

NAME, Surrogate Court
Lock Co.

R 6 2 a

NO.

Series 6-2 | P 6 (15 Jan 1837)

Stephen Pherrill

I, William Chamberlain, of the Township of Scarborough, in the County of York, in the Province of Ontario, Gentlemen, Make Oath and say, that I did on the first day of August A.D. 1867, serve the within named Nelson Gates and Huldah Sipper with a true Copy of the within Order, by delivering and leaving with each of them, the said Nelson Gates and Huldah Sipper, a true Copy of the said Order. —

Wm Chamberlain

Sworn before me at Scarborough,
this fifth day of August, in the year
of our Lord 1867

W. H. Ellwell

A Commissioner in the Queen Bench
in & for the County of York

In Her Majesty's Surrogate Court
of the County of York

By the Honorable John Boyd Junior Judge
of the County Court of the County of York in the
Province of Ontario

do do do

To Nelson Gates of the Township of Scarborough
in the County of York - Juror - and
Lester of the same place - Gentleman
Quitting

Whereas it appears by a certain Petition and
affidavit filed in our Surrogate Court of the
County of York bearing date the 27th day of
July 1867 made by Elizabeth Parby
of the Township of Scarborough in the County of
York - married woman - stating that
certain moneys are in your possession belonging
to the estate of the late Stephen Perrill of the
Township of Scarborough aforesaid - and
that you are willing to pay over such moneys
to the person rightfully entitled thereto -

Now this is to cite and command you
that within seven days after the service hereof
on you you do bring and leave at the office
of the Registrar of our said Court the said
moneys -

Witness the Honorable John Boyd

Junior Judge of the County Court of the
County of York at Toronto the 31st day
of July in the year of our Lord One Thousand
Eight Hundred and Sixty Seven

Issued on Judge's orders
the 31st day of July
AD. 1867

John Cayley
for the Registrar

In the Court of Probates
County of York

Bill of Complaints

M^{rs} Elizabeth Darby
Complainant

and

M^r Jonathan Gates
and
M^{rs} Huldah Lapper

Respondents

Dated 27th July 1867

~~By~~ Judgment on issue in
accordance with the
written Petition of the
Tenant
31st July 1867
J. M. Chamberlain,
Chamberlain, Scarborough
Conveyancer, Court in B.R. 7

Am^t. of thirds as per statements 224.0.3

Six years Int. @ 6%

80.12.4

£ 304.13.0

Bill of Complaint.

County of York
Province of Ontario
Dominion of Canada

In the Honourable the Court of Probate in the said
County

Between } Elizabeth Darby — — — — — Complainants
 } and
 } Nelson Gates, and
 } Muldah Lepper } — — — — — Respondents

To the Honourable the Ordinary of the said Court.

Humbly complaining, sheweth unto your Honour, your Complainant
Elizabeth Darby of the Township of Scarborough in the said County,
heretofore Elizabeth Pherril, Widow of Stephen Pherril late of the
same Township, Yeoman, deceased, now the Wife of John Darby of
the Township of Scarborough aforesaid, Yeoman.

That the said Stephen Pherril in his life time, and at the time
of his death, at Scarborough aforesaid, was seized and possessed of certain
Real and Personal Estate in the said County.

That the said Stephen Pherril being so possessed, departed this life
on or about the sixteenth — day of April — One thousand eight
hundred and forty two having first duly made and executed his last
Will and Testament in writing bearing date the fifteenth — day of
June — One thousand eight hundred and thirty seven and thereby
appointed your Complainant (then Elizabeth Pherril) William Prosdfoot
of the City of Toronto, Esquire, and Jonathan Gates of the Township of
Scarborough aforesaid, Innkeeper, Joint Executrix and Executors of his said
Will, the said Testator also in his life time, having made and added a
Codicil or Codicils thereto, and afterwards departed this life, to wit, on
or about the said sixteenth day of April — One thousand eight hundred
and forty two without revoking the same, or the appointment of Executors
hereto.

That by the said Will your Complainant was appointed Guardian
of Testator's Minor Children, during their minority; Testator bequeathing
a part of the Homestead, as a Residence for them and your Complainant

during such minority, together with certain Stock and Implements for farming the same, for the benefit and support of such Minor Children, during their Minority.

That your Complainant continued to reside on the Homestead with such Minor Children, and received her support therefrom until such younger Children came of age, or otherwise left her Guardianship, but ~~that your Complainant never in any manner acted as executrix to the Will of her late Husband, the said Stephen Pherril, further than administering the same, your Complainant paid about Eight Hundred Dollars, owing from the Estate of the said Stephen Pherril, deceased, during the possession of the same.~~ ^{of the time of said husband's death, was left in full possession of his Estate and effects} That the said William Proudfoot renounced the Executorship thereto.

That the said Jonathan Gates, took upon himself the said Executorship of the said Will, and the possession of the whole of the Testator's Estate and Effects, consisting of Land, Money, Securities, Debts due to deceased, Furniture, Farming Stock, Implements, Crops &c.

That the said Jonathan Gates sold and disposed thereof, or such parts thereof as were of a saleable nature, together with certain property belonging to your Complainant, as her private property, consisting of Horse, Cow, Buggy, and other effects, without rendering any account thereof to your Complainant, or to any other person on her behalf.

That the said Jonathan Gates, during his said Executorship, occasionally employed Mr. Charles C. Bowen, now residing in Scarborough aforesaid, as Clerk and who (as your Complainant has reason to believe) officiated as Clerk to the Estate of the said Stephen Pherril, deceased.

That the said Jonathan Gates departed this Life some years since, having made a Will, and thereby appointing Nelson Gates (his Son) and Huldah Gates (his Wife) now Huldah Lepper, Executor and Executrix of his said Will.

That the said Jonathan Gates in his life time paid ^{on many of} the Debts of the said Testator, Stephen Pherril, but has never exhibited to your Complainant, or any person on her behalf any Voucher for the amount so disbursed; and has otherwise paid money belonging to the Estate of your Complainant's late Husband, to certain Members of the family in a very irregular and unsatisfactory manner to your Complainant.

That the Executor and Executrix of the late Jonathan Gates have expressed their willingness to obey the order of this Honourable Court as regards the rightful claim of your Complainant, against the Estate of the late Jonathan Gates, as Executor to the Will of the late Stephen Pherril -

Your Complainant therefore Prays

- First - That this Honourable Court will be pleased to order the legal Representative or Representatives of the late Jonathan Gates, to render into this Honourable Court a just, true, full and perfect detailed statement in writing, of all the personal Estate and Effects of the late Stephen Pherril deceased, at the time of his death, and of all money received by him, ^{to and from Jonathan Gates} belonging to the Estate, likewise a statement, with the necessary Vouchers, of all Debts due from the Estate of the said Stephen Pherril, paid by the said Jonathan Gates as such Executor as aforesaid to the Estate - exclusive of Legacies and advances made or paid to any member of the late Stephen Pherril's family.
- Secondly - That such legal Representative or Representatives, pay into this Honourable Court (after deducting the amount of deceased's Debts paid by them) One third of the amount received from such personal Estate, with legal Interest thereon for the benefit of your Complainant, as her right of Dower therein.
- Thirdly - That they also pay into this Honourable Court, the amount produced by the sale of your Complainant's private property, sold by them as set forth in the complaint.

And your Complainant will ever Pray &c.

Scarborough
27th July 1867

Elizabeth Darby

In Her Majesty's Surrogate Court
of the County of York.

I Elizabeth Darby make oath and say
that the facts set forth in the above
Petition are true to the best of my
Knowledge and belief

Sworn at Toronto
This 31st day of July
A.D. 1867 - before me

Elizabeth Darby

J. H. Jeffrey
Clerk of Court

P

The renunciation of
W^m Proudfoot Esq^r
to act as an Executor
to the Will of the late
Stephen Perrill

16th Sept 1842
Witness

Wm Proudfoot

Wm Proudfoot

Witness

Toronto 15th September 1842

Madam

I understand that your late husband
had named me as one of the Executors
of his Estate - and as I had no knowledge
of such being the case previous to his death
it would be inconvenient for me to act
in that capacity and I must therefore
decline doing so. I am Madam -

Your most Obedt. Servt.
Wm. Sandford

To Mrs. Pharral }
Scarboro }
}

The Last Will
and
Testament

of Stephen Sherrill
of the Township of
Scarborough Yeoman

In the name of God amen. I Stephen Shull
of the Township of Scarborough in the Home
District and Province of Upper Canada
Yeoman being of sound mind and in perfect
health but being about to leave this Province
on a visit to my mother in New Brunswick
and knowing the uncertainty of this life do
make public and declare this my last will
and testament hereby revoking all former
wills by me at anytime heretofore made.

After the payment of all my just debts
I do give devise and bequeath my real and
personal estate as follows by — —

111
First I give devise and bequeath the
Homestead in Scarborough being Lots number
twenty four and twenty five in the broken
Concession **B** in the said Township of Scarborough
except the first forty acres of Lot number twenty
five, together with all the goods chattels
Cattle and farming utensils therein and therein
and thereto belonging unto my dear wife
Elizabeth while she remains my widow for
her maintenance and support and for the
support and education of my sons Stephen
and David and for the support of my daughters
Stephen Sherrill
— Elizabeth —

heirs or assigns and thereupon the whole
of the said Homestead shall become the property
of and is hereby devised to the survivor of my
said sons Stephen and David for his natural
life and after his decease to the heirs of his
body lawfully begotten in tail for ever -

- And in case of the death of both my
sons Stephen and David without heirs of their
bodies lawfully begotten or of either of them
them and in such case from and immediately
after the decease of my said wife or upon
her marrying again I give and devise
the said Homestead to my two sons William
and Adna as tenants in common and the
heirs of their bodies lawfully begotten in tail
for ever. And I do hereby charge the Homestead
with the several legacies hereinafter mentioned

Secondly I give and devise the South Westerly
half of Lot number seventeen in the third
Concession West of Myron Jarvis Street in the
Township of Chingacancy containing one hundred
acres to my son Adna & Herrill his heirs and
assigns for ever. ~ ~ ~

Thirdly I give and devise the North Easterly
half of Lot number nineteen in the ninth
Concession of Albion containing one hundred acres
to my daughter Sarah } Stephen Herrill
wife of John Taber }
her -

heirs and assigns for ever ~ ~ ~ ~ ~

Fourthly I give and devise lot number
thirteen in block number one in the Town
of Windsor in the Township of Whitley to my
daughter Elizabeth her heirs and assigns for ever

Fifthly I give and devise lot number fourteen
in block number one in the Town of Windsor
in the Township of Whitley to my daughter
Eliza Ann her heirs and assigns for ever ~ ~ ~

Sixthly I give and bequeath the following
legacies which it is my will and desire that
my executors pay out of the proceeds of the
homestead one half at the expiration of one
year from my decease and the remaining
half at the expiration of two years from such
decease ~ To my eldest son William (he having
already received from me two hundred acres
of land in Mariposa a town lot in Windsor
a horse and a yoke of oxen) I give and bequeath
twenty five pounds, to my daughter Sarah
wife of John Tuben I give and bequeath twenty
five pounds ~ ~ ~ ~ ~

To my son Adna I give and bequeath
fifty pounds. ~ ~ ~ ~ ~

To my daughter Elizabeth I give and
bequeath twenty five pounds } *Stephens*
~ To my } *Sherrill*

To my daughter Eliza Anne I give and bequeath
twenty five pounds ~ ~ ~ ~ ~

And also give and bequeath to my said daughters
Elizabeth and Eliza Anne each a cow upon their
respective marriages ~ ~ ~ ~ ~

I give and bequeath to my grandson Stephen
Tabor a horse ~ ~ ~ ~ ~

And lastly I give and bequeath the stock
goods and chattels and farming utensils that
may be on the Homestead at the time of the
decease of my wife or upon her marrying again
to my sons Stephen and David their heirs and
assigns for ever ~ And I do hereby nominate
constitute and appoint my wife Elizabeth ~
Executive and Jonathan Gales of the Township of
Scarborough yeoman and William Broadfoot of
the City of Toronto Esquire Executors of this my
last will and testament ~ In witness whereof I
have hereunto set my hand and seal this fifteenth

~ Day of June 1837 And the seventh of the reign of
his Majesty King William the fourth ~ ~ ~ ~ ~

Signed Sealed published and
declared by the above named
Stephen Pherill to be his last
will and testament in the
presence of us who have hereunto
subscribed our names as witnesses
in the presence of the testator ~
and in the presence of each other

Stephen Pherill

J. Small
W. Broadfoot

Whereas I Stephen Perrill have this day
executed the foregoing will bearing date the
fifteenth Day of June in the year of our Lord
one thousand eight hundred and thirty seven
Now I the said Stephen Perrill being desirous
of altering my said will in respect to the division
of the value of one half the Homestead in case
of the death of either of my said sons Stephen
or David before the demise of my wife or
previous to her marrying again and also
of adding to my said will with regard to
the disposition of the front forty acres of
Lot Number twenty five in the Township of
Scarborough Do therefore make this present
writing which I will and direct to be annexed
as a codicil to my said last will and
taken as a part thereof. And I do
hereby revoke the division of the valuation
of the one half of the Homestead in case
of the death of either of my said sons Stephen
or David previous to the death of my said
wife or her marrying again and I do give
and bequeath and hereby will and direct
that such survivor Stephen or David shall
retain to his own use one sixth of such
valuation and that the Stephen Perrill
other five sixths only shall
be

be equally divided amongst my other children
William Anna Sarah Elizabeth and Eliza Anne
And I do further give and devise the fourth
forty acres in my said will reserved out of the
homestead to my executors in my said will
mentioned their executors administrators and
assigns for the sole purpose of their conveying
the same in fee simple to John Palmer his
heirs and assigns for ever upon his completing
the agreement he has entered into with
me for the purchase of the same. And
in case he shall fail in completing such his
agreement then I give and devise the said forty
acres to the tenants, under my said will, in
fee of the remainder of the said lot number
twenty five. In witness whereof I have hereunto
set my hand and seal

Signed sealed published and
declared by the said testator
Stephen Merrill as and for
a codicil to be annexed to his
last will and testament and
to be taken as part thereof
in the presence of us

J. E. Brown

J. C. Brown

Stephen Merrill

WILLIAM MERRILL

P 6

In the Surrogate Court NY

Probate of the last
will and testament of
Stephen Phenix late of
Saratoga County deceased.

To be returned to be
filed -

Home District
Surrogate Court

Before me William Samuel Blake
Esquire Surrogate of the Home
District of the Province of Canada

Personally came and appeared James ~~Edwards~~ ^{Robert}
Gowan ~~of~~ of the City of Toronto in the said Home District
Esquire a subscribing witness to the last will
and testament of Stephen Pherrill late of the same
City of Toronto a Yeoman deceased who being
duly sworn in oath and scith that he was
present and did see the said Stephen Pherrill
duly execute the said will and also the codicil bearing
even date hereon ^{as and for the last will and testament}
and codicil ~~of~~ ^{of} him the said testator and that the
name Stephen Pherrill subscribed to each instrument
in the proper hand writing and signature of the said
testator - and this deponent further scith that
the names - Jas. Edmest - and - J. R. Gowan -
subscribed to the said will and codicil respectively
as witnesses to each in the proper hand writing and
signature of them this deponent and the said James
~~Gowan~~ ^{Edmest} who respectively subscribed their names
as witnesses to the said will and to the said codicil
respectively in presence of each other and in presence
of the said testator and at his request. And
this deponent further scith that he verily believes
that the said Stephen Pherrill at the time of
his executing the said last will and testament
was of sound and a perfect mind memory and
understanding and that the said Stephen Pherrill
did sign publish and declare the said will and
testament ^{and codicil} as and for the last will and testament ^{and codicil}
of him the said Stephen Pherrill in presence of the
said subscribing witnesses

Witness my hand at Toronto
this 24th day of September 1842

Wm. Blake



Some District }
 Surrogate Court } We Elizabeth Rhoads Pherrill of the
 Township of Scarborough in the said
 Some District widow Jonathan Gates of the same place
 yeoman and ~~William Proudfoot of the City of Toronto~~
~~in the same District Esquire Executors and executors of~~
 the last will and testament of Stephen Pherrill of
 Scarborough aforesaid yeoman do swear that we verily
 believe the annexed will and testament to be the true
 last will and testament of him the said Stephen Pherrill
 and that we will well and truly administer all and
 singular the goods and chattels rights and credits
 which were of the said deceased at the time of his death
 lawfully coming after within the said Some District
 and pay his debts and legacies so far as his goods shall
 extend and the law shall bind us. And that we will
 exhibit a true full and perfect Inventory of such goods
 and chattels rights and credits together with a true and
 just account of our said administration unto the Registry
 of the Surrogate Court of the said Some District where
 the same lawfully required.

Elizabeth Pherrill
 Jonathan Gates

Sworn before me at Toronto by the
 said Elizabeth Pherrill Jonathan
 Gates & William Proudfoot
 severally this 24th day of September 1822
 J. M. Blake

Some District }
 Surrogate Court } We Elizabeth Pherrill of the
 Township of Scarborough in the
 said District widow Jonathan
 Gates of the same place yeoman and ~~William Proudfoot~~
~~of the same place Esquire Executors and executors of~~
 the last will and testament of Stephen Pherrill late of
 the same place yeoman deceased do swear that the
 properties

property of the said deceased devolving under his will is upwards of one thousand and less than two thousand pounds of lawful money of Canada in value.

Sworn before me at Toronto by the above named Elizabeth Pheerill Jonathan Gates & William Proud for &c severally this 24th day of September 1842.

Elizabeth Pheerill
Jonathan Gates

Wm. Blake

Home District
Surrogate Court

Before me William Aeneas Blake Esquire Surrogate for the Home District of the Province of Canada.

Personally came and appeared

John Labor of the Township of Scarborough in the said Home District yeoman who being duly sworn maketh oath and saith that Stephen Pheerill late of the same place yeoman deceased departed this life on or about the sixteenth day of April last last possessed of some personal and real estate within the said Home District And that the will hereunto annexed now exhibited in the Registry of the Surrogate Court of the said Home District is the only testamentary paper found among the effects of the said deceased to the best of deponents knowledge due search having been made.

Sworn before me at Toronto this 24th day of September 1842

Wm. Blake

Wm. Blake

W. Labor of Green

Home District
Surrogate Court

Before me William Home Blake
Judge Surrogate for the Home
District of the Province of Canada.

Personally came and appeared Thomas
Cook of the Township of Scarborough in said
District yeoman a subscribing witness to a
codicil to the last will and testament of Stephen
Pherrill late of the same place yeoman deceased
who being duly sworn maketh oath and saith
that he was present and did see the said
Stephen Pherrill duly execute the codicil
hereto annexed bearing date the twenty fifth
day of March last past as well for a codicil to his
last will and testament and to be taken as part
thereof - And that the name Stephen Pherrill
subscribed thereto is the proper handwriting and
signature of the said testator - And this deponent
further saith that the names - John Swan - and
Thomas Cooke - subscribed to the said codicil in
witness thereto in the proper handwriting and
signature of this deponent and Thomas Cooke
who respectively subscribed their names in witnesses
to the said codicil in presence of each other and in
presence of the said testator and at his request.
And this deponent further saith that he verily
believes that the said Stephen Pherrill at the time
of his executing the said ^{codicil to his} last will and testament
was of sound and perfect mind memory and
understanding and that the said Stephen Pherrill
did sign publish and declare the said codicil
as well for a codicil to his last will and testament
in presence of the said subscribing witnesses.

Sworn before me at Toronto
this 24th day of September 1852
Wm Home Blake

Thomas Cooke

Home District
Surrogate Court }

Before me William A. Blake
Esquire Surrogate for the Home

B.

De Leming

Sherrill
Tator

This is the Exhibit marked B
found in evidence of Thomas Cook
11/9/61

Steph P Merrill

Bellevue.

Merrill

Faber

This is the exhibit referred to in evidence of John Evans and Henry Cook 11/9/61

[Signature]

Handwritten notes, possibly "John Evans" and "Henry Cook"

Vertical handwritten notes on the left side of the page

Vertical handwritten notes at the bottom left corner

Whereas I Stephen Pherrill of the Township
of Scarborough in the Home District
and Province of Canada. Yoman
have made and executed - My last
Will and Testaments - in Writing
bearing date the fifteenth day of
June One Thousand Eight hundred
and thirty seven - hereby disposing
of all my Property - both Real and
Personal - - Now I do hereby declare
this present Writing to be a Codicil to
My said Will - and do direct the
same to be annexed thereto and to
be taken as a part thereof -

And I do hereby give and
devise to My Wife Elizabeth Pherrill
her heirs and assigns - lot Number
Twenty four in Conception C in the
Township of Scarborough in the Home
District - and Province of Canada -
said lot to be held by her in trust
for the benefit of My Children - among
Whom I do hereby direct the proceeds of

Torn Page(s)

sale thereof - to be divided, share and share alike -

Also give and devise unto my said Wife Elizabeth her heirs and assigns all such Real Property belonging to my Estate as shall in point of Law be deemed undisposed of - according to the terms of my will - hereinafter mentioned - such undispotion being caused by the death of my son Stephen - or by any other event - previous to my decease - said Property to be held by my said Wife in trust - for the benefit of my Children - and to be disposed of by her - according to the terms of the first devise in this Codicil -

Witness my hand and seal
Signed, Sealed
Published and
declared - by the
said Testator as
and for a Codicil
to be annexed to his

Witness my hand and seal
this twenty fifth day of
March - One Thousand Eight
Hundred and forty two -

George W. Leper

last Will and Testament and the taking
as part thereof in the
Presence of us -

John Evans
Thomas Cooke