

Chancery Court Papers, Essex County, Virginia

Transcribed by Keith Dishman on 12 Feb 2005

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<b>Dishman &amp; att:</b>	}	<b>Bill</b>
<b>vs.</b>	}	<b>&amp;</b>
<b>Dishman</b>	}	<b>Answers</b>

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Dec 17<sup>th</sup> 1798

This cause came on to be heard on the Bill and Answers & arguments by counsel, and it is decreed and ordered that Humphrey B. Brooke, Robert Baylor, William Lesghill & Frederick Cavanaugh (or any three ) be appointed Commissioners to divide the land in the Bill mentioned, according to quality & quantity equally between the Complainants and the defendants, and having regard the same objects be subdivided the one moiety among the complainants themselves allotting to the heirs of Samuel Dishman, a Childs part & report to Court in order to a final Decree.

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1800 July 24<sup>th</sup>

Continued for report

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1802 July 25<sup>th</sup>

Ditto

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1803 July 19<sup>th</sup>

Ditto

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1804 July 18<sup>th</sup>

Cont<sup>d</sup>. for report and it is ordered that the shf. [*sheriff?*] serve the parties to appear at Court next to show cause why this suit should not be dism<sup>d</sup>.

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1805 Jul 17<sup>th</sup>

Continued for Report

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1808 June 25<sup>th</sup>

dism<sup>d</sup> for want of pros.

To the worshipful justices of Essex County in Chancery setting. Humbly complaining thus, unto your worships yr orators & oratrixes, David Dishman, Jane Dishman, John Dishman, Isaac Dishman, George Robinson & Mary his wife formerly Mary Dishman, Edmund Spearman & Dinah his wife formerly Dinah Dishman, Obed Gray & Anna his wife formerly Anna Dishman, Sarah Dishman, Samuel Dishman jr, John Dishman jr, Sarah Dishman jr, W<sup>m</sup> Toombs & Mary his wife formerly Mary Dishman, George Robinson jr & Elizabeth his wife formerly Elizabeth Dishman & Ace Gouldman and Margaret his wife formerly Margaret Dishman, & David Dishman jr, James Dishman jr, & W<sup>m</sup> Dishman jr infants under the age of 21 one years by Margaret Dishman their guardian, that a certain Samuel Duchemein, some time in the year \_\_\_\_\_ [*blank*] migrated from France & settled in this Country, & was naturalized here by the name of Dishman. In his lifetime being seized of lands in fee in Essex County he made his will, (which since his death was proved & admitted to record in the County Court of Westmoreland & to which for greater certainty yr orators & oratrixes refer & pray that it may be taken as part of this their bill) & devised the said lands to his two sons David & Peter, to be equally divided between them: David died sometime in the year \_\_\_\_\_ [*blank*] having previously made & published his last will & testament in writing which has been proved & admitted to record in the Court of this County, & to which ye orators & oratrixes also refer & pray that it may be taken as part of this their bill; in this will no notice is taken of this land & yr orators & oratrixes are therefore advised that as to it he died intestate & that this part of this estate will descend according to the laws now in force concerning the distribution of intestates estates real. Yr orator & oratrixes further then, that as the time of the death of said David Dishman he had the following issue, exclusive of Sam<sup>l</sup> Dishman, who died prior to his father & whose children yr orators & oratrixes are advised are entitled to such a proportion of the estate as their father would have been had he survived the said David, viz: David Dishman, John Dishman, Isaac Dishman, Mary the wife of your orator G. Robinson, Dinah the wife of Edmund Spearman, Anna the wife of yr orator Obed Gray, Sarah Dishman, & Jane Dishman. Yr orators & oratrixes further shew that Samuel Dishman, who died in the lifetime of his father left the following issue, viz: Sam<sup>l</sup> Dishman jr, John Dishman jr, David Dishman jr, James Dishman jr, Sarah Dishman jr, W<sup>m</sup> Dishman jr, Mary the wife of W<sup>m</sup> Toombs, Elizabeth the wife of yr orator George Robinson jr, & Margaret Dishman jr.

Yr orators & oratrixes state that Peter Dishman died intestate upwards of thirty years ago, when the law of primogeniture prevailed, & that Samuel Dishman the present deft [*defendant*] is the eldest son of the said Peter. Yr orators & oratrixes David Dishman – John Dishman – Isaac Dishman – Sarah Dishman and Jane Dishman are entitled to each a ninth part of one moiety of the said lands devised by their ancestor the said Samuel to their father & uncle & yr orator George Robinson, who married Mary the daughter of the said David in the right of his wife is entitled to another ninth part – Yr orator Edmund Spearman to another ninth part in the right of his wife Dinah, & also yr orator Obed Gray to a ninth part in the right of his wife Anna.

Yr orator & oratrixes Sam<sup>l</sup> Dishman jr, John Dishman jr, Sarah Dishman jr, W<sup>m</sup> Toombs, who married Mary Dishman, & George Robinson, who married Elizabeth Dishman in the right of their wives, & David Dishman jr, W<sup>m</sup> Dishman jr, & James Dishman jr, infants under the age of twenty one years by their guardian Margaret

Dishman, contend that they are entitled to the part which would have devolved on the said Samuel had he survived the said David his father.

Yr orators & oratrixes show that they have frequently asked the deft [*defendant*] Samuel to make partition of the lands aforesaid in order to effect a division, & to reduce to possession their respective proportions, but he has hitherto declined coming into their view in this behalf. In tender consideration whereof, & for as much as yr orators & oratrixes are remediless save in a Court of Chancery where matters of this nature are properly cognizable to the end therefore that the said Sam<sup>l</sup> Dishman may on his corporal oath true & distinct answer, make to all & singular the premises as if the same were herein especially interrogated & that he may say, Did not the said Samuel Dishman make his will as aforesaid. Were not his lands in Essex devised as herein stated? Are not yr orators & oratrixes the heirs of the said David Dishman and Did not the said David omit his moiety in his will?

That commissioners may be appointed to make partitions between the said Sam<sup>l</sup> & yr orators & oratrixes, pursuant to the will of their ancestor Samuel & also that the same commissioners be authorized to subdivide among them their moiety according to the law regulating the course of descents or that yr worships will make such other order & decree as the nature of the case may require, & that may be more consonant to equity & good conscience. May it please your worships & c.

The answer of Samuel Dishman to a bill exhibited against him in the County Court of Essex by David Dishman and other heirs of David Dishman decd.

This respondent – saving & reserving to himself all benefit of exception to the manifold errors & imperfections in the complainants bill set forth for answer thereto or as much thereof as he is advised tis necessary for him to answer to saith. He admits that Samuel Duchemein his grandfather made his will & devised his Essex lands to his two sons David & Peter as these complainants in their bill alledge. He also admits that David Dishman died intestate as to his moiety of the lands aforesaid & that Peter his father died intestate altogether. He also admits that the complainants are the heirs of said David Dishman decd. Under these circumstances he can have no rational objection to the prays of the bill. This respondent & c.

Filed 12.17.1798; answered 12.21.1798

Dec 21<sup>st</sup> 1798 Sworn to before me this Day as the Law directs – James M. Garnett