Executed
J. W. Williams
Sheff

Nansemond
Circuit Court

THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF NANSEMOND COUNTY—Greeting:

YOU ARE HEREBY COMMANDED TO SUMMONS Mills E Howell, Turner Hunter, Titus Walton, William Reed, J W Laurence, Mathew Bailey, Mr Hill, Jodie Howell, Savannah Hopkins, Pleasant Lee, Edward Darden, Mack Barrott (Col), Sarah Whitfield, William M Howell, James Holland, William Holland, P C Holland, Ashley Holland, Mary B Scott, Elisha Darden, W A King, I A Luke, E T Holland, John Winston, Looney Hunter, Britton Edwards, T Grac Jones, A L Narrell, Richard Saunders, Walter Weaver (Col), and John P Cutchins.

to appear before the Judge of the Circuit Court of Nansemond County, at the Courthouse of said County, on the 4th day of December 1901, to testify and the truth to say on behalf of

Ira Ann White

in a certain matter of controversy in our said Court depending and undetermined between said

Ira Ann White Plaintiff

and

Job G Holland and others Defendants

And this the witness shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this 20th day of November, 1901 in the 126th year of the Commonwealth.

A P Gomer, CLERK.

Hanemond
Circuit Court

in a certain matter of controversy in our said Court depending and undetermined between.....

.....

.....Plaintiff.....

and.....

.....

.....

.....Defendant.....

And this the witness.....shall in no wise omit, under the penalty of $100 each. And have then and there this summons.

WITNESS, A. P. GOMER, Clerk of our said Court, at his office, this.....day of.....,

190.....in the 12.....th year of the Commonwealth.

.....

.....

.....

Executed this 25th & 26th days of Nov 1901 by summoning the within named parties as ordered. (John Winston not found in my County)

J. J. Warren Deputy
For A. H. Barber Sheriff.

Summons by
Sheriff White
Nov 25 & 26
1901
Deer Lick.

Mansemond
Circuit Court

Commonwealth of Virginia

To the Sheriff Nansemond County

Mills E Howell Pleasant Lee Edward Daiden William Holland Elisha Daiden W A King J A Luke Bolton Edwards P L Darrell Richard Saunders and John Hutchins who were summoned to appear here this day as a witness for Ira Ann White against Job G Holland & others were solemnly called but came not. Therefore on the motion of said Ira Ann White it is ordered that the said persons be summoned to appear here forthwith to answer for their said Contempt. And that the witnesses shall in no wise omit under the penalty of $100 each.

Witness A Plumer clerk of our said Court this the 4th day of December 1901 in the 126th year of the Commonwealth

A Plumer Clerk

Executed this the 5th day of December 1901. by summoning each of the within named parties as ordered.

J. F. DeBerry Deputy
For A. H. Baker Sheriff

Mrs Ann White
vs
Rule

Petition for Writ of Certiorari

WITNESSES IN CASE OF IRA ANN WHITE V. E.E.HOLLAND AND JOB G.HOLLAND.

√Mills E.Howell
√Turner Hunter
√Titus Walton
√William Reid
√J.W.Lawrence (Capt)
√Mathew Bailey
√Mr.Hill (at I.A.Luke's)
×Timothy Duck (make copy and send to Franklin, Va.,) Sent to Rworthey
√Jodie Howell
√Savannah Howell
√Pleasant Lee
√Edward Darden
√Dempsy Darden
√Mack Barrett (col)
√Sarah Whitfield
√JohnnVincient
√Brock Jones
√William M.Howell
√James Holland
√William Holland
√P.C.Holland
√Ashley Holland
√Joe B.Cutchins
√Mary E.Scott (Bennett's Creek School House)
√Elisha Darden
√W.A.King
√I.A.Luke
√E.T.Holland
√Elizabeth Hunter
√John Winston
√Cooney Hunter

Ira and Whites
witnesses

White v. Holland

Def. Attorney in this cause moves the court for a new trial upon the ground of misconduct of the jury by the court and that the verdict of the jury is contrary to the law and the evidence; which motion is continued.

We the jury find that the whole of the paper writing (dated January 4" 1901) admitted to probate as the last will and testament of Dempsey Hare deceased is the true last will and testament of the said Dempsey Hare.

W W Crumpler
Foreman.

I A. P. Gomer clerk of the Circuit Court of Nansemond County do hereby certify that the above writing is a true Copy of the verdict of the jury as written upon the will of Dempsey Hare deceased.

A. P. Gomer clerk

Last will and Testament of Dempsey Hare.

In the name of God amen: I Dempsey Hare, a citizen of Nansemond county and State of Virginia, do make and ordain this my last will and testament in manner and form following, viz:

1. After paying all my just debts, it is my will and desire that after my death, Willie Whitfield son of Frances Whitfield, shall have one hundred acres of the choice of my land near Hare Ore ferry, to him and to his heirs forever.

2. It is also my will and desire, that after my death, John Dempsey Whitfield son of Frances Whitfield, shall have my home plantation and all the balance of my estate, real and personal, including the balance of my land near Hare Ore ferry, to him and to his heirs forever.

In witness, whereof, I hereby set my hand and seal.

Witness
R. H. Holland
Frank P. Holland
J. T. Holland

Dempsey Hare (Seal)

INSTRUCTIONS.

THE COURT INSTRUCTS THE JURY

1.

That the paper mentioned in this case, in order to be the will of Dempsey Hare, must be proved to have been executed by him when he was of sound mind, according to the formalities prescribed by the statute, to wit:- must be proved to have been signed or his signature acknowledged by him in the presence of at least two of the subscribing witnesses, and to have been attested by them in his presence and in the presence of each other, all being present together; and the burden of proving this is upon the plaintiffs in this case.

Code of Va. Section 2514.

Riddell V. Johnson, 26th. Grattan, 152.

12th. Grattan 239.

2nd. Minor's Institutes, page 1037.

That every person possessing testamentary capacity is entitled, under the law, to make a will and dispose of his property as he pleases.

That if they believe from the evidence that the prejudice, if any, which Dempsey Hare had against his daughter Ira Ann White was due to the fact that she had married against his will; or if they believe that such prejudice was due to the fact that she had sued him, and that it was from either one or both of these reasons that he had determined to disinherit her, and that his will was made in consequence of that determination, and that he had the legal capacity to make a will, and that the will in question is not due to undue influence, then they shall find in favor of the said will.

IV.

That if it be proven to the satisfaction of the jury, that the said Dempsey Hare for a number of years of his life, extending down to the execution of said paper, entertained a feeling of aversion or dislike for his daughter, Ira Ann White, who would by law be his next of kin and heir at law, and had a fixed purpose not to give her any part of his estate, then this fact is sufficient to rebut any presumption against said paper, arising merely from the fact that she is not made a beneficiary therein.

Riddell V. Johnson 26th. Grattan, 152.

V.

That if they believe from the evidence that Dempsey Hare, 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, however unreasonable, imprudent or unaccountable it may seem to others. That the propriety or impropriety of such disposition is not to be decided by them, but his capacity to make it.

That the attesting witnesses to a will are regarded in law as placed around the testator to guard against fraud, and to ascertain and judge of his capacity, and their testimony is entitled to peculiar weight.

38th. American State Reports, page 375.

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.

Burton Vs. Scott, 3rd. Rand. 403.

Cheatham Vs. Hatcher, 30th. Grat. 56.

Jones Vs. McGruder 87. Va. 368, 12th. S.E.R.795

Montague V. Allen 78th. Va. 592.

Parramore V. Taylor 11th. Grat. 220

That every person is of testamentary capacity who is capable of knowing and understanding the nature of the business he is engaged in, and the elements of which the will is composed, and the disposition of his property, as therein provided for, both as to the property he means to dispose of by his will, and the persons to whom he means to give or convey it, and the manner in which it is to be distributed among them. It is not necessary that he should view his will with the eye of a lawyer, and comprehend its provisions in their legal form. It is sufficient if he has such a mind and memory as will enable him to understand the elements of which the will is composed, the disposition of his property in its simple forms. It is the business of the testator to dictate the purpose of his mind, and of the scrivener to express them in legal form.

Harrison Vs. Rowan 3rd. Washington C.C.R. 585.

Cahappell Vs. Trent 90th. Va. 849.

IX.

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.

Jarman on Wills, page 29.

Greer V. Greer, 9th. Grattan, 330

Parramore V. Taylor 11th. Grat. 220

Hartman V. Strickler 82 Va. 225.

Carter V. Carter 82 Va. 624.

Chappell V. Trent 90th. Va., 849.

Orr V. Pennington, 93 Va. 268.

Floyd V. Floyd - 29 Gratt. 626 -

X.

And finally, if the jury believe from the evidence, that the paper mentioned in the issue was signed and executed by the testator, Dempsey Hare, according to law, as set forth in the first instruction, that its several provisions were attested with the full consent of his will and understanding, uninfluenced by importunity and without any fraud practiced upon him by the propounders of the will, or either of them, or any other person, and that the testator had adequate testamntary capacity, then the said paper and all its provisions is the true will of the said Dempsey Hare, and it is the duty of the jury to find accordingly.

Biddell V. Johnson, 26th. Grattan, 152.

076

(1)

It is the duty of the Defendants 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, Dempsy Hare was of sound and disposing mind and memory-not only that the instrument was in writing and signed by the said Dempsy Hare, 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 a disposition of property by will, And otherwise, the verdict 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.

(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)

The jury must consider the nature and character of the will, and if they find from the evidence that it is contrary to natural justice, they shall give this fact such consideration as they may deem proper in determing the question of the testator's capacity.

(5)

In determining the question of the testator's capacity, the jury are at liberty to consider whether the claims of near relationship have been disregarded; and if they find from the will and the evidence that such claims have been disregarded, they may consider that fact in connection with other facts and circumstances of the case, and give it such weight as in their sound judgment and discretion they shall think it entitled to.

(10)

It is essential to the exercise of the power to make a will that the person making it be able to comprehend and appreciate his relations to others who might, or ought to be, the object of his bounty, and that no disorder of the mind shall have so far impaired the mind or poisoned his affections, perverted his sense of right, or prevented the exercise of his natural faculties as to render him incapable of such comprehension and appreciation, and bring about a disposal of his property which, if his mind had been otherwise, would not have been made.

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, the 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 consider 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.

(12)

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.

(14)

If the jury shall believe from the evidence that at the time of making the will the testator was laboring under a prejudice towards his daughter, Irah Anne White, without cause, which was a monomania, and that the will was the direct offspring of such prejudice, then the jury must find against the will, even though the general capacity of the testator to do ordinary business be unimpeached, provided such monomania so affected the testator in the making of the will as to render him of unsound mind in that particular; but the jury are further instructed that if they believe from the evidence the testator had testamentary capacity at the time of making the said will, and was not controlled by such unfounded delusion or monomania, he had the right to disinherit said Irah Anne White, with or without cause, as he pleased ~~her~~. (109, Mich. 98.).

(15)

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 when taken together they are sufficient, ~~if they~~ to satisfy the jury that the will was procured by undue influence, when they may be found.

(17).

While a person is not to be regarded of unsound mind simply because the provisions of his will may be unjust, yet if the jury, from the will and the evidence, find them to be unjust, in view of the claims that his child may have had upon him, the jury have a right to consider this fact in connection with all the other facts and circumstances of the case in determining whether or not the testator was of unsound mind.

If the jury believe from the evidence that the testator was a man of advanced age that he was physically impaired at the time of the execution of the will, that the defendant, Edward W. Holland was his attorney and drew the will, that the defendant Job G. Holland was his physician and attended him in that capacity at the time when the will was made, and if they further believe that a large part of his estate by the terms of his will goes to ~~strangers to the testators blood~~ said physician and attorney to the exclusion of his child, then it is incumbent upon the defendants who claim under the will to satisfy the jury by a preponderance of proof that 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 if the jury be not so satisfied, their verdict must be against the will. (Whitelaw v. Sims, 80, Va. 582).

(18)

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 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.

(19).

The question as to what is undue influence depends largely upon the circumstances of each case, chief of which are the dispositions contained in the will, the situation of the person making it, the mental and physical condition at the time of making it. And if the jury shall believe from the evidence the influence which the testator was incapable of resisting was successfully employed to induce the testator to make an unequal disposition of his property, or disregard the ties of blood without sufficient cause, it should be viewed as illegitimate, and treated as undue, and if the jury entertained such belief they shall find against the will.

(20)

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, including 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.

(21.)

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.

(23)

Even though the jury may believe that the testator was mentally capable of executing a will, yet in determining the question of undue influence, they should consider any evidence showing, or tending to show, that his mind was weakened or perverted by morbid and unreasonable prejudice towards his daughter, Irah Anne White, so as to render him more subject to undue influence than she otherwise would have been.

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

-25-

In order to execute a valid will, the alleged testator must be shown to have h ad, at the time of making it, sifficient active memory to recall his family and his property, and to form some rational judgement in regard to the claims of thenone and the disposition 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 testater 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 persons to whom he meant to convey it, and he must also be capable of understanding the meaning and effect of the words used in his devise and bequest.

-26-

If the jury believe from the evidence that, at the time of executing the alleged will in question, Dempsy Hare didnot have sufficient active mind and memory to fully know and understand the provisions of the 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.

-27-

The Court instructs the jury that if they believe from the evidence that, at the time of executing the alleged will in question, Dempsy Hare was imbued with hatred for the negro and love for white men, and th at by reason of his state of mind, and because she is a negro, he cut off his daughter in his will, then the jury have a right to consider this fact in connection with all the other facts and circumstances of the case in determining whether or not the testator was of unsound mind.

-28-

The Court instructs the jury that although they may believe from the evidence that Dempsy Hare 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.

-29-

The Court instructs the jury that if they believe from the evidence that Dempsy Hare, at the time of executing the alleged will in question, was insane upon the subject of the races, that by reason of such diseased mind he hated the negro and loved the white man, and that he cut off his only daughter in his will, because of this mania, because she ~~loved~~ is a negro, then the jury must find against the will; but in determining whether or not the testator was thus insane, the jury should consider all the evidence tending to show the views of the testator as to persons of both races, different colors, and various social conditions.

-30-

-30-

The Court instructs the jury that if they believe from the evidence that Dempsy Hare, at the time of executing the alleged will in question, was laboring under a delusion that he was a white man, or that his mother was not his mother, or that his daughter was not his daughter or that he was of a different race or blood from them or either of them, then the jury may consider these facts, in connection with all the other facts and circumstances in the case, in determining whether or not the testater was of unsound mind .

-31-

The Court instructs the jury that if they believe from the evidence that the testator, Dempsey Hare, cut off his daughter and heirs at law and devised his property to others, without a reasonable cause, the jury may presume from such facts that he was incapable of making a valid will, unless rebutted by others and sufficient evidence, but this presumption is ~~arise~~ rebutted if the jury believe from the evidence that the said testator entertained a feeling of aversion or dislike for his daughter and had a fixed purpose not to give her any part of his estate —

The Court instructs the jury that if they believe from the evidence that Dempsy Hare, at the time of executing the will in question, was laboring under a delusion that he was a white man, or that his mother, was not his mother, or that his daughter was not his daughter, or that he was of a different race or blood from them or either of them, and that such delusions were insane delusions and that such insane delusions directly affected and produced his will in the manner written, then the will is invalid and they must find it so;

But if they believe he was not laboring under ~~a~~ such a delusion but that his remarks on that subject was only a species of boasting, and if they believe that he well knew that his daughter was his daughter, and that he well knew he had negro blood in his veins, and that such veins did not affect his testamentary capacity, ~~from the evidence in this case~~, and if the jury believe that notwithstanding such view he did have testamentary capacity then the will is valid provided the will was properly executed and there was no undue influence. -

Rawles
Everett
Burges
} pg

Jobb Holland vs Thos
On Dempsey
Against } Nan's Will
Ira Ann White

1902 April 22nd Motion for
new trial over-ruled.
1902 April 24th Will Sustained