

1802-005

SOUTHAMPTON COUNTY
CHANCERY PAPERS

WRIGHT

VS. BERRYMAN

1802

other surnames:
Berriman, McLeMORE,
Fisher

To the Justices of Southampton County Court in
Chancery sitting Your Comptrolr John Wright
humbly sheweth — that a certain John Berryman
was indebted to him in several sums of money
due by Judgments to wit one for the sum of
£4.10.0 by replevin bond ^{McLemore} ~~the said~~ Berryman ~~thence~~
~~McLemore~~ in Greensville County Court due the 5th
May 1798, costs thereon £1.7.5 — And from that time
to December '95 — 1795th 24 months £2.4. making
in all the sum of £8.1.11. From this there was a
credit of £2.2. which with its Interest to Dec: '95
made £2.11.0 leaving a balance on that demand
of £5.10.5 — The other was for the sum of £9.10.6²
the said Berryman & D^r Fisher replevin bond dated
April 11th '91 which several sums of money as by
record appear of Comptrolr makes a part of his bill.

That in the month of December 1795 the said
Jn: Berryman in the absence of J^r Comptrolr brought
a quantity of pork to his house amounting to 570th
which was received by his wife at 30th p^c making
£10.8. and a receipt given therefor — That on his
return home being informed of the 5th pork he
proceeded to give a credit therefor — after adding
the above balance of £5.10.5. at that time due on
the replevin bond McLemore & Berryman with
£1.15.7¹/₂ interest which was then due on the rep^d bond
Berryman — After making that total £11.6.2.

still leaving the sum of £5.10.5. due as the real
& subsisting balance of both Judgments for which
sum with interest thereon is on record from the
Office of S^{on} Court the whole of which transactions
will more plainly be understood by a reference to, and
perusal of a statement marked C¹ M. hereto annexed
as a part of this bill. — Mr Compt^l further shows
that notwithstanding this fair & just arrangement on
his part exercising as he conceived & still conceives the
right of applying a credit at discretion (he not having
been particularly directed otherwise) and altho' he
had actually placed a credit on the repl^l bond
beforementioned — As the S^r Berryman in virtue of
the manner & form in which the Receipt was expressed
which there is no doubt was calculated by him for
a trick, and an advantage, imposed on the wife of
Mr Compt^l to require him in this behalf brought suit
against him in the County Court of S^{on} on the ground
of having overruled the S^r Judgment, and exhibiting
the Receipt as evidence thereof which as it appeared
to the jury had no connection with the other Judg^t.
a verdict was entered in favor of the S^r Berryman
for the sum of £¹⁰ &c. as by the record will
appear — which Judgment under all the circumstances
of the case Mr Compt^l views as extremely unjust and
oppressive — ~~and he expressly shews~~ that he had given full

credit for the value of the stock as above stated, and that
the repl^l bond in Greenville was balanced in full
by the payment of £5.10.5. in no other mode, and by no
other means than the credit on acc^t of the S^r stock —
so that unless Mr Compt^l is relieved herein the S^r Berry
man would not only receive a credit on the repl^l bond
in Greenville for £5.10.5. which was on acc^t of the stock
but the benefit & effect of his judgment in S^{on} Court
whereas ~~but~~ 1812 would have been ^{due the Compt^l} ~~passed~~ if the
stock was applied to the repl^l bond Berryman & Fisher
in S^{on} Court — In consideration whereof and inasmuch
as Mr Compt^l is without remedy unless this your equitable
interposition and to the end that the S^r Berryman
may be made ~~deft~~ ^{deft} how to and on his corporal oath, full
true, and perfect answer makes to all & singular the
allegations in this bill in as ample a manner as tho' the
same were again set forth & repeated, particularly, is
not the statement hereto annexed correct, or wherein is
it erroneous? — what the ~~Deft~~ ^{Deft} paid off of the S^r Judgments?
what hath he ~~paid~~ ^{paid} them, & in what manner,
and at what time? what are the ~~total~~ ^{total} sums of money
or other thing which he hath paid, what vouchers
or evidence hath he thereof — hath he paid any
thing more on acc^t of the Judg^t in ~~Greenville~~ ^{Greenville} than is before stated? or any thing to
that in S^{on} Court as before mentioned? if he hath

Let him exhibit the evidence thereof - May it
please the Court to grant the Comptroller's App. that the
Court will enjoin the S^d Deft. &c from proceeding in
virtue of the unjust judg^t afo^r. until the cause is
heard in Equity and make the same perpetual, or
grant a new trial at law, or administer such further
or grant such other relief, or make such Decree &
order as shall be most agreeable to justice & equity -

May it please the Court to grant the Comptroller's
App. &c - directed to and app^r for plaintiff will be
thankful as in duty bound

The above was sworn to
before me this 20 day
of Nov 1844

Wm. Brown J^r

Wm

Wm. Hill for
the Comptroller

Birmingham
at
Knight & Co
Nov 20 1844

Wright }
" } answer
Berriman }

The answer of John Bermingham to the bill of complaint exhibited against him in Southampton court by John Wright. This Respondent saving to himself all right of excepting to the many errors contained in the Compt^{ts} said bill of complaint, for answer thereto, or so much thereof as he is advised is material for him to answer, he says, that it true that he gave a bond to John Wright the Compt^{ts} for the sum of £9.10.6. in which bond D. Fisher was his security. He alleges that he paid to Mrs Sally Wright the wife of the Compt^{ts} 578 wt. of pork at six dollars per hundred, which pork he directed to be placed to the credit of the aforesaid Bond; all of which will more fully appear by reference to an attested copy of Mrs Wright's receipt hereto annexed and prayed to be taken as a part of this bill. He further states that notwithstanding this payment of pork, the s^d Wright obtained a judgment and issued his execution for the full amount of the said bond, and has actually obtained from him the same. That in consequence of this ungenerous, unfair and unjust conduct of the said Wright, he was compelled to institute an action ag^t the said J^r Wright for the amount of the pork, and that he recovered a judgment against him for the amount thereof notwithstanding his little and pitiful exceptions

to invalidate the receipt of his own wife. He
adds that he did not owe to the said John Wright
any other sum in his own right at the time of
making that payment; that the claim first stated
in the complaint bill was a debt due from
McClamone wherein he (your respondent) was
only his security. This defendant states that the
complainant, in endeavoring to convert the prior
payment to the claim against McClamone, proves
that he himself is fully experienced in trick and
cunning. He prays to be hence dismissed
with costs in this behalf expended.

John Perriman appeared before me, and made
oath that the statements contained in the foregoing
answer are true - Given under my hand and
seal this 22^d of Nov. 1803.

Given to in Court
Jesse Samuels Esq

^{Int. Wright to the} Replevy Bond due ^{McLarnore & J. Berryman} in May 6 1788 for £4¹⁰ 6
Cost on ditto 1⁷ 5

Int. to Dec. 95 - is 7 years & 7 months at 5^{pts} 5¹⁷ 11
2⁴

By Cash p^d to L. Mitchell July 23 - '91 £2² 8¹ 11
Int. on £2.2. to Dec. 1795 - is 2¹¹ 6 off

£2¹¹ 6 £5¹⁰ 5

The above sum of five pounds ten shillings and
five pence was due as above on Replevy Bond
Greensville County ^{McLarnore & Berryman} ~~Berryman & McLarnore~~

^{Wm. Fisher} John Berryman's Replevy bond due in S. Town to the
In April 11. 1791 for £9¹⁰ 6 1/2
Int. from April '92 to Dec. '95 } 1¹⁵ 7 1/2
= 3 years & 9 months at 5^{pts} } 11⁶ 2

The above £5¹⁰ 5 Brought down 5¹⁰ 5
16¹⁶ 7

By 5/8th pork at 36/- p^d. 95 - 10⁸
£6⁸ 7

This sum I paid my Execution for
with Int. & and no more

John Wright
22

Rec^d December 29 1795 of John Benjamin five hundred and
seventy eight pounds of Pork at six dollars per hundred
in part of a bond given by said Benjamin & Dan^l
Fisher to John Wright

Sally Wright

Test
Sam Lewis

A true Copy Test
Sam Lewis &

Wright

Nov

ad

Berryman

Inja
Bond

1802

July 1801

Abate Gift Good

Know all men by these presents that We John Wright & Francis Hill

are held & firmly bound unto John
in the sum of fifty Dollars
current money of Virginia

Benjamin

to which pay he is well & truly to be made to the S^r Benjamin

we bind ourselves and each of us ~~in the sum of fifty Dollars~~ and each of our heirs, executors and
adorns jointly & severally firmly by these presents sealed with our seals
Witness this 26th day of July 1801 then the 26th year
of the Commonwealth

The condition of the above obligation is such that whereas the S^r

John Benjamin hath obtained a judgment at Common
law against the above bound John Wright
for L^{ts} 14. 10. &c and costs and the S^r

John Wright hath obtained an injunction to stay the
execution of ~~the S^r judgment~~ until the ~~same~~ equity upon a bill
for that purpose ~~can~~ ~~be~~ ~~heard~~ if therefore the S^r John Wright
shall satisfy & pay the S^r judgment at common
law & all costs & damages that shall be awarded to the S^r John Benjamin
in case the S^r injunction shall be dissolved then
the above obligation to be void or else to remain in full force & virtue
Sealed & delivered in
presence of the Court -

John Wright
J^r Hill
Seal
Seal
Seal