

1762-002

SOUTHAMPTON COUNTY
CHANCERY PAPERS

ROBERTSON

vs. COLMER & al

9/1762

other surnames: Kello

Robertson
or
Colman & Co } British Cons

To the Worshipful Court of Southampton County sitting
in Chancery
Humbly Complaining

Sheweth unto your Worship your Orator William
Robertson of the County of Isle of Wight Merchant that one Davys
Colmer late of this County ^{Clark} stands justly indebted to your Orator
in the sum of [£] for Divers Goods Ware and Merchandizes
frod and delivered to the said Davys Colmer by your Orator
at his special Instance and Request and Account of which
is duly proved and hereto annexed which your Orator
prays may be taken as part of this his Bill that the said
Davys Colmer hath privately removed himself or so absconded
that your Orator cannot serve the ordinary Process of Law
upon him for the Recovery of his Debt aforesaid your
Orator further sheweth that the said Davys Colmer being
also indebted to one Richard Thello in a large sum of
Money did as your Orator hath understood for the
security of the Payment of the said Debt execute a
Mortgage to the said Richard Thello for all or the greater
Part of the Estate of the said Davys Colmer consisting
of perishable Effects which your Orator alledges is more
than sufficient to satisfy and secure the Debt so as aforesaid
due to the said Richard Thello Your Orator further
sheweth that he hath often applied to the said

Robertson
in
Colmer the
& Milner's

Richard Shells to foreclose the Equity of Redemption and
make Sale of the Estate and Effects mentioned in the said
Mortgage that the overplus thereof might be made subject
to the Payment of your Orator's Debt. But now so it is
may it please your Worship that the said Richard
Shells cannot comply with your Orator's Request the
time for the Redemption of the Mortgaged Effects not ex-
=piring until the 25.th Day of October next nor ~~can~~ can
the said Richard Shells make Sale thereof without
the Decree of this ~~honourable~~ Court. In tender Consider-
=ation whereof and for that your Orator is remediless
in the Premises ~~without~~ ~~the~~ by the strict Rule of the
Common Law and only and properly relievable in
this Worshipful Court where matters of this sort are
properly cognizable to the End therefore that the
said Defendants may upon their corporal Oaths full
true and perfect Answer make to all and singular the
Allegations of this Bill as fully and particularly as if the
same were herein again repeated and interrogated more
especially that the said Richard Shells may set
forth and discover whether the said Davy Colmer
hath not absconded indebted so as aforesaid: whether he
hath not such Mortgage: what is bonafide due from
the said Davy Colmer to the said Richard Shells:
why doth he not foreclose the Equity of Redemption

and make Sale thereof: are not the said Effects more
than sufficient to satisfy the sum really and bonafide
due to the said Richard Shells: Whether the said
Mortgaged Effects are not perishable and wasting and
that the said Richard Shells may by Decree of this
Court be compelled to make Sale of the said Effects
and after deducting the sum really and bonafide due
to him as aforesaid pay to your Orator the overplus
if any towards the Discharge of the Debt so due to
him as aforesaid and that your Orator may have
such further or other Relief in the Premises as
is agreeable to Equity and good Conscience

May it please your Worship &c

Thello
ad
Robertson } Answer 8p

The Answer of Richard Thelke one of the Defendants to the
Bills of Complaint Exhibited against him by William
Robertson Complainant

The said Defendant saving to himself all Benefit and
Advantage of Exception to the said Complainant's Bills to
so much thereof as he is advised is material for him
to answer he answereth and saith That this Defend^t
believes it to be true that the said Davys Colmer is indebted
to the said Robertson as in the Bills is set forth that the
said Davys Colmer hath removed himself out of this County
where he formerly resided that the said Davys Colmer is
justly indebted to this Def^t in the sum of
as appears by an Account hereto annexed that true it is
that the said Davys Colmer did execute a Mortgage to
this Defendant bearing Date the fourth Day of May
1761 for sundry Goods and Effects mentioned in a Schedule
hereto annexed that by the proviso or Condition in the
said Mortgage mentioned the same are redeemable by
the Payment of the Sum therein mentioned on the 25th
Day of October then next ensuing that the Effects men-
tioned in the Mortgage as aforesaid were to remain in
the possession of the said Davys Colmer and are now
waiting for them in the possession of persons unknown
to this Defendant that this Defendant is willing and
desires ^{as much of them as may now be so} that the same may be sold for the most that can
be got but this Defendant conceives that he cannot make

Thelke
as
Robertson } Answer by

such sale without the Decree of this Worshipful Court
the time for the redemption of the said Effect not being
elapsed ^{3rd} ~~that~~ this Def^t humbly hopes that by the Decree of
this worshipful Court he shall be indemnified ~~therein~~ and
in the premises &
prays to be hence dismissed with his reasonable costs in this
Behalf most wrongfully sustained

^{an attachment}
This Def^t further saith that ~~there~~ hath been Levied
in the Hands of this Def^t by one James ~~James~~ Moore
as Garnishee of the said Davy Colmer prior to
the Complainants Bill & which this Def^t conceives
his advised must be ~~first~~ satisfied / if any overplus
should appear / before the Complainants demand

A Schedule to which this Answer refers

two Bray Mares
one Roan Horse
one Mahogany Desk
one Dressing Table
two gilt Scissors
two Dressing Glasses
one Silver Watch
two fowling pieces
one Fiddle & Case
one Tea Chest
one Sugar D.
two Japan Wasters
one Lt. China Mugg
three China Punch Bowls
two Brown China Cups & Saucers
three Damask Table cloths
one W. Bough gammon Table
one hoopess Saddle
one pair Candlesticks

Robertson's
m.

Chas

Colman & Kello

Aug. 1761

June 16

Nov. 1761

Oct

Apr. 1761

Dance & Co.

April 1762

Cont

Sept

Bill Dim

Expected on Richd Kello

I heard Davis Colman no longer

By Lane

George the third by the Grace of God of Great Britain
France & Ireland King Defender of the Faith To the
Sheriff of Southampton County Greeting Comman
you that you Summon Downy Colmer & Richard Wells

to appear before the Justices
of our said County Court at the Courthouse on the
second Thursday in August next to answer a Bill
in Chancery exhibited against them by William
Robinson

That they shall no wise omit under the Penalty
of £100 And have then there this writ witness
Richard Wells Clerk of our said Court at the
Courthouse the 15th Day of July In the
first year of our Reign.

R Wells

Rec'd of Sales of
D Colman Esq

An Account of the Sales of the Estate of Davys. Colmer,
 Att. pursuant to a Decretal Order of the County Court
 of ~~Southampton~~ Southampton bearing Date the Day of
 November 1761. in a Suit in Chancery between
 William Robertson Plt and the S^r. Davys Colmer &
 Richard Kello Defendants.

One Bay Mare. (Called Venus) & her Colt.	£ 5 ⁰ 0
One Roan Horse.	2 ¹⁰ 2
One Mahogany Desk.	5 ¹ 1
1. W. Candlesticks.	5 ⁶ 6
1. Sugar Chest.	5 ⁷ 7
1. Tea Chest.	1 ⁰ 0
1. W. Back Gammon Table.	15 ⁰ 0
1. Dressing Glass.	16 ⁶ 6
1. Large China Bowl.	1 ² 6
1. Small D.	1 ³ 3
Two brown Cups & Saucers.	7 ⁷ 7
1. China Mugg.	6 ⁰ 0
Two Japan Waiters.	6 ¹ 1
1. Middle & Case.	1 ¹¹ 11
1. W. Gilt Sconce.	5 ⁰ 0
1 Bay Mare / Polly Robinson.	3 ⁰ 0
	22 13 2