1819-017 Chancery Causes: Anthony Payne, admr of John Outland vs Dolphin Driver's admr etal

Isle of Wight County

other SURNames: Wills, Cook, Tynes, Cooke, Gibbs, Drew, Pane

Payne – admr &c

vs.

D. Divers – admr &c

Bill.

November 1812

bill & subpoena for answ.

Or upon the maadministered part of the said outlands estate — Of which the said balance — is a part, if not the whole. — That the said Driver has since departed this life, without having adjusted this debt — or settling the estate of Cook and Robert Tynes has administered on his estate — That Emd Wills — Who together with Driver, were the securities of said Cook for the true admn of the estate of outland as herein aforesaid, has also departed this life — and Mills Wills and Henry W Wills have administered on the estate of the said Emand Wills with the will annexed. Your Orator frequently applied to the said Dolphin Driver in his life time — to pay over to him to your Orator out of the estate of Robt M Cook in his hands to be administered, the said balance of eighty eight pounds 13/7¾; but never succeeded; he has since the administration of Tynes often prefered him, in like manner for the said sum of money, with legal interest thereon; but, under a variety of false and frivilous pretences — and with a view to injure and defraud your Orator in this behalf, he the said Tynes declines and refuses your Orator justice in the premises. — Your orator is advised that — if there be not a sufficiency of the estate of Cook to discharge the balance aforesaid, the estates of said Driver and Emd Wills are liable, as securities, and therefore no just cause can exist for keeping your orator out of the money. — In tender Consideration Whereof — and forasmuch as your Orator is only and properly relievable in a Court of equity having jurisdiction (Which this Court has) — he prays that the said Robert Tynes administrator of Dolphin Driver, and Mills Wills and Henry W. Wills — Exadmrs with the Will annexed, of Emanuel Wills be made defendants to this bill of Complaint, and full, true and perfect answer make to all and singular the allegations it contains — and that as fully as though the same were here again repeated, and they thereunto particularly interrogated. — That the said Tynes be decreed to pay your Orator, out of the funds of Robert M Cookes estate, if so much there be in his hands, the said sum of £88.13.7¾ and Gal interest thereon from the 22nd day of novr 1804 —. Or if there be not a sufficiency of the estate of Cooke to pay the same — that then and in that case, the said Tynes & the said Mills and Henry W Wells — pay the same to your Orator out of the estates of the said D Driver & Emd Wills, as Securities for said Cooks admn of the estate of said outlands. — Your Orator prays your honours to make any other or further order or decree for his benifit and relief — as shall be considered best for the promotion of justice and equity. — May it please &c

Jno Barber pd

To the worshipful Court of Isle of Wight County in Chancery
Sitting. Humbly Complaining, Sheweth unto the Court your
Orator Anthony Payne - administrator De bonis non - of the
estate of John Outland dec.d - That the Said John departed
this life - on or about the day of 180 in the
Said County, of which he was a resident and free holder.
That he made a will shortly before his death - and thereby
Constituted, one Robert Newton Cook, his executor, who
qualified as such according to law - and entered into
bond conditioned as usual in Such Cases; together with
Emanuel Wills & Dolphin Driver as securities. That Cook the
Executor Sold the Chattel estate of the Said Outland for
the Sum of One hundred and five pounds, nine Shillings
and a half penny, as appears by an audited account
Curr.t of the estate - an official copy whereof is hereunto
annexed and prayed to be taken and considered as
a part of this bill. By this acct. Curr.t it appears that
on the 22nd day of Nov.r 1804, there was a balance due
from the Said Cook executor as aforesaid to the estate
of his testator - amounting to - eighty eight pounds 13/7¾.
That R N. Cook the executor died leaving this balance
due as aforesaid. That Dolphin Driver administered
on the estate of the Said Robert N. Cook, and your
Orator Obtained the administration De bonis non on

manding the said John Gibbs surviving administrator of said
said Benjamin Drew sheriff and committee as aforesaid to
and appear before this court there to answer the premises
and to shew cause if any they can why the said original
bill should not be amended, and parties added as herein
before mentioned: And further to stand to, and abide
such order and decree as to your Worships shall
seem meet. And your complainant as in duty
bound will ever pray &c.

Prentis. Atto. for Compl.t

Anth.y Payne ad.d Ans.r
as Exr & amended
Bill
Rec.d Bill ad.d and Dem.r
Ben: Drew Sh.ff Com.r

Sept.r 1820 Leave to amend bill &
defend.t to answer as soon as
convenient & in the mean time
leave bill filed

March 1819 Ans.r of Drew
committee of Mills fellow
Trustees 1819 and Sh.ff Gibbs dec.d

June 1819 Bill for caveat. Fee
$223.83 with int.t from 1st July
1800 Exp.

Prentis. Atto.

hath also departed this life, having first duly made and published his last will and testament: That the executors therein named having refused to qualify, Mills F. Wills, and Henry W. Wills qualified as his administrators with his will annexed in the said county court. That the said Mills F. Wills and Henry W. Wills have both departed this life, ~~leaving~~ pending this suit. That since the death of the said Mills F. Wills and Henry W. Wills, the estate of the said Emanuel Wills hath been committed to the hands of Benjamin Drew as sheriff of Isle of Wight County for administration according to law; and your Orator as he is advised is entitled to have the same relief against the said Benjamin Drew sheriff and committee as he would have been entitled to against the said Emanuel Wills had he been living: and moreover for the purpose of effecting a just and equitable settlement giving to your Complainant ample redress for the injury and inconvenience to which he has been subject by reason of any error of amendment to the said original bill he prays that the said John Gibbs surviving administrator of the said Dolphin Driver dec? and the said Benjamin Drew, sheriff and Committee as aforesaid may be made defendants hereto.

And your Complainant charges that an audit has been made of the executorial account of the said Robert N. Cooke an office copy of which is here with filed, and prayed to be received as a part of this Bill. By that it appears that the sum of £88: 13: 7¼. was in the hands of the said Robert N. Cooke which sum with interest thereon from the time of the audit is now due, and unpaid to your Orator.

And your Complainant also charges that the said Dolphin Driver upon the death of the said Robert N. Cooke administered upon his estate, and that an audit of the same is now on record in this worshipful court whereby it plainly and evidently appears that the estate of the said Robert N. Cooke is insolvent, and that the estates of the said Driver and Wills are bound to pay unto your Complainant any sum or sums of money which the said Cooke wasted or misapplied belonging to the said outlands estate.

Your Orator moreover charges that he frequently applied to the said Dolphin Driver (in his life time) to pay him the amount of the audit and interest thereon found due from the said Robert N. Cooke as the executor of John Outland dec? which he often promised to do. And he also applied to Emanuel Wills the other security in his life time for payment: but that notwithstanding their admission that they were bound to pay the amount of the audit they neglected and delayed paying the same in their life in consequence of which their representatives are liable and bound to pay the same.

And the complainant avers that the said Dolphin Driver nor the said Emanuel Wills, nor either of them nor any representative for them or either of them since their death, have not paid to him the said sum of £88: 13: 7¼ with interest from the 22d day of November 1804. which they ought to have done.

To the End therefore that the said John Gibbs surviving administrator of Dolphin Driver dec? may be in the same plight and condition as it was when the said Robert Tynes departed this life and that your Complainant may have the benefit thereof: that the said Complainant may be allowed to amend his said original bill as herein before mentioned, and to add as a defendant hereto the said John Gibbs surviving administrator of Dolphin Driver dec? and the said Benjamin Drew sheriff and committee of Emanuel Wills dec? as aforesaid. And that the said John Gibbs surviving administrator of Dolphin Driver dec? and the said Benjamin Drew sheriff and committee as aforesaid, may be prayed to be made defendants hereto, may full true and perfect answer make to all and singular the premisses, as fully as if the same were here again repeated, and they thereunto interrogated, that they may be decreed to pay jointly or severally out of the estates of their testators, the said sum of £88: 13: 7¼ with interest as aforesaid. May it please your Worships to grant unto your Orator the Commonwealth's writ of subpœna

To the Worshipful the Justices of Isle of Wight
County, in Chancery sitting.

Humbly complaining, sheweth unto your Worships your
Orator Anthony Payne administrator of all and singular
the goods chattels and credits which were of John Outland
dec.d at the time of his death, left unadministered by Robert
N. Cooke in his life time, now deceased and which said
Robert N. Cook, in his life time, and at the time of his death
was executor of the last will and testament of the said
John Outland dec.d, annexed. —

That in the month of in the year one thousan
eight hundred and Twelve. your orator exhibited his bill of
complaint, in this honorable court against Robert Jynes
and John Gibbs administrators with the will annexed of
Dolphin Driver deceased, who was administrator with the
will annexed of Robert N. Cooke, who was executor of Jo
Outland dec.d said to be relieved touching the several mat
and things in the said bill complained of.

And your Complainant further shews
your Worships that the said defendants being duly serve
process to appear, and answer the said bill have heretofore
failed to do so, as in and by the said bill and subpoena a
other proceedings had in the same cause and now of record
this honorable court will fully appear and to which
your Complainant begs leave to refer. Before any
final determination of the said cause however, that is
about the month of February in the year one thousa
eight hundred and eighteen the said Robert Jynes dep
this life, whereby the suit became and is abated as to

And your Complainant further shews th
the said Dolphin Driver, and a certain Emanuel Wills,
became bound as the securities of the said Robert N. Cooke
when he qualified as Executor of the said John Outland
in the said county court of Isle of Wight as will more
fully appear by reference to an office copy of the
said Executors' bond, which is here to annexed and
prayed to be taken as a part of this his bill.

That the said Emanuel Wills

Isle of Wight County to wit: Apl. 1819 This day
John Gibbs appeared before me a Justice
of the peace for the said county & made
oath to the truth of the within answer
Given under ~~my~~ hand

Thos. Smithy JP

John Gibbs
Answer

5th Apl. 1819 Ans. filed

The Seperate answer of John Gibbs Surveying Administrator of Dalphan Brown Deceasd to the emended bill of compliant in the worshipfull Court of Inferiour County against him and others exhibited by Anthony Pane Administrator Delonis non of John outland Deceasd - This Respondant now and at all other times hereafter saving and Reserving to himself all benefit and advantages of Exception to the many errors uncertaintys and fals alligations in the Compliants said bill as also for answer thereto or Somuch thereof as he is advised it is metarial for him to make answer unto Answers and Says that Dalphan Brown Deceasd was Security for Robert Cook Exetor of John Outland and this Respondt denies all unlawfull Combination &c and that he finds the Sum of Eighty Eight Pounds Thirteen Shillings and Seven Pence one farthing due the Estate of said outland on an account Currant Administred by said Cook bearing date the 22d day of November 1804 and he also finds Anthony Pane did Receive of Dalphan Brown debt of Robert Cook on the first day of July 1806 the Sum of one Hundred and one dollars and Eighteen cents in Part of the £88.13.7¼ and he also finds that Emanuel Wells Esqr was also Security for said Cooks Administration and of Course if Judgement is given it Should be for one moiety only of the balance after deducting the £10.10.8 from the £88.13.7¼ as Stated on said account bearing date the 22d of November 1804

Answer of
Benjamin Drew

Benjamin Drew
Answer

The Seperate answer of Benjamin Drew Sheriff and Committee of the Estate of Emanuel Wills Decd to the amended bill of Complaint in the worshipfull Court of Isle of Wight County against him and others exhibited by Anthony Vane — Administrator dibonis non of John Cutland Deceased — This Respondant now and at all other times hereafter saving and Reserving to himself all benefit and advantages of Exception to the many errors uncertainty and Insufficiencies in the Complainants said bill, acknowledges for answer thereto or unto so much thereof as he is advised he material for him to make answer unto — Answers and Says that Emanuel Wills Decd was Security for Robert C. Cook Executor of John Cutland and this Respondant denies all unlawfull combination &c — without that he finds the Sum of Eighty Eight Pounds thirteen Shillings and Seven Pence one farthing due the Estate of said Cutland on an account Current Administrated by said Cook bearing date the 22d day of November 1804 and he also finds that said Anthony Vane did Recieve of Dolphin Drewry Admr of Robert C. Cook on the first day of July 1806 the Sum of one Hundred and one dollars and Eighteen cents in part of the £28.13.7½ and he also finds that Dolphin Drewry was also Security for said Cooke Administration — and of Course if Judgement is given it Should be for one moiety only of the balance after deducting the £10.5.10 from the £28.13.7½ as Stated on said account bearing date the 22d Novemb 1804 —

Benjamin Drew

Isle of Wight County — to wit —

This day Benjamin Drew made oath before me to the truth of the above answer, as far as he knows, or has any reason to believe. —

Wilson Moore J.P.

Outlands Abm^r

v.

Ass^t Vice Chy.

Outlands cro. Pet^r

May 1807

Mil. Ass^t

Not executed

R. W. Wells Sh^ff

The commonwealth of Virginia to the Sheriff of Isle of Wight County greeting
We command you to summon Robert Tynes and John Gibbs Administrators with the will annexed of Dolphin Duver dec'd whereas the administrator with the will annexed of Robert Cook who was executor of John Rutland dec'd. to appear before the Justices of our said County court at the court house on the first monday in May next then and there to answer the bill of complaint of Anthony Payne Administrator de bonis non of John Rutland dec'd. exhibited against them. and have then there this writ Witness Frederick Young clerk of our said court at the Court house the 17th day of April 1809 In the 33d Year of the commonwealth

Fredk Young

Pulsands Admor. &c.

14.

Pultands exor. &c.

Exc cutrs

St. Lo will &c

The commonwealth of Virginia to the Sheriff of Isle of Wight County greeting
We command you to summon Robert Tynes & John Gibbs Administrators of
Dolphin Duval (with the will annexed) who was the Administrator of Robert
A Cooke who was executor of John Outland dec.d to appear before the Justices
of our said County Court at the Court house on the first Monday in
August next, then and there to to answer the bill of complaint of
Anthony Payne Administrator de bonis non of John Outland dec.d
exhibited against them and have then there this writ witness
Nathaniel Young clerk of our said court at the court house the
18.th day of June 1809 In the 33.d Year of the commonwealth

Nath.l Young

I acknowledge the service of the within Subpoena

R. Drew

Witness on the part of

Wm. H. Hallowell

Benj. Hall

Cumberland ss

Superior Court in Chy

January Term 1839

Davies comp. &c

The Commonwealth of Virginia to the Sheriff of Accomack County Greeting: you are hereby commanded to Summon John Gibbs Surv.g administrator of Dolphin Davis Decd. and Benjamin Davis into Court how have the estate of Emanuel Mills Decd. built been committed for administration - to appear before the Justices of our county court at the Courthouse of said county on the first monday in November next to answer an amended bill in Chancery exhibited against them by Anthony Payne administrator of John Outland Decd - and this they shall in no wise omit under the penalty of £100 each and have then there this writ Witness Nathaniel Young Clerk of our said court at the Courthouse the 10th. day of September 1818 in the 43d. year of the Commonwealth -

Nath.l Young

Anth.o Payne admrt.

vs

Drew Shff &c. & Decree

Anthony Payne admr de bonis non &c of John Outland dec? Complainant
against
Benjamin Drake Sheriff and Committee of the estate of Emanuel Wiles dec? and John Gibbs surviving admor of Dolphin Driver dec?. Defts

In Canc.

By consent of the parties and with the assent of the Court, this cause came on this day to be heard, on the Bill, answers, and exhibits filed therein, and was argued by Counsel on Consideration whereof the Court doth order adjudge and decree that the defendant Benjamin Drew Sheriff & Committee as aforesaid of Emanuel Wiles dec? and the deft John Gibbs surviving admor &c of Dolphin Driver dec? out of the estates of their testator and Intestate, pay unto the plaintiff, the sum of £223:83. with interest thereon at the rate of six per centum per annum from the first day of July 1806. free paid, and his costs by him about his suit in this behalf expended.

To the Circuit Court of Rights County Kentucky

This day W. Holleman personally appeared before and made Oath that he did on the 19th day of March A.D. 1819. deliver to the within named Walter Lytle Junr a true Copy of the within Notice. Given under my hand as one of the Peace for the County aforesaid this 5th day of April 1819.

Edmund Pedin J.P.

Walter Lytle Junr
vs
Daniel Brown &c

Notice 19th March 1819

Daniel Brown

Robert N. Cooke's bond as exor
of Mrs. Cullan's Estate?

Know all men by these presents, that we Robert N. Cooke Emanuel Wills and Dolphin Driver are held & firmly bound unto John Goodrich Thomas King John Barber Dolphin Driver Robert Clay gentlemen Justices of the court of Isle of wight County now sitting, in the just & Sum of two thousand dollars, to the payment whereof, well & truly to be made to the said Justices, and their Successors, we bind ourselves and each of us, our and each of our heirs, executors and administrators jointly and severally firmly by these presents Sealed with our Seals, and dated this 4th. day of June Anno Dom. 1798 and in the 22nd. year of the Commonwealth —

The condition of this obligation is, that if the said Robert N. Cooke executor of the last Will and testament of all the goods, chattels and credits of John Cullans deceased, do make a true and perfect inventory of all and singular the goods ~~and~~ chattels and credits of the said deceased, which have or shall come to the hands, possession or knowledge of him the said Robert N. Cooke or into the hands or possession of any other person or persons for him and the same so made do exhibit into the county court at such time as he shall be thereto required by the said Court, and the same goods chattels and credits, do well and truly administer according to law: and make a just and true account of all his actings and doings therein when thereto required by the said court, and further do well and truly pay and deliver all the legacies contained and Specified in the said Will, as far as the said goods chattels and credits will extend according to the true Value thereof & as the law shall charge him then this obligation to be void, or else to remain in full force —

Robert N. Cooke (Seal)
Dolphin Driver (Seal)
Em. Wills (Seal)

Sealed & Delivered
in presence of
the Court -

Copy Teste Nath. Young Cl

finding a balance due the estate as the above Statement appears -
as Witness our hands this 22nd day of November 1804 -

Nath. Wills
Thomas Hall
Edmond Godwin Sr.

At a Court held for Isle of Wight County the 3rd day of June 1805 this Account current of the estate of John Cullens dec'd was returned in court and ordered to be recorded -

A Copy Teste David Dick D.C.

John Cullens's
Acct Current

A Copy

The Estate of John Bullard dec'd. In acct Current with Robert A. Cooke executor

To Cash paid	John[a] Dennon	p[r] Note	£3. 12. 3
To do paid	Luke Ramsay	p[r] Acct	6. —
To do paid	Dick Scott	do	7. —
To do paid	Doct[r] Bradford	do	18. —
To do paid	Nellie O'Connor	do	13. 6
To do paid	C. Copeland	do	8. 7½
To do paid	A. Young & C.[o]	do	1. 18. 5
To do paid	John Barber	do	4. 6. 7½
To do paid	Henry Boothe	do	3. 14. —
To do paid	William Smelly	Bond	16. 15. 8
To do paid	Thomas Isdan	p[r] Acct	5. — . —
To do paid	Robert R. Reade	for tax	— . 5. 5
To do paid	dillo	p[r] do	4. — . 8
To do paid	Wm Smelly	p[r] Acct	1. 16. —
To do paid	Robert R. Reade	do	— . 9. 9
To do paid	John Norsworthy	p[r] Note	17. 8. 10
To do paid	Thomas Smelly	dillo	3. 1. 0
To do paid	Robert Isdan	dillo	1. 19. 9
To do paid	Thomas Vaughan	Collector p[r] Acct	3. 16. 9
To do paid	L. Baker	p[r] Judgment	3. 9. 11½
To do paid	Clerks tickets		1. 7. 9
To do paid	for Brandy had at the sale		— . 15. —
To do paid	Robert A. Cooke	p[r] Acct	1. 9. —
To do paid	Clerk Sheriffs tickets		5. 6. —
To appointing persons to settle the estate			— . 3. 9
To Returning Acct Current			— . 3. 2¼
To commission on the amount of sales			11. 2. 6½
			£96. 15. 3¼

Cr

By the amount of sales	£185. 9. 0½
To the amount brought forward	96. 15. 3¼
	£88. 13. 7¼

Pursuant to an order from the worshipful court of Chesterfield County to us directed and hereunto annexed we the subscribers have stated examined and settled an account current of the estate of John Bullard dec'd

an acct Current of the estate of John Bullard dec'd ending a balance due the estate as the above Statement appears as witness our hands this 22d day of November 1804 ——

Nathaniel Mills
Thomas Hall
Edmond Godwin Sen.

At a Court held for Isle of wight County the 3d day of June 1805 The foregoing acct Current of the estate of John Bullard dec'd was returned in court and ordered to be recorded ——

A Copy Teste David Dick C.I.C.

John Bullard's accounts
Current ——

A Copy

pd A. Payne — £30.7.1 — 6
bonds. —

The Estate of John Bellamy dec: In acc Current with Robert N. Cooke exrx to

To Cash paid John Denison p. Note		£ 3. 12. 3
To d° paid Luke Ramsey p. d°		" 6. "
To d° paid Dirk Scott p. d°		" 7. "
To d° paid Doct. Bradford p. d°		" 10. "
To d° paid Willet & Connor p. d°		" 13. 6
To d° paid E. Copeland p. d°		" 0. 7½
To d° paid N. Young D.Shff p. d°		1. 10. 5
To d° paid John Barber p. d°		4. 6. 7½
To d° paid Henry Booth p. d°		3. 14. "
To d° paid William Smelly p. Bond		16. 15. 0
To d° paid Thomas Jordan p. acct		3. " "
To d° paid Robert R. Reade p. Tax		" 5. 5
To d° paid ditto p. d°		4. " 0
To d° paid William Smelly p. acct		1. 16. "
To d° paid Robert R. Reade p. d°		" 9. 9
To d° paid John Norsworthy p. Note		17. 0. 10
To d° paid Thomas Smelly d°		3. 1. "
To d° paid Robert Jordan d°		1. 19. 9
To d° paid Thomas Vaughan Collator p. d°		3. 16. 9
To d° paid L. Baker p. Judgment		3. 9. 11½
To d° paid Clerks tickets		1. 7. 9
To d° paid for Brandy had at the sale		" 15. "
* To d° paid Robert N. Cooke p. acct		1. 9. "
To d° paid Clerks Sheriffs tickets		5. 6. "
To appointing persons to settle the estate		" 3. 9
To Returning acct Current		" 3. 2½
To Commissions on the acct of Sales		11. 2. 6½
		£ 96. 15. 3¼

Cr.

By the amount of Sales	£ 105. 9. 0½
To the amount brought forward	96. 15. 3¼
	£ 008. 13. 7¼

Pursuant to an order from the worshipfull Court of Isle of wight County to us directed and hereunto annexed we the Subscribers have Taken examined and Settled

Statement

Statement of money due Anthony Paine Acct of outland

£38..13..7½ Dagul to ₰295..60 due 22d Novmb 1804 ₰295..60

Intrest tell 1st July 1806 is 1 year 7 months and Eight Days 28..50

₰324..10

Ditto Paid in Part by Dalphin Drover 101..18

₰222..92

Int tell 1st may 1819 is 12 years 10 month 171..63

₰394..55

one moiety for D Wills to pay 197..27½

Cost of Suit &c

To the worshipfull Courts of Isle of Wight County in Chancery
sitting humbly complaineing, shewd to y[e] worshipfull
y[e] Cator Thomas Kirby that on or about the
he gave his bond executed the day of
to the sum of to a certain Timothy Tyne
that soon after having so executed his bond,
herself & said Tyne, had sundry dealings,
by which the said Tyne, also became
indebted to y[e] cator in the sum of
as well appear by stated Accounts hereto exhibited
& humbly prays a part of this his bill of
complaint — that soon after the proceedings
as aforesaid above & the said obligation
each side remaining unadjusted, the
said Tyne, departed this life intestate.
That a certain Andrew Woodley became
his representative by admon, who
of course became possessed of the said
effects ayacent y[e] cator — but
aware that the said Kirby had
substantial demands & offsets ayacent
the same — put the bond into the hands
of an Atty with instructions to make
such a settlement as should appear consistent
with equity & justice — that to this end &

was entered on the bond against Porter
reading that the same by consent of all
parties should be referred to Henry Clay
Esq. who should examine the mutual
demands of the parties, & finally decide
thereon - with this explanation & understanding
~~that the~~ the def.t relying on the bonus
of the plff. should not attending court at the
time a Judgt. by default may rendered
against him in the full amt of the 1st bond,
which Judgt. is still existing against him
& the Comp.t is fully aforesaid
that ~~he~~ the def.t may substantiate
off sets against the said dft. - in
tender consideration whereof to the end
that full & complete justice may be done
the parties, pltf. comp.t prays that the Judgt. thus
rendered may be enjoined & that all the rest
matters & things may be referred to
Master Comm.r & chancery who make
due report &c. - & that pltf. & defts may make
such other & further proofs as they consider
necessary & as may comport with
the nature of their case

Sworn to in open court. Jno. Jas. Comp.

Test. J. Dick D.C.

To the County Court of Isle of Wight sitting in chancery
The answer of Andrew Marable, administrator
of Timothy Ryan deceased, to a Bill of injunction
exhibited against him in the County Court of said
by Thomas King. This respondent saving and
reserving to himself now and at all time hereafter
all and all manner of benefit and advantage of exception
to the many insufficiencies and
imperfections in the complainants bill contained
for answer thereto, or to so much thereof as he
is advised it is material for him to answer,
says that he is the representative of Timothy Ryan dec.
and as such hath received into his possession various
Bonds and obligations due to the said Timothy Ryan
in his lifetime, but he avers that he hath not seen
or known of any Bond executed from Thomas King
to Timothy Ryan as described in the Bill, and
denies the same. Saving and protesting as aforesaid
this respondent for answer saith he is therefore ready
surprised that Thomas King should have exhibited
the Bill to exhibit this is an answer - and demands
that the complainant ~~[illegible]~~ exhibit proof of
the allegations in his Bill set forth. -
This respondent admits that Timothy Ryan in his
lifetime might have sued a Bond executed to him
by the said Thomas King, and that King might have
had some of the credits properly applied to the said
Bond if any credits - but if such a Bond as the complt
describes was executed to Ryan and ~~[illegible]~~ he is bound to
believe from the allegations of King that there was
such an one) a settlement must have taken place
as to it, and the credits allowed. - it is true that he
found among the papers of Timothy Ryan deceased
a Bond or obligation executed the 23d day of
August 1794 by Thomas King to Malachy
Foard who assigned the same to Timothy Ryan on
the 3d day of April 1795 on which Bond Ryan
afterwards ~~[illegible]~~ the institution a Suit in the
County Court of Isle of Wight against the said King
on or about the ~~[illegible]~~ day of July 1801 which said Suit King

to a judgment without having been enjoined at law by the said Thomas King — That having a desire to compel the said King to pay only that sum to which Symmetable was entitled he put the Bond in the hands of Richard Wood and attorney at law with instructions to obtain just and proper discovery thereof by King — after which time Wood proceeded him suits more of the said payments could be legally obtained against the Bond. He verily believes that Symmetable Green deceased at the time of his death was indebted to Thomas King, and that if the complainant had have had any proper defence, he would (as he might and ought) have had such defence at law, an ample opportunity being allowed him and nothing like stratagem or surprise being used by the plaintiff in the action — He denies all combination, fraud & and prays that the complainants bill may be dismissed and that he have the benefit of his execution so improperly injoined — He prays leave to be dismissed &c.

Bryant Watkins
for Defendant.

Pitt Right County, to wit, This day appeared before me a Justice of the Peace for the said County, Andrew Woodley and Dr. Hardy Bynum, who made oath that the foregoing answer may be true as far as depended on their own knowledge — and as far as depended on the knowledge of others. As believing it to be correct and true. Sworn and subscribed this 4th day of July A.D. 1822. —

Jno. Pollock J.P.

said Andrew Woodley aforesaid (who is prayed by proper process to be made defendant to this amended bill) may upon his corporal oath full & perfect answer make to all & singular the aforesaid allegations as fully & perfectly as if the same were here again repeated & thereto more especially interrogated: that he may set forth his whole knowledge in relation to the aforementioned accounts, and declare upon oath whether he has not now among the papers of his intestate, some vouchers or documents explanatory in some degree of the above mentioned transactions: Your Orator further prays that all books, papers and documents now in the possession of the said Andrew Woodley, tending in any manner to elucidate & explain the various dealings to which he has herein before alluded, be produced, & in the mean time that the Sd. judgment be still injoined, & that your worships will make such other & further order or decree as may seem meet & as in duty &c.

Thomas Purdie ad.
Tho. King dc.
vs. Amended Bill
Andrew Woodley
ad. Tim. Tynes dc.

Baker.

January 5th 1819 This day Thomas Purdie came before me a Justice of the Peace for the County of Lee & Virginia & made oath that the allegations contained in the within Bill so far as comes within his knowledge are true, and those upon the information & others he believes to be true — Sworn & subscribed before the day & year above written

A. Parrish JP

purports to be an order, dated the 13th day of april, in the year 1801, and drawn by the said Timothy Tynes upon the said Thomas King in favor of Edmond Godwin for the sum of thirty seven pounds, ten shillings and six pence - which said sum of £37.10.6, proved to have been paid by the taking-in of the order with the acceptance thereon by the said Thomas King in his life time, your orator is advised ought to be received as a discount against the said judgment - the document marked No. 2 is ~~an account~~ herewith filed as a part of this Bill, is an account amounting, (including a clerk's ticket for the sum five dollars and nine cents) to the sum of twelve dollars and thirty four cents, which was paid by the said Thomas King for Timothy Tynes to the said Andrew Woodley while Sheriff of the said county of Isle of Wight, as appears by a receipt thereon indorsed: which said sum of $12.34/100 your Orator is also advised, should be received as a proper discount against the said judgment: the document marked No 3. and herewith filed as a part of this Bill, proves as your Orator is advised that the said judgment is subject to a discount of one hundred and twenty dollars, for so much money paid and advanced to a certain Jos.h Holmes for and in behalf of the said Timothy Tynes: the document marked No. 4 & herewith filed as a part of this bill is the original record of a suit in chancery lately determined in this worshipful court, wherein a certain Robert Tynes was comp.t Claimant, and James Johnson as admor.r of the said Tim.s Tynes deced was defendant; in which case, as it appears from the record duly, there is evidence proving that the said Thomas King in his life time paid and discharged for the estate of the said Tim.s Tynes the sum £29.10.; which, with interest thereon, your orator is advised should be applied in discharge of the said debt sought to be recovered by the defendant as

The document marked No. 5 and herewith filed as a part of this Bill, is an account for paper and other articles, ~~amounting to the sum of £35.1.4~~, purchased by the said Timothy Tynes of the said Thomas King in his life time and amounting to the sum of £35.1.4: the sum of money last above mentioned, is in fact, as your Orator has been advised, a demand proper to be allowed & ought to be received as a discount against the said judgment. the claims last aforesaid, as is believed by your orator, is liable to no other objection than the want of proof to substantiate the same, and this he confidently believes he shall be fully able to do, by shewing that the various items of which the account is composed, are entered and charged in the proper hand writing of a certain Thomas Hancock, who at that time was the proper clerk & agent of the said Thomas King - The documents marked Nos. 6 and 7 and herewith filed as a part of this bill, are here referred to, and relied upon to shew that the sum of money, appearing from them to be due, ought also to be applied in extinguishment of the judgment aforesaid.

Notwithstanding the aforesaid just demands of your orator as admor. as aforesaid, and the agreement that this matter should be adjusted as herein before mentioned, the said Andrew Woodley admor. as aforesaid hath hitherto altogether refused to make any just and equitable settlement thereof, and moreover continues to urge him for payment in full of the said judgment - In Tender consideration whereof & for as much as your Orator is without remedy in the premises except by the assistance of a court of equity, where matters of this kind are alone cognizable - To the end therefore that the

To the worshipful Court of the County of Isle of wight
In Chancery sitting, Humbly complaining sheweth ~~that by~~
~~the bor Bill, annexed by leave of the court first had and~~
~~filed~~) unto your worships, your Orator Thomas Purdie as
Administrator &c. of Thomas King dec^d that the said Thomas
King, in his life time, filed his Original Bill in chancery in
this court, by which he injoined a judgment obtained against
him by Andrew Woodley admin^r. &c. of Timothy Ingram upon
a certain bond or writing obligatory executed to a certain
Mallory Todd, who afterwards assigned the same to the said
Andrew Woodley's Intestate - the said Original Bill more-
over shews, and states that, in consequence of a variety of
dealings between them the said Thomas King and Timothy
Ingram, some of which happened subsequently to the date
of the said Bond, a suit was instituted upon the bond
aforesaid, with an agreement and understanding that the
whole matter should be referred to some person, by whom
a settlement would be made consistently with the
principles of equity and justice - the said original Bill
further states and shews, that by reason of the said agree-
ment and understanding, the suit aforesaid was brought; no
settlement in pursuance as above mentioned, however, was made,
in consequence of which ~~of said~~ judgment was entered
against the said Thomas King, who thereafter injoined the
same, as in the said Original Bill & other proceedings, is stated -
The document, marked N^o 1 herewith filed as a part hereof