

1797-006

Chancery Causes: Stephen Howard & Jacob Darden vs Andrew Mackey [Mackie] & others

Isle of Wight County

Howard Gordon

Bill  
Mackinac Spring

July 1794

Recd for Amos

August 1794

Disolved for want of Bond at  
the Rules

Sept. 1794 Resolved further  
time to give Bond the 20th

Oct. 1794

Recd for Amos

Nov. 1794

Recd for Amos

Dec. 1794

Recd for Amos

Jan. 1795

Recd for Amos

Feb. 1795

Resolved with B. K.

March 1795

Recd for Amos

3. 50. 15-0 of Amos

Write for Amos

Gilbert  
vs  
Catholics } Char

your orator in the premises as the nature of his  
 case ~~may~~ requires; & also your <sup>orator</sup> further requests  
 leave to observe that the bond before alluded  
 to, had it not have been paid off in the man-  
 ner before alluded to is out of date, being of  
 twenty six years standing; & therefore pleads  
 the <sup>lapse of time</sup> statute of limitations in complete bar of  
 the same. To the end therefore that the said  
 Martha Mackey ~~as~~ <sup>as</sup> aforesaid may  
 perfect answer make to the aforesaid allegations  
 as the aforesaid set forth in as perfect a manner  
 as if the same were again repeated — and  
 that your orator may be further relieved in  
 the premises, so far to enjoin the said joint of  
 obtained as aforesaid, till such further order  
 of this Worshipful Court shall be adjudged  
 most proper. May it please the Court to  
 grant to your orator a <sup>respon</sup> directed as the  
 law directs off to this effect &c:

Shel of Wight County: to wit: This day Jacob  
 Darden came before me, one of the <sup>Justices</sup> ~~Magistrates~~  
 of the County aforesaid and made oath to the  
 truth of the aforesaid facts & particulars  
 August 4<sup>th</sup> 1794  
 James Wills

Darden  
 vs  
 Mackey  
 20/11/94

20/11/94

33  
 165  
 33  
 30/11/94 16  
 36 32  
 195  
 100  
 15

To the Worshipful Court of Isle of Wight County sitting  
in Chancery;

The petition of Stephen Howard & Jacob  
Darden, humbly complaining, sheweth unto your  
worships; that some time in the year  
your Orator Jacob Darden became to one Andrew  
Mackey on behalf of Stephen Howard as afores.  
a security to a bond in the sum of            pounds  
current money of Virginia; that this complainant  
acknowledges that a judgement was obtained  
vs your orator in this worshipful Court for  
the sum of money due on the bond aforesaid  
your Orator further avers that Andrew Mackey  
often in his life time told your orator that the  
bond aforesaid had been fully paid & satisfied  
your orator also shews, in order to prove more  
clearly to your worships the manner in which  
the said bond was discharged; that he knows  
of <sup>his</sup> own knowledge, that the said Howard deliv.  
unto the said Mackey <sup>the testator of</sup> the debt to this your  
Orators bill of complaint (a quantity of Indian  
Corn, on account of the aforesaid bond; and  
likewise that the said Howard wrought &  
did work) for the said bond to its full amount  
in discharge of the same.

But now so it is  
may it please your worships that the surviving  
Execut<sup>r</sup> <sup>Martha Mackey.</sup> of the aforesaid Andrew Mackey, com-  
:bining &c: &c: to cheat & defraud your orator  
in the premises; refuseth to do that justice to

Martha Mackie surviving executrix of the last will & Testament of Andrew Mackie dec<sup>d</sup>. To the bill of complaint exhibited against her in this Court by Jacob Darden, reserving to herself every benefit of exception to the Compt<sup>ts</sup> bill, answers as follows — That it is true, such a judgment, as the Complainant speaks of, has been obtained at common law in the Court of this County by this Defendant against the Complainant, — but being entirely ignorant of the existence of the circumstances stated by the Complainant to show, that the bond, on which the judgment was founded, had been paid to her Tutor by Stephen Howard, a co-obligor of the Complainant, — she can only observe, that she concludes that the judgment has been rightly rendered.

As to the date of the bond the Defendant cannot change her recollection — the bond will speak for itself upon this point, — but were its date admitted to be as ancient as asserted by the Complainant, — yet she should hope, that the time taken out upon such occasions by direction of the different acts of the General Assembly, <sup>providing against the effects of</sup> among the occlusion of the Courts of Justice in the time of the late revolution, with the circumstances subsequently attending the case, such as the death of the original obligees

Andrew Mackie, the principal obligor Howard,  
I many others unnecessary now to mention, would  
effectually destroy that presumption of law, which  
the Complainant sets up & so generously fosters for  
the destruction of a just debt. —

And finally this Defendant, denying so much of  
the Complainant's bill as she has not already answered  
unto, admitted, & acquiescing, prays that the injunction  
granted to the Complainant upon this occasion  
may be dissolved — that she may thereupon be  
permitted to proceed judgment obtained against  
him at common law — & that she may be  
hence discharged with her costs in this case  
expended —

Martha Mackie

Jus. of Wight County, to wit,

This day Martha Mackie made  
oath before me a Justice of the Peace for the  
County of Wight, — that the foregoing is true so far  
as she knows & believes. Given under my hand  
this twenty-sixth day of September 1796.

Thos. King

Mackie ex. 20 pp

ads. } answers

Darden

Know all men by these presents that we Jacob  
Garden & Jesse Atkinson are held & firmly  
bound unto Martha Mackie Surviving Coheir  
of Andrew Mackie dead in the sum of  
Pounds

Current money of Virginia to the which payment  
well and truly to be made unto the said Martha  
Mackie and her heirs & assigns we bind our selves  
our Heirs Executors & Administrators jointly &  
severally firmly by these presents Sealed with  
our seals & dated this 8<sup>th</sup> day of September  
1792.

The Condition of this above obligation is  
such that whereas the said Martha Mackie  
is Coheir of Andrew Mackie dead hath  
obtained a Judgment at common law against  
the said Jacob Garden as Security for one  
Hickin Howard in the County Court of  
Essex County for

and Costs and the said Jacob  
Garden hath obtained an Injunction to stay  
the Execution of the said Judgment until  
the hearing the matter in Equity upon a Bill  
for that purpose filed, If therefore the said  
Jacob Garden shall satisfy and pay the said  
Judgment at common law & all Costs & Damages  
that shall be awarded to the said Martha Mackie  
in case the said Injunction shall be dissolved  
Then the above obligation to be void or else to

Remain in full force Power & Virtue  
Signed & Delivered Jacob Garden  
In presence of  
Francis Young  
Jesse Atkinson  
Seal  
Seal  
Seal



~~W. B. C. C. C.~~

Duden

As  
vs.

Inj  
Stord.

Murkin's Exirt

8th of September

1794

