

Last printed 9/3/2019 3:30 PM

Transcribed by Barbara Poythress Neal from photocopies from Family History Library microfilm # 222,856 - Burke County, Georgia Equity Records 1834-1852, pages 77-87 covering equity suit of John C. Poythress vs Cheesborough, Mary E et al

Georgia

Burke County

To the Honorable William W. Holt Judge of the Superior Court in and for the Middle District of Georgia – Holding and [availing?] Jurisdiction in Equity.

Humbly complaining herewith unto your Honor, your Orator John C. Poythress, that by the last will and Testament of George Poythress late of the State of Florida, deceaseds vehicle, said Will is hereto annexed and marked (Exhibit A) to which your petitioner prays leave to refer and that this same may be taken and received as a part of this his petition, he was affirmed with one James W Axum then of the Territory of Florida Executors .

Your Petitioner further sheweth that your petitioner qualified as Executor both in the Territory of Florida and State of Georgia and that his Co-executor qualified in the Territory aforesaid but that he shortly after departed this life. Your Petitioner further sheweth unto your Honor that by said Last Will and Testament he was appointed with the said James W. Axum Trustees of the property bequeathed in said Will to his half Sister Mary Mandell now Mary Cheesborough the wife of William Cheesborough.

Your Petitioner further sheweth that finding the property consisting of Lands and Negroes in Florida very unavailable he removed the latter to the County of Burke in the State of Georgia and under a decree in Equity disposed of the Land in Florida and purchased land in said County of Burke. Your petitioner further shows to your Honor that he hath hereto appended an inventory and statement of this property of the said cestui que Trust Mary E. Cheesborough now in possession of your Orator as trustee aforesaid marked Exhibit (B) and prays the same be taken as part of this Bill and leave to refer thereto as often as may be necessary.

Your Petitioner further sheweth to your Honor that such is the condition and State of his health being very infirm and scarcely enabled to give any attention to his own Interest certainly nothing like that which it requires and Dr. William Cheesborough the husband of the said Mary and your Petitioner not being on such terms as will render a continuation of his trusteeship pleasant either to the one or the other and Alexander J. Lawson being willing and assenting to take upon himself the trust as aforesaid the said Alexander J being the maternal Uncle of the said Mary Cheesborough your petitioner prays that he may be removed from said trusteeship and that the said Alexander J Lawson may be appointed by and with the consent of said Mary the Trustee of the said Mary in the place and stead of your Petitioner. And may it Please your Honor to grant unto your petitioner the States most gracious writ of Subpoena directed to the said William B. Cheesborough and Mary Cheesborough requiring them to be and appear at the next Superior Court to be held in and for the County of Burke on the third Monday in May next there and then to answer the [formalities?]

And may it please your Honor to grant unto your Orator such other and further relief as to your Honor may deem meet and equitable and your Orator as in duty bound will ever pray &c

20th April 1848 B[errun?] & Pepper
Sol [solicitors] for Petitioner

Last printed 9/3/2019 3:30 PM

[The above was followed by Exhibit A, a transcription into the record of the will of George Poythress dated 6 April 1829, followed by a transcription of the presenting & proving of it in Jackson County, Territory of Florida 19 July 1832, with the following appended to it:]

Territory of Florida

County of Jackson

I Thomas M. Bush Clerk of the County Court in and for the County aforesaid do hereby Certify that the foregoing is a true and correct Copy from the Record of the last Will and Testament of George Poythress as recorded in Book E Folio 286 & 287

Given under my Hand and Seal of said Court this Eighteenth Day of January A D 184(8?)

Thos M. Bush

By J. B. Taylor Dep Clk

CCJC

Recorded in Record Book Wills Burke County page 29 & 30

I do certify the foregoing to be a true Copy from the Record of the Will and Testament of George Poythress Decd

Witness my Hand and the Seal of office at Waynesboro this ___ day of ___ 1848

Edward Garlick Depy Clerk

Exhibit (B)

Georgia

Burke County

1000 acres of Land on Briar Creek lying in said County bounded on the Southwest by said Briar Creek on the North West by Lands of Floyd Crocker on the east by lands of John Gordon and of Olivia [or Alvin?] Perry and on the North by lands of Miss Tomlin

Negroes [Note: dashes appeared in similar fashion to ditto marks, indicating that all the words were identical for each line, for all but the names & ages]

- 1 Jupiter of the age of 60 Years
- 2 [noted as "Dead" in margin] Frimen(?) 60
- 3 Vina 18
- 4 Phil 2
- 5 [noted as "Dead" in margin] Robin 55
- 6 Becky 37
- 7 [noted as "Dead" in margin] Colonel 20
- 8 [noted by a ditto mark as being Dead in margin] Francis 15
- 9 Major 14
- 10 Tudor(?) 4
- 11 Antony 2
- 12 Maria 26
- 13 [noted as "Dead" in margin] Henry 8
- 14 Clarissa 6
- 15 Eliza 24
- 16 Virht(?) 6
- 17 Robert 4
- 18 Martha 1
- 19 Betty 75
- 20 Toto(?) 24

Last printed 9/3/2019 3:30 PM

- 21 [noted in margin as "Sold"] Rachel of the age of 19 years
- 22 Dick 8
- 23 Charles 9
- 24 Katy(?) 6
- 25 [noted as "Dead" in margin] Old Rachel 60
- 26 Jack 52
- 27 Ben 52
- 28 Emma 34
- 29 [noted as "Dead" in margin] Ben 10
- 30 Clarence 8
- 31 Warren 6
- 32 Agatha 28 years
- 33 Jacob 26
- 34 [noted as "Dead" in margin] Old Jack 75
- 35 George 65
- 36 [noted as "Dead" in margin] Old Becky 55

8 Mules

- 1 Road Waggon and gear
- 1 Two Horse Waggon

Ploughs Hoes and plantation tools fully sufficient to cultivate (400) four Hundred acres of land which is the portion of the tract of Land herein first afore described in actual cultivation

20,000; 300 Bushels of Corn

18,000(or 10,000); 8,000 Pounds of Fodder

40 40 Head of Cattle

25 Head of Sheep

80 25 " " Hogs

A New Kitchen – a comfortable dwelling House

5 New frame Negro Houses a Gin House Slatts(?)

and Cribs constitute the improvements on the four

Hundred acres of land in this schedule last fore

Mentioned

- 1 Side board
- 1 Dozen Windsor chairs
- ½ Dozen Common chairs
- 1 Dozen Rocking chairs
- 1 Mahogany Table and [mds?]
- 1 lot of Waiters(?)
- 4 Bed steads
- 4 Feather Beds
- 6 Matrasses
- 3 Wash stands
- 1 Bureau
- 2 Pine tables
- 2 Carpets
- 1 Rug
- 2 Pr Brass mounted shovel & Tongs

Last printed 9/3/2019 3:30 PM

2 Pr Brass Andirons
 2 Iron Andirons
 2 Iron Shovel and Tongs
 2 Common iron fenders

Bed clothing to Wit
 Blankets coverlaid's quilts sheets &c Table linen
 towels &c crockery and other furniture sufficient for Mrs Mary Cheeseborough and family

I John C Poythress Trustee of Mrs. Mary E Cheeseborough do hereby certify the foregoing to be a just and true statement and schedule of the Trust property of Mrs. Mary E Cheeseborough now in my possession and [with?] the land to wit 1000 acres first described in foregoing statement was purchased with the proceeds of the sale of Land in the [State?] of Florida [issuing?] by me as Trustee aforesaid (which sold for the sum or price of thirty-five Hundred Dollars with fifteen Hundred Dollars advanced by me out of my individual purse [the?] said said) 1000 one thousand acres Tract having been purchased as Executor for the sale for the sum or price of five thousand Dollars.

John C. Poythress Trustee
 For Mary E Cheeseborough

[Below this is an accounting, listing the dates down the left side; descriptions; and amounts are listed on the right side in a column, though here they not all be in a straight column:]

Dr[debits] Estate of George Poythress Decd in Account with John C. Poythress Executor and as Trustee for Mrs. Mary Cheeseborough and Children

1842 April 28 By Sale of Tract of Land in Laurens County Due One Day after date	\$800.00
By interest on same to 1 Nov 1843	97.06
[totald for the year:]	897.06

Cr[Credits]	
1843 Nov By Cash paid for Waggon & Six [Gear?]	\$150.00
4 Mules at 80 \$ [each]	320.00
[totald for the year as 470.00 in credits, subtracted from above to net to:]	
Due Exr	\$427.06

1845	Dr[debits]	
	To Cash for Dr Johnson for Peas	15.00
	Dr Johnson for Medical Services	185.00
	Dr. West for Medical Services	28.00
	Bacon	49.00
	Hardrick (overseer)	100.00
	Corn & fodder	95.00
	Hoes? & Fracis(?)	15.00
	Blacksmith a/c (Gordon)	20.00
	Hogs	100.00
	Richmond Factory	59.45
	Taxes [includes a half cent shown as fraction]	5.875
	[total shown as:]	\$662.325

Last printed 9/3/2019 3:30 PM

[Carried to top of next page:]		\$662.325
Cr[redits Bro't Down		427.06
Bal Due Trustee or Exr		\$235.265
1846	Dr[debits]	
	To Cash paid for Crockery	30.00
	Knives & forks	25.00
	Woodard and Balzelle Attys at Law	
	for Defending Suit in Florida	200.00
	Carpets & Rugs	90.00
	Hogs	270.00
	[Sassfs?] for House rent Summer	
	Residence in Richmond	60.00
	[total only for this part from "1846" line above to here:]	\$675.00
	To Suit Bro't a/c	
	Cash paid Mr. James Buf(?) a/c for family	17.50
	Aldrich & Goun(?) Shoe Bill [includes half cent]	89.125
	L C Warren Dry Goods	84.22
	E Palmer Lumber	42.24
	Clothing &c for family	124.25
	Advances	30.00
	Pd for Shingles repairs to buildings	24.00
	Building [House?] and	
	Repairing Gin House	184.00
	[Balls?] & Plates for [Scrun?]	13.00
	Cattle and Sheep	85.00
	Ditching	20.00
	E Palmer Bill Lumber	124.74
	Homer & Mulkay for Building	
	Negro Houses & Chimneys for Do[ditto]	632.00
	Advances to Mrs. Cheesborough	100.00
	Do [ditto] Do [ditto]	60.00
	Do [ditto] Cheeseborough per order	
	from Mrs. Cheeseborough	29.00
	Pd for Andirons, Shovel & Tongs &c &c for House	60.00
	Thos Walton Overseer	150.00
	Taxes	22.60
	Richmond Factory	66.60
	Marshall for Medicines	30.00
	[total for portion from "1846" line above to here:]	\$2663.275
1846	Cr[credits]	
	By Sales Crop of Cotton	1830.92
	Bal Due Trustee or Exr for 1846	\$ 832.355

Last printed 9/3/2019 3:30 PM

1847	To Cash Paid R. Scruggs [Junction?]	\$ 10.00
	Do [ditto] Do [ditto]	13.75
	Tomlin for Lumber	5.00
	Mr. James Buf(?) Bill	28.00
	Miss Howard Tuition	15.00
	Taxed for 1847	30.87
	Advance to Allison per order of Mrs. Cheeseborough	71.55
	Pd Aldrich & Goun Shoe Bill for Negroes & family	93.62
	Marshall for Medicines	3.69
	Wm W Sturgess & Co a/c Dry Goods	89.42
	Thomas Walton Overseer	150.00
	Hogs	237.82
	John Doyle Building Store room	60.00
	Mr. Cluggett children clothing	9.00
	Dr. West Medical Bill	11.00
	A. J. Lawson for Bacon(?) laid(?) [ajsd?] Blacksmith Bill	143.75
	Jurgah(?) Harris Bill Lumber	29.60
	Thos H. Blount Store a/c	58.54
	Richmond Factory	59.21
	Philip McGran(?) Bill	432.64
	Blacksmith a/c & finding Iron &c [Mry?] Plantation	75.00
	One Bbl flour	9.00
	[Sassfs?] Rent Summer Place	70.00
	[total of these 1847 expenses:]	\$1706.52

1847	Cr[edits]	
	Bg Crop of Cotton Sold	1217.89
	Bal Due Trustee for 1847 [net difference:]	\$488.63

1848	To Blacksmith work done and Iron found for same at [Mry?] Plantation to 1st May	25.00
	[total for 1848 & 1847 net:]	\$513.63

[Adding earlier amts to this:]

Bal Due Trustee for 1845	235.265
Bal Due Trustee for 1846	832.355
[total for 1845 through 1848:]	\$1581.25
To Interest on advances of Balances	97.06
Bal due Trustee 1st Jany 1848	\$1678.31

Note only as much Interest is charged as Exr or
 Trustee charged himself with - on the Notes taken for sale of
 Land In page 1

OK the Examination of the foregoing statement of accounts. I find them to be just and correct and do hereby acknowledge them [illegible – initials?]

10th May 1848

Mary E. Cheeseborough

In presence of

George A Mandell

Last printed 9/3/2019 3:30 PM

Georgia
Burke County In Equity

The answer of Mary E. Cheeseborough to the Bill of Complaint of John C Poythress

This Defendant answering saith that she admits all the allegations in the said Complainant's said Bill of Complaint set forth [touching?] the last will and testament of her Deceased Father George Poythress. She also admits the feeble state of health of Complainant with the other reasons set forth in Complainant's Bill of Complaint. Defendant further answering saith that while she sincerely regrets the necessity which has induced the application for a change of the Trusteeship and she [smbts?] with Complainant in praying that your Honor may decree that the said John C Poythress may be released and removed from the burden of said Trusteeship and that her maternal Uncle Alexander J Lawson who has consented to accept the same may be appointed the Trustee in the Stead and place of the said John C. Poythress and that your Honor may make such other and further decree as may deem meet and equitable.

Mary E Cheeseborough

I consent to act as Trustee in the stead and place of John C. Poythress as prayed for in the foregoing Bill of Complaint.

11th May 1848 A.J. Lawson

We the Jury find and decree that John C. Poythress the aforesaid Trustee of Mary E. Cheeseborough be removed from the Trusteeship as prayed for and that Alexander James Lawson who has given his consent to act be appointed the Trustee in the stead and place of the said John C. Poythress and that the said Alexander J. Lawson be vested with all the power and charged with all the duties which in and by the will of George Poythress deceased were granted to or imposed upon the former Trustees the said John C Poythress and James W Axum and we further find that the cost and expenses of that [per accounting?] be paid out of income of the said Trust Estate.

Charles W. West

Foreman

Whereupon it is considered and adjudged and decreed that the verdict of the Special Jury be made the decree of the Court

Given under my Hand

This 19th day of May 1848 Wm W. Holt, Judge D.C.