1794-003 Chancery Causes: Lewis Hansford's heftors VS Esther Taylor, extx of John Taylor

Dale of Wight County

Hamfords exors
v. — } Bill
Taylors exrix

November 1793
Bill filed & Rule for
Answr —

Decemr. 1793
Answr filed & Rule for Dis-
-claim. —

January 1794
Rule for Dismist.

February 1794
Rule for Answer

March 1794
Answr filed & Rule for Disms.
at next Court —

May 1794
Parties heard & Injunct.
Dismissed at pltfs Costs

Bill 2
Dft 2
3. 6. 8 5. fees &c. ps?

8
26
44
26
26
18
26
18
26
18
20
2.66
40
3.6

21 10½
1 15
7
25

– compellable to pay it out of his own proper
Estate, as his failing to defend the suit may
probably, by the strict and rigid rules of the
Comman Law, amount to a devastavit
– But now so it is mayet please your
worships that notwithstanding the premises
the said Esther Taylor has issued her Execution
upon the judgment aforesaid; In tender
consideration whereof and for as much as
your orators are remediless in the premises
without the aid and interposition of a court of
equity where matters of this sort are properly
cognizable – To the end therefore that the said
Esther Taylor Exrix as aforesaid may be made
a defendant to this bill of complaint and may
upon her corporal oath true & perfect answer
make to all & singular the allegations herein
contained as fully and particularly as if the
same were here repeated & she there to inter-
– rogated, and that your worships will injoin
the aforesaid unjust judgt until the matter
can be fairly heard in equity or that your
worships will make such other order in the
premises for the relief of your orators, as to your
worships shall seem meet and agreeable to
equity & good conscience may it please your
worships to grant unto the Complts the Common
wealths most gracious writ of subpoena &c

Sworn to before me This 31st Oct 1793
Donald Campbell

Robt Taylor
Cary Ft Hanover

To the worshipful court of Isle of Wight county sitting in Chancery, humbly complaining shew unto your worships your orators Robert Taylor and Cary Hasbt Hansford Extors of the last will and testament of Lewis Hansford deceased That on or about the day of 17 Esther Taylor executive of the last will and testament of John Taylor late of this county did institute a suit in the Common Law courts of the aforesaid county against your orators upon an open account That the capias ad respondendum was executed only upon the complainant Cary H Hansford. who entirely forgetting the service thereof made no defence to the said suit & of consequence a judgement was entered up against him in term 17 for the sum of That the account upon which the said judgement was obtained is in the opinion of these compts, highly unjust and inequitous & they have no doubt they shall make it appear so to the satisfaction of your worships upon a fair Examination thereof & by producing the Books of the Decd your Complainants beg leave farther to suggest unto your worships that there are large bonds & debts of greater dignity due by the Estate which your complainants believe will consume all the assts wch may come into their hands and that they are advised that should the said judgment remain in force against your orator Cary H Hansford, he perhaps will be—

Isle of Wight County, to wit. This eight day of April a.D. 1794 Esther Taylor made oath before me a justice of the peace for the s^d. County, that the foregoing answer is true so far as the same is founded on her own knowledge, and that so far as it is grounded on other information she believes it to be true —

Geo. Purdie

Taylor ex. &c.
v.
Blanchard & al. exors
(Dft's ans.)

Complts' assertion of its being unjust and iniquitous, and on the contrary expects aver, that she believes it to be just and true. — This Deft cannot refrain from expressing her surprize at the boldness of the Complts — They boldly, and as it were at a venture, pronounced to be unjust and iniquitous an account, in favor of which twelve honest jurors, upon their oaths, have given in verdict, and a Court of common law rendered a judgment, — and, in support of what has been so rashly asserted, they have (with a degree of confidence peculiar to error) appealed to the books of their testator; but surely this Court will not take those books (~~who~~ however mighty they may be in the opinion of the Complts) for a standard of truth, — nor the bare assertions of the Complts, however bold, for evidence. As to the suggestions of the Complts respecting debts of greater dignity than that of this Deft, and that those debts will consume all the assets in their hands, — this Deft supposes that this Court will respect those naked ~~ass~~ suggestions of the Complts still less than their unsupported bold assertions: — but admitting those suggestions to be true, (which however this Deft supposes not to be so) yet it seems to this Deft, that the Complts cannot properly obtain that relief for which they so urgently pray, — as it is not within the province of a Court of Chancery to administer redress to the negligent, — to cure the defects of memory, — or to war against the wise and sound principles of the common law. — Without that, that there is any other allegation, matter, or circumstance, in the bill of the Complts contained, proper for this Deft to answer, and not herein sufficiently answered, traversed, avoided, or denied, is true, to the knowledge and belief of this Deft. — All of which matters and averments this Deft is ready and willing to maintain and prove as this Court shall direct — and prays that she may be permitted to proceed at common law upon the s^d judgments, — and be hence dismissed with her reasonable costs in this behalf most wrongfully sustained —

Merit M. Robinson
for the Deft

The answer of Esther Taylor executrix of the last will and testament of John Taylor decd, Defdt, to the bill of complaint exhibited agst her by Robert Taylor and Cary Harlet Hansford executors of the last will and testament of Lewis Hansford decd, Complts in

This Defdt, — saving to herself all benefit of exception to the errors and insufficiencies in the bill of the Complts contained, — answers, — That she admits to be true so much of the 2d bill as states the institution of a suit in the Court of common law of the County of Isle of Wight by this Defdt agst the Complts, the obtention of a judgment therein, and the suing out of an execution thereupon, — and that she believes the original writ was served only on the 1st Cary H. Hansford, — but as to his forgetting the service thereof, she can only observe, she is sorry his weakness of memory should have been so great as to have caused him to forget the just demand of an honest and indulgent creditor of his testator even after a solemn notification thereof had been given to by the instrumentality of a Sheriff —

This Defdt admits the demand, for which she has obtained the said judgment, to have been founded upon an account, but must positively deny the

Dr. John Taylor to Lewis Hansford Decd. Cr.

			£	s	d
1776					
March	15	To Sundries at several times	£		
		4 lb Cotton 10/ 9 1/2 lb Sugar 1/6		1	4 3
		1 Gallon Spirit 10/		"	10 "
		2 Gal. Do. 3/4 Gal Do.		1	6 "
		1 Gallon common Rum		"	6 "
		2 Bushels Oats 3/ 2 lb Cards 2/		"	5 "
		To Cash lent in Silver		5	" "
Augt.	12	7 Yards Camlet		1	9 3
		1 Chest Lock		"	2 "
	20	1/2 lb Gum Tea 7/6 1 Carving Knife 12/6		1	" "
Sept.	19	To Cash in full		"	8 "
				11	10 6
Augt.		To two Gallons Oil paid him		12	" "
1781					
May	10	To 1/3 of Cloth for Mr. Jackson		47	18 "
		To 1/3 of a lb Snuff Do.		20	" "
Augt.	2	To Cash paid Expenses to S 2		7	10 "
	25	To 1/2 Gal. Rum		30	" "
		3 oz Snuff 18 1 Gallon Rum 60		78	" "
				201	8 0
1781		To Balance		1	19 9 1/2
1782					
Mar.	5	To Rum for Pork Man		8	19 6
	15	To Storage two Chests Sugar		"	12 "
May	4	To ten Bushels Corn 30/		1	10 —
	7	To Boat Kitten for freight		16	7 6
			£	19	8 9 1/2

			£	s	d
1776					
May	18	By Cash		5	" "
Sept.	19	By Sundries p. his Account		6	10 6
				11	10 6
1779					
May	30	By two Gal. Oil		12	" "
		By Balance		183	8 "
		Depreciation Settled at 49/9			
				201	8 0
1782					
March	5	By 13 1/2 Bus. Salt at 20/		13	10 —
Apl.	15	By 4 Bls Lard 909 lb at 8°		30	6 "
	20	By 63 lb Tallow at 1/		3	3 "
May	20	By two Kegs Butter		6	8 9
June	22	By 13 lb Tallow at 1/		—	13 —
Augt	12	By 1 lb Sugar		7	8 "
Oct.	20	By Cash		3	6 "
		By two Days Mason Line		"	12 "
Dec	20	By 17 lb Tallow at 1/		"	17 "
		By Balance due for Amt. Inclosed		5	5 0 1/2
				71	8 9 1/2
178					

			£	s	d
1782		To Amount brt. forward	19	18	9½
May	15	To ½ Barrel Corn	"	7	6
		To Lucky Rolands Act	1	19	9
June	8	To two Cask's Flower	4	1	3
		To 98lb Barr Iron at 9d	3	6	"
	28	To 1 Barrel Corn	"	15	"
Augt	3	To 3 Gal. Rum	2	5	"
		To Cash paid Brysons Act with A Walk	30	17	6
Sept.	3	To Freight of two Barrels Flour	"	8	"
			71	18	9½
		To Balance due pr. Act. delivered	5	5	0
1784 Jan.	1	To Freight of 1 Barrel Flour		2	"
			£5	7	0
		To Balance pr. Contra		3	11 9
1793 Nov.	27	To error in extending the Balance May 30th 1779			10
		Due		£4	19

			£	s	d
1783					
April	29th	By 29lb Sugar at 1/		1	9
1784 Dec.	16	By 2½ Days of London — at 2/6	"	6	3
		By Balance due	3	11	9
			£5	7	0

Mr. John Taylor
to Lewis Hansford Dec.

Sept. 8th 1793 Brought for Thomas Robt Taylor one of the executors of Lewis Hansford deceased made oath before me that the above Acct, is justly and truly stated, that the Balance is due and unpaid as above to the best of his knowledge and belief and that he believes the Negroes mentioned in the Bill, were the property of the said Lewis Hansford deceased at the time of his death, that he has not received any Effects of the said Lewis Hansford deceased, except what is mentioned in the Bill, and that he has not any Negroes in his possession belonging to the said Estate, except those mentioned in the Bill, and that he has not any Effects of the said Estate in his possession, except what is