

1799-007

Chancery Cause: Mark Phillips + et al vs Thomas Davis, admr of Elisha Bowles

Isle of Wight County

Other surnames: Shield,  
Barnes, Bowls

To the Honorable Court of Isle of Wight County in Chancery sitting  
knowingly complaining shew unto your Honor your orders and  
orders made by Mr. Phillipp and Elizabeth his wife, and  
Thomas Bowers of the County, after said

That a Certain Elisha Bowers in his life time and at  
the time of his decease was possessed of a personal estate of  
the value (as near as your orders and orders can ascertain)  
of one hundred & twenty pounds, departed this world intestate  
in the State of North Carolina leaving your Honor's Justice  
and your order Thomas Bowers of the County, executor of  
the said intestate. That a Certain Thomas Bowers of the  
County of said said grand to and with your Honor's Justice  
That in Consideration of one third part of the said intestate  
estate after payment of debts, he would repair his own  
Costs Charges & expenses go to Carolina and take upon him  
the administration of the said intestate, estate and  
administer the same according to law. That the said  
Thomas Bowers did administer with fidelity & good faith  
his administration in North Carolina a Copy of which is hereto an-  
nexed and referred to and took possession of the said  
intestate's personal estate and made Sale thereof, and  
now refuses to come or follow with your Honor's

according to the provisions of a grant and the terms of his  
bond and then only make a partial payment to your  
creditors of the money they are entitled to as distributees  
of the said intestate's estate, of whose conduct your  
creditors & estate have just cause to complain.

In tender consideration whereof, and for as  
much as your complainants are without remedy either  
in a Court of equity,

To the said Court of equity, that the said  
debtors (including the said executor & his assigns) may be  
made answerable to the said complainants in respect of their  
conduct in the said bond & perfect answer made by all and  
singular the allegations in this bill contained and that as  
Copies of it if the said Court shall think proper to be  
interrogated, and especially that he discover the full  
amount of his intestate's estate, what debts of the  
intestate he has paid, and to what account, how  
much he has paid to your creditors out of the said estate.

And that your Honors will decree that  
the said defendant pay to your creditors two thirds of  
the said intestate's estate, agreeable to the Contract aforesaid.

after deducting what debts of the intestate he has paid,  
as well as the partial payments already made to your  
creditors, and all costs of suit, and make any other  
or further order or decree in the premises for the relief  
of your creditors & estate as may be consistent with  
equity.

May it please the

*[Signature]*

*[Faint, mostly illegible handwriting at the top of the page]*

Phillips  
or  
Davis -  
Bill

(Rev)

~~1 - ...~~  
~~2 - ...~~  
3 - ...  
4 - ...  
5 - ...

Phillips  
Bill  
Bowling Admin

Sept. 1795  
Bill filed  
Nov. '98  
Rept. Comm. Plus?

Revised  
Nov. '98  
Count for Rept.  
May '99  
Rept. with Illness  
Accordingly -  
2-16 45.0  
46  
2-58 Left. Ltr. paper  
ip. d.

The answer of Thomas Davis administrator *de* of Elisha Bowles dec<sup>d</sup>. Deft to the Bill of complaint exhibited against him by Mark Phillips & Elizabeth & Thomas Bowles, Com<sup>ts</sup>.

This Defendant, saving to himself every benefit of exception to the bill of the Complainants, answers thereto as follows — He admits his having obtained the administration of the personal estate of Elisha Bowles as stated by the Com<sup>ts</sup>, at their special instance, & inconsideration of their agreeing to give him one third part of that estate — But the Com<sup>ts</sup> are mistaken in alledging that he was to have only  $\frac{1}{3}$  part of the estate after the payment of the decedent's debts — on the contrary he was to have received  $\frac{1}{3}$  independant of such a deduction. The Com<sup>ts</sup> have also erred in stating that the Defendant has failed to account with them upon this subject, — for he avers, that he has not only fairly accounted with them, but has also since actually paid them all that they were intitled to of this estate remaining at that time in his hands — He thinks proper to observe too, that altho' he was intitled to  $\frac{1}{3}$  of the estate free of any deduction for the debts of the decedent, yet he, to avoid disputation, did really account with the Com<sup>ts</sup> agreeably to their own wishes in that respect, taking only  $\frac{1}{3}$  part of the estate, that remained after paying the legal disbursements of his administration & the debts of his Intestate, exclusive of his own expenses in that business — As to rendering such an account as the Com<sup>ts</sup> require, the Deft must hope to be excused, — for having long since accounted with them, to their entire satisfaction, before auditors approved by them, & having since paid them agreeably to what was ascertained to be their due, — the Deft considered the writings shewing the amount of the estate *de* *de* as useless, & of course did not preserve them, so that it is not now in his power to produce a full & correct account of his administration & settlement with the Com<sup>ts</sup>.

And finally the Deft, denying so much of the Com<sup>ts</sup>' bill as he has not already answered admitted

or denied, prays hence to be dismissed with his costs  
in this behalf most wrongfully expended Thomas Davis

Jos of Wight County, to wit,

This day Thomas Davis made oath  
before me a Justice of the peace for the County ofou-  
said, - that the foregoing answer is true so far as he  
knows & believes. Given under my hand this 8<sup>th</sup>.  
day of November 1798.

James Wills

Davis admor de

adv. } Answer

Phillips Lux. & al.

The Commonwealth of Virginia, to the Sheriff of Isle of Wight County greeting  
we command you to summon Thomas Davis Administrator of Elizabeth  
Bowles decd: to appear before our Justices of our said County at the Court  
house on the first Monday in August next, then & there to answer a  
Bill in Chancery exhibited against him by Mark Phillips & Elizabeth  
his wife and Thomas Bowles, and this he shall in no wise omit under  
the penalty of £100 - And have then & there this Writ Witness James Young  
Clerk of our said Court at the Court house the 8th. day of July 1793  
in the 20th. year of the Commonwealth

J. Young  
Clerk

Phillips Wm. Esq.

To.

Spa. in  
Chy.

Bowles Admors

Executed

D. Driver Esq.



State of Virginia.

Isle of Wight County (to wit)

The Commonwealth of Virginia to, Stephen W. Carney &  
Shadrach Rutland Gentlemen Greeting Know ye that we  
trusting to your fidelity and provident Circumspection in diligently examining  
James Barnes, Balls Barnes, Whitman Hill and John Fott, Witnesses as well on  
the part and behalf of Mark Phillips and Elizabeth his wife, and Thomas  
Bowles, Plaintiffs as on the part and behalf of Thomas Davis Administrator of  
all and singular the goods and Chattels, Rights and Credits of Elisha Bowles  
deceased Defendant, Command you or any two or more of you that at such  
certain days and places, as you shall appoint, you assemble yourselves and the  
Witnesses aforesaid, before you or any two or more of you — You call and cause to  
come and Diligently <sup>Examine</sup> them on the Holy Evangelists of Almighty God. And their  
Examination into our County Court of Isle of Wight aforesaid, distinctly and plainly  
without delay, you shall send and certify inclosed, returning also to us this  
with Witness James Young Clerk of our said Court at the Court house of the  
said County the Fifteenth Day of March, One thousand Seven hundred and  
Ninety Six —

J. Young C.M.C.  
5555

State of Virginia

Isle of Wight County Seccit,

I hereby Certify that the above named James Young, hath  
been regularly appointed the Clerk of the County of Isle of Wight aforesaid,  
Given under my hand this Fifteenth Day of March, One thousand Seven  
hundred and Ninety six —

Geo Purdie J.P.

State of Virginia

Shropshire County (to wit)

The Commonwealth of Virginia to, Stephen W. Carney & Shadrach Rutland Gentlemen, Greeting Know ye that we trusting to your fidelity and provident Circumspection in diligently Examining Solomon Dawson, Joshua Williams, and Thomas Shield, Witnesses as well on the part and behalf of Mark Phillips, and Elizabeth his wife, and Thomas Bowles plaintiffs, as on the part and behalf of Thomas Davis, Administrator of all and singular the Goods and Chattles Rights and Credits of Elisha Bowles deceased, Defendant, Command you or any two or more of you that at such certain days and places, as you shall appoint, you assemble yourselves and the Witnesses aforesaid, before you or any two or more of you, You call and cause to come and Diligently Examine them on the Holy Evangelists of Almighty God. And their Examination into our County Court of Shropshire aforesaid, distinctly and plainly without Delay, you shall send and certify inclosed, returning also to us this Writ Witness James Young Clerk of our said Court at the Court house of the said County the Tenth Day of March, One thousand Seven hundred and ninety

James Young  
Clerk

1034. 18. 9  
849. 9. 22  
185. 9. 06

State of Virginia

Shropshire County Sheriff,

I hereby certify that the above named James Young hath been regularly appointed the clerk of the County of Shropshire aforesaid Given under my hand this Tenth Day of March, One thousand Seven hundred and ninety

Geo Purdie SR

State North Carolina  
Wellsford County

permeant to an Order of Sale of Wight Court in the  
State of Virginia, the Deposition of Thomas Shield  
taken in a suit now depending, wherein Mark Phillips  
Elizabeth his wife & Thomas Bewls, Plaintiffs, & Thomas  
Davis Administrator of Eliza Bewls Deceased Defend-  
-ant, & after being sworn on the Holy Evangelist of  
-allmighty God, Deposeth & sayeth - on about the  
month of May last year Nineteen Eighty nine the said  
Thomas Davis was at the House of this Deponent and told  
him he had administered on the Estate of said Eliza Bewls  
and the next day was to have a sale of all the property of  
said Deceased - the Deponent further sayeth from the  
information of the said Thomas Davis - that he set off  
to the sale of said Estate, & was informed on the way  
that the said Thomas Davis had run away with the  
Estate, Deponent further sayeth that he dont Believe  
there was any sale of said goods in the County aforesaid  
& further that Deponent sayeth not.

The above Deposition was Taken at the House of James  
Barnes on the fourth day of April 1796

Sworn to before us Thomas Shield

*[Signature]*

Shadrach Rutland, J. C.

State of North Carolina  
Hillsborough County

Pursuant to an Order of the right Court in the State of Virginia, the Deposition of James Barnes, taken in a Suit now depending, wherein Mark Phillips, Elizabeth his wife & Thomas Bowls Plaintiff & Thomas Davis administrator of Eliza Bowls Deceased Defendant & after being sworn on the Holy Evangelist of Almighty God, Deponent and sayeth about the month of May one Thousand Seven Hundred Eighty Nine, that James Brantley informed him that the said Thomas Davis had administered on the Estate of Eliza Bowls Deceased & the said Brantley also said that he stood the said Davis Security on the Administration, Deponent further sayeth that he never heard of any sale of said Estate & General Report of the Receiver thereof was that the said Thomas Davis had run away with the Estate & further this Deponent sayeth not.

The above Deposition was taken at the  
House of James Barnes on the fourth day of  
April 1796

I sworn to before us

James Barnes

Attest  
A. C. M. J. Jr.

Shadrach Rutland J. P.

Agreable to an order of Isle of Wight County Court  
 August term 1797 Mark Phillips & Elizabeth his wife  
 and Thomas Bolds Plt. against Thomas Davis admr.  
 of Elisha Bolds Deft. we Emanuel Mills & William  
 Jordan has examined the papers and witnesses and  
 find nothing due the said Mark Phillips & Elizabeth  
 with his wife Thomas Bolds and we do award that  
 Mark Phillips & Elizabeth his wife & Thomas Bolds  
 pay all cost awarded in said suit given under our  
 hands this 24th Day of May 1799  
 (E. Mills)

Wm Jordan

Isle of Wight County  
 Mark Phillips & Elizabeth his wife }  
 and Thomas Bolds - - - - - } Plt.  
 against }  
 Thomas Davis admr. of Elisha Bolds Deft. }

August term 1799

In Chancery

By consent of the parties, all matters of defence in this  
 Cause are mutually submitted to the Arbitration final &  
 determination of Emanuel Will & William Jordan their  
 umpire by them to be chosen, and their award to be made  
 the Sense of the Court herein if it is agreed accordingly

Attesty  
 J. Young Co.

Philips H. G. No.  
3. 3 Repts  
Bolsis Vidua.

State North Carolina

Whereas all things by the presents that Mr. Thomas Davis & James  
Dorsey are and lawfully bound unto the Governor, and Commander in Chief  
of the said State in the sum of two hundred and fifty pound current money  
to be paid to the said Samuel Johnston or his Successor Governor, or  
in that for the time being to the which payment shall be made  
the said Curators our heirs Executors and administrators jointly & severally  
jointly by these presents signed with our seals and dated this 29<sup>th</sup> day of  
May Anno Domini 1789

The condition of this obligation is such that if the above Curators  
Dorsey administrators of all and singular the goods and Chattels rights and Credits of  
John Rowley deceased do make or cause to be made a true and perfect inventory  
of all and singular the goods and Chattels, rights and Credits of the said deceased  
in that State come to the hands or possession of the said Thomas Davis or  
into the hands or possession of any person or persons for him and the same  
to make do certify or cause to be certified into the Secretarys Office, and  
one attested copy thereof to the County Court where Curators of administration first  
taken duly days after the date of their presents and the same goods, Chattels &  
Credits are or shall the goods Chattels and Credits of the said deceased at the time of his  
death which at any time hereafter shall come into the hands or possession of the said  
Administrators or into the hands or possession of any other person or persons, for  
him do well and truly administer according to law and Justice as made or  
cause to be made a true and just account of his administration within  
Twelve Months after the date of these presents and all the rest and residue of the  
said goods Chattels and Credits which shall be found remaining upon the said  
Administration account the same being first examined and allowed by the Governor  
and Councils before the County Court shall deliver and pay unto each  
person or persons respectively as the same shall become due according to  
the true intent and meaning of the act in that case made and provided  
and if it shall appear that any bill or Testament was made by the deceased  
the Curator or Curators thereunto do exhibit the same in Court making request  
to have it allowed and approved of accordingly, if the said Thomas Davis above  
bounden being thereunto required do render and deliver the said bill or  
administration appropriation of such Testament being first read & made  
in the said Court then this obligation to be void otherwise to remain in full  
force and Virtue

Given and delivered  
in presence of

Samuel Johnston

Thomas Davis

James Dorsey

*[Signature]*

*[Signature]*

Madison County Ga



The within is a copy from the Original Court Book  
in my Office

Given under my Hand together with  
the Seal of our said County the  
26<sup>th</sup> November Anno Domini 1794

James Oglethorpe





Thomas Davis  
Esq. Barrister at Law  
Administration Bond

Copy