

1804-003

SOUTHAMPTON COUNTY
CHANCERY PAPERS

CALVERT

VS

VICK

8 | 1804

MATRONS EXOR VS VICK

Calvert
vs
Vick } Bicent
} High

Letter filed April
Court 1844

vs
Vick } High

all filed &
21 1804
never filed &
rule to disolve

To the worshipful court of Seethe in New County in Chancery
sitting humbly complaining Sheweth unto your worships your
orator Samuel Calvert

That a certain Simon Murfee decd. was appointed
in the year _____ guardian for John Murfee then an infant & executed
a guardians bond according to Law with a certain Josiah Vick as his
Security. That the said Simon Murfee continued to act as guardian
aforesaid for a considerable time while he received monies in behalf of
or became indebted to the said John Murfee ^{to the} amount of the sum of
£ _____ or thereabouts. That the said Simon Murfee then declined the
management of the estate of John Murfee & the said Josiah Vick
thereupon the year _____ appointed by this court to succeed
as guardian of the said John Murfee & assumed as your orator
believes & changes & as well appear by the sd Vick's attor of Feb. 26. 1796
directed to by court of Simon Murfee
Sheweth exhibited, the conduct & transaction of the estate of the said John
Murfee - That after the appointment last aforesaid the said Simon
Murfee paid, to the sd Josiah Vick guardian aforesaid, as your
orator expressly charges & as the said Simon Murfee has repeatedly
informed your orator, the full amount of the said sum of £ _____
which he the said Simon, was indebted as aforesaid to the said John Murfee
as his guardian - That the said Josiah Vick neglecting or refusing to pay
over the said sum of £ _____ to the said John Murfee upon his
arrival at full age, he instituted a suit in this court against
the said Josiah Vick whom your orator prays may be made Defendant
hereto as surviving obligor in the guardians bond aforesaid for
the recovery thereof, & obtained judgment against him for the sum
of £ _____ at _____ term 1803 - That the said Dft discharged the sd
judgment & at _____ October court 1803 moved this court under the act of
assembly ^{in favor of securities} for judgment & Execution against your orator as Executor of the
sd Simon Murfee decd. who was principal obligor in the sd guardians bond
for the amount of the judgment & cost paid as aforesaid by the said Dft,
& recovered judgment accordingly, notwithstanding he had received
as your orator again expressly charges the full amount of the said
John Murfee's claim, from your orator's testator, which however is important
a fact ^{known} within the knowledge of the Dft himself. All which
is contrary to Equity & good conscience in tender consideration
whereof & forasmuch as your orator is reminded in the
promises & might be unjustly compelled to satisfy the said
judgment rendered against him in favor of the Dft's party
as assets in his hands would detain) To the end therefore that
the said Dft may on his corporate oath full true & perfect
answers make to all & singular the foregoing allegations as
usually & unnecessarily as if the same were here again
repeated & that he be particularly interrogated, That he may
say positively whether the said Simon Murfee did not pay
him or settle with him the amount of the account which he
the

The said Simon was indebted to the said John Murrell or
whether the said Simon Murrell did not advance a stock in
mercantile trade to be conducted by
in Carolina for the joint & equal benefit of himself
& the s^d D^{ft}. What was the amount of the said advancement
& when made & whether the s^d D^{ft} has ever accounted with
the Murrell ^{of} any of his representatives therefor. & whether he the said
D^{ft} is not now a debtor of your orator's & Calor's estate in one
half the amount of the said advancement. May it please
the court to grant to your orator the common law writ
of subpoena commanding &c & to enjoin the payment
of the said verdict against the said orator in favor of the
said D^{ft}. & may it please the court to grant to your
orator such further & other relief in the premises not
remain particularly prayed for as may be just & equitable
& applicable to the nature of his case & your orator as
in duty bound ever will &c

Yours for the Court

John County 23^d day of November 1800

This day personally appeared before
me a justice of the peace of the s^d county James
Callowell & made oath that the foregoing bill is
for accounts within his own knowledge is true
& so far as relates to the knowledge of others he believes
to be true

James Callowell
J.P.

Vit
ad } Answer
Calcut

Silva Aug 21th 1804
1/2 after 1 p M

Wm

~~Wm~~

The answer of Leah Tuck to the Bill of complaint exhibited against him in the worshipful court of Southampton by Samuel Calvert surviving executor of Simon Murfee deceased

This defendant saving and reserving to himself all manner of benefit of exception to the manifold errors and imperfections in the complainants said bill containing for answer thereto or to so much thereof as he is advised it is material for him to make answer unto answered and witheth That it is true as in the complainants bill is set forth that this respondent executed as security to the said Simon Murfee, a bond to a certain William Edwards on the day of which bond was to this respondents certain knowledge given for the purchase money of certain Lands sold by the said Edwards to the said Simon Murfee in his life time That it is also true that the said Simon Murfee died before he had fully discharged the said bond and that for the recovery of the balance due on the said bond a certain James Edwards and William Edwards executors of William Edwards deceased instituted an action against this respondent as surviving obligor of the said William Edwards and recovered a judgment against this respondent at Quire Court 1800 for the same with interest and costs That this respondent satisfied and paid to James Edwards one of the executors aforesaid on the day of November 1800 the balance due on the said bond, amounting interest and costs included to the sum of £35.8.8 That this respondent by virtue of the act of Assembly in favour of sureties did at Term 1803 move this worshipful court for judgment and award of execution against the complainant as executor

of Simon Murfer deceased, and recovered judgment
against him for the said sum of \$35.8.8 with
interest and costs, which said judgment has since
been enforced by this worshipping court. This respon-
dent cannot but express his surprise, that the said
Samuel Calvert should alledge the want of assets
as a reason for this courts granting him an injunc-
tion against this respondent, and likewise of his
speaking of Debts of superior dignity, when he
knows or ought to know that your respondents
debts are of a superior dignity to all others except
judgments obtained in the lifetime of his testator
This circumstance added to the former induces this
respondent to pray that as the said Samuel
Calvert, has applied to this worshipping court for
equity that he may be compelled to do equi-
ty by exhibiting his executorial account
properly stated and authenticated, a thing which
he has never yet done, although he has acted
in the capacity of executor ^{upwards} ~~seven~~ seven years
This respondent can not but observe that the reason
alleged in the complainants bill for obtaining an
injunction, wherein he states that, it is proba-
ble a judgment will be rendered against him for
the amount of a Debt due to Matthew Murfer from
his testator as his Guardian is frivolous in the extreme
because he says there is no present danger of the said
executor suffering or that so as a judgment has not
as yet been rendered against this respondent for the
amount of the ^{said} debt ~~which~~, which this respondent
considers a necessary previous step, and further be-
cause this respondent has reason to believe that
there will be ^{plenty} a sufficiency of assets to discharge

all the said Debts if a fair and correct account
of the said assets can be obtained.

This defendant denying all combination
prayed & prays to be hence discharged with his
reasonable costs in this behalf most wrongfully
incurred and to be suffered to enjoy the benefit
of his judgment at Law with out that he

Roughampten &c.

Josiah Viles this day made Oath before me a Magistrate
of the said County that the foregoing answers so far as relates to
his own knowledge is true, and so far as relates to the know-
ledge of others he believes to be true. Given under my hand
this 21st day of August 1804

John Rappin

The Executors of Simon ^{deceased} Murfee

Southampton

Gentlemen
Sirs

July 26th 1796

I have different demands upon the estate of your Testator, Mr. Simon Munce died, amounting in the whole under a ruff calculation, to two hundred thirty or three hundred pounds, exclusive of interest on a considerable part thereof for several years; the credits he accounted upon to come against this sum are not I am afraid nearly equal, and taken on the whole very uncertain.

As the greatest part of this money are due Orphans and the first money liable for by the estate you will please note it as such.

I intended to be at the sale to-day but the weather is too close for me too turn out.

I am Gentlemen with Respect
Y^r Mo^o Ob^o Serv^t
J. Cook