

1844-011

SOUTHAMPTON COUNTY  
CHANCERY PAPERS

FRENCH

VS. FLETCHER et al

11/1844

See also: Taylor v. Finney et al 1844-23

other surnames: Peebles,  
Finny, Riddick, Taylor,  
Finney

French

17

Fletcher et als.

1844 Nov. Bell Dep. 8.

French  
Statement Rules for  
Fletcher et al

Received Oct 30/1843

French

<sup>in</sup>  
Fletcher et al

Statement of Rules &c

1842. Decemr 1. Sp. N. to February Rules 1843

1843. Feby 18. Sp. N. ret. executed on Taylor & Finney. Ord publication  
vs Fletcher & Riddick

" April 18. set for hearing on Taylor & Finney.

" May. proof of publication returned

" October 7. On the motion of the Plaintiff by his attorney and  
for reasons appearing to the Court it is ordered that this  
cause be removed to the Circuit Superior Court of  
Law and Chancery for Southampton County.

Copy Rules & orders Teste

L. Lanier Clk

Plaintiff's Costs

Clerk \$ 6.40

Sheriff . 1.65

Attorney's fee 17.41

Printer 5.00

\$ 30.96

Costs of Dfts. Finney & Riddick

clerk. \$ 1.90

Law. 16.66 } \$ 18.56

To the Hon. Judge of the Circuit Superior  
Court of Law and Chancery for the  
County of Sufer.

Humbly complaining, sheweth unto your Honor, your  
complainant. Sarah D. W. French. ~~Daughter~~ of Deft.  
John French. That in the year 1822, her Father,  
John French, made and published his Last will and  
testament, in writing, which was admitted to Record by  
the County Court of Brunswick, an authentication  
copy of which, is herewith exhibited, and prayed  
to be considered as a part of this bill. That at the  
time of the making of this will, your complainant  
was the wife of John French, who was at that  
time a strong and healthy man, and who was considering, as tending  
to a state of utter insolvency; and which opinion  
formed afterwards to be well founded. That your  
complainant, feeling a deep solicitude, for the  
future and permanent support and maintenance  
of your complainant's daughter, and for the purpose  
of providing for her comfortable, subsistence,  
arrived, to Richard French, Peter J. Beasley, and  
Nathan W. French, as trustees, to hold for the benefit  
of your complainant, during life, the following Slaves, viz.  
Lucy, Frankly, Phoebe, Daniel, great Ned, Minnie and  
Lucky. And your Father's provision of two of the  
persons named in the will of the Testator, that is  
by Richard French, and Nathaniel W. French.  
And your marriage principally by Nathaniel, that  
Rich<sup>d</sup> and P. J. Beasley are dead, and Nathaniel  
is a resident of the State of Alabama, and  
does not, nor can he now in the nature  
of things pay any attention, to the trust property.  
Your complainant further states, that her first  
husband, French died many years ago, totally  
insolvent, and that after his death, as well as

during the coverture, the Trustee continuing to manage  
the property, and to pay over to your Campbells  
according to the terms of her Father's will, the profits  
of the slaves - but they, returning to remain to a dis-  
tant state, and left the property, without any one  
to take charge of it, and your Campbells unwilling  
to see her only means of support, squandered  
and she left penniless, inducing various friends, as  
she could find them to attend to the slaves, that  
this state of things continuing until the year  
when your Campbells intermarried with her late husband  
John French, who took possession of the slaves  
and their increase, without any authority from  
Athanasius the only surviving Trustee. That French  
held them during the coverture, and received the profits  
arising from them, but claimed no other claims, nor  
asserted any other right to them, than to enjoy the  
profits, arising the coverture, knowing as he well  
knew that the said slaves were the separate estate  
of your Campbells. That John French asserting this  
life after making a will, in which no mention  
of, or allusion to these slaves, is made. That one  
Crawley Timmy, qualified as the Executor of John  
French, and without any authority of Law or Justice  
sold all the slaves, (to which the Trustee under the  
will of John French, was entitled for the support  
of your Campbells) at public auction, and became  
the purchaser himself, at a grossly inadequate price  
and contrary to the rights of your Campbells. That  
the said Timmy, afterwards becoming, in doubtful  
if not insolvent circumstances, conveyed these  
slaves, and their increase, or such of them as were  
then living, to wit, William, Lafayette, Franky & 2 Children  
died, Phoebe, Maria & Susy, & Minnie  
to Richd. A. Phillips, in a deed of Trust - who  
has since, sold the said slaves at public auction

and Robert Taylor became the purchaser, and now  
holds them, in his possession.  
Your Campbells further shew to your Honor, that  
by all these ingredients, and unjust proceedings  
she has been deprived of her just rights, reduced  
to a state of beggary, and absolutely want, exposed  
- out on the cold charity of the world, for a scanty  
support - and the benevolent intentions, and express  
provisions of her Father, as manifesting in his last  
will and Testament, have been completely defeated  
all of which is contrary to Law, and good conscience.  
Your Campbells further state that the slaves  
now in the possession of Robert Taylor are, those  
before mentioned.

Who are the slaves and increase  
of those assigned to Trustee, for the benefit of your  
Campbells by John French, and she is advised, that  
your Honor will appoint, a Trustee to take charge  
of them, and carry out the rights and purposes  
of the Trust.

In Tender Consideration of all which, and in  
as much as your complaint is entirely without remedy  
in the premises at Law, and only redressible in a court  
of Equity, where matters of Trust are peculiarly con-  
sidered. To the End therefore that justice  
may be done, your Campbells pray your Honor to make  
Athanasius French, Trustee. Crawley Timmy, as Executor  
of John French, and in this own right, Richd. Phillips  
Trustee in a deed of Trust from Crawley Timmy, and

Robert Taylor appears & asks to this bill. and compel them  
to answer the allegations thereof. That your Honor will  
appoint some fit and suitable individual, Trustee,  
in the place of Nathaniel St. Fitch, to hold the  
slaves and pay over the annual profits to your Comp.  
Sainbats. That the sales made by Fitch as executor  
of French, and by Shadwell Trustee, may be set aside  
and that Taylor be compelled to deliver up the slaves  
in his possession, to the Trustee to be appointed by your  
Honor. That an account of the sales of the  
slaves since the death of John French may be  
taken before a com. of this court. and the amt.  
ascertained to be paid to your Comp. And that  
your Honor will grant such other & general  
Relief, as equity & good conscience may dictate.  
as is only. have your Compt. will end justice.  
May it please your Honor. &c.

Chambliss for Compt.

The answer of Richard H. Redden to the bill exhibited against him and others by Sarah E. W. French in the Circuit Superior Court of Law and Chancery for the County of Suffolk. This respondent saving and reserving to himself all just exceptions to the said bill, for answer thereto as to so much thereof as he is advised it is material for him to reply to says that he knows nothing of the matters charged in the bill respecting Ann Peckles the former husband of the complainant or of the matters which affect her father John Fletcher in making the bequest to her mentioned in his will except so far as the same are disclosed in that document. By the true construction of that he is informed that on the death of Ann ~~Peckles~~<sup>Peckles</sup> the heirs of the slaves (and their issue) bequeathed to Richard Fletcher, Peter L. Blossey and to Manuel Fletcher for her use came to her absolute benefit and that on her marriage ~~with~~<sup>with</sup> Doctor John French and his taking possession of them which this respondent charges he did immediately on his marriage all her interests in the said slaves and their issue became his property.

It is not true as charged in the bill that in the will of Dr. J. John French "no mention or allusion to these slaves is made," on the contrary it will be perceived by reference to that instrument, a copy of which is filed with the answer of the Defendant Browning in this suit, that the said testator in the very first clause of it gave all the right and interest in the said negroes acquired by him in his marriage with the said Sarah back to her & her heirs forever. and nothing but the concealment of the said French's estate prevented her getting the said slaves according to that bequest. This respondent

begs leave to refer to the answer of the said Crawley  
Fleming showing the indebtedness of the said  
John French estate, the receipt of the sale of his  
interest in the slaves and the purchase of them  
and adopts so much of that answer as relates to  
those matters as parts of this answer. He does  
so because he had no direct knowledge of those  
matters otherwise than as derived from the said Fleming.

The interest so purchased by the said Fleming  
was afterwards conveyed by deed dated the 25<sup>th</sup>  
of February 1842 and duly recorded in the Clerk's  
Office of Hanson County Court, a copy of which  
is filed with the answer of said Fleming, to this  
respondent in haste for the purposes therein mentioned.  
When the said slaves were sold under that deed  
and before they were sold the title was fully  
explained to the ~~said~~ defendant Robert Taylor who  
became the purchaser with a full knowledge  
of all the circumstances connected with the right  
and propriety of the said John French respecting them.

This respondent is advised that neither as  
Justice under the said deed and having concealed  
nothing respecting the title of the said slaves, but  
on the contrary having made a full & positive  
of the same persons to and at the sale he is in no wise  
responsible to any person whatsoever except those claiming  
under the deed aforesaid as creditors of the said Fleming  
without that debt.

Having fully answered this respondent prays  
to be hence discharged with his costs in this behalf most  
unsuccessfully sustained.

Hanson County to wit:

This day Richard H. Reddock ap-  
peared before me a Justice of the Peace for this County

appeared and made oath that the facts and  
statements therein set forth are true to the  
best of his knowledge and belief. Given under  
my hand and seal this            day of            1843.

The answer of Granville Tenny individually  
and as Executor of John French died to the bill  
exhibited against him and others by Sarah E W  
French in the Circuit Superior Court of Law  
and Chancery for the County of Suffolk. This  
respondent saving and reserving to himself all  
just exceptions to the said bill, for answer  
thinks it to so much thing as he is advised  
it is material for him to reply to, says that  
whereas Dr. John French, the testator of this  
respondent, married the complainant, which  
was in the year 1838 in the County of North-  
ampton, in the State of North Carolina, she  
was in the possession of the slaves mentioned  
in the bill (except such as may have been  
born since) having "full power and perfect  
enjoyment of all the profits, advantages and  
conveniences in any way arising from the labor  
and service of the said slaves"; That the said  
John French immediately afterwards took into his  
own possession the said slaves and not long  
afterwards removed with his wife into the County  
of Lancaster in the State of Virginia. Into  
that County he brought with him the said  
slaves and claimed and continued to claim  
during his life in his own right all the  
~~real~~ estate and title which his wife had in  
them at the time of their marriage & afterwards.  
That thus claiming them he disposed of them  
by his will, by bequeathing all his interest  
in them to his wife, as will be seen by a  
copy of that instrument filed herewith. Upon  
his death this respondent qualified as his Ex'r.  
and after selling all the other personal estate  
and all the real estate, except some property

which is now in litigation in the Superior Court of Suffolk County, he returned to the Court of Somerset County an audit of his transactions on the estate of his testator duly ruled by a commissioner appointed by said Court - a copy of which is filed herewith. By that account the estate was found indebted to him in the sum of \$1137<sup>00</sup>/<sub>100</sub> as will appear by reference to it.

To pay off the indebtedness of the estate to him and to purchase the said slaves being levied upon to satisfy judgments against the estate founded upon claims of superior dignity to the balance due to this respondent, he advertised ~~publicly~~ publicly on the 11<sup>th</sup> of October 1841 by posting up at the front door of the Court House and at a number of other public places in the County of Somerset that the interest which the estate of John French had in the said slaves to wit, William, da Fayette, Annan, Indiana, Lucy and her child, Phoebe and her child, Franky and her two children, and ~~Lucy~~ <sup>Lucy</sup> would be sold at public auction by the <sup>2</sup>sheriff of Dorset P Phillips in Chesham in said County on the 29<sup>th</sup> of that month. On that day at the place designated the interests aforesaid was offered for sale at public auction, when a great number of persons being present and this respondent being the highest bidder at the price of three hundred dollars became the purchaser. Being afterwards pressed in his circumstances he subsequently conveyed all his interest so purchased by him in the said slaves in trust to Richard H Riddick by deed duly recorded in the Clerk

Office of Somerset County - a copy of which he files herewith.

Pursuant to this deed the said Richard H Riddick duly advertised that he should sell at public auction on the day and at the place mentioned in the advertisement the interest in the said slaves which had been conveyed to him. At that sale the Defendant Taylor attended and well knowing what he was buying, for a price of <sup>a thousand</sup> three hundred dollars, and executed his bond with security for the payment. The ~~three~~ <sup>at which they were struck off</sup> ~~thousand dollars~~ was deemed by all the persons present, so far as this respondent understood, the full value of the life estate of Mrs French in the said slaves. Two of them were of pension <sup>young</sup> negroes two women each with a child produced but little, having two boys and a girl of much promise.

This respondent is advised that the said slaves being in the possession of Mrs French exercising ownership over them as she stated when Dr. John French married her agreed to belong to her on his taking them into his own possession. ~~at which they were struck off~~. That all the interest in them passed to him and that this interest was "the full free and proper enjoyment of all the profits avowages and emoluments in any way arising from the labour and services of the said slaves during her natural life, at the least; that this respondent as her Exr. in the execution of the indebtedness of the estate had the right to sell that interest; that the sale being fairly con-

= Deeded and made after due advertisement he had  
a right to purchase, and that the said Richard  
H. Nickerson the Trustee in the deed of said  
had the same right to sell and the defendant  
Taylor to purchase. With that that &c.

Having ~~been~~<sup>fully</sup> answered, this respondent prays  
to be heard & argued with his wife in this  
behalf more wrongfully sustained.

Crawley Finney

Corporation of defendant to wit.

This day Crawley Finney appeared before  
me a Justice of the Peace for the Corporation  
of said and made oath that the facts &  
statements set forth in the foregoing answer  
are true to the best of his knowledge and  
belief. Given under my hand this 6th day of  
October 1843.

D. N. Byrman J. P.

French

" 3

Fletcher & Co.

Dec. 1844

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To be entered

R. H. B.

French

is

Hatchman & Co.

33

The Jefe Stann W Hatchman, who is a non resident  
of this Commonwealth having been duly presented  
against as such, failing to appear and answer ~~on~~  
the motion of the Jefe by the court the bill is  
taken for confessed as to that Jefe; and the subpoena  
having been served on the Jefe Robert Taylor and the  
bill filed more than two months and he still failing  
to appear and answer, on the like motion the Jefe  
bill is taken for confessed as to that Jefe also: and  
thereupon the cause came on to be heard on the  
bill answers of the Jefe Crawley Tenny and unduly  
and as Ex. of John French de. and Richard H Radford  
(which last answer though not sworn to is admitted by  
the parties to avail to the same extent as if sworn to)  
and was argued by counsel, on consideration whereof  
the Court doth advise order and decree that the  
bill of the complainant be dismissed and that  
she pay to the Jefe Crawley Tenny and R H  
Radford their costs in this behalf expended.

The within named Crawley, Kinney is no  
Inhabitant, but resides in Lynchburg  
Richard W. Riddick not found.

John R. Kelly Esq  
for Wm H. Gordon  
Sh.

Mr Riddick is in N.C. as agent for a Swamp  
Co. & does not expect to be here more than  
3 or 4 times this year.

French

or E. A. Shaw

W. H. H. H. H.

to February 11. 1842

John W. H. H. H.

John W. H. H. H.

105

to the Clerk of Sup. Court

Sup. Ct.



The Commonwealth of Virginia.

To the Sheriff of *Nansemond* County, Greeting:

We command you that you summon *Nathan W. Fletcher, Crawley Finney*  
*Exor of John French dec'd and in his own right, Richard W. Woodick,*  
*and Robert Taylor*

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery  
for Sussex County, at Rules to be holden for the said Court, on the first Monday  
in *February* next, to answer a Bill in Chancery, exhibited against them  
in the said Court, by *Sarah E. W. French*

and unless *they* shall answer the said Bill within <sup>three</sup> ~~four~~ months thereafter, the  
Court will take the same for confessed, and decree accordingly. And this *they*  
shall in no wise omit under the penalty of £100. And have then there this  
Writ. Witness Littleton Lanier, Clerk of our said Court, at the Court-House,  
the *1<sup>st</sup>* day of December 1842, in the *67<sup>th</sup>* year of  
the Commonwealth.

*L. Lanier*

✓  
French

of 3 Sub. Chan.  
Fletcher & others

To February 18. 1843

Execution on Taylor. others  
no inhabitants. J. W. Dillard def.  
of H. J. Harrison a hpp

The Commonwealth of Virginia.

To the Sheriff of

Sussex

County, Greeting:

We command you that you summon Nathan W. Fletcher Granley, Junr, Exor of John French dec<sup>d</sup> and in his own right, Richard H. Brooks and Robert Taylor

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery, for Sussex County, at Rules to be holden for the said Court, on the first Monday in February next, to answer a Bill in Chancery, exhibited against them in the said Court, by Sarah E. W. French

and unless ~~they~~ shall answer the said Bill within <sup>two</sup> ~~four~~ months thereafter, the Court will take the same for confessed, and decree accordingly. And this ~~they~~ shall in no wise omit under the penalty of £100. And have then there this Writ. Witness Littleton Lanier, Clerk of our said Court, at the Court-House, the 1<sup>st</sup> day of December 1842 in the 67<sup>th</sup> year of the Commonwealth.

L. Lanier

Presented on the 9<sup>th</sup> February 1843 by giving to  
Crawley Finney a copy of the <sup>1<sup>st</sup></sup> Edition

W. Watson Esq for  
Edinburgh 26k

7

French

3 Mr. Chan

Mr. Howat

To March 1<sup>st</sup> 1843.

The Commonwealth of Virginia.

To the ~~Sheriff~~ Sergeant of Lynchburg County, Greeting:  
We command you that you summon Crawley Finney Executor of John  
French dec'd and in his own right

to appear at the Clerk's Office of our Circuit Superior Court of Law and Chancery,  
for Sussex County, at Rules to be holden for the said Court, on the first Monday  
in March next, to answer a Bill in Chancery, exhibited against him  
<sup>and others</sup>  
in the said Court, by Sarah E W French

and unless he shall answer the said Bill within <sup>two</sup> ~~four~~ months thereafter, the  
Court will take the same for confessed, and decree accordingly. And this he  
shall in no wise omit under the penalty of £100. And have then there this  
Writ. Witness Littleton Lanier, Clerk of our said Court, at the Court-House,  
the 4<sup>th</sup> day of February 1843 in the 67<sup>th</sup> year of  
the Commonwealth.

L. Lanier

French

in 3rd pub.

Fletcher to

Notes at the Court House

at March and

April County 1843.

L. Lanier C.C.

At Rules held in the Clerk's office of the Circuit  
Superior Court of Law and Chancery for Suffolk County  
on Monday the 6th day of February 1843

Sarah E. W. French

Plff

against  
Nathaniel W. Fletcher, Crowley Finney, Executor of John French's estate and  
in his own right, Richard A. Rodick and Robert Taylor Defs  
In Chancery

The Defendants Nathaniel W. Fletcher and Richard A. Rodick  
not having entered their appearance and given security  
according to the Act of Assembly, and the rules of this Court, and it appearing  
by satisfactory evidence that they are not inhabitants  
of this Country. It is ordered that the said defendants do appear here ~~on the~~  
~~at Rules to be held in the Clerk's office of our said Court on the~~  
~~first day of Monday in May~~ ~~Term~~ next and answer the bill of the  
plaintiff, and that a copy of this order be forthwith inserted in some News-  
paper published in the town of Petersburg for two months successively, and  
posted at the front door of the Court-House of this County.

A Copy Teste L. Lanier Clk

# TOWN OF PETERSBURG, TO WIT:

**I**N CHANCERY—VIRGINIA: At rules held in the Clerk's Office of the Circuit Superior Court of Law and Chancery, for Sussex county, on Monday the 6th day of February, 1843:

Sarah E W French,

Plff.

AGAINST

Nathaniel W. Fletcher, Crawley Finney, Executor of John French, dec'd., and in his own right, Richard H. Riddick and Robert Taylor, Defts.

The defendants Nathaniel W. Fletcher and Richard H. Riddick, not having entered their appearance and given security according to the act of Assembly and the rules of this Court, and it appearing, by satisfactory evidence, that they are not inhabitants of this Commonwealth: It is ordered, that the said defendants do appear here at the rules to be held in the Clerk's office of our said Court, on the first Monday in May next and answer the bill of the plaintiff, and that a copy of this Order be forthwith inserted in some newspaper published in the Town of Petersburg, for two months successively, and posted at the front door of the Court-house of this county.

march 7

A copy—Teste,  
L. LANIER, c. c.

Personally appeared before me (an Alderman of said Town) *John D. Hancock* Clerk of the Intelligencer Office, and made oath that the annexed Order of Publication has been published weekly for *Eight* weeks, successively. Given under my hand, this *3<sup>rd</sup>* day of *May* 1843,

*John D. Hancock*

*Printed and paid \$5.50*  
*100.*

*Rec'd. by* *John W. Syme*  
*By John D. Hancock*

John Fletcher's  
Wife

Albany

For

M<sup>rs</sup> Pulten

Feb 24



The draft of John Fletcher and which were in the possession  
of Rev. Nichols after his said marriage

J. T. Chandler  
Palmer, Mass. Oct. 30. '39

In the name of God Amen. I John Fletcher at this time of sound mind, and being desirous to dispose of my worldly affairs before my death, do make the following as my last Will and Testament. Inprimis. I give and bequeath to my son Nathaniel W. Fletcher and to his heirs forever, the following property to wit: the slaves named Eldridge, Pecky, Serena, Albert, Charles, Moses, Randall, Jethy, Fany Ann, Marsha, and little Ned, all my landed estate, three beds and their furniture, four mules, one cart and yoke of oxen, my household and kitchen furniture, half my stock of cattle, hogs and sheep, and half the crop of grain, remaining on the plantation at my decease. - Item, I give and bequeath to my Brother Richard Fletcher, Peter S. Beasley and my son Nathaniel W. Fletcher the following property to wit: the slaves named Lucy, Franky, Phoebe, Daniel, great Ned, Minus & Sukey and one bed and its furniture, upon trust, that they shall permit my daughter Sarah E. W. Peckles to have the full, free and perfect enjoyment, of all the profits, advantages and conveniences in any way arising from the labour and service of the said slaves, and from the use of said bed and furniture during her natural life, and that at her death the said trustees shall give and convey to her heirs, if any she leaves, lawfully begotten of her body, all the said slaves together with the said bed and furniture, but in case she dies, not leaving such heirs, that then it is my will and desire that the said above named trustees, shall have an equal division of the said estate, and shall convey one half to my son Nathaniel W. Fletcher, and the other half to the lawful children of my daughter Rebekah A. H. Chapman, which may be alive at the time of her death. - Item, I give and bequeath to my brother Richard Fletcher, Peter S. Beasley, and my son Nathaniel W. Fletcher, the following property to wit: the slaves named Ben, Patience, Harriet, Charlotte, Washington, James, Matilda and William, and also the sum of one thousand dollars, upon trust, that they shall permit my daughter Rebekah A. H. Chapman to have the full, free and perfect enjoyment of all the profits, advantages and conveniences in any way arising from the labour and service of said slaves during her natural life, and that at her death they shall give and convey to her heirs lawfully begotten

of her body and living at the time of her death, all the said  
slaves. - And that the said Trustees shall place out to interest  
the said sum of one thousand dollars, and shall permit my  
daughter Rebekah A. H. Chapman to take and receive during  
her natural life for her own separate use all the interest  
accruing upon the said One thousand Dollars, and that at  
her death they shall give equal portions of the said money  
to the lawfull children of my daughter Rebekah A. H. Chap-  
man living at the time of her death. - I also give and  
bequeath to my daughter Rebekah A. H. Chapman one ser-  
vel horse called Gilpin. - Item, It is my will and desire  
that the residue of my Estate be sold, and that out of the  
monies arising from said sale and from the debts due me,  
all my just debts be paid. - Item, I give and bequeath to  
my Brother Richard Fletcher, Peter S. Peasley and my son  
Nathaniel W. Fletcher, all the money remaining in hand after  
the payment of my debts and the legacy of One thousand  
Dollars heretofore mentioned, upon trust, that they shall  
divide the same into two equal parts, and place it out to  
interest, that they shall permit my Daughter Sarah C. W.  
Pebbles to receive and take during her natural life for her  
own separate use the interest accruing upon the one half,  
and that at her death they give the said half to her children  
lawfully begotten of her body and living at the time of her  
death, but that in case she dies, without such children, that  
then they shall cause the said half to be equally divided  
and give one moiety to my son Nathaniel W. Fletcher, and  
the other moiety to the lawfull children of my daughter  
Rebekah A. H. Chapman, living at the time of her death. - And  
that they shall permit my Daughter Rebekah A. H. Chap-  
man to receive and take during her natural life for her  
own separate use the interest accruing upon the other half  
directed to be placed to interest, and that at her death they  
cause to be equally divided the said half between her chil-  
dren, living at her decease. - Lastly, I nominate and ap-  
point Executors of this my last Will and Testament, my  
Brother Richard Fletcher, Peter S. Peasley, and my son  
Nathaniel W. Fletcher. - And I do hereby revoke and  
annul all Wills and Testaments, heretofore made by me. -

Super ch wa  
May 13 43

1242

John R Chambliss Esq

Hicks Fore

1843. May 16. filed  
with the files of  
Cincinnati.

Engle v. Richardson.

To the Hon. Judge of the Circuit Superior Court  
of Law and Chancery for the County of Super

Humbly complaining sheweth unto your Honor your Complain-  
ant Sarah E W French widow of Doct John French That in the  
year 1822 her father John Fletcher made and published his last  
will and Testament in writing which was admitted to record by the  
County Court of Brunswick, an authenticated copy of which is herewith  
exhibited and prayed to be considered as a part of this Bill. That at  
the time of the making of this Will your Complainant was the wife of  
John Pebley who was dissolute and extravagant and who was considered  
as tending to a state of utter insolvency, and which opinion proved  
afterwards to be well founded. That your Compt's father feeling a  
deep solicitude for the future and permanent support and maintenance  
of your Compt's daughter and for the purpose of providing for  
her comfortable subsistence devised to Richard Fletcher, Peter J  
Beasley and Nathaniel W Fletcher as trustees to hold for the benefit  
of your Compt's during life the following slaves Viz: Lucy, Franky, Phelo,  
Daniel, great Ned, Minus and Suky who were later possession of two  
of the persons named in the Will of the Testator, that is by Richard  
Fletcher and Nathaniel W Fletcher but were managed principally by  
Nathaniel. That Rich<sup>d</sup> and P J Beasley are dead and Nathaniel is  
a resident of the State of Alabama and does not, nor can he now  
in the nature of things pay any attention to the trust property.  
Your Compt further states that her first husband Pebley, died many  
years ago, totally insolvent, and that after his death as well as during  
the coverture, the trustees continued to manage the property and to  
pay over to your Complainant according to the terms of her father's Will  
the profits of the Slaves, but they determined to remove to a distant  
State and left the property without any one to take charge of it, and  
your Compt unwilling to see her only means of support squandered  
and she left penniless induced various friends as she could find them  
to attend to the Slaves. That this state of things continued until the  
year when your Compt's intermarried with her late husband  
John French who took possession of the Slaves and their increase without  
any authority from Nathaniel the only surviving trustee. That French  
held them during the coverture and received the profits arising from  
them, but laid no other claim, nor asserted any other right to them

than enjoying the profits during the coverture knowing as he well did that the said Slaves were the separate estate of your Compt. That Doct John French departed this life after making a Will in which no mention of or allusion to these Slaves is made. That one Granly Tenny qualified as the Executor of Jno. French and without any authority of law or justice sold all the Slaves (to which the Trustees under the will of John Fletcher were entitled for the support of your Compt) at public auction and became the purchaser himself at a grossly inadequate price and contrary to the rights of your Compt. That the said Tenny afterwards becoming in doubtful if not insolvent circumstances conveyed these Slaves and their increase or such of them as were then living to Mr William Lafayette Franky and 2 children Lucy & child Phoebe Indiana Sucky and Kinus to Richd A Riddick in a deed of Trust who has since sold said Slaves at public auction and Robert Taylor became the purchaser and now holds them in his possession. Your Compt further shews to your Honor that by all these iniquitous and unjust proceedings she has been deprived of her just rights, reduced to a state of beggary and absolute want, dependent on the cold charity of the world for a scanty support, and the benevolent intentions and express provisions of her Father as manifested in his last Will and Testament have been completely defeated, all of which is contrary to law and good conscience. Your Compt further states that the Slaves now in the possession of Robert Taylor are those before mentioned, who are the Slaves and increase of those devised to Trustees for the benefit of your Compt by John Fletcher and she is advised that your Honor will appoint a Trustee to take charge of them and carry out the objects and purposes of the Trusts.

In tender consideration of all which and in as much as your Complainant is entirely without remedy in the premises at law, and only releivable in a Court of Equity where matters of trust are peculiarly cognizable. To the end therefore that justice may be done your Compt prays your Honor to make Nathl W Fletcher, Trustee, Granly Tenny as Executor of John French and in his own right, Richd Riddicks trustee in a deed of Trust from Granly Tenny and Robert Taylor defendants to this Bill and compel them to answer the allegations thereof. That your Honor will appoint some fit and suitable individual trustee in the place of Nathaniel W Fletcher to hold the

Slaves and pay over the annual profits to your Complainant. That the sales made by Tenny as executor of French and by Riddicks Trustee may be set aside and that Taylor be compelled to deliver up the Slaves in his possession to the trustee <sup>to be</sup> appointed by your Honor. That an account of the hires of the Slaves since the death of John French may be taken before a Com of this Court and the amount decreed to be paid to your Compt. And that your Honor will grant such other and general relief as equity and good conscience may dictate. as in duty bound your Compt will ever pray &c  
May it please your Honor &c

Chambliss for Compt.

Exhibit filed with Bill.

In the name of God Amen. I John Fletcher at this time of sound mind and being desirous to dispose of my worldly affairs before my death, do make the following as my last Will and Testament. Imprimis. I give and bequeath to my son Nathaniel W Fletcher and to his heirs forever the following property to wit. the Slaves named Eldridge, Becky, Serena, Albert, Charles, Moses, Randall, Sophy, Mary Ann, Martha, and little Alice, all my landed estate, three beds and their furniture, four mules, one cart and yoke of oxen, my household and kitchen furniture, half my stock of cattle, hogs and sheep, and half the crop of grain remaining on the plantation at my decease. Item. I give and bequeath to my brother Richard Fletcher, Peter J. Wearsley and my son Nathaniel W Fletcher the following property to wit the Slaves named Lucy, Franky, Phoebe, Daniel, great Ned, Kinus, and Sucky, and one bed and its furniture upon trust that they shall permit my daughter Sarah E W Peckly to have the full free and perfect enjoyment of all the profits advantages and conveniences in any way arising from the labour and service of the said Slaves, and from the use of said bed and furniture during her natural life, and that at her death the said Trustees shall give and convey to her heirs if any she leaves lawfully begotten of her body all the said Slaves together with the said Bed and furniture, but in case she dies not leaving such heirs, that then it is my will and desire that the said above named Trustees shall have an equal division of the said estate and shall convey one half to my son

Nathaniel W Fletcher and the other half to the lawful children of my daughter Rebekah A H Chapman which may be alive at the time of her death.

Item. I give and bequeath to my brother Richard Fletcher, Peter & Bessley and my son Nathaniel W Fletcher the following property to wit: the slaves named Ben, Patience, Harriet, Charlotte, Washington, James, Matilda and William and also the sum of one thousand dollars upon trust that they shall permit my daughter Rebekah A H Chapman to have the full free and perfect enjoyment of all the profits advantages and conveniences in any way arising from the labour and service of said slaves during her natural life, <sup>and</sup> that at her death they shall give and convey to her heirs lawfully begotten of her body and living at the time of her death all the said slaves. And that the said Trustees shall place out to interest the said sum of one thousand dollars, and shall permit my daughter Rebekah A H Chapman to take and receive during her natural life for her own separate use all the interest accruing upon the said one thousand dollars, and that at her death they shall give equal portions of the said money to the lawful children of my daughter Rebekah A H Chapman living at the time of her death.

I also give and bequeath to my daughter Rebekah A H Chapman one sorrel horse called Gelpin. Item. It is my will and desire that the residue of my estate be sold, and that out of the monies arising from said sale and from the debts due me all my just debts be paid.

Item. I give and bequeath to my brother Richard Fletcher, Peter & Bessley and my son Nathaniel W Fletcher all the money remaining on hand after the payment of my debts and the legacy of one thousand dollars heretofore mentioned upon trust that they shall divide the same into two equal parts and place it out to interest, that they shall permit my daughter Sarah E W Peckly to receive and take during her natural life for her own separate use the interest accruing upon the one half and that at her death they give the said half to her children lawfully begotten of her body and living at the time of her death, but that in case she dies without such children that then they shall cause the said half to be equally divided and give one moiety to my son Nathaniel W Fletcher and the other moiety to the lawful children of my daughter Rebekah A H Chapman living at the time of her death. And that they shall permit my daughter Rebekah A H Chapman to receive

and take during her natural life for her own separate use the interest accruing upon the other half directed to be placed to interest, and that at her death they came to be equally divided the said half between her children living at her decease.

Lastly, I nominate and appoint Executor of this my last Will and Testament my Brother Richard Fletcher, Peter J. Bearley and my son Nathaniel W. Fletcher, and I do hereby revoke and annul all wills and Testaments heretofore made by me. Signed and acknowledged in presence of the subscribing witnesses this fifth day of January one thousand eight hundred and twenty two.

George C. Dringpool

John Fletcher.

Sam. N. Fletcher

M. M. Fletcher.

Brammick County Court February Term 1822

This last Will and Testament of John Fletcher deceased was proved by the oaths of George C. Dringpool, James N. Fletcher and Matthew M. Fletcher witnesses thereto and ordered to be recorded. And on the motion of Richard Fletcher, Nathaniel W. Fletcher and Peter J. Bearley the Executors therein named who made oath thereto according to law and together with James N. Fletcher and Matthew M. Harrison their securities entered into and acknowledged a bond in the penalty of forty thousand dollars conditioned according to law certificate is granted them for obtaining a probat thereof in due form

Teste

R Turnbull C. C

A Copy Teste

RR Randolph LC

Copy Will & probat: Teste

L. Lamer LC

French or Fletcher  
+  
Taylor or Fennymel.

The will of John Fletcher  
in my opinion creates no  
separate estate in favor  
of Mrs. Pugh, now Mrs.  
French: and the Bills  
in both cases therefore  
sh<sup>d</sup>. be dismissed - but  
in the last case, that is,  
Taylor v Fennymel the p<sup>ty</sup>  
was forced into court and  
ought to pay no costs -  
each party in that case  
should pay his own costs,  
while in the other the  
def<sup>t</sup> is entitled to recover  
his costs -

Taylor  
vs

Fennymel &

Acts for the  
Judge ✓

6 C.C.R.

7 do do

11 do do

3 Br. C. Ct.

30 L. July, 94

As to annunciation re Taylor  
& wife vs Brown 2 Aug 419.

As to the question whether a separate estate can be created in favour of a feme sole - the Court is referred to 2d Story Equity, second & third Edition page 611, & the notes on that page. It is believed, that the weight of authority to be found there is in favour of the idea that a separate estate may be created in favour of a single woman, and that a testator may give his property in such way, as to exclude the husband of the testator - this is the doctrine settled in Seabrooke or Borman decd. as lately as Nov. 1838 17. Law Journal page 10 to 26. ~ ~ ~

As to the idea that no separate estate can be created by the will of one filial child - I think it is only necessary to look at the will, to ascertain that the testator was desirous that the estate should not go into the hands of the husband - The fact that trustees were appointed goes very far to prove the wish of the testator - It is true, that in order to constitute such separate estate, the purpose <sup>must</sup> clearly appear - does not the purpose appear? The devise is of the slaves to the trustee upon trust, that they should permit his daughter Sarah & public to have the full, free and perfect enjoyment of all the profits, advantages, and conveniences in any way arising from the labour and service of the slaves during her life - what stronger words could he have used? again, if the testator had not designed to create a separate estate, he could not have formed the necessity of making trustees - for he might have

given the estate directly to his daughter -  
- then, and then, according to the idea  
of Mr. Chalmers, the husband could  
have had no greater estate, than  
was created under the will, even  
by the aid of trustees -

I think the case was so fully disposed  
in Court by Mr. Chalmers, who has  
said all that I think could be  
said in support of the separate  
estate, that I think there is nothing  
more -

A. Atkinson