

1816-003

SOUTHAMPTON COUNTY
CHANCERY PAPERS

EDWARDS

VS. WILKINSON'S EXECUTOR v. 21 JUL 2/1816

Other surnames: Phillips,
Eley, Dance

Edwards

at

Phillips Envoy

January 1816 Ant. J. Decree

cutt.

To the worshipful Court of Southampton in Chancery sitting
Humbly complaining sheweth unto your worship your orator
Nathaniel Edwards an infant son of Isaac Edwards by
Isaac Edwards his next friend appointed to prosecute for
him in this behalf -

That a certain Nathaniel Milkinson late
of this County departed this life sometime in the year one
thousand eight hundred and thirteen having first duly
made and published his last will and testament a copy of
which is hereto annexed and prayed to be taken and entered
as a part of this bill, and which is in the following words
to wit - In the name of God Amen, I Nathaniel Milkinson
of the County of Southampton and State of Virginia do make
constitute and ordain this my last will and testament in
the following manner. I purpise. It is my will desire
that all my just debts be paid by my executors hereafter
to be nominated - I give to my loving wife Ann G. Milkinson
my negro woman named Violet and her two children Edy and
Ely. My boy and Haines and the horses of her own to have
and the sum of One hundred and fifty dollars to be paid to
her out of my estate by my executors annually during her
natural life, all which I give to her and her heirs and assigns
forever - Item I lend to my loving wife Ann G. Milkinson
during her natural life the following property to wit
my Negro man John Sur, Senr jr, Girl Maria and Arrend
also the situation where I now live including only the
land which is now in an Orchard near the marsh, my garden
yard and all the lands lying between the dwelling house
and the Gate at the Road between the same fences together
with all the dwelling and out houses belonging to the
said situation - all my household and kitchen furniture
Item I lend to my loving wife Ann G. Milkinson during her
widowhood my Negro woman Cloc, and I also hereby direct my
executors that at the beginning of every year - say on the 1st day
of January in each year that they allot and deliver over
to my wife as much of the produce of every description made
on my plantation as will in their judgment be sufficient
for the support and maintenance of her my child or children
and the estate now given and lent to her but my intention is that
this support or maintenance shall not with her widowhood
Item I give to my son John Milkinson all my land lying
and being in the County of Southampton, except what I

have lent to my wife which he is to have also at her death -
also one half of all the negroes that may belong to my estate at the
time he arrives at the age of twenty one years - and also one half
of all the stock of every description that may belong to my estate
at the time he arrives at the age of twenty one, and also one
half of all the annual profits or income, nett, of my
whole estate until the time he arrives at the before mentioned
age to him and to his heirs forever. Item I give to the child
which my wife is now pregnant with provided it be a boy
my plantation lying in Northampton County one which
Miles W Dana now lives, also the other half of my estate
to be divided between him and my son John in the manner
and at the same times that I have directed my son John
to receive his half. I also give to my said child if a boy
the sum of five thousand dollars to be paid to him by my
son John when he arrives at the age of twenty one years.
This is enjoined on John to perform at that time to make
their estates as equal as possible, and provided the said
child should be a girl. I give her the said plantation
in Northampton and one fourth part of all my negroes
that may belong to my estate when my son John arrives at
the age of twenty one year, and also a maintenance and
education out of my estate till she may marry or arrive
at the age of eighteen, and in case it be a girl the
other fourth of my negroes that I should have given
was it a boy I give to my son John Wilkinson and
to his heirs - Item it is my will and desire that should
one of my children depart this life under the age of twenty one
year or without lawful heirs, that in that case the one that
may be living at the time, shall to all intents and purposes
have the whole of the one so dying, and in case all my
children should die under the age of twenty one years or
without lawful issue, in that case I give to my living
wife Ann G. Wilkinson all the land and plantation which
I now live called West Plains, and also one half of my
all my negroes which my estate may be entitled to when
the event may occur, all all my household and kitchen
furniture, and also three fourths of all my stock of every
description and three fourths of all the produce that may
be on hand when the event may occur to her and her
heirs forever - Item I give to Nathaniel Edwards son
of Doctor Isaac Edwards provided all my children die
under the age of twenty one year or without lawful issue
the land whereon Miles W Dana now lives, also one fourth
part of all my negroes that my estate may be entitled

to when the event takes place - also one fourth part of my stock
and crops to him and to his heirs forever - Item I give to Sally
Phillips wife of William Phillips and to her daughter Eliza
Cley, provided that all my children die under the age
of twenty one year or without lawful issue, jointly and
equally between them, the other and remaining fourth
part of my negroes, which my estate may be entitled to at
the time the event may occur, to them and each of them
separate heirs forever. Item it is my will and desire
that my executor hereafter nominated or appointed and permit
Miles W Dana to occupy and cultivate the plant-
ation on which he now lives three years from the
time of my death and without paying a cent for the use
of the same. But he not to work more than four
hands each year nor clear no land except what is
enclosed - Item my executors hereby authorized to sell
any part of my estate that they may conceive needed
spare towards the payment of just debts either real
or personal. But my wish is that the whole of my
estate be kept together by my executors and that my
plantation be cultivated by the hands to the best advan-
tage, and the annual profits and income to be administered
and appropriated as I have directed - Lastly I do hereby
nominate and appoint Doctor Isaac Edwards and
William Phillips whole and sole executors of this my last
will and testament, and I also appoint them joint testa-
mentary guardians to my child or children. But it is
my wish that Doctor may have or choose choice and
privilege of paying where and under whose care my child
or children shall be educated after they arrive to that
age. Given under my hand and seal this 13th day of
1813. That shortly after the death of the said testator
his widow Ann G. Wilkinson
was delivered of a male child afterwards known
by the name of Nathaniel. That the said Ann G.
Wilkinson solemnly renounced in open Court all the
provisions made for her in the said last will and
testament within the time prescribed by law, and
her dower in the estate of the said Nathl. Wilkinson
her late husband hath been legally assigned to her
That not long after the death of the testator his son
John died an infant under the age of twenty one

years and without issue, and that shortly after his
death Nathaniel also died an infant under the
age of twenty one years and without issue by means
whereof and by virtue of an act of the General assembly
passed in the year 1803 Ann G. Wilkinson the mother
of the said Nathaniel the infant became entitled
to his personal estate so as aforesaid devised to
him in the said last will and testament, except
so much thereof as is bequeathed to your orator
and Sally Phillips and her daughter Eliza Ely.
That William Phillips one of the executors appointed
by the said last will and testament hath alone
qualified and taken upon himself the burden of the
execution of the same. That he believes there can be no
reasonable ^{ground} for withholding from him the legacy bequeathed
to him in the said last will and testament or at least
that portion of it which may consist in slaves, but yet
he cannot obtain possession of the same without the inter-
ference of a Court of Chancery. In tender consideration
whereof and in as much as your Orator is without a
remedy save in this Court he prays that that the said
William Phillips executor of Nathaniel Wilkinson and
Ann G. Wilkinson widow of the said Nathaniel
Wilkinson and her as aforesaid to the aforesaid
Nathaniel Wilkinson the younger, and William
Phillips and Sally his wife and Eliza Ely who is
under the age of twenty one years by ~~some friend~~
~~appointed~~ her guardian the said William Phillips
may be made defendants here to and be compelled to
answer all and singular the allegations herein contain-
ed fully and unvariously, and he further prays that this
Court would direct a division of the slaves now
belonging to the estate of the said Nathaniel
Wilkinson the father (except such as may be contained
in the widows dowry) among your complainant
and the defendants according to their respective

rights. That is to say that one fourth part of
them be decreed to be allotted to your orator, one
half of them to the said defendant Ann G. Wilkinson
and the remaining fourth part to be equally
divided between the defendants William
Phillips and Sally his wife in right of her said wife
and of the defendant Eliza Ely. And finally
that your orator prays that the Court would make any other
or further order or decree in the premises which may
be consistent with justice and equity and as his
duty bound he will ever pray &c —

Phillips En McKim

1884

advs

Edwards

Answer

To the worshipful Court of Southampton in Chancery
sitting - The joint and Separate Answers of William
Phillips executor of Nathaniel Wilkinsons and of
the said William Phillips and Sally his wife and of
Eliza Elay an infant by her guardian the said William
Phillips to the bill of Complaint exhibited against them
and Ann G. Wilkinson by Nathaniel Edwards by his
own next friend Esqr Edwards

These respondents now and at all times saving and
all manner of benefit of exception to any errors or im-
-perfections in the complainants contained for answer
therein or to so much thereof as he is advised is material
and necessary for them to make answer unto answering
that the said Nathaniel Wilkinson did make and
publish such a last will and testament as is
set forth in the complainants bill, and that the
respondent William Phillips qualifies alone
as executor to the same, and they further say that
they are willing that this Court should proceed
to make such a decree as may afford to them
the enjoyment of the legacy bequeathed in the
said last will and testament to them, and which
may comport with principles of Equity & Justice
These respondents having answered pray to be heard
as is urged Yes Yes -

To the worshipful Court of Southampton in Chancery
sitting. The separate answer of Ann L. Milkinson
widow and relict of Nathaniel Milkinson died and
her at law to Nathaniel Milkinson the younger son
to the bill of complaint exhibited against herself and
William Phillips executor of the said Nathaniel Mil-
kinson the elder and the said William Phillips and
Sally his wife and Eliza Eley and infant by her
Guardian the said William Phillips by Nathaniel
Edwards by his first Counsel Isaac Edwards

This respondent now and at all times saving & reserving
to herself all and every benefit of exception to any
error or imperfections in the complainants bill con-
tained her answer thereto & to so much thereof as she
is advised is material and necessary for her to make
answer unto answering oath. That true it is she
has remained in open Court within the time prescribed
by law all interest which she might otherwise now
claim under the last will and testament of her deceased
husband Nathaniel Milkinson, and that she has
had power in the slaves which remained after the
payment of debts of which he did possess assigned
to her, and which she now holds for the term of her
natural life. and she further admits that she is
as stated by the bill entitled to one half of all the
slaves now belonging to the estate of the said Nath-
aniel Milkinson the testator in consequence of the death
of both her children John and Nathaniel Milkinson
and she is willing that the whole of the slaves (except
such as are included in her answer which will be
subject to a like division at a future day) may
should be divided according to the prayer of
the complainants bill. This respondent having
answered prayer to her being assigned Rs 45 -

Edwards

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Phillips vs Milkinson and others Defts

This cause was this day docketed by consent of parties and
agent of the Court and came on this heard on the bill
answers, exhibits and arguments of counsel whereupon
and upon due consideration thereof have the Court
depts a judge order and decree that Wm Faulkner
James Esq, Mr Cook and Laurence Cook & Richard Blunt

many three of them do divide the slaves now belong-
ing to the estate of Nathaniel Milkinson the elder
and excepting such as are included in the widows
answer which has been heretofore assigned to her and
a division of which among the parties is by them
portended to a future period, and first into two
equal parts and assign one equal part to the
Defendants Ann L. Milkinson the same having
descended to her in consequence of the death
of her infant child John Milkinson and then of
her infant child Nathaniel Milkinson. That they
divide the remaining equal part into two other
equal parts and assign one equal part to the
Complainant Nathaniel Edwards who claims
by virtue of a bequest contained in the last
will and testament of the said Nathaniel Mil-
kinson died. and that they divide the remaining
equal part equally between the Defendants
William Phillips and his wife Sally in right of
his said wife and the Defendant Eliza Eley
they being entitled to the same by virtue also
of a bequest contained in the last will & testament
of the said Nathaniel Milkinson died, and it
is further ordered that they or such of them as may
act do make a report to this Court in order to
a final decree -

Edward

as

Philips

1843

Int. J. Series

Southampton January Court 1816.

Nathaniel Edwards by his next
friend Isaac Edwards by the court appointed
to prosecute for him in his behalf Complainant

against
Ann G. Wilkinson widow and relict of
Nathaniel Wilkinson deceased and heir at
law to Nathaniel Wilkinson the younger
deceased. William Phillips executor of
Nathaniel Wilkinson deceased and William
Phillips and Sally his wife and Eliza Eley
an infant by her guardian the said
William Phillips Defendants

In Chancery

This cause was this day docketed by consent of parties
and absent of the court and came on to be heard on the bill
answers exhibits and arguments of counsel whereupon, and
upon due Consideration thereof had the court with ad judge
order and decree that John Faircloth James Bee Miles Cook
and Laurence Cook and Rich^d B Hunt or any three of them
do divide the slaves now belonging to the estate of Nathaniel
Wilkinson the elder deceased excepting such as are included
in the widows dower which has been here before assigned
to her and a division of which among the parties is by
them postponed to a future period first into two equal
parts and assign one equal part to the defendants Ann
G. Wilkinson & the same having descended to her in consequence
first of the death of her infant child ^{John Wilkinson} and then of her infant child ^{Nathaniel}
Wilkinson. that they divide the remaining equal
part into two other equal parts and assign one equal
part to the Complainant Nathaniel Edwards

who claims the same by virtue of a bequest contained
 in the last will and testament of the said Nathaniel
 Wilkinson deceased and that they decree the remaining
 equal part equally between the defendants William
 Phillips and his wife Sally in right of her said wife
 (and the defendant Elyse Hays they being entitled to the
 same by virtue also of a bequest contained in the last
 will and testament of the said Nathaniel Wilkinson
 dec. and it is further ordered that they or such of them
 as may act do make a report to this Court in order
 to a final decree

Teste
 Rachelle c. sec
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Edward

vs

Phillips & W

Int. J. Decree

Report
Nat. Edwards

vs
William Phillips
January 16/1816

Feb'y. 1816 Rep't. rec'd.
Dues final -

(Sul.)

Agreeably to an order of Southampton January Court 1816 We the undersigned mentioned in the above order, have assigned to Ann G. Wilkinson the following slaves to wit, Cooper, Gen^r, Jibloe, Sam, Cooper Jun^r, Wilkinson, Phillis, Jinney, Matilda, Sarah, Minerva, Annis, & Rachel. We have assigned to Nathaniel Edwards the following slaves to wit, Essex, Lewis, & Mary & Jenny. We have assigned to Eliza Eley the following slaves to wit, Aggy, Cary & Jibloe. To pay William Phillips eighty five dollars. We have assigned to William Phillips in right of his wife Sally the following slaves to wit, Shade, & Priscilla, & to receive from Eliza Eley eighty five dollars.

Given under our hands this 17th day
of January 1816,

Mr. Faircloth
Richard Blunt
Miles Cook

In the name of God Amen I Nathaniel Wilkinson
of the County of Southampton, State of Virginia, do make and
Constitute Ordains this my Last Will and Testament in the
following manner &c &c —

Imprimis It is my will and desire that all my just debts
be paid by my executors hereafter to be nominated —

Item I give to my loving Wife Ann. G. Wilkinson my Negro Woman
named Violet, and her two Children named Cady and Ely — my
Gig and Harness and two Horses ~~of~~ her own choice and the sum
of One hundred & fifty Dollars to be paid to her out of my Estate
by my executors Annually during her natural life: all of which I
give to her and her heirs and ^{assigns} forever —

Item I give to my loving Wife Ann. G. Wilkinson: during her natural
life the following property Viz My Negro Man John Lewis Jr
Girl Maria — and Anne — also the Situation where I now live
Including only the Land which is now in an Orchard, near
the marsh, my Garden Yard — And all the Land lying between
the dwelling House and the Gate at the road: between the Cane
fences — together with all the dwelling and out houses belonging to
the said Situation — — — All my household & Kitchen furniture
of every description — — —

Item I give to my loving Wife Ann. G. Wilkinson during her
Widowhood my Negro Woman Coby and I also hereby direct
my executors that at the beginning of every Year: — Say on the 1st day
of January ~~next~~ in each Year: that they do and deliver over
to my Wife — as much of the produce of every description made
on my plantation as will in their Judgment — be sufficient for the
Support and Maintenance of her: my Child or Children: and the
estate now given and lent to her — But my intention is that this
Support or maintenance shall end with her Widowhood

Item I give to my son John Wilkinson all my Land lying & being in the County of Southampton except what I have lent to my wife: which he is also to have at her death — Also one half of all the Negroes that may belong to my estate at the time he arrives at the age of Twenty one Years — and also One half of all the Stock of every description that may belong to my estate at the time he arrives at the age of Twenty one: and also one half of all the Annual Profits or income Next, of my whole Estate: untill the time he arrives to the ~~time~~ before mentioned age — — To him and to his heirs forever — —

Item I give to the child which my Wife is now pregnant with — Provided — It be a boy my Plantation lying in N^o Ampton County, on which Miss W. Dana now lives — — Also the other half of my estate to be divided between him and my son John in the manner and at the same times: that I have directed my son John to receive his half: I also give to my said Child if a boy the Sum of Five Thousand dollars to be paid to him by my son John when he arrives at the age of Twenty one Years — This is enjoined on John to perform at that time to make their estates as equal as possible: — — And provided the said Child should be a Girl I give her the said Plantation in N^o Ampton: and one fourth part of all my Negroes that may belong to my estate: when ~~she~~ my son John arrives at the age of Twenty one Years: and also a Maintenance and education out of my estate till she may marry or arrive at the age of eighteen: and in a case It be a Girl: the other fourth of my Negroes: that I should have given was It a boy — I give to my son John Wilkinson and to his heirs forever — —

Item It is my sincere ^{Wife's} desire that should one of my Children depart this life under the age of Twenty one Years — or without Lawful heir — that in that case the one that may be living at the time: I shall to all intents and purposes have the whole of the estate of the one so dying: and case all my Children should die under the age of Twenty one Years: or without Lawful Issue in that case — I give to my loving Wife Ann G. Wilkinson all the Land and Plantations whereon I now live: called West Plains: and also one half of all my Negroes: which my estate may be intitled too when the event may Occur: also all my household and Kitchen furniture: and also three fourths of all my Stock of every description and three fourths of all the Produce that may be on hand when the event may Occur: To her and her heirs forever: — — —

Item I give to Nathaniel Edwards son of Doct^r Isaac Edwards provided all my Children die under the age of Twenty one Years or without Lawful Issue the Land whereon Miss W. Dana now lives: also one fourth part of all my Negroes that may belong to my estate may be intitled to when the event takes place: Also the fourth part of my Stock and Crops — To him and to his heirs forever — — —

Item I give to Sally Phillips Wife of William Phillips and to her daughter Eliza Ely: provided that all my Children die under the age of Twenty one Years: or without Lawful Issue — jointly and equally between them: the other and remaining fourth part of my Negroes: which my estate may be intitled to at the time the event may Occur: to them and each of their Separate heirs and assigns forever: — — —

Item It is my will and desire that my executors hereafter

nominated suffer and permit Miss W. Dana - to occupy
use and Cultivate the Plantation on which he now lives
three years from the time of my decease without paying a
Cent of rent for the use of the same - But he not to work more
than four hands each year: nor clear no Land except what
is inclosed — — —

Item my executors are hereby authorized to sell any part of
my estate that they may conceive can be spared Towards
the Payment of just debts - either real or Personal: - But my
wish is that the whole of my estate not otherwise disposed of be
Kept together by my executors. That my Plantation be cultivated
by the hands to the best advantage - and the annual profits
and income to be administered and apportioned as I have
directed — — —

Lastly I do hereby nominate and appoint Doctr. Isaac
Edwards and William Phillips. whole & sole executors of
this my last Will and Testament and I also appoint them joint
Testamentary Guardians to my Child or Children: But it is my
wish that Doctr. Edwards may have executive Choice and
Privilege of saying where and under whose care my Child
or Children shall be educated after they arrive to that
age: — Given my hand and seal this 13th day of March
1813

Signed & Acknowledged
In the presence of }
Ben. Johnson
James Jackson
John Beal
Thomas Branch

N. Wilkinson Seal

Wm. H. Phillips

Wm. Jackson { So. Ampton. N. H.

Wm. Wm. Phillips

m. a.

Dr Sir

I am much obliged to you for the trouble you have taken in sending up - and am very sorry my health will not admit of my traveling as far; I have been sick for three months and at this time laboring under a very alarming cough which keeps me so low I can with difficulty get about - but have sent down Mr. Jackson to act for ~~me~~ and would thank you to introduce him to some Lawyer at Court and give him any advice which you may see necessary. I hope you will not make yourself uneasy about the decision for anything which you may see; I will certainly thank you for it and believe me your friend in low health.

Jan 13 1846 ———— Edwards ————