

1814-078

SOUTHAMPTON COUNTY
CHANCERY PAPERS

UNDERWOOD

VS. ELY'S ADMINISTRATOR

1814

other surnames: Eley,
Gurley

To the worshipping Court of Southampton in Chancery sitting
Humbly complaining sheweth unto your worship your
orator Jacob Underwood. That a certain William
Ely administrator of Eli Ely deceased whom your
orator prays may be made a defendant to this
his Bill of Complaint, lately recovered a judgment
against him on the Common law side of this
worshipful Court. that he hath issued an
execution on the said judgment and the
property of your orator has been seized by
the sheriff and is now advertised for
and your orator further states that
said judgment was ~~in~~ ⁱⁿ ~~his~~ ^{his} ~~favor~~ ^{favor} ~~of~~ ^{of} ~~him~~ ^{him} ~~self~~ ^{self} ~~and~~ ^{and} ~~he~~ ^{he} ~~was~~ ^{was} ~~justly~~ ^{justly} ~~entitled~~ ^{entitled} ~~to~~ ^{to} ~~a~~ ^a ~~credit~~ ^{credit} ~~of~~ ^{of} ~~nine~~ ^{nine} ~~pounds~~ ^{pounds} ~~and~~ ^{and} ~~more~~ ^{and more}
for a Barrel of Brand sold to the said
which if denied by the defendant he
to prove by unquestionable testimony ^{that}
that your orator was ^{not} at the trial of the
said suit at common law allowed the
above credit of nine pounds, and now
unless prevented by the interference of this
worshipful Court, his property must be
sacrificed, though the estate of the said
Eli Ely stands justly indebted to him so
much. all which is contrary to justice
and Equity. In tender consideration whereof

and in as much as your orator is amidly in
the premises except through the intention
of this worhipful Court. he prays that your
worships will grant an injunction to stay
farther proceedings on the said judgment
at Common Law and that you would
grant such other and further relief in
the premises ~~as~~ may be consistent
with Equity and justice and that
you would grant the Annth Subp &c

Sworn to in Court

Wells

Servant for Compact

1898

Elys Adm.

Bill filed & rule to

Answer &c

Answer filed & rule

to dissolve &c

Deposition filed by

Complainant

1814 abates

1898

[Faint, mostly illegible handwriting at the top of the page, possibly a letter or a list of items.]

My admiring
ack. } answer
Underwood }

[Extensive faint handwriting covering the lower two-thirds of the page, appearing to be a continuation of a letter or a detailed list.]

The answer of William Eley to the
Bill of Complaint exhibited against
him as adm^r of Eli Eley Dec^d by
Jacob Underwood in the Worshipful
Court of Southampton County in Chancery
sitting —

This respondent reserving to himself
all right of exception to the many errors
uncertainties & untruths in the said Bill
contain^d. for answer unto or to so much
thereof as he is advis^d ^{is material} to make answer
unto — he answering sayeth. that after
he had taken administration ⁱⁿ of the Estate
of Eli Eley Dec^d & taken possession of
the Proprs. Bonds &c. belonging to said
Estate, & finding among other Bonds are
given by the Complainant Underwood
to Jones & Eley. for the sum of £. with
two several Credits on the same in part
of said Bond — he apply^d to the Complainant
Underwood. for payment of the Balance
due on said Bond. & that the Underwood.
turn over

made no objection to the Justice of this demand. but requested that he might be indulg'd some longer & promised payment as soon as possible - This like application was repeated several times, & the like promises were also made.

Why this Complainant should long in forgetfulness of his own rights as not to make the smallest objection to this demand until a suit was brought on the Bond & a Judgment nearly or quite obtain'd. is for your Worship to say. ^{being} wholly inform'd of the circumstances - by referring to the Books of Eli Eley. D^d it appears that he did receive of the Complainant Underwood a barrel of peach Brandy the 21st of December 1799 but that the Complainant did receive a part in cash leaving a balance for the Barrel of brandy of £4.8.9. which Ball^t is transfer'd to the Books of Jones & Eley. is plac'd to the Complainant's Credit and is ^{the sum that forms the} first Credit on the back of his Bond - as will fully appear from a Copy of his Ac^t which is hereunto annex'd and

Pray'd to be taken as a part of this answer - This Respondent denies that nine pounds was the price to be paid to the Compt for the said barrel of brandy, on the contrary he is convinced that £7.15 was the true sum agreed on. He lastly prays that the injunction aforesaid may be dissolved and he hence dismised with his costs in this behalf expenced.

William Eley appeared before me and made solemn Affirmation that the foregoing answer is true as far as depends upon his knowledge or belief.
Nov: 19th 1805.

J. Vick & Co.

Memoirs of Benjamin
M. J. Speer
Ely's care

Leaves

Vol. 1 of 100 pages

The Commission of Virginia to the Sheriff of Sampson
County ~~Shiriff~~ William Eley ad^l of Eley his Councils attorney
solicitor and agent and every of them greeting Wherem
it hath been represented unto the Court of the County of
Sampson in Chancery out our part Jacob Underwood
who hath prayed that he may have our writ of
writ of Injunction Subpoena for stay of all ~~proceedings~~
proceedings at Common Law with hearing of the
Cause, we therefore in consideration of the premises
do hereby do strictly require and Command You the s^d
Sheriff and William Eley ad^l Eley and all
and every the person before mentioned that You &
every of You do Absolutely desist from all further
proceedings ag^t the said Jacob Underwood on the
judgment & execution obtained in our said County
Court of Sampson ag^t him by the said Eley ad^l.
be wille that hearing of the said Cause in
Chancery under the penalty one hundred pounds without
Saml Wells Clerk of our said Court the 30th day of
May 1805 and in the 29th year of the Common
wealth —

Samuel Wells

W. W. Wood }
W }
Ely & Co. }
D/BCE

Hampton County (court)

The Commonwealth of Virginia to

George Gurley & Henry Blom

Gentlemen Justices of the peace for the County of Hampton

greeting, Know ye that we trusting to your prudent
circumspection in diligently examining John Gurley Witness

as well on behalf of Jacob Underwood Complainant

as on behalf of William Eley vs. E. Eley Defendant

do command you to call and cause to come before you the

Witness aforesaid, and when and where you shall designate

and diligently examine ~~him~~ on the Holy Oath

of Almighty God and their examination so taken

in to our said Court that you send without delay

enclosed returning to us also this writ. W. Gurley

Samuel Clerk of our said Court this the

Count given the 3rd day of May 1806 and

in the 30th year of the Commonwealth

Samuel

Underwood

27 3/4 Decem
Eleg 10

The Clerk of
Douglas

The Deposition of John Gurley taken ^{agreeable to Justice} at his house
on the 10th day of June one thousand Eight hundred & six
Who being duly sworn on the Holy Evangelist of Almighty god
deposeth & saith. That some time in the month of ~~October~~ ^{November} or
~~December~~ in the year 1799 he the deponent sold one Barrel of
peach Brandy to Jacob Underwood. to be delivered to Eli Eley
& the said Underwood was to meet him at Eley's. but was not
there when he delivered the Brandy to Eley. but come a
little time after, and paid the money to him the deponent
for the Barrel of Brandy supposed to contain thirty Gallons
(at about 5/- per Gallon as well he recollects) and farther this
deponent saith not

John Gurley

Given under our hands also the day ^{year} above written

Jos: Gurley J^r Seal
Henry Blow Seal

Jacob Underwood

1799

In account with Eli Ely

Nov^r 27 To Cash this Sum — £ 2. 16. 3
 Dec^r 21 " Waggonage of Brandy and
 Loss in gauging to Petersburg 10. —
 " " This Sum to Balance account
 which is applyed to the Credit
 of his Bond to Jones & Ely 4. 8. 9
 £ 7. 15. —

1799

Contra.

Dec^r 21 By 1 Barrel Peach Brandy 3. 5. 3
 Containing 31 gallons. £ 7. 15. —

" " By this Sum to the Credit of the
 Bond given to Jones & Ely 4. 8. 9

1802

Jan^y 2 By Cash rec^d of James Wilkinson 3. —. —
 on account of Jones & Ely —

The Estate of

Elia Cley

To

Underwood:

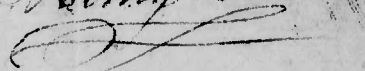
pro'd a/c

£^r The Estate of Eli Eley

To Jacob Underwood

1799. To 1 Barrel peach Brandy cont. 30^{gls} at 6s. 1 18
for which my Bond was to have Credit for. 1 9-6-0

Southampton Feby 16th 1805 John Gurley came before me
& made oath that he delivered the Brandy to M^r Eley
on Jacob Underwoods Account & received payment from
the said Underwood for the said Brandy

Henry Blood P.


Underwood Infirmary
17 S Bond
Ely, Cal.

Know all men by these presents that we Jacob Underwood
& David Warburton are held and firmly bound
unto Mr Ely ad. & his assigns of \$1000

dollars to which payment well and truly to be made to the said
Ely - his heirs executors administrators or assigns
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
19th day of June 1805 and in the 25th year
of the Commonwealth -

The condition of this obligation
- or is such that whereas the aforesaid ~~Underwood~~ ^{Ely}
hath obtained a judgment at Common Law against
the above bound Underwood for the sum
of \$16. 7. 10 - and costs and the said
Underwood hath obtained an injunction to stay the
execution of the said Judgment until the matter in
equity upon which for that purpose filed can be heard if
therefore the said Underwood - shall satisfy
and pay the said Judgment at Common Law and
acc. Costs and Damages that shall be awarded
to the said ~~Underwood~~ ^{Ely} in case the said Injunc-
- tion shall be dissolved then this Obligation to
be void else to remain in full force and virtue

Witness our hands and seals of Jacob Underwood & David
Warburton
Boston June 19th 1805