

1836-008 Chancery Causes: William S. Wills vs Thomas M. Dashiell & James E. Denson

Isle of Wight County

other surnames: Dashiell,
[James E. Denson & Company]

State of the Cause
Wills

vs 3 Chy.

Dashiell

September Rules 1835 Bill
filce.

November Rules 1835 ansr
of deft: filce & order of
publication vs deft: Benson

December Rules 1835 cont.

Wills
vs. Bill
Dashie

September Rules 1835 Bill
files

November Rules 1835 depts
answer files. & order of
publications awarded vs depts.
James E. Denson.
set for hearing

May 10 36 dismissed as
to Denson - dismissed - depts.
Dashie recovers costs & fees
chy: Order books

Depts costs \$18.50 final if?

against the same in the same manner
and to the same extent that your orator
was previous to selling his interest
in the store to the said Dashiell
But pursuance of the agreement and
understanding the said Dashiell
became the partner of the said James
& Deerson and entered into posses-
sion of the goods produce and debts
due to the ~~the~~ firm of Jas & Deerson & Co
of which your orator had been a partner
But now as it is may it please your
honor the said Thos. Dashiell came
himself and confederate himself
with the said James & Deerson to defraud
and injure your orator, after getting
possession of all the goods produce
& debts of said firm he refused to pay
or become responsible for any of the
debts due from the firm of James &
Deerson & Co as aforesaid, and your
orator is still held responsible for them
all which is contrary to equity, and
forasmuch as your orator is without
remedy at law and can be relieved
only in this court where matters of
this sort are duly cognizable: To the
end therefore that relief may be had
your orator prays your honor that
the said Thos. Dashiell & James &
Deerson as defendants to this bill
be compelled to answer ^{on oath} the allegations
therein as fully and distinctly as if
the same were again repeated
and they thereto interrogated, that
they state ~~whether~~ whether the goods
produce and debts aforesaid were not
worth about \$4000 and the debts
due from the firm about \$1800
whether the note above is not a true
copy of the one given by your
orator to the said Dashiell, and
whether the said Dashiell was
not to be responsible for the debts
due from the firm to the same

extent that your orator was, and
whether he has ever paid any of the
said debts according to his agreement
and understanding with your orator
and your orator prays your honor by a
decree of this court the said Thos. Dashiell
be compelled to pay to your orator
one half of the amount of the
debts aforesaid which may appear
to be due from the said firm
of Jas & Deerson & Co for which he
is still held responsible by the creditors,
(the said Dashiell having failed to pay
the same) and may it please the
court to grant such other and
further relief as may be consistent
with equity and the nature of the case
and your orator &c

Wollum p8

To the Judge of the Superior court of Laos
and chancery for the county of Bluffwright
in chancery sitting

Humbly complaining shew unto
your honor, your orator Millard J
Hills that on or about the day of
eighteen hundred and thirty five
he was interested in a mercantile
partnership ^{jointly} with a certain James B
Denson at Payson bridge Perquimans
co. North Carolina known by the firm
of James B Denson & co and being
disposed to discontinue the business
he sold his interest in the store
to a certain Thomas M Dashiell
of the county of Bluffwright for the sum
of nine hundred and eighty six
dollars and gave to the said
Dashiell a receipt in the follow-
ing words to wit
"Recd of Thomas Dashiell nine
hundred and eighty six dollars in
full for my interest in the store
at Payson bridge Perquimans county
N. C. known by the firm of James
& Denson and co."

Your orator says that the whole
amount of goods produce and
debts due the store was worth
four thousand dollars, and
the debts due from the firm
amounted to about eighteen
hundred dollars, leaving the firm
worth about twenty two hundred
dollars one half of which belonged
to your orator for which one half
he was to receive of the said Dashiell
the said \$986. Your orator avers
that it was expressly understood be-
tween Dashiell & himself, that Dashiell
was to take your orator's place in the
firm to be benefited by the goods
produce and debts due to the firm &
to be also responsible for all claims

copy the receipt into this answer,
sign the answer and return to it, & enclose it in
a letter addressed to me & leave it with some person
to give me at Nantucket Court

Harkness
as in
Mills
Mills

Whitcomb

Dashiell
as in Answer
Mills
November 1833
filed.

and Mills the complainant, has a fraud
been intended by him to be practiced on his
creditor, he could take no advantage of it.
This defendant has paid none of the bills of the
late firm of J. & Benson or H. & Co. nor was he bound
so to do, and he admits that the receipts
from Mills to him is in the following words,
and figures to wit: "Recd of Thos. M. Daskill Nine hundred
and eighty six dollars, it being my interest in the Store of Nixons
Bridge Berquimons County N.C. known by the firm of Jax
& Benson & Co., which am I in full. Jax & Benson
Sept. 19th 1835" Thos. M. Daskill
He says that the complainant is entitled to
no relief or assistance in this Court; first
because you respondent never agreed to be
bound to do any thing relating to the contract,
which he has not already done, and secondly
because if the plff. had any cause of
complaint, a Court of law could have given
him relief. And the defendant by presenta-
tion & answer to the bill of the complainant,
and says that the plaintiff has not by his
bill made such a case or entitled him in
a Court of equity to any discovery from the
defendant, or any relief against him
as to the matters contained in the said bill;
wherefore he prays judgment of this Court
that the bill of the plaintiff be dismissed
with costs to you respondent. Having
answered &c. — (signed)

A. Atkinson p. 2

Thos. M. Daskill
3

Shof Wright County Geo. Thos. de Daskill this day
before the undersigned Justice of said County
made oath that the foregoing answer is taken
so far as he knows or believes - given under
my hand and seal this 4 day of November
1835

Thomas Smelly, J. C.

To the Indg. of the Circuit Superior Court
of Law and Chancery for the County of Ga
of Wight - The separate answer of Thomas M
Baskin to the bill of complaint against him
and others in the said Court exhibited by
Wm S. Mills - The defendant saving and
reserving to himself all manner of benefit &
advantage of exception to the imputation, error,
and false allegations in the complaint, here
contained, for answer says, that it is true that
he purchased from the said Mills, all his
interest in the goods, produce and debts
due the firm of James & Deason H. & A. Dixon,
hisss, Jefferson County, N.C. and paid
him for the same, the sum of nine hundred
and eighty six dollars; but he wholly
denies that he ever agreed, promised or
undertook in any way, whatever, to be
responsible for any of the debts due by the firm
previous to his becoming a partner and
he is advised that there is nothing in the receipt
alluded to by the complainant, which on a
proper and fair construction can lead to
~~such~~ the conclusion that he was to become
responsible for the debts or any part; a conclu-
sion in entire opposition to his understanding
when he made the purchase; for he surely would
not have taken upon himself a burden with
the extent of which he was in no way advised.
And for further answer, your respondent avers
that so far as he knows, the alienation by Mills
to him of his part of the store was bona fide
and certainly for a valuable consideration,
if a fraud was contemplated by Mills; (he does
not mean to intimate that such was the case)
your respondent has no participation in it,

Executed June the 29th 1835 by delivering
a true copy to Thos. M. Garbille & James
Denson^{rs} and inhabitant

Wm. Poyner D. Poyner
Charles M. Menn D. Poyner

Miller
W. Poyner in cky.
Garbille & Co
To August 1835
H. M. Menn

6. 16. 176

The Commonwealth of Virginia,

To the Sheriff of

Isle of Wight

County, GREETING:

YOU ARE HEREBY COMMANDED TO SUMMON

Thomas M. Dashiell and

James E. Pearson

at the clerk's office

to appear ~~before the Judge~~ of the Circuit Superior Court of Law and Chancery for the County of Isle-of-

Wight, at the Court-House of Isle-of-Wight County, on the first day of

August

~~term~~ next;

that being yesterday
to answer a bill exhibited against

them

in the said Court, by

William S. Mills

and unless the said defendant shall answer the said bill within four months thereafter, the Court will take the same for confessed, and decree the matter thereof accordingly. 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 Court-House, the *18th* day of *June* 183*5*, and in the *39th* year of the Commonwealth.

Nathl. Young

Mills
vs.
Earlman
Green

entire

William Y Mills

vs.

Thos. M. Daskinell Dd

On motion of the plaintiff by his
counsel the suit is dismissed
as to the defendant Jas E Durrence
and the cause come on this day
to be heard on the bill and an-
swers of the defendant Daskinell
& was argued by counsel on con-
sideration where the court doth
adjudge order and decree that
the bill be dismissed and that
the defendant, ^{Daskinell} do ~~pay~~ ^{reimburse} of the
plaintiff his costs by him expended

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Mills
vs.
Luskell
Order of
Publication

In Chancery - Virginia. At rules holden
in the clerk's office of the circuit Superior
court of Law & Chancery for the county
of Westmoreland the 4th day of Nov 1835

William G Mills } atty

Horace Eastell and } atty
James E Devereux }

The defendant James E Devereux
not having entered his appearance
and given security according to the
act of Assembly and the rules of this
court - and its appearing by satisfactory
evidence that he is not an insolvent
tenant of this commonwealth

It is ordered. That the said defen-
dant do appear ~~here~~ at the clerk's
office of our said Superior court of
Law and Chancery for the county of
Westmoreland at the rules to be holden
for the said court on the first
Monday in February next and
remove the bice of the plaintiff; and
that a copy of this order be forthwith
inserted in some newspaper pub-
lished in the Borough of Norfolk
for two months successively, and
posted at the front door of the Court
house of said county

Defendants Costs in
the suit of

Wiles

vs.

Daskhil

3
3
3

chry—

Worsg. & filg Ans^r 15

Att^r 0

filing papers . . . 26

Ins. ———— 36

Jury costs 40

Exon: &c 50

takg & filg. rec^d. . . 10

1: 9 3

Att^r fee 16: 6 6 ²/₃

\$ 18: 5 9

paid for costs —