

1927-018
Norfolk Co (Suffolk) Chancery Causes: Bernice Robertson vs J. Walter Hosier, Exr

Kitchen, Harcum, Kirby

VIRGINIA: IN THE CIRCUIT COURT OF HANSELOID COUNTY.

BERNICE ROBERTSON.....Complainant

vs.

J. WALTER HOSIER, EXECUTOR UNDER THE
WILL OF W. M. KITCHEN, DECEASED.....Defendant

TO THE CLERK OF SAID COURT:

Please issue process in Chancery, returnable to
Second ~~September~~ ^{November} Rules-1926.

Kelsey and Jett
G. H. Harris. p. 7.

VIRGINIA: In the Circuit Court
of Nansemond County.

Bernice Robertson...Complainant

vs.

J. Walter Hosier....Defendant



HOME OFFICE

INCORPORATED 1852

Milwaukee Mechanics' Insurance Company

Milwaukee, Wis.

CHAS. H. YUNKER,
PRESIDENT
G. W. GROSSENBACH,
VICE PRESIDENT
ROBE BIRD,
2ND VICE PRESIDENT
R. H. WIEBEN,
SECRETARY
EMIL TEICH,
ASST. SECRETARY
CHARLES KLENK,
ASST. SECRETARY
RENÉ STECKEL,
ASST. SECRETARY
ERNEST G. EBERT,
ASST. TREASURER
AGENCY SUPERINTENDENTS
C. O. SATRANG
H. E. BONING

Suffolk Va Nov 12th 1926

J. WALTER HOSIER, AGENT
SUFFOLK, VIRGINIA

Mr W.M.Crumpler

City

Dear Sir:-

Inclosed find notice of summons for "Rule Day"
next Mondday in regards to Kitchen matter.

I presume it will not be necessary for me to be there, but
if so let me know.

Very Truly Yours

X

TIME-TEMPERED STRENGTH, SECURITY AND SERVICE

The Commonwealth of Virginia,

To the Sheriff of the County of **Nansemond**, Greeting:

WE COMMAND YOU, That you summon **A. Walter Mosier, Executor under the will**
of W. M. Kitchens deceased

to appear at the Clerk's office of the **Circuit** Court of the **County of Nansemond**
at the rules to be held for the said Court on the **Third** Monday in **November**, 19 **26**,
to answer a bill in chancery, exhibited against **him** in our said Court by
Bernice Robertson

And have then there this writ. Witness **G. E. Bunting.**, Clerk of our said
Court, at the court-house, the **10th** day of **September**, 19 **26**, and in the
151st year of the Commonwealth.

A TRUE COPY

G. E. Bunting
Clerk

Copy for

Wall ^{No. 300} *Executors of*
Wm. Kitchen, de. d.,

vs.

} SUBPOENA IN CHANCERY

p. q.

To..... Rules,

..... Circuit Court.

The Commonwealth of Virginia,

To the Sheriff of the County of Nansemond, Greeting:

WE COMMAND YOU, That you summon A. Walter Mosier, Executor under the will
of W.M. Kitchens deceased

to appear at the Clerk's office of the Circuit Court of the County of Nansemond
at the rules to be held for the said Court on the Third Monday in November, 19 26,
to answer a bill in chancery, exhibited against him in our said Court by
Bernice Robertson

And have then there this writ. Witness G.E. Bunting, Clerk of our said
Court, at the court-house, the 10th day of September, 19 26, and in the
151st year of the Commonwealth.

G.E. Bunting, Clerk

Bernice Robertson

vs. }

SUBPOENA IN CHANCERY

J. Walter Hosier, Executor under
the will of W.M. Kitchen, dec'd.

G.A. Harris p. q.

To November Rules,
3rd Monday
Nansemond County Circuit Court.

11 Nov

26

J. Walter
Hosier, Executor under
the will of W.M. Kitchen, dec'd.

E.B. Rawles

Know All Men by These Presents, That we, *Bessie Robertson*
At Harcum and Fidelity and Deposit Company of M.D.

are held and firmly bound unto the COMMONWEALTH OF VIRGINIA in the just and full sum of *One Thousand* Dollars to the payment whereof, well and truly to be made to the Commonwealth of Virginia, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

And we waive the benefit of our exemption as to this obligation, and also waive any claim or right to discharge any liability to the Commonwealth arising under this bond, or by virtue of the office, post or trusts herein mentioned, with coupons detached from bonds of said State.

Sealed with our seals, and dated this *10th* day of *September* in the year of our Lord one thousand nine hundred and *26*, and in the *1917* year of the Commonwealth.

In Testimony Whereof, the said *Bessie Robertson* has hereto set her hand and seal, and the said *Fidelity and Deposit Company of M.D.* has caused its corporate name to be hereto signed and its corporate seal to be hereto affixed, this *10th* day of *September* in the year of our Lord one thousand nine hundred and *26*, and in the *1917* year of the Commonwealth.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound *Bessie Robertson* pay such costs as may be awarded against her and also such damages as shall be incurred by *J. Walter Hsieh Genter* in consequence of this bond awarded in the suit of *Bessie Robertson v. J. Walter Hsieh Genter of M. M. Hsieh deceased* is decided then this bond is to be null and void and of no effect otherwise to remain in full force and virtue.

Bessie Robertson (Seal)
At Harcum (Seal)
Fidelity and Deposit Company of M.D. (Seal)
By J. H. Hsieh Attest (Seal)

VIRGINIA:

In the Clerk's Office of the Circuit Court of the County of Nansemond, on the *10th* day of *Sept.*, 192*6*.

The above bond was executed and acknowledged before me by the obligors to the same (the securit *g...* justifying), and ordered to be recorded.

Teste:

[Signature] Clerk

To {

The Commonwealth

VIRGINIA:

IN THE CIRCUIT COURT OF HANSEMOND COUNTY.

BERNICE ROBERTSON.....COMPLAINANT

vs.

J. WALTER HOSIER, Executor under the
will of W. W. Kitchen, deceased.....DEFENDANT.

It being suggested that Helen Harcum, an infant, is interested in the subject matter of this suit, on motion of Bernice Robertson, by her attorney, the said Helen Harcum is made a party defendant to this suit; and E. R. Custis, a discreet and competent attorney at law, is appointed her guardian ad litem to defend ~~her~~ ^{her interest} in this suit.

VIRGINIA:
IN THE CIRCUIT COURT
OF NANSEMOND COUNTY.

BERNICE ROBERTSON

vs.

J. WALTER HOSIER, EXECUTOR, ETC.

.....

Enter Octo. 6. 1927
J. L. W. [Signature]

Chancery Order Book
No. 6 Page 102

VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Frances Kirby

v.

Bernice Robertson and J. Walter
Hosier, Executor under the will
of W. M. Kitchen, deceased.

In Chancery.
Petition.

To the Hon. James L. McLemore, Judge of the Circuit
Court of Nansemond County.

The undersigned petition~~er~~ respectfully represents:

F I R S T

That there is now pending in your Honor's Court a
chancery suit, the style of which is "Bernice Robertson v. J.
Walter Hosier, Executor under the will of W. M. Kitchen, deceased;"
and,

S E C O N D

That the objects of said suit are to have an issue
devistavit vel non made up and tried by a jury at the bar of this
court to ascertain and try whether the paper writing of W. M.
Kitchen, deceased, admitted to probate on the 18th day of August,
1926, is or is not the last true will and testament of the said
W. M. Kitchen, to have all testamentary papers of the decedent
produced before the court, to have the sale of the property of
W. M. Kitchen, deceased, which was scheduled to take place at
eleven o'clock A. M., on Friday, September 15th, 1926, enjoined,
subject to further order of this court, to have the said writing
admitted to probate, as aforesaid, set aside and declared and de-
creed not to be the last will and testament of the said W. M.
Kitchen; and to have all such further and general relief as the
nature of the case may demand or to equity shall seem meet; and

T H I R D

That your petitioner is interested in the said suit by
reason of the fact that she is a beneficiary under the will and

codicil of the said W. M. Kitchen, deceased; and

Your petitioner therefore prays that she may be made a party defendant to the said suit; that the said plaintiff in said suit, as well as the defendant thereto, may be made parties to this petition; that proper process may be issued and served upon the parties so asked to be made defendants to this petition; that the injunction heretofore granted by your Honor, according to the prayer of the said suit, be dissolved; that the said writing admitted to probate as aforesaid be declared and decreed by this court to be the true last will, codicil and testament of the said W. M. Kitchen; and, your petitioner prays for such other and further relief as the nature of her case may require and to equity shall seem meet.

FRANCES KIRBY

By:

Hugh J. Holland,
Counsel.

Hugh J. Holland,
Counsel.

Bernice Robertson

v.

J. Walter Hosier, Executor
under the last will and
testament of W. M. Kitchen,
deceased.

PETITION.

1927 Jan 1. filed.
Jhm

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

V.

J. Walter Hosier, Executor
under the will of W. M. Kitchen,
Deceased, and Frances Kirby.

In Chancery.
Order.

This day the defendant, Frances Kirby, tendered her answer to the complainant's bill and asked leave to file the same, which is hereby granted and the answer is accordingly filed.

Bernice Robertson

v.

J. Walter Hosier, Executor
under the will of W. M.
Kitchen, Deceased, and
Frances Kirby.

Order.

Enter Jan 1. 1927
J. L. W. Lumore

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VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Bernice Robertson

v.

J. Walter Hosier, Executor under
the will of W. M. Kitchen, deceased.

)
)
) In Chancery.
) Order.
)

This day the defendant, J. Walter Hosier, Executor under the will of W. M. Kitchen, deceased, tendered his answer to the complainant's bill and asked leave to file the same, which is hereby granted and the answer accordingly filed.

Bernice Robertson

v.

J. Walter Hosier, Executor
under the will of W. M.
Kitchen, deceased.

ORDER.

Enter June 1. 1927
Jas. L. McPherson

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VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Bernice Robertson

v.

J. Walter Hosier, Executor under
the last will and testament of
W. M. Kitchen, deceased.

In Chancery.
Order.

This day came Frances Kirby, by counsel, and presented her petition to the court, praying to be made a party defendant to this cause. And the court having examined and considered the said petition, and it appearing to the court that the said Frances Kirby may properly be made a party defendant thereto, it is therefore hereby adjudged, ordered and decreed that the said petition be filed in the papers of this cause, and that the said Frances Kirby be made a party defendant thereto, ~~with full liberty to take such steps in the cause as she may be advised that her interests require.~~

Bernice Robertson

v.

J. Walter Hosier, Executor
under the last will and
testament of W. M. Kitchen,
deceased.

ORDER.

*Entered July 1. 1927
J. L. Moore*

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VIRGINIA: IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

BERNICE ROBERTSON.....Complainant

vs.

DECREE

J. WALTER HOSIER, EXECUTOR UNDER THE
WILL OF W. M. KITCHEN, DECEASED.....Defendant

This day Bernice Robertson by her counsel, presented her bill duly verified by affidavit, to the undersigned Judge of the Circuit Court of Nansemond County, Virginia, in Vacation, etc., praying for an injunction ^{to restrain and enjoin} ~~from~~ J. Walter Hosier, Executor under what purports to be the will of W. M. Kitchen, deceased, ~~restraining and enjoining him from advertising and making sale of the~~ ^{real} property of the estate ~~belonging to the~~ ^{of the} said W. M. Kitchen, deceased, or from doing any other act as executor of the said will, as in said bill mentioned and described. Upon consideration of the said bill the undersigned Judge is of the opinion to and doth hereby award an injunction as prayed for in said bill, ^{in so far as same relates to the real estate therein devised -} This injunction shall be effective from this date, but said injunction is not ^{for} to take effect until bond, with good security has been ^{executed} ~~made~~ before the Clerk of said Court, ^{in the} with penalty of \$1000-, conditioned to pay such costs as may be awarded against the said complainant and also such damages as shall be incurred by the said J. W. Hosier, Executor, in case the said injunction is hereafter dissolved. ^{This injunction shall be dissolved after 90 days from this date unless sooner enlarged by this Court or dissolved.} Given under my hand this 10th day of September, 1926.

John L. Moore

Judge of the Circuit Court of
Nansemond County, Virginia.

VIRGINIA:
IN THE CIRCUIT COURT OF HANCOCK
COUNTY

BERNICE ROBERTSON...Complainant
vs.
J. WALTER HOBIER, Ex....Defendant

DECREE

Entered Sept. 10 '1926
J. L. Moore

6, page 45

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VIRGINIA:

IN THE CIRCUIT COURT OF HANSEMOND COUNTY

Bernice Robertson.....Complainant

V.....DECREE

J. Walter Hosier, Executor
under the will of

W. M. Kitchen, Deceased. *and* Defendants

*Helen Harcum, an infant
under the age of twenty-one years.*

This cause came on this day to be finally heard upon process duly served upon the defendant; upon the bill of complaint; upon the former decree awarding an injunction herein made and entered; upon the petition of Francis Kirby to be made a party defendant to this suit; upon the decree making the said Francis Kirby a party defendant herein; upon the separate answers of Francis Kirby and J. Walter Hosier, Executor under the will of W. M. Kitchen, deceased; upon the answer of Helen Harcum, an infant defendant, by her guardian ad litem; upon the answer of E. R. Custis, guardian ad litem for the said infant defendant; upon the evidence heard ore tenus, by consent of all parties and upon the argument of counsel on the part of the complainant and defendants.

Upon consideration whereof the Court doth adjudge order and decree that the will complained of and set out in the bill of complaint is the true last will and testament of W. M. Kitchen, deceased, that the injunction herein made and entered be hereby dissolved; that the complainant pay the costs incident to this proceeding and that this cause be now dismissed, stricken from the docket, and placed among the ended causes.

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VIRGINIA:

IN THE CIRCUIT COURT OF
NANSEMOND COUNTY.

Bernice Robertson..Complainent

V.....DECREE

J. Walter Hosier, Executor
under the will of
W. M. Kitchen, deceased. *et al.*..
Defendants.

Enter Octo. 28. 1927

J. L. McPherson

We consent to
this decree

G. H. Harris p. q.
atty for complainant

H. M. Langford
att. for defendant
J. Walter Hosier, Exr &c

E. R. Beutis
Guardian ad litem for
Helen Harcum, infant
defendant.

VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Bernice Robertson

v.

J. Walter Hosier, Executor
under the will of W. M.
Kitchen, deceased.

In Chancery.
Answer.

The answer of J. Walter Hosier, Executor under the will of W. M. Kitchen, deceased, to a bill of complaint filed against him in the Circuit Court of the County of Nansemond, by Bernice Robertson, complainant.

This respondent reserving to himself the benefit of all just exceptions to the said bill of complaint, for answer thereto, or to so much thereof as he is advised that it is material he should answer, answers and says:

F I R S T

The allegation, contained in paragraph one (1) of the complainant's bill, that W. M. Kitchen died intestate is incorrect; that the said W. M. Kitchen died testate leaving a valid will, the provisions of which are set out in paragraph one (1) of the complainant's bill. The other allegations contained in paragraph one (1) of the complainant's bill are not within the knowledge of this respondent, and may or may not be true, but strict proof of the same, if the same be relevant, is required.

S E C O N D

The allegations contained in paragraph two (2) of the complainant's bill are true with the exception of the allegations that the property was not fully and properly advertised and that if the sale was held as advertised the property would not sell for its full market value, and as a result thereof that the interest of the complainant, as well as all other parties interested in the estate would be thereby prejudiced, and that the complainant would

suffer irreparable loss, all of which is incorrect, damage having been by the estate sustained by the injunction heretofore obtained and on account of which a judgment will be sought, this answer being prayed to be regarded as a cross bill to this end.

T H R E E

The allegations contained in paragraph three (3) of the complainant's bill are incorrect; that the will and codicil referred to in the bill of complaint are the true will and codicil of the decedent, W. M. Kitchen; that the said will and codicil were not executed by the decedent as a result of undue influence brought to bear upon him in his then weakened and infirm condition but that the said will and codicil were executed by the decedent of his own free will; that at the time of the execution of the said will and codicil the decedent was mentally and physically qualified to execute a valid will and codicil of his estate; that the said will and codicil are neither vague or indefinite but are perfectly binding and effective in law; and that the amount left in the codicil attached to the said will to Mrs. Frances Kirby does not involve an amount out of proportion to services rendered.

And as to any matter or thing in the bill of complaint, not herein expressly admitted or denied, strict proof thereof is called for.

And now, having fully answered the complainants bill this respondent prays to be hence dismissed with his reasonable cost by him in this behalf expended.

J. Walter Hoies Respondent.
Executor under the will
of W. M. Kitchen, deceased.

Lillian H. Thompson
Counsel.

By Counsel.

Bernice Robertson

v.

J. Walter Hosier, Executor
under the will of W. M.
Kitchen, deceased.

ANSWER.

1927 Jan'y 1. paid.
JLH

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VIRGINIA,

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

Bernice Robertson

v.

J. Walter Hosier, Executor under
the will of W. M. Kitchen,
Deceased, and Frances Kirby.

In Chancery.
Answer.

The answer of Frances Kirby to a bill of complaint filed in the Circuit Court of the County of Nansemond by Bernice Robertson against J. Walter Hosier, Executor under the last will and testament of W. M. Kitchen, Deceased, to which bill of complaint, by petition, Frances Kirby subsequently became a party defendant.

This respondent reserving to herself the benefit of all just exceptions to the said bill of complaint, for answer thereto, or to so much thereof as she is advised that it is material she should answer, answers and says:

F I R S T

The allegation, contained in paragraph one (1) of the complainant's bill, that W. M. Kitchen died intestate is incorrect; that the said W. M. Kitchen died testate leaving a valid will, the provisions of which are set out in the said paragraph of complainant's bill. The allegation that this respondent is of no relation to the said W. M. Kitchen is true. The allegation that this respondent acted as housekeeper for the said W. M. Kitchen is true but her services as such housekeeper continued and lasted for a much longer period than is stated in the complainant's bill. The other allegations contained in paragraph one (1) of the complainant's bill are not within the knowledge of this respondent, and may or may not be true, but strict proof of the same, if the same be relevant, is required.

S E C O N D

The allegations contained in paragraph two (2) of the complainant's bill are true with the exception of the allegation that the property was not fully and properly advertised and that if the sale was held as advertised the property would not sell for its full market value, and as a result thereof that the interest of the complainant, as well as all other parties interested in the estate would be thereby prejudiced and that the complainant would suffer irreparable loss, all of which is incorrect, damage having been, by this respondent, sustained by the injuntion heretofore obtained and on account of which a judgment will be sought, this answer being prayed to be regarded as cross-bill to this end.

T H I R D

The allegations contained in paragraph three (3) of the complainant's bill are incorrect; that the will and codicil referred to in the bill of the complainant are the true will and codicil of the decedent, W. M. Kitchen; that the said will and codicil were not executed by the decedent as a result of undue influence brought to bear upon him in his then weakened and infirm condition but that the said will and codicil were executed by the decedent of his own free will; that at the time of the execution of the said will and codicil the decedent was mentally and physically qualified to execute a valid will and codicil of his estate; that the said will and codicil are neither vague or indefinite but are perfectly binding and effective in law; and that the amount left in the codicil, attached to the said will, to your respondent, Kirby, does not involve an amount out of proportion to services rendered.

And as to any matter or thing in the bill of complaint, not herein expressly admitted or denied, strict proof thereof is called for.

And now, having fully answered the complainant's bill, this respondent prays to be hence dismissed with her reasonable costs by him in this behalf expended.

Hugh J. Holland
Counsel.

FRANCES KIRBY.
By: Hugh J. Holland
Counsel.

Bernice Robertson

v.

J. Walter Hosier, Executor
under the last will and
testament of W. M. Kitchen,
deceased.

ANSWER.

1927 Jan 1. filed
J. W. H.

VIRGINIA:

IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

BERNICE ROBERTSON.....COMPLAINANT

vs.

J. WALTER HOSIER, Executor under
the will of W. W. Kitchen, deceased.....DEFENDANT

THE JOINT AND SEPARATE ANSWER OF HELEN HARCUM,
AN INFANT UNDER THE AGE OF TWENTY ONE YEARS,
BY E. R. CUSTIS (A DISCREET AND COMPETENT
ATTORNEY AT LAW), HER GUARDIAN AD LITEM ASSIGNED
TO DEFEND HER IN THIS SUIT, AND THE ANSWER OF
THE SAID E. R. CUSTIS, GUARDIAN AD LITEM OF THE
SAID INFANT DEFENDANT, TO A BILL OF COMPLAINT
EXHIBITED AGAINST HER AND OTHERS IN THE CIRCUIT
COURT OF NANSEMOND COUNTY, VIRGINIA, BY BERNICE
ROBERTSON.

For answer to the said bill the said infant defendant
by her said Guardian ad Litem answers and says that being of
tender years she does not know what her true interest is in
relation to the subject-matter of the said bill, nor does she
know whether the statements therein contained are true or not.
She confides the protection of her interest therein to the care
of the Court.

And the said Guardian ad Litem for answer to the said
bill answers and says that he knows nothing as to the truth or
falsity of the statements in the bill contained. He prays full
protection for the infant defendant.

And now having fully answered, this defendant prays
to be hence dismissed with her reasonable costs herein expended.

Helen Harcum BY E. R. Custis
Guardian ad Litem.

E. R. Custis
Guardian ad Litem of
the said infant.

Sworn to before me in my City aforesaid by E. R. Custis,
guardian ad litem as aforesaid, this the 21st day of October,
1927.

Minnie Lavin
Notary Public.

VIRGINIA: IN THE CIRCUIT
COURT OF NANSEMOND COUNTY.

BERNICE ROBERTSON

vs.

J. WALTER HOSIER, EXECUTOR, ETC.

.....

ANSWER OF
GUARDIAN AD LITEM.

1927. Octo. 28th filed
JHm

VIRGINIA: IN THE CIRCUIT COURT OF NANSEMOND COUNTY.

BERNICE ROBERTSON.....Complainant

vs.

BILL OF COMPLAINT AND FOR INJUNCTION

J. WALTER HOSIER, EXECUTOR UNDER THE
WILL OF W. M. KITCHEN, DECEASED.....Defendant

TO THE HONORABLE JAMES L. McLEMORE, JUDGE OF SAID COURT:

Your complainant, Bernice Robertson respectfully shows
unto the Court the following case:

(1) That she is a grandchild and one of the heirs-at-law
and distributees of W. M. Kitchen, who departed this life on or
about the 7th day of August, 1926, at Magnolia, Nansemond County,
Virginia, possessed of certain real and personal property. In
addition to your complainant the only other heir-at-law of the
said W. M. Kitchen, deceased, is an infant named Helen Harcum, a
great-grand child of the said W. M. Kitchen, deceased. Your
complainant believes, and so alleges, that the said W. M. Kitchen
died intestate, but since his death a paper writing purporting to
be his last will and testament, together with a codicil attached
thereto, has been admitted to probate in this Court, whereby he
gives the chief part of his property to one Mrs. Frances Kirby,
who, for a short time prior to his death had acted as housekeeper,
and who is of no relation to the said W. M. Kitchen, and to charity,
leaving only the small sum of One Hundred Dollars to your com-
plainant and Fifty Dollars to his great-grandchild, Helen Harcum.
The order admitting the said paper to probate was made on the 18th
day of August, 1926, and the wording of the said paper purporting
to be the last will and testament of the said W. M. Kitchen, to-
gether with the codicil attached thereto, is as follows:

"The last will and testament of W. M. Kitchen of
Nansemond County, Virginia."

"I, W. M. Kitchen of Nansemond County, Virginia, do
hereby make this my last will and testament, hereby re-
voking all former wills.

It is my will and desire that after all of my just debts shall have been paid by my Executor hereinafter named, that all of my estate personal and real (except a clock hereinafter named) be converted into cash to the best advantage by my Executor hereinafter named and that it be divided in manner and form as follows, hereby giving full power and authority to my Executor to make an full and sufficient deed for same:

1st. I direct my Executor to have a family stone placed at my grave and that all the names of my direct family be inscribed thereon and that the total cost shall not amount to more than \$500.00.

2nd. I direct my Executor to give to the City of Suffolk, Va., the sum of \$100.00, as a fund for taking care of my cemetery lot always.

3rd. I direct my Executor to give to my granddaughter Mrs. Bernice Robinson the sum of \$100.00.

4th. I direct my Executor to pay over to my present housekeeper, Mrs. Frances Kirby, the sum of \$500.00, provided that she is still with me at the time of my death, remaining in such capacity as housekeeper for me from now on to the time of my death. This to be in full for her services rendered me.

5th. I give to my friend, W. A. Talley, my grandfather clock.

6th. I direct my Executor to pay over to the proper party authorized to receive the same legally, the sum of \$300.00 for the Salvation Army.

7th. It is my will and desire and I direct my Executor to hold in trust the residue of the money from the sale of my property until an Old Folk's Home is established at Suffolk or in Nansemond County, and when this is done then to pay over this residue to the proper party or parties who are legally authorized to receive same. This to be for people of the white race unless some Old Folks home is established for the care of both races under one board of managers or trustees. If such an institution should not be established in Suffolk or Nansemond County within the two years after my death then I direct my Executor to give or distribute this remainder to some charitable organization or organizations in Suffolk or Nansemond County, using his own judgment and discretion.

And lastly I nominate and appoint J. Walter Hosier sole executor of this, my last will and testament, he giving the requisite bond required by law.

In Witness Whereof I have hereunto set my hand and seal this 30th day of September, 1925.

W. M. Kitchen (Seal)

Signed, sealed and published and declared by the testator to be his last will and testament in our presence and we in the presence of each other become subscribing witnesses.

W. S. Powell

C. J. Powell."

"CODICIL:

I hereby revoke the first item of this my last will and testament and desire that only a slab be placed at my grave with my name, age and date of death on it and not to cost exceeding One Hundred Dollars.

And the fourth item is to be Two Thousand Dollars.

And the fifth item is eliminated.

And I hereby make an eighth item directing my Executor to pay to my Grand Daughter Helen Marcum the sum of Fifty Dollars.

W. M. Kitchen (Seal).

Witness again this the 28th day of July, 1926.

W.S.Powell
C.J.Powell."

(2nd) That J. Walter Hosier, who was appointed Executor under the aforesaid document purporting to be the last will and testament of W. M. Kitchen, deceased, has advertised the property belonging to the said W. M. Kitchen, deceased, for sale on the premises at eleven o'clock A. M., on Friday, September 10th, 1926, terms of sale-cash. Your complainant alleges that she is informed and believes that she is interested in the said estate and that said property, which consists largely of a store, dwelling house and barn and about one and three-fourths acres of land, has not been fully and properly advertised, and that if the aforesaid sale is held at eleven o'clock A. M., on Friday, September 10th, 1926, the property will not sell for its full market value, and as a result thereof the interest of your complainant, as well as all other parties interested in said estate, will be thereby prejudiced, and your complainant will suffer irreparable loss.

3rd. Your complainant further alleges and charges that the paper writing aforesaid, with the codicil thereto attached, of which probate has been received, is not the true will of the decedent, W. M. Kitchen, for the following, among other reasons:

First: The said will, as well as the codicil attached thereto, were executed by the decedent as a result of undue influence brought to bear upon him in his then weakened and infirm condition.

Second: That due to the weakened and infirm physical and mental condition of the said decedent he was neither mentally nor physically qualified to execute a valid will of his estate.

Third: That the said will, together with the codicil attached thereto, is, in so far as it disposes of the large part of his estate to charity, is too vague and indefinite to be binding and effective in law.

Fourth: That the amount left in the codicil attached to the said will, to the said Mrs. Frances Kirby involves an amount out of all proportion to services rendered.

In tender consideration whereof and foreas-much as your complainant is remediless save in a court of equity, your complainant prays that the said J. Walter Mosier be made a party defendant to this bill and required to answer same, answer under oath being hereby expressly waived; 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 devisavit 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 W. M. Kitchen; that all testamentary papers of the decedent be produced before the court;; that the sale of the aforesaid property, scheduled to take place at eleven o'clock A. M., on Friday, September 10th, 1926, be enjoined, subject to the further order of this court; that the aforesaid writing admitted to probate be set aside and declared and decreed not to be the last will and testament of the said W. M. Kitchen; and that all such other further and general relief may be afforded to your complainant as the nature of the case may demand or to equity shall seem meet.

And your complainant will ever pray, etc.

Bernice Robertson

STATE OF VIRGINIA,
City of Suffolk, ss.

This day personally appeared before me Bernice Robertson
and made oath that the matters contained in the foregoing bill
are true to the best of her knowledge and belief.

Given under my hand this 10th day of September,
1926.

My commission expires the 7 day of May

1927.

E. L. Laine
Notary Public.

VIRGINIA:
IN THE CIRCUIT COURT OF HANCOCK
COUNTY.

BERTICE ROBERTSON....Complainant

vs.

J. WALTER HOSIER, Executor etc..
Defendant

BILL OF COMPLAINT AND FOR IN-
JUNCTION.

Filed Sept. 10, 1929
H. A. Harris
Clk

G. A. HARRIS
ATTORNEY AND COUNSELLOR AT LAW
SUFFOLK, VIRGINIA

H. C. Harris
Darius Robison

J. H. Harris, Decatur, Ga.

1927

Dina Kocer

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